

STATE OF TEXAS

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COUNTY OF FORT BEND

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## AGREEMENT FOR SHREDDING SERVICES

THIS AGREEMENT ("Agreement") is made and entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Shred-it USA LLC ("Shred-it"), a limited liability company authorized to conduct business in the State of Texas.

### WITNESSETH

WHEREAS, County desires that Shred-it provide document and record shredding services ("Services") as provided by the Shred-it Customer Service Agreement (attached hereto as "Exhibit A") utilizing NJPA Contract No. 020613-SIU;

WHEREAS, Shred-it represents that it is qualified and desires to perform such Services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the Shred-it Customer Service Agreement is modified as follows:

### AGREEMENT

#### 1. Scope of Services.

- 1.1. Shred-it shall render Services to County as defined in the Shred-it Customer Service Agreement ("Exhibit A").
- 1.2. Containers, consoles, bins and other equipment that Shred-it places with County in connection with the Services (such items, collectively, "Equipment") are the property of Shred-it. County shall not file any lien, nor allow to be filed any lien, against any Equipment. County shall use commercially reasonable efforts to keep all Equipment in good working order, normal wear and tear excepted. For Equipment that is damaged, stolen or lost while placed with County through no fault of Shred-it, County shall pay Shred-it its then current replacement charge. County shall not place in any Equipment any hazardous material or any other material that is highly flammable, explosive, toxic, a biohazard, medical waste, or radioactive or any other material which is otherwise prohibited, illegal, dangerous and/or unsafe. County shall use Equipment only for purposes expressly permitted by Shred-it. Upon the expiration or termination of this Agreement, Shred-it shall be entitled to retrieve the Equipment.

#### 2. Personnel.

- 2.1. Shred-it represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Shred-it shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays. All employees of Shred-it shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Shred-it who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon reasonable request of County, immediately be removed from association with the project.

**3. Compensation and Payment.**

- 3.1. Shred-it's fees shall be calculated at the rates set forth in the attached Exhibit A. In no case shall the amount paid by County under this Agreement exceed the rates provided by Exhibit A without an approved change order.
- 3.2. All performance of the Scope of Services by Shred-it including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.
- 3.3. County will pay Shred-it based on the following procedures:
- (a) Upon completion of the tasks identified in the Scope of Services, Shred-it shall submit to County two (2) original copies of invoices showing the amounts due for services performed in a form acceptable to County to the following addresses:
- |   |                        |
|---|------------------------|
| Fort Bend County Auditor  | With a Copy to:        |
| c/o Accounts Payable  | Fort Bend County Judge |
| 301 Jackson, Suite 701  | 401 Jackson St.        |
| Richmond, Texas 77469   | Richmond, Texas 77469  |
| Email: <a href="mailto:auditor@fortbendcountytexas.gov">auditor@fortbendcountytexas.gov</a> | Fax: 281-341-8609      |
| Fax: 281-341-3774   |                        |
- (b) County shall review such invoices and approve them within thirty (30) calendar days with such modifications as are consistent with this Agreement. County reserves the right to withhold payment pending verification of satisfactory work performed. If County disputes charges related to the invoice submitted by Shred-it, County shall notify Shred-it no later than twenty-one (21) days after the date County receives the invoice. If County does not dispute the invoice, then County shall pay each such approved invoice within thirty (30) calendar days. Interest resulting from late payments by County shall be subject to Chapter 2251, TEXAS GOVERNMENT CODE.

**4. Term.**

- 4.1. The Term of this Agreement shall commence upon the date of execution by County ("Effective Date") and terminate on the one (1) year anniversary of the Effective Date ("Termination Date"). This Agreement shall not automatically renew, and may only be renewed by signed agreement of both parties.

**5. Modifications and Waivers.**

- 5.1. The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

**6. Termination.**

- 6.1. Termination for Convenience. County may terminate this Agreement at any time upon sixty (60) days written notice. If County terminates this Agreement for convenience, County shall be subject to the following charges:
- (a) All unpaid invoices and interest thereon as provided in Paragraph 6;
- (b) Any amounts for Service Fees for the remaining Services provided through the termination date; and
- (c) A removal fee per Equipment pursuant to the Schedule.
- 6.2. Termination for Default. County may terminate the whole or any part of this Agreement for cause in the following circumstances:

- (a) If Shred-it fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;
  - (b) If Shred-it materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
- 6.3. If, after termination, it is determined for any reason whatsoever that Shred-it was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 6.1 above.
- 6.4. Upon termination of this Agreement, County shall compensate Shred-it in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Shred-it's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.
- 6.5. If County terminates this Agreement as provided in this Section 6, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Shred-it.
- 7. Shred-it Inspection of Books and Records.**
- 7.1. Shred-it will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Shred-it for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four (4) years. Audits or inspections may be done no more than once annually during the term of the Agreement, and in each case upon not less than two (2) weeks prior written notice to Shred-it.
- 8. Insurance.**
- 8.1. Prior to commencement of the Services, Shred-it shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on thirty (30) days' prior written notice to County. Shred-it shall provide copies of insurance endorsements pertaining to this agreement if requested by County. Shred-it shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, and endorsements for any such insurance expiring prior to completion of Services. Shred-it shall obtain such insurance written on an Occurrence form (except Professional Liability) from such companies having Bests' rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
- (a) Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
  - (b) Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
  - (c) Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from

the operation of licensed vehicles by policyholder.

(d) Professional Liability insurance with limits not less than \$1,000,000.

- 8.2. County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation. All Liability policies including Workers' Compensation written on behalf of Shred-it shall contain a waiver of subrogation in favor of County and members of Commissioners Court.
- 8.3. If required coverage is written on a claims-made basis, Shred-it warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning from the time that work under the Agreement is completed.

**9. Confidential and Proprietary Information.**

- 9.1. Each party acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to the other party. Any and all information of any form obtained by the receiving party or its employees or agents from the disclosing party in the performance of this Agreement shall be deemed to be confidential information of the disclosing party ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by the receiving party shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that:
  - (a) is or becomes (other than by disclosure by the receiving party) publicly known or is contained in a publicly available document;
  - (b) is rightfully in the receiving party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or
  - (c) is independently developed by employees or agents of receiving party who can be shown to have had no access to the Confidential Information.
- 9.2. The receiving party agrees to hold Confidential Information in strict confidence, using at least the same degree of care that the disclosing party uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Each party shall use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, each party shall advise the other party promptly in the event a party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each party will, subject to the terms of this Agreement, at its expense cooperate with the other party in seeking injunctive or other equitable relief against any such person. Each party agrees that, except as directed by the other party, it will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at the other party's request, each party will promptly turn over to the other party all documents, papers, and other matter in the party's possession which embody Confidential Information. County acknowledges and agrees that the services rendered by Shred-it to the County involve the destruction and disposal of materials, which may include Confidential Information, placed in any Equipment provided by Shred-it or otherwise submitted for destruction in connection

with such services and Shred-it shall not have any obligation to return any such materials that are destroyed and disposed of as part of such services.

- 9.3. In providing all services hereunder, Shred-it agrees to abide by the provisions of any applicable Federal or State Data Privacy Act. Shred-it acknowledges that County is subject to the Texas Local Government Records Act and provisions of the Identity Theft Protection Act.
- 9.4. Shred-it expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 et seq., as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Shred-it shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

#### **10. Indemnity; Limitation of Liability.**

- 10.1. SHRED-IT SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL THIRD-PARTY LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF SHRED-IT, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF SHRED-IT OR ANY OF SHRED-IT'S AGENTS, SERVANTS OR EMPLOYEES.
- 10.2. THE TOTAL LIABILITY OF SHRED-IT, IN CONNECTION WITH SHRED-IT'S OBLIGATIONS UNDER THIS AGREEMENT SHALL BE CALCULATED AT A RATE OF FIVE (5) TIMES THE TOTAL AMOUNT OF SERVICES PERFORMED UNDER THIS AGREEMENT BY SHRED-IT IN A ONE (1) YEAR TERM, AND SHALL NOT EXCEED THAT AMOUNT. THE FOREGOING SETS FORTH SHRED-IT'S EXCLUSIVE OBLIGATION AND LIABILITY WITH RESPECT TO CLAIMS RELATED TO THE PERFORMANCE OF SERVICES HEREUNDER, INCLUDING, BUT NOT LIMITED TO, THE UNAUTHORIZED DISCLOSURE OF CONFIDENTIAL PERSONAL INFORMATION WITH RESPECT TO SECTION 11 OF THIS AGREEMENT AND IS COUNTY'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DISCLOSURE OF PERSONAL INFORMATION.
- 10.3. Shred-it acknowledges that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party. County shall be liable for any breaches or unauthorized disclosures resulting from its negligence, and County shall be responsible for any costs described by subsection 10.2 resulting from its negligence.

#### **11. Independent Contractor.**

- 11.1. In the performance of work or services hereunder, Shred-it shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of Shred-it or, where permitted, of its subcontractors. Shred-it and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

#### **12. Notices.**

- 12.1. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the

following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), nationally recognized overnight courier (with all fees prepaid), or by fax.

12.2. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this section:

County:	Fort Bend County Attn: County Judge 401 Jackson Street Richmond, Texas 77469 Fax: (281) 341-8609
Shred-it:	Shred-it USA LLC. Attn: Michael Sanders 10801 Kempwood Dr. Ste 4 Houston, TX 77043 Fax: (832) 771-7373

12.3. A Notice is effective only if the party giving or making the Notice has complied with subsections 12.1 and 12.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

- (a) If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
- (b) If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

### **13. Compliance With Laws.**

13.1. Shred-it shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Shred-it shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

13.2. County shall comply with all applicable laws and regulations governing the confidentiality, retention and disposition of confidential information and related materials.

### **14. Performance Warranty.**

14.1. Shred-it warrants to County that Shred-it has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Shred-it will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the commercially reasonable professional standards customary for the industry in which Shred-it is engaged. Shred-it warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibit A.

### **15. Further Assurances.**

15.1. Each party further agrees that it shall take any and all necessary steps and sign and execute any and all necessary documents or agreements required to implement the terms of the agreement of the parties contained in this contract, and each party agrees to refrain from taking any action, either expressly or impliedly, which would have the effect of prohibiting or hindering the performance of the other party to this Agreement.

**16. Assignment and Delegation.**

16.1. Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party; however, either party may assign or transfer this Agreement to an affiliate or in connection with a merger, acquisition, sale of substantially all its assets or other such corporate reorganization. That party shall not unreasonably withhold its consent. Neither party may delegate any performance under this Agreement. Any purported assignment of rights or delegation of performance in violation of this Section is void.

**17. Governing Law.**

17.1. The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

**18. Dispute Resolution.**

18.1. Any controversy or claim arising out of or relating to this Agreement or any related agreement will be settled in the following manner:

- (a) Senior executives representing each of County and Shred-it will meet to discuss and attempt to resolve any such controversy or claim;
- (b) If such controversy or claim is not resolved as contemplated by clause (a), County and Shred-it will, by mutual consent, select an independent third party to mediate such controversy or claim, provided that such mediation will not be binding upon any of the parties; and
- (c) If such controversy or claim is not resolved as contemplated by clauses (a) or (b), the parties will have such rights and remedies as are available under this Agreement or, if and to the extent not provided for in this Agreement, are otherwise available.

18.2. Any provision in the Customer Service Agreement requiring County to submit to binding arbitration are null and void.

**19. Successors and Assigns.**

19.1. County and Shred-it bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

**20. Third Party Beneficiaries.**

20.1. This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

**21. Severability.**

21.1. If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

**22. Publicity.**

22.1. Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Shred-it release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

**23. Captions.**

23.1. The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

**24. Conflict.**

24.1. In the event there is a conflict between this Agreement and the attached exhibit(s), this Agreement controls.

**25. Understanding, Fair Construction.**

25.1. By execution of this Agreement, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Agreement. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.

**26. Multiple Counterparts.**

26.1. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which when taken together shall constitute but one and the same Agreement. In the event that a comparison of the multiple agreements reveals that the Agreements contain differences or inconsistencies, then the Agreement which is first executed and signed by all of the parties shall be deemed the original Agreement and all other agreements, although duly signed by the parties, shall be deemed inferior and subordinate to the first signed Agreement.

**27. No Boycott of Israel.**

27.1. As required by Chapter 2270, Government Code, Shred-it hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

IN WITNESS WHEREOF, this Agreement is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Agreement and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

**FORT BEND COUNTY**

**SHRED-IT USA LLC**

\_\_\_\_\_  
Robert Hebert, County Judge

\_\_\_\_\_  
Michael Sanders, Sales Executive

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Laura Richard, County Clerk

## AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$\_\_\_\_\_ to accomplish and pay the obligation of Fort Bend County under this contract.

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Robert E. Sturdivant, County Auditor

# **Exhibit A**



Branch Address: 10801 Kempwood Dr. Ste 4 Houston, TX 77043

# CUSTOMER SERVICE AGREEMENT REGULAR SERVICE

## Client Information

### Sold To Location:

Company Name: Fort Bend County Tel: 218 341 8641 Fax: \_\_\_\_\_  
Address: 301 Jackson St. Unit: 201  
City: Richmond State: TX Zip: 77469

## Regular Service

Collection "C" or Dock Stop "D" Service	Description	Container Type	Service Type	Service Frequency	Quantity	Unit Price
C	Document Destruction Service	Standard console	Onsite	Every 2 Weeks	1	\$11.00
C	Document Destruction Service	64-gallon tote	Onsite	Every 2 Weeks	1	\$11.00
C	Document Destruction Service	95-gallon tote	Onsite	Every 2 Weeks	1	\$11.00

Minimum Charge: \$40.00 per stop Includes: NJPA Contract # 020613-SIU

Service commences at installation.

## Extra Material Rate(s)

Bankers Box: \$9.00 Binder Box: \$9.00 File Drawer: \$14.00 Blue Bag: \$25.00 Hard Drive:  Small or  Large: \$     Media:  Small or  Large: \$     Other: \_\_\_\_\_ Media Type: \_\_\_\_\_ Notes: \_\_\_\_\_

NJPA Contract # 020613-SIU

Shred-it guarantees to deliver the highest quality shredding service at all times. Any complaints about the quality of service which have not been resolved in the normal course of business must be sent by registered letter to the local Shred-it General Manager. If Shred-it then fails to resolve any material complaint in a reasonable period of time, Customer may terminate this Agreement provided all containers are paid for at the then current replacement values or returned to Shred-it in good and usable condition.

I have read and agree to the Terms and Conditions on reverse:

Shred-it USA LLC. ("Shred-it") Company \_\_\_\_\_

Signed: Mike Sanders

Signed (Authorized Signature): \_\_\_\_\_

Print Name: Mike Sanders

Print Name: \_\_\_\_\_

Position: Sales Executive

Position: \_\_\_\_\_

Date: 10/2/2017

Date: \_\_\_\_\_

# Terms & Conditions of Shred-it Customer Service Agreement

Shred-it USA LLC. ("Shred-it"), its successors and assigns, and Customer, and its successors and assigns, hereby agree to the following:

- 1. Sole Terms.** All services provided by Shred-it to Customer are subject solely to the terms contained herein and any addenda agreed to by the parties in writing and attached hereto, and the then-current Schedule of Ancillary Charges at [www.shredit.com](http://www.shredit.com) ("Schedule"). No term or condition on Customer's purchase order or any other instrument, agreement or understanding shall be binding upon Shred-it unless agreed to by the parties in writing; provided, however, that if a federal, state or local government and agency thereof, or its representative is a party to this Agreement, then any proposed modification, amendment or supplement must be in a writing signed by the President or Executive Vice President of Shred-it. All typographical and clerical errors are subject to correction.
- 2. Shred-it Services.** Shred-it will be the exclusive provider of the following services to Customer at all of its locations:
  - (a) Shred-it will provide all containers and other related equipment on Customer's premises for the collection and storage of all of Customer's paper and other agreed upon materials ("Customer Confidential Materials" or "CCM"). The number of containers will be determined by Shred-it in its discretion after discussions with Customer. Subject to the Schedule, additional containers may be added to this Agreement and shall automatically become a part of and subject to the terms hereof.
  - (b) Shred-it will: (i) collect the CCM on a regularly scheduled and mutually agreed basis and (ii) destroy the CCM using a mechanical device (the "Destruction Process").
  - (c) Within a reasonable time following completion of the Destruction Process, Shred-it will provide Customer with a Certificate of Destruction.
  - (d) An authorized representative of Customer may, at any time, inspect the Destruction Process.
  - (e) Shred-it will recycle or otherwise dispose of the CCM.
- 3. Mass Destruction Services.** At any time during the term of this Agreement and during any Renewal Term, Customer may request that Shred-it perform mass destruction services ("Purge") on a single transaction basis. Both Parties shall execute a Statement of Work setting forth the fees for the Purge and the particulars of the service. Unless otherwise specified in the Statement of Work, the Purge shall be provided in accordance with the terms and conditions set forth in this Agreement. The Statement of Work will be an Addendum to this Agreement and will constitute a part of it.
- 4. Consoles & Equipment.** Containers and any other equipment ("Equipment") provided to Customer by Shred-it are the property of Shred-it. Customer will not file any lien, nor allow to be filed any lien, against any such Equipment. Customer will keep all Equipment in good working order, normal wear and tear excepted. For any Equipment which is moved, damaged, stolen or lost while at Customer's location, Customer shall pay a replacement charge pursuant to the Schedule.
- 5. Service Fee.** Customer will pay the "Service Fee" to Shred-it set forth on the cover page. Notwithstanding anything to the contrary, Customer shall pay the Minimum Charge if Customer declines or cancels a scheduled service or if the Customer's offices are closed during a scheduled service. The Service Fee is fixed for the first year of the Initial Term. In subsequent years of the Initial Term and upon subsequent automatic renewal terms, in its sole discretion, Shred-it reserves the right to increase the amount of each Service Fee from time to time. Shred-it will provide notice of any change in the Service Fee to Customer, which notice may be in the form of an invoice. Customer may reject any changes to the Service Fee within 30 days of receiving notice from Shred-it, provided, however, that upon such rejection by Customer, Shred-it may, at its sole option, immediately terminate this Agreement without penalty to Shred-it or Customer. Any rejection by Customer to such changes to the Service Fee after 30 days of receiving notice from Shred-it may, at Shred-it's option, be considered a termination without cause under Paragraph 10.
- 6. Payment Terms.** Customer agrees to pay the Service Fee and all other amounts due within 30 days of the date of the invoice. Any payments not received by Shred-it on the due date will be subject to an interest charge on the unpaid balance of 1.0% per month (or the maximum amount allowed by law). All payments must be in immediately available U.S. funds. The amount of any and all applicable taxes shall be added to the price and paid by Customer unless Customer has provided Shred-it with exemption certificates acceptable to the taxing authorities.
- 7. Ancillary Charges.** Customer agrees to pay ancillary charges according to the Schedule for services performed by Shred-it. The Schedule is incorporated by reference as if fully set forth herein and is subject to change from time to time in Shred-it's discretion.
- 8. Fuel, Environmental and/or Other Surcharge.** Customer agrees and acknowledges that (a) Shred-it may, upon notice, at any time and from time to time, impose and adjust a fuel, environmental and/or other surcharge of any amount for any duration, all in its sole discretion; (b) notice of any surcharge may be in the form of an invoice; and (c) any surcharge may, from time to time, result in additional profit for Shred-it.
- 9. Term of the Agreement.** This Agreement will remain in force for ~~sixty (60) months~~ **12 months** ("Initial Term"). Unless a new agreement is signed by both parties, this Agreement will automatically renew (each a "Renewal Term") for additional terms of the same duration unless terminated by either party, by written notice, at least 30 days prior to the expiration of either the Initial Term or any Renewal Term. On termination by either party, Customer will immediately pay Shred-it all outstanding balances for services performed by Shred-it prior to termination of the Agreement (along with all other money due to Shred-it); and upon the termination date, Shred-it shall have the right to retrieve its Equipment from Customer, wherever located.
- 10. Early Termination.** In the event Customer terminates this Agreement without cause prior to the completion of the Initial Term or any Renewal Term, Customer must immediately pay Shred-it (a) all unpaid invoices and interest thereon as provided in Paragraph 6; (b) an amount equal to 50% of the Service Fees due for the remaining term of the Agreement; and (c) a removal fee per Equipment pursuant to the Schedule. Such Service Fees for early termination shall be calculated based on the average Service Fee charged to Customer for all prior months of the Agreement multiplied by the months remaining in the Initial Term or Renewal Term (as applicable).
- 11. Default & Early Termination for Cause.** Either party may immediately terminate this Agreement if the other party fails to cure its breach of this Agreement within 30 days following receipt of written notice of such breach. Notwithstanding anything to the contrary, in the event that Customer fails to pay any amounts owing under this Agreement when due, including by reason of bankruptcy or insolvency, Shred-it may immediately cancel this Agreement in its entirety, retrieve its Equipment from Customer, wherever located, and Customer shall be immediately liable for all amounts identified in Paragraph 10 for Early Termination, all without any liability to Shred-it and without Customer asserting any setoffs or offsets.
- 12. Excused Performance.** In the event either party is prevented, hindered or delayed from the performance of any act required hereunder by reason of strike, lock-out, acts of God, legal process, failure of power or any other similar reason not directly the fault of such party, or by reason of the other party or its agents, then performance of such act shall be excused for the period of delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.
- 13. Prohibited Acts/Compliance With Law.** Customer shall: (a) not store in any Equipment any CCM considered to be highly flammable, explosive, toxic, biohazards, medical waste, or radioactive, or any other materials which are otherwise illegal, dangerous and/or unsafe, and (b) comply with all laws, rules and regulations, including but not limited to, all environmental laws and laws governing the confidentiality, retention and disposition of any CCM.
- 14. Limitation of Liability.** Shred-it is not liable for any loss or damage to or for the repair, replacement or restoration of any CCM or other property of Customer. Shred-it's aggregate liability, if any, arising under this Agreement or the provision of services to Customer is limited to the amount of the Service Fees received by Shred-it from Customer under the Agreement during the twelve month period prior to the alleged liability or breach by Shred-it. In the case of a Purge, Shred-it's liability, if any, arising from the provision of a Purge is limited to the amount of the fees received by Shred-it for the Purge. Notwithstanding the foregoing, in no event will Shred-it be liable for any special, indirect, incidental, consequential, exemplary, or punitive damages, loss of profits or revenue, or loss of use even if informed of the possibility of such damages. To the extent permitted by applicable law, these exclusions and limitations will apply regardless of whether liability arises from breach of contract, warranty, tort (including but not limited to negligence), by operation of law, or otherwise.
- 15. Indemnification, Attorney Fees & Collection Costs.** Customer shall indemnify Shred-it and its parents, subsidiaries, affiliates, successors and assigns, and each of their respective shareholders, members, officers, and directors, from all losses, liabilities, damages, claims, penalties, fees, expenses, judgments and costs (including reasonable attorney's fees and costs) (collectively, "Damages"), as a result of Customer's actual or threatened breach of this Agreement (including, without limitation, any Damages relating to the Equipment, any Damages relating to the CCM, and any Damages relating to the destruction, removal or disclosure of such CCM). In addition to all other legal and equitable remedies, in the event it becomes necessary for Shred-it to enforce the terms of this Agreement, including but not limited to any action to collect sums due hereunder, Shred-it shall be entitled to an award of its reasonable attorney's fees, litigation expenses and costs of collection.
- 16. Miscellaneous.** This Agreement, any addenda attached hereto and agreed to by the parties in writing and the Schedule constitute the entire agreement between the parties, and supersedes any and all prior agreements and arrangements, whether oral or written, between the parties. Any dispute or matter arising in connection with or relating to this Agreement shall be resolved by binding and final arbitration before the American Arbitration Association ("AAA"). The arbitration shall be conducted pursuant to applicable state or federal arbitration law. Any such dispute shall be determined on an individual basis, shall be considered unique as to its facts, and shall not be consolidated in any arbitration or other proceeding with any claim or controversy of any other party. The exclusive jurisdiction and forum for resolution of any such dispute shall lie in the state where the Customer is located at the closest AAA office. The failure of either party to insist upon the performance of any provision of this Agreement, or to exercise any right or privilege granted to that party under this Agreement, will not be construed as waiving that provision or any other provision, and the provision will continue in full force and effect. If any provision is found to be illegal, invalid, or otherwise unenforceable by any judicial or administrative body, the other provisions will not be affected and will remain in full force and effect. Provisions herein which by their very nature are intended to survive termination or cancellation of this Agreement will survive such termination or cancellation, including without limitation Paragraphs 6, 9-11 and 14-16. Any notices to be given by one party to the other hereunder shall be sent by "Certified Mail, Return Receipt Requested," to the Customer at its Head Office identified on the cover page, and if to Shred-it, to the respective Shred-it branch with whom the original contract was signed unless notice of a new address is given and received in accordance with this Section. Customer represents that Shred-it is in no way infringing upon any existing contract between Customer and another service provider.



