

APEX SHREDDING INC.

Terms and Conditions

Applicability. These Standard Terms and Conditions (Agreement) will serve as the only mutually approved provisions governing the relationship and expectations of and between Apex Shredding Inc. (Company) and the Customer represented and bound hereby, unless superseded by a separately executed contract. Further, this Agreement is limited to the service incident upon which it presented and shall not extend to other service incidents or group of separate service incidents. **Description of Services.** Company will provide the services for the secure destruction of media or materials that is reasonably in accordance with Company's written and published representations ("Services"). Company will furnish a written verification of the completion of such Services to Customer, upon request by Customer. **Services by Third Parties.** Company may procure the services of any responsible third party to perform all or part of the Services, insofar as said third party complies with all security standards and procedures required of Company by Customer, and further that said third party shall accept in writing the fiduciary responsibility requisite of the transfer of custody. Company will remain liable for all Services performed for Customer. Company will record all custody transfers and/or the use of any subcontractor to render contracted services to the Customer, and make Customer aware of any use of any subcontractor, including their identity. **Right to Rely on Instructions.** Company may act in reliance upon any instruction, instrument, or signature reasonably believed by Company to be genuine, and may assume that any of Customer's employees or any employee of Customer's affiliates or subsidiaries giving any written or verbal notice, request, or instruction has the authority to do so. **Compliance with Contracts, Laws and Regulations.** Customer shall be responsible for, and warrant compliance with, all contractual restrictions and all applicable laws, rules and regulations, including but not limited to environmental laws and contractual restrictions and laws governing the confidentiality, retention and disposition of information contained in any materials delivered to Company. Company shall comply with applicable laws, statutes, regulations and ordinances. **Cooperation and Assistance.** Customer shall cooperate with Company with regard to the performance of the Services, subject to normal security requirements and in a manner that is not unnecessarily disruptive to Customer's business operations, by providing to Company such information, data, access to premises, management decisions and approvals as may be reasonable to permit Company to perform the Services hereunder. **Hazardous Substances.** Customer shall not deliver to Company any material considered toxic or dangerous or which is regulated under any federal or state law or regulation relating to hazardous materials. In the event of the accidental or negligent custodial transfer of hazardous or regulated waste, including bio-hazard, Customer agrees to arrange to appropriately, safely and legally assume custody of such hazardous materials at their expense. And further to indemnify the Company from any property damage or personal injury resulting from such transfer of material. **Material Descriptions.** Itemized lists or descriptions of contents of materials submitted by the Customer to the Company shall be generally considered for recordkeeping, reconciliation, and reference purposes only, and are not to be considered proof that said documents contained on such lists and descriptions are in fact contained in the materials accepted. Company will make provision for validation of such document contents in advance and under special terms and fees at the request of the Customer. **Negotiable Items.** Customer agrees to make Company aware in writing and in advance of any instance in which negotiable instruments, including but not limited to checks, bearer bonds, travel checks, or coupons will be presented for destruction, and further, that in absence of such notice, Company incurs no liability related to the restitution for the value of such negotiation instruments. **Fees and Payments.** All standard charges for Services under this Agreement are as represented in writing at the time of service or as agreed separately by Company and Customer. Invoices shall be due and payable within thirty (30) days from receipt of the applicable invoice. Amounts due and not paid within thirty (30) days after Customer's receipt of the invoice shall bear interest at the rate of one and one-quarter per cent (1.5%) per month. **Confidentiality.** "Confidential Information" means any information relating to Customer's property, business and affairs. Unless such Confidential Information was previously known to Company free of any obligation to keep it confidential, is subsequently made public by Customer or by a third party having a legal right to make such disclosure, or was known to Company prior to receipt of same from Customer, it shall be held in confidence by Company and shall be used only for the purposes provided in this Agreement. Company shall use the same degree of care to safeguard your Confidential Information as it uses to safeguard its own. However, Company may comply with any subpoena or similar order related to materials delivered to Company; provided that it shall, unless prohibited by law, notify Customer promptly of any such subpoena or notice. Customer shall pay Company's reasonable costs for such compliance. **HIPAA Provisions.** Company acknowledges that in connection with this engagement with Customer it may have access to protected health information ("PHI") and therefore may be acting as a "business associate" under the HIPAA Privacy and Security Rules. In connection with this information, BA agrees that it (a) will not use or further disclose PHI other than as permitted to perform these services or as permitted or required by law; (b) will report to Customer, within a reasonable period of time, any use or disclosure of PHI or Breach or Security Incident not provided for by this Agreement and affecting Customer's PHI of which it becomes aware; (c) will use appropriate safeguards to prevent use or disclosure of PHI other than as permitted by this Agreement; (d) will require that all of its subcontractors and agents to which it provides PHI pursuant to the terms of this Agreement agree to all of the same restrictions and conditions to which BA is bound; (e) will make available for access and amendment PHI that it maintains to the extent this PHI is part of a designated record set; (f) will make available upon Customer's request an accounting of disclosures in accordance with the Privacy Rule; (g) will make available to the Secretary of Health and Human Services upon reasonable notice the internal records and documentation necessary to determine the Customer's HIPAA compliance as it relates to this engagement; (i) upon termination of this Agreement will, where feasible, return or destroy all PHI received from Customer under this Agreement; (j) will otherwise meet applicable requirements of the Privacy Rule; (k) will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it receives or maintains on behalf of the Customer. BA also will conduct its activities in accordance with reasonable policies and procedures to detect, prevent and mitigate the risk of identity theft where reasonably applicable to BA's services. **Presentation of Claims.** Customer must present any claim with respect to any Service in writing to Company within a reasonable time and in no case later than three (3) months after the occurrence of the event on which the claim is based. **Arbitration.** Any claim, controversy, or dispute arising out of or relating to this Agreement, or any interpretation or breach of this Agreement or performance under this Agreement, including without limitation any dispute concerning the scope of this Article 6, that cannot be resolved within fifteen (15) days by informal discussions between the parties, shall be resolved by submission to final, binding and nonappealable arbitration, without any right by either party to trial de novo in any court. Such arbitration and all pre-hearing, hearing, and post-hearing arbitration procedures, including for discovery, disclosure of arbitrator's interests, and challenge of designation of any arbitrator, shall be conducted under the Commercial Arbitration Rules of the American Arbitration Association. A single arbitrator shall be selected by the American Arbitration Association. **Limitation of Liability.** Company shall not be responsible or liable in any manner whatsoever for the release or loss of any materials deposited in bins or otherwise delivered to it for secure destruction unless the release or loss is due to Company's negligence or willful misconduct. Company's maximum liability for any and all claims arising with respect to Services provided under this Agreement shall not exceed the aggregate amounts paid by Customer with respect to Services provided at the particular Customer location during the six (6) months preceding the event which gives rise to a claim. In no event shall Company be liable for any consequential, incidental, special or punitive damages, regardless of whether the action is brought in tort, contract or any other theory. **Ownership Warranty.** Customer warrants that it is the owner, legal custodian or otherwise has the right to deliver for confidential destruction any and all materials Customer provides Company hereunder. Customer shall reimburse Company for any expenses reasonably incurred by Company (including reasonable legal fees) by reason of Company complying with its obligations under this Agreement to destroy such materials in the event of a dispute concerning the destruction of the materials provided by Customer to Company. **Binding Nature and Assignment.** This Agreement shall be binding on the parties and their respective successors and assigns. Except as permitted by Section 1.3 above, neither party may assign this Agreement, except to an affiliate, without the prior written consent of the other party, which consent shall not be unreasonably withheld. **Force Majeure.** Each party shall be excused from any delay or failure in performance under this Agreement for any period if and to the extent that such delay or failure is caused by acts of God, governmental actions, labor unrest, riots, unusual traffic delays or other causes beyond its control. **Relationship of Parties.** Company is acting as an independent contractor hereunder and has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all work to be performed by Company under this Agreement. **Invalidity.** If any provision of this Agreement is declared invalid by any tribunal of competent jurisdiction, then such provision shall automatically be adjusted to the minimum extent necessary to the requirements for validity as declared at such time and as so adjusted shall be deemed a provision of this Agreement as though originally included herein. In the event that the provision invalidated is of such a nature that it cannot be so adjusted, the provision shall be deemed deleted from this Agreement as though such provision had never been included herein. In either case, the remaining provisions of this Agreement shall remain in effect.