

# Sample Document

## CONFIDENTIALITY AGREEMENT BETWEEN ROAD RUNNER HOSPITAL and ACME RECYCLING

The Terms and Conditions set forth below serve as a confidentiality agreement between *ROAD RUNNER HOSPITAL*, address (hereinafter referred to as *Hospital*) and *Acme Recycling*, located at address (hereinafter referred to as *Acme*).

1. **Term:** This Agreement shall commence as of \_\_\_\_\_, 2001, and continue for an initial term expiring \_\_\_\_\_, and shall be reviewed at that time and if the parties agree, shall thereafter be renewed for one (1) year periods.
2. **Termination:** The Agreement may be terminated in the following manner:
  - a. Termination by Expiration of Term: This Agreement shall terminate at the expiration of the initial or any subsequent term if it has not been renewed by the parties.
  - b. Mutual Termination: In the event that the parties shall mutually agree in writing, this Agreement may be terminated on any date and upon the terms stipulated in such mutual agreement.
  - c. Termination for Notice of Substantial Default: In the event that either party shall give written notice to the other that such other party has substantially defaulted in the performance of any other obligation under this Agreement, and such default shall not have been cured within fifteen (15) days following the giving of such notice, the party giving such notice shall have the right to terminate this Agreement with or without cause. A substantial default shall be defined to mean the material failure of either party to perform its duties and obligations described.
  - d. Effect of Termination: Upon termination of this Agreement, *HOSPITAL* and *Acme* shall be required to carry out any provision hereof which contemplates performance by it, subsequent to such termination date; and, such termination shall not affect liability or other obligation of either party which may have accrued prior to such effective date of the termination.
3. **Mutual Cooperation:** *HOSPITAL* and *Acme* shall provide prompt written notification to one another of any lawsuits, claims or threatened claims that pertain to services provided pursuant to this Agreement and shall reasonably cooperate with one another in the defense of any such lawsuits, claims or threatened claims to the extent allowed by law. Each shall notify the other of any intent to settle any such suit.
4. **Independent Contractor Status:** In performing all services pursuant to his Agreement, it is mutually understood and agreed that *Acme* shall be and at all times is acting and performing as an independent contractor. Nothing in this Agreement is intended to create an employer/employee relationship. The parties agree that *Acme* employees and subcontractors of *Acme* are not employees of *HOSPITAL* and accordingly are not eligible for any compensation, fringe benefits, pension, workers' compensation, sickness or health insurance benefits or other similar benefits accorded employees of *HOSPITAL*. Nothing in this Agreement is intended to create an employer/employee relationship or to allow the *HOSPITAL* to exercise control or direction over the manner or method by which *Acme* or its employees perform the services which are the subject matter of this Agreement.

5. **No Assignment:** This Agreement may not be assigned by either party without the written consent of the other.
6. **Governing Law:** This Agreement shall be governed by the laws of the State of xxxxxxxx..
7. **Amendment:** This Agreement shall not be amended except by mutual written agreement of the parties.
8. **Liability Insurance:** *Acme* shall obtain and maintain during the time of this Agreement, at its sole cost and expense, comprehensive general liability insurance covering *Acme* and each of its employees providing recycling services pursuant to this Agreement.
  - a. The limits of liability shall not be less than \$1,000,000.00.
  - b. Said comprehensive general liability insurance policy shall include coverage against the unauthorized release of *HOSPITAL* records and other materials, or of information contained in *HOSPITAL* records and other materials in the custody of *Acme*. Any release of records and other materials, or of information contained in records and other materials, other than that necessitated and contemplated by this Agreement shall be deemed an unauthorized release.
  - c. *Acme* shall provide, or cause to be provided, satisfactory evidence of such insurance to Customer. *Acme* shall immediately provide, or cause to be provided, to *HOSPITAL* notice of any change in, or cancellation of, such insurance coverage.
9. **Indemnification:** *Acme* agrees to indemnify and save harmless *HOSPITAL* and its officers, directors, agents and employees from any and all claims, demands, costs, actions, causes of action, proceedings, expenses, losses, damages and liabilities, including attorney's fees, resulting from or caused by the willful or negligent omissions and/or commissions of *Acme*, its subcontractors, employees, agents, directors and/or officers, including but not limited to omissions and/or commission resulting in an unauthorized release of *HOSPITAL* records or other materials or of information contained in *HOSPITAL* records or other materials.
10. **Storage, Transportation, Handling and Shipment Procedures:** *Acme* agrees to treat all records and other materials received from *HOSPITAL* as confidential and shall take all steps reasonably necessary to prevent the unauthorized release of such records and materials, or of information contained in such records and materials. *Acme* agrees to transport, store, handle and ship all records and other materials received from *HOSPITAL* in accordance with the policies and procedures set forth herein:
  - a. Storage in Locked Bins – *Acme* shall provide to *HOSPITAL* lockable bins to be used on-site.
  - b. Secured Transport – *Acme* will transport material from *HOSPITAL* in locked containers in a closed box truck or within 42 yard compactor boxes provided to *HOSPITAL* by *Acme* for the purpose of collecting recycle paper. The materials picked up will be delivered directly to *Acme*. No other pick up will occur with that vehicle until all materials are off loaded.
  - c. Handling and Baling – Baling of all materials received from *HOSPITAL* shall be performed by *Acme*. No materials shall be shipped or transferred from *Acme*'s location at address before baling. Baling shall occur within \_\_\_\_\_ hours of *Acme* receiving the materials from *HOSPITAL*. *Acme* shall restrict access to the area in which *HOSPITAL* materials are located. Only *Acme* employees shall be permitted access to that area. Materials awaiting baling shall not be stored in outdoor areas or other unsecured areas

which may be accessed by guests or trespassers. Materials awaiting baling shall not be stored in areas accessible to the wind.

- c. Secured Shipment to Paper Mills – Shipments of Customer materials to paper mills or others shall occur only with bales weighing at least \_\_\_\_\_ pounds and secured by steel wire. Bales awaiting shipment shall not be stored outdoors or in other unsecured areas.
- d. All Other Necessary Measures – Acme shall take all other measures reasonably necessary to secure and maintain the confidentiality of the records and other materials received from HOSPITAL.

11. **Confidentiality:** Acme recognizes and acknowledges that it and its suppliers will have access to confidential information of HOSPITAL in the form of the composition of the materials. The protection of this confidential information against unauthorized disclosure and use is of critical importance to HOSPITAL, and Acme therefore agrees that neither Acme or its suppliers will at any time, either while contracting with HOSPITAL or, thereafter, make any independent use, or disclose to any other person or organization, any such confidential information. In the event of a breach or threatened breach by Acme or its suppliers of the provisions of the Agreement, HOSPITAL shall be entitled to an injunction restraining Acme or its suppliers from disclosing, in whole or in part, such confidential information. Nothing herein shall be construed as prohibiting HOSPITAL from pursuing any other remedies available to it for such breach or threatened breach, including the recovery of damages from Acme.

11. **Third Parties:** Acme shall ship transfer or transport HOSPITAL materials to third party paper mills or other third parties only pursuant to a written agreement between Acme and Third Party which sets forth Third Party’s obligations and procedures for maintaining the confidentiality of materials shipped to it by Acme. Acme shall provide HOSPITAL with copies of all Third Party contracts and any modifications, amendments, or addenda to Third Party contracts on request of HOSPITAL.

In all other respects the Terms and Conditions of the Service Agreement dated \_\_\_\_\_ remain in full force and effect.

IN WITNESS WHEREOF, Customer and Acme Paper Recycling have caused these presents to be executed as of the \_\_\_\_\_ of \_\_\_\_\_, 2001.

*Acme Paper Recycling*

*Road Runner Hospital*

By \_\_\_\_\_

By: \_\_\_\_\_

Title \_\_\_\_\_

Title: \_\_\_\_\_

**H2E acknowledges the contribution of St. Joseph Mercy Hospital, Ann Arbor, MI for the research and writing of this sample document**