



SPÖHN Expertise for Navigating Business Challenges

Statement of Work HIPAA Policy

For

Customer

Issue Date:

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1. Executive Summary

Spohn Consulting, Inc. utilizes proven network consulting methodologies to analyze, understand, design, implement, optimize, and secure LAN and WAN networks. Spohn takes a vendor-neutral approach to developing solutions that meet customer business requirements for scalability, reliability, performance, security, timeline, and budget with an emphasis on delivering maximum results and return on investment.

Spohn Consulting, Inc. proposes to provide a HIPAA Policy Document to . This policy is specifically designed to ensure compliance with the HIPAA Security Rule legislation.

2. Services Overview

We will provide policies and templates to you that cover all aspects of the HIPAA Final Security Rule.

If you purchase the policy in conjunction with a HIPAA Gap Analysis, we will deliver the policy in person during the delivery of the Gap Analysis results.

If you purchase the policy separately, we will mail the document along with a CD containing the electronic version to you. We will also consult with you via phone for up to 1 hour to address questions about the policy and its use.

3. Customer Assistance Required

In order to optimize the effectiveness of Spohn team members the customer needs to provide access to systems, services, and employees. To perform the work specified in this statement of work, Spohn will require the following from the customer:

- A delivery address for the documents
- A contact person for the delivery

4. Deliverables

We will provide a complete written policy for the HIPAA Final Security Rule. This document meets all of the requirements of the HIPAA Final Security Rule. Once adopted by and disseminated to your organization, you will meet all of the Policy related items in the HIPAA Security Rule

4.1. Service Overview

This service provides policy required by the HIPAA Final Security Rule

4.2. Deliverables Content

The deliverables are comprised of two documents

- Policy (Concise)- This 32 page document contains only the text of the policy.
- Policy (Extensive) – This 143 page document contains
 - Responsibility
 - Background
 - Policy
 - Procedure
 - Templates

The templates are designed to assist in the common tasks required by some of the policies. For example, the rule calls for an Incident Response policy. One of the templates is a Sample Incident Report.

4.3. Deliverables Format

You will receive the policy documents in both written and electronic form. The deliverable format is as follows:

- One printed and bound copy
- One CD containing electronic copies in the following formats
 - PDF
 - Word

4.4. Cost of Services

The cost of service is based on the following services:

Service	Price
HIPAA Final Security Rule Policy Document	

4.5. Explanation of Service Charges

Services charges allow your use of the document pursuant to the license agreement.

4.6. License Agreement

All rights reserved. Except as provided by license, no part of this work may be reproduced or used in any form or by any means, including but not limited to graphic, electronic, mechanical, photocopying, recording, taping, or information storage and retrieval systems, without written permission of the publisher.

IMPORTANT -- READ CAREFULLY: This End-User License Agreement ("Agreement") is a legal contract between you (either an individual or a single business entity) and Spohn Consulting, Inc. ("Vendor"), for the work identified above, whether in print, electronic, or any other medium (the "Work").

BY INSTALLING, COPYING, OR OTHERWISE USING THE WORK, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT, **INCLUDING THE WARRANTY DISCLAIMERS, LIMITATIONS OF LIABILITY AND TERMINATION PROVISIONS BELOW.** IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL OR USE THE WORK, AND RETURN IT FOR A REFUND.

You are entitled to receive a full refund of any payment made for the Work by so requesting and returning any media and materials in unopened, unused condition within 10 days after date of payment.

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Following acceptance of this Agreement, you may use one (1) registered copy of the Work for your own use at a single legal entity. If you purchase multiple licenses, you may use the Work at a number of legal entities under your ownership or control that is equal to the number of licenses

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Permitted use of the Work under the terms of this license includes copying the Work, modifying it, and extracting text and incorporating that text in other documents. Permitted use also includes distributing the Work, or modifications thereof, or other documents containing extracts thereof, BUT ONLY to members of your workforce, by hard copy or electronic means. "Workforce" means individuals whose work is under your direct control.

Title to the end product of your permitted use shall be in you, but such end product may not itself be given, sold, transferred, rented or otherwise furnished or loaned to any person or entity that is not also licensed to use the Work.

You may not rent, lease or lend the Work. You may permanently transfer all of your rights under this Agreement, provided that you retain no copies, you transfer all of the Work (including all component parts, the media and printed materials, any upgrades and your registration), and the recipient agrees to the terms of this Agreement.

Without prejudice to any other rights, Vendor may terminate this Agreement if you fail to comply with the terms and conditions of this Agreement. In such event, you must destroy all copies of the Work.

GOVERNING LAW

This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.

PROPRIETARY RIGHTS

Copyright. All title and copyrights in and to the Work, the accompanying media and printed materials, and any copies of the Work, are owned by Vendor, or its suppliers.

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You acknowledge that (i) the administrative simplification section of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a completely new and far reaching statute; (ii) the implementing regulations, commentary, responses to "frequently asked questions" (FAQs) and guidance documents comprise hundreds of pages of fine print; (iii) HIPAA compliance involves more than adoption of written policies, particularly actual implementation of procedures and continuing education and auditing regarding both the policies and the procedures.

Vendor has exercised due care in reviewing the federal materials as well as other secondary sources, but there may be issues that are not addressed in the Work. Vendor provides these materials for use in your effort to comply with HIPAA. However, VENDOR MAKES NO REPRESENTATION, WARRANTY OR COVENANT THAT USE OF THE WORK WILL MAKE YOU HIPAA COMPLIANT OR OTHERWISE PROTECT YOU FROM ANY CLAIM OR LIABILITY ARISING UNDER HIPAA.

THE WORK IS NOT INTENDED TO CONSTITUTE LEGAL ADVICE. IF YOU REQUIRE LEGAL ADVICE OR OTHER EXPERT ASSISTANCE YOU SHOULD SEEK THE SERVICES OF A COMPETENT PROFESSIONAL.

Some states or jurisdictions do not allow the exclusion or limitation of incidental, consequential or special damages, or the exclusion of implied warranties or limitations on how long a given warranty may last, so the above limitations may not apply to you.

4.7. Expenses

There are no expenses associated with this service.

4.8. Payment Terms

Spohn Consulting, Inc. requires payment within thirty (30) days after receipt of invoice.

5. Disclaimer

All services described within this statement of work are subject to terms and conditions of the Spohn Consulting Agreement and specifically, Spohn's liability is limited as described in Section 6 of the document.

6. Execution and Expiration

6.1. Execution of Statement of Work

Please sign and provide any additional information listed below and return to Spohn Consulting, Inc. along with signed related documents and information as described in section 6.2 within thirty (30) days from receipt in order to execute this statement of work.

Spohn Consulting, Inc.

Company Name

Signature

Signature

Print Name

Print Name

Date

Date

9442 Capital of Texas Hwy, Plaza One #200

Address

Austin, TX 78759

City, State, Zip

Billing Address

Billing City, State, Zip

(512) 685-1000

Phone

(512) 685-1800

Fax

6.2. Additional Documents Required

- Spohn Consulting Agreement signed by customer if not currently on file (See Attachment A)

6.3. Expiration of Statement of Work

This estimate deemed null and void if not received by Spohn within thirty (30) days from receipt.

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Attachment A

Spohn Consulting Service Agreement

This Agreement is made effective the _____ day of _____, by and between Spohn Consulting, Inc., a Texas corporation ("Spohn") and _____, a _____

corporation ("Company"). In consideration of the mutual promises contained in this Agreement, the parties agree as follows:

1. **Services.** Spohn shall perform consulting services for the benefit of Company as set forth in the Statement(s) of Work attached hereto and incorporated herein by this reference ("Services"). In the event of any conflict or difference between a term or provision in a Statement of Work and a term or provision in this Agreement, the terms and provisions in this Agreement shall govern and control.

2. **Compensation.** Company shall pay Spohn compensation for the Services in accordance with the Statement of Work, payable as therein provided. Failure of Company to pay any charges when due shall constitute sufficient cause for Spohn to suspend its performance of the Services or terminate this Agreement immediately upon notice to Company.

3. **Confidentiality.** Neither party will at any time during or after the termination of this Agreement directly or indirectly divulge, disclose, or communicate to any person, firm, or corporation in any manner whatsoever any information concerning any matter affecting or relating to the other party or the business of the other party ("Confidential Information"). Each party agrees to the foregoing without regard to whether all of the foregoing matters will be deemed confidential, material or important, it being stipulated by the parties that all information, whether written or otherwise, regarding the other party's business, including but not limited to information regarding customers, customer lists, employees, employee salaries, costs, prices, earnings, and any financial or cost accounting reports, products, services, formulae, compositions, machines, equipment, apparatus, systems, technical information, software and other intellectual property, operations, potential acquisitions, new location plans, prospective and executed contracts and other business arrangements, and sources of supply, is presumed to be important, material, and confidential information of the other party for purposes of this Agreement. Each party agrees that all such information is a trade secret owned exclusively by the other party which shall at all times be kept confidential. "Confidential Information" shall not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by either party, its agents, representatives, or employees; or (ii) becomes available to either party on a non-confidential basis from a source other than the other party or its agents which is not prohibited from disclosing such information by a legal, contractual, or fiduciary obligation. The parties may use Confidential Information only for a purpose that is necessary to carrying out their duties under this Agreement. The parties acknowledge that remedies at law may be inadequate to protect against a breach of this provision and therefore hereby agree in advance to the granting of injunctive relief without proof of actual damages. Each party agrees to indemnify and hold the other party harmless from and against any and all claims, losses, liabilities, expenses, penalties, and assessments, including reasonable attorney's fees and court costs, resulting from its breach of the confidentiality provisions contained in this paragraph.

4. **Rights in Data and Documents.** All of the materials developed by Spohn under this Agreement shall be and remain the sole and exclusive property of Company, provided that the compensation due Spohn under this Agreement has been paid in full by Company. Spohn and its employees and agents hereby agree to assign to Company all right, title and interest in all of the documents developed by Spohn under this Agreement, and further shall execute any documents and do all things necessary (i) to effect such assignment to company, and (ii) to assist Company in securing any property rights which Company may seek. Inasmuch as Spohn has developed or acquired certain proprietary information, materials, and knowledge prior to this Agreement, none of such information, materials, and knowledge shall be or become the property of Company or be considered as confidential information, materials, and knowledge of Company. Any materials given by Company to Spohn and all documents developed for Company by Spohn pursuant to this Agreement shall remain the exclusive property of Company and shall be promptly returned upon written request or termination of this Agreement.

5. **No Warranty; Disclaimer of Warranty.** EXCEPT AS EXPRESSLY SET FORTH IN PARAGRAPH 5.1, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS. THERE ARE NO WARRANTIES OF ANY

KIND UNDER THIS AGREEMENT, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR TITLE AND WARRANTIES AS TO THE QUALITY, SUITABILITY, ADEQUACY, ACCURACY, OR COMPLETENESS OF THE SERVICES; AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED BY SPOHN. THIS DISCLAIMER OF WARRANTY IS AN ESSENTIAL AND BARGAINED FOR PART OF THIS AGREEMENT, AND SPOHN WOULD NOT PERFORM THE SERVICES WITHOUT THIS DISCLAIMER. NO REPRESENTATIVE OF SPOHN HAS AUTHORITY TO VERBALLY MODIFY THE TERMS OF THIS DISCLAIMER.

5.1 **Warranty.** Spohn warrants that: (i) Spohn's performance of the Services called for by this Agreement does not and shall not violate any applicable law, rule, or regulation or any contracts with third parties; (ii) the materials to be prepared, produced or developed for Company do not and shall not violate any third-party rights in any patent, trademark, copyright, trade secret, or similar right; (iii) Spohn is the lawful owner or licensee of any software programs or other materials not provided by Company but used by Spohn in the performance of the Services called for in this Agreement; and (iv) Spohn has all rights necessary to convey to Company the unencumbered ownership of the materials developed by Spohn under this Agreement.

6. Limited Liability.

(a) **COMPANY ASSUMES SOLE AND TOTAL RESPONSIBILITY AND RISK FOR ANY DAMAGES OR LIABILITIES ARISING DIRECTLY OR INDIRECTLY OUT OF THE SERVICES, THIS AGREEMENT, SPOHN'S PERFORMANCE OF THIS AGREEMENT, ANY OBLIGATIONS RESULTING THEREFROM, AND COMPANY'S RELIANCE THEREON; AND COMPANY AGREES THAT ANY SUCH DAMAGES OR LIABILITIES ARE NOT THE RESPONSIBILITY OF SPOHN.**

(b) **WITHOUT LIMITING THE FOREGOING, SPOHN AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS WILL IN NO EVENT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR ANY OTHER INDIRECT LOSS OR DAMAGE OF ANY NATURE, INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOST REVENUES, CAUSED TO THE BUSINESS OR PROPERTY OF COMPANY OR ANYONE ELSE ARISING OUT OF OR RELATED TO THE SERVICES, THIS AGREEMENT, SPOHN'S PERFORMANCE OF THIS AGREEMENT, ANY OBLIGATIONS RESULTING THEREFROM, AND COMPANY'S RELIANCE THEREON.**

THE ENTIRE, AGGREGATE, AND MAXIMUM LIABILITY, IF ANY, OF SPOHN, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FOR ANY AND ALL CLAIMS, LOSSES, DAMAGES, OR EXPENSES ARISING OUT OF OR RELATED TO THE SERVICES, THIS AGREEMENT, SPOHN'S PERFORMANCE OF THIS AGREEMENT, ANY OBLIGATION RESULTING THEREFROM, AND COMPANY'S RELIANCE THEREON, SHALL IN NO EVENT BE GREATER THAN THE AMOUNT PAID BY COMPANY TO SPOHN UNDER THIS AGREEMENT.

THIS LIMITATION OF LIABILITY IS AN ESSENTIAL AND BARGAINED FOR PART OF THIS AGREEMENT, AND SPOHN WOULD NOT PERFORM THE SERVICES WITHOUT THIS LIMITATION. NO REPRESENTATIVE OF SPOHN HAS AUTHORITY TO VERBALLY MODIFY THE TERMS OF THIS LIMITATION.

7. **Termination.** Except as otherwise provided herein, this Agreement may be terminated by either party upon thirty (30) days written notice to the other party, with or without cause. Spohn shall be entitled to payment for all Services rendered as of the effective date of the termination. Company shall be entitled to repayment for any amounts paid for work not performed as of the effective date of termination.

8. **Independent Contractor.** It is the intent of the parties that neither Spohn nor its employees, agents, or representatives shall be considered or deemed to be employees of Company for any purpose whatsoever. In the performance of this Agreement Spohn shall at all times be and remain an Independent Contractor, with the sole right to supervise, manage, control, and direct the performance of Spohn's duties.

9. **Nonsolicitation Covenant.** During the term of this Agreement and for a period of two (2) years following its termination, Company shall not, directly or indirectly, solicit, recruit, employ, or contract with any employee or independent contractor of Spohn who performs Services under this Agreement.

10. **Consumer Transaction Disclaimer.** Company acknowledges and agrees that this is not a consumer transaction and that the Services are not being acquired for personal, family, or household purposes, and Company expressly represents and warrants to Spohn that Company uses its computer network for business or commercial purposes and not for personal, family, or household purposes.

11. **Survival.** It is agreed that certain obligations of the parties under this Agreement which by their nature would continue beyond the termination of this Agreement shall survive and continue to be binding on the parties after and notwithstanding the termination of this Agreement. Such obligations include without limitation those contained in Paragraphs 3, 4, 5, 6, and 9 of this Agreement.

12. **Agreement Not Assignable.** This Agreement is not assignable without the written consent of both Spohn and Company, and any attempted assignment shall be null and void and of no effect.

13. **Texas Law Governs.** This Agreement shall be construed and enforceable in accordance with, and be governed by, the laws of the state of Texas, without regard to principles of conflicts of law. Company acknowledges that Spohn has a legitimate business interest in requiring that Texas law govern this Agreement.

14. **Texas Selected as Forum.** Any suit involving the parties, whether in tort, contract, or otherwise, making any claim concerning the negotiation, interpretation, administration, or enforcement of this Agreement or the relationship of the parties, including without limitation claims that the other party has breached its contract, violated a law, engaged in fraud, breached a fiduciary duty, or acted in bad faith, must be brought and maintained in state district court in Travis County, Texas. All parties waive any right to remove such suit to federal court from the Travis County district court.

15. **Waiver of Jury Trial.** **THE PARTIES WAIVE THE RIGHT TO A JURY TRIAL IN ANY SUIT DESCRIBED IN THE FOREGOING PARAGRAPH. AT ANY PARTY'S REQUEST, THE OTHER PARTIES WILL JOIN IN ASKING THE COURT TO TRY THE CASE AND DECIDE ALL ISSUES, INCLUDING ISSUES OF FACT, WITHOUT A JURY. THIS WAIVER OF THE RIGHT TO A JURY TRIAL IS AN ESSENTIAL AND BARGAINED FOR PART OF THIS AGREEMENT, AND SPOHN WOULD NOT PERFORM THE SERVICES WITHOUT THIS WAIVER. NO REPRESENTATIVE OF SPOHN HAS AUTHORITY TO VERBALLY MODIFY THE TERMS OF THIS WAIVER.**

16. **Attorney's Fees.** If any action at law or in equity is necessary to enforce or interpret any of the rights or obligations under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, litigation expenses, expert fees, and any other necessary disbursements in addition to any other relief to which the prevailing party may be entitled.

17. **Notice.** Any notices to be given under this Agreement by either party to the other shall be in writing and delivered by mail, registered or certified, postage prepaid with return receipt requested, to the recipient at the address indicated below:

Spohn Consulting, Inc.	Company:	_____
c/o Steve, Davies, Vice President	c/o:	_____
9442 Capital of Texas Highway		_____
North		_____
Arboretum Plaza One, Suite 200		_____
Austin, Texas 78759		_____

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party.

18. **Force Majeure.** Spohn shall not be in breach of this Agreement by reason of any failure to comply with the terms hereof if such failure is due to acts of God, acts of government, acts of terrorism, fires, floods, epidemics, embargoes, or any cause or condition beyond Spohn's control, whether foreseeable or not.

19. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto and shall govern and control with respect to any Services performed by Spohn under a Statement of Work signed by Spohn and attached hereto. This Agreement may not be modified except by a written instrument signed by both of the parties.

20. **Personnel and Staffing.** To the fullest extent permitted by law (and in the absence of an express written waiver from Company obtained in advance), Spohn shall not bring upon Company's premises, or assign

to Company work in any manner, any employee of Spohn whose background check revealed, or would have revealed: (1) a felony conviction; (2) a conviction relating to any crime bearing upon the individual's fitness to have responsibility for the tasks being assigned to the individual.

21. Compliance with Laws. Spohn covenants and agrees to comply with all applicable federal, state and local laws and regulations relating to the performance of Services under this Agreement. By way of illustration, these laws and regulations shall include, but are not limited to all laws and regulations relating to employment, taxation, and to the health and safety of employees.

22. Advertising Restraints. Spohn agrees that without the written consent of Company, it will not use the name, service marks, or trademarks of Company or those of any of its affiliated companies or reveal the existence of this Agreement or its terms or conditions, including but not limited to, any advertising, publicity release, or sales presentation.

IN WITNESS WHEREOF, the undersigned execute this Agreement to be effective on the date first above written.

IN SIGNING BELOW, THE AUTHORIZED AGENT OF COMPANY EXPRESSLY ACKNOWLEDGES AND DECLARES THAT THE AGENT HAS CAREFULLY READ EACH AND EVERY PROVISION OF THIS AGREEMENT, SPECIFICALLY INCLUDING WITHOUT LIMITATION THE DISCLAIMERS, LIMITATIONS OF LIABILITY, WAIVERS, AND OTHER PROVISIONS IN PARAGRAPHS 5, 6(A), 6(B), AND 6(C) AND THAT THE AGENT HAS HAD THE OPPORTUNITY TO CONSULT WITH COMPANY'S LEGAL COUNSEL AND FULLY AND COMPLETELY UNDERSTANDS THE SUBJECT MATTER AND LEGAL EFFECT OF EACH PROVISION OF THIS AGREEMENT.

Spohn Consulting, Inc.

Company Name

Signature

Signature

Print Name

Print Name

Date

Date