

DRAFT

**MODEL
MUTUAL AID AGREEMENT**

This Mutual Aid Agreement (the "Agreement") is made and entered into as of this ____ day of _____, 2002, by and between _____ ("the Executing Hospital") and _____ ("Other"). The Executing Hospital and Other are collectively referred to as "Hospitals" or "parties".

RECITALS

WHEREAS, the Executing hospital is an acute care hospital, with its main campus located at _____;

WHEREAS, Other operates an acute care hospital, with its main campus located at _____, _____, Georgia _____;

WHEREAS, the parties acknowledge that each party may from time to time find it necessary to evacuate and transfer patients due to the occurrence of an external or internal disaster; and

WHEREAS, the parties further acknowledge that each party may from time to time lack the staff, equipment, supplies and other essential services to optimally meet the needs of patients due to the occurrence of an external or internal disaster; and

WHEREAS, the parties have determined that a Mutual Aid Agreement, developed prior to a sudden and immediate disaster, is needed to facilitate communication between the parties and to coordinate the transfer of patients and the sharing of staff, equipment, supplies and other essential services in the event of an external or internal disaster;

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions.**

- a. "Affected Hospital" is a party which is impacted by an External or Internal Disaster and requests to transfer patients to the other party.
- b. "Assisting Hospital" is a party which is available upon request to receive the transfer of patients from the Affected Hospital.
- c. "Borrowing Hospital" is a party which requests staff, equipment, supplies and/or other essential services from the other party in the event of an External or Internal Disaster. A Borrowing Hospital may be an Affected Hospital or an Assisting Hospital.

- d. "Designated Representative" is the individual or position designated by each party to communicate with the other party and to determine the distribution of information within their own healthcare organization in the event of an External or Internal Disaster.
 - e. "Evacuation" means the process of moving patients and staff from the Affected Hospital due to an External or Internal Disaster that threatens life and/or the ability of the Affected Hospital to provide health care services.
 - f. "External Disaster" means a disaster occurring or imminent in the community surrounding a party. External Disasters include, but are not limited to, natural disasters, such as hurricanes, and man-made disasters, such as acts of terrorism. An External Disaster may affect the entire facility or only a portion of the facility.
 - g. "Internal Disaster" means a disaster occurring within a party's facility that materially affects the party's ability to provide patient care. Internal Disasters include, but are not limited to, fires, loss of electrical power, or loss of water/sewer services. An Internal Disaster may affect the entire facility or only a portion of the facility.
 - h. "Lending Hospital" is a party which is available to provide staff, equipment, supplies and/or other essential services to the other party in the event of an External or Internal Disaster. A Lending Hospital may be an Affected Hospital or an Assisting Hospital.
2. **Participation in State-Wide Mutual Aid Compact** The parties agree to sign the State-Wide Mutual Aid Compact attached hereto as Exhibit "A", and further agree to participate in the development of Operating Procedures to implement the Compact. In the event of any inconsistency between the Mutual Aid Compact and this Agreement, the terms of this Agreement shall govern.
3. **Identification of Designated Representative** Each party agrees to identify a Designated Representative and at least one back-up individual to communicate with the other party and to distribute information within their own healthcare organization in the event of an External or Internal Disaster. The names and contact information for the Executing Hospital's Designated Representative and back-up individual is attached hereto as Exhibit "B" and is incorporated herein by this reference.
- 4.1 **Transfer Responsibilities** Each party is willing to accept patients transferred by the other party under the terms and conditions set forth in this Agreement.
- 4.2 **Transfer Responsibilities of Affected Hospital** The parties agree that in the event it becomes necessary to transfer patients from the Affected Hospital to the Assisting Hospital, the Affected Hospital shall
- a. Contact the Designated Representative at the Assisting Hospital as soon as the Affected Hospital becomes aware of the need to transfer patients;

- b. Comply with any limitations communicated to the Affected Hospital regarding the numbers and types/acuity of patients that the Assisting Hospital is able to accept;
- c. Triage all patients prior to transfer to verify that the types and acuity of services required are within any limitations communicated to the Affected Hospital regarding the numbers and types/acuity of patients that the Assisting Hospital is able to accept;
- d. Arrange for the transport of each patient to the Assisting Hospital, with the support of such medical personnel and equipment as is required by the patient's condition;
- e. Deliver to the Assisting Hospital, with each patient transferred, medical records, or copies thereof, sufficient to indicate the patient's diagnoses, condition, and treatment provided and planned; and
- f. If feasible, inventory the patient's personal effects and valuables transported to the Assisting Hospital with the patient. The Affected Hospital shall deliver the inventory and the patient's valuables to the personnel transporting the patient, and receive a receipt for such items. The Assisting Hospital shall, in turn, acknowledge and sign a receipt for the valuables delivered to it.

4.3 **Transfer Responsibilities of Assisting Hospital.** The parties agree that in accepting the transfer of patients from the Affected Hospital, the Assisting Hospital shall:

- a. Ensure that the Designated Representative is available 24 hours a day, 7 days a week to implement this Agreement and to communicate to the Affected Hospital regarding the numbers and types/acuity of patients who may be transferred.
- b. Accept all transfers from the Affected Hospital that are within the limitations communicated by the Designated Representative of the Assisting Hospital. The Assisting Hospital shall not be obligated to accept any patients which exceed its capacity or staffing, which shall be determined in the Assisting Hospital's sole discretion.
- c. Record in the clinical records of each transferred patient notations of the condition of the patient upon arrival at the Assisting Hospital.
- d. If personal effects and valuables of the patient are transported with the patient, check those items against the inventory prepared by the Affected Hospital, and issue a receipt for such items as are received by the Assisting Hospital to the personnel transporting the patient.

4.4 **Return of Patients to Affected Hospital.** Once the emergency conditions that required the transfer have sufficiently resolved, and if medically appropriate for the individual patients, the Affected Hospital shall make arrangements to transfer the patients back to the Affected Hospital as soon as practical. Upon re-transfer to the Affected Hospital, the Assisting Hospital will return to the Affected Hospital any original medical records, including x-ray films, transferred with the patient. The Assisting Hospital shall also provide

copies of medical records regarding all care provided to the patient by the Assisting Hospital.

- 4.5 **Discharge.** If a transferred patient is discharged by the Assisting Hospital, the Assisting Hospital will return to the Affected Hospital any original medical records, including x-ray films, transferred with the patient. If the Affected Hospital is not then able to receive the returned medical records, the Assisting Hospital will retain the records in the Assisting Hospital's records department until requested by the Affected Hospital.
- 4.6 **Charges for Services.** All charges for services provided at the Affected Hospital or at the Assisting Hospital for patients transferred pursuant to this Agreement shall be collected by the party providing such services directly from the patient, third party payor or other source normally billed by the party. The parties agree to cooperate with each other in billing and collecting for services furnished to patients pursuant to this Agreement. The billing and collection of charges for transportation of the patient from the Affected Hospital to the Assisting Hospital (and to return the patient to the Affected Hospital) shall be handled among the Affected Hospital, the patient and the transporting medium.
- 4.7 **Short Term Emergency Relocation of Patients.** The parties agree that in some circumstances it may be necessary for the Affected Hospital to immediately relocate patients pending transfer arrangements. Assisting Hospital agrees to use its best efforts to accommodate requests for emergency relocation by providing a physical location for such patients. In such circumstances, Affected Hospital shall provide all staff, equipment, and supplies to maintain the patients until an appropriate transfer can be accomplished. Assisting Hospital shall not be charged for the use of such staff, equipment and supplies during a short-term emergency relocation. Affected Hospital will be solely responsible for care of temporarily relocated patients and for making appropriate transfer and transportation arrangements as quickly as feasible. Affected Hospital shall reimburse Assisting Hospital for any direct expenses incurred by Assisting Hospital in accommodating temporary relocation of patients.
5. **Supplies.** Each party agrees to use its best efforts to make medical and general supplies, including pharmaceuticals, available to a Borrowing Hospital in the event of an internal or External Disaster, upon request. Supplies may be requested to address needs of transferred patients or may be requested to address internal or External Disasters that require access to additional supplies without movement of patients. The Lending Hospital shall be entitled to use its own reasonable judgment regarding the type and amount of supplies that it can provide without adversely affecting its own ability to provide services. The Borrowing Hospital that receives the supplies will reimburse the Lending Hospital based on the actual cost of those supplies. Unused supplies may be returned, provided that they are unopened and in good and usable condition. The Lending Hospital makes no warranties, express, implied, or statutory, with respect to any medical or general supplies provided under this Agreement, including, without limitation, any warranty of merchantability or fitness for a particular purpose.
- 6.1 **Equipment.** Each party agrees to use its best efforts to make biomedical equipment (including, but not limited to ventilators, monitors and infusion pumps) available to a Borrowing Hospital in the event of an internal or External Disaster, upon request. The

Lending Hospital shall be entitled to use its own reasonable judgment regarding the type and amount of equipment that it can provide without adversely affecting its own ability to provide services.

- 6.2 **Transportation.** When feasible, the Borrowing Hospital will be responsible for transporting the loaned equipment. If the Borrowing Hospital is unable to transport the Equipment, the Lending Hospital will arrange for shipping/ transportation of the loaned equipment to and from the Borrowing Hospital. All expenses of shipping/transport shall be the responsibility of the Borrowing Hospital.
- 6.3 **Risk of Loss.** The Borrowing Hospital assumes the risk of loss or damage to equipment while in its possession or in transit. The Borrowing Hospital will promptly notify the Lending Hospital if damage or loss of equipment occurs.
- 6.4 **Return of Equipment.** The Borrowing Hospital will promptly return the equipment to the Lending Hospital upon request, unless return of the equipment would be life-threatening to a patient at the Borrowing Hospital or would otherwise significantly compromise the health or safety of a patient.
- 6.5 **Compensation.** The Borrowing Hospital will compensate the Lending Hospital for the use of the equipment. To the extent the equipment is leased by the Lending Hospital, the reimbursement shall be at the actual lease cost, prorated based on the number of days of use lost by the Lending Hospital. If the equipment is owned by the Lending Hospital, Borrowing Hospital will compensate Lending Hospital at a negotiated rate which shall not exceed the fair market rental value of comparable equipment for the number of days of use lost by the Lending Hospital.
- 6.6 **Warranty.** The Lending Hospital warrants that it has no knowledge of any defect in the loaned equipment. The Borrowing Hospital assumes full responsibility for use of the loaned equipment. The Lending Hospital makes no warranties, express, implied, or statutory, with respect to any equipment supplied under this Agreement, including, but not limited to, any warranty of merchantability or fitness for a particular purpose.
- 7.1 **Non-Employed Medical Staff.** The Lending Hospital shall inform its non-employee medical staff members of the request for assistance and offer them the opportunity to participate in the Lending Hospital's response. The Lending Hospital shall cooperate with the Borrowing Hospital to provide promptly the information necessary to verify employment status, licensure and training necessary to perform the procedures requiring assistance of volunteer non-employee medical staff members. To the extent necessary or desirable, the Lending Hospital will provide the Borrowing Hospital with copies of the relevant medical staff credentialing files to support the grant of emergency staff privileges.
- 7.2 **Patient Care Staff.** The parties agree to use their best efforts to make clinical staff available to a Borrowing Hospital in the event of an internal or External Disaster, upon request. The Lending Hospital shall be entitled to use its own reasonable judgment regarding the clinical staff it can provide without adversely affecting its own ability to provide services. Clinical staff subject to this agreement shall be limited to staff employed

by the Lending Hospital. Agency staff must be obtained directly from the employing agency.

- 7.3 **Responsibility for Personnel.** The parties agree that the personnel made available to the Borrowing Hospital shall be totally under the supervision and control of the Borrowing Hospital while performing any actions in response to the Borrowing Hospital's request for personnel. The Borrowing Hospital assumes full responsibility for the actions of the employees made available by the Lending Hospitals.
- 7.4 **Personnel Files.** The Lending Hospital shall provide to the Borrowing Hospital upon request copies of personnel files sufficient to document the licensure, training and competence of the loaned staff. The Lending Hospital shall use its best efforts to ensure that such records comply with licensure and accreditation requirements applicable to the Lending Hospital.
- 7.5 **Recall of Staff.** The Lending Hospital may recall its clinical staff at any time in its sole discretion. If feasible, adequate notice will be provided to allow the Borrowing Hospital to arrange staffing from other facilities or agencies.
- 7.6 **Compensation.** The Borrowing Hospital will compensate the Lending Hospital for the use of the clinical staff at the current hourly rate (including shift differential and overtime) paid by the Lending Hospital to such staff.
8. **Ancillary Services.** The parties agree to use their best efforts to make essential ancillary services, including, but not limited to, clinical laboratory and dietary services, available to a Borrowing Hospital in the event of an internal or External Disaster, upon request. When feasible, the Borrowing Hospital will be responsible for all transportation and delivery services associated with the ancillary services, such as the delivery of laboratory specimens and the pick up and delivery of dietary supplies. If the Borrowing Hospital is unable to provide transportation/delivery, the Lending Hospital will arrange for transportation/delivery to and from the Borrowing Hospital. All expenses of shipping/transport shall be the responsibility of the Borrowing Hospital. The Borrowing Hospital will compensate the Lending Hospital at 50% of standard billed charges for all ancillary services for which there are standard charges. For all other ancillary services, Borrowing Hospital will compensate the Lending Hospital based on the actual costs of the ancillary services.
9. **Responsibility; Insurance.** Each party shall be responsible for any and all property damage or personal injury caused by the acts or omissions of its employees acting within the scope of employment. Each party shall throughout the term of this Agreement maintain comprehensive general liability insurance, workers compensation insurance, property insurance and professional liability (malpractice) insurance to cover their activities hereunder and upon request of the other party shall provide to the other party certificates evidencing the existence of such insurance coverage. Each party may at its option satisfy its obligations under this section through self-insurance programs and protections deemed by it to be comparable to the insurance coverage described herein, and upon request, provide to the other party information showing that the self-insurance programs offer such comparable protection.

10. **Independent Relationship.** None of the provisions of this Agreement are intended to create nor shall be deemed or construed to create a partnership, joint venture or any relationship between the parties, other than that of independent entities contracting with each other hereunder solely for the purpose of effecting the provisions of this Agreement.

11. **Term.** The term of this Agreement shall be one year from the date of execution, and this Agreement shall be self-renewing for additional one-year terms; provided, however, that this Agreement may be terminated (a) with or without cause, by either party giving sixty (60) days prior written notice of termination to the other party, or (b) immediately by either party upon a breach by the other party of any term or provision of this Agreement or default by the other party under the terms of this Agreement. No termination of this Agreement shall affect any rights or liabilities accruing prior to the time of termination.

12. **Affiliation with Other Facilities.** Nothing in this Agreement shall be construed as limiting the right of the parties to affiliate or contract with any other entity operating a hospital or other health care facility on either a limited or general basis while this Agreement is in effect. Each party acknowledges that, in the event of a large scale External Disaster, the ability of the Assisting Hospital to accept patients from the Affected Hospital will be affected by the receipt of patients from other sources, including direct admissions from the community and transfers of patients from other facilities. This Mutual Aid Agreement is not intended to establish a preferred status for patients of the Affected Hospitals. All decisions regarding allocation of available facilities will be made by the Assisting Hospital using its best judgment about the needs of its community.

13. **Effect of Agreement.** The execution of this Agreement shall not give rise to any liability or responsibility for failure to respond to any request for assistance, lack of speed in answering such a request, inadequacy of equipment, or abilities of the responding personnel.

14. **Copy of Agreement.** A conformed copy of this Agreement, with all amendments, if any, together with a copy of the current policies and procedures, referral forms and other documents adopted by the parties to implement this Agreement shall be kept in the administrative file of each of the parties for ready reference.

15. **Assignment.** This Agreement and the rights of the parties hereunder, may not be assigned by any party, without the prior written consent of the other party.

16. **Notices.** Any notices required or permitted hereunder shall be sufficiently given and deemed received upon personal delivery, or upon the third business day following deposit in the U.S. Mail, if sent by registered or certified mail, postage prepaid, addressed or delivered as follows:

Copies to:

Executing Hospital: _____

Other:

17. **Modification of Agreement.** This Agreement contains the entire understanding of the parties and shall not be modified except by an instrument in writing signed by the parties.
18. **No Waiver.** No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision of this Agreement or of any succeeding breach of the same provision.
19. **Governing Law.** This Agreement, and the rights, obligations and remedies of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Georgia.
20. **Access to Records.** If this Agreement is subject to Section 952 of the Omnibus Reconciliation Act of 1980, 42 U.S.C. § 1395-x (v)(1)(I) (the "Statute") and the regulations promulgated thereunder, 42 C.F.R. Part 420, Subpart D (the "Regulations"), the parties shall, until the expiration of four years after furnishing of services pursuant to this Agreement, make available, upon proper request, to the Secretary of Health and Human Services and to the Comptroller General of the United States, or any of their duly authorized representatives, the Agreement and the books, documents and records of the parties that are necessary to certify the nature and extent of the cost of services furnished pursuant to the Agreement for which payment may be made under the Medicare program.

If the Agreement is subject to the Statute and Regulations and any party carries out any of the duties of the Agreement through a subcontract, with a value or cost of \$10,000 or more over a twelve month period, with a related organization, that subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of services pursuant to such subcontract, the related organization shall make available, upon proper request, to the Secretary and the Comptroller General, or any of their duly authorized representatives, the subcontract and the books, documents and records of such related organization that are necessary to verify the nature and extent of such costs.

IN WITNESS WHEREOF, the Executing Hospital has executed this Agreement as of the day and year first above written.

Executing Hospital

By: _____

Title: _____

Other

By: _____

Title: _____

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EXHIBIT B

Name of Executing Member: _____

Name of Designated Representative: _____

Title of Designated Representative: _____

Contact Number of Designated Representative: _____

E-Mail of Designated Representative: _____

Name of Back-Up Individual: _____

Title of Back-Up Individual: _____

Contact Number of Back-Up Individual: _____

E-Mail of Back-Up Individual: _____