

Model Facility Evacuation Agreement

This *Agreement* is made by and between _____,
 whose address is _____
 hereinafter referred to as **Sending Facility**, and _____,
 whose address is _____
 hereinafter referred to as **Receiving Facility**.

TERM

The term of the Agreement shall begin on the _____ day of _____, 20____ and continue through the _____ day of _____, 20____. This Agreement may be renewed at the end of the initial term by written agreement of both parties.

SCOPE OF SERVICES

The scope of services to be provided by the **Sending** and **Receiving Facility** are outlined in *Attachment A – Duties and Responsibilities of Sending Facility* and *Attachment B – Duties and Responsibilities of Receiving Facility* attached hereto and incorporated by reference as though set forth herein.

HIPAA COMPLIANCE

Receiving Facility agrees to comply with the applicable provisions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as codified at 42 U.S.C. §1230d through d-8, and the requirements of any regulations promulgated thereunder including without limitation the federal privacy regulations as contained in CFR Part 164 (the “Federal Privacy Regulations”) and the federal security standards as contained in 45 CFR Part 142 (the “Federal Security Regulations”). **Receiving Facility** agrees not to use or disclose any protected health information, as defined in 45 CFR 164.504, or individually identifiable health information, as defined in 45 U.S.C §1230d (collectively, the “Protected Health Information”), regulations promulgated under HIPAA including without limitation the Federal Privacy Regulations and the Federal Security Regulations. **Receiving Facility** agrees to implement appropriate safeguards to prevent the use or disclosure of a resident’s Protected Health Information other than as provided for by this Agreement.

COMPLIANCE WITH LAWS AND REGULATIONS

In the event that any local, state, or federal governmental agency promulgates regulations which may effect the validity or enforceability of the terms hereof, the provision so affected shall be immediately subject to renegotiations upon the initiative of either party, and the remaining provisions hereunder shall continue in full force and effect.

REPRESENTATIONS, WARRANTIES, AND CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION FROM COVERED CONTRACTS

Receiving Facility represents and warrants to **Sending Facility**, upon execution and throughout the Term of this Agreement, as follows:

- a) **Receiving Facility** has, and shall maintain throughout the Term, all appropriate federal and state licenses and certifications which are required in order for **Receiving Facility** to perform the Services required of him or her under this Agreement and to receive reimbursement for said Services.
- b) **Receiving Facility’s** personnel, if any, are each in full compliance with all pertinent federal and state requirements, including but not limited to, immigration, licensing, certification, health and immunizations status, in order to perform the functions assigned to him or her in connection with **Receiving Facility’s** obligations under this Agreement.

- c) **Receiving Facility** certifies, by entering into this Agreement, that neither s/he, his/her principals, employees, nor independent contractors, if any, are presently under investigation for wrongdoing, nor debarred, suspended, declared ineligible, voluntarily or involuntarily excluded from participation in health care reimbursement programs by any state or federal department or agency.
- d) **Receiving Facility** agrees to provide to **Sending Facility** immediate notice and explanatory information as it develops, of any change of circumstance relative to this certification.
- e) **Receiving Facility** understands that this certification is a necessary condition for the continuation of this Agreement.

Sending Facility represents and warrants to **Receiving Facility**, upon execution and throughout the Term of this Agreement, as follows:

- a) **Sending Facility** has, and shall maintain throughout the Term, all appropriate federal and state licenses and certifications, which are required in order for **Receiving Facility** to perform the Services required of **Receiving Facility** under this Agreement and receive reimbursement for same and to operate the **Sending Facility**.
- b) Each of the **Sending Facility's** employees is in full compliance with all pertinent federal and state requirements, including but not limited to, immigration, licensing and certification, health and immunization status, in order to perform the functions assigned to him or her, which are required in connection with this Agreement.
- c) **Sending Facility** has all approvals and certifications required by the appropriate state and federal agencies in order to qualify for and participate in Medicare and Medicaid programs.
- d) **Sending Facility** certifies, by entering into this Agreement, that neither its principals nor employees is presently under investigation for wrongdoing, nor debarred, suspended, declared ineligible, voluntarily or involuntarily excluded from participation in health care reimbursement programs by any state or federal department or agency.
- e) **Sending Facility** further agrees to provide to **Receiving Facility** immediate notice and explanatory information as it develops, of any change or circumstance relative to this certification.

RECORDS AND REPORTS

Receiving Facility agrees to keep and maintain records of any “Billed Services” delivered to **Sending Facility** residents as may be required by any Medicare Intermediary, federal, state, or local government agency, **Sending Facility** or other party whom billings for **Receiving Facility's** services are rendered. **Receiving Facility** agrees to make all records of **Sending Facility's** residents to whom **Receiving Facility** has rendered billed services available for **Sending Facility** or resident inspection.

Receiving Facility agrees to comply with all statutory requirements governing the maintenance of documentation to verify the cost of services rendered under this Agreement:

- i. Until the expiration of five (5) years after the furnishing of such services pursuant to this Agreement. Upon written request, **Receiving Facility** shall make available to the Secretary of Health and Human Services (“Secretary of HHS”), the Comptroller General of the United States, the Medicare Intermediary, any other federal or state agency, or any of their duly authorized representatives having the authority or responsibility for payments for, or supervision of, **Sending Facility** or **Receiving Facility's** services, all contracts, accounting records, books, documents, and records of **Receiving Facility** that are necessary to certify and substantiate the nature and extent of such costs; and
- ii. If **Receiving Facility** carries out any of the duties of this Agreement through a subcontract, such subcontract shall contain a clause to the effect that until the expiration of five (5) years after the furnishing of such services pursuant to such subcontract, upon written request, the subcontractor shall make available to the Secretary of HHS, the Comptroller General of the United States, the Medicare Intermediary, any other

federal or state agency, or any of their duly authorized representatives having the authority or responsibility for, or supervision of, **Receiving Facility's** services the subcontract, accounting records, books, documents, and records of such organization that are necessary to certify and substantiate the nature and extent of such costs.

Receiving Facility hereby agrees to save, defend, indemnify and hold **Sending Facility** harmless of and from any and all liability, loss, cost or expense incurred directly or indirectly because of:

- a) Failure of **Receiving Facility** or any of its subcontractors or agents to comply with the obligations set forth in section "i" or "ii" above, or
- b) Any inaccurate or fraudulent claims submitted to **Sending Facility** by **Receiving Facility** for billing or other purposes.

CIVIL RIGHTS

Receiving Facility agrees to comply with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 in that **Receiving Facility** shall provide his/her services to all **Sending Facility** residents without regard to race, color, creed, national origin, age, sex, religion, disability, marital status, or payment status.

CONFIDENTIALITY, USE, AND RELEASE OF PROTECTED HEALTH INFORMATION

Receiving Facility and **Sending Facility** agree not to disclose any proprietary information to any other party.

Receiving Facility agrees to:

- i. Use protected health information only for the purpose of fulfilling the service requirements of this Agreement;
- ii. To prohibit the use or disclosure of protected health information in any way that would violate current privacy standards;
- iii. Establish appropriate safeguards to prevent the use or disclosure of protected health information stored or maintained by the **Receiving Facility** whether in written or electronic form;
- iv. Report any misuse or disclosure of protected health information to the **Sending Facility** and to the affected resident(s) within twenty-four (24) hours of discovering such misuse or disclosure;
- v. Require its subcontractors or agents to which it provides protected health information to agree to the same restrictions and standards of the **Receiving Facility** as set forth in this Agreement;
- vi. Provide a written procedure to the **Sending Facility** under which residents who are subjects of the protected health information may inspect and copy their information in possession of the **Receiving Facility** and allowing for the correction and amendment of information upon notice thereof from the **Sending Facility**;
- vii. Provide a written procedure to the **Sending Facility** under which residents will be notified of the release of protected health information as required by current HIPAA regulations; and
- viii. Upon expiration of this Agreement, return or destroy all protected health information received from **Sending Facility** during the term of this Agreement, whether written or electronic format, and to retain no copies of such information. This shall not preclude the **Receiving Facility** from maintaining sufficient information solely to permit timely billing and to meet record retention requirements, provided that such information is returned or destroyed once such billing or record retention requirements are met and provided that the protections of HIPAA and this Agreement are extended until such time as such information is returned or destroyed.

PARTIAL INVALIDITY

If any non-material term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

INDEPENDENT PARTIES

This Agreement is an independent contract between the **Sending Facility** and **Receiving Facility**. Neither party, nor any employee of either party, shall be construed in any manner whatsoever to be an employee or agent of the other, nor shall this Agreement be construed as a contract of employment or agency. The **Sending Facility** shall be under no obligation to provide Worker's Compensation, disability, health, surgical or other insurance, or to provide unemployment benefits for the **Receiving Facility** or to withhold, deduct or pay income or social security taxes for the **Receiving Facility**.

TERMINATION

This Agreement may be terminated with or without cause by either party by giving sixty (60) days prior written notice.

Sending Facility retains the right to terminate this Agreement without notice for any of the following reasons:

- i. Investigation of or inquires regarding services provided by **Receiving Facility** proceed beyond six (6) months whether or not **Sending Facility** is a party to said investigation or inquiry;
- ii. **Receiving Facility** is excluded from or subject to certain actions;
- iii. A basis for such final adverse action exists;
- iv. **Receiving Facility's** failure to meet the qualifications, certification, or licensing requirements to perform the services outlined in this Agreement and additional covenants as outlined in Attachments "A" and "B" of this Agreement;
- v. A deliberate release of or use of protected health information that is contrary to this Agreement or to current privacy standards; and/or
- vi. **Receiving Facility's** failure to comply with the terms of this Agreement.

NUMBER OF DAYS

In computing the number of days for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or holiday, then the final day shall be deemed to be the next business day.

GOVERNING LAW

This Agreement shall be governed by the laws of the State of _____ except as such laws may have been pre-empted by applicable federal law.

AMENDMENTS

This Agreement may be amended or modified at any time by the written consent of both parties.

WAIVER

The waiver by either party of any breach or any provision of this Agreement, or of any representation set forth herein, shall not be construed as a waiver of any subsequent breach of the same or any other provision, or representation. The failure to exercise any right hereunder shall not operate as a waiver of such right. All rights and remedies provided herein are cumulative.

INTEGRATION

This Agreement supersedes all previous agreements, oral or written, between the **Receiving Facility** and **Sending Facility** and along with Attachments “A” and “B” attached hereto embodies the complete Agreement between both parties.

SENDING FACILITY

RECEIVING FACILITY

BY: _____

BY: _____

Its: _____

Its: _____

Printed Name: _____

Printed Name: _____

Date: _____

Date: _____

Witness: _____

Witness: _____

Printed Name: _____

Printed Name: _____

Attachment A – Duties and Responsibilities of SENDING Facility

Example of Duties and Responsibilities

In the event a disaster occurs that requires the evacuation of the facility, residents will be relocated to:

*A & S Healthcare Facility
100 Shady Oak Lane
New Town, USA 00000
555-555-0001*

The contact person for A & S Healthcare Facility is Mr. John Doe who can be contacted at 555-1234, extension 232 (work) or 555-0986 (residence). Cell phone number is 555-0456.

Upon necessity to evacuate, our facility will make contact with receiving facility and inform them of the number of residents that will be evacuated.

Our facility will provide necessary personnel and medical supplies from our facility to assist in providing necessary nursing/medical care to residents at receiving facility as requested by receiving facility's management.

Appropriate medical records will be provided to the receiving facility to ensure continuity of care.

Food supply and other emergency equipment will be made available to receiving facility as may be requested.

Attachment B – Duties and Responsibilities of RECEIVING Facility

Example of Duties and Responsibilities

In the event a disaster occurs that requires the receiving of the residents, our facility will accept residents from:

*Magnolia Gardens
1212 Magnolia Gardens
New Town, USA 00000
555-555-8569*

The contact person for Magnolia Gardens is Mrs. Hazel Doe who can be contacted at 555-3216, extension 222 (work) or 555-5679 (residence). Cell phone number is 555-9631.

Upon notice of evacuation of Magnolia Gardens, our facility will notify our staff of the number of residents being transported to our facility. If necessary, off-duty personnel will be recalled to the facility.

Environmental service personnel will assist in distributing appropriate bedding and linen service to incoming residents.

An emergency medical treatment area will be setup in the dining room located on the west wing.

Food supply and other emergency equipment will be brought in and processed at the supply room.

Staff from the sending facility will be assigned to work areas as determined by the person in charge at the time such staff arrives at the receiving facility.

Residents will be returned to sending facility upon receiving notice from the sending facility that residents can now be transported back to the facility.