

AGREEMENT FOR STAFFING SERVICES

This Agreement (“agreement”) is made effective this _____ day of _____, 2008, by and between Aspen Valley Hospital District (“AVH”), a special district hospital organized under the laws of the state of Colorado and located at 0401 Castle Creek Road, Aspen, CO 81611 and _____ (“Agency”), located at _____

RECITALS

WHEREAS, AVH is licensed as a hospital in the state of Colorado and AVH is accredited by the Joint Commission on Accreditation of Healthcare Organizations; and

WHEREAS, Agency is in the business of providing licensed healthcare professionals (“agency professionals”) to hospital clients and other healthcare facilities; and

WHEREAS, in accordance with the terms and provisions of this Agreement, AVH desires the services of Agency to identify and provide certain Agency Professionals to AVH that are qualified and compliant with the standards identified by AVH.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of are hereby acknowledged, AVH and Agency agree as follows:

I. GENERAL PROVISIONS

- A. AVH, from time to time, will identify needs for licensed healthcare professions by posting open staffing positions. The posting by AVH identifies (among other items) the position requested, the qualifications and standards require by the Facility.

II. SERVICES BY AGENCY

- A. Upon request by AVH, Agency shall use its best efforts to assign Agency professionals to AVH in full compliance with all terms and provisions of this Agreement. Agency understands and acknowledges that the providing of medical staffing services shall be undertaken by Agency on a non-exclusive basis, which means that this Agreement shall not preclude AVH from using another agent or entity for recruitment of healthcare professional staff.
- B. Agency shall pre-screen Agency Professionals to determine whether their qualifications and competence complies with the qualifications and standards established by AVH. The pre-screening by Agency shall include, but not be limited to, obtaining all pertinent information (hereinafter “pre-assignment Screening Information”) concerning the past employment, licensure, certifications, education and professional skills of Agency Professionals. AVH also requires Agency conduct a review of the applicant’s exclusion from federal

- payor programs in accordance with federal guidelines. In addition, AVH may, in its sole discretion, require Agency to conduct a full background and criminal record check regarding the Agency Professional to be assigned to Facility. The costs of all Pre-Assignment Screening shall be born by Agency.
- C. The existence of the required work experience, licensure and/or professional certification, and the results of a background/criminal record check shall be confirmed by Agency when it acquires the Pre-assignment Screening information from Agency Professionals. AVH, upon review of the Pre-assignment Screening Information shall have the right in its sole discretion to reject the assignment of any individual who it deems fails to satisfy the criteria established by AVH.
- D. In accordance with the Pre-assignment Screening, Agency agrees to provide to AVH prior to placement of Agency personnel at AVH the following documentation:
- i. Documentation of immunity to Rubella, Rubeola, Mumps, Varicella-Zoster and Tetanus
 - ii. Documentation of annual negative ppd results and two-step follow-up to ppd taken within 2nd week of first shift worked at Facility, or documentation of current Chest x-ray.
 - iii. Documentation of negative urine analysis for substance abuse.
 - iv. General Statement of physical health
 - v. Current copy of credentials/certification/license, including CPR certification (if required)
 - vi. Skills sheet resume for the Agency Professional
- E. Agency agrees to acquire the following information to be maintained in each Agency Professional's file, prior to and during placement of Agency Professional with AVH. AVH may request Agency provide said documentation at any time.
- i. last seven years of applicable states resided and name changes
 - ii. if an Agency Professional has not had an assignment for six months at AVH, the background check will be updated
 - iii. drug screen done within six months of working at AVH
- F. Prior to an Agency Professional's first shift worked at AVH, Agency will arrange for the Agency Professional to complete general AVH orientation which may include, safety test, skills test, compliance training, unit specific orientation, review of job description, signed confidentiality statement and signed code of conduct.
- G. Agency Professionals placed with AVH shall comply with its policies and procedures, state and federal laws and regulations, including but not limited to: Joint Commission on Accreditation of Healthcare Organizations (JCAHO) guidelines, OSHA rules, CMS background checks, and other regulatory agency requirements.

- H. Agency Professionals placed with AVH will perform their assignments in accordance with their applicable job descriptions and scope of practice.
- I. Agency shall not provide any personnel who currently have an employment relationship with AVH.

Agency shall provide appropriate insurance coverage (general and professional liability) for its employees. Agency shall provide a Certificate of Insurance to AVH upon request. Insurance coverage shall be for not less than \$1,000,000 (one million dollars) per occurrence and \$3,000,000 (three million dollars) in aggregate covering acts or omissions which may give rise to liability for services under this Agreement. Worker's Compensation Insurance and unemployment insurance shall be provided in accordance with applicable state law.
- J. Agency Professionals shall report any work related injuries incurred while placed with AVH in accordance with Agency reporting requirements. Agency Professionals will report any work related injury to both AVH and Agency concurrently. Agency Professionals shall be familiar with reporting requirements of AVH. Failure to notify AVH or work related injuries incurred by Agency Professionals within the time requirements of AVH shall be grounds for ineligibility of future placement with AVH.
- K. Agency will maintain direct responsibility for payment of wages and other compensation (including expense reimbursement) to all Agency Professionals and Agency shall be responsible for all applicable mandatory withholdings and contributions of federal, state and local income taxes, social security taxes, worker's compensation, and unemployment insurance for Agency Professionals.
- L. In accordance with the requirements of AVH, Agency agrees to have Agency Professional available to AVH twenty-four (24) hours per day, seven (7) days per week. Agency's obligation to provide requested Agency Professionals is limited, however, by the availability to Agency any professionals who are ready, willing and able to accept an assignment.
- M. Agency will provide all Agency Professionals assigned by Agency to AVH with the copies of OSHA standard (29 CFR, Part 1910, 1030) and will maintain an accurate record of required training.

III. RESPONSIBILITIES OF AVH

- A. AVH will guarantee full time hours for any agency personnel placed at AVH. Such hours are at least 36-40 hours for personnel working an 8 hour shift and 72-80 hours bi-weekly for personnel working a 12 hour shift.

- B. Performance problems of Agency Personnel placed with AVH will be documented and reported to Agency in a timely manner.
- C. AVH will provide hospital orientation to Agency Professionals, which shall include safety, security, infection control, emergency preparedness, corporate compliance, HIPAA, and unit specific orientation. Orientation shall also include an explanation of job responsibilities and the policies and procedures of which Agency Professionals must be aware in order to perform and document high quality patient care.
- D. AVH will comply with JCAHO standards, including the provision of appropriate orientation of the Agency Professional to the unit(s). The degree of orientation required will vary according to the role and responsibilities expected of the Agency Professional. Documentation of the orientation will include the name of the hospital's personnel conducting such orientation, the date of the orientation, including the Agency Professional's acknowledgement by signature that such orientation was provided.
- E. AVH controls the working environment of Agency Professional's assigned by Agency to it. AVH will be responsible for providing all hospital-specific training noted in OSHA standards. This includes the hospital's exposure control plan, hazard communication, engineering and work practice controls and the AVH contact for biohazard emergencies. AVH will provide to Agency documentation of all training provided to Agency Professionals by AVH to enable Agency to meet its obligation under this Agreement.
- F. AVH will cooperate with Agency to enable Agency to complete the required post-exposure evaluation and follow-up when an Agency Professional assigned to AVH has experienced an exposure incident.
- G. Housing. Private housing is not guaranteed, most staff will have a roommate. Pets are not allowed in any unit. If an employee arrives for their assignment with a pet, there will be a non-refundable \$650 pet charge that the agency will be billed. All units are non-smoking. If an employee is smoking in one of the units, there will be a non-refundable \$650 extra cleaning charge that the agency will be billed. All units are furnished. However, units are not furnished with washers and dryers, coin operated machines are available nearby. Failure to adhere to the above will result in immediate termination of the employee contract, and the Agency will replace the employee within 48 hours.
- H. Upon completion of assignment, and upon request by Agency, AVH will provide an evaluation of Agency Professional's performance, on a format mutually agreed upon.

- I. AVH shall retain professional management responsibility for the patient and the services provided. AVH shall have exclusive responsibility to plan the patient's care and coordinate such care.
- J. For the purpose of implementing §1861(v)(I)(I) of the Social Security Act, as amended, and any written regulations thereto, Agency agrees to comply with statutory requirements governing the maintenance of documents to verify the cost of services rendered under this agreement as follows:
- K. Until the expiration of four years after the furnishing of such services pursuant to this Agreement, Agency shall make available, upon written request to AVH, and/or the Secretary of Health and Human Services, or upon request of any of their duly authorized representatives, the contracts, books, documents and records of such Agency that are necessary to certify the nature and extent of such costs.

IV. JOINT RESPONSIBILITIES

- A. Agency agrees to transmit to AVH appropriate documentation described in Section II above. AVH agrees to review said documentation in a timely fashion.
- B. Following the completion of Agency Professional's assignment, AVH may offer for permanent placement such Agency Professional at a fee mutually agreed upon between AVH and Agency, said fee not to exceed fifteen percent (15%) of Agency Professional's annual salary.
- C. AVH has the right to refuse the assignment of any prospective worker it deems unsatisfactory. AVH has the right to refuse the assignment, without any liability to Agency for any worker who fails to complete the assignment or meet the schedule of assignment and/or demonstrates the inability to meet the standards of performance of the assignment.
- D. AVH and Agency shall each be required to maintain compliance with regulatory or accreditation agencies. Documentation of such compliance requested by the other party shall be reasonably provided to the other party.
- E. If, in the opinion of AVH, at any time any term of this Agreement violates federal, state or local law or regulation, and/or could jeopardize AVH's federal tax-exempt status as a Special District, or could result in the prohibition of any referral or payment to AVH, then the terms of this Agreement shall be changed as necessary so that, in the opinion of AVH, such violation no longer exists.
- F. AVH and Agency hereby mutually represent and warrant that it is not and at no time has been excluded from participation in any federally funded

healthcare program, including Medicare and Medicaid. Each party agrees to notify the other party of any threatened, proposed or actual exclusion. In the event that either party (or representative therein) is excluded or if at any time after the effective date of the agreement it is determined that either party is in breach of this section, this Agreement shall, as of the date of such exclusion, automatically terminate.

ILLEGAL ALIENS – PUBLIC CONTRACTS FOR SERVICES

The Agency certifies that the Agency shall comply with the provisions of § 8-17.5-101, et. seq. C.R.S. The Agency shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to the Agency that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

The Agency represents, warrants, and agrees that it has confirmed or attempted to confirm the employment eligibility of all employees who are newly hired for employment in the United States, through participation in the Basic Pilot Employment Verification Program administered by the U.S. department of homeland security.

The Agency certifies that it has participated or attempted to participate in the basic pilot program in order to confirm the employment eligibility of all employees who are newly hired for employment in the United States. If the Agency is not accepted into the basic pilot program prior to entering into this contract, the contractor shall apply to participate in the basic pilot program every three months until the contractor is accepted or the public contract for services has been completed, whichever is earlier. This provision shall not be required or effective in this contract if the basic pilot program is discontinued.

The Agency understands that it is prohibited from using the basic pilot program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.

If the Agency obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with an illegal alien, the Agency shall:

- (a) Notify the subcontractor and the Hospital District within three days that the Agency has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- (b) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph (a) above, the subcontractor does not stop employing or contracting with the illegal alien, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The Agency shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If the Agency fails to comply with any requirement of this section or §8-17.5-101, et. seq. C.R.S., the District may terminate this contract for breach of contract, and the Agency shall be liable for actual and consequential damages to the District.

V. PAYMENT FOR SERVICES

- A. AVH shall make payment for services rendered by Agency Professionals and billed by Agency within thirty (30) days of receipt of invoice for said services.
- B. AVH will provide and Agency will bill for an agreed, confirmed minimum hours of work per week for each Agency Professional. The pay week for purposes of scheduling and service billing, and overtime calculation will begin Saturday 11PM (2300 hours) and end the following Saturday 10:59PM (2259).
- C. The Agency shall provide to AVH an all inclusive billing rate. Such hourly rate shall include all of Agency's charges. Agency shall not bill AVH for any additional charges, fees, costs, or expenses other than the "all inclusive billing rate". This rate shall include any costs for overtime, holiday pay, vacation, etc.. Any housing provided by AVH shall be mutually agreed upon at the time such Agency Professional agrees to work at AVH.
- D. AVH agrees management will approve Agency Professional's worked time in a reasonable manner. AVH agrees to sign a written timecard for the time worked as authorized by AVH, and documented by the timekeeping system (API) record of hours worked. The manager or authorized staffing personnel and the Agency Professional will sign the timecard. AVH will retain a copy of the timecard for their records and use it as the basis of approval and payment of any invoice submitted by Agency.
- E. AVH will schedule Agency Professionals for holidays according to its policy for holiday scheduling.
- F. Agency understands that should Agency Professional not complete his/her assignment and Agency is unable to provide a suitable replacement, that Agency shall remit payment to AVH for irreparable damages created by the unfilled position. Such damages shall be in the form of forty (40) hours pay for that position.
- G. If Agency cancels a confirmed contracted Agency Personnel and cannot provide a suitable replacement as required above, Agency shall be responsible for payment to AVH of one thousand (\$1,000.00) dollars as a cancellation fee.

VI. TERM AND TERMINATION

- A. This Agreement shall be in effect from the date first written above and shall continue until the Agreement is terminated either by Agency or AVH upon fourteen (14) days written notice to the other party; provided, however, that if an Agency Professional is terminated for Cause (as defined below), AVH may terminate this Agreement immediately. Such termination shall have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination.
- B. AVH shall attempt to notify Agency at least thirty (30) days prior to its cancellation of an agency personnel needed, if possible.
- C. Should Agency cancel confirmed Agency Professional assignment in less than fourteen (14) days of the start date, or if Agency Professional fails to arrive in a manner required to begin work, Agency shall provide a replacement qualified Agency Personnel within twenty-four (24) hours or this Agreement shall immediately terminate.
- D. Should Agency Personnel arrive and be found to not be qualified for said job, or such work is unsatisfactory (in AVH supervisor's sole discretion), Agency shall provide a qualified replacement personnel within twenty-four (24) hours or this agreement shall terminate and payment to AVH shall be made in accordance with Section V(F) above.
- E. The term "Cause" shall mean the occurrence of one of the following events (determined solely by AVH):
 - i. Upon material violation by the Agency Professional of any provisions of this Agreement or the rules, policies and/or procedures of AVH;
 - ii. Upon repeated failure by the Agency Professional to meet performance, efficiency, or quality standards established by AVH;
 - iii. Upon conduct by the Agency Professional which is considered by AVH to be unethical, unprofessional, fraudulent, unlawful, or adverse to the interest, reputation, or business of AVH;
 - iv. Upon revocation, cancellation, suspension or limitation of the Agency Professional's professional license, or disciplinary action in any state by an appropriate licensing authority;
 - v. Upon cancellation of the Agency's or Agency Professional's liability coverage, or their un-insurability, under the terms and conditions of the professional liability insurance provided;
 - vi. Upon the imposition of any restrictions or limitations on the Agency Professional by any governmental or professional authority having jurisdiction over the Agency Professional to such an extent that the

Agency Professional cannot engage in the providing of services as required hereunder;

- vii. Upon the Agency Professional's conviction of a felony or crime of moral turpitude;
- viii. Upon repeated failure by the Agency Professional to conform and comply with AVH's professional requirements concerning maintenance of medical records;
- ix. Upon repeated failure by Agency Professional to follow behavioral norms generally applicable to all employees employed by AVH;
- x. Upon the use of alcohol or any controlled substance which materially impairs the ability of the Agency Professional to effectively perform the Agency Professional's duties and obligations under this Agreement;
- xi. Upon the determination of AVH in good faith that the Agency Professional is not providing adequate patient care or that the health, safety or welfare of patients is jeopardized by continuing the employment of the Agency Professional.

VII. HIPAA COMPLIANCE/BUSINESS ASSOCIATES

- A. The Agreement shall be subject to the following conditions in compliance with the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (42 USC §1320d to 1320d-7) ("HIPAA") and the final regulations implementing the privacy provisions of HIPAA as amended from time to time, codified at 45 C.F.R. Parts 160 and 164 ("Privacy Regulations").
- B. The parties understand that Agency and the Agency Professional, in the performance of their assigned responsibilities under their Agreement, may require access to individually identifiable health information of patients of AVH. The parties further agree that such access shall be limited to the Agency and the Agency Professional only. Agency shall not require or request access to any individually identifiable patient information of AVH.
- C. AVH shall designate Agency and the Agency Professional working under the Agreement as a member of its "workforce" as such term is defined in the Privacy Regulation, for purposes of carrying out duties under the Assignment. Such designation is for purposes of HIPAA compliance only and shall not be construed as obligation to pay wages and benefits, administer a benefit program, withhold and remit income and payroll taxes for the benefit of any Agency or Agency Professional.
- D. As a member of AVH's workforce, Agency Professional will have access to, in the same manner as other employees of AVH performing the same or similar job functions, such information as is necessary for Agency

Professional to effectively undertake their duties. Such access shall be under the direction and control of AVH. Agency Professional agrees to use this information only as needed for the performance of his/her assigned duties and to not use such information for any other purpose. In addition, Agency Professional will not disclose or use any information it may receive or develop as a result of its contact with AVH's patients for any purpose other than necessary to perform his/her assigned responsibilities.

- E. Agency Professional shall be subject to AVH's policies and procedures governing the privacy and security of protected health information (PHI) of its patients. AVH shall be responsible for providing the necessary training to Agency Professional prior to working as required by HIPAA and consistent with the training provided to other members of its workforce.
- F. In the event of any change of law or regulation, which prohibits Agency Professional from being designated as a member of AVH's workforce, or any action or threatened action by federal, state or local authorities that such designation creates a serious risk of assessment, sanction, penalty or other serious consequence to Agency or Agency Professional, the parties agree to negotiate in good faith to reform or modify this Agreement or enter into a separate agreement as necessary to permit AVH to share PHI with Agency Professional as necessary for Agency Professional to perform his/her responsibilities under the Agreement.

VIII. MISCELLANEOUS TERMS

- A. The parties enter into this Agreement as independent contractors and nothing contained herein shall be construed to create a partnership, joint venture, agency, or employment relationship between the parties.
- B. In the event that any dispute relating to this Agreement is unable to be resolved through discussions, either party may submit this dispute to final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association to the extent such rules are not inconsistent with this Agreement.
- C. Neither party may assign this Agreement without the prior written consent of the other party, nor shall such consent be unreasonably withheld. No such consent will be required for assignment to an entity owned by or under common control with assignor. In any event, the assigning party will remain fully responsible for compliance with all of the terms of this Agreement.
- D. Agency agrees to indemnify and hold AVH harmless from any and all liability AVH may incur by reason of bodily injury or death or property damage (collectively "damages") to the extent caused by the negligent acts or omissions of Agency Professionals in the performance of their assignment for

AVH. AVH agrees to give prompt written notice of any such assertion or claim.

AVH agrees to indemnify and hold Agency harmless from any and all liability Agency may incur by reason of damages to the extent caused by the negligent acts or omissions of AVH employees in the performance of their duties, except to the extent such damages are caused by Agency's negligence. Agency agrees to give prompt written notice of any such assertion or claim.

- E. This Agreement shall be governed in all respects by and construed in accordance with the laws of the State of Colorado. Any action brought under the terms of this agreement shall be brought in Pitkin County, Colorado.
- F. All books, documents and records related to the performance of this agreement shall be available for inspection, at any time upon written notice, and shall be maintained for four (4) years after the furnishing of any service, to include any service provided by way of a subcontract with another organization.
- G. This Agreement will be implemented through a written signed request for Agency Professionals and a written signed acceptance of Agency Professional's confirmation of staff or of extended assignment.
- H. The waiver by either party of a breach or violation on any provisions of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision of this Agreement.
- I. Any notice or demand required under this Agreement will be in writing, will be personally served, or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt, and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

If to AVH:

Aspen Valley Hospital District
0401 Castle Creek Road
Aspen, CO 81611
ATTN: Human Resources
Fax: 970-544-1552

With a copy to: General Counsel

If to Agency:

- J. The parties agree that Agency's obligation to supply Agency Professionals on the request of AVH is subject to availability of qualified Agency Professionals. Failure of Agency to provide Agency Professionals or failure of AVH to request Agency Professionals results in no penalty and does not constitute a breach of this Agreement.
- K. In the event that a provision of this Agreement is held to be invalid or unenforceable, the balance of this Agreement will remain in full force and effect.
- L. The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.
- M. This Agreement constitutes the entire contract between AVH and Agency regarding the services covered under this Agreement. Any agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original. No amendments to this Agreement will be effective unless made in writing and signed by both parties.

IN WITNESS HEREOF, the parties have caused this Agreement to be executed by their authorized officers as evidenced by their signatures below:

Aspen Valley Hospital District

By: _____

Its: _____

Agency: _____ (name)

By: _____

Its: _____

