

LETTER OF AGREEMENT
BETWEEN THE GEORGIA DEPARTMENT OF COMMUNITY HEALTH (“DCH” or the
“Department”) AND

(the “Hospital”)
REGARDING THE INDIGENT CARE TRUST FUND

WHEREAS, the Hospital is a Medicaid Provider and a designated Disproportionate Share Hospital (“DSH”) Provider;

WHEREAS, as a Medicaid Provider and a designated DSH Provider, the Hospital may receive a payment adjustment pursuant to Chapter 350-6 of the Georgia Department of Community Health Rules governing the Indigent Care Trust Fund; and,

WHEREAS, the Hospital and the Department (individually the “Party” and collectively the “Parties”) understand and agree that this Letter of Agreement shall become effective on December 31, 2004 (the “Effective Date”).

By signing this Letter of Agreement, the Hospital understands, acknowledges, and agrees that:

1. It has received and reviewed a copy of the Georgia Department of Community Health Rules and applicable Regulations, Policies, Procedures, and Medicaid Manuals governing the Indigent Care Trust Fund (collectively the “Rules”).
 - a. The Hospital understands and agrees that it shall fully comply with all the Rules;
 - b. The Hospital understands and agrees that failure to comply with the Rules at any time shall be sufficient grounds for termination from the Indigent Care Trust Fund Program (the “Program”) and/or the Medicaid Program;
 - c. The Hospital understands and agrees that it may be subject to liquidated damages as described and more fully set forth in this Agreement; and,
 - d. The Hospital understands and agrees that it has the sole responsibility to research, interpret, understand, and remain current on any changes or modifications to applicable Rules or laws, Federal or State, regarding the Indigent Care Trust Fund.
2. A transfer of funds to the Indigent Care Trust Fund is not a condition of receipt of a payment adjustment.
3. Written annual Indigent Care Trust Fund expenditure reports shall be filed with the Department within five (5) months of the Hospital’s fiscal year end.
4. The Hospital shall comply with all requests from the Department and its agent(s) or designee(s) for information and data relating to, arising out of, or based on the expenditure of Indigent Care Trust Fund monies.

- a. All requests from the Department and its agent(s) or designee(s) shall be fulfilled and completed by the Hospital within two (2) business days; and,
 - b. If the Hospital cannot fulfill and complete the Department's request within two (2) business days, the Hospital shall be deemed in violation of this Letter of Agreement, unless DCH grants the Hospital more time, in writing, to fulfill and complete the request.
5. As a condition of participation in the Program, it shall spend no less than fifteen percent (15%) of Indigent Care Trust Fund payments for support of primary care services.
 - a. Primary Care Services shall mean and include those services which prevent injury, disability or illness, provide diagnosis and/or initial treatment of injury, disability or illness, and which provide access to such services; and,
 - b. The Hospital also agrees that Indigent Care Trust Funds shall be used only for the purposes stated in the Official Code of Georgia Annotated ("O.C.G.A.") §31-8-154.
6. If the Hospital does not use the Indigent Care Trust Fund monies within two (2) calendar years of receipt, the monies shall be returned to DCH with a written report that identifies and tracks the expenditure of the monies.
 - a. The Hospital shall have the sole responsibility to monitor and audit the appropriate and lawful use of Indigent Care Trust Fund monies;
 - b. Notwithstanding Section 6.a. of this Letter of Agreement, the Hospital understands and agrees that DCH may monitor and audit its use of Indigent Care Trust Fund monies, at any time and for any reason;
 - c. If the Hospital does not use the monies within the above prescribed time, then the Hospital shall return the unused monies to DCH within thirty (30) days after the expiration of the two (2) year period referenced in Section 6.a. of this Agreement; and,
 - d. The Hospital's written report that identifies and tracks the expenditure of monies shall include, but not be limited to, the date the monies were used, the amount, the name of the provider, the State and Federal provider numbers, individual, vendor, or Hospital paid, the purpose of the payment, a description of the service or product purchased, and an explanation of how the service or product increased or improved delivery of health care services to the indigent.
7. The Parties understand and agree that this Letter of Agreement may terminate or be terminated by DCH for any of the following reasons:
 - a. Default by the Hospital, upon thirty (30) calendar days written notice;
 - b. Convenience of DCH, upon thirty (30) calendar days written notice;

- c. Immediately, in the event of the Hospital's breach, insolvency or declaration of bankruptcy; or,
 - d. Immediately, when sufficient appropriated funds no longer exist for the payment of DCH's obligation under this Contract.
- 8. The Parties understand and agree that DCH may assess liquidated damages against the Hospital, under certain circumstances.
 - a. The Parties further acknowledge and agree that the liquidated damages are reasonable and the result of a good faith effort by the Parties to estimate the actual harm caused by the Hospital's breach or failure to perform;
 - b. In the event that the Hospital fails to meet a term, condition, or requirement of this Letter of Agreement and financial damages are difficult or impossible to ascertain exactly, the Hospital agrees that DCH may withhold One Hundred Percent (100%) from the Hospital per calendar day for each breach or failure to perform; and,
 - c. The Hospital and the Department agree that the Department may elect to deduct any assessed fees from payments due or owing to the Hospital or direct the Hospital to make payment directly to the Department for any and all assessed fees. The choice is solely and strictly the Department's choice.
- 9. The Hospital hereby releases and agrees to indemnify and hold harmless DCH, the State of Georgia and its departments, agencies and instrumentalities (including the State Tort Claims Trust Fund, the State Authority Liability Trust Fund, The State Employee Broad Form Liability Funds, the State Insurance and Hazard Reserve Fund, and other self-insured funds, all such funds hereinafter collectively referred to as the "Funds") from and against any and all claims, demands, liabilities, losses, costs or expenses, and attorneys' fees, caused by, growing out of, or arising from this Contract, due to any act or omission on the part of Hospital, its agents, employees, customers, invitees, licensees or others working at the direction of Hospital or on its behalf, or due to any breach of this Letter of Agreement by Hospital, or due to the application or violation of any pertinent federal, state or local law, rule or regulation. This indemnification extends to the successors and assigns of Hospital, and this indemnification survives the termination of this Letter of Agreement and the dissolution or, to the extent allowed by the law, the bankruptcy of Hospital.
- 10. Any dispute concerning a question of fact or obligation related to or arising from this Letter of Agreement that is not disposed of by mutual agreement shall be decided by the Contract Administrator who shall reduce his or her decision to writing and mail or otherwise furnish a copy to the Hospital. The written decision of the Contract Administrator shall be final and conclusive, unless the Hospital mails or otherwise furnishes a written appeal to the Commissioner of DCH within ten (10) calendar days from the date of receipt of such decision. The decision of the Commissioner or his duly authorized representative for the determination

of such appeal shall be final and conclusive. Pending a final decision of a dispute hereunder, Hospital shall proceed diligently with the performance of the Contract.

11. The Hospital and the Department agree that in the event of a disagreement regarding, arising out of, or related to contract language interpretation, the Department's interpretation of the contract language in dispute shall control and govern. The Department's interpretation of the contract language in dispute shall not be subject to appeal under any circumstance.
12. The Hospital agrees to assist and cooperate with the Department in any and all matters and activities related to or arising out of any audit or review, whether Federal, private, or internal in nature, at no cost to the Department.
 - a. The Parties also agree that the Hospital shall be solely responsible for any costs it incurs for any audit related inquiries or matters; and,
 - b. The Hospital may not charge or collect any fees or compensation from DCH for any matter, activity, or inquiry related to, arising out of, or based on an audit or review.
13. No amendment, waiver, termination or discharge of this Letter of Agreement, or any of the terms or provisions hereof, shall be binding upon either Party unless confirmed in writing. Nothing in this Letter of Agreement may be modified or amended, except by writing executed by both Parties.
 - a. Additionally, Centers for Medicare and Medicaid Services (hereinafter "CMS") approval may be required before any such amendment is effective. DCH shall determine, in its sole discretion, when such CMS approval is required; and,
 - b. Any agreement of the Parties to amend, modify, eliminate or otherwise change any part of this Letter of Agreement shall not affect any other part of this Letter of Agreement. In such cases, the remainder of this Letter of Agreement shall continue to be of full force and effect as set out herein.
14. The Hospital shall not assign this Letter of Agreement, in whole or in part, without the prior written consent of DCH, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect.
15. Any section, subsection, paragraph, term, condition, provision, or other part of this Letter of Agreement that is judged, held, found or declared to be voidable, void, invalid, illegal or otherwise not fully enforceable shall not affect any other part of this Letter of Agreement, and the remainder of this Letter of Agreement shall continue to be of full force and effect as set out herein.
16. This Letter of Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, agreements, understandings, or contracts. No written or oral agreements, representatives, statements, negotiations, understandings, or discussions that are not set out, referenced, or specifically incorporated in this Contract shall in any way be binding or of effective between the Parties.

17. The Parties also agree that all of the conditions, requirements, and obligations set forth in this Letter of Agreement will apply to any subsequent owner or shareholder of the Hospital without exception or limitation.

- SIGNATURES -

IN WITNESS WHEREOF, the Hospital states and affirms that its representative is duly authorized to bind it to this Letter of Agreement as of the day and year indicated.

Hospital Name

Signatory's Name

Signatory's Title

Signature

Date

Please send the completed Letter of Agreement to the attention of:
ICTF Program
Division of Medical Assistance
2 Peachtree Street, N.W.
Atlanta, Georgia 30303-3159
Fax (404) 657-4199