

SUPPLEMENTAL STAFFING AGREEMENT

THIS SUPPLEMENTAL STAFFING AGREEMENT (“Agreement”) is made as of this _____ day of _____, 2009 by and between **Rush University Medical Center (“Rush”)** and _____, an Illinois corporation (“Agency”).

WHEREAS, Rush requires _____ personnel to provide _____ services to departments of Rush and wishes to contract with Agency to provide such personnel; and

WHEREAS, Agency agrees to provide needed _____ personnel to Rush;

NOW, THEREFORE, in consideration of the mutual rights and duties described in this Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Term.** Unless earlier terminated, this Agreement shall be in full force and effect for a term of one (1) year beginning _____, 2009 to and including _____, 2010. This Agreement shall automatically renew and continue in full force and effect for one (1) additional one (1) year term on the then current terms and conditions unless either party gives the other party written notice of its intention not to renew this Agreement at least sixty (60) days in advance of the end of the initial term.
2. **Supplemental Services.** Agency shall make available to Rush, upon request from time to time by Rush, the services of _____ personnel (“Personnel”). Said Personnel shall meet and maintain the qualifications contained in this Section 2 as well as those qualifications as may be mutually agreed upon by the parties hereto from time to time (“Qualifications”):
 - (a) Agency shall ensure that Personnel at all times meet and maintain the qualifications required to perform the duties of a _____ at Rush including but not limited to:
 - i)
 - ii)
 - iii)
 - iv)
 - (b) Agency shall provide Rush with documentation evidencing the Qualifications described in this Section 2 immediately upon request by Rush.
 - (c) Personnel shall further meet those qualifications set from time to time by mutual agreement of Rush and Agency.
 - (d) Agency shall comply, and shall ensure that Personnel comply, with all terms, conditions, requirements, and obligations of administrative personnel at Rush as well as the bylaws, policies and procedures, and rules and regulations of Rush. In addition, Agency shall ensure that it and Personnel comply at all times with the Rush Corporate Compliance Program.

3. **Cancellation.** Rush may cancel or change the assignment of Personnel pursuant to Sections 3(a) and (b) below:
 - (a) **Immediate Cancellation.** Rush may immediately and without notice cancel the assignment of any Personnel whose performance is unsatisfactory, whose personal characteristics prevent desirable relationships within Rush or in any situation in which in the sole opinion of Rush the welfare of any patient, visitor, or staff member may be adversely affected. Rush shall inform Agency as soon as possible after any such cancellation.
 - (b) **Cancellation With Notice.** Effective upon seven (7) days notice, Rush may cancel or change a request for Personnel without penalty or charge.
4. **Orientation.** Agency and Rush shall cooperate with one another to provide Agency Personnel with an orientation to Rush. Agency shall be solely responsible for any charges and/or costs associated with orientation to Rush.
5. **Rush Obligations.**
 - (a) **Compensation.** As compensation for the supplemental services provided by Agency hereunder, Rush shall pay Agency pursuant to the compensation schedule attached hereto and incorporated herein as **Exhibit A.**
6. **Insurance.**
 - (a) Agency agrees, at its sole cost and expense, to obtain and maintain in full force and effect general and professional liability insurance in commercially reasonable coverage amounts (of not less than \$1 million per occurrence and \$3 million in the aggregate) and with carriers reasonably acceptable to Rush, covering it, its employees, independent contractors, agents, and representatives. Agency further agrees that following termination of this Agreement, it shall maintain continuing coverage for acts occurring during the term of this Agreement and any extensions thereof for which a claim may be made at a later date in commercially reasonable coverage amounts (of not less than \$1 million per occurrence and \$3 million in the aggregate) and with carriers reasonably acceptable to Rush. Agency shall provide Rush with at least thirty (30) days prior written notice of the cancellation, modification, or non-renewal of said insurance. Certificates of coverage evidencing the aforementioned insurance shall be furnished to Rush at least ten (10) days prior to the effective date of this
 - (b) Agency shall furnish Rush with certificates of insurance evidencing Workers' Compensation coverage at least ten (10) days prior to the effective date of this Agreement. Agency further agrees to provide Rush with at least thirty (30) days prior written notice of the cancellation, modification, or non-renewal of said insurance.
 - (c) If insurance is not maintained, unavailable, uncollectible, if certificates are not provided pursuant to Sections 6(a) and (b) above, or if notice is not provided

pursuant to Sections 6(a) and (b) above, Agency shall indemnify and defend (with counsel reasonably acceptable to Rush) Rush for acts occurring during the term of this Agreement and any extensions thereof for which a claim may be or has been made. This provision shall survive termination or expiration of this Agreement.

7. **Termination For Cause by Rush.** Rush shall have the right to terminate this Agreement as described below:
 - (a) Immediately upon notice to Agency if Personnel fail to meet or maintain the Qualifications described in Section 2 of this Agreement;
 - (b) Immediately in the event that Agency becomes insolvent or subject to bankruptcy proceedings or generally fails to pay or admits, in writing, its inability or refusal to pay debtors they become due
 - (c) Pursuant to **Exhibit B** of this Agreement.
8. **Termination Without Cause.** Either party may terminate this Agreement upon fourteen (14) days written notice to the other party.
9. **Confidential Information.** Under the terms of this Agreement, Agency and its employees, agents and Personnel (hereinafter referred to collectively as “Agency” for purposes of this Section) may learn and have access to information relating to Rush including, but not limited to, information pertaining to Rush’s finances, markets and service areas, real estate, assets, manner of operation, intellectual property, data on pricing, costs, employees and employee compensation, patients and client information, and suppliers, as well as medical records, internal quality control information and other information relating to the medical treatment rendered to Rush’s patients (collectively the “Confidential Information”). Agency agrees it shall not: (i) disclose or use, or authorize anyone else to disclose or use, any Confidential Information in any manner whatsoever; (ii) review any Confidential Information which Agency has not been specifically authorize by Rush to review; (iii) make copies of any Confidential Information, except as specifically authorized by Rush; (iv) remove any Confidential Information from Rush; or (v) discuss in any manner with any third parties, any Confidential Information. The obligations of Agency hereunder shall survive the termination of this Agreement. In the event of a violation of this provision, Rush shall be entitled to injunctive relief against such violation, in addition to such other remedies as Rush may have in law or equity. In addition to any monetary damages that Rush may be entitled to, Rush shall be entitled to recover reasonable attorney’s fees and costs in enforcing the terms of this Section.
10. **Independent Contractor Relationship.** The parties hereto expressly agree that the nature of their relationship is that of independent contractors, and not that of employer and employee, partner, joint venturers, or any other relationship. The parties acknowledge that Personnel are bona fide employees of Agency, that Personnel salaries shall be paid directly by Agency to Personnel and shall not be affected by the receipt or amount of payment from Rush to Agency. Agency shall be responsible for the proper withholding of all taxes and other amounts related to its employment of Personnel. The parties agree that Personnel are not and throughout the term of this Agreement shall not be eligible to participate in any retirement plan now sponsored or hereinafter adopted by

Rush and that Personnel shall not be entitled to any other benefits otherwise available to employees of Rush.

11. **Non-Indemnification.** Except as provided in Section 6(c), Section 12(k) and Exhibit B of this Agreement, it is understood and agreed that neither of the parties to this Agreement shall be liable for any negligent or wrongful act chargeable to the other unless such liability is imposed by a court of competent jurisdiction, and that this Agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one party against the other or against third parties. In the event of a claim for any wrongful or negligent act, each party shall bear the cost of its own defense.

12. **General Provisions.**

(a) **Notice.** Any notice required to be given pursuant to the terms of this Agreement shall be in writing, postage prepaid and shall be personally delivered or sent by certified mail, return receipt requested. The notice shall be effective on the date personally delivered, or the date of receipt indicated on the return receipt or, if no receipt is obtained, within five (5) business days after the first attempted delivery, as the case may be. Any written notice given under this Agreement by either party shall be directed to the addressee at the address set forth below, unless prior written notice of a change of address has been furnished, in which case such changed address shall be used:

If to Rush:

Rush University Medical Center
1700 West Van Buren St.
Suite 374
Chicago, Illinois 60612

With copy to:

General Counsel
Rush University Medical Center
1700 West Van Buren St.
Suite 301
Chicago, Illinois 60612

If to Agency:

With copy to:

- (b) **JCAHO & Legal Compliance.** Agency agrees that all services provided pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and local laws, statutes, ordinances, rules and regulations, including but not limited to accreditation standards established by the Joint Commission on Accreditation of Health Care Organizations (“JCAHO”), and the Board of Health.
- (c) **HIPAA Business Associate Agreement.** The parties have executed a Business Associate Agreement a copy of which is attached hereto as **Exhibit B** and is incorporated herein by reference.
- (d) **Headings.** 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.
- (e) **Time.** Time is of the essence in this Agreement and in each and all of its provisions in which performance is a factor.
- (f) **Assignment.** The parties acknowledge and agree that Rush shall have the unilateral right to assign this Agreement to any affiliated corporation or entity. Rush shall notify Agency in writing at least sixty (60) days in advance of such assignment of this Agreement. The parties further acknowledge and agree that the services provided by Agency and Personnel under the terms of this Agreement are personal and that Agency may not assign or delegate any of its rights or obligations hereunder.
- (g) **Entire Agreement.** This Agreement, including all attachments, contains the entire agreement between the parties relating to the subject matter of this Agreement. Any prior agreements, promises, negotiations or representations, either written or oral, relating to the subject matter of this Agreement not expressly set forth in this Agreement are of no force and effect.
- (h) **Modifications.** Neither party may modify or amend the terms of this Agreement without prior written approval of the other.
- (i) **Third Parties.** This Agreement is entered into by and between the parties signing it and for their benefit. There is no intent by any party to this Agreement to create or establish third-party beneficiary status or rights or their equivalents in any individual or entity not a party to this Agreement, and no such third party shall have any right to enforce or enjoy any benefit created or established under this Agreement.
- (j) **Choice of Law.** This Agreement shall be governed and construed according to the laws of the State of Illinois.
- (k) **Certification.** Agency shall immediately notify Rush in the event that Agency becomes an excluded individual from a government health care program.

- (l) **Confidentiality of Agreement.** Agency agrees not to disclose any terms or conditions of this Agreement, unless such disclosure is required to obtain professional legal or accounting services.
- (m) **Use of Name.** Agency agrees that it will not use the name or logo of or make reference in any way to Rush or any of its affiliates or subsidiaries, without the express prior written authorized approval of Rush.
- (n) **Access to Books & Records.** Agency agrees to comply with Section 1861(v)(i)(I) of the Social Security Act and the regulations promulgated thereunder in connection with the provision of services on behalf of Rush. Accordingly, to the extent that the cost or value of Agency's services exceed or would exceed Ten Thousand Dollars (\$10,000) during any twelve (12) month period, for a period of six (6) years following the last date Agency furnishes services on behalf of Rush, Agency shall make available, upon written request by the Secretary of the Department of Health and Human Services, the Comptroller General of the United States or Rush or any of their duly authorized representatives, all contracts, books, documents and other records of Agency which are necessary to verify the nature and extent of the costs of Agency's services. Agency shall immediately notify Rush upon receipt by Agency of any such request for this Agreement and any other books, documents and records. This paragraph shall be of no force or effect if not required by law.
- (o) **Use of Premises.** Agency covenants not to use any part of Rush facilities for any purpose other than the performance of services under this Agreement or for any unlawful or reasonably objectionable purpose.
- (p) **Severability.** If any provisions of this Agreement, or any portion of any provision are held to be illegal, or invalid, or unenforceable, Rush and Agency shall negotiate an adjustment consistent with the purpose of this Agreement. Subject to the foregoing, the illegality, invalidity, or unenforceability of any provision of this Agreement will not affect the legality, validity, or enforceability of the remaining provisions and this Agreement shall then be construed if such illegal, invalid, or unenforceable provision, or portion of a provision, had not been contained herein.
- (q) **Waiver.** Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall remain at all times in full force and effect.
- (r) **Non-Exclusivity.** This Agreement is not intended to create, nor shall it create, an exclusive arrangement for the provision of supplemental services between the parties. Nothing contained in this Agreement shall require Rush to utilize Agency for the provision of supplemental services.
- (s) **No Presumption.** Should any provision of this Agreement require judicial interpretation, the parties agree and stipulate that the court interpreting this Agreement shall not apply any presumption that the terms of this Agreement

shall be more strictly construed against the party who itself or through its agents prepared this Agreement.

IN WITNESS WHEREOF, Rush and Agency have caused this Agreement to be executed by duly authorized officers as of the day and year first written above.

AGENCY:

By: _____
Name: _____
Its: _____
Date: _____

RUSH UNIVERSITY MEDICAL CENTER:

By: _____
Name: _____
Its: _____
Date: _____

Exhibit A

Agency agrees to supply Personnel at the rates listed in Section 1 of this Exhibit A. Rates listed in Section 1 of this Exhibit A are subject to no more than one (1) adjustment in any twelve (12) month period and such adjustment shall be made in writing and approved in writing by Rush prior to taking effect.

1. [insert fee schedule]
2. Rush shall pay Agency no later than sixty (60) days following Rush's receipt of an invoice from Agency. Compensation shall be sent to the address for Agency listed in Section 12 (a) of this Agreement.

Exhibit B

BUSINESS ASSOCIATE AGREEMENT

[The parties must execute Rush's model Business Associate Agreement]