NATIONAL DISASTER MEDICAL SYSTEM
MEMORANDUM OF AGREEMENT AMONG THE DEPARTMENTS OF HOMELAND SECURITY, HEALTH AND HUMAN SERVICES, VETERANS AFFAIRS, AND DEFENSE

1. TITLE

This Memorandum of Agreement (MOA) may be referred to as the National Disaster Medical System (NDMS) Federal Partners MOA.

2. PARTIES

The parties to this MOA are the Department of Homeland Security (DHS), the Department of Health and Human Services (HHS), the Department of Veterans Affairs (VA) and the Department of Defense (DoD), collectively, the NDMS Federal Partners.

3. AUTHORITY

This Agreement is authorized under Section 102(a) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, P.L. 107-188, 42 U.S.C. § 300hh-11 (the NDMS statute); the Homeland Security Act of 2002, P.L. 107-296, 6 U.S.C. § 313(5) transferred the authority and responsibility for the NDMS statute to DHS from HHS; and the Economy Act, 31 U.S.C. 1535.

4. PURPOSE

This MOA defines the roles and responsibilities of the NDMS Federal Partners with respect to NDMS. It supersedes the September 6, 2005 Memorandum of Agreement executed by the DHS, HHS, VA, and DoD.

5. BACKGROUND

In 1984, HHS, VA, and DoD created NDMS as a cooperative, asset-sharing partnership to leverage Federal and non-Federal resources in the Continental United States (CONUS) to care for massive numbers of casualties generated in a domestic disaster or an overseas conventional war. In 1997 these federal partners and the Federal Emergency Management Agency (FEMA) updated the original MOU to further define NDMS. In 2002, Congress statutorily created NDMS. Late in 2002, Congress transferred NDMS from HHS to DHS. On September 6, 2005, DHS, VA, HHS and DoD entered into a Memorandum of Agreement to define the roles and responsibilities of the NDMS Federal Partners with respect to the NDMS.

6. DEFINITIONS

6.1. Auxiliary Services. As provided in the NDMS statute, this includes mortuary services, veterinary services, and other services determined appropriate by DHS with respect to the needs of victims of a public health emergency.

6.2. Definitive Medical Care. To the extent authorized by NDMS in the particular public health emergency, medical treatment or services beyond emergency medical care, initiated upon inpatient admission to an NDMS hospital and provided for injuries or illnesses resulting directly from a specified public health emergency, or for injuries, illnesses and conditions requiring non-deferrable medical treatment or services to maintain health when such medical treatment or

services are temporarily not available as a result of the public health emergency. (Also see section 15.6.)

6.3. Definitive Uncompensated Medical Care: To the extent authorized by NDMS in the particular public health emergency, medical treatment or services beyond emergency medical care and provided for injuries or illnesses resulting directly from a specified public health emergency, or for injuries, illnesses and conditions requiring non-deferrable medical treatment or services to maintain health when such medical treatment or services are temporarily not available as a result of the public health emergency and are otherwise uncompensated.

6.4. Public Health Emergency. An emergency need for health care services to respond to a disaster, significant outbreak of an infectious disease, bioterrorist attack, or other significant or catastrophic event. For purposes of NDMS activation, a public health emergency may include, but is not limited to, public health emergencies declared by the Secretary of HHS under 42 U.S.C. 247d, or a declaration of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121 - 5206.

6.5. Military Health Emergency. An emergency need for hospital services to support the armed forces for casualty care arising from a major military operation, disaster, significant outbreak of an infectious disease, bioterrorist attack, or other significant or catastrophic event.

7. MISSION

7.1. The statutory mission of NDMS is to organize a coordinated effort by the NDMS Federal Partners, working in collaboration with the States and other appropriate public or private entities to provide health services, health-related social services, other appropriate human services, and appropriate auxiliary services to respond to the needs of victims of a public health emergency, and to be present at locations, for limited periods of time, when such locations are at risk of a public health emergency. NDMS shall carry out such ongoing activities as may be necessary to prepare for the provision of services in the event that the Secretary of DHS activates the NDMS.

7.2. NDMS, after activation through the declaration of a public health emergency, also provides resources and assets to support Federal government activities under Emergency Support Function (ESF) #8, Public Health and Medical Services, of the National Response Plan (NRP). DHS is the primary federal agency for the NRP; HHS is the primary federal agency for ESF #8.

7.3. Although not addressed in the NDMS statute, the Federal Partners agree that NDMS also continues the availability of the NDMS hospital network as backup to military and veterans hospitals in a military health emergency.

8. FUNCTIONS

The NDMS Federal Partners have determined that NDMS consists of three key functions:

8.1. Medical Response. Assessments of health/medical needs, primary and emergency medical care, health/medical equipment and supplies, victim identification/mortuary services, veterinary services, and other auxiliary services at the site of an emergency through NDMS response teams.

8.2. Patient Evacuation. A communication, transportation, and medical regulating system to evacuate patients from a mobilization center near the disaster site to reception facilities where

they may receive definitive medical care and to communicate evacuation information to federal, state, and local authorities as needed.

8.3. Definitive Medical Care. To the extent authorized by NDMS in the particular public health emergency, medical treatment or services beyond emergency medical care, initiated upon inpatient admission to an NDMS hospital and provided for injuries or illnesses resulting directly from a specified public health emergency, or for injuries, illnesses and conditions requiring non-deferrable medical treatment or services to maintain health when such medical treatment and services are temporarily not available as a result of the public health emergency. NDMS payment will end when one of the following occurs, whichever comes first: completion of medically indicated treatment (maximum of 30 days); exhaustion of Diagnosis Related Group (DRG) payment schedule; voluntary refusal of care; return home or to point of origin/fiscally comparable location or to destination of choice for patient (whichever costs less). Definitive care is rendered by a nationwide network of voluntarily participating, pre-identified, non-Federal and Federal hospital services. The network includes an ability to track available beds by medical specialty. In a public health emergency, these services provide definitive medical care for victims. In a military health emergency, NDMS non-federal hospitals provide backup to the available military and VA medical services for military beneficiaries. In the case of DoD and VA hospital services, use in a public health emergency is contingent on availability and appropriate approval.

In addition to those three key functions, NDMS may also include:

8.4 Definitive Uncompensated Medical Care: To the extent authorized by NDMS in the particular public health emergency, medical treatment or services beyond emergency medical care and provided for injuries or illnesses resulting directly from a specified public health emergency, or for injuries, illnesses and conditions requiring non-deferrable medical treatment or services to maintain health when such medical treatment or services are temporarily not available as a result of the public health emergency and are otherwise uncompensated. When payment is provided for the definitive uncompensated medical care program under this MOA, such payment will not be made to States for treatment or services provided after the end of the specified public health emergency and reimbursement to providers under the uncompensated medical care program shall in no event exceed the payment rate applicable to that provider under section 15.3.

9. RESPONSIBILITIES OF ALL FEDERAL PARTNERS

In addition to specific Departmental responsibilities in sections 10 through 13, the Federal Partners agree on the following common responsibilities.

9.1. Senior Policy Group (SPG).

9.1.1. Subject to applicable laws and regulations, a Senior Policy Group will determine the policy and goals for NDMS.

9.1.2. The SPG consists of:

9.1.2.1. Under Secretary for Emergency Response and Preparedness, DHS, Chair.

9.1.2.2. Assistant Secretary for Public Health Emergency Preparedness, HHS.

9.1.2.3. Under Secretary for Health, VA.

9.1.2.4. Assistant Secretary of Defense for Health Affairs, DoD.

9.1.3. The SPG will meet bi-annually and at such other times as required to develop policy, to review actions and progress of the NDMS, and to develop and approve strategies for the enhancement of NDMS.

9.2. NDMS Executive Secretariat.

9.2.1. The Executive Secretariat, chaired by DHS, will provide general oversight of NDMS activities.

9.2.2. Each SPG member will appoint a senior representative and an alternate representative from their Department to serve on the NDMS Executive Secretariat.

9.2.3. The Executive Secretariat will meet monthly and at such other times as required to address NDMS medical response, evacuation and definitive medical care issues, to include: readiness, training, exercises, field guidance, and operations.

9.2.4. The Executive Secretariat may appoint or charter work groups or coordination groups as necessary.

9.3. Federal Coordinating Center Working Group. Comprised of representatives of the four Federal Partners, the FCCWG develops and maintains NDMS operational activities and readiness, to include training, exercises, evaluations, and field guidance.

10. RESPONSIBILITIES OF DHS

10.1. NDMS Lead Agency. DHS is the lead agency for the NDMS.

10.2. Medical Response. DHS is responsible for coordinating the operation of the medical response function of NDMS.

10.3. NDMS Activation. DHS is responsible for activation of the NDMS. Activation of NDMS by DHS is necessary to deploy NDMS assets or to incur any NDMS obligations under any NDMS functions.

10.4. NDMS Administration. DHS shall provide for the operation of the NDMS. DHS has lead responsibility for ongoing activities of NDMS, including administrative support related to the medical response function.

10.5. NDMS Exercises. DHS may periodically conduct exercises to test the capability and timeliness of NDMS to mobilize and otherwise respond effectively to a public health emergency, such as a bioterrorist attack.

10.6. Funding. DHS/NDMS is responsible for funding the development, maintenance, training, exercising, equipping, evaluation, and execution of NDMS, including contract costs for reimbursement, and for all medical response, evacuation, definitive medical care activities and definitive uncompensated medical care activities carried out under an NDMS activation based on a public health emergency. In the event DHS/NDMS does not have adequate funds available, DHS, with the assistance of other NDMS partners, will seek supplemental funding for these purposes.

11. RESPONSIBILITIES OF HHS

11.1. NDMS Support Agency. HHS is a supporting agency for NDMS.

11.2. ESF #8 Primary Agency. HHS is the primary federal agency for ESF #8. NDMS assets may be used in support of ESF #8, after the declaration of a public health emergency, pursuant to the direction of HHS.

11.3. Coordination with Tribal, State, and Local Governments. HHS is responsible for coordinating with Tribal, State and Local governments under ESF #8. This includes, but is not limited to, coordinating the collection, validation and preparation of NDMS patients for evacuation to definitive medical care.

11.4. Payment Mechanism for NDMS Definitive Care: HHS is responsible for establishing and administering the payment mechanism for reimbursements to NDMS hospitals under the definitive medical care function of NDMS, except for care provided to members of the armed forces in response to a military health emergency or to other DoD health care beneficiaries. As soon as reasonably possible, HHS will determine an interim mechanism for processing reimbursements. Within 90 days of the signing of this agreement, HHS will determine a final mechanism for processing reimbursement.

11.5 Payment Mechanism for NDMS Definitive Uncompensated Medical Care: HHS is responsible for establishing and administering the payment mechanism for payments to States with approved demonstration projects for uncompensated care pools from which funds are used to reimburse providers for definitive uncompensated medical care.

11.6 HHS may request NDMS activation for the use of NDMS assets, consistent with the NDMS Statute.

12. RESPONSIBILITIES OF VA

12.1. NDMS Support Agency. VA is a supporting agency for NDMS.

12.2. Definitive Medical Care. VA (along with DoD) is responsible for coordinating NDMS definitive medical care in designated "Patient Reception Areas" of the United States. This will be accomplished through Federal Coordinating Centers.

13. RESPONSIBILITIES OF DOD

13.1. NDMS Support Agency. DoD is a supporting agency for NDMS.

13.2. Definitive Medical Care. DoD (along with VA) is responsible for coordinating NDMS definitive medical care in designated Patient Reception Areas of the United States. This will be accomplished through Federal Coordinating Centers.

13.3. Patient Evacuation. DoD has primary responsibility for coordinating the patient evacuation function of NDMS.

13.3.1. DoD coordinates with the Department of Transportation, the primary federal agency for ESF #1, to provide support for the evacuation of patients to definitive medical care under the NRP.

13.3.2. At the request of DHS or HHS, DoD may use available DoD transportation resources to evacuate patients from designated staging sites to NDMS patient reception areas.

13.3.3. DoD Patient Evacuation activities may be reimbursed by the requesting agency.

13.4. Military Health Emergency. After consultation with DHS, the Assistant Secretary of Defense for Health Affairs (ASD (HA)) may access the NDMS hospital network for definitive medical care in a military health emergency. DoD is responsible for funding patient evacuation and medical care for members of the armed forces. A Military Health Emergency declared by the ASD (HA) is deemed to be a Public Health Emergency for purposes of the NDMS Statute.

14. PROVISIONS RELATING TO DEFINITIVE MEDICAL CARE

14.1. Federal Coordinating Centers. Within each Patient Reception Area, coordination of local NDMS planning, training, exercising and operations is accomplished by a Federal Coordinating Center (FCC). FCCs are assisted in carrying out their local coordination activities by NDMS steering committees, organized in each NDMS patient reception area.

14.2. NDMS Hospital Network Provider MOAs. The Federal Partners provide a standard Provider MOA for participation in the NDMS hospital network (Attachment 1). The standard Provider MOA may be revised by agreement of the Federal Partners, without the need to revise this Federal Partner MOA.

14.2.1. On the condition that a Provider MOA not include any deviations from the approved Provider MOA, Provider MOAs may be signed on behalf of NDMS by a designated official of any of the Federal Partners. Each officer in charge or senior official in charge of each FCC is such a designated official. Other officials within other Federal Partners may be designated with the agreement of the other Federal Partners. Any purported Provider MOA that deviates from the approved Provider MOA is null and void.

14.2.2. Pending replacement of Provider MOAs signed prior to the effective date of this Federal Partner MOA with the approved Provider MOA at Attachment 1 (or any version subsequently approved by the Federal Partners), the Provider MOAs remain in effect until the date that is 180 days after the effective date of this Federal Partner MOA.

14.2.3. The goal of the NDMS Federal Partners is to sign Provider MOAs with as many non-federal hospitals as possible.

15. PROVISIONS RELATING TO REIMBURSEMENTS FOR DEFINITIVE MEDICAL CARE

The standard Provider MOA shall include the following provisions:

15.1. The Provider agrees to seek reimbursement from NDMS only after seeking reimbursement from all other payers, such as health insurers or TRICARE, except another Federally recognized payer of last resort, such as Medicaid.

15.2. Reimbursements will be limited to care provided for: injuries or illnesses resulting directly from a specified public health emergency; injuries, illnesses and conditions requiring essential medical services necessary to maintain a reasonable level of health temporarily not available as a result of the public health emergency; or injuries or illnesses affecting authorized emergency response and disaster relief personnel responding to the public health emergency.

15.3. For patients who do not have health insurance (or similar) coverage and/or for patients whose only health coverage is Medicaid, NDMS will pay 110% of the Medicare payment amount for definitive medical care that would be applicable to the services provided at the time of the public health emergency.

15.4. For patients with health insurance or health program coverage (other than Medicaid), the health insurer or health program will be the primary payer. For patients other than Medicare or TRICARE beneficiaries, NDMS will pay the difference, if any, between the amount paid by the health insurance coverage and the amount payable under paragraph 15.3 above, not including the deductible amount and other cost sharing under the health insurance or health program coverage.

15.5. For patients eligible for military health insurance (i.e., TRICARE) payment will be made under TRICARE according to the applicable payment rates and procedures, as set forth in 32 C.F.R. Part 199.

15.6. NDMS payment will end when one of the following occurs, whichever comes first: completion of medically indicated treatment (maximum of 30 days); exhaustion of Diagnosis Related Group (DRG) payment schedule; voluntary refusal of care; return home or to point of origin/fiscally comparable location or to destination of choice for patient (whichever costs less).

16. OTHER PROVISIONS

16.1. Financing for NDMS Management. DHS/NDMS will include in its annual budget submission a request for funds required to sustain NDMS management and readiness. DoD and VA will participate as a Federal partner of NDMS, with assets to the extent they are available and receive appropriate departmental approval. The Partners will work cooperatively to seek appropriations for the funding required to assure the availability of NDMS, when needed.

16.2 Priority of Payment. NDMS will reimburse definitive medical care prior to reimbursing definitive uncompensated medical care.

16.3. Reservation of authority. Notwithstanding anything in this Agreement, each of the Partners shall have the exclusive authority to direct its employees and to implement its own statutory responsibilities.

16.4. Relationship with other authorities. Nothing in this Agreement is intended to conflict with current law or the regulations or the directives of the NDMS Federal Partners. If a term of this Agreement is inconsistent with such authority, that term shall be invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect.

17. EFFECTIVE DATE

This Agreement shall become effective upon signature of all of the NDMS Federal Partners. Provisions of this Agreement relating to definitive uncompensated medical care, specifically

sections 6.3, 8.4, 11.5, and 16.2, and the reference to it in 10.6, of the Agreement, will sunset after January 31, 2006. The phrase, "and definitive uncompensated medical care activities" in section 10.6 of this Agreement will also sunset after January 31, 2006.

18. MODIFICATION

This Agreement may be modified by the mutual written consent of all the NDMS Federal Partners.

19. TERMINATION

Any of the NDMS Federal Partners may withdraw from the Agreement upon 180 days notice, in writing, to the other NDMS Federal Partners.

20. APPROVALS

For the Department of Homeland Security:

R. David Paulison
Acting Under Secretary for Emergency Preparedness and Response

Date: 10/24/05

For the Department of Health and Human Services:

Stewart Simonson
Assistant Secretary for Public Health Emergency Preparedness

Date: 10/24/05

For the Department of Veterans Affairs:

Jonathan Perlin, MD, PhD, MSHA, FACP
Under Secretary for Health

Date: 10/24/05

For the Department of Defense:

William Winkenwerder, Jr., MD
Assistant Secretary of Defense for Health Affairs

Date: 26 October 2005

Attachment 1. Standard National Disaster Medical System (NDMS) Provider Memorandum of Agreement (MOA) for Definitive Medical Care

MEMORANDUM OF AGREEMENT FOR DEFINITIVE MEDICAL CARE

1. PARTIES

The Parties to this Memorandum of Agreement are _____ (the Provider) and the National Disaster Medical System (NDMS) that consists of a coordinated partnership among the Department of Homeland Security, the Department of Health and Human Services, the Department of Veterans Affairs, and the Department of Defense, collectively the NDMS Federal Partners.

2. AUTHORITY

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, 42 U.S.C., 300hh-11, as amended by the Homeland Security Act of 2002, 6 U.S.C., 313(5) (the NDMS Statute).

3. PURPOSE

A. The NDMS statute provides that NDMS shall be a coordinated effort by the NDMS Federal Partners, working in collaboration with the States and other appropriate public or private entities, to (i) provide health services, health-related social services, other appropriate human services, and appropriate auxiliary services to respond to the needs of victims of a public health emergency and (ii) be present at locations, and for limited periods of time, when such locations are at risk of a public health emergency during the time specified.

B. This Agreement is to help ensure that the United States is prepared to respond medically to mass casualty emergency situations in this country, or to military patients returning from overseas by facilitating a coordinated response of both federal and civilian health care facilities.

C. The NDMS Federal Partners acknowledge the willingness of the various medical communities within the United States to respond to a catastrophic public health emergency, and the need for unusually rapid and complex response, transportation and treatment. A rapid response requires the development of a comprehensive emergency medical plan so that those patients needing definitive medical care would receive it in federal or private sector hospitals in the United States.

4. RESPONSIBILITIES

A. The NDMS Federal Partners and the Provider agree to plan jointly for the admission, treatment, and discharge of all patients transferred to the Provider's facility under the NDMS.

B. The Provider agrees to seek reimbursement from NDMS only after seeking reimbursement from all other payers, such as health insurers or TRICARE, except another Federally recognized payer of last resort, such as Medicaid.

C. Subject to the availability of appropriations, the NDMS will reimburse the Provider for medical treatment or services rendered by the Provider as indicated in paragraph 5 below.

D. The Provider agrees to participate in joint annual exercises meeting external disaster standards established by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the American Osteopathic Hospital Association.

E. The Provider agrees that upon activation of NDMS it will make available to the NDMS Federal Partners, a minimum of to a maximum of _____ beds with all necessary treatment and administrative processing as may be required for the patients to be admitted as a consequence of the catastrophic public health emergency.

F. The Provider agrees to report the number of beds available when requested to support NDMS exercises or operations.

5. REIMBURSEMENTS

A. Reimbursements will be limited to care provided for: injuries or illnesses resulting directly from a specified public health emergency; injuries, illnesses and conditions requiring essential medical services necessary to maintain a reasonable level of health temporarily not available as a result of the public health emergency; or injuries or illnesses affecting authorized emergency response and disaster relief personnel responding to the public health emergency.

B. For patients who do not have health insurance (or similar) coverage and/or for patients whose only health coverage is Medicaid, NDMS will pay 110% of the Medicare payment amount that would be applicable to the services provided at the time of the public health emergency.

C. For patients with health insurance or health program coverage (other than Medicaid), the health insurer or health program will be the primary payer. For patients other than Medicare or TRICARE beneficiaries, NDMS will pay the difference, if any, between the amount paid by the health insurance coverage and the amount payable under paragraph B above, not including the deductible amount and other cost sharing under the health insurance or health program coverage.

D. For patients eligible for military health coverage (i.e., TRICARE) payment will be made under TRICARE according to the applicable payment rates and procedures, as set forth in 32 C.F.R. Part 199.

E. NDMS payment will end when one of the following occurs, whichever comes first: completion of medically indicated treatment (maximum of 30 days); voluntary refusal of care; return home or to point of origin/fiscally comparable location or to destination of choice for patient (whichever costs less).

6. POINTS OF CONTACT

A. For the NDMS Partners _____

B. For the Provider _____

7. OTHER PROVISIONS

A. Notwithstanding anything in this Agreement, each of the NDMS Federal Partners and the Provider shall have the exclusive authority to direct its employees and to implement its own statutory responsibilities.

B. Nothing in this Agreement is intended to conflict with current federal or state law, or the regulations or directives of the NDMS Federal Partners or the Provider. If a term of this Agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect.

8. EFFECTIVE DATE

This Agreement shall become effective upon signature of one of the NDMS Federal Partners and the Provider.

9. TERMINATION

The Provider or any of the NDMS Federal Partners may withdraw from this Agreement upon 90 days notice in writing to the other parties.

For the National Disaster Medical System	For the _____
Printed Name _____	Printed Name _____
Signature _____	Signature _____
Title _____	Title _____
Date _____	Date _____