

CURTIS-UNIVERSAL, INC.

**PRIVATE AMBULANCE SERVICE PROVIDER AGREEMENT
FOR EMERGENCY MEDICAL SERVICES IN CERTAIN AREAS OF THE
CITY OF MILWAUKEE**

TABLE OF CONTENTS

	Page
1. DEFINITIONS	1
2. GRANT OF SERVICE AREA PRIVILEGE TO CERTIFIED PROVIDER	4
3. REQUIREMENTS	4
4. SPECIAL EVENTS	7
5. COMMAND, CONTROL, AND COOPERATION	7
6. ELECTRONIC COMMUNICATION SYSTEM	8
7. PERFORMANCE STANDARDS	8
8. REMEDIES FOR FAILURE TO COMPLY WITH AGREEMENT	9
9. AMBULANCE SERVICE RATES	12
10. TAX REFUND INTERCEPT PROGRAM (TRIP)	
11. INSURANCE	13
12. TRANSFER AND ASSIGNMENT	14
13. INDEMNIFICATION	14
14. NO AGENCY	15
15. COMPLIANCE WITH LAWS AND REGULATIONS	15
16. NO WAIVER; CUMULATIVE REMEDIES	15
17. CONFLICT OF INTEREST	16
18. NOTICES	16
19. GOVERNING LAW	16
20. MODIFICATION OR AMENDMENT	16

21.	ENTIRE AGREEMENT	17
22.	SEVERABILITY	17
23.	DISCRIMINATION PROHIBITED	17
24.	EMPLOYEE POOL SKILLS	18
25.	INCORPORATION OF EXHIBITS	18
	SIGNATORIES	19

This agreement (the “Agreement”) is made and entered into by and between City of Milwaukee, a Municipal Corporation of the State of Wisconsin, (hereinafter referred to as “City”), and Curtis-Universal, Inc. (hereinafter referred to as “Provider”).

WHEREAS, Provider is a Certified Provider in City’s Emergency Medical Services (EMS) System under the terms of City Ordinance Section 75-15 and this agreement; and

WHEREAS, the Provider has requested and desires to provide EMS within the City limits to the City’s patients and the City wishes to allow its patients to be transported by Provider; and

WHEREAS, the Provider agrees to provide such service in the City pursuant to this agreement and employs or will employ emergency medical technicians who are duly licensed by the State of Wisconsin to perform emergency medical services; and

WHEREAS, the City hereby finds and determines that the Provider is able to provide and operate suitable certified equipment and employ qualified, licensed personnel in connection with its ambulance service as defined herein; and

WHEREAS, the Provider is required by this agreement to render its emergency medical services in the City without discrimination and to any persons regardless of economic level; and

WHEREAS, prior to executing this Agreement, City has provided a subsidy to Provider to account for financial shortfalls realized by the Provider when they are not compensated for the services they provide; and

WHEREAS, the Milwaukee Fire Department shall present a file to the Common Council seeking continuance and/or adjustment of the subsidy every year in which the Provider demonstrates to a reasonable certainty that it would not be financially viable for Provider to continue providing services in its Service Area absent a subsidy; and

WHEREAS, the Provider and the City expressly agree that they have an obligation of good faith and fair dealing under this agreement;

NOW, THEREFORE, the City and the Provider mutually agree as follows:

1. DEFINITIONS

- 1.1 “advanced life support” (“ALS”) means Advanced Life Support as defined in [DHS 110.04\(1r\)](#), Wisconsin Administrative Code.1.3
- 1.2 “ambulance” means a certified emergency vehicle used to transport sick, disabled, or injured individuals as defined in Wisconsin Statutes, [256.01\(1t\)](#) and [DHS 110.04\(4\)](#).

- 1.3 “ambulance service ordinance” (“Ordinance”) means [Milwaukee Code of Ordinance sec. 75-15](#), as it may be amended from time-to-time
- 1.4 “ambulance transport service” means the business of transporting sick, disabled or injured individuals as defined in Wisconsin Statutes §§ [340.01\(3\)\(i\)](#) and [DHS 110.04\(5\) \(as “ambulance service provider”\)](#).
- 1.5 “Back-Up Incident” means a request for ambulance transport service referred to Provider by DEC, that is located outside Provider’s assigned Service Area. Back-Up Provider is selected according to the Back-Up Plan contained in the Service Plan.
- 1.6 “basic life support” (“BLS”) means basic life support as defined in [DHS 110.04\(11\)](#), Wisconsin Administrative Code and s. [256.15 \(1\) \(d\)](#), Stats.
- 1.7 “Board” means Ambulance Service Board.
- 1.8 “Chief” shall mean the Chief Engineer of the Milwaukee Fire Department or his/her designee (Assistant Chief or Deputy Chief).
- 1.9 “Committee” means the Public Safety and Health Committee, a standing committee of The Common Council of City (“Common Council”), granted authority over the Milwaukee EMS System by Ordinance
- 1.10 “Cure Plan” means a written plan to cure an alleged breach of the Agreement, which becomes effective when acknowledged by both Parties in writing. Such acknowledgment may be in the form of a letter agreement, or an email from an individual with authority to bind the Party stating that the Cure Plan is accepted by that Party. Cure Plans shall state the specific actions to be taken and the applicable completion date and/or benchmarks. Cure Plans shall not introduce new terms and conditions to the Agreement and the terms of the Cure Plan shall survive only for the length of the Cure Plan.
- 1.11 “Department of Emergency Communications” (DEC) means the Public Safety Answering Point for the Milwaukee Fire Department and Milwaukee Police Department as defined in [DHS 110.04\(21e\) \(as “emergency medical dispatch”\)](#).
- 1.12 “EMT” means Emergency Medical Technician as defined in [DHS 110.04\(27\)](#), Wisconsin Administrative Code
- 1.13 “emergency response mode” means Provider is requested by DEC to respond to an Incident as an authorized emergency vehicle with use of warning lights and siren

- 1.14 “Incident” means each event that causes DEC, through its usual procedures to refer a request for ambulance transport service to Provider, by telephone or other electronic means.
- 1.15 “Medical Director” means the person as defined in [DHS 110.04\(42\)](#) who is designated in the Provider’s Operational Plan as the Medical Director
- 1.16 “MFD” means the Milwaukee Fire Department
- 1.17 “OEM-EMS” means the Milwaukee County Office of Emergency Management EMS Division
- 1.18 “paramedic” means Emergency Medical Technician-Paramedic as defined in [256.01\(14\)](#) Wisconsin Administrative Code
- 1.19 “response” means Provider’s ambulance(s) responding with a vehicle and/or staff to the scene of an incident
- 1.20 “response time” means the time elapsed between Provider’s receipt of sufficient dispatch information and the arrival of Provider’s ambulance(s) on scene.
- 1.21 “Recertification” means the annual recertification of Provider required by the Ordinance.
- 1.22 "Special Event" is any event involving an agreement between Provider and a private event or public event organizer in which arrangements have been made for Provider to be on site for purposes of EMS stand-by, first aid, and/or ambulance transport services, for any period of time. The agreement shall be a formal written document, approved by MFD.
- 1.22 “TRIP” means the State of Wisconsin Tax Refund Intercept Program administered by the State of Wisconsin Department of Revenue.
- 1.23 “Unable-to-Handle” (“UTH”) means an Incident, which Provider does not have an ambulance(s) available to dispatch within 120 seconds as required by the turn back standard or to respond within the time required by the response time standard

2. GRANT OF SERVICE AREA PRIVILEGE TO CERTIFIED PROVIDER

2.1 Subject to all terms and conditions of this agreement, and all provisions of the Ordinance, the City hereby grants to the Certified Provider a non-exclusive privilege to operate within the City EMS System as described in Exhibit A (“Service Areas”), and to use the City rights-of-way for that purpose from the date of final execution through December 31, 2036, on the terms and conditions stated herein.

2.2 Service area boundary lines shall be defined by the borders of census tracts and may be reviewed and adjusted by the City on an annual basis during the re-certification process pursuant to the ordinance.

2.3 [Reserved]

2.4 City and Provider shall each have the right to terminate this agreement upon 180 days written notice to the other Party of the terminating Party’s intent to terminate. In the case of Provider’s termination of the Agreement for any reason, or City’s termination due to a breach of the Agreement or the failure to provide services consistent with the prevailing standards of care in the ambulance industry the City shall have the right of first refusal for one year from the notice of termination, to be exercised within 30 days of Provider’s notice of intent to sell to an arm’s length buyer, to purchase any assets that Provider had used to service the Service Area should Provider place such items up for sale. In the case of either Party’s termination of the Agreement, Provider shall, at City’s option, either transfer title to City of any assets that City has specifically funded, transferred to, or previously purchased for Provider; or pay City the fair market value of such assets. For purposes of this paragraph, assets shall include, but not be limited to, buildings, leases, vehicles, supplies, and equipment, but does not include Provider’s intellectual property.

3. REQUIREMENTS

3.1 Priority. Provider will respond to requests for service as required by this Agreement and the Ordinance. Provider shall treat Incidents received from DEC with the priorities indicated in Exhibit D (“Priorities and Response Expectations”), which Provider and City may modify by mutual written agreement at any time, but which must be the same for all Certified Providers. In no case will the Provider refuse to provide service outlined in this contract when lawfully requested to do so by MFD and/or DEC.

3.2 24-hour service. Provider shall be available to provide ambulance transport service for BLS on a continuous basis, 24 hours of each day of agreement, whenever requested by DEC.

3.3 DEC protocols. City, through DEC, shall at all times, use dispatch protocols and categorization indicated in Exhibit D to determine whether a request for EMS requires BLS 1, BLS 2, ALS 1 or ALS 2 response. If BLS transport is required, DEC must, under the terms of the Ordinance, refer the Incident to the Certified Provider assigned to that service area. In situations where more than one BLS ambulance is needed on a scene,

Provider shall dispatch ambulance(s) as necessary and shall notify DEC of that decision or subsequent availability of resources. If MFD is on the scene, MFD shall request additional ambulances from Provider for patient triage and transport as necessary or as resources allow.

3.4 BLS transport service necessary. If it is determined upon arrival of Provider's ambulance on a scene that BLS ambulance transport service is necessary, Provider shall transport to the appropriate facility of the patient's choice if possible or to the nearest appropriate facility if necessary.

3.4.1 BLS transport refused. If Provider establishes through verbal (phone) or face to face communication that an individual no longer desires transport, Provider shall note the time of refusal of service, and report the refusal time and incident in a timely manner to DEC to close the incident.

3.4.2 BLS transport unnecessary. If Provider establishes through verbal (phone) or face to face communication that no need for medical service exists due secondary to no patient being present, or a call made by a bystander in good faith or other similar incident where no medical complaint has been made by an individual, Provider shall note the time of this discovery, and report the time of the "BLS transport unnecessary" determination and incident to DEC in a timely manner to properly close the incident.

3.5 BLS transport necessary, MFD on scene. If it is determined upon arrival of MFD ALS unit or other MFD unit on a scene that BLS ambulance transport service is necessary, MFD shall request BLS ambulance(s) from Provider via DEC

3.6 ALS transport necessary, Provider BLS on scene. As soon as Provider is on scene and determines that ALS ambulance transport service is necessary, Provider shall immediately request a MFD ALS Unit from DEC. Provider shall begin BLS care in accordance with OEM-EMS Operational Policies in effect at the time of patient care. Deviations, undertaken under extreme circumstances, shall be reported to the Department by Providers for review. Provider shall note the request to upgrade service, with incident number, incident times, initial complaint, BLS provider impression and disposition in their monthly report.

3.7 ALS transport necessary, Provider ALS on scene. As soon as Provider on scene determines that ALS ambulance transport service is necessary, Provider shall immediately request a MFD ALS Unit from DEC. Provider shall begin ALS care in accordance with OEM-EMS Operational Policies in effect at the time of patient care, and wait for arrival of MFD ALS Unit. If the MFD ALS unit is not on the scene when the patient is ready for transport, DEC is to be contacted. If the MFD ALS unit's remaining response time is greater than the transport time to the closest medically appropriate facility, Provider may transport the patient to that facility.

3.8 City EMS Medical Director, EMS Guidelines. The Medical Director as defined in 1.14 shall be the Milwaukee County Office of Emergency Management EMS Medical Director for purposes of this Agreement. Emergency medical service guidelines, dispatch standards, standards of care and training standards promulgated by the Milwaukee County Office of Emergency Management are found at its website which is <https://county.milwaukee.gov/EN/Office-of-Emergency-Management/EMS>, and are incorporated herein by reference and are made a part hereof to the extent that such standards are not inconsistent with the provisions and standards in this agreement. All other Emergency Medical Services Guidelines shall be jointly developed and agreed to by City EMS Medical Director, Providers, and Providers' Medical Directors, and included in Exhibit B ("Operational Guidance").

3.9 Back-Up Plan. Provider agrees to provide back up to other Certified Providers of City EMS System as requested by DEC, in accordance with the Back-Up Plan established in the Service Plan. During times of low resource availability or high demand sufficient to make the Back-Up Plan unworkable, Provider may use the supplemental guidelines in Exhibit B which are designed to address these instances of system stress. Exhibit B may be updated from time to time to accommodate new system stresses.

3.10 Continuous Quality Improvement Program. City EMS System and Providers must participate in a Continuous Quality Improvement Program, to be developed by all necessary participants. As necessary to create and implement a Continuous Quality Improvement Program, Provider will give the City's and/or the Medical Director's authorized personnel access to relevant Wisconsin Ambulance Run Data System (WARDS) data.

3.11 Records. Both parties understand that the City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, *et seq.* City may be obligated to produce, to a third party, the records of Provider that are "produced or collected" by Provider under this Agreement ("Records"). Provider is further directed to Wis. Stat. § 19.21, *et. seq.*, for the statutory definition of Records subject to disclosure under this paragraph. Provider acknowledges that it is obligated to assist the City in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this agreement, and that the Provider must defend and hold the City harmless from liability under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years.

3.12 The City, through DEC, reserves the right to request ambulance transport service from another Provider or in the case of a large-scale emergency situation that City reasonably determines will exceed Provider's capacity.

3.13 Provider must annually, and upon reasonable request report to City the number, condition and service location of all ambulances available under this agreement.

3.14 Provider agrees to provide ambulance transport services as required by the Mutual Aid Box Alarm System.

3.15 Provider will be National Incident Management System compliant and shall provide verification to the City upon request.

3.16 All of Provider's advertising and marketing materials directed to the general public shall state: "In case of emergency, call 911." If Provider places a telephone number on the exterior of an ambulance, the words "In case of emergency, call 911" shall also appear.

3.17 Patients are to be transported using warning lights and siren only when medically necessary.

3.18 Whenever a Provider activates the EMS System after receiving a private call, that Provider is authorized to transport the patient in the event that an advanced life support (ALS) transport is not required, even if such call is outside of its assigned service area.

3.19 When Provider receives a private call, and the EMS system is separately activated for the same incident, the EMS system provider for the designated service area is to transport, unless otherwise specified by the patient and/or family.

3.20 Electronic Patient Care Reports. A jointly agreed upon system or process of sharing of patient medical information and specific incidents between MFD, medical control and the Provider shall be utilized, which shall be compliant with all applicable medical privacy laws, including but not limited to, HIPAA and its Wisconsin-law counterparts.

4. SPECIAL EVENTS

In the event DEC receives a request for EMS from any caller at an approved Special Event during the scheduled dates and times, DEC shall dispatch Special Event Provider, and not the assigned service area provider. If the Special Event Provider's ambulance is not available or not on the scene, a response commensurate with the caller's request shall be dispatched by the DEC to Provider assigned to the service area, and the normal protocols in Sections shall apply.

5. COMMAND, CONTROL AND COOPERATION FOR MASS CASUALTY INCIDENTS

5.1 The highest-ranking officer of MFD on any Mass Casualty Incident shall be in command of the Incident.

5.2 Provider shall, to the fullest extent possible, cooperate with the City's Office of Emergency Management and comply with the City's Emergency Plan, including, but

not limited to, providing ambulance transport service for multi-casualty incidents and providing ambulances and personnel for training purposes when requested by MFD.

5.3 When requested by DEC, Provider will send a supervisor or higher-level personnel, to assist the highest ranking MFD officer on scene.

6. ELECTRONIC COMMUNICATIONS SYSTEM

6.1 Computer interconnection. In addition to telephonic communication a direct computer connection with DEC utilizing technology jointly agreed to by Chief and Provider shall be maintained, permitting DEC to forward Incidents to Provider.

6.2 Standardized clocks. MFD Dispatch clocks and Provider dispatch clocks shall at all times be synchronized with the National Institute of Standards and Technology's clock.

6.3 Electronic patient care reporting system. A system for the sharing of patient medical information between MFD and Provider will be developed and implemented by MFD and Provider utilizing an interface jointly agreed to by Chief and Provider.

7. PERFORMANCE STANDARDS

7.1 Response mode Standard. Provider shall respond in the mode (emergency or non-emergency) requested by MFD and relayed through DEC, and in accordance with Exhibit D.

7.2 If more than one ambulance is dispatched to an Incident each response time must be calculated separately.

7.3 Back-Up incidents must be reported on monthly reports. However, such incidents will not be governed by response time standards articulated herein above.

7.4 Upgraded response Standard. When Provider is dispatched by DEC to respond in an emergency response mode after Provider was originally requested to respond in a non-emergency mode, the non-emergency standard shall be applied.

7.5 Downgraded response Standard. When Provider is dispatched by DEC to respond in a non-emergency response mode after the Provider was requested to respond in an emergency response mode: a) if the time of the downgrade occurs after the emergency response time standard has been exceeded, the emergency response time standard will apply; or, b) if the time of the downgrade occurs before the emergency response time standard has been exceeded, the non-emergency response time standard will apply.

7.6 Cancelled response Standard. When Provider is sent by DEC and the response is then cancelled by DEC before the applicable (emergency or non-emergency) response time standard is exceeded, the time shall not be included in the monthly report.

If the response is cancelled after the applicable (emergency or non-emergency) response time standard is exceeded, the time shall be included in the monthly report. This standard shall apply irrespective of whether Provider's ambulance is disabled or delayed for any reason while responding to an Incident. The disability or delay must be immediately reported to DEC, which shall have the sole authority to determine the response thereafter.

7.7 Turn-back Standard. Following notification of an Incident by DEC, Provider is to dispatch an ambulance that is able to meet the response time standards set forth in 7.1. If Provider does not have an ambulance to dispatch, Provider must notify DEC within 2 minutes elapsed time from initial Provider notification by DEC. The response that is turned back will be considered as Unable-to-Handle.

7.8 Unable-to-Handle (UTH) Standard. Provider shall not have a UTH rate of greater than 8% of incidents received or 175 UTH responses (whichever is lessor) measured monthly, for three (3) consecutive months.

7.9 Outside of 911 system Standard. Any request for service received outside of the 911 system must be triaged in accordance with the protocols of the Milwaukee County Office of Emergency Management - EMS. An MFD ALS ambulance must be requested by Provider when information obtained meets the criteria for ALS dispatch, and is beyond the scope of Provider's state-approved ALS operational plan. Any request received by Provider for service outside of the 911 system to which Provider responds and subsequently results in a request for MFD ALS evaluation, may be reviewed for compliance with the protocols.

7.10 Reporting Standard. If requested by MFD, Providers must complete the approved "Private Ambulance Transport Service Provider Monthly Report," and submit it to MFD by the 15th of the following month (or the next business day if the 15th falls on a weekend or holiday).

7.11 "Substantial Underperformance" shall be the failure of Provider to comply with any one of the Standards outlined in this Section 7 for a period of three consecutive months.

7.12 "Failure to Perform" shall be the failure of Provider to comply with any three or more of the Standards outlined in this Section 7 for a period of three consecutive months or six total months within a rolling 12-month period.

8. REMEDIES FOR FAILURE TO COMPLY WITH AGREEMENT

8.1 Subsidy Recoupment. The Parties understand and agree that the Subsidy Payment for accepted calls is of substantial economic benefit to Provider and that in the event of a Failure to Perform the terms of the Agreement, it will be difficult to estimate damages to the EMS System and other provider/s remaining in the EMS System. In the event of a Failure to Perform, the Chief may suspend the monthly Subsidy Payment to the Provider until: (a) The City and Provider have instituted a Cure Plan to prospectively

resolve the Breach; (b) The Provider is in compliance with the terms of the agreed upon Cure Plan; and (c) There is no additional Substantial Underperformance of any of the standards outlined in Section 7 that constituted the Failure to Perform necessitating the Cure Plan. If the Parties cannot agree that a Failure to Perform occurred, cannot agree on a Cure Plan, cannot agree whether a Provider is in compliance with the terms of an agreed upon Cure Plan, or cannot agree on whether there is additional Substantial Underperformance of any of the standards outlined in Section 7 that constituted the Failure to Perform necessitating the Cure Plan, a Party may bring the matter before the Public Safety and Health Committee (“PSHC”) as described in Section 8.3. Regardless of whether a Provider brings any of the foregoing matters before the PSHC however, monthly Subsidy Payments shall continue to be withheld until the PSHC makes its determination.

8.2 Upon either Party’s failure to comply with any provision of this Agreement, the Party alleging the breach (“Alleging Party”) shall provide the alleged breaching Party (“Breaching Party”) with a written notice of breach and shall provide the Breaching Party with no less than 30 days to either cure the breach or reach an agreement with the Alleging Party on a Cure Plan to correct the breach. The Alleging Party shall not unreasonably withhold consent to extend the Cure Period at any time. If the Parties cannot agree that the alleged breach occurred, was cured, or cannot agree on a Cure Plan, or if the Breaching Party does not adhere to the Cure Plan, (collectively, a “Dispute”), the Alleging Party may bring the matter before the PSHC as described in Section 8.3.

8.3 PSHC Hearing.

a. Upon receipt of notice from the Alleging Party, PSHC shall promptly set a date and time for a hearing. The purpose of the hearing shall be for taking evidence and making findings of fact, conclusions of law and a proposed resolution of the matter.

b. The burden of proof shall be on the Alleging Party.

c. The chair of the PSHC shall be the presiding officer. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection. The chair shall rule on objections to the admissibility of evidence. The hearing shall be recorded.

d. The findings of fact, conclusions of law and proposed resolution shall be put in writing and provided to all Parties.

e. The PSHC shall have the power to, and shall make determinations concerning all the matters in Sections 8.1 and 8.2. Specifically, with respect to Section 8.1, the PSHC shall have the power to: Determine whether a Failure to Perform occurred in the first instance; Institute a Cure Plan in accordance with the recommendation of either Party; Determine whether Provider has performed in compliance with the terms of an agreed upon Cure Plan; and Determine whether there is additional Substantial Underperformance of any of the standards outlined in Section 7 that constituted the Failure to Perform necessitating the Cure Plan. If the PSHC makes a determination of these matters

in favor of Provider, it may additionally make a determination that some or all of the monthly Subsidy Payments previously withheld be returned to Provider when the interests of justice so require.

Specifically, with respect to Section 8.2, the PSHC shall have the power to: Determine whether a Breach occurred; Institute a Cure Plan in accordance with the recommendation of either Party, and Determine whether a Party performed in compliance with the terms of an agreed upon Cure Plan. Upon any such determination by the PSHC, the Alleging Party may then act to enforce the Cure Plan or proceed to terminate the Agreement (such termination to be no sooner than 120 days from the date the Alleging Party provided notice to the Breaching Party with written notice of the breach in Section 8.2).

All determinations made by the PSHC shall be based on “Substantial evidence.” Substantial evidence does not mean a preponderance of the evidence. Rather the test is whether, taking into account all the evidence in the record, reasonable minds could arrive at the same conclusion.

8.4 Decisions rendered by the PSHC shall be submitted to the Common Council of the City of Milwaukee for ratification. Upon ratification by the Council, the decisions shall become effective and ripe for certiorari review by the Milwaukee County Circuit Court.

8.5 Force Majeure Procedures.

a. For purposes of this section, a “Force Majeure Situation” shall mean the following: riots, war, terrorist act, epidemic, pandemic, quarantine, civil commotion, natural catastrophes, changes in laws or regulations directly affecting Provider’s operations, fire, and/or explosion. For the avoidance of doubt, a Force Majeure Situation shall not include (a) financial distress nor the inability of either party to make a profit or avoid a financial loss, (b) changes in the market or labor prices or conditions, or (c) a party’s financial inability to perform its obligations hereunder.

b. Before invoking this section “Force Majeure,” Provider must first engage in good faith with MFD to create an alternative staffing model or other applicable accommodation plan to mitigate the conditions causing a “Force Majeure Situation,” and must not unreasonably refuse to agree to proposed alternative staffing models or accommodation plans. A dispute concerning whether a Provider has unreasonably refused to agree to a proposed model or plan may be heard by the PSHC pursuant to section 8.3.

c. Provided the Party asserting a Force Majeure Situation has first complied with section 8.5(b) and the Parties have agreed that no proffered alternative staffing model or accommodation plan can sufficiently mitigate the Force Majeure Situation, no Party will be liable for any failure or delay in performing an obligation under this Agreement that is due to a Force Majeure Situation, to the extent beyond its reasonable control.

8.6 Nothing in this Section 8 shall limit the rights and remedies of either Party.

9. AMBULANCE SERVICE RATES

9.1 Provider shall be bound by the maximum ambulance service rates for the level of service provided under MCO 75-15, for services provided by Provider operating in the EMS System. The City shall have the ability to access and review Provider's billing reports upon reasonable request of Chief.

9.2 Joint Responses. In situations where both City and Provider jointly respond to a patient experiencing a medical emergency, and where the patient is ultimately transported by Provider, it is acknowledged and agreed that Provider shall bill the patient or any applicable third party payor, including Medicare, State Medicaid Programs and any other federal or state health program (each an "Applicable Payor") for such ground transport. The parties acknowledge and agree that, when permitted by the Applicable Payor, Provider shall be entitled to bill for the totality of services rendered to patient, regardless of whether such services were actually provided by an employee of Provider or an employee of City. In furtherance of the foregoing, City agrees to provide Provider with a copy of City's patient care report, upon written request. The parties further acknowledge and agree that only the entity that ultimately transports the patient shall bill the patient or any Applicable Payor for any services provided to the patient. Under no circumstances shall the non-transporting entity bill the patient or any Applicable Payor for any services contemplated under this agreement.

9.3 Accidental Double Billing. In the event accidental double billing occurs, the Party discovering the accidental double billing shall immediately notify the Applicable Payor and take all necessary steps to correct the double billing event, in accordance with all applicable laws and regulations. The Parties shall each provide reasonable and prompt assistance to the other when either party suspects, or discovers, a double billing incident has occurred. In the event that the Parties cannot agree, after reasonable and prompt discussion and exchange of information, who the proper billing party should have been, the City shall make a final determination and the non-billing party shall promptly take all necessary steps to correct the double billing event with the Applicable Payor.

10. Tax Refund Intercept Program (TRIP)

10.1 The Chief is authorized to enter into agreements as necessary to extend the Tax Intercept Refund Program (TRIP) access to Providers providing 911-based emergency medical services within the City of Milwaukee under this agreement.

10.2 Provider shall indemnify City and its officers, agents and employees for all losses, damages, costs, expenses, judgments, accrued interest, liabilities, or decrees arising out of any claim, action in a court, or proceeding before an administrative agency that is brought against City or any of its subcontractors, officers, agents, or employees for the acts or omissions of Provider or any of its subcontractors, officers, agents, or employees related to its/their use of the TRIP

program, and for debts Provider places for collection in the TRIP program that are considered, or which Provider represents are considered, the municipal debts of the City pursuant to Wis. Stat. 71.935(1)(a). City will, at its sole option, decide whether to tender the defense of any claim, action in court, or proceeding before an administrative agency in which Provider has a duty to indemnify to Provider or Provider's insurer and upon such tender it shall be the duty of Provider and Provider's insurer to defend such claim, action, or proceeding without cost or expense to City or its officers, agents, or employees using counsel selected by Provider and Provider's insurer and approved by City. Provider shall not settle any claim, action in any court, or proceeding before an administrative agency relating to City unless City consents to the settlement in writing.

11. INSURANCE

11.1 Prior to providing any ambulance service in the City, Provider shall provide: a certificate of insurance, issued by a company authorized to do business in the state of Wisconsin, confirming that the certified provider has been issued a current policy insuring the provider against loss or damage that may result to any person or property, the policy of insurance to be in the limits of \$1,000,000 for any one person injured or killed, \$3,000,000 for all persons injured or killed in case of one accident resulting in bodily injury or death of more than one person, and \$3,000,000 for injury or destruction to the property of others in the case of accident. The policy shall guarantee payment of any final judgment rendered against the provider within the limits provided in this paragraph irrespective of the financial responsibility or any act of omission of the certified provider. The city of Milwaukee shall be named as an additional insured.

11.2. Cancellation. All certificates shall be executed by an insurance company licensed to do business in the state of Wisconsin. All certificates shall be approved as to form and execution by the city attorney before they are accepted by the fire department, and shall contain a provision or endorsement by which the insurance carrier shall be required to notify the fire department by registered mail or personal service of the cancellation of the insurance policy. Notice of cancellation shall be received by the fire department at least 30 days prior to the effective date of cancellation. If at any time the policy of insurance is cancelled by the issuing company, or the authority of the issuing company to do business in the state of Wisconsin is revoked, the Chief shall require the certified provider to replace the policy with another policy satisfactory to the chief, and in default thereof the certified provider's certificate issued under this section may be suspended until proof of valid policy is presented by a certified provider. Suspension shall be at the discretion of the board and effectuated by vote of the common council.

12. TRANSFER AND ASSIGNMENT

This agreement and the rights, privileges, permissions, and authorities granted herein are personal to Provider and cannot be sold, transferred, leased, assigned, or otherwise disposed of, in whole or in part, either by voluntary or involuntary proceedings without the approval of the City, which approval shall not be unreasonably withheld; provided, however, that claims for money due or to become due Provider from City under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notices of any such assignment or transfer shall be furnished promptly to City.

13. INDEMNIFICATION

13.1 Provider, as a condition of the grant of this agreement, and in consideration thereof, shall defend, indemnify, and hold the City harmless against all claims for damages to persons or property by reason of the operation of its business, or any way arising out of its performance under this agreement, directly, or indirectly, when or to the extent injury is caused, or alleged to have been caused, wholly or in part, by any act, omission, negligence, or misconduct of Provider or any of its contractors, subcontractors, officers, agents, or employees, or by any person for whose act, omission, negligence, or misconduct, Provider is by law responsible.

13.2 This provision is not intended to create liability for the benefit of third parties but is solely for the benefit of Provider and the City. In the event any claim is made against the City that falls under this indemnity provision and a court of competent jurisdiction should adjudge, by final decree, that the City is liable therefor, Provider shall indemnify and hold the City harmless of and from any such liability, including any court costs, expenses, and reasonable attorney fees incurred by the City in defense thereof and incurred at any stage. Upon commencement of any suit, proceeding at law or in equity against the City relating to or covering any matter covered by this indemnity, wherein Provider has agreed by accepting this agreement, to indemnify and hold the City harmless, or to pay said settlement, final judgment and costs, as the case may be, the City shall give Provider immediate notice of such suit or proceeding; whereupon Provider shall provide a defense to any such suit or suits, including any appellate proceedings brought in connection therewith, and pay as aforesaid, any settlement, costs or judgments that may be rendered against the City by reason of such damage suit.

13.3 Upon failure of Provider to comply with the “defense of suit” provisions of this agreement, after reasonable notice to it by the City, the City shall have the right to defend the same and in addition to being reimbursed for any settlement or judgment that may be rendered against the City, together with all costs incurred therein, Provider shall reimburse the City reasonable attorney fees, including those employed by the City in such case or cases, as well as all expenses incurred by the City by reason of undertaking the defense of such suit or suits, whether such suit or suits are successfully defended, settled, comprised, or fully adjudicated against the City. In the event the City is compelled to undertake the defense of any such suit by reason of Provider’s failure to perform as here

and above provided, the City shall have the full right and authority to make or enter into any settlement or compromise of such adjudication as the governing body shall deem in the best interest of the City, this without the prior approval or consent of Provider with respect to the terms of such compromise or settlement.

13.4 The amounts and type of required insurance coverage set forth herein shall in no way be construed as limiting the scope of indemnity set forth herein.

13.5 Provider shall indemnify, defend and hold harmless the City from any and all suits, claims, demands and actions by Provider's employees or its subcontractors' employees for work-related injuries or workers' compensation claims resulting from or arising out of the performance of this agreement or the provision of ambulance service.

14. NO AGENCY

Provider shall provide the services required pursuant to this agreement as an independent contractor and not as an agent of the City.

15. COMPLIANCE WITH LAWS AND REGULATIONS

During the term of this agreement, the Provider shall comply with the Ordinance and all other applicable state, federal and local laws and regulations. Failure to comply may be grounds for the imposition of penalties or sanctions, including termination of this agreement, in accordance with the notice and hearing provisions set forth above. Provider agrees to comply with all of the requirements of applicable federal, state, and local laws and regulations, currently in force or as they may change during the course of the agreement.

16. NO WAIVER; CUMULATIVE REMEDIES

Provider shall not be excused from complying with any of the terms or conditions of this agreement because of failure of the City, on one or more occasions, to insist upon or to seek compliance with any such terms or conditions, or because of any failure on the part of the City or the Provider to exercise, or delay in exercising, any right or remedy hereunder, nor shall any single or partial exercise of any right or remedy preclude any other right or remedy.

Provider agrees that the City shall have the specific rights and remedies set forth herein. These rights and remedies are in addition to any and all other rights or remedies now or hereafter available to the City, and will not be deemed waived by the exercise of any other right or remedy. The rights and remedies provided in this agreement and in the Ordinance are cumulative and not exclusive of any remedies provided by law, and nothing contained in this agreement shall impair any of the rights or remedies of the City under applicable law. The exercise of any such right or remedy by the City shall not release the Provider from its obligations or any liability under this agreement, except as expressly provided for in this agreement or as necessary to avoid duplicative recovery from or

payments by the Provider. Neither the provision of performance security, nor the receipt of any damages recovered by the City thereunder, shall be construed to excuse faithful performance by the Provider or limit the liability of the Provider for damages, either to the full amount of the posted security or otherwise.

17. CONFLICT OF INTEREST

Any contract in which a member of the City of Milwaukee Common Council is an interested party shall be voidable at the sole discretion of City, and City may sue to recover any amounts paid on such contract.

18. NOTICES

Unless otherwise stated herein, any notice, request, or demand which may be or is required to be given under this agreement shall be delivered in person at the address stated below or may be deposited with the United States Postal Service, certified or registered mail, postage prepaid, to the party and address stated below:

PROVIDER:

James G. Baker, President and CEO
Curtis-Universal, Inc.
P.O. Box 2007
Milwaukee, WI 53201-2007

Dan Robakowski
Vice-President Operations
P.O. Box 2007
Milwaukee, WI 53201-2007

CITY:

CHIEF
Milwaukee Fire Department
711 West Wells Street
Milwaukee, WI 53233

Copy to:
Assistant City Attorney Andrea Fowler
via email at: andfow@milwaukee.gov

Copy to:
mfd-financemanager@milwaukee.gov

19. GOVERNING LAW

This agreement shall be deemed to be executed in the City of Milwaukee in the State of Wisconsin, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with the laws of the State of Wisconsin. For any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, jurisdiction and venue shall be in Milwaukee County, Wisconsin, for matters arising under state law or, should federal courts have jurisdiction, the Eastern District of Wisconsin.

20. MODIFICATION OR AMENDMENT

This agreement may not be materially modified, amended, or changed in any way, unless such modification, amendment or change is approved by the Common Council and

the terms and conditions thereof expressed in a written document, signed by both parties. Irrespective of the foregoing, Exhibit A may be modified by the Chief pursuant to his authority under ordinance, changes to Exhibit D “Priorities and Response Expectations” agreed to between the Provider and the City shall require approval by the Board only.

21. ENTIRE AGREEMENT

21.1 The preparation, execution, and delivery of this agreement by the parties have been induced by no representations, statements, warranties or agreements other than those expressed herein. This agreement embodies the entire understanding of the parties. There are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter of this agreement unless such agreements or understandings are expressly referred to.

21.2 This agreement shall have no effect on the Provider’s duty under its prior ambulance service agreement to indemnify or insure the City against acts and omissions occurring during the period that the prior ambulance service agreement was in effect.

22. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or other portion of this agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding on the Provider and the City.

23. DISCRIMINATION PROHIBITED

It is City’s policy not to discriminate against any qualified employee or qualified applicant for employment because of an individual’s sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual’s affiliation or perceived affiliation with any of these categories (“Protected Classes”), pursuant to Milwaukee Code of Ordinances (“MCO”) Section 109-9. Contractors and their subcontractors employing any resident of City of Milwaukee may not discriminate against any member of the Protected Classes, and such contractors must insert this clause into any subcontracts of subcontractors employing any resident of City of Milwaukee. Provider will comply with all applicable provisions of the Americans With Disabilities Act of 1990.

24. EMPLOYEE POOL SKILLS

Provider agrees to use its best efforts to recruit, hire, train, and retain employees who possess the knowledge, skills, and abilities necessary to deliver culturally competent care to the diverse community served by the City of Milwaukee EMS System. Provider shall endeavor to maintain an employee pool with language capabilities and clinical assessment skills, including the ability to recognize and respond to diverse patient needs and communication styles, necessary to provide positive medical outcomes to 911 patients in compliance with Milwaukee County OEM-EMS guidelines. It is expected that employees will demonstrate both clinical competence (supported by all necessary licensure and certifications) and compassionate communication during the diverse range of patient encounters to which they will respond. Provider shall report the results of its efforts quarterly on a form provided by MFD.

25. INCORPORATION OF EXHIBITS

The following exhibits are hereby incorporated into this Agreement, and shall be attached or provided to Provider by MFD upon request as noted below. Provider agrees to treat those exhibits labeled as “Confidential” with as the same degree of care as Provider treats its own confidential and trade secret information, and shall not disclose such information to a third party unless compelled by law or court order.

Exhibit A: Service Areas (attached hereto)

Exhibit B: Operational Guidance (Confidential - provided upon request)

Exhibit C: Dispatch Definitions (attached hereto)

Exhibit D: Priorities and Response Expectations (Confidential - provided upon request)

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be legally executed in duplicate as of the dates listed below:

CITY OF MILWAUKEE

CURTIS-UNIVERSAL, INC.

Fire Chief Aaron Lipski

James Baker, President and CEO

Date

Date

William Christianson, Comptroller

Date

Exhibit A: Service Areas

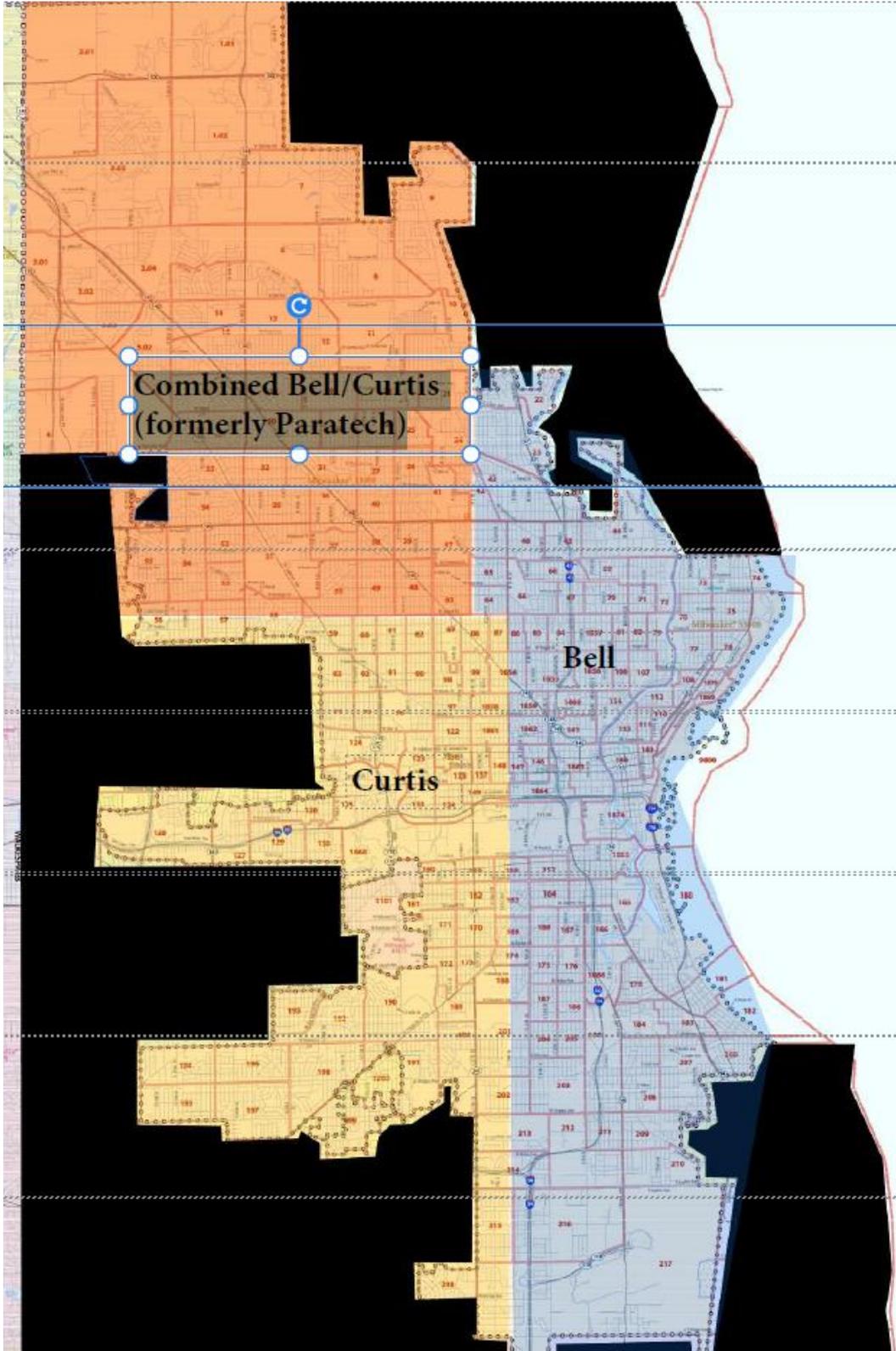


Exhibit C: Dispatch Definitions

Automatic Vehicle Location System. A system for the contemporaneous reporting to MFD Dispatch of the location of Provider's ambulance(s), which are available to EMS System for dispatch or are already assigned to Incidents will be developed and implemented by MFD and Provider utilizing an interface jointly agreed to (to be paid by Provider) by Chief and Provider.

"Department of Emergency Communications" (DEC) means the PSAP answering 911 calls for service for the Milwaukee Fire Department and the Milwaukee Police department.

"assigned" means the Provider has assigned unit and personnel to respond to an incident. Should a provider assign a different unit to an incident, a new "assigned" time shall be utilized and associated with the responding unit.

"emergency response mode" means Provider is requested by MFD Dispatch to respond to an Incident as an authorized emergency vehicle with use of warning lights and siren.

"arrival on scene" means Provider's ambulance is at the address or incident location to which it was dispatched.

"at destination" means the time that the Provider's vehicle has reached a destination.

"callback" means the process of a provider contacting a caller by telephone to verify/update their condition or to notify the caller that the Provider has a unit assigned or enroute to the incident. A provider may provide an estimated time of arrival during a callback if that information is available.

"destination" means a OEM approved facility that is capable of receiving patients from an ambulance.

"dispatch" means DEC as defined in 1.9

"dispatch acknowledgement" means the Provider has acknowledged the receipt of a request for a transport unit from DEC

"enroute" means the Provider's assigned unit has begun the process of physically responding to the incident.

"non-emergency response mode" means Provider is requested by MFD Dispatch to respond to an incident following the normal rules of the road without use of warning lights or siren.

“Priority” means an alphanumeric ranking, based on the acuity of the patient, which describes the order in which incidents are to be assigned to crew and apparatus for a response. Specific priorities and expectations are described in Exhibit D

“refused by phone” means the Provider has received verbal confirmation from a patient during a callback that transport services are no longer required. The provider shall note the reason for the refusal for monthly reporting.

“transport” means the Provider is in the process of relocating an ambulance to move a patient from the scene of an incident to a receiving facility.