

WORKING COPY

February 27, 2008

**PRIVATE AMBULANCE SERVICE PROVIDER AGREEMENT
FOR EMERGENCY MEDICAL SERVICES IN AREA # _____ IN 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	8
6. ELECTRONIC COMMUNICATION SYSTEM	9
7. PERFORMANCE STANDARDS	9
8. REMEDIES FOR FAILURE TO COMPLY WITH AGREEMENT	11
9. AMBULANCE SERVICE RATES	13
10. INSURANCE	14
11. TRANSFER AND ASSIGNMENT	15
12. INDEMNIFICATION	15
13. NO AGENCY	16
14. COMPLIANCE WITH LAWS AND REGULATIONS	16
15. NO WAIVER; CUMULATIVE REMEDIES	16
16. CONFLICT OF INTEREST	17
17. NOTICES	18
18. GOVERNING LAW	18

19.	MODIFICATION OR AMENDMENT	18
20.	ENTIRE AGREEMENT	18
21.	SEVERABILITY	19
22.	DISCRIMINATION PROHIBITED	19
23.	DIVERSITY	20
	SIGNATORIES	20-21

This 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 _____ (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, 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

1.2 “advanced life support” (“ALS”) means Advanced Life Support as defined in HFS 112.03(1), Wisconsin Administrative Code.

1.3 “ambulance” means a certified emergency vehicle used to transport sick, disabled, or injured individuals as defined in Wisconsin Statutes 340.01(3)(i) and 146.50(1)(am).

- 1.4 “ambulance service ordinance” (“Ordinance”) means Milwaukee Code of Ordinance sec. 75-15, as it may be amended from time-to-time.
- 1.5 “ambulance transport service” means the business of transporting sick, disabled or injured individuals as defined in Wisconsin Statutes §§ 340.01(3)(i) and 146.50(1)(am).
- 1.6 “arrival on scene” means Provider’s ambulance is at the address or incident location to which it was dispatched.
- 1.7 “Back-Up Incident” means a request for ambulance transport service referred to Provider by MFD Dispatch, 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.
- 1.8 “basic life support” (“BLS”) means basic life support as defined in HFS 110.03(7), Wisconsin Administrative Code.
- 1.9 “Board” means Ambulance Service Board.
- 1.10 “Chief” shall mean the Chief Engineer of the Milwaukee Fire Department or his/her designee (Assistant Chief or Deputy Chief).
- 1.11 “EMT” means Emergency Medical Technician as defined in HFS 110.03(14), Wisconsin Administrative Code.
- 1.12 “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.
- 1.13 “Incident” means each event that causes MFD Dispatch, through its usual procedures to refer a request for ambulance transport service to Provider, by telephone or other electronic means.
- 1.14 “Medical Director” means the person as defined in HFS 110.03(32) who is designated in the MFD EMS Operational Plan as the Medical Director.
- 1.15 “Milwaukee Fire Department dispatch” (“MFD Dispatch”) means the dispatch center operated by Milwaukee Fire Department at any location.

- 1.16 “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.
- 1.17 “paramedic” means Emergency Medical Technician-Paramedic as defined in HFS 112.03(11), Wisconsin Administrative Code.
- 1.18 “Committee” means the Public Safety Committee, a standing committee of The Common Council of City (“Common Council”), granted authority over the Milwaukee EMS System by Ordinance.
- 1.19 “response” means Provider’s ambulance(s) responding.
- 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 "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 may be a formal written document, letter or verbal agreement.
- 1.22 “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 in Service Area #_____, as described in Exhibit A, and to use the City rights-of-way for that purpose for the period January 1, 2008 through December 31, 2017, on the terms and conditions stated herein. The Chief or any Provider shall have the right to request revisions to this agreement for good cause, upon 60 days written notice to the opposite party(ies) before the anniversary of two years from the date of commencement of this agreement and thereafter for each subsequent two-year period. Such notice shall be served at least 60 days in advance of each such two-year period. If an agreement between the parties is not reached at any such times of reopening, the procedures outlined in paragraphs 8.4, 8.5 and 8.6 shall come into play.

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

2.3 The City shall have the unqualified right to terminate this agreement as of December 31, 2012, upon 120 days prior written notice to all Certified Providers, except that such right shall not apply to the replacement of the Provider by another private provider.

2.4 Provider shall have the unqualified right to terminate this agreement upon 180 days written notice to the City of its intent to terminate. The City shall have the right of first refusal, to be exercised within 30 days of Provider's notice of intent to sell, to purchase any assets that Provider determines are to be sold as a consequence of Provider's termination of this agreement under this paragraph.

3. REQUIREMENTS

3.1 Priority. Provider will respond to requests for service as required by agreement and Ordinance. Provider shall treat Incidents received from MFD Dispatch as a priority. In no case will the Provider refuse to provide ambulance transport service when lawfully requested to do so by MFD.

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 MFD Dispatch.

3.3 MFD Dispatch protocols. City, through MFD Dispatch, shall at all times, use appropriate dispatch protocols to determine whether a request for EMS requires BLS or ALS response. If BLS transport is required, MFD Dispatch 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 MFD Dispatch of that decision. If MFD is on the scene, MFD shall request additional ambulances if necessary.

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.

3.5 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 Dispatch shall request BLS ambulance(s) from Provider.

3.6 ALS transport necessary, Provider BLS 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 MFD Dispatch. Provider shall begin BLS care in accordance with Milwaukee County EMS Operational Policies in effect as of the date of this agreement (Exhibit D).

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 MFD Dispatch. Provider shall begin ALS 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, MFD Dispatch 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, the Provider ALS may transport the patient to that facility.

3.8 City EMS Medical Director, EMS Guidelines. The MFD Medical Director shall be the City EMS Medical Director for purposes of agreement. Emergency medical service guidelines, dispatch standards, standards of care and training standards promulgated by the Milwaukee County Council on EMS, and found at its website which is <http://www.county.milwaukee.gov> 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.

3.9 Back-Up Plan. Provider agrees to provide back up to other Certified Providers of City EMS System as requested by MFD Dispatch, in accordance with the Back-Up Plan established in Service Plan.

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 authorized personnel access to relevant Wisconsin Ambulance Run Data System (WARDS) data.

3.11 When transfer of patient care occurs between the MFD and Provider, then an in-kind transfer of patient care supplies shall occur on scene between them.

3.12 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.* 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.

3.13 The City, through MFD Dispatch, reserves the right to request ambulance transport service from another Provider under exigent circumstances consistent with this agreement.

3.14 Provider must report the number and location of all ambulances available under this agreement upon reasonable request by MFD.

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

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

3.17 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.

3.18 Provider shall submit all forms of proposed advertising and marketing (including advertising on ambulances) of its services directed to the general public to Chief for review prior to its being disseminated in any form to the general public. The review is for the purposes of ensuring that the communication has no adverse impact upon the substantial interests of the EMS System. If Chief makes an adverse finding, he shall immediately so advise Provider, and Chief shall work with Provider to develop an unobjectionable alternative.

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

3.20 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.

3.21 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.

3.22 Provider’s medical director or designee must participate in the Medical Society of Milwaukee County Emergency Medical Services Medical Director subcommittee meetings, and other meetings as directed by the Board.

4. SPECIAL EVENTS

4.1 Provider must electronically submit to MFD notification of all Special Event coverage anywhere in the City EMS System, in a format approved by Chief (the “Special Event Plan”). If the Special Event occurs in a service area other than Provider’s service area, the same notification shall be given to that service area’s Provider. The Special Event Plan shall include all dates and times of Special Event coverage to be provided by Provider. The Special Event Plan shall be submitted to the Chief of MFD five (5) business days prior to the commencement of the Special Event, or as soon as possible. The Chief may require some written confirmation of the Special Event from the event organizer. The Chief may offer suggestions for improvement of the Special Event Plan and may discuss with Provider interface with the City EMS System. The Chief shall

acknowledge receipt of the Special Event Plan and respond within two (2) business days of receipt of plan, or as soon as possible.

4.2 In the event MFD Dispatch receives a request for EMS from any caller at an approved Special Event during the scheduled dates and times, MFD Dispatch shall dispatch Special Event Provider, and not the assigned service area Provider. Under these circumstances Provider shall not charge more than the City approved rates. If the Special Event Provider's ambulance is not available or not on the scene, the assigned service area Provider will be dispatched.

4.3 ALS transport necessary, Provider BLS 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 MFD Dispatch. Provider shall begin BLS care in accordance with Milwaukee County EMS Operational Policies in effect as of the date of this agreement (Exhibit D).

4.4 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 MFD Dispatch. Provider shall begin ALS 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, MFD Dispatch 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 ALS may transport the patient to that facility.

4.5 Section 4.4 shall not apply when Provider has an MFD approved ALS Special Event Plan that requires ALS care and transport and Provider has an ALS unit on-scene.

5. COMMAND, CONTROL AND COOPERATION

5.1 Chief shall be responsible for administering this agreement on behalf of the City. The highest-ranking officer of MFD on any 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 MFD Dispatch, Provider will send a supervisor or higher-level personnel, to assist Chief.

6. ELECTRONIC COMMUNICATIONS SYSTEM

6.1 Computer interconnection. In addition to telephonic communication a direct computer connection with MFD Dispatch utilizing technology jointly agreed to by Chief and Provider shall be maintained, permitting MFD Dispatch 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 Contemporaneous response time reports. A system whereby Provider will contemporaneously report response times to MFD Dispatch will be developed and implemented by MFD and Provider utilizing an interface (to be paid by Provider) jointly agreed to by Chief and Provider.

6.4 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.

6.5 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 Introduction. Provider agrees that the failure to comply with any time, performance or other requirement or standard in this agreement will result in harm to the City and its patients.

7.2 Response mode standard. Provider shall respond in the mode (emergency or non-emergency) requested by MFD dispatch.

7.3 Response time standards.

Emergency mode responses:	90.00% of responses in 8:59 minutes or less
	99.00% of responses in 12:59

minutes or less

Non-emergency mode responses: 90.00% of responses in 14:59
minutes or less

For all emergency mode responses over 12:59 minutes and all non-emergency mode responses over 14:59 minutes documentation must be submitted by Provider to Chief as part of Provider's monthly report. If more than one ambulance is dispatched to an Incident each response time must be calculated separately.

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 MFD Dispatch 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 MFD Dispatch 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 MFD Dispatch and the response is then cancelled by MFD Dispatch 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 when Provider's ambulance is disabled or delayed for any reason while responding to an Incident. The disability or delay must be immediately reported to MFD Dispatch, which shall have the sole authority to determine the response thereafter.

7.7 Failure to report arrival on scene standard. If no arrival on scene time is reported by Provider by the method approved by Chief, the response time will be considered to exceed the applicable standard for the response mode.

7.8 Turn-back standard. Following notification of an Incident by MFD Dispatch, Provider is to dispatch an ambulance that is able to meet the response time standards set forth in 7.3. If Provider does not have an ambulance to

dispatch, Provider must notify MFD Dispatch within 2 minutes elapsed time from initial Provider notification by MFD Dispatch. The response that is turned back will be considered as Unable-to-Handle.

7.9 Unable-to-Handle (UTH) Standard. Provider shall not have a UTH rate of 2% or greater of Incidents received during any month.

7.10 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 Council on 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, will be reviewed for compliance with the protocols.

7.11 Reporting standard. Providers must complete the approved "Private Ambulance Transport Service Provider Monthly Report" (Exhibit C), 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).

8. REMEDIES FOR FAILURE TO COMPLY WITH AGREEMENT

8.1 Remedy. If Provider fails to comply with any provision of this agreement, Chief shall give notice to Provider of such failure, and Chief may recommend remedial action to be accomplished by Provider in such time as Chief determines is necessary for the safety of the citizens of the City of Milwaukee. Chief shall provide notice of the violation and proposed remedial action by forwarding a notice of the violation and proposed remedial action as set forth in this agreement. Depending upon the nature of the violation, Chief may immediately recommend to the Board readjustment of Provider's service area or revocation of certification. If Chief and Provider agree on a course of remedial action, Chief and Provider shall in good faith comply with the proposed remedial action of Chief.

8.2 Chief and Provider Cannot Agree on a Violation or Proposed Remedial Action. If Chief and Provider cannot agree on whether or not a violation has occurred or on a proposed plan of remedial action, Chief or Provider may seek review by Board. Notice shall be given as provided in this agreement and to the Board.

8.3.1. Substantially Unable to Perform. Notwithstanding Section 8.1, should the Chief determine that there is a substantial threat to the public health and

safety because Provider is substantially unable to perform the EMS required by this agreement the Chief shall reassign Incidents from Provider's service area to other Certified Providers.

8.3.2. Upon the Chief's determination that Provider is substantially unable to perform, Chief shall immediately give notice to Provider and Board, specifying Provider's deficiencies. Board shall hold a hearing within five (5) business days of receipt of notification that Provider is substantially unable to perform (during period prior to Board hearing Chief may permit Provider to resume service).

8.4 Board Action.

a. Within thirty days of Board receiving the notice, Board shall schedule a hearing as set forth in this section. Notice of Board hearing shall be given by Board clerk as provided in this agreement.

b. Board Hearing.

b-1. Upon receipt of evidence that the notice has been sent, Board shall convene at a date and time to be determined by Board. The purpose of Board hearing shall be for taking evidence and making findings of fact and a proposed resolution of the matter. If either party does not accept the proposed resolution of the matter, the matter shall be referred to the Public Safety Committee.

b-2. The chairman of the Board shall be the presiding officer. The chairman shall direct that oaths be administered and subpoenas issued upon request of either side, as provided for in the ordinance. The chairman shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection. The chairman shall rule on objections to the admissibility of evidence. Any ruling of the chairman shall be final unless appealed to Board, and Board shall reverse such ruling only upon the vote of a majority of its members. A stenographic record shall be made of all proceedings before Board.

c. Board Report.

c-1. If the matter is not resolved at the hearing, the Board shall, within ten days, prepare a report setting forth its proposed findings of fact and resolution of the matter, and forward the report to the Public Safety Committee and the parties.

c-2. Chief, Provider or both, may file exceptions to the report with the City Clerk at least five business days prior to the hearing before the Public Safety Committee. Any exceptions filed by one party shall be sent to the other party.

8.5 Committee Action.

a-1. At a meeting of the Committee, the Committee shall consider the report and the exceptions, if any. Each member of the Committee shall be asked to affirm that he or she has read the report of the Board and any exceptions. Oral argument in support of, or exceptions to, the report may be made by Chief and/or Provider. No further evidence, however, may be adduced before the Committee. The chairman of the Committee may reasonably limit oral argument before the Committee, but not less than ten minutes per side.

a-2. The Committee shall, by a majority vote, recommend to the Common Council whether to sustain, reverse or modify the report. Such vote shall be a roll call vote.

a-3. If the Committee determines that further evidence is necessary, it shall remand the matter back to the Board with direction.

8.6 Common Council Action

a-1. The Common Council shall consider the recommendation of the Committee and the report and the exceptions, if any. Each member of the Common Council shall be asked to affirm that he or she has read the recommendation of the Committee and the report of the Board and any exceptions.

Oral argument may be made by Chief and/or Provider.

a-2. By a majority vote the Common Council shall decide whether to sustain, reverse or modify the report, or return the matter to Board for further action. Such vote shall be a roll call vote.

8.7 The decision of the Common Council shall be final.

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 A central number for billing and service complaints regarding Provider's services pursuant to this agreement will be established by Chief and must be given to all patients by Provider.

10. INSURANCE

10.1 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 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 subdivision irrespective of the financial responsibility or any act of omission of the Provider. The City of Milwaukee shall be named as an additional insured.

10.2. Cancellation. All certificates shall be executed by an insurance company licensed to do business in the state of Wisconsin and shall have affixed an affidavit of no interest. All such certificates shall be approved as to form and execution by the city attorney before they are accepted by the City health department, and shall contain a provision or endorsement by which the insurance carrier shall be required to notify the Milwaukee Fire Department by registered mail or personal service of the cancellation of the insurance policy. Notice of cancellation shall be received by the Milwaukee 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 such issuing company to do business in the state of Wisconsin is revoked, the Chief shall require the Provider to replace the policy with another policy satisfactory to the Chief, and in default thereof the Provider's certificate issued under this section shall be suspended until such time as proof of valid policy is presented by Provider.

11. 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.

12. INDEMNIFICATION

12.1 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.

12.2 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.

12.3 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.

12.4 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.

12.5 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.

13. NO AGENCY

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

14. 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.

15. 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.

16. CONFLICT OF INTEREST

16.1 Interest in agreement. No officer, employee or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this agreement pertains, shall have any personal interest, direct or indirect, in this agreement.

16.2 Interest of Other Local Public Officials. No member of the governing body of the City and no other public official of the City who exercises any functions or responsibilities in the review or approval of the carrying out of this agreement shall have any personal interest, direct or indirect, in this agreement.

16.3 Interest of Provider and Employees. Provider covenants that no person who exercises any functions or responsibilities in connection with the agreement has any personal financial interest, direct or indirect, in this agreement. Provider further covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance hereunder. Provider shall not perform any services under this agreement that may directly affect the interests of his employer or other clients without first making full disclosure to the City in writing, and obtaining the City's approval in writing. Provider further covenants that in the performance of this agreement no person having any conflicting interest shall be employed. An interest on the part of the Provider or its employees must be disclosed to the City; provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity be provided for employment of and participation by residents of the area.

17. 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:

CITY:

CHIEF

Milwaukee Fire Department

711 West Wells Street

Milwaukee, Wisconsin 53233

18. 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.

19. MODIFICATION OR AMENDMENT

This agreement may not be 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. Changes to Exhibits B, C, and D agreed to between the Provider and the City shall require approval by the Board only.

20. ENTIRE AGREEMENT

20.1 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.

20.2 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.

21. 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.

22. DISCRIMINATION PROHIBITED

In all hiring or employment made possible by or resulting from this agreement there: (1) will not be any discrimination against any employee or applicant for employment because of marital status, age, disability, lawful source of income, race, color, sexual orientation or familial status, religion, sex, national origin or ancestry, gender identity or expression, past or present membership in the military service, or based upon affiliation with, or perceived affiliation with any of these protected categories; and (2) affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their marital status, age, disability, lawful source of income, race, color, sexual orientation or familial status, religion, sex, national origin or ancestry, gender identity or expression, past or present membership in the military service, or based upon affiliation with, or perceived affiliation with any of these protected categories.

This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required or to be provided by federal or state agencies involved setting forth the provisions of the clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to marital status, age, disability, lawful source of income, race, color, sexual orientation or familial status, religion, sex, national origin or ancestry, gender identity or expression, past or present membership in the military service or based upon affiliation with, or perceived affiliation with any of these protected categories.

No person in the United States shall, on the ground of marital status, age, disability, lawful source of income, race, color, sexual orientation or familial status, religion, sex, or national origin or ancestry, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this agreement. The City and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964.

Provider will comply with all applicable provisions of the Americans With Disabilities Act of 1990.

23. DIVERSITY

Provider agrees to use its best efforts to recruit, hire, train, and retain employees that reflect the diversity of the community served by the EMS System.

Provider shall report the results of its efforts quarterly on a form provided by MFD.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be legally executed in duplicate this ____ day of _____, 2008.

CITY OF MILWAUKEE

By: _____
Mayor

By: _____
Clerk

Comptroller

City Attorney

PROVIDER

By: _____

By: _____

Exhibits

- A. Service Area Map
- B. Emergency Medical Services Guidelines
- C. Private Ambulance Transport Service Provider Monthly Report
- D. Milwaukee County EMS Operational Policy

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