

AGREEMENT FOR AMBULANCE AND
HEALTH CARE TRANSPORTATION SERVICES
NURSING HOME/SKILLED NURSING FACILITY

This Agreement (the "Agreement") is made and entered into this __ day of August, 2016 by and between _____ ("Facility") and Emergency Medical Services Authority ("Contractor"). The parties may be referred to herein collectively as "the parties" and singularly as a "party."

R E C I T A L S:

WHEREAS, Contractor is designated as the sole provider of emergency and routine ambulance transport in the "Regulated Service Area" pursuant to Oklahoma Statutes, Title 60, section 1-2415, et seq. No person or entity may provide emergency, routine or special events Contractors in the Regulated Service Area unless acting as Contractor's "Operations Contractor." As such Contractor is authorized and directed by City of Oklahoma City Ordinance No. 20,997 and City of Tulsa Ordinance No. 19167 ("City Ordinance"), to take such steps as are necessary to ensure the availability of both emergency and routine Contractors within the Regulated Service Area, subject to the requirements as set forth in the City Ordinance, copies of which are available upon request;

WHEREAS, "Facility" is a Facility that provides general inpatient and outpatient medical services, is duly licensed by applicable state and federal authorities, is properly enrolled as a provider in the Medicare and Medicaid programs, and also accepts privately insured and private-pay patients.

WHEREAS, Contractor provides ground basic and advanced life support ambulance services, is licensed by applicable State authorities to provide those services, and is properly enrolled as a Medicare and Medicaid provider.

WHEREAS, Facility desires to utilize Contractor as a provider of ground Contractors for patients, including those patients covered under Parts A and B of the Medicare Program, as well as for other non-Medicare patients.

WHEREAS, Contractor desires to provide ground basic and advanced life support services for patients of Facility pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements contained herein, the parties to this Agreement agree as follows:

A. **Services Provided.** Contractor shall provide patients of the Facility with non-emergency ambulance transportation services to or from the Facility (the “Services”). The ambulances used by CONTRACTOR in the delivery of the Services shall be staffed by at least two (2) persons who are licensed or certified by law to render emergency medical care. Contractor shall make the Services available twenty-four (24) hours per day, seven (7) days per week. The Services do not include, and this Agreement does not affect, the delivery, by Contractor, of emergency medical transportation services. Contractor shall provide the Services upon request by an employee or other agent of the Facility.

(i) All Services shall be provided on a timely basis and in accordance with city ordinances for Emergency services. Contractor shall ensure that non-emergency transports arrive at the requested location in compliance with city ordinances.

B. **Information Concerning Status of Patient.** At the time of scheduling a non-emergency transport, Facility shall provide Contractor with all necessary information about the patient to enable Contractor to properly bill the appropriate payor. Such information shall include the patient’s insurance status and, if the patient is a Medicare beneficiary:

(i) Whether or not the patient is in a “Medicare Part A” stay at the time Contractors are provided;

(ii) Whether the Contractors relate to the patient’s plan of care, if applicable;

(iii) Whether the patient is an inpatient or outpatient at the point of origin and destination at the time of the transport.

C. **Professional Judgment.** Facility represents that it will exercise its professional judgment and responsibility over the decision to utilize Contractor.

D. **Billing and Compensation.**

(i) **Billing to Patients or Third Parties.** When required or permitted by law, Contractor will bill the patient, the patient's financially responsible party, or any available insurance or third party payment source for Contractors provided under this Agreement. This includes transports that Contractor is authorized to bill under Medicare Part B and Medicaid and that are covered under the applicable coverage criteria of those programs.

(ii) **Billing to Facility.** Where Facility is required by law or where Facility has agreed to be responsible for payment, as described in Appendix B, Contractor will bill Facility directly for Contractors Services rendered to patients of Facility. For these transports, Facility agrees to pay Contractor according to the Medicare allowable charge in effect on the date of service as payment in full. The current Medicare Fee Schedule can be located on The Centers of Medicare and Medicaid (CMS) website at www.cms.hhs.gov. The current allowable charges are attached as Appendix B and will be updated on a periodic basis. This includes, among other types of transports for which Facility is responsible to provide, transports that Contractor cannot bill directly to Medicare Part B or Medicaid.

E. **Payment Conditions for Services Covered by Facility**

(i) **Payment in Full.** Contractor shall not bill any patient, financially responsible party, insurer, or third party payor for any transports that are the responsibility of Facility. Facility agrees to indemnify, defend, and hold harmless Contractor for any liability resulting from its submission of any such bills when it was the result of information supplied by Facility. When charges are properly billed for transports, Contractor shall accept the fee schedule amounts outlined in the Appendices to this Agreement as payment in full.

(ii) **Fair Market Value of Charges.** Contractor represents and warrants that the rates reflected in all Appendices are reflective of fair market value for the services rendered.

(ii) Prompt Payment. Facility agrees to remit payment to Contractor for all transports for which it is responsible to pay under the law and under this Agreement within thirty (30) days of the date of Contractor's bill. Facility agrees that payment to Contractor is not contingent upon any payments that Facility may collect from other sources. Facility agrees to be responsible for the payment to Contractor of its full billed charges if payment is received past thirty (30) days.

(iii) Invoices. For Services for which payment is the Facility's responsibility Contractor shall submit an invoice to the Facility within thirty (30) days of the date services are rendered to a Facility patient. The invoice shall state, among other things, the name(s) of the patient to whom the services were provided and the charges applicable to each service and each patient.

F. **Provision of Information to Contractor**

(i) Facility shall, prior to the time that Contractors Services are provided, furnish to Contractor the information necessary to Contractor's proper billing of the ambulance service. This includes, but is not limited to a face sheet and a properly completed physician certification statement (PCS) when such documentation is required to support Contractor's claim for payment. PCS forms shall be obtained by Facility on all non-emergency ambulance transports of Medicare beneficiaries and comply with the most current rules of the Centers for Medicare and Medicaid Services (CMS). Facility shall utilize PCS forms approved by Contractor for this purpose. Contractor reserves the right to bill Facility directly for Contractors in the event Facility does not provide face sheets and PCS forms to Contractor as provided herein.

(ii) In the event of a dispute regarding the classification of any particular trip as a Medicare Part A or Part B trip, Facility agrees to provide Contractor, within three (3) days of Contractor's request, any information within its possession or control, including but not limited to the emergency room report, history and physical, and discharge summary, to facilitate proper billing for the trip. Facility shall use its best efforts to obtain information not in its possession or control which may be material to Contractor's determination as to proper billing under this Agreement.

(iii) Facility further represents and warrants that it shall, within thirty (30) days of receiving any requests from the Centers for Medicare and Medicaid Services (CMS) or its authorized Contractor, make available any and all such records requested by CMS or its Contractor for the purposes

of determining whether any ambulance trips arising hereunder qualify for payment under Medicare Part B. Facility shall be responsible to pay Contractor for any trips denied by the carrier as a result of Facility's failure to supply such information as requested by CMS and/or the carrier within the time specified herein or as a result of claims denied or recouped by the carrier based on Facility's documentation.

G. **Term.** This Agreement shall be for a term of [redacted] year(s), commencing on the date written in the initial paragraph of this Agreement. This Agreement may be renewed by the parties for a period of [redacted] years upon written Agreement by both parties. Either party shall provide written notice of an intention to renew this Agreement thirty (30) days prior to the expiration of this Agreement.

H. **Termination.** Notwithstanding any other provision, either party may terminate this Agreement at any time with or without cause by giving the other party ninety (90) days written notice of termination, which notice shall specify the effective date of the termination.

I. **Notices.** Notices required or permitted to be given under this Agreement shall be made to the parties at the following addresses and shall be presumed to have been received by the other party (i) three days after mailing by the party when notices are sent by First Class mail, postage prepaid; (ii) upon transmission (if sent via facsimile with a confirmed transmission report); or (iii) upon receipt (if sent by hand delivery or courier service) as follows:

If to Facility:

Attn:

If to the Contractor :

EMSA
1111 Classen Drive
Oklahoma City, Oklahoma 73103
Attn: Chief Compliance Officer

J. **Events of Default.** Each of the following shall be an "Event of Default" under this Agreement entitling the non-defaulting party to declare this Agreement void and of no further force and effect without additional prior notice:

(i) If Facility fails to pay Contractor for the Ambulance Services or Wheelchair Van Services required to be performed hereunder or otherwise meet its obligations hereunder.

(ii) If either party fails to maintain its required licenses, permits or certifications or is excluded from the Medicare or Medicaid programs.

(iii) If either party fails to keep in force the insurance policies required to be maintained under this Agreement.

(iv) If either party (i) admits in writing its inability to pay its debts generally as they become due, or (ii) files a petition to be adjudicated a voluntary bankrupt in bankruptcy or a similar petition under any insolvency act, or (iii) makes an assignment for the benefit of its creditors, or (iv) consents to the appointment of a receiver of itself or of the whole or any substantial part of its property.

(v) If any of the representations of either party as set forth in this Agreement are false or misleading in any material respect.

K. **Insurance and Indemnification.**

(i) **Policies/Limits Required.** Each party shall maintain in full force and effect the following insurance policies written on an incurred loss basis, with limits as required by law. In the event there are no applicable limits required by law, the given amounts shall constitute the minimum required limits:

(1) Comprehensive general liability insurance for property and bodily injury with minimum limits of \$1,000,000 per occurrence.

(2) Workers' Compensation insurance, with statutory liability limits.

(3) Professional liability insurance with minimum limits of \$1,000,000 per occurrence.

(4) Catastrophic Umbrella Liability for an additional \$1,000,000.

(ii) **Certification of Insurance Upon Request.** Each party shall upon request of the other party require all insurance companies issuing policies hereunder to certify to the other party that such policies have been issued and are in force and will remain not materially changed, canceled or annulled except upon thirty (30) days prior written notice to the other party.

L. **Mutual Hold Harmless and Indemnification.** Contractor and Facility each shall hold harmless, indemnify and defend the other party and the other party's shareholders, directors, officers, agents, members and employees against any and all claims, causes of action, injuries and damages including, but not limited to, personal injury and property damage, to the extent caused by any act or omission on the part of the indemnifying party or the indemnifying party's agents, contractors or employees and arising out of or due to the performance, failure to perform or breach of this Agreement. This provision shall include all costs and disbursements, including, without limitation, court costs and reasonable attorneys' fees.

M. **Entire Agreement.** This Agreement, including any Appendices hereto, constitutes the sole and only agreement of the parties regarding its subject matter and supersedes any prior understandings or written or oral agreements between the parties respecting this subject matter. Neither party has received or relied upon any written or oral representations to induce it to enter into this Agreement except that each party has relied only on any written representations contained herein.

N. **Amendments.** No agreement or understandings varying or extending this Agreement shall be binding upon the parties unless it is memorialized in a written amendment signed by an authorized officer or representative of both parties.

O. **Assignment.** This Agreement may be assigned by a party upon the written approval of the other party, which shall not be unreasonably withheld. Written approval is not required in the event a party is sold or acquired by a successor entity or in the event of a change of ownership, although notice of such a transaction shall be given to the other party within thirty (30) days after the effective date of such transaction. This Agreement shall be binding upon all successors and assigns.

P. **Construction and Compliance.**

(i) Severability. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held by any court or by the Office of Inspector General (OIG) of the United States Department of Health and Human Services to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

(ii) Compliance. The parties intend to comply fully with all applicable state and federal laws and regulations, including but not limited to the Balanced Budget Act of 1997, the Social Security Act, the federal Anti-Kickback Statute, the federal False Claims Act, and all applicable state and federal fraud and abuse laws and rules. Insofar as any terms or conditions of this Agreement are determined by any court or by the OIG to be contrary to any such statutes or regulations, the parties will promptly and in good faith confer and resolve any issues so as to make the performance of this Agreement consistent with all applicable statutes and regulations.

(iii) Notification of Actual or Potential Violation of Law. If either party becomes aware of any actual or potential violations by the other party, whether intentional or inadvertent, of any applicable state or federal statutes or regulations, it shall promptly notify the other party.

(iv) Protection of Patient Information. The parties, each of which are "covered entities," shall carry out their obligations under this Agreement in compliance with the privacy and security regulations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), to protect the privacy and security of any personally identifiable, protected health information ("PHI") that is collected, processed or learned as a result of the services provided pursuant to this Agreement. Both parties acknowledge that their relationship to patients receiving services hereunder is a "direct treatment relationship" as that term is defined in the Privacy Regulations and that this contractual relationship does not constitute a "business associate" agreement pursuant to the Privacy Rule. The parties also understand that it is permissible under HIPAA to freely exchange PHI for purposes of treatment, payment, or health care operations, including information to determine medical necessity. Both parties agree to a free exchange of PHI for purposes of treatment, payment, or health care operations, and Facility will provide all documents requested by Contractor so that it may properly bill for covered transports.

Q. Excluded Providers. Contractor hereby represents and warrants that Contractor and any

personnel providing services under this Agreement are not and at no time have been excluded from participation in any federally funded health care program, including Medicare and Medicaid. Contractor hereby agrees to immediately notify Facility of any threatened, proposed, or actual exclusion from any federally funded health care program, including Medicare and Medicaid. In the event that Contractor or any personnel providing services under this Agreement are excluded from participation in any federally funded health care program during the term of this Agreement, or if at any time after the effective date of this Agreement it is determined that Contractor is in breach of this Section, this Agreement shall, as of the effective date of such exclusion or breach, automatically terminate.

R. **Complaints.** Facility agrees that all complaints or unusual incidents involving personnel, equipment or service of Contractor will be promptly reported to management of Contractor and will be described in an incident report detailing the circumstances surrounding the complaint or incident, including the persons or entities involved, date and time of events at issue, and description of events at issue within three (3) days of the occurrence.

S. **Force Majeure.** The parties shall be excused for the period of any delay in or impossibility of the performance of any obligations hereunder, when prevented from doing so by any cause or causes beyond a party's control, which shall include without limitation: all labor disputes, civil commotion, war, nuclear disturbances, hostilities, sabotage, terroristic acts, governmental regulations or controls, fire, accident or other casualty, interruption in the supply of any utilities or fuel, inability to obtain any material or services, or through acts of God.

T. **Independent Contractor Relationship.** The relationship of the parties is that of independent contractors. Neither party shall be deemed to be the agent nor partner nor fiduciary of the other, and neither is authorized to take any action binding upon the other.

U. **Governing Law.** This Agreement is made and shall be construed in accordance with, and governed by, the laws of the State of Oklahoma, without consideration of conflict of laws principles.

V. **Confidentiality.** Each party agrees that if it has received trade secrets or confidential and proprietary information in the negotiation and execution of this Agreement, as designated by the other party, it will not disclose any information so designated to any other person, organization or entity

during the term of this Agreement or for a period of five (5) years thereafter. This provision shall survive termination of this Agreement.

W. **Access to Books and Records.** Contractor shall, for a period of four (4) years after this Agreement terminates, make available, upon the written request of the Secretary of Health and Human Services or the Comptroller General, or their representatives, this Agreement, and such books, documents and records as may be necessary to verify the nature and extent of the costs of the services rendered hereunder. Furthermore, the parties agree that if any of the work provided for under this Agreement, with a value of Ten Thousand Dollars (\$10,000) or more in any twelve-month period, shall be performed by a subcontractor, they shall require the subcontractor to sign a similar agreement to make its books and records available for such a five (5) year period of time.

X. **Waiver and Consent.** The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the rights to require such performance of any other provision hereof, nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. If the consent of either party is necessary pursuant to the terms of this Agreement, such consent shall not be unreasonably withheld.

Y. **Regulatory Changes.** The parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

Z. **Non-Discrimination.** All services provided under this Agreement shall be provided without regard to the race, color, creed, sex, age, disability status, payor source or national origin of the resident requiring such services. Contractor agrees to comply with all applicable laws prohibiting discrimination in the provision of services hereunder.

AA. **Authorization of Agreement.** Each party represents and warrants, each to the other with respect to itself, that the execution and delivery of this Agreement has been duly authorized and the individual executing this Agreement on behalf of each party respectively has full power and authority to do so.

IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the date first set forth above.

FACILITY

By: _____
Name:
Title:

CONTRACTOR

EMERGENCY MEDICAL SERVICES AUTHORITY

By: _____
Name: Stephen Williamson
Title: CEO/President

APPENDIX A
SKILLED NURSING FACILITY FINANCIAL RESPONSIBILITY

Facility shall be responsible for the payment of those services rendered as outlined below, at the rates set forth in Appendix B:

1. Ambulance Services for which Facility is financially responsible by law, including, but not limited to transports arising under Medicare Part A, Medicare PPS, or Medicare “consolidated billing” including:
 - (ii) Ambulance transport in connection with discharge from Facility to patient’s home, with a return trip to Facility before midnight of the same day.
 - (iii) Ambulance transport in connection with discharge from Facility to another facility for an elevated level of care.
 - (iv) Ambulance transport in connection with transport for the provision of services covered under Facility’s plan of care (*e.g.* physical, occupational, or speech therapy).
 - (v) Ambulance transport in connection with transports that may otherwise be performed in Facility (*e.g.* diagnostic tests, therapeutic services, and other similar services).
 - (vi) Ambulance transport in connection with transport for evaluation or treatment services (other than a Facility admission, or outpatient services performed at a Facility). This includes any services performed at a free standing facility, or a physician’s office.
 - (vii) Ambulance transport in connection with transport to or from a diagnostic or therapeutic site including independent diagnostic testing facilities (IDTFs), cancer treatment centers, wound care centers, radiation therapy centers, and all other diagnostic and therapeutic sites.

2. Any other transport that may have been requested by Facility where either medical necessity has not been met and/or reimbursement cannot be made from any other payor, or where Facility has specifically agreed, under agreement, or otherwise, to be responsible for payment.

3. Ambulance Services rendered to uninsured patients.
4. Transports of patients to Veterans Administration facilities.

The following transports are expressly not the responsibility of Facility, except where the Facility has assumed liability otherwise, but are billable by Ambulance Service to other payors, including Medicare Part B (provided that all applicable coverage criteria of the payor (*e.g.*, medical necessity) are met:

- (ii) Transports for the initial admission to Facility.
- (iii) Transport for final discharge from a Facility (as long as patient does not return to Facility before midnight).
- (iv) Transports for admission to a Facility.
- (v) Discharge to Facility following a Facility stay.
- (vi) Transports to a residence for Medicare Home Health Services.
- (vii) Transports for dialysis.
- (viii) Transports for emergency Facility services.
- (ix) Transport back to Facility following emergency Facility service.
- (x) Transports to/from Facility for MRI, CT scan, ambulatory surgery, cardiac catheterization, radiation therapy, angiography, lymphatic and venous procedures.
- (xi) Transports of any Facility inpatient that has exhausted his or her Part A stay (first 100 days).

Appendix B
Services and Fee Schedule
Effective: January 01, 2017

ALS-1 Emergency Transport	\$ 389.46
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ALS-2 [Either Emergency or Non-emergency]	\$ 563.70
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An ALS-2 transport occurs when the patient is intubated, cardio-verted, or given three IV medications during transport.

SCT [Either Emergency or Non-emergency]	\$ 666.19
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An SCT Transport occurs when a specialty trained paramedic or Facility personnel must accompany a patient because they are on an IV with special medications or special equipment.

ALS Non-emergency Transport	\$ 245.98
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BLS Emergency	\$ 327.97
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BLS Non-Emergency	\$ 204.98
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Mileage	\$ 7.29
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