

## Medical Services Mutual Aid Agreement

**THIS AGREEMENT** is made between City of Benbrook Fire and EMS and Metropolitan Area EMS Authority d/b/a MedStar ("MedStar"). The parties may be mutually referred to as the "Contracting Agencies" or singularly as "Agency".

**WHEREAS**, the Contracting Agencies maintain paid and/or volunteer emergency medical services, together with personnel and equipment used to provide such services;

**WHEREAS**, more than one medical emergency may arise contemporaneously in one or the other of the jurisdictions of the Contracting Agencies resulting in greater demands than the manpower and/or equipment of that Agency can handle or an emergency may arise that is of such intensity that it cannot be handled solely by the equipment and manpower of the Agency in whose jurisdiction the emergency occurs or an emergency may arise which transcends jurisdictional boundaries;

**WHEREAS**, non-emergency or scheduled requests for medical transportation may arise that cannot be performed with the manpower of the Agency in whose jurisdiction the non-emergency occurs or a non-emergency may arise which transcends jurisdictional boundaries;

**NOW, THEREFORE**, in consideration of the mutual covenants, performances and agreements hereafter set forth, it is mutually understood and agreed between the Contracting Agencies as follows:

1. **Definitions.** The "Answering Agency" is the Agency that responds to the request for emergency medical services or non-emergency medical services. The "Requesting Agency" is the Agency requesting medical transportation services assistance under this Agreement.
2. **Mutual Assistance and Aid.** Subject to the exceptions stated below, the Contracting Agencies agree to respond when possible to requests for medical transportation services assistance. These requests by the Requesting Agency may or may not originate within jurisdictional boundaries of the Answering Agency. The extent of any response to a request, including the choice of personnel and equipment, shall be entirely within the discretion of the Answering Agency, subject, however, to the terms of this Agreement. Included in such Answering Agency's discretion shall be a determination of whether or not such a request for assistance may be answered without jeopardizing the safety and protection of the citizens and property of the Answering Agency. Any decision not to respond to a request for aid shall be promptly communicated to the Requesting Agency.
3. **Requests for Assistance and Aid.** An authorized official representing a Requesting Agency shall make all

requests for aid. Each request for aid is subject to approval by an official of the Answering Agency, without charge to the Requesting Agency, and with the understanding that personnel and equipment of the Answering Agency shall be subject only to the liability, workers' compensation, and/or other insurance of that Answering Agency. Any request for assistance hereunder should include a statement of the amount and type of equipment and personnel requested, and shall specify the location to which the equipment and response personnel are to be dispatched. However, an official of the Answering Agency shall determine the type and quantity of equipment and personnel to be furnished. The equipment and personnel of the Answering Agency shall at all times be under the supervision and control of the official(s) of that Answering Agency. If the Answering Agency accepts a request for aid hereunder, the Answering Agency agrees to respond promptly and shall assume full responsibility for the medical transportation service from that point forward.

4. **Emergency Medical Services.** When emergency medical services are requested, the Answering Agency shall have its personnel report to the Incident Commander ("IC") or other scene commander at the location to which the equipment and personnel are dispatched. All activities shall be coordinated with the IC. Though coordination of activities occurs by the IC, the equipment and personnel of the Answering Agency shall be under the ultimate supervision of the designated personnel of the Answering Agency. The personnel of the Answering Agency shall coordinate the Answering Agency's efforts with the IC. At no time shall the Answering Agency be expected to operate contrary to standing orders or protocols of its physician advisor, agency policies, operating licenses, or federal or state regulations, except as specifically provided for in writing by local, state or federal authority and/or except when destination policies are otherwise modified as necessary.

If at any time the Answering Agency responds to a mutual aid call for emergency medical services where the Requesting Agency is not at the scene, the Answering Agency will follow the treatment protocols and procedures of its physician advisor or other medical control, pursuant to the applicable Incident Command System. Response personnel shall contact the medical base of their own Agency for further orders and designation sites.

It is agreed that the Answering Agency shall not be responsible for any response time compliance or penalties under this Agreement.

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5. **Release of Answering Agency.** For emergency medical services, an Answering Agency shall be released from service by the Requesting Agency/Incident Commander when the services of the Answering Agency are no longer required, or when the Answering Agency determines, in its discretion, that its services are needed in another jurisdiction.

For non-emergency medical services, an Answering Agency shall be released from service when the services are complete or the Requesting Agency notifies the Answering Agency that the services are no longer required or when the Answering Agency determines, in its discretion, that its services are needed in another jurisdiction.

6. **Rights and Privileges Retained.** The personnel of each Agency, while engaged in performing any mutual aid service, activity, or undertaking under provisions of this Agreement, shall have and retain all rights and privileges notwithstanding that mutual aid service is being performed in or for the other Agency. Additionally, the Answering Agency's physician advisor and appropriate medical protocols shall govern the Answering Agency's actions.
7. **Compensation and Billing.** The Answering Agency shall be responsible for all Patient and third-party billing, and agrees that the rates to be billed shall comply with applicable laws, provided, however, that the Answering Agency agrees to honor the terms of any membership or subscription programs in force in the Requesting Agency's jurisdiction with regards to any service performed for a member subscriber pursuant to this Agreement.
8. **Indemnification.** Each party will indemnify and hold the other party harmless from and against liability claims resulting from or alleged to result from any negligence or willful misconduct of the indemnifying party related to the performance of this Agreement. Such indemnification for acts occurring or alleged to have occurred during the Term of this Agreement shall survive the termination of the Agreement for any reason.
9. **Insurance.** Each party represents that it has and will maintain comprehensive automobile insurance, comprehensive general liability insurance, and professional liability insurance all in minimum amounts that are customary and usual within the emergency medical services industry and workers' compensation insurance in the statutory required amounts. The coverage shall extend to each party hereto, including its officers, agents, and employees. Each party shall provide a certificate of insurance to the other which will

provide that the policy or coverage thereunder cannot be altered or terminated without thirty (30) days written notice by the insurance carrier to the other parties to this Agreement.

10. **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; (c) by facsimile transmission, upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the following addresses:

**If to MedStar:**

**Douglas Hooten, Executive Director  
MedStar Mobile Healthcare  
2900 Alta Mere Drive  
Fort Worth, TX 76116**

**If to Agency:**

Legal Department

11. **Term.** The initial term of this Agreement shall be one year, commencing on the commencement date hereof, and this Agreement shall automatically renew for subsequent one-year periods thereafter, subject to the termination rights herein. The initial term and all renewal periods shall be cumulatively referred to as the "Term".
12. **Termination.** Each party may terminate this Agreement: (a) at any time without cause and at its sole discretion upon thirty (30) days written notice to the other party; or (b) immediately upon the material breach of this Agreement by the other party.
13. **Referrals.** It is not the intent of either party that any remuneration, benefit or privilege provided for under this Agreement shall influence or in any way be based on the referral or recommended referral by either party of patients to the other party or its affiliated providers, if any, or the purchasing, leasing or ordering of any services other than the specific services described in this Agreement. Any payments specified herein are consistent with what the parties reasonably believe to be a fair market value for the services provided.
14. **Relationship.** In the performance of this Agreement, each party hereto shall be, as to the other, an independent contractor and neither party shall have the right or authority, express or implied, to bind or

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otherwise legally obligate the other. Nothing contained in this Agreement shall be construed to constitute either party assuming or undertaking control or direction of the operations, activities or medical care rendered by the other. The parties' administrative staff shall meet on a regular basis to address issues of mutual concern related to the provision of aid and the parties' respective rights and obligations hereunder. It is agreed that the parties shall not be liable for payment of any salary, wages, or other compensation for any of the other Agency's personnel performing services under this Agreement.

15. **Force Majeure.** Neither party shall be responsible for any delay in or failure of performance resulting from acts of God, riot, war, civil unrest, natural disaster, labor dispute or other circumstances not reasonably within its control.
16. **Compliance.** The parties will comply in all material respects with all applicable federal, state and local laws and regulations, including the federal Anti-Kickback Statute. Each party's ambulances will conform to applicable state and local regulations for medical equipment for ambulances and be duly licensed for the transportation of patients. All personnel staffing vehicles that provide the Services will be licensed or certified as required by applicable law.
17. **Medically Equivalent Services.** Agency agrees that the level of services provided pursuant to this Agreement shall be substantially medically equivalent to the level of services provided by MedStar. In this regard, this Agreement is expressly conditioned upon prior certification of Agency as "substantially medically equivalent" by the Emergency Physicians Advisory Board ("EPAB") created pursuant to the Uniform EMS ordinance adopted by all MedStar member cities, as may be amended from time to time. Provided, however, that EPAB shall, in its sole discretion, determine whether Agency's level of service shall be deemed to be "substantially medically equivalent". The same determination can be made by Agency towards MedStar's medical equivalence. Provided further, that "substantial medical equivalence" shall not necessarily require on-board equipment, training requirements, or medical protocols identical to those employed by EPAB. Notwithstanding any other provisions regarding termination of this Agreement, EPAB, at any time and in its sole discretion may revoke its certification of "substantial medical equivalence" by notice to Agency, upon which event this Agreement shall immediately terminate.
18. **Medical Oversight.** The parties agree that they will cooperate fully with and participate in any medical audit requested or conducted by either party's medical control authority, or either party's medical director or designee, involving ambulance runs provided under this Agreement with which Contracting Agencies were medically involved.
19. The parties hereto agree that the dispatch center for the Answering Agency shall accurately document the response times for any calls referred and shall report those times to the Requesting Agency for the purpose of monitoring overall response time performance.
20. **Non-Exclusion.** Each party represents and certifies that neither it nor any practitioner who orders or provide Services on its behalf hereunder has been convicted of any conduct that constitutes grounds for mandatory exclusion as identified in 42 U.S.C. § 1320a-7(a). Each party further represents and certifies that it is not ineligible to participate in Federal health care programs or in any other state or federal government payment program. Each party agrees that if DHHS/OIG excludes it, or any of its practitioners or employees who order or provide Services, from participation in Federal health care programs, the party must notify the other party within five (5) days of knowledge of such fact, and the other party may immediately terminate this Agreement, unless the excluded party is a practitioner or employee who immediately discontinues ordering or providing Services hereunder.
21. **Miscellaneous.** This Agreement (including the Schedules hereto): (a) constitutes the entire agreement between the parties with respect to the subject matter hereof, superseding all prior oral or written agreements with respect thereto; (b) may be amended only by written instrument executed by both parties; (c) may not be assigned by either party without the written consent of the other party, such consent not to be unreasonably withheld; (d) shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns; (e) shall be interpreted and enforced in accordance with the laws of the state where the Services are performed, without regard to the conflict of laws provisions thereof, and the federal laws of the United States applicable therein; (f) may be executed in several counterparts (including by facsimile), each of which shall constitute an original and all of which, when taken together, shall constitute one agreement; and (g) shall not be effective until executed by both parties. In the event of a conflict between this Agreement and any Schedule hereto, the terms of this Agreement shall govern.

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22. **Indemnification.** To the extent allowed by the Texas Constitution and the laws of the State of Texas, MedStar shall defend, indemnify, and hold harmless the Agency and its officers, directors, shareholders, partners, employees, agents from any and all threatened or actual claims, proceedings, losses, damages, fines, penalties, liabilities, costs and expenses of any nature, including attorneys' fees and court costs sustained or incurred by or asserted against MedStar arising from a breach of this Agreement in any material respect by the Agency, or (ii) any conduct on the part of the Agency in connection with the performance of this Agreement that constitutes gross negligence, fraud, willful misconduct or a knowing violation of law.

To the extent allowed by the Texas Constitution and the laws of the State of Texas, the Agency shall defend, indemnify, and hold harmless MedStar and its officers,

directors, shareholders, partners, employees, agents from any and all threatened or actual claims, proceedings, losses, damages, fines, penalties, liabilities, costs and expenses of any nature, including attorneys' fees and court costs sustained or incurred by or asserted against the Agency arising from a breach of this Agreement in any material respect by MedStar, or (ii) any conduct on the part of MedStar in connection with the performance of this Agreement that constitutes gross negligence, fraud, willful misconduct or a knowing violation of law.

*[Signature page to follow]*

## Medical Services Mutual Aid Agreement

**IN WITNESS WHEREOF**, the parties have hereto executed this Agreement as of this \_\_\_\_ day of \_\_\_\_\_ 2018  
("Commencement Date").

### City of Benbrook:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

### Metropolitan Area EMS Authority d/b/a MedStar

By: \_\_\_\_\_

Print Name: Douglas R. Hooten, MBA

Print Title: Chief Executive Officer