

EMERGENCY AMBULANCE SERVICE AGREEMENT

This **EMERGENCY AMBULANCE SERVICE AGREEMENT** (hereinafter "Agreement") is made and entered into on the 28th day of March 2018 by and between The Township of Pemberton, whose principal place of business is located at 500 Pemberton-Browns Mills Road; Pemberton, New Jersey 08068-1539 (hereinafter "Pemberton"), and Virtua - West Jersey Health System, Inc. (hereinafter "Virtua"), with offices located at 523 Fellowship Road, Suite 270, Mt. Laurel; NJ 08054, each a "Party" and collectively the "Parties."

WHEREAS, Pemberton desires to provide access to basic life support emergency medical services ("EMS") for the residents of and visitors to Pemberton; and

WHEREAS, Virtua is a nonprofit corporation that is in the business of providing specialized medical care and patient transportation services as necessary to improve health care and reduce cost; and

WHEREAS, all Parties deem it necessary to have a reliable form of emergency basic life support services for patients in Pemberton.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Pemberton and Virtua agree as follows:

- 1) **BASIC LIFE SUPPORT AMBULANCE SERVICE AGREEMENT:** Burlington County Communications ("Burlington") is the agency that receives 9-1-1 calls in Pemberton and dispatches ambulances for medical emergency calls. Pemberton shall instruct Burlington that when it determines a basic life support ambulance is needed to respond to a 9-1-1 call in Pemberton, it shall dispatch the Virtua unit dedicated to Pemberton. The Burlington call taker shall tell the Virtua ambulance crew the full street address of the location of the call, the nearest cross street, and the nature of the emergency. The Virtua ambulance crew shall communicate with Burlington on the assigned frequency.
- 2) **PAYMENT FOR SERVICES BY PATIENT:** Virtua will provide treatment without regard to any patient's ability to pay, and will bill all appropriate payers and patients on a fee-for-service basis. Virtua shall have in place processes to improve and maintain accuracy of bills and shall use its best efforts to collect from third Party payers before collection activity covered by the federal Fair Debt Collections Practices Act or comparable New Jersey law is commenced against the patient. Pemberton shall not bill patients for costs incurred in conjunction with a transport performed by Virtua.
- 3) **PAYMENT BY TOWNSHIP:** Virtua has agreed to provide Basic Life Support Ambulance Services in Pemberton as outlined in this Agreement at \$0.00 cost to Pemberton.
- 4) **OBLIGATIONS OF PEMBERTON:** In addition to the items listed above, Pemberton may provide at the request of Virtua, (2) portable radios containing the appropriate frequencies to communicate with Burlington County Central Communications.

5) **OBLIGATIONS OF VIRTUA:** Virtua shall provide Basic Life Support Ambulance Services in Pemberton as outlined below and in Virtua's response to the Request for Proposals (Bid # PT-3-2018). Virtua agrees that failure to provide the following Basic Life Support Ambulance Services constitutes a material breach of the terms of this Agreement.

- a) Virtua shall dedicate the following BLS Ambulances to provide basic life support ambulance transportation services (as "basic life support" is defined in the statute governing emergency medical services, N.J.S.A. 262K-21, and in the regulations governing same, N.J.A.C. 8:40-1.1). There shall be one (1) fully staffed BLS ambulance twenty-four (24) hours a day, seven days a week ("24/7") and one (1) additional fully staffed BLS ambulance between the hours of 0700-1900 Monday through Friday excluding all weekends, to be placed in service on or before May 23, 2018 at 700 hours. In the event of additional 9-1-1 calls for medical assistance in Pemberton Township during a time when the dedicated ambulance is on or returning from a call, at the time another call, Burlington County Central Communications shall determine the location of the closest available mutual aid ambulance and dispatch that ambulance without delay. In those mutual aid cases, if Virtua's MICU unit stationed in Pemberton is within Pemberton at the time of dispatch, and is not otherwise required for MICU level response, Burlington County Central Communications may also dispatch that MICU unit as a first response unit pending the arrival of the mutual aid BLS ambulance. A mutual aid ambulance service from outside of Pemberton Township shall not be dispatched for such calls when the Pemberton Fire Company has a duty ambulance staffed and/or in the event that Pemberton hereafter enters into an agreement with another entity for the provision of BLS services for calls for service when Virtua's dedicated ambulance is on a prior call.
- b) Virtua shall provide, upon request, the estimated response time of the closest available Virtua BLS ambulance.
- c) Virtua shall staff the ambulance with the necessary personnel trained and certified as emergency medical technicians in accordance with the requirements of the State of New Jersey (certified, at a minimum, as EMTs by the New Jersey State Department of Health), who shall be responsible for providing basic life support (as defined herein) within the limits of their certifications. The ambulance shall carry a semi-automated external defibrillator model approved by the New Jersey Department of Health and Senior Services, Office of Emergency Medical Services.
- d) Virtua shall maintain adequate records of the duties it performs pursuant to the Agreement, including but not limited to patient care reports, records of patient accounts, and financial records.
- e) Virtua warrants and represents that it is licensed by the New Jersey Department of Health and Senior Services as a provider of BLS ambulance services, and that the vehicles it assigns to fulfill its obligations under this Agreement shall be licensed as BLS ambulances. Virtua shall maintain compliance with all applicable federal, state, county, and local laws, regulations, policies, procedures, and

judicial and administrative decisions relating to licensure and requirements for provision of basic life support services in New Jersey.

- f) During the term of this Agreement, Pemberton and Virtua hereby incorporate into this contract the mandatory affirmative action language of P.L. 1975, c. 127 (N.J.A.C. 17:27), as amended and supplemented from time to time.
 - g) The Virtua ambulance and crew providing service in Pemberton pursuant to this Agreement will be subject to Virtua's corporate Compliance Program, Clinical Quality Assurance Program, and management supervision.
 - h) Virtua shall maintain written procedures for patient complaints. Virtua shall respond to any inquiries or complaints regarding the services it provides in Pemberton.
 - i) Virtua shall provide all forms, documents, and records for administration of Pemberton emergency medical services.
 - j) Virtua shall respond to inquiries from government agencies, physicians, patients, and the public regarding Pemberton emergency medical services.
- 6) **PROPOSAL INCORPORATED HEREIN:** Virtua's response/submission to Pemberton's bid specification (Bid#PT-3-2018) is incorporated herein and shall become a part of *this* Agreement in its entirety.
- 7) **TRANSFER OF RIGHTS AND RESPONSIBILITIES:** *This* Agreement is intended to bind the Parties, their heirs, successors and assigns. No Party may sell, assign, lease, sublease or otherwise transfer its rights-and/or duties under *this* Agreement without the approval of the others, or the others' successor.
- 8) **INSURANCE:** Minimum insurance requirements placed with reputable companies licensed or authorized to do business in the State of New Jersey as follows:
- a) Commercial general liability insurance (including but not limited to personal injury, premises, completed operations and contractual liability) in an amount not less than \$1,000,000.00 per occurrence, \$3,000,000.00 in the annual aggregate.
 - b) Employment practices liability insurance with a limit of not less than \$3,000,000.00 in the annual aggregate.
 - c) Automobile liability insurance covering use of all owned, non-owned and hired automobiles with a combined single limit of not less than \$1,000,000.00 per occurrence for bodily injury and property damage liability.
 - d) Professional liability insurance covering the service provider and each of its clinical employees, each with limits not less than \$1,000,000.00 per occurrence and \$1,000,000.00 in the annual aggregate.

- e) Umbrella liability insurance with a limit not less than \$3,000,000.00 per occurrence.
- f) During the term of this Agreement, Virtua shall procure and maintain Workers' Compensation insurance, including Employers' Liability Coverage in accordance with the statutes of the State of New Jersey.
- g) The following shall be Additional Insured with respect to all liability policies : Pemberton Township, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees, and volunteers. This coverage shall be primary to the Additional Insureds, and shall not be contributing with any other insurance or similar protection available to the Additional Insureds, whether other available insurance be primary, contributing, or excess.

9) **INDEMNIFICATION:**

- a) Virtua agrees to save, indemnify and hold harmless Pemberton, its agents, servants, employees, officers, directors and insurance carriers from any and all liability, losses, claims, actions, costs, expenses, judgment, subrogation or other damages, including attorney fees resulting from injury to person or damage to property arising out of or incident to the performance of the terms of this Agreement by Virtua or resulting from Virtua's failure to meet or continue to meet any or all of the duties specified in this agreement, or resulting from Virtua's failure to comply with any and all local, state or federal statutes, regulations, rules or procedures.
- b) Pemberton agrees to save, indemnify and hold harmless Virtua, its agents, servants, employees, officers, directors and insurance carriers from any and all liability, losses, claims, actions, costs, expenses, judgment, subrogation or other damages, including attorney fees resulting from injury to person or damage to property arising out of or incident to the performance or the terms of this Agreement by Pemberton or resulting from Pemberton's failure to meet or continue to meet any or all of the duties specified in this Agreement, or resulting from Pemberton's failure to comply with any and all local, state or federal statutes, regulations, rules or procedures.

- 10) **NON-WAIYER:** The failure of any Party to insist upon strict compliance with the terms of this Agreement shall not constitute a waiver of any Party's right to act on any violation thereof.
- 11) **REMEDIES CUMULATIVE :** All remedies under this Agreement at law or in equity shall be cumulative.
- 12) **NOTICES:** All notices required by this Agreement shall be in writing and shall be effective upon receipt, if mailed by registered or certified mail, return receipt requested, or via regionally recognized overnight carrier service, to the undersigned at the addresses of the Parties set forth below, or to such other address as shall have been indicated in a notice given pursuant to this Section.

If to Virtua:
Virtua Health, Inc.
303 Lippincott Drive, 4th Floor
Marlton, NJ 08053
Attn: Dennis W Pullin, President & CEO

With copy to:
Virtua Health, Inc.
303 Lippincott Drive, 4th Floor
Marlton, NJ 08053
Attn: Lauren Rowinski, Sr. Vice President & General Counsel

If to Pemberton Township:
500 Pemberton - Browns Mills Rd.
Pemberton, NJ 08068
ATTN: Business Administrator

- 13) **SEVERABILITY:** If any provision of this Agreement is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only, without invalidating or otherwise affecting the remainder of this Agreement.
- 14) **ENTIRE AGREEMENT:** This Agreement including Virtua's response to Pemberton's Request For Proposals incorporated herein constitutes the entire agreement between the Parties and no representations, inducements, promises or agreements, oral or otherwise, between the Parties not embodied herein shall be of any force or effect.
- 15) **MODIFICATION:** This Agreement may not be modified orally, or any other way except in writing signed by all Parties to this Agreement.
- 16) **CHOICE OF LAW/CHOICE OF FORUM:** This Agreement shall be governed by the laws of the State of New Jersey, without regard to its conflict of law provisions, and any legal action arising under this Agreement shall be heard in the Superior Court of New Jersey. The venue for any litigation between the Parties arising out of or resulting from this Agreement is Burlington County, New Jersey, and the Parties irrevocably submit themselves to the jurisdiction of the courts in Burlington County, New Jersey and waive any right they have or may have to any other jurisdiction.
- 17) **CONFIDENTIALITY:**
 - a) **Patient Information:** Virtua shall maintain the confidentiality of all patient records obtained during a transport, to the extent required by applicable law.
 - b) **Proprietary Information:** The Parties acknowledge that the entire body of this Agreement, as well as any non-public business and financial information of either Party

constitute confidential information. Each Party further agrees to protect the confidentiality of such information to the fullest extent possible and refrain from distributing or otherwise disseminating any such information regarding the other Party, whether such information is obtained during the duration of this Agreement or during the negotiations thereof, to any person, agency, business or other entity, public or private, except in response to a properly constituted court order, or as otherwise required by law or regulation. Each Party agrees to notify the other immediately if such a court order is received, and prior to any anticipated use or disclosure. Any violation of this provision shall constitute a material breach of this Agreement. However, nothing in this provision shall prevent each Party from utilizing any nonfinancial statistical data derived from the operation of the BLS transport program for any lawful purpose, or non-identifying patient medical information for the purposes of education provided such information is in compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), its related "Privacy Rule" and as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH") and any regulations promulgated thereunder.

- 18) **INDEPENDENT CONTRACTOR STATUS:** All Parties are independent contractors. Neither Party is authorized or permitted to act as an agent or employee of the other. Nothing in this Agreement shall in any way alter the freedom enjoyed by either Party, nor shall it in any way alter the control of the management, assets, and affairs of the respective Parties. Neither Party, by virtue of this Agreement, assumes any liability for any debts or obligations of either a financial or a legal nature incurred by the other Party to this Agreement.
- 19) **LIABILITY:** Each Party shall be responsible for its own acts and omissions and shall not be responsible for the acts and omissions of the other Party.
- 20) **HEADINGS:** The headings to the various sections of this Agreement have been inserted for convenience only and shall not modify, define, limit or expand express provisions of this Agreement.
- 21) **COUNTERPARTS:** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
- 22) **TERM AND RENEWAL:** This Agreement shall be valid for three (3) years starting April 1, 2018 and ending on March 30, 2021 at 23:59 hours. This Agreement includes an option to extend the Agreement for two (2) additional years, making the Agreement valid until March 30, 2023. Notwithstanding anything to the contrary herein, this Agreement will automatically renew for the additional two (2) years, unless one of the Parties herein sends a notice of termination in writing by December 31, 2020, 23:59 hours. This Agreement will not be valid for more than five (5) years in total.
- 23) **TERMINATION:** This Agreement may be terminated without cause by either Party upon the sending of written notice one hundred twenty (120) days in advance. In the event of a material breach by either Party, this Agreement may be terminated by the non-breaching Party if the breaching Party does not cure the breach within thirty (30) days of receiving written notice of the breach and intent to terminate the contract.

24) **ACKNOWLEDGEMENTS AND CERTIFICATIONS:** By affixing their respective signatures below; the Parties certify that they have read and understand each and every provision of this Agreement. Each Party further certifies that it has had the opportunity to review this Agreement with an Attorney of its choosing. Each Party certifies that it possesses the authority to enter into this Agreement, that it enters into this Agreement at length, that it has not been subject to duress or other undue influence by any Party during the negotiation of this Agreement, that the execution and performance of this Agreement by each Party has been duly authorized by all necessary laws, resolutions or corporate actions, and that this Agreement constitutes valid and enforceable obligations of each Party in accordance with its terms.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the
28 day of March 2018.

VIRTUA-WEST JERSEY
HEALTH SYSTEM, INC.

ATTEST:

By:

James Rivard
James Rivard

Debra Frazee

PEMBERTON TOWNSHIP

ATTEST:

By:

Daniel A. Patrasia

Angela Connor