

## **FIRST AMENDMENT TO AMBULANCE SERVICES FRANCHISE AGREEMENT**

This First Amendment to Ambulance Services Franchise Agreement (“First Amendment”) is effective as of \_\_\_\_\_, 2021 (“Effective Date”) by and between the City of North Las Vegas, a Nevada municipal corporation (“City”), and MedicWest Ambulance, Inc., a Nevada corporation (“Franchisee”; collectively, City and Franchisee may be referred to as the “Parties”).

### **RECITALS**

WHEREAS, the City and Franchisee entered into the Ambulance Services Franchise Agreement on February 1, 2018 (the “Original Agreement”), a copy of which is attached hereto as “Exhibit A”; and

WHEREAS, the City and Franchisee desire to enter into this First Amendment to modify the response time requirements and related provisions in the Original Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

### **AGREEMENT**

1. The Parties agree that Section 4.3.1 of the Original Agreement shall be deleted in its entirety and replaced with the following language:

4.3.1 With the exception of the first year in which this Agreement is in effect which will be based on the eleven-month period between March 1, 2018 and January 31, 2019, each year in which this Agreement is in effect, commencing on February 1, 2018, that Franchisee does not achieve annual 90% response time compliance in Zone 1 for Priority 1, Priority 2, Priority 3, Priority 4, and Priority 5 calls and annual compliance in Zone 2 for Priority 1, Priority 2, Priority 3, Priority 4, and Priority 5 calls, any remaining portion of the term of this Franchise will be reduced by one year as of the 1st of February immediately following the year of nonconformance.

2. The Parties agree that Section 7.5 of the Original Agreement shall be deleted in its entirety and replaced with the following language:

7.5 Franchisee shall provide Ambulance Service at the ALS level of care for all 911 Dispatched Ambulance Service responses in EMS Priority Dispatch categories of Critical (Priority 1), High (Priority 2), Moderate (Priority 3), and Low (Priority 4) provided, however that Ambulance Service requested to transport category Medical Aid (Priority 5) may be provided by ambulances equipped at the intermediate level of service (“ILS”) level of care, as appropriate to the call. Franchisee shall, at all times during the term of this Franchise, provide personnel and equipment at a life support level appropriate to each transport, in accordance with the SNHD Regulations, the Ambulance Ordinance, this Agreement, and all other applicable laws and regulations.

3. The Parties agree that Section 14.2.2 of the Original Agreement shall be deleted in its entirety and replaced with the following language:

14.2.2 Franchisee shall meet the following maximum response time throughout the Franchise Service Area for 911-Dispatched Ambulance Service:

<b>Priority No.</b>	<b>Definition</b>	<b>Maximum Response Time (Minutes)</b>	<b>Excessive Response Time (Minutes)</b>
1; 2	Critical; High	8:59	11:59
3	Moderate	11:59	14:59
4	Low	15:59	18:59
5	Medical Aid	19:59	22:59

4. The Parties agree that Section 14.2.3 of the Original Agreement shall be deleted in its entirety and replaced with the following language:

14.2.3 Franchisee shall meet the following maximum response time throughout the Franchise Service Area for non-emergency services:

<b>Priority 11 Subcategories</b>	<b>Definition</b>	<b>Maximum Response Time (Minutes)</b>	<b>Excessive Response Time (Minutes)</b>
Urgent	Immediate transfer requests for critical patients needing higher level of care at another facility	19:59	22:59
Scheduled	Pre-scheduled transports (scheduled with 4 hours of prior notice from facility)	Scheduled Time	30 minutes past scheduled time
Unscheduled	Unscheduled transfer request from facility	59:59	30 minutes past scheduled time

5. The Parties agree that Section 14.2.4 of the Original Agreement shall be deleted in its entirety and replaced with the following language:

14.2.4 Franchisee shall meet a monthly 90% compliance standard in Zone 1 and a monthly 90% compliance standard in Zone 2:

Measurement	Monthly
Priorities 1, 2, 3, 4, and 5 (combined)	90%
Priority 11 (all subcategories combined Citywide)	90%

Compliance with the above is achieved when 90% or more of responses in each measurement meet the specified response time requirements within each of Zone 1 and Zone 2 for a calendar month (except for Priority 11 which shall be determined Citywide rather than by Zones).

6. The Parties agree that Section 14.3.2 of the Original Agreement shall be deleted in its entirety and replaced with the following:

#### 14.3.2 Description of Priority Classifications

There are six priorities for which Franchisee shall be required to meet specified response times. The call classification as emergency or non-emergency, and as priority 1, 2, 3, 4, or 5 is accomplished by presumptive prioritization in accordance with the current NAED, version 3.4.3.33, as amended from time to time, or protocols currently in use, as approved by the NLVFD Medical Director. The descriptions and response time requirements for Franchisee follow:

##### 14.3.2.1 Priority 1, 2, 3, and 4: Critical, High, Moderate, and Low Emergencies

Franchisee shall place an ambulance on scene of each specified Critical, High, Moderate, and Low incident within the specified response time not less than 90% of all response requests as measured within any calendar month in each of Zone 1 and Zone 2.

##### 14.3.2.2 Priority 5: Medical Aid

Franchisee shall place an ambulance on the scene of each Medical Aid incident within the specified response time not less than 90% of all response requests as measured within any calendar month in each of Zone 1 and Zone 2.

#### 14.3.2.3 Priority 11: Urgent, Scheduled, and Unscheduled Transfers

If a response request for a non-emergency transfer is received by the FAO and transferred to Franchisee, or if the request for a non-emergency transfer is received by Franchisee's dispatch center, Franchisee shall perform within the specified response time not less than 90% of all response requests as measured within any calendar month citywide.

Regardless of where the request for a non-emergency transfer is received (either by the FAO or Franchisee's dispatch center), in the event Franchisee is unable to meet the established maximum response time for priority 11 request for service, Franchisee shall notify the individual or organization requesting such service to explain the reasons for the temporary delay and shall furnish a realistic estimate of when service will be available. Such notification and reasons for delay shall also be documented in the electronic notes of the call. Notification of the individual or organization does not reduce or eliminate liquidated damages for such delays and the original response time requirements will be used to calculate any damages. Franchisee shall make every reasonable effort to reduce and eliminate delays for those utilizing non-emergency services. Franchisee shall submit a report containing an explanation for responses that fail to meet the response time standards of the City.

14.3.2.4 Scheduled Transfers will include those appointments for non-emergency transfers in which a request is made at least four hours (4:00) prior to the requested appointment time. If the caller subsequently requests a revision of the appointment time less than, four hours before the appointment, the appointment may be adjusted. If the request is for an earlier time, Franchisee will arrive at the earlier of the original appointment or the unscheduled response time of 59:59. If the transport is rescheduled to a later time, that is less than one hour later than the original appointment, Franchisee will arrive on time for the new appointment. If the request is changed to a time later than one hour after the original appointment, the response will be deemed an Unscheduled Transport and the appropriate response time standard shall be applied.

7. The Parties agree that Section 14.4.1.2 shall be deleted in its entirety and replaced with the following:

#### 14.4.1.2 Time Intervals for Priority

(a) Response times for priority 1, 2, 3, 4, and 5 responses shall begin with the time the call is received on Franchisee's communications center CAD terminal.

(b) For all priorities, the response time clock shall be stopped when Franchisee's ambulance or authorized mutual aid ambulance transmits the "unit arrived on scene" status signal to CAD.

(1) Such transmission shall not be made until the ambulance unit actually arrives at the specific address or location dispatched with a speed of zero miles per hour.

(2) In the instance of apartment or business complexes, such transmission shall not be made until the ambulance actually arrives at the point closest to the specified apartment or business to which it can reasonably be driven.

(3) Arrival on the scene of Franchisee supervisor's vehicle shall not stop the response time clock.

(4) Arrival at incident means the moment an ambulance crew notifies the FAO that it is fully stopped at the location where the ambulance shall be parked while the crew exits to approach the patient.

(5) In instances that the ambulance has responded to a location other than the scene (e.g. staging areas for hazardous scenes), arrival "on scene" shall be the time the ambulance arrives at the designated staging location.

(6) The NLVFD Medical Director may require Franchisee to log time "at patient" for medical research purposes. However, "at patient" time intervals shall not be considered part of the contractually stipulated response time.

8. The Parties agree that Section 14.5.1 shall be deleted in its entirety and replaced with the following language:

#### 14.5.1 Upgrades

If an assignment is upgraded, prior to the arrival on scene of the first ambulance (e.g., priority 5 is upgraded to priority 1), Franchisee's compliance with contract standards and liquidated damages will be calculated based on the shorter of:

14.5.1.1 the time elapsed from call receipt to time of upgrade plus the higher priority response time requirement; or

14.5.1.2 the lower priority response time requirement.

Example:

A call is dispatched priority 5 (required response time of 19:59) and is upgraded to priority 1 (required response time of 8:59) after one minute has elapsed (1:00). Because  $8:59 + 1:00 = 9:59$  is shorter than 19:59, the response is subject to the priority 1 Response Time requirement and is considered a priority 1 response.

#### 14.5.2 Downgrades

Medically-trained first responders (NLVFD employees) as authorized by the NLVFD Medical Director may initiate downgrades. If an assignment is downgraded prior to the arrival on scene of the first ambulance, Franchisee's compliance with contract standards and liquidated damages will be calculated based on:

14.5.2.1 The lower priority response time requirement, if the unit is downgraded before it would have been judged "late" under the higher priority Response Time requirement, or

14.5.2.2 The higher priority response time requirement, if the unit is downgraded after it would have been judged "late" under the higher priority Response Time requirement.

Example:

A call is dispatched priority 1 (required response time of 8:59) and is downgraded to priority 5 (required response time of 19:59) before exceeding the priority 1 Response Time requirement, the call is considered a priority 5 response.

9. The Parties agree that Section 15.2 shall be deleted in its entirety and replaced with the following language:

15.2 Monthly Liquidated Damage Assessment. Assessments for failure to comply with the monthly response time standard of 90% as indicated in Section 14 shall be assessed to Franchisee in any rolling twelve (12) month period as follows:

<b>Category</b>	<b>Occurrence Number</b>	<b>Liquidated Damages Amount</b>
Priority 1, 2, 3, 4, and 5 combined	First Occurrence	\$10,000
Priority 1, 2, 3, 4, and 5 combined	Second Occurrence	\$20,000
Priority 1, 2, 3, 4, and 5 combined	Third Occurrence	\$30,000
Priority 11	First Occurrence	\$5,000
Priority 11	Second Occurrence	\$10,000
Priority 11	Third Occurrence	\$15,000

10. The Parties agree that Section 15.2.4 shall be deleted in its entirety and replaced with the following language:

15.2.4 Failure to meet Priority 1, 2, 3, 4, and 5 (combined) or Priority 11 (citywide and not calculated for individual zones) response time criteria for at least 90% of the time within each of Zone 1 and Zone 2 for 3 consecutive months, or for 4 months in any 12 consecutive months, may be considered a breach of this Franchise and may result in revocation of this Franchise pursuant to this Franchise and the Ambulance Ordinance, and the City after revocation of the Franchise may file a claim with Franchisee's surety for the surrender of the entire performance bond amount for failure to perform pursuant to the terms of the Ambulance Ordinance and this Franchise.

11. The Parties agree that Section 15.3 shall be deleted in its entirety and replaced with the following language:

15.3 Individual Per Call Liquidated Damage Assessment. Assessments for failure to meet response times for individual calls as indicated in Section 14 shall be assessed to Franchisee as follows:

<b>Category</b>	<b>Standard Late Penalty</b>	<b>Excessive Response Time</b>
Priority 1 and 2	\$17.00	11:59 - \$100 16:59 - \$250 26:59 - \$500
Priority 3	\$17.00	14:59 - \$100 19:59 - \$250 29:59 - \$500
Priority 4	\$12.00	18:59 - \$100 23:59 - \$250 33:59 - \$500
Priority 5	\$12.00	24:59 - \$100 29:59 - \$250 39:59 - \$500
Priority 11	\$25.00	Not Applicable

#### 15.3.1 Individual Priority 11 Per Call Penalty Waiver

Standard and Excessive late penalties for Priority 11 incidents shall be waived for the entire month in which a minimum of 90% compliance is reached for that given month.

#### 15.3.2 Upgraded Calls

If the initial response time requirement expired prior to being upgraded and the upgraded call response time requirement expired prior to the time the ambulance is on scene, staged or canceled, the initial call and the upgraded call are each subject to the late call liquidated damages assessment as provided by the table at Section 15.3.

#### 15.3.4 Downgraded Calls

If the initial response time requirement expired prior to being downgraded and the downgraded call Response Time requirement expired prior to the time the ambulance is on scene, staged or canceled, the initial call and the downgraded call are each subject to the late call liquidated damages assessment as provided by the table at Section 15.3.

### 12. General Provisions:

- a. *Nevada and City Law.* The laws of the State of Nevada and the North Las Vegas Municipal Code shall govern the validity, construction, performance, and effect of the Original Agreement and this First Amendment.
- b. *Assignment.* Neither party shall assign the Original Agreement or this First Amendment without the prior written consent of the other party.
- c. *Entire Agreement/No Modifications.* This First Amendment and the Original Agreement constitute the entire agreement between the Parties and supersede all prior representations, agreements, and understandings of the Parties. No addition to or modification of the Original Agreement and this First Amendment shall be binding unless executed in writing by the Parties.
- d. *Counterparts.* This First Amendment may be executed in counterparts.
- e. *Electronic Signatures.* The Parties agree that this First Amendment may be electronically signed, and that any electronic signatures appearing on this First Amendment are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.
- f. *No Joint Venture.* This First Amendment and the Original Agreement are not intended to create, and shall not be deemed to create, any relationship between



parties hereto other than that of independent entities, contracting with each other solely for the purpose of effecting the provisions of this First Amendment and the Original Agreement. Neither party shall be construed to be an agent, employer, representative, or joint venturer of the other.

- g. *Controlling Agreement.* To the extent there is a conflict between the terms of this First Amendment and the terms of the Original Agreement, the terms of this First Amendment shall control. Any terms capitalized in this First Amendment that are not defined herein shall have the meanings noted in the Original Agreement.
13. In all other aspects, the Parties confirm and re-affirm the terms and provisions of the Original Agreement.

**[SIGNATURES ARE ON FOLLOWING PAGE.]**

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the Effective Date.

**City of North Las Vegas,**  
a Nevada municipal corporation

**MedicWest Ambulance, Inc.**  
a Nevada corporation

By: \_\_\_\_\_  
John J. Lee  
Mayor

By: \_\_\_\_\_  
Edward B. Van Horne  
CEO and President

Attest:

By: \_\_\_\_\_  
Marie Purcell  
Acting City Clerk

Approved as to form:

By: \_\_\_\_\_  
Micaela Rustia Moore  
City Attorney