

AGREEMENT

THIS AGREEMENT, made the ____ day of _____, 2021, by and between the town of Candor, a municipal corporation situated in Tioga County, (hereinafter "Town"), and the Candor Emergency Squad, Inc., a not for profit corporation with its principal place of business / mailing address at 58 Main Street, PO Box 141, Candor, NY 13743 in Tioga County, New York, existing under the laws of the State of New York, New York (hereinafter "Squad").

WITNESSETH

WHEREAS, Town desires to arrange for ambulance services for persons situated within the a portion of the Town of Candor to be described in **Schedule A**;

WHEREAS, Squad desires to provide ambulance services to its residents and persons situated within such area described in **Schedule A**;

WHEREAS, in order to defray the cost of ambulance service and in order to provide the residents with the services it desires, it is necessary for Town to impose a tax for ambulance services, which may be offset or completely eliminated by user fees billed to patients; and

WHEREAS, such emergency services are vital and necessary to the health and welfare of the inhabitants of the Town;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto mutually agree as follows:

1. PROVISION OF EMERGENCY MEDICAL SERVICES

Squad will provide and/or arrange for transporting, basic and advanced life support emergency medical ambulance services, which complies with the regulations of the New York State Department of Health, Bureau of Emergency Medical Services to serve the emergency medical needs of those persons within the boundaries attached as **Schedule A**.

Coverage shall be provided on a seven day per week, twenty-four hour basis. The provision of equipment, services and transportation are limited to the extent reasonable and possible based upon Squad's available resources and personnel.

- (c) Squad shall provide the schedule of staff contained in **Schedule D** which shall consist of no less than an EMT (paramedic-preferred) and a driver at all times. The reimbursement by the Town is estimated to include sufficient funds for this service. Billing rates for such employees are attached hereto as **Schedule C** for reference only. Such employees shall at all times be employees of the Squad and the Town shall have no direct or employment relationship with such employees

and shall not have the ability to supervise or control such employees.

2. TERM

The term of this Agreement shall be for a period of one year, commencing on the ___ day of _____, 2022 and shall continue through the 31st day of December of such year, unless sooner terminated as herein provided.

3. COMPENSATION AND REPORTING

- A. Town agrees to pay Squad the amount of Six Hundred and Ten Thousand (\$610,000.00) dollars for the provision of ambulance services (hereinafter “Contract Fee”). However, the total fee need not be collected from taxes.
- (1) The Town shall raise Four Hundred Thirty Five Thousand (\$435,000.00) dollars from taxes, with fifty percent payable approximately February 1 of the contract calendar year and the remaining fifty percent payable approximately August 1 of the contract calendar year.
 - (2) The sum of One Hundred Seventy-Five Thousand (\$175,000) dollars shall be paid from billing revenue only. Should the amount of billing revenue collected during the contract year exceed \$175,000, the excess billing revenue shall be remitted to the Town and used against the following year’s contract fee.
 - (3) Town is hereby relieved from the obligation to pay more than the amount stated above in subparagraph 3A(1). Town is relieved from any shortfall from billing revenue stated in subparagraph 3A(2).
- B. Town has established a schedule of user fees to be imposed upon persons served by the Squad. Squad shall collect the funds. Squad shall provide an accounting of the funds received from persons served in the boundaries of the contracted area approximately each month. The total of the funds collected during the contract year shall offset the amount due from the Town under this Agreement. Such rates are reflected in **Schedule B** herein and deemed approved by the Town.
- C. Billing funds shall be credited to the contract in place in the year funds arrive. Should the parties terminate the Agreement, any billing revenues generated by Squad in the period preceding termination shall be paid to the Squad.
- D. Squad shall contract with a billing service on a flat fee for all government payors. Squad may choose its own billing service. Squad shall arrange for the Town to receive monthly reports of the billing income received, including but not limited to: amount billed, amount received, amount outstanding, and the Town in which the patient was received.

- E. Squad shall ensure that a separate bank account is maintained for the sole purpose of receiving billing funds, with one account separated by each Town served under contract. All billing funds shall be deposited into such account, including insurance payments, copayments (from non-residents served in the service area) and deductible amounts. No other funds shall be deposited into such account. Squad may make transfers to its other accounts, but shall not pay expenses directly from this account, in order to make the accounting of funds easier. Squad shall withdraw only those funds from the account for which it is entitled. Any amounts over the contract billing funds amount stated above shall be distributed on a monthly basis to the Town.
- F. Squad and the Town each shall maintain a Charitable Care Policy and shall make determinations of payment obligations consistent with such policy.
- G. Squad shall maintain separate accounts of town provided monies and may audit such accounts annually and shall account for and disburse funds in a manner approved by the Town, including by use of vouchers, receipts, and budget line tracking. Upon request, Squad will provide the Comptroller of the Town with a summary of receipts and disbursements. Financial statements and budget backup will be provided to the Town no later than September 1st of the preceding renewal date. Should the Town desire an independent financial audit or review, it may do so at Town's expense no more than once per year. Squad shall participate fully and in good faith in such audit/review.
- H. Nothing herein shall prevent Squad from soliciting and receiving donations and from conducting fundraising as permitted by law.

4. AVAILABILITY OF SERVICE

Town recognizes that in some or all cases, only basic life support may be available or apparently necessary based upon the information available. Town also recognizes that on some occasions no ambulance may be available due to Squad's lack of vehicles and/or personnel to respond to all emergencies for which it contracts to provide services, both within and without the Town's boundaries. Town holds Squad harmless for Squad's failure to provide services on occasions when such resources are temporarily unavailable.

5. INSURANCE

Squad agrees to maintain liability insurance sufficient to insure itself against claims for unintentional torts resulting in personal injuries in the amount of Three Million Dollars (\$3,000,000.00). Squad agrees to maintain automobile insurance for injuries arising out of the operation of emergency vehicles for at least One Million Dollars (\$1,000,000.00) with Three Million (\$3,000,000.00) dollars in the aggregate, and property damage of no less than One Million (\$1,000,000) Dollars. Squad shall have the Town named as an additional insured in the insurance policy and present the Town with a certificate of insurance and make arrangements for

automatic notification of the Town in the case the insurance policy lapses or is cancelled, with no less than thirty days' notice.

Town is responsible for arranging/providing the Volunteer Ambulance Workers Benefit Law benefits. Town is not responsible for paying/arranging for the employees' workers compensation benefits.

Squad shall defend, indemnify and hold Town harmless, as well as its elected officials and employees, from any claims, costs, losses, damages or injuries to persons or property of whatsoever kind or nature arising out of the performance or failure of performance by the Squad, its agents, employees, or contractors of any of its duties, obligations, or operations arising under this Agreement.

6. PERFORMANCE EVALUATION

Squad shall provide Town a written report each year indicating at least the following information:

- A. Number of incidents within the Town to which Squad was dispatched;
- B. Number of incidents within the Town to which Squad actually responded with an ambulance and/or fly car, separated by each;
- C. Number of incidents in the Town to which Squad did not respond with an ambulance or fly car, indicating also those incidents in which the Squad was already out on another incident.
- D. A list of all of the Squad's Directors, Officers and Employees (past during the year and current);
- E. A certification that all members and employees have received Sexual Harassment Training in accordance with New York State Law.

7. CONFIDENTIALITY

Nothing herein shall entitle the Town to the name, address or social security number of any patient served. Town will not require Squad to release any patient's medical information.

8. CONTINUATION OF SERVICES

If Squad's services continue to be provided by the request of the Town beyond the expiration of the term hereof, the terms of this Agreement shall continue on a monthly basis unless and until the parties enter into a subsequent written agreement.

9. EXPIRATION OR TERMINATION OF RESPONSIBILITIES

Upon expiration or termination of the Agreement as provided hereunder, Squad shall have no liability or responsibility for providing services under this Agreement to any person within the Town's boundaries. In the event either party desires to cancel this Agreement or cease providing or receiving ambulance services, the terminating party must provide written notice thereof to the other party at least ninety (90) days prior to the expiration of any term of the Agreement.

10. GROUNDS FOR TERMINATION

This Agreement shall terminate prior to the expiration of the term hereof upon the happening of any of the following events:

- A. upon the Town's failure to deliver the monies due Squad under this Agreement by the date due, so long as Squad provides thirty (30) days written notice to the Town of the date it will stop providing services;
- B. upon the loss or suspension of Squad's ability to deliver emergency medical services due to the loss of a certificate of need or the loss of operating permits or licenses. In such instance, Squad shall reimburse Town for the prorated balance of the fee paid for the then term.
- C. Upon the insolvency or filing for bankruptcy of Squad;
- D. Upon the failure of Squad being able to respond to seventy-five (75%) percent of the first dispatched ambulance calls in the Town of Candor in any given year.

11. NOTICES

All notices, requests, demands and other communications required or permitted to be given hereunder shall be in writing, and shall be deemed duly given if delivered by hand or mailed by registered or certified mail, return receipt requested, to the parties at their respective addresses hereinabove stated or to such other addresses as may be designated by written notice complying as to delivery with the terms of this Section.

12. SAVINGS CLAUSE

If any provision of this Agreement is determined to be legally invalid, inoperative or unenforceable, only that particular provision shall be affected, such determination shall have no effect whatsoever on any other provision of this Agreement, and all other provisions shall remain in full force and effect.

13. WAIVER

No delay or failure to exercise any remedy or right occurring upon any default shall be construed as a waiver of such remedy or right, or an acquiescence in such default, nor shall; it affect any subsequent default of the same or a different nature. All rights and remedies herein conferred shall be in addition to and not exclusive of any and all other rights or remedies now or hereafter existing at law or in equity.

14. HEADINGS

All headings and captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and shall in no way define, limit, extend or describe the scope or intent of any provisions hereof.

15. FURTHER ASSURANCES

The parties shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes set forth in this Agreement.

Squad represents and warrants that it has not offered or given any gratuity to any official, employee or agent of the Town or of any political party, with the purpose or intent of securing an agreement or security favorable treatment with respect to the awarding or amending of an agreement or the making of any determination with respect to the performance of an agreement.

Squad agrees to comply with Title VII of the Civil Rights Act of 1964 (as amended), and to the extent that disabilities and age are not a bar to serving in the emergency medical services industry and with Squad, then to the American with Disabilities Act and the Age Discrimination Employment Act, all amendments thereto and all requirements imposed by or pursuant to those laws to the end that no person shall be, on the grounds of sex, race, religion, color, marital status or national origin, excluded from participation in or be denied the benefits of, or otherwise subjected to discrimination either in seeking service by or employment with Squad. Squad is non-sectarian and all personnel will be hired on the basis of their skills, abilities and qualifications for the various positions. No person will be discriminated against because of their sex, race, religion, color, marital status or national origin.

Squad agrees to comply with the provisions of Sections 290-299 of the NYS Executive Law and Civil Rights Law, except as permissible for requiring individuals to comply with physical and

mental ability requirements for the positions which they may seek.

In the event of legal action or a claim brought by the Town to enforce this Agreement, or to collect any amount due under this Agreement, or because of a breach in the performance of any term, condition, covenant and/or obligation of this Agreement on the part of Squad to be kept or performed, and such breach/default is established, Squad shall pay the Town all expenses it has incurred, including but not limited to attorney fees, costs and disbursements. Conversely, the same provision shall apply from the Town to the Squad, should Town be in breach.

Notwithstanding any provision to the contrary, prior to initiating any claim for damages, the non-breaching party shall be required to provide the breaching party with thirty days' notice of such alleged breach, and such party upon receiving notice shall have thirty days' to cure such breach prior to the Town being able to take any action.

16. BINDING EFFECT

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executor, administrators, successors and assigns.

17. COUNTERPARTS

This Agreement may be executed in counterparts and each such counterpart, when taken together, shall constitute a single and binding Agreement.

18. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The County of Tioga in the State of New York is hereby designated as the place of trial for any action or proceeding arising from or in any way connected to this Agreement.

19. NO ASSIGNMENT

This Agreement shall not be assigned by any party without the prior written consent of the other party.

20. GENDER NEUTRAL

Wherever used herein and required by the context, the singular number shall include the plural, the plural shall include the singular number, and the use of either gender shall include both genders and the words "hereof" and "herein" and "hereafter" shall refer to the entire Agreement and not to any provision or section.

21. ENTIRE AGREEMENT

This Agreement is the entire agreement among the parties and shall not be changed, except by a writing signed by the party to be charged. Further, this Agreement shall supersede all prior agreements between the parties.

IN WITNESS WHEREOF, the parties hereto have set their respective hands and seals as of the day and year first above written.

TOWN OF CANDOR, NEW YORK

BY: _____

,

CANDOR EMERGENCY SQUAD, INC.

BY: _____, President

**SCHEDULE A
(SERVICE AREA DESCRIPTION)**

TOWN OF CANDOR

**SCHEDULE B
SCHEDULE OF FEES**

**ALS 2
ALS 1
BLS
MILEAGE
REFUSAL/TREAT AND RELEASE**

Included in such approved fees are the amounts established by government programs including but not limited to Medicare and Medicaid.

**SCHEDULE C
ANTICIPATED EMPLOYEE COSTS**

**SCHEDULE D
EMPLOYEE SCHEDULE**