

TRANSPORTATION SERVICES AGREEMENT

THIS TRANSPORTATION SERVICES AGREEMENT ("Agreement") is made effective this 28 day of February, 2003, by and between Beverly¹ Enterprises - South Dakota Inc., d/b/a² Black Hills, located at 1620 W. 7th St Rapid City, SD 57701 ("FACILITY"), and City of Rapid City - Dept of Fire + Emergency Services, which is a licensed provider of transportation services in this state, located at 10 Main St Rapid City, SD 57701 ("PROVIDER"). In consideration of the mutual promises set forth below in the body of this Agreement, the parties agree as follows:

ARTICLE 1

TERM

The term of this Agreement shall commence on March 1, 2003, and shall continue for a period of one year thereafter, with automatic one-year renewals. Either party may terminate this Agreement at any time, with or without cause, upon thirty (30) days advance written notice to the other party, provided that the parties hereto may not re-enter an agreement for the services contemplated herein until the expiration of one year from the effective date of this Agreement. This Agreement may be terminated immediately upon PROVIDER'S failure to perform the contracted services or upon the determination that any of the representations made by either party under this Agreement are false.

ARTICLE 2

PROVIDER SERVICES

PROVIDER agrees to provide medical transportation services using licensed and/or certified vehicles, equipment and personnel to FACILITY'S residents in accordance with all applicable requirements of federal, state or local laws, rules and/or regulations, to include official interpretations of those requirements by the entities charged with implementing and enforcing them.

PROVIDER will perform its services in accordance with accepted professional standards of practice and use only qualified, duly licensed, certified or registered health care professionals in the performance of these services and agrees to provide emergency and non-emergency services twenty-four (24) hours a day, seven (7) days a week. PROVIDER understands and agrees that this agreement is subject to the rights of FACILITY residents, residents' insurers or payors and residents' physicians to choose services from another provider.

PROVIDER shall abide by applicable FACILITY policies and procedures, respond to FACILITY'S requests for services in a timely manner and provide accurate and timely documentation to FACILITY of services provided to FACILITY'S residents. PROVIDER will participate, as requested, in personnel evaluations and other quality monitoring programs established by FACILITY, including periodic attendance at the FACILITY'S Quality Management Committee meetings.

¹ Name of Corporate Subsidiary

² Name of Facility

ARTICLE 3 COMPENSATION

The parties hereto shall bill for Services to FACILITY residents in accordance with the consolidated billing requirements of the Balanced Budget Act of 1997 and the implementing regulations, 42 C.F.R. Part 411, as applicable. The FACILITY shall be invoiced for all Services provided to or on behalf of the payor sources listed on Exhibit A ("Consolidated Billing Services"), subject to the provisions of Section 3.1 below. Invoices for other Services ("Direct Billing Services") shall be submitted to the appropriate third party payor, subject to the provisions of Section 3.2.

3.1 CONSOLIDATED BILLING SERVICES

(a) FACILITY will pay PROVIDER directly for Consolidated Billing Services rendered as set forth in Exhibit A. Any price reduction shall be fully and accurately reported on the PROVIDER'S invoice and in the costs claimed or charges submitted on applicable cost reports submitted by FACILITY.

(b) PROVIDER will submit to FACILITY accurate and complete documentation of Consolidated Billing Services provided, including a line item list of all procedures and/or services performed by PROVIDER for each resident to include HCPCS or other applicable coding, service date/s, quantities and charges. PROVIDER will submit to FACILITY an invoice for Consolidated Billing Services rendered the previous month and accept as payment in full the payment rates set forth in Exhibit A. FACILITY will pay PROVIDER within sixty (60) days of receipt by FACILITY of PROVIDER'S invoice. Invoices submitted later than sixty (60) days following the final day of the month covered by the invoice shall be deemed untimely and FACILITY shall not be required to pay PROVIDER for the services and care identified in that invoice.

(c) If FACILITY receives a request from a fiscal intermediary or other reimbursement source for additional support of a previously submitted claim, PROVIDER shall respond to FACILITY requests for additional documentation within twenty (20) days and understands and agrees that payment according to the established schedules is contingent upon PROVIDER'S timely response to such requests. PROVIDER agrees to cooperate with all claim dispute processes and FACILITY'S audits of services of PROVIDER.

(d) In the event PROVIDER claims and receives payment from FACILITY for a service and such payment is later disallowed or recouped by Medicare, Medicaid or any other third party reimbursement source, PROVIDER shall repay to FACILITY such disallowed or recouped amounts when the disallowed or recouped amounts are a result of the acts, errors or omissions of PROVIDER. At its option, FACILITY may either offset the amounts disallowed or recouped from any payments due to PROVIDER or may require PROVIDER to repay FACILITY immediately for the amounts disallowed or recouped.

(e) If, at any time, there is a change in the law, regulations or interpretations applicable to FACILITY or PROVIDER ("Change"), including but not limited to a Change in the rates negotiated and set forth in Exhibit A, such that PROVIDER or FACILITY cannot receive the same

or substantially the same benefits available under the law when the rates set forth in Exhibit A were negotiated, the parties shall immediately renegotiate the rates applicable to services under this Agreement affected by the Change.

3.2 DIRECT BILLING SERVICES

(a) PROVIDER shall directly invoice the resident, the resident's responsible party, Medicare, Medicaid, a managed care organization or any other third party reimbursement source (collectively referred to as the "Appropriate Payor"), in accordance with applicable requirements of federal and state laws and regulations for Direct Billing Services and as specified on Exhibit A. FACILITY shall supply PROVIDER with information reasonably required for PROVIDER to bill the Appropriate Payor for Direct Billing Services; however, in the event PROVIDER fails to receive payment, in whole or in part, from any Appropriate Payor for Direct Billing Services provided to, or on behalf of a FACILITY resident, PROVIDER will have no right of recovery against FACILITY.

(b) PROVIDER shall indemnify and hold FACILITY harmless for any liability incurred by FACILITY for PROVIDER'S negligent or intentional billing of a third party payor an amount in excess of PROVIDER'S usual charge for Services or, if to a Medicare beneficiary, in excess of the rate set forth on Exhibit A.

ARTICLE 4 CIVIL RIGHTS

The parties shall each comply with Titles VI and VII of the Civil Rights Act of 1964, Sections 503 and 504 of the Rehabilitation Act of 1973 and all requirements imposed by or pursuant to the regulations of the Department of Health and Human Services issued pursuant to these Acts.

ARTICLE 5 RECORDS

5.1 FACILITY and PROVIDER shall each prepare and maintain complete and detailed records concerning FACILITY'S residents receiving services under this Agreement, in accordance with prudent record-keeping procedures and as required by applicable federal and state laws, regulations and program guidelines. Each record shall completely, timely and accurately document all services provided to and events concerning each patient (including evaluations, treatments and progress notes) and will remain confidential. All records, including those related to billing and payment, shall be retained by FACILITY and PROVIDER for seven (7) years from the date said service was provided or other such time period as required by law.

5.2 The parties each agree to comply with those provisions of the Health Insurance Portability and Accountability Act of 1996 set forth in Title XI, Part C of the Social Security Act (42 U.S.C. §1391 et seq.) and the regulations thereunder (42 C.F.R. Parts 160, 162 and 164), as amended, or any successor law, if and to the extent applicable, which set forth standards for electronic transactions and standards for privacy of individually identifiable health information. All medical records and other individually identifiable health information disclosed to the parties, in any

form, whether communicated electronically, on paper or orally, shall be protected from unlawful disclosure in accordance with applicable federal and state law.

5.3 To the extent the value of services furnished under this Agreement, or a subcontract of this Agreement, exceeds Ten Thousand Dollars (\$10,000) over a twelve (12) month period and this Agreement is subject to the provisions of Section 1861(c)(i)(I) of the Social Security Act [42 U.S.C. § 1935 x(v)(I)], PROVIDER will make available to the Secretary of the Department of Health and Human Services, the Comptroller General or their authorized representatives a copy of this Agreement and such books, documents and records that are necessary to certify the nature and extent of the costs incurred by FACILITY under this Agreement for a period of four (4) years after the furnishing of such services. PROVIDER agrees to notify FACILITY, within three (3) days, the nature and scope of any request for access and to provide, or make available, copies of any books, records or documents proposed to be provided. Any disclosure under this paragraph shall not be construed as a waiver of any other legal rights to which such party may be entitled.

ARTICLE 6 QUALIFICATIONS

6.1 FACILITY represents and warrants that it is duly licensed. PROVIDER represents and warrants that it has, and will maintain at all times throughout the term of this Agreement, all the necessary qualifications, certifications and/or licenses required by federal, state and local laws and regulations to provide the services covered by this Agreement. PROVIDER will provide FACILITY with a copy of its license in effect on the effective date of this Agreement and at each successive renewal. PROVIDER shall provide notice of any changes in or to certification or licensing within fifteen (15) days.

6.2 PROVIDER agrees that it shall be responsible for conducting criminal background checks, substance abuse testing and testing pertaining to bloodborne pathogens on those of its employees it assigns to FACILITY, including all costs relating to conducting such investigations and testing. PROVIDER further agrees that it shall not assign any of its employees to FACILITY who have been convicted of or have pled guilty to the following crimes: theft; sexually deviant behavior; assault and/or battery; abuse of the elderly, children or vulnerable individuals; or other criminal conviction related to the services being provided to the FACILITY. PROVIDER further agrees that it shall not assign any of its employees to FACILITY who are determined, after appropriate testing, to be engaged in substance abuse.

PROVIDER acknowledges and agrees that investigations into criminal backgrounds (a) will cover the previous seven (7) years, (b) shall be conducted in accordance with applicable state law and (c) must be based on information provided by the appropriate state or local law enforcement agency if so required by applicable state law. PROVIDER further acknowledges and agrees that substance abuse testing will be conducted by an independent laboratory that is certified by the U.S. Department of Health and Human Services.

6.3 Each party represents and warrants that it is currently eligible for Medicare and/or Medicaid participation and not subject to any sanction or exclusion. The parties agree to disclose immediately any federal, state or local investigations or imposed sanctions of any kind in progress

or initiated subsequent to the date of entering into this Agreement. Each party further represents and warrants that it has not been sanctioned under any applicable state or federal fraud and abuse statutes, including exclusion from any state or federal health care program. If, during the term of this Agreement, either party, any parent of either party or any officer, director or owner of either party receives such a sanction or notice of a proposed sanction, said party shall provide notice of and a full explanation of such sanction or proposed sanction and the period of its duration within fifteen (15) days. Each party reserves the right to terminate this Agreement immediately upon receipt of notice that the other party has been sanctioned under fraud and abuse statutes and/or any other federal, state or local regulation. Each party agrees to indemnify and hold the other harmless from any and all liability, loss or expenses incurred directly or indirectly as a result of such sanctions or investigations against that party.

ARTICLE 7 INSURANCE AND INDEMNITY

Each party agrees to maintain general and professional liability insurance in amounts required by the laws of this state, but no less than One Million Dollars (\$1,000,000) per incident or injury to persons and Three Million Dollars (\$3,000,000) aggregate per year and One Hundred Thousand Dollars (\$100,000) each occurrence property damage coverage. Coverage less than stated amounts must be approved in writing in advance by FACILITY'S Corporate Risk Management Department. The Parties may satisfy coverage requirements through programs of self-insurance and/or reinsurance. PROVIDER shall provide to FACILITY a certificate of insurance reflecting said coverage and providing that the FACILITY will receive notice of any cancellation, restrictions, limitations or modifications to the coverage contemplated herein.

Within the limits of its insurance and to the extent not otherwise prohibited by law, the parties each agree to save, indemnify and hold harmless the other from and against any and all losses, claims, suits, damages, liabilities and expenses of any nature or kind whatsoever arising out of or resulting from, directly or indirectly, any alleged negligent or intentional acts or omissions of its agents or employees based upon, arising out of or attributable to the negligent performance or non-performance of their respective obligations under this Agreement. Upon notice, the other party shall resist and defend at its own expense any such claim or action. Said indemnity is in addition to any other rights the indemnified party may have against the indemnifying party and shall survive the termination of this Agreement.

ARTICLE 8 EQUIPMENT AND SUPPLIES

When PROVIDER uses equipment and/or supplies provided by FACILITY, PROVIDER shall use such equipment and supplies properly and be solely responsible for injuries or damages resulting from any misuse. In addition, PROVIDER shall notify FACILITY in writing whenever equipment or supplies provided by FACILITY and used by PROVIDER for providing services need repair or replacement. When PROVIDER uses its own equipment and/or supplies, PROVIDER agrees to save, indemnify and hold FACILITY harmless of and from the use, misuse or failure of such equipment or supplies. The parties shall maintain their equipment and/or supplies in good

operating condition and repair and in accordance with manufacturer's recommendations and all applicable federal, state and local laws.

ARTICLE 9 INDEPENDENT CONTRACTOR

This Agreement does not constitute a hiring of PROVIDER or any agent or employee of PROVIDER as an employee of FACILITY. It is the parties' intention that PROVIDER shall be an independent contractor and not FACILITY'S employee. PROVIDER shall retain discretion and judgment regarding the manner and means of providing services to FACILITY, subject to all applicable laws, regulations and FACILITY'S policies. FACILITY assumes professional and administrative responsibility for the services rendered only to the extent that FACILITY will assure itself that (a) PROVIDER is qualified by education and/or experience to render the services contracted for; and (b) PROVIDER is satisfying the obligations set forth herein in a timely manner. This Agreement or the relationship of the parties hereto shall not be construed as a partnership, and FACILITY shall not be liable for any obligations incurred by PROVIDER.

ARTICLE 10 CONFIDENTIALITY

PROVIDER agrees to respect and abide by all federal, state and local laws pertaining to confidentiality and disclosure with regard to all information and records obtained or reviewed in the course of providing services to FACILITY and/or its residents. The parties, by virtue of entering into this relationship, will have access to certain information of the other party that is confidential and constitutes valuable, special and unique property. Each party agrees that it will not, at any time, individually or jointly with others, publish, disclose, use or authorize anyone else to publish, copy or permit to be copied, without the other party's express prior written consent, any confidential or proprietary information, including, but not limited to, information concerning any aspect of the business or operations or the other party, its patients, costs, prices and treatment methods at any time used, developed or made by the other party that is not otherwise available to the public, except to the extent required by applicable law, securities law disclosures and direct third party billing.

ARTICLE 11 ARBITRATION

Any dispute or controversy arising under this Agreement or any amendment hereof or the breach hereof shall be settled by arbitration in the county in which FACILITY is located, in accordance with the rules of the American Health Lawyers Association Alternative Dispute Resolution Services and applying the laws of this state. Any award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereof may be entered in any court having jurisdiction. The prevailing party shall be entitled to recover such costs and attorney's fees as the arbitrator may fix. During the pendency of any such arbitration and until final judgment thereon has been entered, this Agreement shall remain in full force and effect unless otherwise terminated as provided in this Agreement.

**ARTICLE 12
NOTICES**

Any notice required to be provided to any party to this Agreement shall be in writing and shall be considered effective three (3) days after the date of deposit with the United States Postal Service by certified or registered mail, first class postage prepaid, return receipt requested and addressed to the parties as follows:

FACILITY: BHC Black Hills
1620 W. 7th St.
Rapid City, SD 57701
Attention: Executive Director

and to: Beverly Health and Rehabilitation Services, Inc.
Legal Department
One Thousand Beverly Way
Fort Smith, AR 72919

PROVIDER: City of Rapid City - Dept. of Fire + Emergency Services
10 Main Street
Rapid City, SD 57701
Attention: Michael Thompson

**ARTICLE 13
NON-ASSIGNABILITY**

Neither this Agreement nor any of the duties or obligations of PROVIDER hereunder shall be assigned or delegated by PROVIDER without prior written consent of FACILITY.

**ARTICLE 14
COMPLIANCE CERTIFICATION**

PROVIDER acknowledges FACILITY'S Corporate Compliance Program and receipt of FACILITY'S Code of Conduct, including its mechanism for reporting suspected fraud, abuse or other illegal or unethical activities (Hotline (800) 572-9981). If PROVIDER has its own compliance program, PROVIDER represents and warrants that its employees who provide patient care to federal health care program beneficiaries at FACILITY shall read and understand PROVIDER'S integrity brochure, which includes its standards of conduct, prior to commencement of services under this Agreement. To the extent that the PROVIDER'S standards of conduct and integrity program differ in any material respect affecting ethical conduct from the compliance information and requirements

contained in the FACILITY'S Code of Conduct, PROVIDER shall inform the aforementioned employees of such additional information and requirements and that FACILITY has a mechanism for reporting misconduct. PROVIDER agrees to obtain and retain a signed certification from its employees that they have received, read and understand PROVIDER'S integrity program, including its standards of conduct and any additional information provided by PROVIDER'S Compliance Officer relating to FACILITY'S Code of Conduct and agree to abide by such requirements therein. Such certification shall be obtained prior to commencement of services under this Agreement, shall be maintained by PROVIDER and shall be made available for review by FACILITY or FACILITY'S agents upon reasonable request.

If PROVIDER does not maintain a compliance program, PROVIDER represents and warrants that each of its employees who provide patient care to federal health care program beneficiaries at FACILITY shall read and review FACILITY'S Code of Conduct prior to commencement of services under this Agreement. PROVIDER agrees to obtain and retain a signed certification from its employees that they have received, read and understand FACILITY'S Code of Conduct and agree to abide by the requirements of FACILITY'S Corporate Compliance Program. Such certification shall be obtained prior to commencement of services under this Agreement, shall be maintained by PROVIDER and shall be made available for review by FACILITY or FACILITY'S agents upon reasonable request.

ARTICLE 15 COMPLETE AGREEMENT; EXHIBITS

This Agreement supersedes all previous agreements, oral or written, between the parties and embodies the complete agreement between the parties. This Agreement may be amended or modified only by written agreement signed by both parties. All exhibits referred to in this Agreement are fully incorporated herein by this reference.

ARTICLE 16 CORPORATE ACCEPTANCE

PROVIDER acknowledges and agrees that this Agreement is not binding on the parties until accepted by FACILITY'S Director of Operations as evidenced by his or her signature below.

[Signature Page Follows.]

IN WITNESS WHEREOF, the parties by their duly authorized representatives have entered into this Agreement as of the date first above written.

FACILITY: Beverly¹ Enterprises - South Dakota, Inc.

d/b/a² Black Hills

By: Meggan Kitterman
Executive Director

ACCEPTED BY: _____
Director of Operations

PROVIDER: _____

By: _____

Title: _____

EXHIBIT A
FEE SCHEDULE

Consolidated Billing Services

If the patient being transported is a resident of the FACILITY and is a Medicare Part A beneficiary, then transportation services for such patient shall constitute "Consolidated Billing Services" under Section 3 of this Agreement.

The rate for compensation from the FACILITY to PROVIDER for Consolidated Billing Services shall be the lower of the actual billed amount or the ambulance fee schedule amount or blended amount as established below.

The parties acknowledge that CMS has established a Fee Schedule for ambulance services to Medicare patients. During the transition period until the Fee Schedule is fully implemented, the reimbursement rate for ambulance services will be a blended rate. The fee schedule amount, blended with a provider's reasonable cost or supplier's reasonable charge portion of the payment, will determine the ambulance fee schedule blended rate for each transition year. The percentages for the blended rate during the transition period are as follows, with the fee schedule effective date based on the date of service for the claim:

Transition Year	Reasonable Charge/Cost Percent	Fee Schedule Percent
Year One (April 1, 2002 – December 31, 2002)	80	20
Year Two (January 1, 2003 – December 31, 2003)	60	40
Year Three (January 1, 2004 – December 31, 2004)	40	60
Year Four (January 1, 2005 – December 31, 2005)	20	80
Year Five (January 1, 2006 – December 31, 2006)	0	100

Consolidated Billing Services to applicable patients will be billed according to the rates set forth above.

Direct Billing Services

Any and all transportation services furnished hereunder by PROVIDER to residents of the FACILITY who are not Medicare Part A beneficiaries will constitute "Direct Billing Services."