

## AGREEMENT

THIS AGREEMENT, made this 1<sup>st</sup> day of JUNE, 2010, between the Town of Cicero, a municipal corporation of the State of New York, located at 8236 N. Main Street, Cicero, NY 13039 (the "Town"), for itself and on behalf of the South Bay Fire Department, and North Area Volunteer Ambulance Corps, Inc., located at 603 North Main Street, North Syracuse, NY 13212 ("NAVAC").

## WITNESSETH

WHEREAS, NAVAC provides 24-hour emergency ambulance service; and

WHEREAS, NAVAC is certified by the Department of Health of the State of New York and holds such certificates as the State of New York requires to provide emergency ambulance service in a geographic area encompassing 90% of the Town; and

WHEREAS, the Town requires emergency ambulance and emergency first response services; and

WHEREAS, NAVAC currently provides emergency ambulance service to 90% of the Town; and

WHEREAS, NAVAC currently stations a staff member at the South Bay Fire House to provide emergency first response services to the South Bay and Bridgeport areas of the Town; and

WHEREAS, the Town and NAVAC wish to enter into an agreement detailing the method of payment and scope of emergency ambulance and first response services as set forth above; and

NOW, THEREFORE, the parties mutually agree as follows:

### ARTICLE I - DEFINITIONS

1. Emergency shall mean those situations where a delay in immediate treatment to the user could be life threatening, when such a delay could cause a serious threat to the well-being of the user, or when so determined by the local emergency medical services system. Emergency shall *not* include transportation to medical facilities or doctors' offices for out-patient treatment or inter-facility transfers.
2. Town shall mean the Town of Cicero and its Town Board as agents for Town residents.
3. User shall mean those Town residents requiring emergency first response service and/or ambulance service who reside within the geographic area of the Town for which NAVAC is certified to provide emergency first response and/or ambulance services by New York State.
4. Service Area shall mean that portion of the Town in which NAVAC is

certified to provide first response and/or emergency ambulance services by New York State and where NAVAC provides mutual aid service.

5. Term. The initial Term of this Agreement shall be from January 1, 2010 and continuing through December 31, 2010, which term automatically renews through December 31 on an annual basis, unless either party shall give notice of election to terminate to the other party at least sixty (60) days before December 31.

## ARTICLE II - SPECIFICATIONS OF SERVICES

6. Services Required: NAVAC shall provide 24-hour emergency ambulance service and shall provide emergency first response service Monday through Friday, from 7 A.M. to 6 P.M. in the Service Area.

7. General Requirements: NAVAC shall be certified by the State of New York and hold such permits as the State of New York may require. NAVAC may enter into agreements under which another certified provider acts as a backup for NAVAC. The hiring of additional parties shall not relieve NAVAC of its responsibilities and duties under this Agreement.

8. Vehicles: NAVAC shall provide vehicles that comply with New York law, rules, and regulations sufficient to comply with this Agreement.

9. Personnel: NAVAC shall provide the administrative personnel required to manage the operation of the service so as to assure a responsible and professional operation. NAVAC shall also provide adequate and competent operating personnel to staff the vehicle as required by these specifications at all times. NAVAC shall staff the vehicle by a New York State certified Emergency Medical Technician, a New York State Critical Care Technician, or a New York State Certified Paramedics at all times.

10. Compliance with Law: NAVAC shall comply with all applicable laws, rules or regulations in relation to such ambulance services.

## ARTICLE III - PRICE

11. Annual Payment Amount: The Town agrees to pay and NAVAC agrees to accept, as full compensation for all services and equipment furnished, and also for all costs and expenses incurred and sustained by reason of the nature of the obligations of NAVAC under this Agreement, or from any unforeseen difficulties encountered in the execution of this Agreement, and for all risks of every description connected with this Agreement, and for faithfully fulfilling the obligations of NAVAC hereunder, the annual amount specified in this Agreement, or the modified annual amount as may be later established in subsequent years pursuant to paragraph 12 below. For the initial term (the 2010 calendar year), the annual amount shall be \$26,522.50.

12. Modifications to Annual Payment Amount: NAVAC may request to modify the annual payment amount set forth in the Agreement for a following year. Such proposed modification shall be provided to the Town by NAVAC no later than August 1 of a current year. The Town shall then approve or deny the proposed modification and

notify NAVAC of its determination no later than September 15 of that same year.

13. Third-Party Payors: NAVAC shall be required to bill all third-party payors of Users transported to a health care facility by NAVAC pursuant to this Agreement in order to reduce the cost of NAVAC's services by obtaining payment from such third-party payors where available. Such third-party payors shall include, but not be limited to, insurers, HMO's, third-party administrators and the like.

14. Payment Procedures: The annual amount to be paid to NAVAC shall be the maximum amount to which NAVAC is entitled, regardless of the number of calls made during a calendar year. The annual lump-sum payment for each Term year shall be made to NAVAC on January 31<sup>st</sup> of the same year. For the initial term (the 2010 calendar year), the annual payment amount, once paid, shall be deemed paid retroactively as of January 31, 2010.

15. Cooperation: NAVAC shall cooperate with the Town in providing information to Users describing the scope of NAVAC's services, responsibilities, billing and payment procedures, and other information as may be required.

16. Inspection: NAVAC shall make its books and records available for inspection by the Town as it pertains to services provided under this Agreement during reasonable hours and upon reasonable notice, except as may otherwise be limited by HIPAA and/or other confidentiality rules and regulations.

#### ARTICLE IV - DEFAULT

17. Default: If NAVAC or the Town fails to comply with any of the terms, conditions, provisions or stipulations of this Agreement, according to the true intent and meaning thereof, the Town or NAVAC shall make use of any or all rights or remedies provided herein and as may otherwise be provided by law.

18. Termination: The Town may terminate this Agreement prior to the end of the Term, upon the loss or suspension of NAVAC's ability to deliver the Services, or upon the failure of NAVAC to continuously respond to requests for Services within the Service Area for a period of not less than four (4) weeks, so long as the Town provides NAVAC written notice of the date the Services are no longer to be permitted. NAVAC shall be provided the opportunity to cure such loss, suspension or failure, and shall have three (3) business days from receipt of notice from the Town to provide such Services under the terms of this Agreement. In the event the Town terminates this Agreement due to NAVAC's breach, NAVAC shall be required to pay to the Town a pro-rata share of the annual payment for Services based upon the calendar year to the remaining days of this Agreement, or if the Town has not yet paid NAVAC its annual lump sum payment as provided under this Agreement, the Town shall be required to pay to NAVAC a pro-rata share of the annual payment through the termination date of this Agreement.

#### ARTICLE V - AREA OF SERVICE

19. Area of Service: NAVAC shall provide service under this Agreement to

the service area.

#### ARTICLE VI - INCLUSION OF TERMS REQUIRED BY LAW

20. Incorporation: NAVAC and the Town agree that any conditions or provisions which are required to be contained in this Agreement by the laws of the State of New York in order to make this Agreement valid are hereby incorporated herein by reference and as fully and completely as if set forth expressly herein.

#### ARTICLE VII - INDEMNITY AND INSURANCE

21. Indemnity: NAVAC shall defend, hold harmless and indemnify the Town against liability for claims, demands, or loss, including reasonable attorneys' fees, payments, actions, recoveries and judgments from the activities or services of NAVAC as provided in this Agreement.

22. Insurance: During the term of this Agreement, NAVAC shall maintain such insurance coverage as set forth in the Insurance Specifications contained in Appendix A. A Certificate of Insurance in a form acceptable to the Town confirming such insurance coverage to the Town shall be provided to the Town before commencement of any services under this Agreement, and at the request of the Town, certified copies of insurance policies shall also be provided. The parties agree that NAVAC's providing of insurance coverage requested shall not constitute or be construed as a pre-indemnification of the Town under any law in relation thereto, as now exists or hereafter may exist, so as to in any way reduce, limit, negate or abridge the obligation of NAVAC to defend, hold harmless, and indemnify the Town or the sum required to indemnify the Town.

#### ARTICLE VII - GENERAL PROVISIONS

23. Dispute: In the event of a dispute between the Town and NAVAC regarding compensation for services, the Town shall remit the undisputed portion of the compensation, and the disputed portion shall remain in escrow until the dispute is resolved.

24. 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 the following address:

NAVAC  
Christopher Bitner, Ex. Director  
P.O. Box 215  
North Syracuse, NY 13212

Town of Cicero:  
Judy A. Boyke, Supervisor  
8236 South Main Street  
Cicero, NY 13039

*With a copy to:*

Mackenzie Hughes, LLP  
POB 4967, 101 S. Salina St.  
Syracuse, NY 13221  
Attn: Anne Ruffer, Esq.

*With a copy to:*

Gilberti Stinziano Heintz & Smith, P.C.  
555 E. Genesee Street  
Syracuse, NY 13202  
Attn: Anthony P. Rivizzigno, Esq.

25. **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. Should the law be amended such that any term of this Agreement shall be rendered null and void or unenforceable, or should the law require a provision in this Agreement that is not presently recited, such provision shall be deemed amended as of the effective date of the amendment to the law.

26. **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.

27. **Headings:** 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.

28. **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.

29. **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.

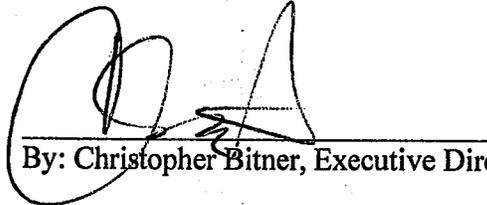
30. **Counterparts:** This Agreement may be executed in counterparts and each such counterpart, when taken together, shall constitute a single and binding Agreement.

31. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The County of Onondaga 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.

32. 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. This Agreement shall supersede all prior Agreements between the parties.

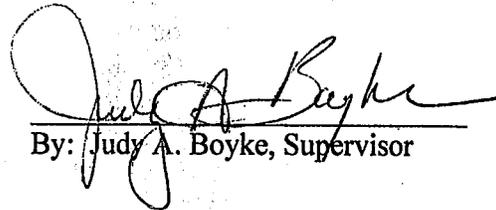
IN WITNESS WHEREOF, the parties to this Agreement have set their hands and seals and have executed this Agreement the day and year first above written.

NORTH AREA VOLUNTEER  
AMBULANCE CORPS, INC.



By: Christopher Bitner, Executive Director

TOWN OF CICERO



By: Judy A. Boyke, Supervisor

## APPENDIX A

### Insurance Specifications

<u>Coverage</u>	<u>Bodily Injury and Property Damage Limits of Liability</u>
1. NAVAC's Public/General Liability Insurance	Combined aggregate of Two Million Dollars, One Million Dollars for each occurrence.
2. Contractual Liability insuring NAVAC*	Combined aggregate of Two Million Dollars, One Million Dollars for each occurrence.
3. Motor Vehicle Liability	Combined aggregate of Two Million Dollars, One Million Dollars for each occurrence.
4. Owners/Protective Liability Insurance** insuring Town of Cicero	Combined aggregate of Two Million Dollars, One Million Dollars for each occurrence.
5. Workers' Compensation, Disability Benefits, and Employers Liability coverage as per New York State statute/law.	

\* As to NAVAC's obligations to hold harmless and indemnify the Town of Cicero as provided in the Agreement.

\*\*Shall cover liability for damages imposed by law on the Town of Cicero with respect to all operations under this Agreement performed by NAVAC and by all sub-contractors.