

## TRANSITION SERVICES AGREEMENT

This Transition Services Agreement, (the “**Transition Agreement**”) is made this \_\_\_ day of October, 2017 (the “**Signing Date**”) to be effective as of July 29, 2017 (the “**Effective Date**”), by and between Riley County, Kansas, (“**County**”) and Via Christi Hospital Manhattan, Inc., a Kansas nonprofit corporation (“**VCHM**”), collectively referred to herein as “**Parties**,” with each a “**Party**”.

### W I T N E S S E T H:

**WHEREAS**, County and VCHM are Parties to a January 1, 2012, Ambulance Services Agreement, as amended (“**Agreement**”) in which VCHM managed County’s EMS services (“**Services**”); and

**WHEREAS**, County and VCHM have agreed to terminate the Agreement, effective 12:00 midnight, October 31, 2017, and transfer sole management of EMS services from VCHM to County as of said date and time with the transfer of personnel to occur at 7:01 a.m. November 1, 2017, to allow for transition of employment from VCHM to County to coincide with the end of a shift; and

**WHEREAS**, pursuant to the Parties agreement to transfer sole management of Services from VCHM to County at 12:01 a.m. November 1, 2017, the Parties have agreed to enter this Transition Agreement for the purpose of outlining the transition process and for provision of certain services by either Party from the Effective Date through 12:00 midnight, October 31, 2017, (the “**Transition Period**”);

**NOW, THEREFORE**, in consideration of the premises and the mutual promises of the Parties hereto as hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Personnel and Equipment.

- (a) On July 29, 2017, David Adams, Director, Pottawatomie County and Riley County EMS (“**Director**”), shall commence fulltime employment with County as the Director of Riley County EMS. County agrees to timely complete all documentation and other activities necessary to effectuate the transition of Director from employment with VCHM to employment with County in a timely manner to allow transition of employment to be effective July 29, 2017.
- (b) On or after October 2, 2017, a Riley County employee shall commence duties as Assistant Director of Riley County EMS (“**Assistant Director**”). In the event said individual is a VCHM employee, County agrees to timely complete all documentation and other activities necessary to effectuate the transition of said individual from employment with VCHM to employment with County in a timely manner to allow transition of employment to be effective on or after October 2, 2017.

- (c) Effective as of 7:01 a.m. November 1, 2017, all VCHM ambulance services department employees selected for hiring by Riley County to provide services for Riley County EMS shall commence employment as Riley County employees. The Parties acknowledge that as of the Signing Date of this Transition Agreement, 30 FTEs and 25 PRN employees have been identified by Riley County as VCHM ambulance service department employees potentially to be hired from VCHM to begin Riley County employment as of 7:01 a.m. November 1, 2017.
  - (d) VCHM owned equipment consists of the computer terminals, monitors and keyboards identified on Schedule A which is currently in County's possession shall be returned to VCHM on or before the end of the Transition Period.
- 2. Services to be Provided by County. As of July 29, 2017, County, through the Director, shall furnish to VCHM the services described in Schedule B (the "Transition Services").
- 3. Signage. All signage references to VCHM on ambulance vehicles and elsewhere, if on County property, shall be removed on or before the expiration of the Transition Period.
- 4. Consideration. Upon the effective dates of hire of each, VCHM shall make adjustments to the monthly Statement of Operations reflecting applicable adjustments to salary and benefit expenses related to the Director and Assistant Director, if said Assistant Director is selected from VCHM employees in the ambulance services department of VCHM. Adjustments to salary and benefits related to any other VCHM personnel hired for County employment as of 7:01 a.m. November 1, 2017, shall be reflected on the Final Statement of Operations.
- 5. Non-Solicitation. County agrees it will not solicit or attempt to hire any employee of VCHM outside of the ambulance services department for the purpose of filling any role in the County EMS service during the term of this Transition Agreement.
- 6. Records; Confidentiality; Limitation on Access HIPAA Privacy and Security.
  - a. All data, records and reports prepared relating to the operation of VCHM shall be and remain the sole property of VCHM.
  - b. Image Trend Hospital Bridge ("Image") is the custodian for the EMS EMR. VCHM agrees to notify Image of the transition of EMS from VCHM to County and to fully cooperate and work with Image and County to provide County access to said records as may be necessary for County during the transition and after the transition period and to assure said EMS EMR records are preserved, stored, and maintained in accordance with the requirements of Kansas law.

- c. The Parties acknowledge and agree that the provision of services performed pursuant to this Transition Agreement constitute a business associate relationship as defined by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its Privacy and Security Standards. Accordingly, County agrees to execute a Business Associate Agreement in a form similar to that attached hereto as Schedule C.

7. Monthly Summary Report Contents, Billing and Final Reconciliation.

- a. Hospital shall submit itemized detail acceptable to County for each individual operating line item on the RCEMS Summary FY 2017 spreadsheet provided with the monthly deficit billing. Payment will not be due from County until acceptable itemized detail has been provided, provided County’s requests for detail are not unreasonable.

- 7b. VCHM shall continue to bill and collect accounts receivable for all ambulance services incurred on or before 12:00 midnight October 31, 2017, in accordance with the Agreement. Payment by County for any operating deficit reflected in the three (3) monthly Statements of Operations shall be made to VCHM within thirty (30) days following County’s receipt and reconciliation of such Statements of Operations. The Parties agree to cooperate in good faith and work expeditiously to resolve any question or issues regarding such three (3) monthly Statements of Operations. No further operating deficit payments, no management fees, compensation, or fees of any kind shall be due from County to VCHM beginning November 1, 2017 and thereafter. VCHM shall present to County the Final Statement of Operations for October, 2017, which shall show: the final management fee for October, 2017; the final operating deficit for October, 2017; a detailed itemization of the open accounts including the number and dollar amount of each itemized open account; and an estimate of the total amount VCHM believes it will collect on those itemized open accounts no later than December 1, 2017. The Parties agree to cooperate in good faith and work expeditiously to resolve any question or issues regarding such Final Statement of Operations within thirty (30) days of its presentation to County such that payment, if any, may be made by County to VCHM by the 30<sup>th</sup> day following County’s receipt of said document. VCHM shall present to County the Statement of Remaining Open Accounts including Estimated Revenues a second (February 9, 2018) and final (May 11, 2018) time which shall show: a detailed itemization of the remaining open accounts including the number and dollar amount of each itemized open account; and the total amount collected by VCHM for each 90 day period (November 1, 2017-January 31, 2018 and February 1, 2018-April 30, 2018). The Parties agree to cooperate in good faith and work expeditiously to resolve any question or issues regarding the second and final presentations of the Statement of Open Accounts including Estimated Revenues within thirty (30) days of its presentation to County such that a final payment, if any, may be made by VCHM to County by the 30<sup>th</sup> day following County’s receipt of each said document. Upon County’s acceptance of any final payment the Parties agree is due, based upon the second and final

presentations of the Statements, or upon the Parties' agreement no final payment is due, this Agreement shall terminate.

c. VCHM shall not include in these billings or any final reconciliation any portion of a separation or severance package, nor any VCHM payment of "Earned Time Off," "vacation pay" or "leave payment" required by Kansas law (including but not limited to K.S.A. 44-315) for any former hospital or ambulance employee.

8. Term. The term of this Transition Agreement shall commence as of the Effective Date and shall terminate 12:00 midnight October 31, 2017, provided, however, Paragraph 12 regarding Dispute Resolution shall survive said termination.

9. Termination. This Transition Agreement may be terminated in whole or in part as follows:

- a. At any time, by the mutual written consent of the Parties;
- b. By VCHM, in the event of a material failure by County to fulfill any of its obligations under this Transition Agreement that continue uncured for a period of ten (10) days following County's receipt of written notice describing such failure; or
- c. By County, in the event of a failure by VCHM to timely fulfill any of its obligations under this Transition Agreement that continue uncured for a period of ten (10) days following VCHM's receipt of written notice describing such failure.

Upon termination of this Transition Agreement for any reason, VCHM shall bill County for Services previously provided, pro-rated to the date of termination, subject to a final accounting and adjustment on a date no later than twenty (20) business days from the date of such final bill.

10. Indemnification. To the extent of applicable law and the terms of this agreement, each party shall indemnify the other against each loss, liability and cost which the other party incurs as a result of or in connection with any claim against the other party related to damages caused by that other party's gross negligence or intentional misconduct hereunder. Notwithstanding the foregoing, County waives no defense or limitation of liability available under the Kansas Tort Claims Act.
11. Transition/Coordination and Cooperation. VCHM and County will mutually reasonably cooperate in order to effectively assist each other in a smooth transition of Riley County EMS services from VCHM to County.
12. Dispute Resolution. It is agreed that, should any dispute arise between the Parties which cannot be resolved after efforts to negotiate the impasse, each Party agrees to submit the same to non-binding mediation and agrees to participate in good faith in the mediation process. Each Party will select a disinterested representative to participate in a panel to resolve the matter at issue. The two representatives shall,

in turn, select a third disinterested person to serve on the panel which shall evaluate the issue and come to a decision which shall be offered as a solution to the controversy. If the Parties continue to disagree and the matter remains unresolved, the Parties may then rely upon their ordinary legal remedies in a court of competent jurisdiction. Each Party shall bear its own costs associated with any dispute resolution activities conducted under this Agreement, including any litigation in a court of competent jurisdiction

13. Notice. All notices and other communications hereunder shall be in writing and shall be deemed to have been given and received when tendered for delivery if delivered personally or, if mailed, three (3) business days after having been mailed by registered or certified mail, return receipt requested, or overnight carrier, postage prepaid, addressed:

If to VCHM:

Via Christi Hospital Manhattan, Inc.  
1823 College Avenue  
Manhattan, KS 66502  
Attn: Hospital President

If to County:

Riley County Office Building  
110 Courthouse Plaza  
Manhattan, Kansas 66502

Attn: Rich Vargo, Riley County Clerk  
Tami Robison, Budget and Finance Officer

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14. Assignment. This Transition Agreement shall not be assigned by either Party without the prior written consent of the other Party, which consent may be granted or withheld in such Party's sole and absolute discretion.
15. Entire Agreement. This Transition Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof.
16. Amendments. This Transition Agreement may be amended upon the mutual agreement of the Parties in a writing attached to and made part of this Transition Agreement.
17. Governing Law. This Transition Agreement shall be construed in accordance with and governed by the laws of the state of Kansas, without reference to its conflict of laws principles.

18. Counterparts. This Transition Agreement may be signed in counterparts and both such counterparts shall be read together and construed as but one and the same document.

Via Christi Hospital Manhattan, Inc.

By: Robert Copple

Its: Hospital President Manhattan

**BOARD OF COMMISSIONERS  
RILEY COUNTY, KANSAS**

By: \_\_\_\_\_

Ronald E. Wells, Chairman

Its: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Rich Vargo, County Clerk

**SCHEDULE A**  
**VCHM OWNED EQUIPMENT TO BE RETURNED**

## SCHEDULE B

### Transition Services

I. Transition Services: The following Transition Services shall be provided by County to VCHM.

A. Transition Services.

1. Upon transition to employment by County and until termination of this Transition Agreement, David Adams, as an employee of County, shall continue to provide VCHM with services commensurate to those provided in his current role as VCHM Director, Riley County EMS and further shall continue to perform said services in a manner satisfactory to VCHM. During the Transition Period, such services shall include management of the day to day operations of the VCHM ambulance services department, including the supervision and management of VCHM employees in the ambulance services department, provided, however, Adams shall not have the authority to hire additional personnel into any VCHM position, nor shall Adams have authority to discipline and/or terminate the employment of any VCHM employee without prior consultation with and approval from the Hospital President and/or his designee. Such consultation and approval from the Hospital President and/or his designee shall not be unreasonably exercised or withheld, including requests to fill vacancies. During the Transition Period VCHM will continue to provide Adams with access to the VCHM computer network, facilities and resources necessary to perform the day to day activities of the ambulance services department, *provided* Adams completes all documentation necessary to be approved for access by external personnel in conjunction with VCHM policies and procedures.<sup>1</sup>

2. Services of Assistant Director County EMS Services.

VCHM acknowledges County's intent to hire an Assistant Director of Riley County EMS, ("Assistant Director"), to commence employment with County effective on or after October 2, 2017. VCHM further acknowledges and does not object that said personnel may be hired from current VCHM employees, in the sole discretion of Riley County. Should such hiring occur, during the Transition Period said Assistant Director shall be provided access to the VCHM computer network, facilities and resources necessary to perform the day to day activities of the ambulance services department, *provided* said Assistant Director completes all documentation necessary to be approved for access by external personnel in conjunction with VCHM policies and procedures. That Assistant Director shall have authority, as may be delegated by Adams, to supervise VCHM personnel on a daily basis, provided, however, said Assistant Director shall be subject to the same limitations on said authority as placed on Adams above, with respect to hiring personnel into any VCHM position, disciplining and/or terminating any such personnel.

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<sup>1</sup> All external personnel with a business need to access the VCHM computer network shall complete appropriate provisioning documents and be approved for such access prior to accessing the VCHM computer network.



## SCHEDULE C

### HIPAA Business Associate Addendum

**THIS HIPAA BUSINESS ASSOCIATE ADDENDUM** (the "Addendum") is entered into effective as of the date of the underlying Agreement (the "Agreement"), by and between Riley County, ("Business Associate") and **Via Christi Hospital Manhattan, Inc.**, on behalf of itself and its affiliates, if any (individually and collectively, the "Covered Entity") and adds to the underlying Transition Services Agreement dated \_\_\_\_\_, 2017.

Pursuant to the Agreement, Business Associate may perform functions or activities on behalf of Covered Entity involving the use, disclosure, transmission, or maintenance of Protected Health Information ("PHI") created or received by Business Associate on behalf of Covered Entity. Therefore, if Business Associate is functioning as a business associate to Covered Entity, Business Associate agrees to the following terms and conditions set forth in this HIPAA Business Associate Addendum.

1. **Definitions.** For purposes of this Addendum, the terms used herein, unless otherwise defined, shall have the same meanings as used in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), or the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and any amendments or implementing regulations, (collectively "HIPAA Rules").
2. **Compliance with Applicable Law.** The parties acknowledge and agree that, beginning with the relevant effective dates, Business Associate shall comply with its obligations under this Addendum and with all obligations of a business associate under HIPAA, HITECH, the HIPAA Rules, and other applicable laws and regulations, as they exist at the time this Addendum is executed and as they are amended, for so long as this Addendum is in place.
3. **Permissible Use and Disclosure of PHI.** Business Associate may use and disclose PHI as necessary to carry out its duties to Covered Entity pursuant to the terms of the Agreement and as required by law. Business Associate may also use and disclose PHI (i) for its own proper management and administration, and (ii) to carry out its legal responsibilities. If Business Associate discloses PHI to a third party for either above reason, prior to making any such disclosure, Business Associate must obtain: (i) reasonable assurances from the receiving party that such PHI will be held confidential and be disclosed only as required by law or for the purposes for which it was disclosed to such receiving party; and (ii) an agreement from such receiving party to immediately notify Business Associate of any known breaches of the confidentiality of the PHI.
4. **Limitations on Use and Disclosure of PHI.** Business Associate shall not, and shall ensure that its directors, officers, employees, subcontractors, and agents do not, use or disclose PHI in any manner that is not permitted by this Addendum or that would violate Subpart E of 45 CFR 164 ("Privacy Rule") if done by Covered Entity. Business Associate is not authorized to create de-identified information from PHI. All uses and disclosures of, and requests by, Business Associate for PHI are subject to the minimum necessary rule of the Privacy Rule and consistent with Covered Entity's minimum necessary policies and procedures.

5. **Sale of PHI Prohibited.** Business Associate shall not sell PHI under any circumstance in exchange for directly or indirectly receiving remuneration.
6. **Required Safeguards To Protect PHI.** Business Associate shall use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 (“Security Rule”) with respect to electronic PHI, to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Addendum.
7. **Reporting to Covered Entity.** Business Associate shall immediately report within five (5) business days to Covered Entity: (a) any use or disclosure of PHI not provided for by this Addendum of which it becomes aware; (b) any breach of unsecured PHI in accordance with 45 CFR Subpart D of 45 CFR 164 (“Breach Notification Rule”); and (c) any Security Incident (define) of which it becomes aware. Business Associate shall cooperate with Covered Entity's investigation, analysis, notification and mitigation activities, and shall be responsible for all costs incurred by Covered Entity for those activities.
8. **Mitigation of Harmful Effects.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect of a use or disclosure of PHI by Business Associate in violation of the requirements of this Addendum, including, but not limited to, compliance with any state law or contractual data breach requirements.
9. **Agreements by Third Parties.** Business Associate shall enter into an agreement with any subcontractor of Business Associate that creates, receives, maintains or transmits PHI on behalf of Business Associate. Pursuant to such agreement, the subcontractor shall agree to be bound by the same restrictions, conditions, and requirements that apply to Business Associate under this Addendum with respect to such PHI.
10. **Access to PHI.** Within five (5) business days of a request by Covered Entity for access to PHI about an individual contained in a Designated Record Set, Business Associate shall make available to Covered Entity such PHI for so long as such information is maintained by Business Associate in the Designated Record Set, as required by 45 CFR 164.524. In the event any individual delivers directly to Business Associate a request for access to PHI, Business Associate shall within two (2) business days forward such request to Covered Entity.
11. **Amendment of PHI.** Within five (5) business days of receipt of a request from Covered Entity for the amendment of an individual's PHI or a record regarding an individual contained in a Designated Record Set (for so long as the PHI is maintained in the Designated Record Set), Business Associate shall provide such information to Covered Entity for amendment and incorporate any such amendments in the PHI as required by 45 CFR 164.526. In the event any individual delivers directly to Business Associate a request for amendment to PHI, Business Associate shall within two (2) business days forward such request to Covered Entity.
12. **Documentation of Disclosures.** Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to

respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528 and HITECH.

13. **Accounting of Disclosures.** Within five (5) business days of notice by Covered Entity to Business Associate that it has received a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity information to permit Covered Entity to respond to the request for an accounting of disclosures of PHI, as required by 45 CFR 164.528 and HITECH.
14. **Other Obligations.** To the extent that Business Associate is to carry out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with such requirements that apply to Covered Entity in the performance of such obligations.
15. **Judicial and Administrative Proceedings.** In the event Business Associate receives a subpoena, court or administrative order or other discovery request or mandate for release of PHI, Covered Entity shall have the right to control Business Associate's response to such request. Business Associate shall notify Covered Entity of the request as soon as reasonably practicable, but in any event within two (2) business days of receipt of such request.
16. **Availability of Books and Records.** Business Associate hereby agrees to make its internal practices, books, and records available to the Secretary of the Department of Health and Human Services for purposes of determining compliance with the HIPAA Rules.
17. **Amendment.** Any amendment to this Agreement must be in writing and signed by each party. The parties agree to amend this Agreement when necessary to comply with the requirements of federal and applicable state law and regulation.
18. **Breach of Contract by Business Associate.** In addition to any other rights Covered Entity may have in the Agreement, this Addendum or by operation of law or in equity, Covered Entity may: (i) immediately terminate the Agreement if Covered Entity determines that Business Associate has violated a material term of this Addendum; or (ii) at Covered Entity's option, permit Business Associate to cure or end any such violation within the time specified by Covered Entity. Covered Entity's option to have cured a breach of this Addendum shall not be construed as a waiver of any other rights Covered Entity has in the Agreement, this Addendum or by operation of law or in equity.
19. **Effect of Termination of Agreement.** Upon the termination of the Agreement or this Addendum for any reason, Business Associate shall return to Covered Entity or, at Covered Entity's direction, destroy all PHI received from Covered Entity that Business Associate maintains in any form, recorded on any medium, or stored in any storage system. This provision shall apply to PHI that is in the possession of Business Associate, subcontractors, and agents of Business Associate. Business Associate shall retain no copies of the PHI. Business Associate shall remain bound by the provisions of this Addendum, even after termination of the Agreement or Addendum, until such time as all PHI has been returned or otherwise destroyed as provided in this Section.
20. **Injunctive Relief.** Business Associate stipulates that its unauthorized use or disclosure of PHI while performing services pursuant to this Addendum would cause irreparable harm to

Covered Entity, and in such event, Covered Entity shall be entitled to institute proceedings in any court of competent jurisdiction to obtain damages and injunctive relief.

21. **Indemnification**. Business Associate shall indemnify and hold harmless Covered Entity and its officers, trustees, employees, and agents from any and all claims, penalties, fines, costs, liabilities or damages, including but not limited to reasonable attorney fees, incurred by Covered Entity arising from Business Associate's breach of its obligations under this Addendum, the HIPAA Rules, or relating to its use, disclosure, or safeguarding of PHI.
22. **Exclusion from Limitation of Liability**. To the extent that Business Associate has limited its liability under the terms of the Agreement, whether with a maximum recovery for direct damages or a disclaimer against any consequential, indirect or punitive damages, or other such limitations, all limitations shall exclude any damages to Covered Entity arising from Business Associate's breach of its obligations under this Addendum, the HIPAA Rules, or relating to its use, disclosure, or safeguarding of PHI.
23. **Owner of PHI**. Under no circumstances shall Business Associate be deemed in any respect to be the owner of any PHI created or received by Business Associate on behalf of Covered Entity.
24. **Third Party Rights**. The terms of this Addendum do not grant any rights to any parties other than Business Associate and Covered Entity.
25. **Independent Contractor Status**. For the purposes of this Addendum, Business Associate is an independent contractor of Covered Entity, and shall not be considered an agent of Covered Entity.
26. **Changes in the Law**. The parties shall amend this Addendum to conform to any new or revised legislation, rules and regulations to which Covered Entity is subject now or in the future including, without limitation, HIPAA, HITECH, and the HIPAA Rules.
27. **Conflicts**. If there is any direct conflict between the Agreement and this Addendum, the terms and conditions of this Addendum shall control.

[SIGNATURES ON FOLLOWING PAGE]

**VIA CHRISTI HOSPITAL MANHATTAN, INC.:**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**RILEY COUNTY:**

Signature: \_\_\_\_\_

Printed Name: Ronald E. Wells \_\_\_\_\_

Title: Chairman \_\_\_\_\_

Monitor	Serial Number
1	3CQ35010QB
2	CN430904LH
3	CN-OCG1G3-74445-69D-828L-A00
4	CN-OCG1G3-74445-69D-837L-A00
5	CNC029Q41Q
6	CNC944Q49Q
7	CNC313PWR2
8	CNC313PVXS
9	3CQ3501258
10	CN-OXOY40-72872-6B1-A26I-A00
11	CN-OR9F1P-74261-45S-281L
12	CNK01408SF
13	3CQ410245R

Computer	Asset Tag #
1	AA521603
2	AA521697
3	AA522050
4	BA306417
5	AA522696
6	BA287933
7	AA552841

Laptop	Asset Tag #
1	BA290223
2	AA538702
3	BA306177

Surface Pro Tablet (David's)	Asset Tag #
1	AA538706

Tablets	Asset Tag #
1	CAO16960
2	CAO16962
3	CAO16965
4	CAO16957
5	CAO16963
6	CAO16961
7	CAO16958
8	CAO16964

Printers	Asset Tag #
1	AA522680
2	CAO17352
3	AA553217
4	AA521615

Scanner	Serial #
1	A36DC22061
2	A36D170933