

EMERGENCY TRIAGE, TREAT, AND TRANSPORT (ET3) MODEL PARTNER AGREEMENT

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EMERGENCY TRIAGE, TREAT, AND TRANSPORT MODEL
PARTNER AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Emergency Triage, Treat, and Transport Model Partner Agreement (“Agreement”) is between the **City of San Antonio**, a home-rule municipality situated within Bexar County, Texas acting by and through its City Manager or designee, pursuant to Ordinance No. _____ passed and approved on the _____ day of _____, 20____ and (“City” or “Participant”) and **[PARTNER_NAME]** (“ET3 Partner”) (each a “Party” and collectively the “Parties”).

WITNESSETH

WHEREAS, Centers for Medicare & Medicaid Services (“CMS”) is the agency within the U.S. Department of Health and Human Services (“HHS”) that is charged with administering the Medicare and Medicaid programs; and

WHEREAS, the City’s Fire Department (“Fire Department” or “SAFD”) is an entity that is enrolled in Medicare as an ambulance service supplier or ambulance provider; and

WHEREAS, CMS is implementing the Emergency Triage, Treat, and Transport Model (“ET3 Model” or “Model”) under Section 1115A of the Social Security Act (“Act”), which authorizes CMS, through its Center for Medicare and Medicaid Innovation, to test innovative payment and service delivery models that have the potential to reduce Medicare, Medicaid, or Children’s Health Insurance Program (“CHIP”) expenditures while maintaining or improving the quality of care for Medicare, Medicaid, or CHIP beneficiaries; and

WHEREAS, the purpose of the ET3 Model is to test whether paying for (1) Transport to an Alternative Destination and (2) Treatment in Place, each furnished to low-acuity Medicare FFS beneficiaries following a 9-1-1 call, will reduce avoidable transports of Medicare FFS beneficiaries to emergency departments and/or utilization of other Covered Services; and

WHEREAS, SAFD submitted an application to participate in the ET3 Model (“Application”), and CMS has approved SAFD for participation in the ET3 Model through a Participation Agreement between CMS and City (the “Participation Agreement”); and

WHEREAS, Parties wish to establish establish an ET3 Partner arrangement between the City and [PARTNER], as an Alternative Destination Partner, for participation in the ET3 Model; and

NOW THEREFORE, The Parties, intending to be legally bound, therefore agree as follows:

Article I. Agreement Term; Model Performance Period; Performance Years

1.1 Effective Date

The effective date of this Agreement (“Effective Date”) is the date this Agreement is signed by the last Party to sign it (as indicated by the date associated with that Party’s signature).

1.2 Agreement Term

The term of this Agreement (“Agreement Term”) begins on the Effective Date and expires and ends on December 31, 2025, unless this Agreement is sooner terminated by either Party in accordance with Article 19, in which case the Agreement shall expire either on the effective date of termination or, if the SAFD’s Participation Agreement is terminated by CMS pursuant to Article 19.3(a), on the effective date of the new agreement described in Article 19.3(a).

1.3 Model Performance Period

The performance period for this Agreement (“**Model Performance Period**”) begins on January 1, 2021 (“Start Date”) and ends on December 31, 2025, unless the Agreement is sooner terminated by either Party in accordance with Article 19, in which case the Model Performance Period terminates immediately upon the effective date of such termination. The Model Performance Period includes the following five performance years (each a “**Performance Year**”):

Performance Year 1: January 1, 2021 through December 31, 2021

Performance Year 2: January 1, 2022 through December 31, 2022

Performance Year 3: January 1, 2023 through December 31, 2023

Performance Year 4: January 1, 2024 through December 31, 2024

Performance Year 5: January 1, 2025 through December 31, 2025

Article II. Definitions

In this Agreement, the following definitions apply:

“**After Hours**” means the hours between 8:00pm and 8:00am local time at the ET3 Model Beneficiary’s location.

“**After Hours Service**” means a Covered Service, which may include a Telehealth Service, that is furnished as part of a Treatment in Place intervention to an ET3 Model Beneficiary; (2) by a Medicare-Enrolled Qualified Health Care Partner or Downstream Practitioner of a Qualified Health Care Partner; and (3) initiated or completed After Hours.

“**After Hours Payment**” means the allowed amount for an After Hours Service plus the After Hours Upward Payment Adjustment.

“**After Hours Upward Payment Adjustment**” means a 15% upward adjustment to the allowed amount for an After Hours Service.

“**Alternative Destination Partner**” means an individual or entity that has agreed to furnish Covered Services, or to arrange for a Downstream Practitioner to furnish Covered Services, to an ET3 Model Beneficiary at an Alternative Destination owned or operated by the individual or entity following a Transport to an Alternative Destination intervention.

“**Alternative Destination**” means a destination that (1) is not a Medicare-covered destination as

identified in 42 C.F.R. § 410.40(f)(1); and (2) is owned or operated by an Alternative Destination Partner.

“Available Interventions” means (1) ET3 Model Interventions; and (2) Medicare-Covered Ground Ambulance Transport. For the duration of the PHE, the term Available Interventions also refers to medically necessary unscheduled ground ambulance transport to a Medicare covered destination as identified in 42 C.F.R. § 410.40(f)(5) that is not also identified in 42 C.F.R. § 410.40(f)(1).

“Billing Party” means any individual or entity, including, but not limited to, a Downstream Practitioner that (1) is Medicare-Enrolled; (2) is not an ET3 Partner; (3) is listed as the “billing provider” on a claim submitted to Medicare for Covered Services furnished by an ET3 Partner or its Downstream Practitioner to an ET3 Model Beneficiary during a Treatment in Place intervention or at an Alternative Destination following a Transport to an Alternative Destination intervention, and (4) bills for the Covered Services in their own name or pursuant to a valid reassignment of the right to receive Medicare payment.

“C.F.R.” means the Code of Federal Regulations, as may be amended from time to time.

“Change of Control” means any of the following: (1) the acquisition by any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Securities Exchange Act of 1934), directly or indirectly, of voting securities of an entity representing more than 50 percent of the entity’s outstanding voting securities or rights to acquire such securities; (2) the acquisition of an entity by any other individual or entity; (3) any merger, division, or expansion of an entity (including satellite offices); or (4) the sale, lease, exchange or other transfer (in one transaction or a series of transactions) of all or substantially all of the assets of an entity, or an agreement for the sale or liquidation of the entity.

“Claims” means any and all obligations, liabilities, losses, actions, suits, judgments, penalties, fines, claims, demands, settlements, costs and expenses (including, without limitation, reasonable legal fees and expenses) of any nature whatsoever.

“Clinical Protocols” means pre-determined protocols developed by SAFD in accordance with Article 5.5.

“County or Equivalent Entity” means a county that is the primary legal subdivision of a state, or any of the following equivalent entities:

- a. The District of Columbia.
- b. Parishes in Louisiana.
- c. Boroughs, cities, municipalities, and census areas in Alaska.
- d. Municipios in Puerto Rico.
- e. A city in Maryland, Missouri, Nevada or Virginia that is independent of any county and considered a primary legal subdivision of that state.

“Covered Services” means the scope of health care benefits described in Sections 1812 and 1832 of the Act for which payment is available under Part A or Part B of Title XVIII of the Act.

“Days” means calendar days unless otherwise specified.

“Distant Site” means “distant site” as defined in 42 C.F.R. § 410.78(a)(2).

“Downstream Practitioner” means an individual who (1) is a Medicare-Enrolled Physician or Non-Physician Practitioner who furnishes Covered Services to ET3 Model Beneficiaries following a Transport to an Alternative Destination intervention or as part of a Treatment in Place intervention; (2) has a written arrangement with the ET3 Partner that meets all applicable requirements of Article 4.3, under which the Downstream Practitioner agrees to participate in the Model and comply with all applicable terms and conditions under this Agreement; and (3) bills Medicare for such services directly or pursuant to a valid reassignment with a Billing Party in accordance with applicable regulations.

“Encounter” means an encounter with a Patient that begins when SAFD arrives on the scene of a 9-1-1 emergency response in the Model Region following a 9-1-1 call, and ends when the Patient for whom the 9-1-1 call was placed is no longer in the physical care of SAFD, or, in the case of a Treatment in Place intervention, SAFD’s Qualified Health Care Partner or a Qualified Health Care Partner’s Downstream Practitioner.

“ET3 Model Beneficiary” means an individual who is (1) entitled to benefits under Medicare Part A and enrolled under Medicare Part B; (2) is suffering from a complaint for which a 9-1-1 call is placed and SAFD is dispatched; and (3) is located in the Model Region when SAFD arrives on the scene of the 9-1-1 emergency response.

“ET3 Model Intervention” means either of the following interventions made available to an ET3 Model Beneficiary during an Encounter: (1) Transport to an Alternative Destination; or (2) Treatment in Place.

“ET3 Partner” means the Alternative Destination Partner or a Qualified Health Care Partner that (1) is a Party to this Agreement; (2) is identified by a TIN; and (3) is identified as an ET3 Partner on the ET3 List.

“ET3 Partner Group” means individually or in any combination, ET3 Partner, and its Affiliates, Downstream Practitioners, Billing Parties, contractors, and each of their respective directors, officers, agents, representatives, employees and invitees.

“ET3 List” means the list of SAFD’s ET3 Partners, any Alternative Destinations identified by an NPI that is not shared with its associated Alternative Destination Partner, and any Billing Parties that bill Medicare for Covered Services as part of a Treatment in Place intervention, as established and updated in accordance with Article 4.2 and Article 4.4(b).

“Implementation Plan” means a complete description of the SAFD’s plan to implement the ET3 Model Intervention(s) by making such interventions available to ET3 Model Beneficiaries in the Model Region established pursuant to Article 5.1.

“In-Person Treatment in Place Intervention” means Covered Services furnished in person at the scene of a 9-1-1 emergency response to an ET3 Model Beneficiary during an Encounter, including Covered Services furnished by the ET3 Partner or a Downstream Practitioner as part of the In-Person Treatment in Place Intervention, and the initiation and facilitation of such Covered Services by SAFD.

“Learning System” means a structured approach to sharing, integrating, and actively applying quality improvement concepts, tactics, and lessons learned in order to create an environment that will maximize the likelihood of success of the Model.

“Medically Necessary” means reasonable and necessary as determined in accordance with Section 1862(a) of the Act.

“Medicare-Covered Ground Ambulance Transport” means a medically necessary unscheduled ground ambulance transport to a Medicare-covered destination as identified in 42 C.F.R. § 410.40(f)(1).

“Medicare-Enrolled” means the state of being enrolled in the Medicare program and thereby being eligible to bill and receive payment from Medicare for Medically Necessary Covered Services furnished to Medicare beneficiaries.

“Medicare Fee-for-Service” or “Medicare FFS” means Medicare Part A and Part B. As used in this Agreement, the term Medicare FFS does not include Medicare Part C (Medicare Advantage) or Medicare Part D (Prescription Drug Benefit).

“Model Participant” means the City of San Antonio or the San Antonio Fire Department.

“Model Region” means the Counties or Equivalent Entities where the SAFD offers Medicare-Covered Ground Ambulance Transport, ET3 Model Interventions, and during the PHE, PHE Alternative Transports to ET3 Model Beneficiaries during the Model Performance Period in accordance with the Implementation Plan.

“Originating Site” means “originating site” as defined in 42 C.F.R. § 410.78(a)(4).

“Patient” means an individual, regardless of health insurance status, who is suffering from a complaint for which a 9-1-1 call is placed and SAFD is dispatched and who is located in the Model Region when the SAFD arrives on the scene of the 9-1-1 emergency response.

“Patient Care Report Data” or “PCR Data” means patient care information that is collected, most often in the National EMS Information System (NEMESIS) standard, following a 9-1-1 call for assistance.

“PHE” means “public health emergency” as defined in 42 C.F.R. § 400.200.

“PHE Alternative Transport” means a medically necessary unscheduled emergency ground ambulance transport of an ET3 Model Beneficiary from the scene of a 9-1-1 emergency response to a Medicare-covered destination identified in 42 C.F.R. § 410.40(f)(5) that is not also identified in 42 C.F.R. § 410.40(f)(1).

“Physician or Non-Physician Practitioner” means a physician or non-physician practitioner who meets all State and local laws, regulatory requirements, accreditation standards, and licensing guidelines or rules to render the particular Covered Service furnished to an ET3 Model Beneficiary as part of a Treatment in Place intervention or following a Transport to an Alternative Destination intervention.

“Program Integrity Screening” means a review of an individual’s or entity’s program integrity history, which may include a review of the individual’s or entity’s history of exclusion or other sanctions imposed with respect to participation in Medicare, Medicaid, or CHIP; history of failure to pay Medicare debts in a timely manner; current or prior law enforcement investigations or administrative actions; affiliations with individuals or entities that have a history of program integrity issues; and other information pertaining to the trustworthiness of the individual or entity.

“Protected Health Information (PHI)” means protected health information as defined in 45 C.F.R § 160.103.

“Provider” means a “provider of services” defined under section 1861(u) of the Act and codified in the definition of “provider” at 42 C.F.R. § 400.202, as may be amended from time to time.

“Qualified Health Care Partner” means an individual or entity that has agreed to furnish a Treatment in Place intervention, or to arrange for a Downstream Practitioner to furnish a Treatment in Place intervention, to an ET3 Model Beneficiary.

“Supplier” means a supplier as defined in section 1861(d) of the Act and codified at 42 C.F.R. § 400.202, as may be amended from time to time.

“Telehealth Services” means Covered Services that are furnished as telehealth services under section 1834(m) of the Act and 42 C.F.R. § 410.78.

“Telehealth Treatment in Place Intervention” means Telehealth Services furnished to an ET3 Model Beneficiary located at the scene of a 9-1-1 emergency response during an Encounter, including Covered Services furnished by a Medicare-Enrolled Qualified Health Care Partner or a Downstream Practitioner as part of the Telehealth Treatment in Place Intervention, as well as the initiation and facilitation of such Covered Services by SAFD.

“Third Party” means any person not a member of SAFD Group or ET3 Partner Group.

“TIN” means a federal Taxpayer Identification Number, which in some cases may be a Social Security Number.

“Transport to an Alternative Destination” means medically necessary (as described in 42 C.F.R. § 410.40(e)(1)) unscheduled emergency ground ambulance transport, other than PHE Alternative Transport, of an ET3 Model Beneficiary by SAFD from the scene of a 9-1-1 emergency response to an Alternative Destination during an Encounter.

“Treatment in Place” means (1) a Telehealth Treatment in Place Intervention; or (2) an In-Person Treatment in Place Intervention.

“Triage Decision” means SAFD’s procedures to (1) use its’ Clinical Protocols to assess a Patient’s condition after SAFD arrives on the scene of a 9-1-1 emergency response; (2) determine which Available Intervention (if any) is most clinically appropriate; and (3) use the information from steps (1) through (2), together with SAFD’s determination as to whether the Patient is an ET3 Model Beneficiary in accordance with the Eligibility Plan developed pursuant to Article 5.2(a)(ii), to make the offer (if any) of an Available Intervention to the Patient.

Article III. ET3 Partner Requirements

3.1 General Requirements

- (a) The ET3 Partner must be a legal entity identified by a TIN formed under applicable state, federal, or tribal law, and authorized to conduct business in each state in which it operates.
- (b) The ET3 Partner must notify SAFD in writing of any noncompliance or deficiencies in

regards to this Agreement within 15 Days of discovery, unless a different timeframe for notification is specified in this Agreement.

- (c) The ET3 Partner must ensure that all Downstream Practitioners, Billing Parties, and other entities and individuals performing functions or services related to the ET3 Model Interventions are obligated to comply with the applicable terms and conditions of this Agreement, and must ensure that SAFD has sufficient access to all necessary records, data, and information of and pertaining to the Downstream Practitioners, Billing Parties, and other entities and individuals performing functions or services related to the ET3 Model Interventions, as applicable, to enable SAFD to carry out its responsibility.

3.2 ET3 Partner Changes

- (a) Legal Name Change

The ET3 Partner must provide written notice to SAFD at least 60 Days before any change in the ET3 Partner's legal name. The notice of legal name change must include a copy of any legal document effecting the name change, authenticated by the appropriate state official (if applicable), and the Parties must execute an agreement reflecting the change of the ET3 Partner's legal name.

- (b) Change of Control

The ET3 Partner must provide written notice to SAFD at least 90 Days before the effective date of any Change of Control of the ET3 Partner. This obligation remains in effect throughout the Agreement Term and until final payment by or to the ET3 Partner has been made in accordance with this Agreement. After review of such notice, SAFD may terminate this Agreement, demand immediate payment of any amount owed by the ET3 Partner to SAFD under this Agreement, or may take any other actions consistent with the terms of this Agreement, to include Article 21.7.

- (c) Identifier Change

The ET3 Partner must provide written notice to SAFD as soon as practicable, but no later than 30 Days after any change in TIN, NPI, or other identifier specified by SAFD with respect to the ET3 Partner. After review of such notice, SAFD may terminate this Agreement, demand immediate payment of any amount owed by the ET3 Partner to SAFD under this Agreement, or may take any other actions consistent with the terms of this Agreement.

3.3 State and Local Requirements

- (a) For the duration of the Model Performance Period, the ET3 Partner must meet all applicable requirements to operate as an Alternative Destination Partner or a Qualified Health Care Partner in each state that is included (in whole or in part) in the Model Region, including, but not limited to, adherence to state-wide EMS protocols, agency license, medical director license, personnel certifications, and vehicle licenses and requirements.
- (b) For the duration of the Model Performance Period, the ET3 Partner must meet all applicable requirements to operate as an Alternative Destination Partner or a Qualified Health Care Partner in each County or Equivalent Entity that is included (in whole or in part) in the

Model Region, including, but not limited to, adherence to business license, or other local authorizations and licenses.

Article IV. ET3 Partners

4.1 General Requirements

- (a) SAFD must notify and educate each individual and entity who is a potential ET3 Partner about the Model to enable them to make an informed decision about whether to participate in the Model as an ET3 Partner. The provision of information to a potential ET3 Partner for purposes of satisfying this requirement is not considered promotion, marketing, or advertising under Article 11.4(b).
- (b) ET3 Partner must provide a copy of this Agreement and any amendments hereto to each potential Downstream Practitioner and Billing Party prior to obtaining their consent to participate in the Model as a Downstream Practitioner and Billing Party.

4.2 ET3 List

(a) General

- (i) SAFD must ensure that all proposed ET3 Partners, Alternative Destinations identified by an NPI that is not shared with its associated Alternative Destination Partner, and any Billing Parties, including Downstream Practitioners, that will bill Medicare for Covered Services furnished as part of a Treatment in Place intervention are approved by CMS to be added to the ET3 List pursuant to this Article 4.2 prior to furnishing ET3 Model Interventions under the terms of this Agreement to an ET3 Model Beneficiary.
- (ii) An individual or entity will be included on the ET3 List only upon written approval of CMS.
- (iii) SAFD must periodically review its ET3 List to ensure that the list is true, accurate, and complete, and must make any updates to the ET3 List in accordance with Article 4.2(c).
- (iv) SAFD will maintain documentation of all ET3 Lists, both current and historical, in accordance with Article 18.2.
- (v) CMS may periodically conduct a Program Integrity Screening of each individual and entity listed on the ET3 List. The presence of an individual or entity on the ET3 List does not imply or constitute a determination that the individual or entity has no program integrity issues, nor does it preclude CMS or any other federal government agency from enforcing any and all applicable laws, rules and regulations, or from initiating or continuing any audit or investigation of an individual or entity listed on the ET3 List.

(b) Initial ET3 List

- (i) ET3 Partner must include all information necessary for CMS to perform a Program Integrity Screening of the individual or entity proposed for inclusion on the ET3 List, to include without limitation:
 - 1) Medicare-Enrolled individuals and entities proposed for inclusion on the ET3 List must be identified by legal business name (or, in the case of an individual, legal

name), correspondence address, NPI, Medicare Provider Identification Number(s) (if issued), and CMS Certification Number (if applicable).

- 2) Those individuals and entities who are not Medicare-Enrolled must be identified by legal business name (or, in the case of an individual, legal name), correspondence address, type of entity, TIN, NPI, existing and/or past state license number (if any) and state that issued license; and for any board member or individual with managing control, partnership interest, or a 10% or greater direct or indirect ownership in the ET3 Partner, the individual's name, date of birth, NPI (if applicable), and social security number.
 - (ii) For each individual or entity proposed to be associated with ET3 Partner for inclusion on the ET3 List, ET3 Partner must indicate whether the individual or entity is proposed as an Alternative Destination, Alternative Destination identified by an NPI that is not shared with its associated Alternative Destination Partner, or Billing Party.
 - (iii) CMS will review the list of individuals and entities proposed for inclusion on the ET3 List and conduct a Program Integrity Screening of those individuals and entities for which CMS received all information necessary to conduct a Program Integrity Screening.
 - (iv) CMS will submit to SAFD a list of individuals and entities that it approved for inclusion on the ET3 List. SAFD must review this list and make any necessary corrections to it, including the removal of any individuals or entities proposed as ET3 Partners or any proposed Downstream Practitioners identified as Billing Parties that have not agreed to participate in the Model pursuant to a written arrangement meeting the requirements of Article 4.3.
 - (v) SAFD shall submit to CMS an initial ET3 List that SAFD has certified is a true, accurate, and complete list of all of SAFD's ET3 Partners, as well as those Alternative Destinations and Billing Parties that must be included on the ET3 List pursuant to Article 4.2(a)(i).
 - (vi) Once the initial ET3 List has been certified by SAFD and submitted to CMS, that list shall be deemed the final ET3 List and SAFD must update the ET3 List in accordance with Article 4.2(c).

(c) Updates to ET3 List

(i) Removals from the ET3 List

- 1) In a form and manner specified by CMS, the ET3 Partner must notify SAFD no later than 20 Days after an individual or entity on the ET3 List has ceased to be an ET3 Partner, Alternative Destination, or Billing Party for any reason other than termination by CMS, and must include in the notice the date on which the individual or entity ceased to be an ET3 Partner, Alternative Destination, or Billing Party. The removal of the individual or entity from the ET3 List will be effective on the date the individual or entity ceased to be an ET3 Partner, Alternative Destination, or Billing Party.
- 2) CMS may terminate an individual or entity and update the ET3 List to reflect this termination or subject SAFD to additional monitoring pursuant to Article 14.2(f)(i) on the basis of the results of a periodic Program Integrity Screening or information obtained regarding an individual's or entity's history of program integrity issues. CMS will notify SAFD if CMS chooses to terminate an individual or entity and remove them from the ET3 List. Such notice will specify the effective date of termination.

(ii) Additions to the ET3 List

- 1) If, after the initial ET3 List has been deemed final, the ET3 Partner wishes to add an individual or entity to the ET3 List as an Alternative Destination Partner or Billing Party, it must submit a request to SAFD, in a form and manner and by a deadline specified by CMS, that meets the following requirements:
 - a) The ET3 Partner must include all information necessary for CMS to perform a Program Integrity Screening of the individual or entity proposed for inclusion on the ET3 List, including without limitation the information specified in paragraphs (1) and (2) of Article 4.2(b)(iii).
 - b) For each individual or entity proposed for inclusion on the ET3 List, the ET3 Partner must indicate whether the individual or entity is proposed as an Alternative Destination or Billing Party.
 - c) The ET3 Partner must ensure that it has a written arrangement that meets the requirements of Article 4.3 with any proposed Alternative Destination or Billing Party associated with it.
- 2) CMS will conduct a Program Integrity Screening of each individual or entity proposed for inclusion on the ET3 List by SAFD.
- 3) CMS will notify SAFD regarding whether the proposed individual or entity has been approved or rejected for inclusion on the ET3 List on the basis that the individual or entity fails to satisfy the definition of an "Alternative Destination" or "Billing Party", or on the basis of a Program Integrity Screening. If CMS approves the request, the individual or entity will be added to the ET3 List, effective on the date the addition is approved by CMS.

4.3 ET3 Partner Requirements

(a) Arrangements with Alternative Destination Partners.

As an Alternative Destination Partner:

- 1) ET3 Partner shall participate in the Model and furnish Covered Services, or arrange for Covered Services to be furnished by a Downstream Practitioner, to ET3 Model Beneficiaries following Transport to an Alternative Destination.
- 2) ET3 Partner shall ensure it has the ability to (1) assess the real-time capacity of an Alternative Destination of the Alternative Destination Partner to furnish the required level and type of care for the illness or injury of any ET3 Model Beneficiary prior to accepting transport of the ET3 Model Beneficiary by SAFD to the Alternative Destination pursuant to Article 6.2; (2) meet the needs of any ET3 Model Beneficiary accepted for transport to an Alternative Destination of the ET3 Partner; and (3) bill Medicare for Covered Services furnished to ET3 Model Beneficiaries at an Alternative Destination of the ET3 Partner or, if the ET3 Partner cannot or does not intend to bill Medicare for such Covered Services, has arranged for such Covered Services to be billed by a Billing Party that has the ability to bill Medicare for such Covered Services.
- 3) If the ET3 Partner is not Medicare-Enrolled, the ET3 Partner shall contract or employ at least one Downstream Practitioner who is Medicare-Enrolled and has the ability to furnish Covered Services described in Article 6.2 that are furnished at an Alternative Destination of the ET3 Partner, and if the Downstream Practitioner cannot or does not intend to bill Medicare for such Covered Services, has arranged for such Covered Services to be billed by a Billing Party that has the ability to bill Medicare for such Covered Services furnished by the Downstream Practitioner.

(b) Arrangements with Qualified Health Care Partners.

As a Qualified Health Care Partner:

- 1) The ET3 Partner shall participate in the Model and furnish Covered Services to ET3 Model Beneficiaries as part of a Treatment in Place intervention, or to arrange for Covered Services to be furnished by a Downstream Practitioner to ET3 Model Beneficiaries as part of a Treatment in Place intervention.
- 2) The ET3 Partner shall ensure it has the capacity to meet the needs of ET3 Model Beneficiaries who receive Covered Services during a Treatment in Place intervention, as well as the ability to bill Medicare for Covered Services furnished to ET3 Model Beneficiaries during a Treatment in Place intervention or, if the ET3 Partner cannot or does not intend to bill Medicare for such Covered Services, has arranged for such Covered Services to be billed by a Billing Party that has the ability to bill Medicare for such Covered Services.

- 3) If the ET3 Partner is not Medicare-Enrolled, the ET3 Partner shall contract or employ at least one Downstream Practitioner who is Medicare-Enrolled and has the capacity to furnish Covered Services that satisfy the requirements of Article 6.3, and if the Downstream Practitioner cannot or does not plan to bill Medicare for such Covered Service, has arranged for such Covered Services to be billed by a Billing Party that has the ability to bill Medicare for such Covered Services furnished by the Downstream Practitioner.
- 4) The ET3 Partner shall collect and report to SAFD data on an Encounter, as necessary and appropriate, to ensure that SAFD makes data submissions to CMS in accordance with Article 16 and the ET3 Partner shall impose this requirement on its Downstream Practitioners and Billing Parties.
- 5) The ET3 Partner shall collect and report to SAFD data on an Encounter, as necessary and appropriate, to ensure that SAFD makes data submissions to CMS in accordance with Article 16 and shall impose this requirement on its Downstream Practitioners and Billing Parties.
- 6) The ET3 Partner confirms its consent to bill and receive payment for Covered Services furnished as part of a Treatment in Place intervention as described in Article 8.1 and, if applicable, also requires that its Billing Parties provide written confirmation of the Billing Parties' consent to bill and receive payment for such Covered Services as described in Article 8.1.

(c) Other Requirements

- 1) The ET3 Partner shall comply with the applicable terms and conditions of the Model as set forth in this Agreement, including, but not limited to, compliance with ET3 Model evaluation, monitoring, and oversight activities. The ET3 Partner shall ensure that its Downstream Practitioners and Billing Parties are obligated to comply with the applicable terms and conditions of the Model as set forth in this Agreement.
- 2) The ET3 Partner shall comply with all applicable laws and regulations including, but not limited to, those specified in Article 14.2(b), and the ET3 Partner shall ensure that its Downstream Practitioners and Billing Parties are obligated to comply with all such laws and regulations.
- 3) The ET3 Partner shall promptly submit to SAFD a true, accurate, and complete list of all of its Alternative Destinations, Downstream Practitioners, and Billing Parties upon request by SAFD. Such list must include the legal name and NPI of each Billing Party and Downstream Practitioner. Billing Parties that are Downstream Practitioners need not be listed twice.
- 4) If Covered Services furnished to an ET3 Model Beneficiary during a Treatment in Place intervention or following Transport to an Alternative Destination are furnished by a Downstream Practitioner and the Billing Party is not the Downstream Practitioner who furnished the Covered Services, the ET3 Partner shall ensure that the Downstream Practitioner who furnished the Covered Services has reassigned his or her right to bill the Medicare program and receive Medicare payments for the Covered Services to the Billing Party.

- 5) The ET3 Partner shall require its Downstream Practitioners and Billing Parties to update their Medicare enrollment information on a timely basis in accordance with Medicare program requirements and, if the ET3 Partner is Medicare enrolled, the ET3 Partner shall do the same.
- 6) If the ET3 Partner is Medicare-Enrolled, the ET3 Partner shall notify SAFD of any changes to its Medicare enrollment information, legal name, NPI or other identifier specified by CMS with respect to the individual or entity, and a Change of Control within 30 Days after becoming aware of the change. In addition, the ET3 Partner shall ensure that its Alternative Destinations, Downstream Practitioners and other Billing Parties are obligated to do the same if they are on the ET3 List, or if the change meaningfully affects the Downstream Practitioner's capacity to furnish Covered Services to ET3 Model Beneficiaries as part of an ET3 Model Intervention.
- 7) The ET3 Partner shall notify SAFD within 7 Days of becoming aware that it or any of its Downstream Practitioners or Billing Parties is under investigation or has been sanctioned (including, without limitation, the imposition of program exclusion, debarment, civil monetary penalties, loss of medical license or equivalent, corrective action plans, and revocation of Medicare billing privileges) by the federal, state, or local government, or any licensing authority, and the ET3 Partner shall ensure that its Downstream Practitioners and Billing Parties provide such notice to the ET3 Partner if the Downstream Practitioner or Billing Party is the subject of such investigations or sanctions.
- 8) SAFD may take remedial action against the ET3 Partner, including termination of this Agreement, to address noncompliance with the terms of the Model as set forth in this Agreement or program integrity issues identified by CMS. The ET3 Partner shall ensure that the ET3 Partner's arrangements with its Downstream Practitioners and Billing Parties permit the ET3 Partner to take such actions against a Downstream Practitioner or Billing Party to address noncompliance with the applicable terms of this Model as set forth in this Agreement or program integrity issues identified by CMS.
- 9) SAFD may terminate this Agreement at any time if CMS removes the ET3 Partner from the ET3 List. If the ET3 Partner is a Qualified Health Care Partner, the ET3 Partner shall terminate its arrangement with any of its Billing Parties who are removed from the ET3 List by CMS.

4.4 Notification of Termination and Other Changes

- (a) The ET3 Partner must provide written notice to SAFD of the following:
 - (i) The ET3 Partner must provide written notice to SAFD within 20 Days before the termination of a written arrangement described in Article 4.3.
 - (ii) The ET3 Partner must provide written notice to SAFD within 20 Days after becoming aware of any change in the legal name of any individual or entity listed on the ET3 List.
 - (iii) The ET3 Partner must provide written notice to SAFD within 20 Days after becoming aware of any Change of Control of any entity listed on the ET3 List.
 - (iv) The ET3 Partner must provide written notice to SAFD as soon as practicable, but no

later than 20 Days after becoming aware of any change in Medicare enrollment status or change in NPI or other identifier specified by CMS with respect to any Medicare-Enrolled individual or entity listed on the ET3 List.

- (v) The ET3 Partner must provide written notice to SAFD within 20 Days after becoming aware that any individual or entity listed on the ET3 List is under investigation or has been sanctioned (including, without limitation, the imposition of program exclusion, debarment, civil monetary penalties, loss of medical license or equivalent, corrective action plans, and revocation of Medicare billing privileges) by the federal, state, or local government or any licensing authority.
- (b) After review of a notice described under Article 4.4(a), CMS may conduct a Program Integrity Screening with respect to such individual or entity listed on the ET3 List, terminate such individual or entity on the ET3 List, or take any of the actions set forth in Article 19.

4.5 Limitations

SAFD must not take any action to limit the ability of an ET3 Partner or Downstream Practitioner to make decisions in the best interest of an ET3 Model Beneficiary, including the selection of care or services furnished to an ET3 Model Beneficiary under the Model, or to offer an ET3 Model Beneficiary an Available Intervention that differs from the Available Intervention identified by SAFD's Triage Decision.

Article V. Implementation of ET3 Model Interventions

5.1 Implementation Plan

ET3 Partner shall adhere to the applicable requirements of the Implementation Plan and shall obligate its Downstream Practitioners and Billing Parties to do the same.

- (a) Updates to Implementation Plan
 - (i) SAFD shall update all Implementation Plan content on an annual basis in a form and manner and by a date specified by CMS.
 - (ii) SAFD also must promptly update its Implementation Plan prior to the next annual update to reflect:
 - 1) Material changes in how SAFD will implement the Transport to an Alternative Destination intervention. Such material changes include, but are not limited to, changes to the date SAFD proposed to make the Transport to an Alternative Destination intervention available to ET3 Model Beneficiaries and any interruptions in the ET3 Partner's ability to make the Transport to an Alternative Destination intervention available, such as gaps or anticipated gaps in the ET3 Partner's ability to make available the Transport to an Alternative Destination intervention.

- 2) Material changes in how SAFD will implement the optional Treatment in Place intervention. Such material changes include, but are not limited to, SAFD's decision to no longer make the optional Treatment in Place intervention available to ET3 Model Beneficiaries, changes to the date SAFD proposed to make the Treatment in Place intervention available, changes to SAFD's eligibility to implement the Treatment in Place intervention, and changes in the type of Treatment in Place intervention (In-Person Treatment in Place Intervention, Telehealth Treatment in Place Intervention, or both) that SAFD will make available to ET3 Model Beneficiaries.
- 3) Material changes to the SAFD's Access Plan. Such material changes include, but are not limited to, changes to the timeline to achieve 24/7 access, any changes that will materially limit SAFD's ability to achieve 24/7 access, or any changes that will lead to material interruptions in SAFD's ability to meet the 24/7 access requirement.

(b) CMS Review and Acceptance

- (iii) CMS will review the Implementation Plan, including any updates thereto, and will make reasonable efforts to accept the Implementation Plan, reject the Implementation Plan, or provide notice to SAFD of an extension of CMS's period of review of the Implementation Plan, within 30 Days of CMS's receipt thereof.
- (iv) CMS may require SAFD to make changes to its Implementation Plan before acceptance and may reject its Implementation Plan if SAFD does not make satisfactory changes. If CMS rejects SAFD's Implementation Plan, CMS may take remedial action in accordance with Article 19.

5.2 [Intentionally Deleted]

5.3 Access Plan

After SAFD makes the Transport to an Alternative Destination intervention available pursuant to Article 6.2, the ET3 Partner must ensure that ET3 Model Beneficiaries have access to at least one ET3 Model Intervention in accordance with the Access Plan in Appendix D during the Model Performance Period.

Article VI. ET3 Model Interventions

6.1 General

- (a) The ET3 Partner must ensure that Covered Services furnished to an ET3 Model Beneficiary following Transport to an Alternative Destination or as part of a Treatment in Place intervention are furnished by a Medicare-Enrolled ET3 Partner or a Downstream Practitioner.
- (b) Subject to the requirements of Article 6.2 and Article 6.3, the ET3 Partner must confirm the real-time capacity of the Alternative Destination to furnish the required level and type of care for the ET3 Model Beneficiary's illness or injury pursuant to the method described in Article 6.2(a)(ii).

6.2 Transport to an Alternative Destination Intervention

- (a) If applicable, the ET3 Partner agrees:
- (i) to furnish Medically Necessary Covered Services, or has arranged for Medically Necessary Covered Services to be furnished by a Downstream Practitioner of the ET3 Partner, to ET3 Model Beneficiaries following Transport to its Alternative Destination, and
 - (ii) that if the ET3 Partner cannot or does not intend to bill Medicare for such Covered Services, at least one Billing Party that has the capacity to bill Medicare for such Covered Services furnished by the ET3 Partner or a Downstream Practitioner of the ET3 Partner to ET3 Model Beneficiaries at its Alternative Destination, and
 - (iii) to develop a method to ensure that its Alternative Destination has the real-time capacity to furnish the required level and type of care for an ET3 Model Beneficiary's illness or injury prior to transporting the ET3 Model Beneficiary to the Alternative Destination, and
 - (iv) the ET3 Partner must ensure that each Transport to its Alternative Destination intervention furnished to an ET3 Model Beneficiary is, in whole or in part, for the purpose of facilitating the ET3 Model Beneficiary's receipt of a Medically Necessary Covered Service by the ET3 Partner or its Downstream Practitioner at its Alternative Destination, and
 - (v) that the ET3 Partner has the real-time capacity to furnish the required level and type of care for the ET3 Model Beneficiary's illness or injury in accordance with the Access Plan in Appendix D.

6.3 Intentionally omitted

Article VII. Indemnification & Insurance

7.1 Indemnification

SAFD Group shall not be liable for and ET3 Partner agrees to release, protect, defend, indemnify, and hold harmless SAFD Group from and against any and all Claims arising out of personal injury, illness, death, property (whether real or personal, owned or leased) damage and loss arising out of or resulting from the performance of this Agreement suffered by any member(s) of ET3 Partner Group (including Claims of spouses, heirs, survivors or legal representatives, successors and assigns of any member(s) of SAFD Group) even if such are contributed to or caused by the sole, joint, comparative, concurrent, active or passive Negligence of any member(s) of SAFD. The release, protection, defense, indemnity and hold harmless obligations assumed by ET3 Partner, and the limitations afforded SAFD Group, in this paragraph include any liability for employment discrimination, medical, compensation, or other benefits owed to employees of ET3 Partner Group as a result of the direct employment relationship of such individuals with a member of ET3 Partner Group even if such individuals are determined to be the borrowed or statutory employee of any member(s) of SAFD Group. IN THE EVENT ET3 PARTNER AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF

TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. ET3 PARTNER shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or ET3 PARTNER known to ET3 PARTNER related to or arising out of ET3 PARTNER's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at ET3 PARTNER's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving ET3 PARTNER of any of its obligations under this paragraph

7.2 Employee Litigation

In any and all claims against any party indemnified hereunder by any employee of ET3 Partner, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for ET3 Partner or any subcontractor under worker's compensation or other employee benefit acts.

7.3 Third Party Indemnification

- (a) Except as provided in this Agreement to the contrary, ET3 Partner shall release, defend, protect, indemnify, and hold harmless SAFD to the extent that Claims by Third Parties arising out of or resulting from the performance of this Agreement for personal injury, illness, death, property (whether real or personal or owned or leased) damage and loss are contributed to or caused by the negligence, gross negligence or willful or wanton misconduct of any member(s) of ET3 Partner Group.

7.4 Damage Limitation

- (a) ET3 Partner agrees that no member(s) of SAFD will be responsible for and specifically agrees to release, defend, indemnify, and hold harmless the members of SAFD from any and all liability for indirect, special, incidental, consequential, punitive or exemplary damages suffered by any member(s) of ET3 Partner Group, even if such are contributed to or caused by the sole, joint, comparative, concurrent, active or passive Negligence of any member(s) of SAFD Group.

7.5 Indemnity Savings Clause.

If any defense, indemnity, or insurance provision contained in this Agreement conflicts with, is prohibited by or violates public policy under any federal, state or other law determined to be applicable to a particular situation arising or involving this Agreement, the Work Orders or any Services hereunder, it is understood and agreed that the conflicting, prohibited or violating provision shall be deemed automatically amended in that situation to the extent—but only to the extent—necessary to conform with, not be prohibited by, and avoid violating public policy under such applicable law. No other provisions of this Agreement shall be amended or affected thereby. The Parties agree that the exculpatory, indemnification, and hold harmless provisions herein shall be modified or altered only insofar as required by a jurisdiction purporting to limit such

provisions, it being the intention of both Parties to enforce to the fullest extent all terms and conditions herein agreed to.

7.6 Insurance

ET3 Partner shall maintain, at its own expense, professional liability insurance in amounts equal to at least \$1,000,000 for each claim and \$3,000,000 annual in the aggregate. ET3 Partner shall maintain, at its own expense, comprehensive general liability insurance in amounts equal to at least \$1,000,000 for each claim and \$3,000,000 annual in the aggregate. ET3 Partner agrees to furnish SAFD with satisfactory evidence of such insurance. To the extent of the valid and enforceable obligations assumed by the ET3 Partner under this Agreement, such insurance shall name SAFD as an additional insured. ET3 Partner shall immediately advise SAFD of any termination of such insurance or any reduction in the amount of such insurance. The parties agree that any insurance policies maintained by them shall contain provisions that the underwriter will have no right of recovery or subrogation against the other party.

ET3 Partner agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, ET3 Partner shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend ET3 Partner's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

In addition to any other remedies the City may have upon ET3 Partner's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order ET3 Partner to stop work hereunder, and/or withhold any payment(s) which become due to ET3 Partner hereunder until ET3 Partner demonstrates compliance with the requirements hereof.

Nothing herein contained shall be construed as limiting in any way the extent to which ET3 Partner may be held responsible for payments of damages to persons or property resulting from ET3 Partner's or its subcontractors' performance of the work covered

under this Agreement.

It is agreed that ET3 Partner's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided.

ET3 Partner and any subcontractors are responsible for all damage to their own equipment and/or property.

Article VIII. Payment to ET3 Partners or their Billing Parties

8.1 Intentionally omitted

8.2 Payment to Alternative Destination Partners or their Billing Parties for Covered Services furnished after Transport to an Alternative Destination

CMS shall pay for Covered Services furnished to an ET3 Model Beneficiary by the ET3 Partner or their Downstream Practitioner following Transport to an Alternative Destination at the applicable Medicare FFS rates, pursuant to Medicare FFS rules and billing guidelines, including the applicable rules regarding debt collection.

Article IX. Payment to CMS

9.1 Payment in Error

- (a) If CMS determines that a payment made by CMS pursuant to Article 7 or Article 8 was made in error, CMS shall send the ET3 Partner or Billing Party a demand letter for the amount of such payment, and may take a remedial action as described in Article 19. The ET3 Partner, or Billing Party, as applicable, shall pay any such amount within 30 Days of the date of the demand letter.

If CMS does not receive payment of the full amount owed by the date specified in the demand letter, CMS may assess interest at the rate applicable to other Medicare debts pursuant to 42 C.F.R. §405.378 on any outstanding unpaid amounts. Interest will be calculated in 30-day periods and assessed for each 30-day period that payment is not made in full.

- (b) If the ET3 Partner or Billing Party fails to pay CMS the full amount owed by the date specified in the demand letter, CMS will recoup monies owed from present and future Medicare payments otherwise owed to the ET3 Partner or Billing Party, as applicable. If CMS is unable to recoup the full amount owed via Medicare payments, CMS will invoke all legal means to collect the debt, including referral of the remaining debt to the United States Department of Treasury, pursuant to 31 U.S.C. 3711(g).

Article X. Medicare Payment Waivers

10.1 General

CMS finds it necessary solely for purposes of testing the Model to waive the requirements of Title XVIII of the Act set forth in this Agreement pursuant to Section 1115A(d)(1) of the Act. CMS reserves the right to reconsider these waivers and, where the public interest requires, to amend the Participation Agreement with SAFD without the consent of SAFD to modify or terminate these waivers at any time. CMS may also amend the Participation Agreement with SAFD without the consent of SAFD if CMS determines, in CMS's sole discretion, that it is necessary to waive additional Medicare payment requirements solely for purposes of testing the Model.

10.2 **[Intentionally Deleted]**

10.3 **[Intentionally Deleted]**

10.4 **[Intentionally Deleted]**

Article XI. Beneficiary Protections

11.1 **Beneficiary Notifications**

- (a) Parties must develop, maintain, and implement written processes to obtain and document ET3 Model Beneficiary consent and/or refusal of an offer by the ET3 Partner or Downstream Practitioner to furnish Covered Services related to an ET3 Model Intervention during an Encounter, consistent with all applicable federal, state, and local laws and requirements. Documentation of such processes, both current and historical, must be maintained in accordance with Article 18.2.
- (b) Information and education provided to beneficiaries for purposes of obtaining their consent or refusal for Covered Services in compliance with this Article 11.1 is not considered promotion, marketing, or advertising for the purposes of Article 11.4.
- (c) Parties must ensure that ET3 Model Beneficiaries are entitled to the same notifications as all other Medicare beneficiaries, including Advance Beneficiary Notices, if applicable. The ET3 Partner may reference the Medicare Claims Processing Manual, Chapter 30, Sections 40.3, 40.4, 50.15.2 for guidance on applicable policies on Emergencies or Urgent Situations.
- (d) Parties must ensure that any notice furnished to an ET3 Model Beneficiary for purposes of complying with this Article 11.1 is provided in such a way that it addresses the needs of the ET3 Model Beneficiary and their families and/or caregivers with limited English proficiency or low or limited health literacy.

11.2 **Availability of Services**

Parties must not restrict, and must require Downstream Practitioners not to restrict an ET3 Model Beneficiary's access to Medically Necessary Covered Services. Parties must make, and must require Downstream Practitioners to make, Medically Necessary Covered Services available to ET3 Model Beneficiaries in accordance with all applicable laws and regulations, as well as the ET3 Partner's Clinical Protocols. ET3 Model Beneficiaries and their appointed representatives and assignees retain their right to appeal claims determinations in accordance with 42 C.F.R. Part 405, Subpart I.

11.3 **Beneficiary Freedom of Choice**

- (a) Consistent with Section 1802(a) of the Act, Parties, Downstream Practitioners, or other individuals or entities performing functions or services related to ET3 Model Interventions

shall not commit any act or omission, nor adopt any policy, that inhibits beneficiaries from exercising their freedom to receive to decline an ET3 Model Intervention offered to the beneficiary, including transport to a specific Alternative Destination, subject to state and local EMS protocols, Medicare program requirements, and any applicable licensing guidelines or rules.

- (b) Notwithstanding the foregoing, during an Encounter, SAFD may communicate to ET3 Model Beneficiaries the benefits of receiving ET3 Model Interventions from the Parties or Downstream Practitioners.

11.4 Prohibition of Promotion and Inducements

- (a) The ET3 Partner is prohibited, and shall prohibit its Downstream Practitioners and Billing Parties from providing gifts or other remuneration to ET3 Model Beneficiaries to induce them to receive ET3 Model Interventions from the Parties, an ET3 Partner or a Downstream Practitioner.
- (b) The ET3 Partner shall not, and shall require that its Downstream Practitioners and Billing Parties do not, promote, market, or advertise the availability of ET3 Model Interventions, including, but not limited to, encouraging Patients to utilize 9-1-1 to access ET3 Model Interventions.

11.5 Beneficiary Privacy and Patient Data Sharing

- (a) Health Insurance Portability and Accountability Act (HIPAA) Requirements
 - (i) The ET3 Partner acknowledges that it is a covered entity or a business associate, as those terms are defined in 45 C.F.R. §160.103.
 - (ii) The ET3 Partner shall have all appropriate administrative, technical, and physical safeguards in place before the start of the Model Performance Period to protect the privacy and security of PHI in accordance with 45 C.F.R. §164.530(c).
 - (iii) The ET3 Partner shall maintain the privacy and security of all Model-related information that identifies individual beneficiaries in accordance with the HIPAA Privacy and Security Rules and all relevant HIPAA Privacy and Security guidance applicable to the use and disclosure of PHI by covered entities and business associates, including 42 C.F.R. Part 2, as well as applicable state laws and regulations, for as long as the Participant retains the data, which may extend beyond the Model Performance Period.

Article XII. Participation in Evaluation; Shared Learning Activities; and Site Visits

12.1 Evaluation Requirements

- (a) General
 - (i) CMS will contract with an independent evaluator to evaluate the Model in accordance with Section 1115A(b)(4) of the Act.
 - (ii) Consistent with the requirements of 42 C.F.R. § 403.1110, the ET3 Partner shall participate and cooperate in the evaluation activities described in Article 12.1(a)(iii) during the Model Performance Period and for six months thereafter to enable CMS

and/or its designees to track and obtain any and all relevant data as may be needed for the Model evaluations, and shall require its Downstream Practitioners to participate and cooperate in the same.

(iii) Evaluation activities may include, but are not limited to:

- 1) Supplying data to measure quality of care;
- 2) Participating in surveys, interviews, and site visits; and
- 3) Participating in other activities deemed necessary by CMS to conduct a comprehensive formative and summative Model evaluation.

(iv) The ET3 Partner shall ensure that it has written arrangements and/or legal relationships with any individuals or entities performing functions and services related to the Model that are necessary to ensure the ET3 Partner can participate and cooperate in the evaluation activities described in Article 12.1(a)(iii).

(b) Primary Data

In its evaluation activities, CMS or its designee(s) may collect qualitative and quantitative data from data sources that may include, but are not limited to:

- (i) site visits,
- (ii) surveys,
- (iii) interviews with Patients and their caregivers,
- (iv) focus groups of Patients and their caregivers,
- (v) interviews with the ET3 Partner and Downstream Practitioners, Billing Parties, and/or their staff,
- (vi) focus groups with the ET3 Partner and Downstream Practitioners, Billing Parties, and/or their staff,
- (vii) direct observation of ET3 Model Beneficiary interactions with the ET3 Partner and Downstream Practitioner staff and other activities related to SAFD's participation in the Model, and
- (viii) PCR Data.

(c) Secondary Data

In its evaluation activities, CMS or its designee(s) may use data or information submitted by or made available by SAFD as well as claims submitted to CMS for items and services furnished to beneficiaries. These data may include, but are not limited to:

- (i) claims data,

- (ii) survey data,
- (iii) clinical data such as lab values,
- (iv) medical records, and
- (v) Clinical Protocols, Implementation Plan, or other Model implementation documents.

12.2 Shared Learning Activities

- (a) SAFD shall inform the ET3 Partner and its Downstream Practitioners of the opportunity to actively participate in the Learning System designed by CMS to strengthen results and share learning that emerges from participation in the Model. CMS will aim to design Learning System events relevant to ET3 Partners, Downstream Practitioners, and non-Medicare payers. Specifically, the ET3 Partner and its Downstream Practitioners may have the opportunity to:
 - (i) Participate in Learning System designed by CMS to be relevant to ET3 Partner and its Downstream Practitioners throughout the term of this Agreement, including during the period after the Effective Date but prior to the Start Date.
 - (ii) Respond to surveys, interviews, or other assessment mechanisms from CMS or its designees in order to assist CMS in identifying ET3 Partner learning needs;
 - (iii) Participate in the identification and dissemination of promising practices, challenges, and other opportunities useful for learning, peer-to-peer sharing, and overall improvement across Model Participants (e.g., presenting on webinars, spotlights, etc.);
 - (iv) Participate in relevant ET3 Model Learning System activities during the Model Performance Period;
 - (v) Develop, track, and report to CMS on quality improvement efforts, activities, and program measures, at regular intervals; and

12.3 Site Visits

- (a) The ET3 Partner shall cooperate in periodic site visits by CMS and/or its designees in order to facilitate evaluation, Learning System activities, monitoring, or the fulfilment of the terms of this Agreement, and shall require Downstream Practitioners and Billing Parties to participate and cooperate in the same. Site visits may involve virtual or in-person interviews with executive leadership, staff, and individuals or entities performing functions related to the Model. The duration of a site visit will depend on the size and complexity of the ET3 Partner, Downstream Practitioner, or Billing Party.
- (b) CMS or its designees shall provide SAFD with no less than 3 Days advance notice of site visits. To the extent practicable, CMS will attempt to accommodate SAFD's request for particular dates in scheduling site visits. However, the SAFD may not request a date that is more than 60 Days after the date of the initial site visit notice from CMS.
- (c) Notwithstanding the foregoing, and to the extent feasible, CMS may perform unannounced site visits at the office of any ET3 Partner, Downstream Practitioner, or Billing Party at any time to investigate concerns about the health or safety of beneficiaries or other program

integrity issues.

- (d) The ET3 Partner shall ensure that personnel with the appropriate responsibilities and knowledge associated with the purpose of the site visit are available during site visits.
- (e) Nothing in this Agreement shall be construed to limit or otherwise prevent CMS from performing site visits permitted by applicable law or regulations.

12.4 Rights in Data and Intellectual Property

- (a) CMS may use any data obtained pursuant to the Model to evaluate and monitor the Model and to disseminate quantitative and qualitative results, including factors associated with successful approaches to ET3 Model implementation and multi-payer participation, to Model Participants and the public. Data to be disseminated may include measures based upon claims, medical records, and other data sources.
- (b) SAFD may be permitted to comment on evaluation reports for factual accuracy but may not edit conclusions or control the dissemination of reports.
- (f) Notwithstanding any other provision in this Agreement, all proprietary trade secret information and technology of SAFD, the ET3 Partner, a Downstream Practitioner, or a Billing Party is and shall remain the sole property of SAFD, the ET3 Partner, Downstream Practitioner, or Billing Party and, except as required by Federal law, shall not be released by CMS or its designee(s) without the express written consent of the Participant. The regulation at 48 C.F.R. § 52.227-14, "Rights in Data-General" is hereby incorporated by reference into this Agreement. CMS does not acquire by license or otherwise, whether express or implied, any intellectual property right or other rights to the proprietary information or technology of SAFD, the ET3 Partner, Downstream Practitioners, or Billing Parties.
- (c) The ET3 Partner shall submit to CMS a form identifying any specific examples of what the ET3 Partner considers proprietary and confidential information currently contained in its program that should not be publicly disclosed. The template for this form is attached as Appendix A of this Agreement. In a form and manner established by CMS, the ET3 Partner may resubmit the form to CMS as may be necessary to identify additional examples of what the ET3 Partner considers proprietary and confidential information during the Agreement Term.
- (d) Confidential or Proprietary Information. Any information deemed to be confidential by ET3 Partner should be clearly noted; however, City cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by ET3 Partner may not be considered confidential under Texas law, or pursuant to a Court order.

Article XIII. Participant Release of Information

13.1 CMS Prior Approval

The ET3 Partner shall, and shall require its Downstream Practitioners and Billing

Parties to, obtain prior approval from CMS during the Model Performance Period and for six

months thereafter for the publication or release of any press release, beneficiary education materials, external report or statistical/analytical material that materially and substantially references the participation of SAFD, the ET3 Partner, a Downstream Practitioner, or a Billing Party in the Model or the financial arrangement between SAFD and CMS. External reports and statistical/analytical material may include, but are not limited to, papers, articles, professional publications, speeches, and testimony.

13.2 **Required Disclaimer**

All external reports and statistical/analytical material that are subject to the requirements of Article 13.1 must include the following statement on the first page: “The statements contained in this document are solely those of the authors and do not necessarily reflect the views or policies of CMS. The authors assume responsibility for the accuracy and completeness of the information contained in this document.”

Article XIV. Compliance and Oversight

14.1 **ET3 Partner Compliance Plan**

- (a) Throughout the Model Performance Period, the ET3 Partner must implement and maintain a plan for compliance with the terms of the Agreement and with all applicable laws and regulations (“**Compliance Plan**”) and must update the Compliance Plan periodically to reflect any amendments to this Agreement, any changes due to local, state or federal emergency declarations and any changes in applicable laws and regulations.
- (b) The Compliance Plan must include:
 - (i) The basic elements of a compliance program for Alternative Destination Partner or a Qualified Health Care Partner, including but not limited to:
 - 1) Development and distribution of written standards of conduct, as well as written policies and procedures that reflect the ET3 Partner’s commitment to compliance and address specific areas of potential fraud or abuse;
 - 2) Designation of a compliance officer who is not legal counsel and appropriate bodies (e.g., a compliance committee) that report directly to the organization’s upper management and are charged with responsibility for operating and monitoring the ET3 Partner’s compliance program;
 - 3) Regular compliance training and education for the ET3 Partner, including Model-related compliance training and education for Downstream Practitioners, Billing Parties, and other individuals or entities performing functions or services related to ET3 Model Interventions;
 - 4) Mechanisms for identifying and appropriately addressing compliance problems related to the ET3 Partner’s operations and performance, including activities related to the Model that are performed by Downstream Practitioners, Billing Parties, and other individuals or entities performing functions or services related to ET3 Model Interventions;
 - 5) A method for employees or contractors of the ET3 Partner, Downstream Practitioners, Billing Parties, and other individuals or entities performing functions or services related to ET3 Model Interventions to anonymously report to the

compliance official suspected problems related to SAFD, including the ET3 Partner's, Downstream Practitioner's, Billing Parties', or other individual's or entity's noncompliance with obligations set forth in an arrangement entered into pursuant to the terms of this Agreement; and

- 6) A requirement for the ET3 Partner to report probable violations of law to an appropriate law enforcement agency.
 - (ii) A plan for avoiding inappropriate utilization of ET3 Model Interventions, including overutilization of such interventions and under-triaging of ET3 Model Beneficiaries who are transported to an Alternative Destination and, if applicable, receive a Treatment in Place intervention.
 - (iii) A plan for successfully implementing the ET3 Model Interventions within the context of applicable federal, state, and County or Equivalent Entity EMS laws, regulations, and policies, including the Emergency Medical Treatment & Labor Act (EMTALA); applicable laws and scope of practice rules governing the provision of emergency medical services by ambulance suppliers and providers, ET3 Partners, and Downstream Practitioners; and policies of SAFD, ET3 Partners, and Downstream Practitioners.
 - (iv) Identification of a governing body or other organizational mechanisms that will make and execute decisions related to the Model; develop, implement, and monitor Clinical Protocols, including quality and safety practices; and develop and oversee compliance with federal fraud and abuse requirements.
- (c) In a form and manner determined by SAFD, the ET3 Partner must notify SAFD of any material changes to the Compliance Plan within 20 days of the change including, but not limited to, any changes to the ET3 Partner's ability to implement the Model in compliance with state, local, or federal laws, regulations, protocols, or other requirements including EMTALA and any failure to gain or maintain approval for Clinical Protocols or to meet requirements to operate as a Alternative Destination Partner or a Qualified Health Care Partner within any state located (in whole or in part) in the Model Region that are necessary for implementation of the Model.

14.2 **Compliance with Monitoring and Oversight Activities**

(a) General

Consistent with the requirements of 42 C.F.R. § 403.1110, the ET3 Partner shall comply fully with, and shall require Downstream Practitioners to comply fully with, all CMS monitoring and oversight requests and activities, including:

- 1) Providing data related to the ET3 Partner, Downstream Practitioners, Billing Parties, and Patients in accordance with applicable law;
- 2) Promptly submitting a list of all the Downstream Practitioners and Billing Parties of the ET3 Partner to SAFD and its designees, upon request;
- 3) Being available for site visits by CMS and its designees at their respective facilities in accordance with the terms of the Agreement;

- 4) Providing all information and documentation related to desk and in-person audits as required and requested by SAFD, CMS, their staff and designees;
- 5) Participating in surveys and interviews as requested by SAFD, CMS and their designees; and
- 6) Tracking ongoing monitoring information, including operational metrics and measures related to performance improvement efforts and providing such information to SAFD, CMS and their designees, upon request.

(b) Agreement to Comply

- (i) The ET3 Partner shall comply with, and shall require all Downstream Practitioners, and Billing Parties to comply with, all applicable statutes, rules, and regulations, including, without limitation: (a) federal criminal laws; (b) the False Claims Act (31 U.S.C. 3729 et seq.); (c) the anti-kickback statutes (42 U.S.C. 1320a-7b(b)); and (d) the civil monetary penalties law (42 U.S.C. 1395nn).
- (ii) This Agreement does not waive any obligation of the ET3 Partner, Downstream Practitioners, or Billing Parties to comply with the terms of any other CMS contract, agreement, Model, or demonstration.

(c) Office of Inspector General of the Department of Health and Human Services (OIG) Authority

None of the provisions of this Agreement limit or restrict the OIG's authority to audit, evaluate, investigate, or inspect the ET3 Partner, Downstream Practitioners, or Billing Parties.

(d) Reservation of Rights

- (i) Nothing contained in this Agreement or in the application process for the Model is intended or shall be construed as a waiver by the United States Department of Justice, the Internal Revenue Service, the Federal Trade Commission, HHS Office of Inspector General, or CMS of any right to institute any proceeding or action against defendants for violations of any statutes, rules or regulations administered by a federal agency, or to prevent or limit the rights of the federal government to obtain relief under any other federal statutes or regulations, or on account of any violation of this Agreement or any other provision of law. This Agreement shall not be construed to bind any federal agency.
- (ii) The submission of any information, Clinical Protocols, plans, strategies or documents during the Model application process or otherwise does not imply that SAFD or CMS has reviewed or approved the information, Clinical Protocols, plans, strategies, or documents.
- (iii) Neither SAFD nor CMS provides an opinion on the legality of any information, Clinical Protocols, plans, strategies, or documents that the Participant has proposed, implemented, or documented. The receipt by SAFD or CMS of any such items in the course of the application process or otherwise shall not be construed as a waiver or modification of any applicable laws, rules or regulations, and will not preclude CMS, HHS or its Office of Inspector General, a law enforcement agency, or any other federal, state, or local agency from enforcing any and all applicable laws, rules, and

regulations.

- (iv) The failure by SAFD or CMS to require performance of any provision of this Agreement does not affect SAFD or CMS's right to require performance at any time thereafter, nor does a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

(e) Other Authority

None of the provisions of this Agreement limit or restrict any other government authority that is permitted by law to audit, evaluate, investigate, or inspect the ET3 Partner, Downstream Practitioners, or Billing Parties.

(f) Monitoring for Compliance

- (i) SAFD or CMS shall screen and continuously monitor the ET3 Partner, Downstream Practitioners, and Billing Parties throughout the Model Performance Period to prevent, identify, and respond to potential fraud, waste, and abuse related to the Model. At CMS's discretion, the ET3 Partner, Downstream Practitioners, and Billing Parties will be subject to periodic Program Integrity Screenings.
- (ii) SAFD or CMS shall conduct monitoring activities to evaluate compliance by ET3 Partner with the terms of this Agreement. Such monitoring activities may include, without limitation:
 - 1) collection and analysis of the ET3 Partner's data submitted pursuant to this Agreement, including data submitted as required under Article 16;
 - 2) interviews with any individual or entity involved in ET3 Model Interventions such as members of the ET3 Partner's leadership and management or the leadership and management of a Downstream Practitioner, or a Billing Party;
 - 3) monitoring for inappropriate provision of care, including, but not limited to, unsafe Patient care practices and overutilization of services associated with the Model;
 - 4) obtaining information regarding any financial arrangements between the ET3 Partner and its Downstream Practitioners, and Billing Parties;
 - 5) audits of charts, medical records, and other data from the ET3 Partner, Downstream Practitioners, and Billing Parties;
 - 6) site visits (including on-site visits and desk audits) to the ET3 Partner, Downstream Practitioners, and Billing Parties;
 - 7) requests sent to the ET3 Partner, Downstream Practitioners, and Billing Parties including surveys and questionnaires; and
 - 8) analysis of supporting documentation submitted by the ET3 Partner pursuant to this Agreement, including initial and updated information.

- (iii) In conducting monitoring and oversight activities, SAFD, CMS or their designees may use any relevant data or information including, without limitation, service utilization and referral patterns by the ET3 Partner, Downstream Practitioners, and Billing Parties, as well as Medicare claims submitted for items or services furnished to ET3 Model Beneficiaries.
 - (iv) SAFD or CMS will assess metrics that measure the ET3 Partner's implementation activities (implementation efficacy, Patient safety, billing behaviors, and overall impact on Model aims) throughout the entirety of the Model Performance Period. These performance metrics will be compared against the ET3 Partner's own data, including, but not limited to, PCR Data and CMS claims data from before and after the Start Date that is collected by CMS in accordance with Article 16, and compared to multiple groupings of other ET3 Partners, to identify outlier behavior, unintended consequences, and other instances that suggest the ET3 Partner is struggling to implement Model requirements or may be engaging in potentially fraudulent activity.
- (g) Monitoring for Model Impact

Using claims and other data reported by the ET3 Partner, SAFD, CMS and their designees may monitor the Model's impact on quality of care and the broader EMS system in the Model Region to determine whether the Model transforms care delivery appropriately, without resulting in negative unintended consequences. Such monitoring efforts may include, but are not limited to, measurements of:

- (i) Proportion of dispatches that result in transport;
- (ii) Adherence to Clinical Protocols;
- (iii) Patterns of frequent utilization of services by beneficiaries, SAFD, ET3 Partner, and Downstream Practitioners, including multiple Encounters for the same ET3 Model Beneficiary in the same Day and overutilization of ET3 Model Interventions including services associated with Treatment in Place; and Diagnostic codes for services furnished by ET3 Partner and Downstream Practitioners as part of a Treatment in Place intervention or at Alternative Destinations.

Article XV. Data Sharing and Reports

15.1 General

- (a) CMS may elect to provide, and SAFD retains the right to request, aggregate data from CMS regarding SAFD's progress in the Model, which may be used to facilitate SAFD's learning, and certain other data as described in Article 16.2 and Article 16.3 of this Agreement. CMS retains the right to accept, reject, or defer SAFD's requests for data due to availability of data dashboards, analysis time and frequencies, level of effort to retrieve the data, quantity of data, or other reasons. If such a request is accepted, SAFD may view the aggregate data in a form and manner and at a time determined by CMS.
- (b) Data provided to SAFD will be aggregate data that have been fully de-identified in accordance with the HIPAA Privacy Rule, 45 C.F.R. § 164.514(b)(2).

15.2 Provision of Certain De-Identified Data for Quality Improvement and Safety

- (a) Upon request by SAFD or as indicated by monitoring data, CMS and its designees may provide de-identified, aggregate data to SAFD for the purpose of supporting SAFD's efforts to comply with Article 5.5(a), which requires the SAFD to continuously implement and track quality improvement and safety practices.
- (b) The Parties mutually agree that CMS retains all ownership rights to all data furnished to SAFD or the ET3 Partner by CMS. Neither SAFD nor the ET3 Partner obtain any right, title, or interest in any of the data furnished by CMS.
- (c) The ET3 Partner represents and warrants that the use of data provided by SAFD or CMS under this Article 15.2 will be used solely to develop and implement improvements in the quality and efficacy of care provided under the Model to Patients, including the quality of the ET3 Partner's own Clinical Protocols and Triage Decisions or to implement the Multi-Payer Strategy, as applicable.

Article XVI. Submission of Required Data

16.1 General

For the duration of the Model Performance Period, SAFD must periodically submit all required data specified in Article 16.3 ("**Required Data**") to CMS for the purposes of Model monitoring and evaluation. ET3 Partner must submit the following information to SAFD:

16.2 Submission Timing and Contents

- (a) Initial Data Submission
 - (i) No later than 60 Days prior to the date of the initial submission of Required Data to CMS ("**Initial Data Submission**"), CMS will notify SAFD of the deadline and form and manner for the Initial Data Submission and each of the subsequent data submissions. The date of the Initial Data Submission will be no earlier than February of 2021.
 - (ii) By the deadline for the Initial Data Submission, the ET3 Partner must submit:
 - 1) all Required Data for all Patients seen by the ET3 Partner in an interval of time which begins on the Start Date and ends on a date prior to the Initial Data Submission that will be specified by CMS, and
 - 2) required Data for dates of service for a period of time specified by CMS, which will be up to two calendar years prior to the Start Date.
- (b) Subsequent Data Submissions
 - (iii) After the Initial Data Submission, by a deadline and in a form and manner specified by CMS, the ET3 Partner must submit all Required Data for Patients no less frequently than once per calendar month.

- (iv) The final data submission will include all dates of service up to the last Day of the Model Performance Period and will be submitted no later than 90 Days after the end of the Model Performance Period.

16.3 Required Data

- (a) The Required Data for Performance Year 1 include those PCR Data specified by CMS no later than 60 Days prior to the Initial Submission Date.
- (b) On an annual basis, CMS may provide an updated list of PCR Data that SAFD must submit to CMS.
- (c) If CMS updates the Required Data list in accordance with Article 16.3(b) to include additional PCR Data, the ET3 Partner may be required to submit those new data for dates of service up to one calendar year prior to the Start Date.
- (d) Failure to submit all Required Data in the form and manner and by the deadline specified by CMS may result in SAFD or CMS taking remedial action under Article 19.

16.4 CMS Quality Reporting Initiatives

The ET3 Partner, Downstream Practitioners, and Billing Parties must continue to participate in all applicable CMS quality reporting initiatives for the duration of the Model.

Article XVII. Certification of Data and Information

17.1 General

With respect to data and information that are generated or submitted by the ET3 Partner, Downstream Practitioners, or Billing Parties related to implementation of the Model, the ET3 Partner shall ensure that an individual with the authority to legally bind the individual or entity submitting such data or information certifies the accuracy, completeness, and truthfulness of the data and information to the best of their knowledge, information, and belief.

17.2 Annual Certification

- (a) At the end of each Performance Year, an individual with the legal authority to bind the ET3 Partner must certify to the best of their knowledge, information, and belief:
 - (i) that the ET3 Partner, Downstream Practitioners, Billing Parties, and other individuals and entities performing functions or services related to ET3 Model Interventions are in compliance with the applicable Model requirements, and
 - (ii) that all data and information related to ET3 Model Interventions that are generated or submitted by the ET3 Partner, and, if applicable, Downstream Practitioners and Billing Parties are accurate, complete, and truthful.

Article XVIII. Audits and Record Retention

18.1 Right to Audit and Correction

- (a) The ET3 Partner agrees, and must require all Downstream Practitioners, Billing Parties, and

other individuals and entities performing functions or services related to ET3 Model Interventions to agree that the federal government, including CMS, HHS, and the Comptroller General or their designees, has the right to audit, inspect, investigate, and evaluate any books, contracts, records, documents, and other evidence of the ET3 Partner, Downstream Practitioners, Billing Parties, and other individuals and entities performing functions or services related to ET3 Model Interventions that pertain to the following:

- (i) The ET3 Partner's compliance with this Agreement, including provisions that require the ET3 Partner to impose duties or requirements on Downstream Practitioners and Billing Parties;
- (ii) Whether Downstream Practitioners and Billing Parties complied with the duties and requirements imposed on them by the ET3 Partner pursuant to the terms of this Agreement;
- (iii) Patient complaints and appeals;
- (iv) The quality of the services performed under this Agreement; and
- (v) ET3 Model Beneficiary medical records.

18.2 Maintenance of Records

- (a) The ET3 Partner agrees, and must require all Downstream Practitioners and Billing Parties to agree, to the following:
 - (i) To maintain and give the federal government, including CMS, HHS, and the Comptroller General or their designees, access to all books, contracts, records, documents, and other evidence (including data related to Medicare utilization and costs, quality performance measures, and other financial arrangements) sufficient to enable the audit, evaluation, inspection, or investigation of the SAFD's compliance with the its Participation Agreement and ET3 Partner's compliance with this Agreement, including provisions that require the ET3 Partner to impose duties or requirements on Downstream Practitioners and Billing Parties; whether Downstream Practitioners or Billing Parties complied with the duties and requirements imposed on them by the ET3 Partner pursuant to the terms of this Agreement; the quality of services furnished to ET3 Model Beneficiaries under the Model; and the ET3 Partner's obligation and ability to repay any monies owed to CMS.
 - (ii) To maintain such books, contracts, records, documents, and other evidence for a period of 10 years from the expiration or termination of this Agreement or from the date of completion of any audit, evaluation, inspection, or investigation, whichever is later, unless:
 - 1) SAFD or CMS determines there is a special need to retain a particular record or group of records for a longer period and notifies the ET3 Partner at least 30 Days before the normal disposition date; or
 - 2) There has been a termination, dispute, or allegation of fraud or similar fault against SAFD, the ET3 Partner, Downstream Practitioners, or Billing Party related to the ET3 Model, in which case the records shall be maintained for an additional six years from the date of any resulting final resolution of the

termination, dispute, or allegation of fraud or similar fault.

Article XIX. Remedial Action and Termination

19.1 Remedial Action

If CMS determines through monitoring or otherwise that the ET3 Partner, a Downstream Practitioner, or Billing Party is not in compliance with the applicable terms of this Agreement, CMS or SAFD may take one or more of the following actions:

- (a) Notify the ET3 Partner and, if appropriate, Downstream Practitioner, and/or Billing Party of the violation by warning letter, email, or otherwise;
- (b) Require the ET3 Partner to provide additional information to SAFD, CMS or its designees;
- (c) Conduct on-site visits and/or desk audits, interview Patients after receipt of an ET3 Model Intervention, or take other actions to gather information;
- (d) Place the ET3 Partner on a monitoring and/or auditing plan developed by SAFD and/or CMS;
- (e) Require SAFD to cease transportation of ET3 Model Beneficiaries to an Alternative Destination and/or to terminate the ET3 Partner's arrangement, immediately or within a timeframe specified by SAFD or CMS, with the ET3 Partner with respect to this Model;
- (f) Require SAFD to cease utilization of the ET3 Partner or Downstream Practitioner and/or to modify or terminate the ET3 Partner's arrangement, immediately or within a timeframe specified by SAFD or CMS, or require the ET3 Partner to cease utilization of a Downstream Practitioner and/or to modify or terminate the ET3 Partner's arrangement, immediately or within a timeframe specified by SAFD or CMS, with such Downstream Practitioner with respect to this Model;
- (g) Require the ET3 Partner to terminate its relationship with any other individual or entity performing functions or services related to the ET3 Model;
- (h) Terminate or temporarily suspend the ability of the ET3 Partner, Downstream Practitioners, or Billing Parties to receive payment under any or all waivers of existing law made pursuant to Section 1115A(d)(1) of the Act and established in Appendices B, or C of this Agreement;
- (i) Request a corrective action plan ("**CAP**") from the ET3 Partner that is acceptable to SAFD and/or CMS, with respect to which the following requirements:
 - (i) The ET3 Partner shall submit a CAP for SAFD and/or CMS approval by a deadline established by CMS and/or SAFD;
 - (ii) The CAP must address what actions the ET3 Partner will take, or will require any Billing Parties or any Downstream Practitioners to take, within a specified time period to ensure that all deficiencies will be corrected and that the ET3 Partner will be in compliance with the terms of this Agreement; and
 - (iii) The CAP must also indicate how the ET3 Partner will measure, track, and report implementation of the CAP, which must be deemed useful to SAFD and CMS to determine whether changes proposed in the ET3 Partner's CAP were

made.

- (j) Demand repayment of any amounts paid under the Agreement pursuant to Articles 7 and 8.

19.2 Termination of the Agreement by the ET3 Partner

The ET3 Partner may terminate this Agreement at any time for any reason upon 30 Days advance written notice to SAFD in a manner prescribed by SAFD. At SAFD's request, the ET3 Partner shall provide feedback regarding its decision to terminate the Agreement and its experience as it relates to the provision of ET3 Model Interventions and compliance with other Model requirements outlined in this Agreement.

19.3 Termination of the Agreement by SAFD

SAFD may immediately or with advance notice terminate this Agreement by promptly notifying the ET3 Partner, in writing, of the effective date of the termination and the reason for such termination. SAFD may terminate this Agreement for any of the following reasons:

- (a) SAFD offers an updated version of this Agreement to take effect at the start of a subsequent Performance Year or such other time specified by SAFD;
- (b) CMS determines in its sole discretion that CMS no longer has the funds to support the Model or that continuing the Model is no longer in the public interest;
- (c) CMS modifies or terminates the Model pursuant to Section 1115A(b)(3)(B) of the Act; or
- (d) SAFD or CMS determines that SAFD, the ET3 Partner, a Downstream Practitioner, or a Billing Party:
 - (i) Has failed to comply with any term of this Agreement, identified by SAFD or CMS through monitoring of the Model or otherwise, including restricting access to Medically Necessary care;
 - (ii) Has failed to demonstrate improved performance following any remedial action;
 - (iii) Has taken any action that threatens the health or safety of an ET3 Model Beneficiary or other Patient;
 - (iv) Has submitted false data or made false representations, warranties, or certifications in connection with any aspect of the Model under the terms of this Agreement;
 - (v) Is subject to sanctions or other actions of an accrediting organization or a federal, state or local government agency;

- (vi) Is subject to investigation or action by HHS (including HHS-OIG and CMS) or the Department of Justice due to an allegation of fraud or significant misconduct, including violation of antitrust laws, the federal anti-kickback statute, the federal civil monetary penalties law, the federal physician self-referral law or any other applicable Medicare laws, rules or regulations that are relevant to this Model, or being subject to the filing of a complaint, filing of a criminal charge, being subject to an indictment, or being named as a defendant in a False Claims Act qui tam matter in which the government has intervened;
- (vii) No longer provides Medicare-Covered Alternative Destination Partner or a Qualified Health Care Partner services to Medicare FFS beneficiaries within every County or Equivalent Entity in SAFD's Model Region; or
- (viii) Is unable to implement the Model due to state or local laws or scope of practice barriers.

19.4 **Notification of Downstream Practitioners and Billing Parties**

If this Agreement is terminated under Article 19.2 or Article 19.3, the ET3 Partner shall provide written notice of the termination to all Downstream Practitioners and Billing Parties. The ET3 Partner shall deliver such written notice of the termination to all Downstream Practitioners and Billing Parties. The ET3 Partner shall deliver such notice in a manner determined by SAFD and no later than 30 Days before the effective date of the termination unless a later date is specified by SAFD. The ET3 Partner shall include in such notices any content specified by SAFD.

Article XX. Limitations on Review and Dispute Resolution

20.1 **Limitations on Review**

There is no administrative or judicial review under Sections 1869 or 1878 of the Act or otherwise for the following:

- (a) The Section of models for testing or expansion under Section 1115A of the Act;
- (b) The selection of organizations, sites, or Model Participants to test the selected models, including the decision by CMS to terminate SAFD's Participation Agreement or to require the termination of any individual's or entity's status as a Participant, ET3 Partner, Downstream Practitioner, or Billing Party;
- (c) The elements, parameters, scope, and duration of such Models for testing or dissemination;
- (d) Determinations regarding budget neutrality under Section 1115A(b)(3) of the Act;
- (e) The termination or modification of the design and implementation of a model under Section 1115A(b)(3)(B) of the Act; and
- (f) Decisions about expansion of the duration and scope of a model under Subsection 1115A(c), including the determination that a Model is not expected to meet criteria described in paragraph (1) or (2) of such Subsection.

20.2 **Governing Law; Venue; Dispute Resolution**

- (a) The Parties agree to the following procedures for any dispute that is not subject to preclusion of administrative or judicial review as set forth in Article 20.1.
- (b) THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Texas. By execution and delivery of this Agreement, each party irrevocably submits to the personal and exclusive jurisdiction of the federal and state courts located in Bexar County, Texas for itself, and in respect of its property with respect to such action.
- (c) In the event there arises a dispute among the Parties as to the performance or interpretation of any of the provisions of this Agreement, or as to matters related to but not covered by this Agreement, the parties shall first attempt to find a mutually agreeable solution by consultation in good faith.
- (d) The ET3 Partner shall notify SAFD of any such dispute in writing within 30 Days of the date on which the ET3 Partner becomes aware, or should have become aware, of the determination giving rise to the dispute. This written notification must provide a detailed explanation of the basis for the dispute and supporting documentation.
- (e) The Parties shall proceed diligently with the performance of this Agreement during the course of any dispute arising under the Agreement.

Article XXI. Miscellaneous

21.1 **Notifications and Submission Reports**

Unless otherwise stated in writing after the Effective Date, all notifications and reports required under this Agreement shall be submitted to the Parties at the addresses set forth below:

CMS:

Emergency Triage, Treat, and Transport Model
Centers for Medicare & Medicaid Services
Center for Medicare and Medicaid Innovation
Emergency Triage, Treat, and Transport Model
7500 Security Boulevard
Mailstop: WB-06-05
Baltimore, MD 21244
Email: ET3Model@cms.hhs.gov

SAFD:

San Antonio Fire Department
City of San Antonio

315 S. Santa Rosa
Suite #2224
San Antonio, TX
Email: bryan.norris@sanantonio.gov

ET3 Partner:
Attn:

Email:

21.2 Notice of Bankruptcy

In the event the ET3 Partner enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the ET3 Partner agrees to furnish, by certified mail, written notification of the bankruptcy to SAFD. This notification shall be furnished within 5 Days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all federal government contracts, project agreements, contract officers, and project officers for all government contracts and project agreements against which final payment has not been made. This obligation remains in effect until the expiration or termination of this Agreement and final payment under this Agreement has been made.

21.3 Severability

In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein, unless the deletion of such provision or provisions would result in such a material change so as to cause completion of the transactions contemplated herein to be unreasonable.

21.4 Entire Agreement: Amendment

This Agreement, including all Appendices, constitutes the entire agreement between the Parties. The Parties may amend this Agreement or any Appendix hereto at any time by mutual written agreement; provided, however, that SAFD may unilaterally amend this Agreement or any Appendix hereto as specified in this Agreement including its Appendices as necessary to comply with applicable federal or State law, regulatory requirements, accreditation standards or licensing guidelines or rules. To the extent practicable, SAFD shall provide the ET3 Partner with 30 Days advance written notice of any such unilateral amendment, which notice shall specify the amendment's effective date.

21.5 Survival

Termination or expiration of this Agreement by any party shall not affect the rights and obligations of the Parties accrued prior to the effective date of the termination or expiration of this Agreement, except as provided in this Agreement. The data privacy and security requirements articulated in this Agreement survive for the duration that CMS data remains in the possession of the ET3 Partner. The rights and duties under the following Sections of this Agreement shall also survive termination of this Agreement and apply thereafter:

- (a) Article 11.5 [Beneficiary Privacy and Patient Data Sharing]
- (b) Article 12.1 [Evaluation Requirements];
- (c) Article 14 [Compliance and Oversight];
- (d) Article 15 [Data Sharing and Reports];
- (e) Article 18 [Audits and Record Retention];
- (f) Article 19.4 [Notification of ET3 Partners, Downstream Practitioners and Billing Parties];
and
- (g) Article 21.2 [Notice of Bankruptcy].

21.6 Precedence

If any provision of this Agreement conflicts with a provision of any document incorporated herein by reference, the provision of this Agreement shall prevail.

21.7 Prohibition on Assignment

Except with the prior written consent of SAFD, the ET3 Partner shall not transfer, including by merger (whether the ET3 Partner is the surviving or disappearing entity), consolidation, dissolution, or otherwise: (1) any discretion granted it under this Agreement; (2) any right that it has to satisfy a condition under this Agreement; (3) any remedy that it has under this Agreement; or (4) any obligation imposed on it under this Agreement. The ET3 Partner shall provide SAFD 90 Days advance written notice of any such transfer. This obligation remains in effect until the expiration or termination of this Agreement and final payment by SAFD under this Agreement has been made. SAFD may condition its consent to such transfer on full or partial payment of any monies owed to CMS under the terms of the Model. Any purported transfer in violation of this Section is voidable at the discretion of SAFD.

21.8 Change of Control

SAFD may terminate this Agreement or require immediate payment of any monies owed under this Agreement if the ET3 Partner undergoes a Change of Control. For purposes of this paragraph, a "Change of Control" shall mean: (1) the acquisition by any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Securities Exchange Act of 1934), directly or indirectly, of voting securities of the ET3 Partner representing more than 50% of the ET3 Partner's outstanding voting securities or rights to acquire such securities; (2) upon any sale, lease, exchange or other transfer (in one transaction or a series of transactions) of all or substantially all of the assets of the ET3 Partner; or (3) a plan of liquidation of the ET3 Partner or an agreement for the sale or liquidation of the ET3 Partner is approved and completed. The ET3 Partner shall provide SAFD 90 Days advance written notice of a Change of Control. This obligation remains in effect until the expiration or termination of this Agreement and final payment by the ET3 Partner under the Model has been made.

21.9 Certification

The individual signing this Agreement on behalf of the ET3 Partner certifies to the best of their knowledge, information, and belief that the information contained in this Agreement (inclusive of

Appendices), is accurate, complete, and truthful and that he or she is authorized by the ET3 Partner to execute this Agreement and to legally bind the ET3 Partner on whose behalf he or she is executing this Agreement to its terms and conditions.

21.10 Interpretation of the Agreement

The ET3 Partner has been represented (or has had the opportunity to be represented) by their attorneys throughout the transactions contemplated by this Agreement in connection with the execution of this Agreement and any agreements and instruments executed in connection herewith. As a consequence, the Parties do not intend that the presumptions of laws or rules relating to the interpretation of contracts against the drafter of any particular clause should be applied to this Agreement or any document or instrument executed in connection herewith, and therefore waive their effects.

21.11 Execution in Counterpart

This Agreement and any amendments thereto may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

21.12 Autopen or Electronic Signature

This Agreement and any amendments hereto may be signed by autopen or electronic signature (e.g., DocuSign or similar electronic signature technology) and may be transmitted by electronic means. Copies of this Agreement and any amendments hereto that are so executed and delivered have the same force and effect as if executed with handwritten signatures and physically delivered.

21.13 Non-Discrimination

As a party to this Agreement, ET3 Partner understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X. of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein..

21.14 Independent Contractor

ET3 Partner covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that ET3 Partner shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of “respondeat superior” shall not apply as between City and ET3 Partner, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and ET3 Partner. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the ET3 Partner under this Agreement and that the ET3 Partner has no authority to bind the City.

21.15 Conflict of Interest

ET3 Partner acknowledges that it is informed that the Charter of the City of San Antonio and City's Code of Ethics prohibit a City officer or employee, as those terms are defined in Sections 2-42 and 2-52 of the Code of Ethics, from having a direct or indirect financial interest in any contract with City. An officer or employee has a "prohibited financial interest" in a contract with City or in the sale to City of land materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- a. a City officer or employee; his or her spouse, sibling, parent, child or other family member within the first degree of consanguinity or affinity;
- b. an entity in which the officer or employee, or his or her parent, child or spouse directly or indirectly owns (i) 10% or more of the voting stock or shares of the entity, or 10% or more of the fair market value of the entity; or
- c. an entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner or (iii) a parent or subsidiary entity.

Pursuant to the subsection above, ET3 Partner warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees, and agents are neither officers nor employees of City. ET3 Partner further warrants and certifies that it has tendered to City a discretionary contracts disclosure statement in compliance with City's Ethics Code.

21.16 No Third Party Beneficiaries

Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the Parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this contract or any term, covenant or condition hereof, as third party beneficiaries or otherwise, and all of the terms, covenants and conditions hereof shall be for the sole and exclusive benefit of the Parties hereto and their successors and assigns.

21.17 Parties Bound

This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns, except as otherwise expressly provided for herein.

21.18 Gender

Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

21.19 Captions

The captions contained in this Agreement are for convenience of reference only and in no way limit or enlarge the terms and/or conditions of this Agreement.

21.20 Prohibition on Contracts with Companies Boycotting Israel

Texas Government Code §2271.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and

(2) will not boycott Israel during the term of the contract.

This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

By executing contract documents with the City of San Antonio, Company hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on ET3 Partner's verification. If found to be false, City may terminate the contract for material breach.

21.21 Prohibition on Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization

Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. ET3 Partner hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City. City hereby relies on ET3 Partner's certification. If found to be false, or if ET3 Partner is identified on such list during the course of its contract with City, City may terminate this Agreement for material breach.

[SIGNATURES ON FOLLOWING PAGE]

Each Party is signing this Agreement on the date stated opposite that Party's signature. If a Party signs but fails to date a signature, the date that the other Party receives the signing Party's signature will be deemed to be the date that the signing Party signed this Agreement.

CITY OF SAN ANTONIO

ET3 PARTNER

Name: Charles N. Hood
Title: Fire Chief
Date: _____

Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:

Assistant City Attorney

APPENDIX A: PROPRIETARY INFORMATION DISCLOSURE TEMPLATE

The following are specific examples, without limitation, of what the ET3 Partner considers proprietary and confidential information currently contained in its program that should not be publicly disclosed:

- 1)
- 2)
- 3)

In accordance with Article 12.4 of this Agreement, this information shall remain the sole property of the ET3 Partner and, except as required by federal or state law, or pursuant to a court order, shall not be released by SAFD or CMS without the express written consent of the ET3 Partner.

APPENDIX B: [Intentionally Deleted]

APPENDIX C: [Intentionally Deleted]

APPENDIX D:ET3 PARTNER ACCESS PLAN

Hours of Operation

Day	Open	Close
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

Services Offered/Capabilities



APPENDIX E: SAN ANTONIO FIRE DEPARTMENT'S PARTICIPATION AGREEMENT