

## MOBILE STROKE UNIT SERVICE AGREEMENT

THIS MOBILE STROKE UNIT SERVICE AGREEMENT (“**Agreement**”) is effective as of February 22, 2018, by and between RUSH UNIVERSITY MEDICAL CENTER, an Illinois not-for-profit corporation (“**Rush**”), and the VILLAGE OF OAK PARK, an Illinois home rule municipal corporation (“**Oak Park**”).

### RECITALS

**WHEREAS**, Rush is an academic medical center serving the Chicago metropolitan area;

**WHEREAS**, Rush is the recipient of a private grant to create and deploy an ambulance outfitted with a Rush-owned physician clinic (“**Mobile Stroke Unit**”), including physician consultation via telemedicine, a CT scanner, clinical laboratory and certain other items necessary to provide mobile stroke diagnostic and treatment services (“**Services**”).

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Rush and Oak Park agree as follows:

#### **1. Recitals Incorporated.**

**1.1. Recitals Incorporated.** The above recitals are incorporated herein as though fully set forth.

#### **2. Scope of Service.**

**2.1. Operating Hours.** The Mobile Stroke Unit shall be available to respond to Oak Park generated emergency calls that indicate a potential stroke, as determined by Oak Park (“**Stroke Emergency Call**”), during the hours of 7:00 A.M. to 7:00 P.M., seven (7) days per week, 365 days per year (“**Operating Hours**”), in accordance with the rules and requirements of the Illinois Department of Public Health and all other applicable laws, rules, and regulations as well as in accord with applicable The Joint Commission national standards, and generally accepted industry standards. Oak Park acknowledges that Rush may not be available to respond to a Stroke Emergency Call if Rush is responding to a prior call from Oak Park or another community Rush services with the Mobile Stroke Unit.

**2.2. Location; Response Time.** During the Operating Hours, the Mobile Stroke Unit shall be continuously physically located whereby the Rush shall have the ability to respond to a Stroke Emergency Call; provided, however, that Rush may not respond in the event it is responding to a prior call from Oak Park or another community Rush services with the Mobile Stroke Unit.

**2.3. Local EMS Obligations.** When the Mobile Stroke Unit is available to respond, Oak Park shall dispatch the Mobile Stroke Unit in its discretion. Oak Park shall be in control of the scene until it determines that the patient’s presentation and symptoms warrant the need for Mobile Stroke Unit Services and the Mobile Stroke Unit arrives on the scene. If the Mobile

Stroke Unit is dispatched by Oak Park and the Mobile Stroke Unit arrives on the scene, Rush shall assume care for the patient and provide the Services and transport to the nearest, most-appropriate Primary Stroke Center or Comprehensive Stroke Center for further management. If Oak Park determines that Mobile Stroke Unit Services are not necessary, Oak Park shall provide care to the patient through its normal processes. Furthermore, Oak Park may determine that Mobile Stroke Unit Services are not necessary prior to the Mobile Stroke Unit arriving on scene if it has been dispatched by Oak Park, in which case Oak Park may cancel the Mobile Stroke Unit dispatch. Oak Park shall be under no obligation to dispatch the Mobile Stroke Unit at any time pursuant to this Agreement.

**2.4. Release and Discharge; Covenant not to Sue.** Rush forever releases and discharges Oak Park, its officials, officers, agents, employees and volunteers from all claims, demands, damages, actions or causes of action it may have which arise solely out of Oak Park's exercise of its discretion to determine whether the Mobile Stroke Unit shall be dispatched for a patient as set forth in Section 2.3 above or whether a patient shall be directly transported Oak Park to any hospital of Oak Park's choice. Rush covenants not to sue or bring any action in law or equity or otherwise participate in any third-party action against Oak Park, its officials, officers, agents, employees or volunteers for any claims, loss, damage, expense, debt or liability of any nature whatsoever with respect to allegations arising solely from Oak Park's exercise of its discretion to determine whether the Mobile Stroke Unit shall be dispatched for a patient as set forth in Section 2.3 above or whether a patient shall be directly transported Oak Park to any hospital of Oak Park's choice.

### **3. Term and Termination.**

**3.1. Term.** Unless earlier terminated, this Agreement shall be in full force and effect for a term of one (1) year beginning on the Effective Date ("**Term**").

**3.2. Termination for Cause.** Either party shall have the right to terminate this Agreement upon fifteen (15) days' prior written notice if the other party materially breaches any provision of this Agreement and fails to cure such breach within fifteen (15) days of the receipt of such notice.

**3.3. Termination for Convenience.** Rush or Oak Park shall have the right to terminate this Agreement without cause upon providing the other party with thirty (30) days' advance written notice pursuant to the notice requirements set forth herein.

**4. Billing.** If patient care is transferred to the Mobile Stroke Unit, Rush shall be responsible to bill and collect for all Mobile Stroke Unit Services, including any and all diagnostic or therapeutic services administered to patients upon the order of the physician providing telemedicine consultation in connection with the Rush-owned CT scanner. If patient care is not transferred to the Mobile Stroke Unit, Oak Park shall be responsible to bill and collect for all services provided by Local EMS or any other third party providing emergency services to Oak Park. The parties shall take all steps reasonably requested by the other party to assist in the billing and collection of funds due to the other party for services rendered through the Mobile Stroke Unit.

**5. Independent Contractor Relationship.** In connection with the performance of the Services, duties and obligations of Rush pursuant to this Agreement, it is mutually understood and agreed that Rush is at all times acting as an independent contractor. It is further understood and agreed that no employee, contractor, or agent of Rush shall be deemed to be an employee of Oak Park for any purpose, including, but not limited to, applicable state and/or federal withholding taxes, FICA (Social Security), unemployment taxes or workers compensation insurance premiums.

**6. Insurance.** Throughout the duration of the Agreement, Rush shall provide, and shall cause its contractors to secure and maintain, at Rush's or its contractor's own expense:

(a) Professional and General Liability insurance coverage policies with limits not less than One Million Dollars (\$1,000,000) per claim or occurrence and Three Million Dollars (\$3,000,000) in the annual aggregate (if the coverage is claims made, the party will ensure that tail coverage in the amounts specified herein is provided to cover the terms of this agreement as well as any potentially applicable statutes of limitation and/or repose).

(b) Worker's Compensation insurance at minimum levels required under state law to cover their respective personnel and Employers' Liability insurance with limits of at least \$1,000,000 for each accident for bodily injury by accident and \$1,000,000 by disease for each employee.

(c) Automobile Liability insurance with a minimum combined single limit of Two Million Dollars (\$2,000,000). The parties agree, however, that any Rush contractor that provides auto insurance for the Mobile Stroke Unit shall maintain Automobile Liability insurance with a minimum combined single limit of Five Million Dollars (\$5,000,000) per each accident and each occurrence.

(d) The parties agree that Rush may maintain the insurance required by this Section through a self-insurance program, but in the event Rush does not self-insure for any of the policies required under this Section, then any non-self-insured policies shall be written with insurance companies licensed or authorized to do business in the State of Illinois and having a rating of at least A according to the latest edition of the Best's Key Rating Guide. Rush agrees to furnish to Oak Park with satisfactory evidence that the insurance required under this paragraph is in force, upon request. Rush shall immediately advise Oak Park and shall require the applicable insurer to notify Oak Park of any termination of such insurance or any reduction in the amount of such insurance.

(e) Oak Park shall maintain insurance in its own discretion pursuant to its status as an Illinois home rule municipal corporation and in accordance with applicable law.

(g) Rush understands and agrees that any insurance protection required by this Agreement or otherwise provided by Rush shall in no way limit the responsibility to indemnify, keep and save harmless, and defend Oak Park, its officers, officials, employees, agents and volunteers as herein provided. Rush waives and agrees to require its insurers to waive its rights of subrogation against Oak Park, its officers, officials, employees, agents and volunteers.

**7. Indemnification.** Each party shall defend, indemnify and hold harmless the other party and its officers, officials, directors, employees, volunteers, contractors and agents, from and against any claims, suits, actions, demands, judgments, liabilities, damages, losses, or expenses (including without limitation, amounts paid in settlement of claims) arising from or related to this Agreement and incurred as a result of the gross negligence or willful misconduct of such party and/or its officers, officials, directors, employees, volunteers, contractors or agents. Each party further agrees to bear all costs and expenses, including, without limitation, reasonable attorney's fees, incurred in connection with the defense or settlement of any claim indemnified hereunder as such costs and expenses are incurred in advance of judgment. Nothing herein shall be deemed to diminish or otherwise restrict any indemnified party's right to indemnification under applicable law, or under any other agreement, instrument or document. In no event shall either party be liable for indirect, incidental, special, punitive or consequential damages of any kind (including without limitation downtime property damage, loss of profit or revenue, loss of data, damage to goodwill) however caused arising from this Agreement or the breach of this Agreement, whether in indemnity, tort, contract or otherwise.

**8. Confidentiality.**

**8.1. Medical Records.** Each party shall be responsible for monitoring and ensuring that its documentation and activities comply with applicable laws, regulations, and payor requirements. Such records and other documentation shall be and shall remain the sole and exclusive property of such party.

**8.2. Proprietary Information.** During and subsequent to the Term of this Agreement, Oak Park agrees that it will not, without express written consent of Rush, disclose or authorize or permit anyone under its direction to disclose to anyone any proprietary or other confidential information or materials relating to the business or financial affairs of Rush or any corporation or entity directly or indirectly affiliated with Rush (including but not limited to Rush Oak Park Hospital, Rush-Copley Medical Center, or Rush System for Health). Oak Park further agrees that, should this Agreement terminate for any reason, it will not, without express advance written authorization from Rush, take or retain or permit anyone under its direction to take or retain any such Rush property, or any other papers, patient lists or records, files, or other documents or copies thereof or other information of any kind pertaining to the business or financial affairs of Rush or any entity directly or indirectly affiliated with Rush (including but not limited to Rush Oak Park Hospital, Rush-Copley Medical Center, or Rush System for Health). Oak Park and Rush shall cooperate in the provision of any applicable documents requested under the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* ("FOIA"). Rush shall provide any and all responsive documents to Oak Park pursuant to a FOIA request at no cost to Oak Park as legally required under the FOIA.

**8.3. HIPAA.** Each party will comply with all rules, regulations, and requirements of the Health Insurance Portability and Accountability Act of 1996, as amended, and its attendant regulations ("HIPAA").

**9. Access to Books and Records.** Each party agrees that until the expiration of six (6) years after furnishing of the Services pursuant to this Agreement, it shall, if applicable, make available

upon written request from the Secretary of the United States Department of Health and Human Services, or upon request from the Comptroller General, any of their duly authorized representatives, or the other party, this Agreement and books, documents, and records that are necessary to certify the nature and extent of costs under this Agreement. This section shall have effect only if required by law. This provision shall survive termination of this Agreement.

**10. Compliance with Laws and Regulatory Changes.** The parties recognize that this Agreement shall be performed at all times in compliance with applicable State, local and Federal law including, but not limited to, the Social Security Act and the rules, regulations, and policies of the U.S. Department of Health and Human Services. This Agreement shall be subject to any new applicable laws and regulations or changes or amendments to existing laws and regulations. Any provisions of law that invalidate, or are otherwise inconsistent with the terms of this Agreement or that would cause one or both parties or any of their affiliates, to be in violation of law, shall be grounds for the parties to amend the terms of this Agreement to keep this Agreement compliant with all applicable laws and regulations. In such a case, the parties shall exercise their best effort to keep the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of law. If the parties are unable to agree upon an amendment to this Agreement to keep the Agreement compliant with applicable laws and regulations after a period of thirty (30) days, either party may terminate this Agreement upon prior written notice to the other party.

**11. Non-Solicitation.** Each Party agrees that during the Term and for the twenty-four (24) month period immediately following the expiration or termination of this Agreement, it shall not, without the prior written consent of the other party, directly or indirectly, solicit for employment, offer employment to, or employ any person who at any time during the one hundred eighty (180) days immediately prior to the solicitation for employment, offer of employment, or employment was an employee of the other party. This paragraph shall not apply to any employment that is based on a general public solicitation and does not occur as a result of a specific solicitation by the other party.

**12. Modification and Waiver of Rights.** This Agreement may not be modified orally. It is anticipated that modifications of its terms may be made from time to time, each of which shall be in writing on forms provided as amendments hereto by Rush and signed by both parties. No waiver of the rights of any party under this Agreement shall be construed to imply a waiver of any other rights unless the waiver is in writing and signed by both parties.

**13. Governing Law and Venue.** This Agreement shall be governed and construed accordance with the laws of the State of Illinois. Venue for any action brought pursuant to this Agreement shall be in the Circuit Court of Cook County, Illinois.

**14. Assignment.** This Agreement may not be assigned by either party without the express written consent of the other party; provided, however, that Rush may in its sole discretion assign this agreement to an affiliate without such consent. Oak Park and Rush each bind themselves and their partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party in respect to all covenants off this Agreement. Nothing herein shall be construed as

creating any personal liability on the part of any official, officer, employee, agent or volunteer of Oak Park, nor shall it be construed as giving any right or benefits hereunder to anyone other than Oak Park and Rush.

**15. Notice.** Any notice required to be given pursuant to the terms of this Agreement shall be in writing, postage prepaid and shall be personally delivered or sent by certified mail, return receipt requested or by email transmission to the persons and addresses set forth below or to such persons and addresses as either party hereto shall notify the other party of in writing pursuant to the provisions of this Section:

If to Oak Park:

Village Manager  
Village of Oak Park  
123 Madison Street  
Oak Park, Illinois 60302  
Email: villagemanger@oak-park.us

If to Rush:

Rush University Medical Center  
Mobile Stroke Program  
1653 W Congress Pkwy, 255 Pavilion  
Chicago, IL 60612  
Email: kirk\_r\_bobst@rush.edu

With a copy to:

Rush University Medical Center  
Office of Legal Affairs  
1700 W. Van Buren, Suite 301  
Chicago, IL 60612  
Email: samuel\_a\_siegfried@rush.edu

Mailing of such notice as and when above provided shall be equivalent to personal notice and shall be deemed to have been given at the time of mailing. Notice by email transmission shall be effective as of date and time of transmission, provided that the notice transmitted shall be sent on business days during business hours (9:00 a.m. to 5:00 p.m. Chicago time). In the event email notice is transmitted during non-business hours, the effective date and time of notice is the first hour of the first business day after transmission.

**16. Savings Clause.** If any provision of this Agreement, or the application of such provision, shall be rendered or declared invalid by a court of competent jurisdiction, or by reason of its requiring any steps, actions or results, the remaining parts or portions of this Agreement shall remain in full force and effect.

**17. Non-Waiver of Rights.** No failure of either party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

**18. Binding Authority.** The individuals executing this Agreement on behalf of Rush and Oak Park represent that they have the legal power, right, and actual authority to bind their respective parties to the terms and conditions of this Agreement.

**19. Entire Agreement.** This Agreement and any exhibits attached hereto contains the entire understanding of the parties and supersedes all prior written or oral representations, understandings and agreements of the parties with respect to the subject matter hereof. In the event that this Agreement and any exhibits are inconsistent, the terms and provisions of this Agreement will supersede the terms and provisions of the exhibits.

**20. Counterparts; Facsimile or PDF Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, will constitute one and the same instrument. A facsimile or pdf/email copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

**21. Effective Date.** As used in this Agreement, the effective date of this Agreement shall be the last date that it is executed by one of the parties as set forth below.

*[Signature page follows]*

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be effective as of the Effective Date.

**VILLAGE OF OAK PARK**

**RUSH UNIVERSITY MEDICAL CENTER**

By: \_\_\_\_\_  
Name: Cara Pavlicek  
Its: Village Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Dated: \_\_\_\_\_, 2018

Dated: \_\_\_\_\_, 2018

**ATTEST**

**ATTEST**

By: \_\_\_\_\_  
Name: Vicki Scaman  
Its: Village Clerk

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Dated: \_\_\_\_\_, 2018

Dated: \_\_\_\_\_, 2018