VILLAGE OF KEY BISCAYNE

Office of the Village Manager

Village Council
Robert Oldakowski, *Mayor*
Robert L. Vernon, Vice *Mayor*
Enrique Garcia
Steve Liedman
Jorge E. Mendia
Thomas Thornton
Patricia Weinman

Village Manager
Jacqueline R. Menendez

DT: August 20, 2005

TO: Honorable Mayor and Members of the Village Council

FR: Jacqueline R. Menendez, Village Manager

RE: Fire Rescue Transport Fee Service Agreement

RECOMMENDATION

It is recommended that the Village Council approve the attached Resolution providing for a Professional Services Agreement between the Village and PST Services, Inc. for billing and account management services required by the Village for Fire Rescue Transport fees.

BACKGROUND

At the July 5, 2005 Council Meeting, Council approved, on first reading, an Ordinance amending the Village Code by creating a Section to allow the Village Fire Rescue Department to bill for patient transports.

Second reading of the Ordinance is scheduled for the Council Meeting of August 30, 2005.

Should Council approve the Ordinance on August 30, 2005, the attached Resolution would authorize the Village Manager to enter into the attached Professional Services Agreement (with Schedules 1-5) with Per-Se, Technologies for a period of one (1) year beginning October 1, 2005.

Schedules 1-5 which include Scope of Services, Service Fees, Practice Assumptions, Transition Specifics and Business Associate Agreement have been negotiated by the Village Fire Rescue Department and reviewed by the Village Attorneys Office.

RESOLUTION NO. 2005-_____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN THE VILLAGE AND PST SERVICES, INC., DOING BUSINESS AS PER-SE TECHNOLOGIES, FOR BILLING AND ACCOUNT MANAGEMENT SERVICES REQUIRED BY THE VILLAGE FOR THE VILLAGE'S FIRE RESCUE TRANSPORT FEES; AUTHORIZING VILLAGE MANAGER TO EXECUTE AND IMPLEMENT THE AGREEMENT; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Village Council finds, upon recommendation of the Village Manager, that it is in the best interest of the Village to utilize the services of PST Services, Inc., doing business as Per-Se Technologies (the "Contractor"), for assistance to the Village in billing and account management for the proposed Fire Rescue Transport fees of the Village; and

WHEREAS, the Village Council finds that approval of the Agreement between the Village and Contractor is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recital Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Agreement Approved. That the Professional Services Agreement, in substantially the form attached hereto, is hereby approved, and the Village Manager is authorized to execute the Agreement, on behalf of the Village, once approved as to form and legal sufficiency by the Village Attorney.

Section 3. Implementation. That the Village Manager is hereby authorized to take any action which is necessary to implement the Agreement and this resolution.

Section 4. Effective Date. That this resolution shall be effective immediately upon adoption hereof, subject to the condition precedent that Ordinance No. 2005-_____ of the Village, which creates the Fire Rescue Transport fees of the Village, shall be adopted by the Village Council.

PASSED AND ADOPTED this ____ day of _____, 2005.

_____
ROBERT OLDAKOWSKI, MAYOR

ATTEST:

_____
Conchita H. Alvarez, CMC
Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
Village Attorney

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7. **Compliance Programs.**

7.1 Per-Se agrees to maintain a billing regulatory compliance program similar to the Office of Inspector General's Compliance Guidance for Third-Party Medical Billing Companies.

7.2 Per-Se agrees that it will comply with all requirements of HIPAA applicable to Per-Se on or before the respective compliance date(s) set forth in HIPAA (the "HIPAA Compliance Dates").

7.3 Per-Se and Client agree to abide by the terms and conditions of the "Business Associate Agreement" attached hereto as Schedule 5.

8. **Operating Procedures.** Client will be responsible for all matters related to Client's practice prior to the Commencement Date, including, but not limited to, Client's billings, collections, third party reimbursements, accounts receivable and refunds. Client agrees to provide or cause others to provide to Per-Se accurate and complete insurance, demographic, procedure charge, diagnosis, and treatment-related information as required by Per-Se to perform the Services. Per-Se agrees to perform the Services in accordance with industry practices in Client's specialty and geographic area and all material applicable laws, rules and regulations, including applicable third-party payer policies and procedures. Client acknowledges that Per-Se has every incentive to perform the Services in a timely and proficient manner but that the timing and amount of collections generated by the Services are subject to numerous variables beyond the control of Per-Se, including, without limitation, (a) the inability of third parties or systems beyond the control of Per-Se to accurately process data, (b) the transmission to Per-Se of inaccurate, incomplete or duplicate data, (c) untimely reimbursements or payer bankruptcies, (d) late charge documentation submissions by Client, and/or (e) managed care contract disputes between payers and Client. THEREFORE, EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, PER-SE DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE PERTAINING TO THE TIMING AND AMOUNT OF COLLECTIONS GENERATED BY THE SERVICES. Furthermore, Per-Se assumes no responsibility with respect to any unclaimed property, including unclaimed overpayments. Client acknowledges and agrees that Client is solely responsible for refunding any overpayments, and further agrees to hold Per-Se harmless, to the extent allowed by Section 768.28, Florida Statutes, from and against any losses (including fines or penalties and interest) incurred by Per-Se as a result of Client's failure to make such refunds.

9. **Audits.** During the term of this Agreement, Client will have the right to engage, at its expense, independent auditors (the "Auditors") for the purpose of performing audits that may be considered necessary by Client to determine the accuracy and correctness of the accounting and internal control performed and maintained by Per-Se, provided, however, that such persons are not employed by or in any manner affiliated with any entity that performs services substantially similar to any of the Services identified as "Reimbursement Management Services" on Schedule 1 to this Agreement. Per-Se will cooperate by furnishing such Auditors with any and all information as is reasonably necessary to perform and complete all audit procedures determined to be necessary by the Auditors. Prior to performing such audits, Client will cause the Auditors to execute Per-Se's "Business Associate/Confidentiality/Non-Solicitation" Agreement. Client agrees that any such audit will be conducted at such times and in such a manner so as to avoid undue disruption of Per-Se's operations.

10. **Non-Employment.** During the term of this Agreement and for a period of twelve (12) months following the termination of this Agreement, each party agrees not to employ or contract with for services, directly or indirectly, or through any third-party rendering services on behalf of such party, any individual who was an employee of the other or its parent, affiliates or subsidiaries at any time during the preceding twelve (12) months, without the prior written consent of the other party. Notwithstanding the foregoing, upon any termination of this Agreement, Client may rehire any individual who was employed by Client on the Effective Date, and who was hired by Per-Se on or after such date. Each party agrees that the other party does not have an adequate remedy at law to protect its rights under this Section and agrees that the non-defaulting party will have the right to injunctive relief from any violation or threatened violation of this Section.

11. **Termination.** Notwithstanding the provisions of Section 3:

11.1 Either party may terminate this Agreement on ninety (90) days' written notice of termination to the other if the other party defaults on any of its obligations under this Agreement (other than Client's payment obligations) and such party has not begun to cure such default within thirty (30) days after written notice of such default is delivered or having so begun fails to cure such default within such ninety (90) days; and

11.2 Either party may terminate this Agreement on ninety (90) days' written notice of termination to the other if (a) a court having appropriate jurisdiction enters a decree or order for relief in respect of the other party in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; or (b) the other party commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; and

11.3 Per-Se may terminate this Agreement immediately if Client defaults on its payment obligations under Section 4 and Schedule 2 and such payment default is not cured within ten (10) days after Per-Se delivers written notice of such default to Client; and

11.4 Per-Se may terminate this Agreement on the tenth (10^{th}) business day after presenting the documentation required pursuant to Section 5 of this Agreement to Client if Client fails to complete such documentation during such time; and

11.5 Client may terminate this Agreement immediately if Per-Se fails to cure any material breach of the "Business Associate Agreement" set forth on Schedule 5 to this Agreement within thirty (30) days of written notice from Client specifying the breach.

11.6 Client may terminate this Agreement at its sole discretion upon ninety (90) days advance written notice in the event that the Village Council determines to discontinue collection of Fire Rescue Transport fees.

12. **Termination Procedures.** In the event this Agreement is terminated, for whatever reason, Client hereby requests that Per-Se return to Client all materials provided to Per-Se by Client for the provision of the Services hereunder, and shall choose either the option set forth in Section 12.1 or the option set forth in Section 12.2 as a means of transferring its accounts receivable from Per-Se to another provider of billing services (unless this Agreement is terminated by Per-Se pursuant to Section 11.3, in which case only the procedures set forth in Section 12.2 will apply):

12.1 Upon the effective date of termination, Per-Se shall cease to enter new patient and charge data into its computer system ("Computer System") on behalf of Client, but will (i) continue to perform the Services identified as "Reimbursement Management Services" on Schedule 1 to this Agreement, at the then-current rates hereunder, for a period of ninety (90) days with respect to all of Client's accounts receivable arising from charges for clinical procedures rendered prior to the termination date (the "Workout Period"), (ii) thereafter discontinue processing such accounts receivable, (iii) deliver to Client, after full payment of all fees owed, a final list of accounts receivable, (iv) provide reasonable transitional services, as set forth on Schedule 4 to this Agreement, and (v) have no further obligations to Client. Client may negotiate with Per-Se for additional transitional services to be provided by Per-Se after the Workout Period at Client's additional expense. The parties agree that all applicable terms and conditions of this Agreement will be in full force and effect until the end of the Workout Period; or

12.2 (a) For Client's accounts receivable for which Per-Se receives a Monthly Fee based on a percentage of the Net Collections, on or before the effective date of termination Client shall pay Per-Se a one-time fee for the Services provided by Per-Se during the immediately preceding months equal to the amount listed on Schedule 2 to this Agreement (the "Services Rendered Fee"). Upon the effective date of termination, Per-Se shall (i) be immediately relieved of the obligation to provide any further Services on behalf of Client, (ii) deliver to Client, after full payment of all fees owed, including but not limited to the Services Rendered Fee, a final list of accounts receivable, (iii) provide reasonable transitional services, as set forth on Schedule 4 to this Agreement, and (iv) have no further obligations to Client. Client may negotiate with Per-Se for additional transitional services to be provided by Per-Se after the date of termination at Client's additional expense. The Services Rendered Fee is in no way is intended to limit the rights and remedies Per-Se may have against Client arising out of any breach of this Agreement; and/or

(b) For Client's accounts receivable for which Per-Se receives a Monthly Fee based on a set dollar amount per transaction, upon the effective date of termination, Per-Se shall (i) be immediately relieved of the obligation to provide any further Services on behalf of Client, (ii) deliver to Client, after full payment of all fees owed, a final list of accounts receivable, (iii) provide reasonable transitional services, as set forth on Schedule 4 to this Agreement, and (iv) have no further obligations to Client. Client may negotiate with Per-Se for additional transitional services to be provided by Per-Se after the date of termination at Client's additional expense.

13. **Liquidated Damages; Claims Period.** In the event of error or omission in the performance of the Services due solely to the action or failure to act of Per-Se, Per-Se will re-perform the Services at no additional cost to Client. Client acknowledges that Client shall be responsible for the codes assigned to patient charts (if assigned by someone other than Per-Se), including, but not limited to, the accuracy, legality and appropriateness of such codes; the accuracy of fee schedules; and the accuracy of all other data provided to Per-Se for use in the provision of the Services. Per-Se shall have no liability for the (a) inability of third parties or systems beyond the control of Per-Se to accurately process data, or (b) transmission to Per-Se of inaccurate, incomplete or duplicate data. In all other circumstances, it is expressly understood and agreed that Per-Se's liability for any loss incurred by Client through the loss of Fire Rescue Transport fees arising from any cause whatsoever under this Agreement, to the extent that such loss is caused by Per-Se, shall be limited to the sum of the Monthly Fee payable by Client to Per-Se for the Services for the month when the act or omission that gave rise to the loss first occurred and the Monthly Fees for the two (2) months prior to that month; provided, however, that Per-Se's aggregate liability under this Agreement through the loss of Fire Rescue Transport fees shall not exceed the Monthly Fees paid by Client to Per-Se during the term of this Agreement. No proceeding or action arising out of compensation payable to Per-Se or for Fire Rescue Transport revenues fees owed to Client under this Agreement may be brought by either party against the other more than twelve (12) months after the cause of action has arisen. Notwithstanding the foregoing, the liquidated damages and claims period set forth above shall not apply to any misappropriation of Fire Rescue Transport fees by Per-Se or to any civil monetary fine or penalty and interest assessed against Client by Medicare, Medicaid or other third-party health insurance provider arising out of the negligence or willful misconduct of Per-Se in the performance of its Services hereunder, and Per-Se shall defend, indemnify and hold harmless Client from any such fine, penalty, interest or claim or loss. Neither party shall in any event be liable to the other for any indirect, special, incidental, consequential or similar losses or damages suffered by such party or any third party.

14. **Notice.** Any notice, payment, demand or communication required or permitted to be given by the provisions of this Agreement will be effective on the date of receipt if sent or delivered by certified/return receipt mail or by national overnight delivery service to PST Services, Inc., 1145 Sanctuary Parkway, Suite 200, Alpharetta, Georgia 30004, Attention: President, if to Per-Se; and Village of Key Biscayne, 560 Crandon Boulevard, Key Biscayne, Florida 33149, Attention: Lt. Marco Delgado, EMS Coordinator, if to Client, or at such other address(es) or to the attention of such other persons as the parties may from time to time designate in writing by notice as set forth above.

15. **Force Majeure.** Neither party shall be liable for any failure or delay in performing its obligations under this Agreement (other than Client's payment obligations under Section 4 and Schedule 2 of the Agreement) due in whole or in material part to any cause beyond its sole control, including but not limited to fire, accident, labor dispute or unrest, flood, riot, war, rebellion, insurrection, sabotage, terrorism, transportation delays, shortage of raw materials, energy or machinery, acts of God or of the civil or military authorities of a state or nation, or the inability, due to the aforementioned causes, to obtain necessary labor or facilities.

16. **Waiver.** The failure of either party to enforce any term or condition of this Agreement shall not be construed as a waiver by such party of such term or condition, nor shall a waiver of any breach of a term or condition of this Agreement on any one occasion constitute a waiver of any subsequent breach of the same or similar term or condition.

17. **Assignment.** Neither party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld; provided, however, that each party hereby consents to any assignment to any successor of the other due to acquisition, merger, consolidation or reorganization, provided that any such assignment shall not alter the terms of the Agreement without the written consent of the non-assigning party; and each party further agrees to cause any successor of such party due to acquisition, merger, consolidation or reorganization to agree to the assignment of this Agreement to such successor, provided that any such assignment shall not alter the terms of the Agreement without the written consent of the non-assigning party.

18. **Arbitration.** If a dispute, controversy or claim concerning this Agreement cannot be satisfactorily resolved by the parties, such dispute will be settled by binding arbitration to be conducted within the Miami, Florida metropolitan area, in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), except that, in the event of a conflict between this Agreement and the AAA rules, the provisions of this Agreement will control. Each party shall select one (1) arbitrator and the two (2) arbitrators shall select a third (3rd) arbitrator and give notice of the selection to Client and to Per-Se. Each arbitrator selected shall be knowledgeable about healthcare accounts receivable issues. Each party shall pay the fees and expenses of the arbitrator it selects and the parties will share equally the fees and expenses of the third arbitrator selected and those of the AAA. The arbitration hearing shall be held within one hundred twenty (120) days of selection of the arbitrators or within such other time period mutually agreed-upon by the parties. Following the arbitration hearing, the arbitrators shall issue a written decision which summarizes the reasoning for their decision and the legal basis for any award. The arbitrators may not require one (1) party to pay the other party's costs, fees, attorneys' fees or expenses. Judgment upon the award rendered by the arbitrators may be entered in any court in Miami-Dade County, Florida having jurisdiction thereof.

19. **Miscellaneous.**

(a) This Agreement contains the entire agreement of the parties relative to the Services to be provided to Client and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement will be of any force or effect. This Agreement specifically supersedes any prior written or oral agreements, understandings, negotiations and proposals between the parties relating to the provision of the Services. Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person, firm or corporation other than the parties hereto, and their successors or assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, or result in such person, firm or corporation being deemed a third party beneficiary of this Agreement. Any amendments or changes to this Agreement will be in writing and will not be effective until executed by authorized representatives of both parties. Per-Se and Client acknowledge that they are duly authorized by appropriate corporate action to enter into this Agreement, and that this Agreement is being signed by duly authorized agents.

(b) Per-Se hereby agrees to defend, indemnify and save the Client harmless from any and all claims, liabilities, losses and causes of action which may arise out of the negligent or reckless performance of the services, duties and obligations of Per-Se hereunder. Per-Se shall pay all claims and losses of any nature whatsoever in connection herewith, and shall defend all lawsuits, in the name of the Client when applicable, and shall pay all costs and judgments which may issue thereon. Per-Se shall provide to Client satisfactory evidence of comprehensive general liability insurance and professional liability insurance in an amount of $500,000.00 single limit coverage for bodily injury and property damage, with Client named as additional insured, to support this covenant of Per-Se. The form of insurance and the qualifications of the insurer shall be subject to the approval of Client's risk management advisor.

(c) Per-Se warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Per Se, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for Per Se any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

(d) Per-Se hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Client as an independent contractor of the Client, and in force at the time services are performed.

(e) This Agreement shall be construed in accordance with the laws of the State of Florida. Venue for any litigation hereunder shall be in Miami-Dade County, Florida. The parties voluntarily waive the right to any trial by jury in any litigation which in any way arises hereunder between the parties.

(f) This Agreement shall not be of any force or effect until the Client's Fire Rescue Transport fees which are adopted via Ordinance No. 2005- are in full force and effect. Client shall promptly notify Per-Se when this occurs. This Agreement shall be void if such Fire Rescue Transport fees are not in full force and effect by October 1, 2005.

VILLAGE OF KEY BISCAYNE (Client)

By:_____

Print Name:_____

Title:_____

Date:_____

Approved as to Form and Legal Sufficiency for Use and Reliance of the VILLAGE only:

_____
Village Attorney

PST SERVICES, INC. (Per-Se)

By:_____

Print Name:_____

Title:_____

Date:_____

SCHEDULE 1

SCOPE OF SERVICES

I. **Per-Se Reimbursement Management Services:**

(a) Mail either one (1) patient statement or letter to each patient, if applicable.

(b) Enter demographic information and coding information onto the Per-Se Computer System.

(c) Handle all accounts in accordance with standard accounting principles and all applicable laws.

(d) Bill managed care accounts in accordance with the terms of Client's executed contracts. If no contract exists, bill such accounts in accordance with the rules of the state in which care was provided or, if no state rules apply, in accordance with Per-Se's normal business procedures.

(e) Provide electronic transfer of demographic data from Client.

(f) Code each patient chart, on the basis of the information provided by Client, including ICD-9. Review level of service provided by the Client and convert to a CPT code

(g) Provide electronic filing with Medicare, Medicaid and Blue Shield, and other third-party payers, where applicable.

(h) Provide electronic filing with all major insurance carriers through the Per-Se Exchange or other claims clearinghouse, where applicable.

(i) Provide electronic remittance from Medicare and all other carriers, where applicable.

(j) Provide a toll-free "800" phone number to answer phone inquiries concerning patient account information.

(k) Respond to inquiries received by mail from patients and/or third-party payers.

(l) Receive all payment and reimbursement notices from Client's bank lockbox and post payments to the appropriate patient account.

(m) Provide customized statements in Client's name.

(n) File primary, secondary and tertiary insurance for patients and resubmit rejections and no action accounts.

(o) Back-up data off Computer System every night and store back-up tapes off-site.

(p) Adapt to all government and third-party payer policy changes.

(q) Provide monthly management reporting to include:

- Total Credits for the month.
- charge and payment analysis total and by pay class
- location productivity profile and summary
- aging payment report
-
- general accounts receivable summary
- Ad-hoc reports, containing information applicable to Client's practice only (such ad-hoc reports may be subject to an additional fee).
-

(r) Follow up on delinquent insurance accounts.

(s) Maintain Computer System with Computer System generated operational reports.

(t) If Client requests Per-Se to forward its unpaid billings to a collection agency, Per-Se will transmit the information required by the collection agency chosen by Client either by hard copy or electronically, in a mutually acceptable format, as requested by such collection agency, pursuant to instructions provided to Per-Se by Client.

(u) Notify Client in writing of the monthly refund amount owed by Client for the previous month and provide detail for the refunds.

II. **Client Responsibilities:**

(a) Work with Per-Se to develop efficient processes which minimize disruption of Client's business;

(b) On a timely basis and in a mutually acceptable format, provide the information necessary for Per-Se to perform the Services in an efficient manner. Such information should include:

(1) patient's name, sex, date of birth, status (single, married, other)

(2) responsible party's name, address, telephone number, employer

(3) insured's name (if different from patient), sex, date of birth, address, relationship to patient, insured's employer (if group policy), insured's employer's address

(4) name of insurance company, address, policy certificate number, group policy number

(5) all applicable charge documents, to include level of service provided (bls, als1, als2, sct, etc), and the EMS transport mileage.

(6) copy of release of information and insurance assignment of benefits, upon request by Per-Se

(7) HMO/PPO authorization numbers approvals (if applicable)

(8) date of service, chief complaint, medical history and exam, treatment, final diagnosis and EMS notes, medications given.

(c) Furnish and/or cause to be transmitted and mailed to Per-Se, no less than every other business day and within three business days of service, the EMS charge ticket for each patient for whom Per-Se provides the Services.

(d) Work with Per-Se to establish electronic transmission of patients' demographic and financial information.

(e) Provide access to one (1) or more members of Client's staff to answer questions regarding claims.

(f) Notify Per-Se of patients who qualify for free or reduced charge services due to financial hardship.

(g) Send copies of workers' compensation notification of compensable injury forms.

(h) Provide Per-Se with Client's fee schedule for entry onto Per-Se's Computer System prior to the Commencement Date of this Agreement. Per-Se will continue to update such fee schedule upon written notification to Per-Se of any change to such fee schedule by Client.

(i) Facilitate Hospital's report distribution of unallocated and/or unidentified funds or receipts, if applicable.

(j) Provide Per-Se with copies of contracted agreements with managed care plans, including the negotiated fee schedules (if applicable).

(k) If Client requests Per-Se to forward its unpaid billings to a collection agency, Client shall: (1) provide Per-Se with written notice of the name and address of the collection agency chosen by Client (any contract for the provision of collection services for Client's unpaid billings shall be between Client and the collection agency chosen by Client); (2) provide Per-Se with written instructions on which unpaid billings shall be forwarded to such collection agency; and (3) if applicable, provide Per-Se with written authorization to execute documents presented to Per-Se and considered necessary for the collection of Client's unpaid billings by such collection agency on Client's behalf in accordance with the written instructions of Client. Client acknowledges and agrees that Client is solely responsible for the unpaid billings placed with such collection agency and further agrees to hold Per-Se harmless from and against any fines or penalties incurred as a result of the placement of such unpaid billings with such collection agency, subject to the limits of Section 768.28, Florida Statutes.

(l) Process refund payments due by Client to individual patients and/or carriers within thirty (30) days of Client's receipt of written notification of such refunds from Per-Se.

(m) If Client is deemed to be a "Staffing Organization" by the Centers for Medicare and Medicaid Services ("CMS"), and does not qualify to enroll under Medicare, then, unless and until a physician under contract to Client becomes an employee of Client, Client agrees to cause such physician to enter into an agreement for the performance of billing and accounts receivable management services with Per-Se with respect to such physician's accounts receivable. Per-Se agrees to abide by the terms of any remittance agreement or lockbox agreement entered into by such physician and any third party depository. Client agrees that all payments originated by reasons of billings made for reimbursement from the Medicare program (or any other payer, as required by law or contract) on behalf of such physician by Per-Se shall be deposited into the account designated by such physician, that such physician shall maintain sole control of the account, and that Per-Se shall act under payment disposition instructions which such physician may modify or revoke at any time. Per-Se shall make any accounting records that become available to Per-Se relating to such physician available to Client upon such physician's authorization.

SCHEDULE 2

SERVICE FEES

A. Beginning as of the Commencement Date, Client agrees to pay Per-Se the Monthly Fee, billable on the first (1st) day of each month, as set forth below:

(i) an amount equal to eight percent (8.0%) of the Net Collections made by or through Per-Se on Client's accounts receivable during the previous month, except for Client's Medicaid accounts receivable; and

(ii) notwithstanding any term or condition of the Agreement to the contrary, Per-Se's fee for the provision of Services with respect to those of Client's charges for which reimbursement from the Medicaid program is sought by Per-Se on Client's behalf, will be equal to eleven dollars ($11.00) per patient encounter, regardless of the amount of the charges associated with any such encounter and the amount of reimbursement, if any, to Client from the Medicaid program with respect to such charges.

Client represents that it is not entitled to bill globally and instructs Per-Se to bill only for the authorized Fire Rescue Transport fees component of Client's accounts receivable.

Net Collections means the total sum of all monies collected by or through Per-Se for all clinical services rendered by Client, less amounts refunded or credited to a patient or third party payer as a result of overpayments, erroneous payments or bad checks. When unpaid billings are referred to a collection agency or law firm, the amount of Net Collections will include the net amount received by Client through the efforts of the collection agency or law firm after deducting the collection agency or law firm fee. The selection of a collection agency or law firm is the responsibility of Client, and Client agrees to pay directly any collection agency or law firm commissions and/or fees and costs.

B. Invoicing, Payment and Fee Change. Beginning as of the Commencement Date, Client agrees to pay the Monthly Fee and all other charges set forth herein within twenty (20) days of its receipt of each invoice from Per-Se. Late payments by Client will result in a late payment charge equal to one percent (1.0%) per month. In addition to the foregoing and without waiver of its rights under Section 11.3 of the Agreement, Per-Se may suspend the performance of the Services hereunder during any period in which invoices are past due without incurring any liability to Client.

Either party may request a change in the Monthly Fee in the event of a material change in legislation, Client's business or other market conditions which results in a material change in either the cost associated with Per-Se's provision of the Services or Per-Se's anticipated revenues under this Agreement. Per-Se may request a change in the Monthly Fee in the event (i) Client fails to disclose to Per-Se, at or prior to the time this Agreement is executed, information relating to Client's practice, which information, if disclosed, would have led Per-Se to propose a higher Monthly Fee or (ii) any of the information provided by Client to Per-Se upon which the assumptions set forth on Schedule 3 to this Agreement are based is or becomes inaccurate. Per-Se may also request an increase in the Monthly Fee annually on the anniversary of the Commencement Date of this Agreement by an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers for the United States, published by the United States Department of Labor, Bureau of Statistics (the "Index") for the previous year. If the Index is discontinued or revised during the term of this Agreement, such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or replaced. In the event either party requests a change in the Monthly Fee, the requesting party will provide the non-requesting party with ninety (90) days' prior written notice (the "Notice Period") of the requested change (the "Notice") and such fee change will be effective at the end of the Notice Period. If the non-requesting party provides the requesting party written notice during any such Notice Period that any such fee change request is unacceptable to the non-requesting party, the Agreement will terminate at the end of the Notice Period and the Monthly Fee in place at that time will remain in effect until the end of the Workout Period, if any. The foregoing notwithstanding, if Client requests Per-Se in writing to continue to provide the Services past the Notice Period and Per-Se agrees to such request, then the Agreement will not terminate at the end of the Notice Period, but will continue in effect until such later date as is mutually agreed-upon by the parties. In such event, the Monthly Fee in effect beyond the end of the Notice Period (and until the end of the Workout Period, if any) will be either (i) the Monthly Fee in effect at the end of the Notice Period, if Client requested the fee change, or (ii) the fee proposed in the Notice, if Per-Se requested the fee change.

C. Additional Fees:

Services Rendered Fee: In the event of termination of this Agreement, for any reason, and the option set forth in Section 12.2 is the procedure for transferring Client's accounts receivable to another entity pursuant to such termination, for Client's accounts receivable for which Client pays Per-Se a Monthly Fee based on a percentage of the Net Collections, the Services Rendered Fee shall be equal to one-half of the monthly fee percentage provided for on Schedule 2 to this Agreement multiplied by the aggregate outstanding accounts receivable as of the effective date of such termination, multiplied by the "Historical Gross Collection Percentage" for the three (3) months immediately preceding the effective date of such termination. No Services Rendered Fee shall apply for Client's accounts receivable for which Client pays Per-Se a Monthly Fee based on a set dollar amount per transaction. "Historical Gross Collection Percentage" is defined as an amount equal to the gross collections of Client for the three (3) months immediately preceding the effective date of termination divided by the gross charges of Client for such period.

SCHEDULE 3

PRACTICE ASSUMPTIONS

The following assumptions are based on information Client has provided to Per-Se. Based on these assumptions, Per-Se has determined the likely collectability of Client's accounts receivable and has derived the schedule of Monthly Fees set forth in Schedule 2 of the foregoing Agreement.

1.	Average gross charges per month:	$24,000.00
2.	Average Net Collections per month:	$12,000.00
3.	Average number of procedures per month:	135
4.	Average number of encounters per month:	67

SCHEDULE 4

TRANSITION SPECIFICS

Upon termination of this Agreement for any reason, Per-Se agrees to provide the following assistance to Client or Client's designated agent:

FORMAT

- ASCII Format with delimiters identified

MEDIA

- direct electronic transfer or CD

FILE LAYOUT

- All fields identified with field length, optional field and description

FILE CODES - Include printed lists of file codes for the following fields, if applicable:

- Insurance company codes
- Procedure codes
- Diagnosis codes
- Referral physician codes
- Place of service codes
- Type of service codes
- Payment, adjustment and transfer codes
- Pay class codes
- Bill type codes
- Patient type codes
- Employer codes
- Marital status codes
- Relationship codes
- Location codes
- Physician codes

DIALOGUE

- Programming contact to review files and to answer general questions

TESTING

A sample tape/CD with 100 patients to include:

- Demographics
- Insurance
- Charges
- Payments

FINAL TAPE - A final data tape(s)/CD with all patient accounts remaining on Per-Se's Computer System to include:

- Demographics
- Insurance
- Charges
- Payments

SCHEDULE 5

BUSINESS ASSOCIATE AGREEMENT

Per-Se will receive from Client protected health information ("PHI"), including electronic PHI ("ePHI"), as defined in the privacy and security regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 (respectively hereinafter referred to as either the "HIPAA Privacy Rule" or the "HIPAA Security Rule") to perform certain practice management services ("Services") for Client under the terms of a services agreement with such Client (the "Agreement"). Therefore, the parties agree to the terms and conditions of this Business Associate Agreement (the "Business Associate Agreement") as follows:

A. PHI shall be safeguarded as follows:

(a) **Disclosure.** Per-Se will not use and/or disclose PHI except (1) as necessary to provide the Services described in the Agreement; (2) as otherwise permitted or required by this Business Associate Agreement or as required by law; (3) for the proper management and administration of its business; and (4) to de-identify information and perform data aggregation as defined by the HIPAA Privacy Rule. Information that has been de-identified and the results of data aggregation performed by Per-Se together with any compilations, abstracts, summaries, studies or other information derived from such de-identified information or data aggregation shall be the sole and exclusive property of Per-Se. Client shall not be entitled to any revenue, royalties, or other compensation resulting from de-identified information and the results of data aggregation performed by Per-Se or any data or information derived from such de-identified information or data aggregation.

(b) **Safeguards.** Per-Se agrees to implement appropriate safeguards to prevent the use or disclosure of PHI, except as required to perform the Services, or as otherwise required by the Business Associate Agreement or as required by law. Also, Per-Se will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI created, received, maintained, or transmitted on behalf of Client.

(c) **Reporting.** Per-Se will report to Client any use or disclosure of PHI of which it becomes aware that is not provided for in the Business Associate Agreement or that is in violation of the HIPAA Privacy Rule and any applicable laws, rules or regulations, by Per-Se, its directors, officers, employees, contractors or agents. In addition, Per-Se will report to Client any Security Incident of which it becomes aware. For purposes of this Agreement, the term "Security Incident" shall mean the successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an electronic information system storing or transmitting ePHI that is maintained by Per-Se.

(d) **Agents.** Per-Se will require its agents, including subcontractors, to whom Per-Se provides PHI pursuant to the Agreement, to agree to the same restrictions and conditions of this Business Associate Agreement concerning PHI, to implement reasonable and appropriate safeguards to protect ePHI, and to report to Client any Security Incident of which it becomes aware.

(e) **Access.** If applicable, upon Client's written request and within a reasonable time, Per-Se will provide Client access to PHI in a Designated Record Set. If an individual requests access to his/her PHI directly from Per-Se, Per-Se will forward such request to Client, and Client will instruct Per-Se in writing to disclose the PHI to the individual to meet the requirements under 45 CFR §164.524. Any disclosure of, or decision not to disclose, the PHI will be the sole responsibility of Client.

(f) **Amendment.** If applicable, upon Client's written request and within a reasonable time, Per-Se will make PHI in a Designated Record Set relating to a patient available to Client for amendment and incorporate any amendments or corrections to PHI pursuant to 45 CFR §164.526.

(g) **Accounting.** Upon Client's written request and within a reasonable time, if Client requests an accounting of disclosures of PHI regarding an individual made during the six (6) years prior to such request, Per-Se will make available to Client such information in Per-Se's possession at that time to make the accounting required by 45 C.F.R. §164.528, and Per-Se agrees to implement an appropriate record-keeping process to comply with the accounting and documentation of disclosure requirements under 45 CFR § 164.528.

(h) **Audit of Internal Practices.** Per-Se agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Per-Se on behalf of Client available to the Secretary of the Department of Health and Human Services to determine Client's compliance with the HIPAA Privacy Rule.

(i) **Termination.** If Per-Se fails to cure any material breach of this Business Associate Agreement, within thirty (30) days of receipt of written notice from Client specifying default by Per-Se, Client may terminate this Business Associate Agreement and the Agreement immediately. Upon termination of this Business Associate Agreement and the Agreement for any reason, if feasible, all PHI still maintained by Per-Se shall be returned to Client or destroyed by Per-Se. If return or destruction of PHI is not feasible, the protections of this Business Associate Agreement shall extend to any PHI retained by Per-Se, and Per-Se agrees to limit further uses and disclosures of such PHI to purposes and activities, such as financial or legal auditing or reporting, where Per-Se has a need or duty to use or disclose the PHI, and for other purposes and activities, such as maintenance or use of systems or databases.

B. The terms of the HIPAA Privacy Rule, the HIPAA Security Rule and all terms of this Business Associate Agreement (including all amendments) pertaining to the use and disclosure of PHI and ePHI shall be effective as of the compliance date(s) of the HIPAA Privacy Rule and the HIPAA Security Rule. If there are revisions to either the HIPAA Privacy Rule or the HIPAA Security Rule, the parties agree to negotiate in good faith to incorporate such revisions in this Business Associate Agreement.

C. In the event of inconsistency between the provisions of this Business Associate Agreement and mandatory provisions of either the HIPAA Privacy Rule or the HIPAA Security Rule, as amended, or their interpretation by any court or regulatory agency with authority over either party hereto, the HIPAA Privacy Rule or the HIPAA Security Rule, as interpreted by such court or agency, shall control. Where the provisions of this Business Associate Agreement are different from those mandated in either the HIPAA Privacy Rule or the HIPAA Security Rule, but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of this Business Associate Agreement shall control.