



Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo seconded by Supervisor Mary L. Adams to:

Agreement No.: A-15519

- a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute an Agreement with Lucile Salter Packard Children's Hospital at Stanford (LPCH) for Maternal Fetal Medicine Services at Natividad for an amount not to exceed \$348,480 for the period September 1, 2021 through August 31, 2023; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute up to three (3) future amendments to the agreement which do not significantly alter the scope of work and do not cause an increase of more than ten percent (10%) of the original cost of the agreement per each amendment.

PASSED AND ADOPTED on this 31st day of August 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams
NOES: None
ABSENT: None
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting August 31, 2021.

Dated: September 7, 2021
File ID: A 21-447
Agenda Item No.: 19

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

Julian Lorenzana, Deputy

PHYSICIAN SERVICES AGREEMENT

This Physician Services Agreement (this "*Agreement*") is entered into as of September 1, 2021 (the "*Effective Date*"), by and between Lucile Salter Packard Children's Hospital at Stanford ("*LPCH*"), a California non-profit public benefit corporation, and the County of Monterey on behalf of Natividad Medical Center, an acute care hospital owned and operated by Monterey County (the "*Hospital*").

WHEREAS, Hospital is engaged in the provision of inpatient and outpatient hospital services to patients in a community setting;

WHEREAS, Hospital desires the assistance of certain physicians who can provide specialized professional clinical services remotely or at sites of service convenient to patients of Hospital;

WHEREAS, LPCH provides specialty physician services through its arrangement with the Stanford University School of Medicine ("*Stanford*") and is competent to provide the professional medical services for Hospital's maternal-fetal program and is willing to make such services available to Hospital and the community it serves in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, the parties agree as follows:

1. RESPONSIBILITIES AND DUTIES OF LPCH

1.1 Professional Services. LPCH shall provide the professional services of the physicians (the "*Physicians*"), as described in Exhibit A (the "*Professional Services*"). All Professional Services shall be provided via telehealth or in person at the sites of service specified in Exhibit A. Virtual telehealth visits via a HIPAA compliant software/portal shall be provided when necessary and/or appropriate (as determined by the Physician). LPCH shall ensure that the Physicians complete all medical records and other required reports, in accordance with this Agreement and with the applicable policies and procedures, rules and regulations and bylaws of Hospital and Hospital's Medical Staff, as communicated to LPCH and the Physicians, that govern the activities of Physicians while engaged in providing Professional Services at Hospital's facilities.

1.2 Medical Staff. While providing the Professional Services, LPCH shall ensure that each Physician complies with all bylaws, Medical Staff policies, rules and regulations of Hospital and the Medical Staff (collectively, the "*Hospital Rules*"), and all protocols applicable to the Services or the Hospital (the "*Protocols*"). Each Physician shall be a member in good standing and active on the Hospital's Medical Staff and have and maintain all clinical privileges at Hospital necessary for the performance of Group Physician's obligations under this Agreement. If, as of the Effective Date (as defined in Section 5.1), any Physician is not a member in good standing or active on the Medical Staff or does not hold all clinical privileges at Hospital necessary for the performance of Physician's obligations hereunder, such Physician shall have a reasonable amount of time, which in no event shall exceed sixty (60) calendar days from the Effective Date, to obtain such membership and/or clinical privileges; provided, however, that such Physician diligently pursues such membership and/or clinical privileges in accordance with the normal procedures set forth in the Medical Staff bylaws; and provided, however, that, at all times, Physician has been granted privileges to perform the Services. Any Physician may obtain and maintain medical staff privileges at any other hospital or health care facility at Physician's or LPCH's expense

1.3 Excluded Provider Representation and Warranty. LPCH represents and warrants that it (i) is not currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 USC § 1320a-7b(f) (the "*Federal healthcare programs*"); (ii) has not been

convicted of a criminal offense related to the provision of healthcare items or services, and (iii) is not under investigation or otherwise aware of any circumstances which may result in being excluded from participation in the Federal healthcare programs. This shall be an ongoing representation and warranty during the term of this Agreement and LPCH shall immediately notify Hospital of any change in the status of the representation and warranty set forth in this Section. If LPCH becomes excluded from Federal healthcare program participation, this Agreement may be terminated immediately by Hospital for cause.

2. RESPONSIBILITIES AND DUTIES OF HOSPITAL

2.1 Hospital is responsible for the operations of Hospital, including coordinating the delivery of services provided to patients of Hospital by the Physicians under this Agreement. Hospital shall, at its sole expense, furnish the Physicians with necessary medical supplies, and employ such nurses or physicians assistants, administrative assistants, and any other non-physician personnel ("***Non-Physician Personnel***") necessary for the delivery of services by the Physicians under this Agreement and shall be solely responsible for payment of Non-Physician Personnel salary, social security, workers compensation and other employee benefits of any kind as well as for any liabilities that may arise in connection with the employment on Non-Physician Personnel by Hospital and for their direction and control. Such Non-Physician Personnel shall not be deemed to be employees of the Physicians or LPCH for any purpose. Except as explicitly provided for herein, Hospital shall be solely responsible for all costs associated with the provision of services by the Physicians pursuant to this Agreement, including the cost, if any, associated with obtaining and maintaining credentials with respect to managed care organizations with which Hospital contracts. Hospital shall be solely responsible for complying with all applicable laws, regulations and ordinances, including without limitation all such laws and regulations associated with third party reimbursement of services provided by Hospital.

2.2 Hospital shall be solely responsible for complying with all federal, state and local environmental and health and safety laws, regulations and ordinances ("***Environmental Laws***") and obtaining all necessary environmental and health and safety permits, licenses and authorizations ("***Environmental Permits***"), and for otherwise operating its premises (including that which is used by the Physicians) in a manner which is protective of human health and the environment. The responsibilities of Hospital include, but are not limited to: (a) obtaining and maintaining all necessary Environmental Permits, (b) being the designated generator of wastes and otherwise arranging for the lawful treatment, storage, disposal, transport and other management of medical and hazardous materials, chemicals and wastes associated with the activities conducted by the Physician, subject to Physician's complying with good biohazardous waste management procedures and professional practices, (c) providing any reports, warnings or other notifications that may be required of Hospital, LPCH or the Physicians under any Environmental Laws or Environmental Permits solely relating to activities at Hospital, (d) identifying, investigating and remediating any threatened or actual releases of medical or hazardous materials, chemicals or wastes to the environment, whether or not caused by Physician, and (e) providing for the safety and well being of persons who enter its premises, including but not limited to, the exposure of persons to medical and hazardous materials, chemicals, wastes building materials, and environmental media or other conditions at and in the vicinity of such premises. Hospital expressly waives and releases any claims against the Physicians, LPCH and their respective successors, members, officers, directors, trustees, employees and agents in connection with the environmental matters addressed herein.

2.3 Hospital shall promptly advise LPCH in writing of any suit, proceeding, investigation, other action or event commenced or threatened against Hospital which, if adversely determined, would result in a material adverse change in the condition or business, financial or otherwise, of Hospital and of

any facts that come to Hospital's attention which might materially affect the operation of Hospital or its ability to properly carry out the terms and conditions of this Agreement.

2.4 Hospital shall permit LPCH and/or LPCH's authorized representatives, during normal business hours and as often as reasonably requested, to visit and inspect, at the expense of LPCH, Hospital's records, including its visit and patient statistics, records and patient records, for purposes of monitoring the quality and amount of professional services rendered by the Physicians pursuant to this Agreement.

2.5 Hospital shall provide LPCH with copies of all policies and procedures, rules and regulations, and bylaws of Hospital and Hospital's Medical Staff that govern the activities of Physicians while engaged in providing Professional Services at Hospital's facilities.

2.6 Hospital represents and warrants that it (i) is not currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs; (ii) has not been convicted of a criminal offense related to the provision of healthcare items or services, and (iii) is not under investigation or otherwise aware of any circumstances which may result in being excluded from participation in the Federal healthcare programs. This shall be an ongoing representation and warranty during the term of this Agreement and Hospital shall immediately notify LPCH of any change in the status of the representation and warranty set forth in this Section. If Hospital becomes excluded from Federal program participation, this Agreement may be terminated immediately by LPCH for cause.

2.7 Subject to Hospital's approval and compliance with applicable laws, including laws relating to patient privacy and protection of human research subjects, the Hospital (i) will afford medical students, residents, and fellows associated with Stanford and LPCH the opportunity to observe and participate in the care of Hospital patients, provided that such medical students, residents and fellows at all times are under the supervision of Stanford faculty; (ii) will permit Stanford, LPCH, and Stanford faculty to conduct research at the Hospital, including enrolling patients in clinical trials and other research studies; (iii) will permit Stanford, LPCH, and Stanford faculty to use clinical data obtained at the Hospital for teaching and research purposes at Stanford and LPCH; and (iv) will permit Stanford and LPCH to conduct at the Hospital continuing medical education and similar educational activities for practicing physicians. The Hospital will undertake reasonable efforts to cooperate with Stanford and LPCH to facilitate such activities, including efforts such as obtaining any necessary patient consents and adopting mutually agreeable policies, documents, or memoranda of understanding relating to the operation of medical education programs and oversight of human subjects research. LPCH and the Hospital will confer on an ongoing basis to ensure that the frequency and intensity of such activities does not unduly interfere with the Hospital's operations.

3. PAYMENT OF SALARY OF PHYSICIANS

Hospital shall not pay and shall have no responsibility to pay salary, social security, workers compensation, or other employee benefits of any kind to or on behalf of the Physicians.

4. INSURANCE

4.1 LPCH Insurance. LPCH shall, at its expense, maintain policies of (i) general liability insurance in amounts of at least Three Million Dollars (\$3,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the annual aggregate; (ii) professional liability insurance in amounts of at least Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the annual aggregate and (iii) cyber liability insurance in amounts of at least Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the annual aggregate to insure it, its employees and

agents under this Agreement, against claims and liabilities arising out of or related to this Agreement. Evidence of such coverage shall be presented to Hospital upon request. In the event that such coverage is written on a claims-made basis, LPCH shall arrange for appropriate tail coverage consistent with the requirements of this Section 4 in the event that such claims-made policy is canceled or not renewed.

4.1.1 Evidence of Coverage. Prior to commencement of this Agreement, LPCH shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. This verification of coverage shall be sent to Hospital's Medical Staff Office, unless otherwise directed. LPCH shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and Hospital has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the LPCH.

4.1.2 Qualifying Insurers. All coverages except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or evidence of the financial solvency of self-insured programs or captive insurance programs, that is approved by Hospital's Contracts/Purchasing Director.

4.1.3 Insurance Coverage Requirements. Without limiting LPCH's duty to indemnify, LPCH shall maintain in effect throughout the term of this Agreement, at LPCH's sole cost and expense, a policy or policies of insurance with the following minimum limits of liability:

Professional liability insurance, covering LPCH and each Physician with coverage of not less than One-Million Dollars (\$1,000,000) per Physician per occurrence and Three-Million Dollars (\$3,000,000) per Physician in the aggregate. If any professional liability insurance covering LPCH and each Physician is procured on a "Claims Made" rather than "Occurrence" basis, then LPCH shall either continue such coverage or obtain extended reporting coverage ("**Tail Coverage**"), as appropriate, upon the occurrence of any of the following: (i) termination or expiration of this Agreement; (ii) change of coverage if such change shall result in a gap in coverage; or (iii) amendment, reduction or other material change in the then existing professional liability coverage of LPCH if such amendment, reduction or other material change will result in a gap in coverage. Any Tail Coverage shall have liability limits in the amount set forth above and shall in all events continue in existence until the greater of: (a) three (3) years or (b) the longest statute of limitations for professional and general liability for acts committed has expired. All insurance required by this Agreement shall be with a company acceptable to County and issued and executed by an insurer authorized to transact insurance business in the State.

General liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than One Million Dollars (\$1,000,000) per occurrence.

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than One Million Dollars (\$1,000,000) per occurrence.

Workers' Compensation Insurance, if LPCH employs others in the performance of this Agreement, in accordance with California Labor Code Section 3700 and with Employer's Liability limits not less than One Million Dollars (\$1,000,000) each person, One Million Dollars (\$1,000,000) each accident and One Million Dollars (\$1,000,000) each disease.

4.1.4 Other Insurance Requirements. All insurance required by this Agreement shall be with a company acceptable to Hospital and issued and executed by an insurer authorized to transact insurance business in the State. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three (3) years following the date LPCH completes the performance of services under this Agreement.

LPCH shall give Hospital notice, in writing, at least thirty (30) days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for LPCH, Physician, and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of LPCH's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the LPCH's insurance.

LPCH shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by Hospital, annual certificates to Hospital's Medical Staff Office. If the certificate is not received by the expiration date, Hospital shall notify LPCH and LPCH shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by LPCH to maintain such insurance is a default of this Agreement, which entitles Hospital, at its sole discretion, to terminate the Agreement immediately.

4.2 Hospital Insurance. Hospital shall, at its expense, maintain policies of (i) general liability insurance in amounts of at least Three Million Dollars (\$3,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the annual aggregate; (ii) professional liability insurance in amounts of at least Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the annual aggregate and (iii) cyber liability insurance in amounts of at least Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the annual aggregate to insure it, its employees and agents under this Agreement, against claims and liabilities arising out of or related to this Agreement. Evidence of such coverage shall be presented to LPCH upon execution of this Agreement. In the event

that such coverage is written on a claims-made basis, Hospital shall arrange for appropriate tail coverage consistent with the requirements of this Section 4 in the event that such claims-made policy is canceled or not renewed.

5. INDEMNIFICATION

LPCH shall indemnify, defend and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damages arising out of, or in connection with, the negligent or wrongful acts or omissions of LPCH and/or its agents, employees or subcontractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by County. LPCH shall reimburse County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which LPCH is obligated to indemnify, defend and hold harmless County under this Agreement.

County shall indemnify, defend, and hold harmless LPCH, its officers, agents and employees, including Physician, from any claim, liability, loss, injury or damages arising out of, or in connection with, the negligent or wrongful acts or omissions of County and/or its agents, employees or subcontractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by LPCH. County shall reimburse LPCH for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which County is obligated to indemnify, defend and hold harmless LPCH under this Agreement.

6. COMPENSATION

In consideration of LPCH's provision of Professional Services to Hospital, Hospital shall pay LPCH on a monthly basis in accordance with Exhibit B. The total amount payable by Hospital to LPCH under this Agreement shall not exceed Three Hundred Forty Eight Thousand Four Hundred Eighty Dollars (\$348,480).

7. CHARGES AND BILLINGS

Hospital shall have the sole right to bill and collect for Professional Services rendered by Physician(s) pursuant to this Agreement and shall have sole and exclusive right, title and interest in and to all accounts receivable with respect to such services. LPCH hereby assigns (or reassigns, as the case may be) to Hospital all claims of LPCH and each Physician for any and all Professional Services rendered by Physician(s) pursuant to this Agreement. LPCH shall take such action and execute such documents, and shall ensure that each Physician takes such action and executes such documents, as may be reasonably necessary or appropriate to effectuate the assignment (or reassignment, as the case may be) to Hospital of all claims for any and all Professional Services rendered by Physician(s) pursuant to this Agreement. Hospital shall ensure that all billing and coding for professional services furnished by Physician(s) pursuant to this Agreement is in compliance with applicable laws and regulations, customary professional practice, the Federal Health Care Programs, and other third party payor programs. LPCH shall take all necessary and reasonable steps to provide Hospital sufficient information to facilitate Hospital's billing and collecting for Professional Services rendered by Physician(s) pursuant to this Agreement.

8. INTENT OF PARTIES

Neither LPCH nor Hospital intend that any payments or other consideration provided under this Agreement be in return for the referral of ongoing business, if any, or in return for the purchasing, leasing, or ordering of any services other than the specific services described in this Agreement. All payments

specified in this Agreement are consistent with what the parties reasonably believe to be a fair market value for the services provided.

9. TERM AND TERMINATION OF AGREEMENT

9.1 Term. This Agreement shall commence on the Effective Date and continue in full force until August 31, 2023 (the “**Expiration Date**”), subject to the termination provisions of this Agreement.

9.2 Termination.

9.2.1 Termination Without Cause. Either party may terminate this Agreement, without cause or penalty, by giving ninety (90) days prior written notice to the other party.

9.2.2 Termination For Cause. Either party may terminate this Agreement for cause by giving the other party thirty (30) days written notice and opportunity to cure the alleged default. Notwithstanding the foregoing, LPCH may terminate this Agreement for cause by giving Hospital ten (10) days written notice and opportunity to cure if Hospital fails to make any payment to LPCH required to be made under this Agreement.

9.2.3 Termination Upon Occurrence of Action. If (i) either party receives notice of any Action (as defined below), and (ii) (A) the parties, acting in good faith, are unable to agree upon or make the amendments to this Agreement necessary to comply with the Action, or (B) the parties determine in good faith that compliance with the Action is impossible or infeasible, then either party may terminate this Agreement immediately upon giving written notice to the other.

For purposes of this Section 9.2.3, “Action” shall mean any legislation, regulation, rule or procedure passed, adopted or implemented by any governmental or legislative body or agency or other third party, or any notice of a decision, finding or action by any governmental or private agency, court or other third party which, in the reasonable and good faith opinion of either counsel to either party, if or when implemented, would (I) revoke or jeopardize the status of any license or permit granted to either party or any of its affiliates, (ii) revoke or jeopardize the federal, state or local tax-exempt status of either party or any of its affiliates, or (iii) subject either party, or any of its employees or agents, to civil or criminal prosecution or liability on the basis of their participation in executing this Agreement or performing their obligations under this Agreement.

10. USE OF NAMES AND LOGOS

Neither party may use the name, logo or corporate identity of the other party for any purpose without the prior written consent of the entity whose name, logo or corporate identity is proposed to be used; provided, however, that nothing herein shall prohibit any Physician or Hospital from using the Stanford name solely to identify a Physician’s status as a current member of the LPCH medical staff or Stanford University faculty. Both parties understand and agree that:

(i) Any use of the other party’s name requires the prior written approval of the other party and, in the case of LPCH and Stanford, of the Dean of the Stanford University School of Medicine or his designee;

(ii) Any restrictions on the use of the name that may be imposed from time to time shall be applicable to the other party’s use of the name;

(iii) The use of the name by the other party is subject to termination, and that any such termination shall effect a termination of the right to use the name; and

(iv) Either party has the right to terminate, with or without cause, the other party's right to use the name upon 30 days prior written notice to the other party.

11. NOTICES

All notices required by this Agreement shall be deemed given when in writing and delivered personally, sent by overnight delivery service, or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or on such other address as the party may designate in writing in accordance with this Section:

To LPCH: Lucile Packard Children's Hospital
770 Welch Road, Suite 150
Palo Alto, California 94304
Attn: Chief Executive Officer

and With a copy to:
Office of the General Counsel
Building 170, 3rd Floor, Main Quad
Stanford, CA 94305
Attn: Chief Hospital Counsel

To Hospital:
Natividad Medical Center
1441 Constitution Blvd.
Salinas, CA 93906
Attn: Physician Services

12. BINDING EFFECT

This Agreement shall be binding upon and shall inure to the benefit of LPCH and its successors and assigns, and shall be binding upon and shall inure to the benefit of Hospital and its successors and assigns.

13. GOVERNING LAW

This Agreement has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California.

14. NON-ASSIGNMENT

No assignment of this Agreement or of the rights and obligations hereunder shall be valid without the specific written consent of Hospital and LPCH.

15. RELATIONSHIP OF PARTIES

None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for the purpose of effecting the provisions of this Agreement. The parties are not, and shall not be

construed to be in a relationship of joint venture, partnership or employer-employee. Neither party shall have the authority to make any statements, representations or commitments of any kind on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided for herein.

16. AMENDMENTS

This Agreement and each Exhibit to this Agreement may be amended only by a written instrument signed by the parties.

17. ENTIRE AGREEMENT

This Agreement, including all Exhibits, represents the entire agreement of the parties and supersedes any previous agreements between the parties relating to the same subject matter.

18. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

19. SEVERABILITY

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

20. WAIVER

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

21. FORCE MAJUERE

Neither party shall be liable nor deemed to be in default for any delay, interruption or failure in performance under this Agreement deemed resulting, directly or indirectly, from Acts of God, civil or military authority, war, accidents, fires explosions, earthquakes, floods, failure of transportation, machinery or supplies, vandalism, riots, civil disturbances, strike or other work interruptions by either party's employees, or any similar or dissimilar cause beyond the reasonable control of either party. However, both parties shall make good faith efforts to perform under this Agreement in the event of any such circumstances.

22. DISPUTE RESOLUTION

Any dispute, controversy or claim concerning or relating to this Agreement (a "*Dispute*"), shall be resolved in the following manner:

a. The parties shall use all reasonable efforts to resolve the Dispute through direct discussions between persons associated with each party who have the authority to resolve the Dispute. A party may give the other party notice of any Dispute not resolved in the normal course of business. Within ten (10) days after such notice is given, the receiving party shall submit to the other party a written response. The

notice and the response shall include (i) a statement of that party's position and a summary of arguments in support of that position and (ii) the name and title of the person who will represent that party in any negotiations to resolve the dispute.

b. Within twenty (20) days of written notice that there is a Dispute, employees of each party with authority to settle such Dispute shall meet in Stanford, California (or such other location as the parties mutually agree) or confer by telephone in an effort to reach an amicable settlement and to explore alternative means to resolve the dispute expeditiously (*e.g.*, mediation).

c. If the Dispute, has not been resolved as a result of the procedure in Section 24(a) and (b) above or otherwise within forty five (45) days of the initial written notice that there is a Dispute (or such additional time to which the parties may agree), the matter shall be resolved by final and binding arbitration in Palo Alto, California, administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedure. If the parties are unable to agree on the arbitrator within sixty (60) days of the original written notice of Dispute (or such additional time to which the Parties may agree), the parties shall each appoint one arbitrator approved by JAMS and the two arbitrators shall select a third neutral, independent and impartial arbitrator from the list of arbitrators approved by JAMS.

d. Judgment on an arbitral award may be entered by any court of competent jurisdiction, or application may be made to such a court for judicial acceptance of the award and any appropriate order including enforcement.

e. Nothing herein, however, shall prohibit either party from seeking judicial relief in the Santa Clara County, California Superior Court or the U.S. District Court for the Northern District of California (and the corresponding appellate venues), if such party would be substantially prejudiced by a failure by the other party to act during such time that such good faith efforts are being made to resolve the claim or controversy.

f. If any party should bring any action (arbitration, at law or in equity) to resolve any claim related to this Agreement or to interpret any term contained in this Agreement, the prevailing party in such action (as determined by the arbitrator(s) or judge (or equivalent)) shall be entitled to receive from the non-prevailing party all of its costs and expenses incurred in such action (including, without limitation, reasonable attorneys' fees). Subject to the foregoing, this Agreement shall be construed in accordance with the laws of the State of California, exclusive of its choice of law principles.

23. MEDICARE AUDIT

LPCH will permit the Secretary of Health and Human Services, the U.S. Comptroller General, and their authorized representatives to have access to all data and records relating to the nature and extent of cost of Professional Services provided under this contract until four (4) years after furnishing of such Professional Services, in accordance with the Social Security Act and regulations. If LPCH carries out the requirements of this contract through a subcontract with a related party with a value of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, LPCH will include this right of access to books and records in each subcontract. This Section shall be in force and effect only to the extent required by law.

24. CONFIDENTIALITY AND PRIVACY

LPCH agrees to maintain, and ensure Physicians maintain, the confidentiality, privacy, and security of patient information to the extent required by law and Hospital policy. Without limiting the generality of the foregoing, LPCH agrees to comply, and ensure Physicians comply, with the Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations promulgated thereunder ("**HIPAA**") with respect to the privacy and security of "protected health information" (as defined by HIPAA) created, transmitted, maintained or received by LPCH or Physicians pursuant to, or in connection with, the performance of LPCH or Physicians' obligations under this Agreement. Hospital shall be responsible for providing patients with a notice of privacy practices which covers Physicians' rights to access protected health information for patients treated by Physicians at Hospital. Hospital shall be responsible for any HIPAA compliance obligations with respect to patients treated by Physicians at Hospital under this Agreement. For purposes of this section only, Physicians shall be considered to be part of the Hospital's workforce. Additionally, all proceedings, files, records and related information of Hospital and Hospital's Medical Staff and its committees pertaining to the evaluation and improvement of the quality of patient care in Hospital shall be kept strictly confidential. Neither party shall voluntarily disclose such confidential information, either orally or in writing, except as may be expressly required by law and pursuant to a written authorization by the other party. This covenant shall survive the termination of this Agreement.

25. COMPLIANCE WITH LAWS

It is the intent of the parties that this Agreement and each of its provisions comply, in all respects, with applicable laws.

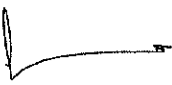
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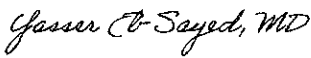
IN WITNESS, the duly authorized representatives of the parties have executed this Agreement in duplicate as of the Effective Date.

LUCILE SALTER PACKARD CHILDREN'S HOSPITAL AT STANFORD

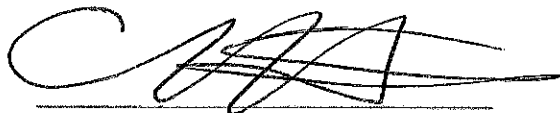
By 
Name: Paul King
Title: Chief Executive Officer

Approved as to Content:

By 
Name: Leslee Subak, M.D.
Title: Chair of Obstetrics and Gynecology; Stanford University School of Medicine

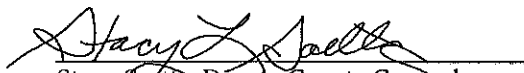
By 
Yasser Y. El-Sayed, M.D.
Director Division of Maternal-Fetal Medicine and Obstetrics, Stanford University
Co-Director Johnson Center for Pregnancy and Newborn Services

NATIVIDAD


Deputy Purchasing Agent

Date: 9/1/21

APPROVED AS TO LEGAL PROVISIONS:


Stacy Saetta, Deputy County Counsel

Date: 8/17/2021

APPROVED AS TO FISCAL PROVISIONS:


Deputy Auditor/Controller

Date: 8-17-2021

EXHIBIT A

PROFESSIONAL SERVICES AND SERVICE SCHEDULE

Professional Clinical Services:

Physician(s) shall provide inpatient maternal fetal consults in-person or via telehealth to patients of Hospital during the term of this Agreement according to a mutually agreed upon schedule (excluding holidays recognized by Stanford University and vacation as allowed under Stanford University's employment policies and scheduled with Hospital). LPCH shall ensure Physician(s) are available to provide the Professional Services: a minimum of forty (40) hours/month. Additionally, LPCH shall provide telephone access to a provider experienced in maternal fetal medicine during such times when the Physician(s) are not scheduled to be available.

Administrative Services:

LPCH shall provide one or more Physicians to provide clinical education, lectures, review of Hospital policies/protocols and Q/A committee attendance up to a maximum of four (4) hours per month.

EXHIBIT B

COMPENSATION

In consideration of the Physicians' availability and provision of the services herein, Hospital shall pay LPCH \$13,200 per month.

In consideration of the Physicians' provision of Administrative Services, Hospital shall pay to LPCH \$1,320 per month.

All payments shall be made payable to the "Lucile Salter Packard Children's Hospital at Stanford" according to the payment terms of this Agreement. All payments shall be sent to the following address:

Accounting Department
Lucile Salter Packard Children's Hospital at Stanford
725 Welch Road, MC 5553
Palo Alto, CA 94304
Attn: Controller