

PATIENT TRANSFER AGREEMENT

This Patient Transfer Agreement ("**Agreement**") is made and entered into effective the _____ day of _____ ("**Effective Date**"), by and between _____ and County of Monterey (hereinafter "**County**") on behalf of Natividad **Medical Center**, a general acute care teaching hospital wholly owned and operated by the County of Monterey (hereinafter "**NMC**"). _____ and NMC are sometimes referred to in this Agreement as a "**Facility**" or, collectively, as the "**Facilities.**"

RECITALS

A. NMC is a general acute care hospital that offers comprehensive health care services and is located at 1441 Constitution Boulevard, Salinas, California 93906.

B. It may be necessary from time to time for one Facility to transfer a patient to the other Facility for outpatient or inpatient health care services that are not provided or available at the Transferring Facility (as defined below).

C. The parties desire to enter into this Agreement in order to arrange for the orderly, timely, and therapeutically beneficial transfer of patients from one Facility to the other Facility and to establish the conditions under which the Facilities will accept such transfers.

NOW THEREFORE, in consideration of the foregoing and the promises and covenants contained herein, the parties agree as follows:

ARTICLE I INDICATIONS AND REQUIREMENTS FOR TRANSFER

1.1 Determination. When a patient's need for transfer from Transferring Facility to Receiving Facility for specialized medical services has been determined by the physician initiating and responsible for the patient's care ("**Transferring Physician**"), the Receiving Facility agrees to admit the patient as promptly as possible under the conditions set forth in this Agreement. For purposes of this Agreement:

(a) "Transferring Facility" shall mean the Facility that transfers a patient to the other Facility for any purpose consistent with the terms of this Agreement.

(b) "Receiving Facility" shall mean the Facility that receives a patient transferred by the other Facility for any purpose consistent with the terms of this Agreement

1.2 Authorization for Transfer. The Transferring Physician shall authorize the transfer of the patient to the Receiving Facility, including documenting in the patient medical record the medical necessity or other reason for the transfer of the patient to the Receiving Facility, and the medical condition

of the patient at the time of transfer. The Transferring Physician shall also determine which method of transport is compatible with patient's condition.

1.3 Consent from Receiving Facility. The Transferring Facility shall obtain consent from the Receiving Facility for the patient transfer. At the time of initial contact, the Transferring Facility will provide the following information to the Receiving Facility:

- (a) The patient's name and date of birth (gender as applicable);
- (b) Whether patient is in an emergency department patient or an inpatient;
- (c) The patient's diagnosis and description of the patient's clinical condition;
- (d) The patient's clinical status, including whether the patient has an emergency medical condition and if so, whether the condition is stabilized, as defined in the Emergency Medical Treatment and Labor Act regulations, 42 C.F.R. §489.24 ("**EMTALA**");
- (e) The reason for the transfer (i.e., higher level of care, lack of required specialty services, lack of beds, inadequate staffing, patient request, etc.); and
- (f) The estimated time of arrival of the patient.

1.4 Patient Notice and Consent. The Transferring Facility will comply with patient notice and consent requirements applicable to the transfer, and recognize and honor the right of the patient, or the patient's authorized representative, to refuse consent to treatment or transfer.

1.5 Transfer of Personal Property. Transferring Facility shall transfer patient's personal effects, including but not limited to, money and valuables and information related to those items.

1.6 Terms of Transfer. If a patient is transferred from one Facility to another and then is re-transferred, the Receiving Facility becomes the Transferring Facility and the patient must be returned to the original Transferring Facility provided that beds, personnel, and appropriate services are available, and the transfer has been approved by the physician who accepts responsibility for the care of the patient at Receiving Facility ("**Receiving Physician**") and the transfer is consistent with EMTALA and other patient transfer laws and Receiving Facility admitting policies.

1.7 Non-Discrimination. Transferring Facility shall not discriminate on any basis, including financial status, in determining which patients are transferred to Receiving Facility.

1.8 Transferring Facility Designated Representative. Transferring Facility shall designate a qualified individual to represent the Transferring Facility and coordinate transfer procedures for patients being transferred to Receiving Facility.

1.9 Transport. Transferring Facility shall be responsible for effecting the transfer of the patient, including arranging for qualified personnel and transportation equipment and the safe transportation and care of the patient during the transfer in accordance with EMTALA and other applicable Federal and State laws and regulations, as well as notifying Receiving Facility of the estimated time of arrival for transfer patient.

1.10 Re-Transfer. The Facilities agree that at such time as it is appropriate for the patient to be transferred back to the Transferring Facility for inpatient care, the re-transfer shall be based upon the patient meeting acute care medical necessity criteria for admission back to Transferring Facility, as determined by Transferring Facility case manager. Receiving Facility will be responsible for the proper notification of and all necessary consents of the patient, or the patient's authorized representative, in the event of such re-transfer.

ARTICLE II

ADMISSION OF PATIENTS TO RECEIVING FACILITY

2.1 Acceptance By Receiving Facility. Receiving Facility agrees to accept, as promptly as possible, any Transferring Facility patient who is stabilized as defined in EMTALA (“**Stabilized**”) and who requires specialized services that are not provided or available at the Transferring Facility, and to accept any non-Stabilized patient meeting the criteria set forth in Section 3.2 herein, provided that:

(a) The Receiving Facility has appropriate services, beds, equipment, staff and service capacity to meet the expected needs of the patient;

(b) A Receiving Physician or other designated person with authority to accept the transfer has accepted the patient; and

(c) The patient meets the Receiving Facility's admission criteria applicable to the patient.

In the event that the Receiving Facility does not have available services, space, qualified personnel, or service capacity, the Receiving Facility shall assist the Transferring Facility in arranging for transport of the patient to another suitable facility.

2.2 Admission. Receiving Facility shall complete the admissions and registration process for each patient accepted by the Receiving Facility in a manner consistent with Receiving Facility's policies and applicable law.

2.3 Notification by Transferring Facility. Except when not feasible because the patient suffers from an emergency medical condition, the Transferring Facility shall notify the Receiving Facility:

(a) As soon as the need for a transfer can be reasonably determined, regardless of whether the transfer is imminent.

(b) Immediately (1) upon any changes in plans or in the patient's condition, and (2) prior to transferring the patient, of the method of transport, the estimated time of arrival, and the patient's medical condition.

(c) In the event of an emergency medical condition, which precludes prior notification, the Transferring Facility shall provide the foregoing notifications as soon as feasible.

ARTICLE III TRANSFER AND TRANSPORTATION

3.1 Stabilization of Patient. To the extent possible, patients will be Stabilized prior to transfer and treatment shall be initiated to ensure that the transfer will not, within reasonable medical probability, result in harm to the patient or jeopardize the patient's survival.

3.2 Transfer of Non-Stabilized Patient. In the event that the patient cannot be Stabilized prior to transfer, the patient may be transferred only after the Transferring Facility has provided adequate treatment and the Receiving Facility has confirmed that it has space and qualified personnel to treat the patient. A patient who has not been Stabilized may be transferred only after at least one (1) of the following conditions has been satisfied:

(a) The patient or the patient's authorized representative requests the transfer after being told of the Transferring Facility's EMTALA obligations and of the risks of transfer;

(b) A physician signs a certification that the medical benefits expected from the treatment administered at the Receiving Facility outweigh the risks to the individual or, if pregnant, to the unborn child being transferred ("**Certification**"); or

(c) If a physician is not physically present at the time of transfer, a qualified medical person, has signed a Certification after a physician, in consultation with the qualified medical person, agrees with the Certification and subsequently countersigns the Certification.

3.3 Transfer Arrangements. Transfer arrangements shall be made by mutual consent of the Transferring Physician and Receiving Physician. Upon confirmation that the Receiving Facility has available beds and qualified personnel, the physician to whom the patient is being transferred shall arrange for the patient's admission to the Receiving Facility.

3.4 Method of Transport. The Transferring Physician shall make arrangements for transport and shall be responsible for determining the appropriate method to be used for transport. The patient must be provided with the appropriate medical care, including qualified personnel and appropriate equipment, throughout the transfer process. The personnel and equipment shall be those that a reasonable and prudent

physician in the locality would use to effect a transfer, including necessary and medically appropriate life-support measures, and the transfer must comply with all applicable state and federal laws and regulations. Transferring Facility and/or patient shall be responsible for all costs of transport.

3.5 Responsibility For Treatment. No facility-patient or physician-patient relationship shall be established at the Receiving Facility, unless and until such time as the patient has actually been admitted to the Receiving Facility pursuant to a patient transfer under this Agreement.

ARTICLE IV RECORDS AND TRANSMISSION OF INFORMATION

4.1 Stabilized Patients. For all Stabilized patients, subject to federal and state laws regarding the consent of a minor for medical care and the confidentiality of medical information, the Transferring Facility shall send with the patient, or arrange to be immediately transmitted (via facsimile) at the time of transfer, the necessary documents and completed forms containing the medical, social, and/or other information necessary to ensure continuity of care for the patient. Such documentation shall include at least the following:

- (a) Identification of the patient;
- (b) Diagnosis;
- (c) Copies of the relevant portions of the patient's medical record, including without limitation, medical, nursing, dietary, laboratory, x-rays, and medication records;
- (d) Relevant transport forms; and
- (e) Copy of signed consent of patient or patient's legal surrogate for transport (except in an emergency when timely consent cannot be obtained and transport without consent is permitted by law).

4.2 Transfer of Non-Stabilized Patients. If a patient has an emergency medical condition that has not been Stabilized at the time of the transfer, the Transferring Facility shall transfer: (i) a copy of the patient's informed consent to the transfer or the physician's or other authorized qualified medical person's, Certification that the medical benefits of the transfer outweigh the risks of transfer; and (ii) if an on-call physician at the Transferring Facility failed or refused to examine or treat the patient within a reasonable time, the name and address of the on-call physician. If all necessary and relevant medical records are not available at the time the patient is transferred, the records will be forwarded by the Transferring Facility as soon as practicable after the transfer.

4.3 Receiving Facility Responsibility. The Receiving Facility shall be the owner of all reports, records and supporting documents prepared in connection with services performed at the Receiving Facility. The Transferring Facility shall, however, have access to all such reports, records and supporting

documentation as required by law. Subject to limitations regarding confidentiality, Receiving Facility shall provide to the Transferring Physician, information regarding the patient's diagnosis, condition, treatment, prognosis, and any complications during the time that the patient is hospitalized at the Receiving Facility and upon discharge or transfer from the Receiving Facility.

ARTICLE V PATIENT CHARGES

5.1 Billing and Collections. Receiving Facility and Transferring Facility shall each be responsible for billing and collecting their separate charges for all services furnished at their respective places of business, unless otherwise required by law (see Section 5.2 and Section 5.3 below). Except as otherwise set forth below, it is agreed that the services rendered by either Facility shall be billed and collected by the Facility rendering the services directly from the patient, third-party payor, or other source normally billed by the Facility, and neither Facility shall have any liability to the other for such charges.

5.2 Medicare Patients.

(a) If a patient who was admitted as an inpatient at the Transferring Facility is transferred to the Receiving Facility and then returned to the Transferring Facility on the same day and readmitted as an inpatient, the Receiving Facility will bill the Transferring Facility for any services the Receiving Facility furnished to the patient and be reimbursed by the Transferring Facility at the appropriate Medicare rates for the services provided.

(b) If an inpatient is transferred from the Transferring Facility to the Receiving Facility and discharged by the Receiving Facility on the same day, each Facility will be separately responsible for billing Medicare directly for payment.

(c) If an inpatient is transferred from the Transferring Facility to the Receiving Facility and admitted as an inpatient of the Receiving Facility on the same day, each Facility will be separately responsible for billing Medicare directly for payment.

(d) Receiving Facility will provide Transferring Facility with Medicare DRG payment coversheet and a complete UB04 or successor billing form.

5.3 Medi-Cal Patients.

(a) If a patient who was admitted as an inpatient to the Transferring Facility is transferred to the Receiving Facility and then returned to the Transferring Facility on the same day and readmitted as an inpatient, the Receiving Facility will bill the Transferring Facility for any services the

Receiving Facility rendered to the patient and be reimbursed by the Transferring Facility at the appropriate State Medi-Cal rates for the services provided.

(b) If the an inpatient is transferred from the Transferring Facility to the Receiving Facility to be admitted and admitted as an inpatient of the Receiving Facility on the same day, each Facility will be separately responsible for billing Medi-Cal directly for payment. Each Facility is also separately responsible for submitting Treatment Authorization Requests (TARs) for the respective services rendered to the patient, as appropriate.

(c) If an inpatient is transferred from the Transferring Facility to the Receiving Facility and admitted as an inpatient of the Receiving Facility on the same day, each Facility will be separately responsible for billing Medi-Cal directly for payment. Each Facility is also separately responsible for submitting Treatment Authorization Requests (TARs) for the respective services rendered to the patient, as appropriate.

(d) Receiving Facility will provide Transferring Facility with a complete UB04 or successor billing form.

ARTICLE VI TERM AND TERMINATION

6.1 Term. This Agreement will commence on the Effective Date and will expire two (2) years thereafter (“**Initial Term**”), unless sooner terminated as provided herein. At the end of the Initial Term, this Agreement shall automatically renew for subsequent twelve (12) month periods, unless either party provides written notice to the other that the Agreement shall not be renewed.

6.2 Termination. Notwithstanding the stated term contained in Section 6.1 above:

(a) Without Cause. Either Facility may terminate this Agreement at any time without penalty or cause by furnishing ninety (90) days’ prior written notice to the other Facility specifying the date upon which such termination will be effective.

(b) For Cause. Either Facility may terminate this Agreement in the event of the other Facility’s material breach, provided however, that termination for the breach of this Agreement will not become effective unless and until: (1) the Facility not in default has given the other Facility written notice of breach, which notice shall state the general nature of said breach, and (2) the Facility allegedly in default has had a period of thirty (30) days following the giving of said notice in which to remedy said default, and such default has not been remedied to the reasonable satisfaction of the other Facility.

6.3 Automatic Immediate Termination. This Agreement shall be automatically and immediately terminated upon occurrence of any of the following:

- Facility;
- (a) Loss of license, accreditation, or Medicare or Medi-Cal certification by either
- executed;
- (b) Inability by either Facility to provide the services for which this Agreement is
- (c) In the event that this Agreement is deemed unlawful; or
- (d) Either Facility is destroyed to the extent that patient care cannot adequately be provided.

ARTICLE VII CONSENT AND INDEMNIFICATION

7.1 Insurance. County and _____ each warrants that it will obtain and maintain general and professional liability insurance during the term hereof, at its sole cost and expense, covering its activities in the performance of this Agreement. Such coverage provided under this Section 7.1 shall be in minimum amounts of at least One Million Dollars (\$1,000,000) per occurrence, and Three Million Dollars (\$3,000,000) annual aggregate. Either County or [other Facility] may self-insure the insurance required in this Section 7.1. If one party elects to self-insure, that party shall be responsible for any liabilities which would have been assumed by an insurance company which would have issued the insurance policies required under this Section 7.1.

7.2 Indemnification. County and _____ each agrees to indemnify, defend, and hold the other, its officers, employees, and agents harmless from and against any and all liability, loss, expense, attorney's fees, or claims for injury or damages arising out of its performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional act or omission of the indemnifying party.

ARTICLE VIII GENERAL PROVISIONS

8.1 Independent Parties. Each Facility shall have and retain exclusive control of the management, assets and affairs of its own institution. Neither Facility hereby assumes any liability for any debts or obligations incurred by the other Facility, other than as specifically set forth in this Agreement. Both Facilities are independent contractors, seeking to accomplish the stated purpose(s) set forth in this Agreement, and neither is authorized or permitted to act as an agent or employee of the other.

8.2 Use of Names. Neither Facility shall use the name of the other Facility in any promotional or advertising material unless the Facility who plans to publish material obtains prior written approval for the material from the other Facility whose name is to be used.

8.3 Non-Exclusivity. Nothing in this Agreement shall be construed as limiting the right of either Facility to affiliate or contract with any other party, on either a limited or general basis, while this Agreement is in effect.

8.4 No Transfers Required. Nothing in this Agreement shall in any way be construed to require or induce one Facility to admit, refer, or transfer patients to the other Facility. It is the intent of both Facilities that transfer decisions be made by each patient's attending physician in his/her best medical judgment and in the patient's best medical interests.

8.5 Compliance with Laws. Both Facilities shall comply with all applicable state, federal and local laws and regulations including, but not limited to, federal "anti-dumping" laws set forth in 42 U.S.C. Section 1395dd and regulations promulgated thereunder, the laws of the State of California governing the provision of receiving facility and outpatient services, the health information privacy provisions set forth in the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, and the regulations thereunder (collectively, "**HIPAA**"), and applicable accreditation standards. Each Facility shall immediately notify the other upon receiving notice, written or otherwise, that its license, certification or accreditation has been suspended, revoked, placed on probation, that a party has been reprimanded, that it has received a notice of deficiencies, that it has been ordered to cease operations, or of any pending or threatened or legal actions, injunctions, or corrective actions for violating any of the aforementioned laws and regulations.

(a) To the extent that any provision of this Agreement conflicts with EMTALA or state licensing laws for the provision of emergency services and care, as such laws may be amended, the provisions of EMTALA or the state licensing laws, as applicable, shall take precedence over and/or automatically supersede any inconsistent provisions of this Agreement.

(b) Each party shall at all times be licensed by the State Department of Public Health, and certified by the Medicare and Medi-Cal programs.

8.6 Maintenance of Records. Each Facility shall maintain all documentation relating to transfers under this Agreement, including transfer requests, acceptances and denials, for a minimum period of five (5) years from the date of the request for a transfer.

8.7 Governing Law. This Agreement shall be governed by the laws and regulations of the State of California, and applicable federal laws and regulations.

8.8 Waiver. No waiver of any term or condition of this Agreement by either Facility shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.

8.9 Amendment. This Agreement, in whole or part, may be changed at any time by mutual consent of the two parties. This Agreement should be periodically reviewed, at least annually, to assure it continues to be an effective document for both parties.

8.10 Assignment. Neither party hereto shall assign or transfer this Agreement, in whole or in part, or any its rights duties, or obligations under this Agreement, without the prior written consent of the other party.

8.11 Transferring Facility Physician Privileges. Physicians practicing at one Facility shall not be required by virtue of this Agreement to hold privileges at the other Facility. No physician, however, shall be permitted to participate in the care of any patient following a transfer to the Receiving Facility unless such physician holds appropriate Medical Staff privileges at Receiving Facility. Temporary privileges at Receiving Facility for continued care of transported patients in accordance with the Medical Staff Department policies and procedures may be arranged.

8.12 Representations and Warranties. Each Facility represents and warrants that it has not been barred from any government procurement or non-procurement program at any time prior to the date of this Agreement. If, at any time during the term of this Agreement, either Facility is barred from a government program such as Medicare, Medi-Cal or any government procurement or non-procurement program, it shall give notice thereof to the other Facility within thirty (30) days after notification of debarment. After the receipt of such notice, the other Facility shall have the right to terminate this Agreement by written notice thereof, given to the other Facility. Such termination shall become effective on the first day of the calendar month immediately following the date such notice is given.

8.13 Dispute Resolution.

(a) In the event of a dispute arising out of or relating to this Agreement, the Facilities shall make a reasonable good faith effort to negotiate between themselves a resolution of the matter. In the event that no resolution is reached, the Facilities will make a further reasonable and good faith effort to agree upon a form and procedure for mediation of their dispute with the assistance of a mutually agreeable neutral third party mediator. No portion of this Section 8.13(a) shall, however, be deemed a requisite condition precedent to arbitration that is otherwise permitted under the remainder of this Section 8.13.

(b) Except as otherwise expressly set forth hereafter in this Section 8.13(b), any controversy, claim, question or dispute between the Facilities which arises out of or in any way relates to this Agreement shall be resolved solely by binding arbitration in accordance with the provisions and procedures hereinafter set forth.

(c) Either Facility may initiate arbitration by filing a written Notice of Arbitration with the other Facility in accordance with the notice provisions of this Agreement, stating with specificity the nature of the question or dispute which is to be arbitrated ("**Notice of Arbitration**").

The Facilities shall have fifteen (15) days following the date of service of the Notice of Arbitration within which to agree on a single arbitrator. If the Facilities cannot agree, each Facility shall name an arbitrator. The two named arbitrators shall meet within fifteen (15) days and together choose a third arbitrator. The third arbitrator shall then proceed to hear and determine the matter as the sole arbitrator.

(d) A hearing on the matter to be arbitrated shall take place before the arbitrator in Monterey County, California, at a time and place selected by the arbitrator. The hearing shall take place within ninety (90) days following the date of Notice of Arbitration. The arbitrator shall provide written notice of the time and place of arbitration to each Facility at least twenty-one (21) days before the hearing date.

(e) Except as otherwise expressly provided in this Agreement, the arbitration shall be conducted in accordance with the provisions of the California Arbitration Act, as may be amended and in effect at the time of arbitration (California Code of Civil Procedure §§ 1280- 1294.2).

(f) The decision of the arbitrator shall be final, binding and conclusive on the Facilities, provided that the arbitration is conducted and the determination is made in accordance with the provisions of this Section 8.12. The decision of the arbitrator shall be made within no more than fifteen (15) days following the completion of the arbitration, and shall be evidenced by written notice by the arbitrator to each of the parties to the arbitration.

(g) The costs of the arbitration shall be divided equally between the Facilities. Subject to this Section 8.13, each Facility shall pay its own expenses, and the fees and costs of its attorneys, other professional advisors, and experts or other witnesses.

8.14 Preliminary Relief. A party to this Agreement shall not be held to have waived the right to enforce the arbitration provisions of this Agreement by filing a lawsuit to obtain any temporary or preliminary relief for the purpose of protecting the rights of such party including, without limitation: appointment of a receiver, preliminary injunction, temporary restraining order or order to compel arbitration. Once such preliminary relief has been obtained or denied, however, court proceedings shall thereafter be stayed pending the determination in arbitration pursuant to this Section 8.14. Upon such determination, any party may thereafter seek confirmation of the award as provided by law and in accordance with the arbitration provisions hereof.

8.15 Entire Agreement. This Agreement constitutes the entire understanding of the Facilities hereto with respect to the matters discussed herein and supersedes any and all written or oral agreements, representations or understandings concerning the subject matter herein, whether made by the Facilities or others purportedly on behalf of one of the Facilities. No changes, amendments, or alterations of this Agreement shall be effective unless made in writing and signed by both Facilities.

8.16 No Third Party Beneficiaries. It is not the intention of either Facility that any person or entity not a signatory to this Agreement be or become a third party beneficiary of this Agreement.

8.17 Notice. Any notice required to be given hereunder shall be in writing and delivered personally, or by overnight delivery, or sent by registered or certified mail, return receipt requested, to the applicable addresses listed below, or at such other addresses as a party may hereafter from time to time designate to the other:

If to NMC:

Natividad Medical Center
1441 Constitution Blvd.
Salinas, CA 93906
Attention: Chief Executive Officer

If to _____:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, as of the dates written below.

Name of Facility

NMC

By: _____
Title

By: _____
Natividad Medical Center, CEO

Date: _____

Date: _____