

MEDICAL DIRECTOR AND PROFESSIONAL SERVICES AGREEMENT

This Medical Director and Professional Services Agreement (“Agreement”) is entered into as of the 1 day of April, 2021, by and between The Regents of the University of California, a corporation described in California Constitution Art. IX, Sec. 9, on behalf of its UCSF School of Medicine, Department of Pediatrics (“UCSF”), and County of Monterey (“County”) on behalf of Natividad Medical Center (“Hospital”).

RECITALS

- A. County owns and operates Hospital, a general acute care teaching hospital facility located in Salinas, California under its acute care license ;
- B. Hospital’s services include a Level III neonatal intensive care nursery;
- C. UCSF operates a School of Medicine which includes a Department of Pediatrics and employs or contracts with physicians (“UCSF Physicians”) who are licensed to practice medicine in the State of California;
- D. Hospital desires that UCSF provide Medical Director and professional neonatology services for Hospital and its patients; and
- E. UCSF Physicians are qualified to provide those services and UCSF desires to make those services available through its UCSF Physicians.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the parties hereby agree as follows:

ARTICLE 1 **RESPONSIBILITIES OF UCSF**

1.1 Services.

- (a) Medical Director. UCSF will provide a UCSF Physician to serve as the director of neonatal intensive care nursery (“Medical Director”) to perform the services identified in Exhibit 1.1 of this Agreement (“Medical Director Services”). The UCSF Physician serving as Medical Director shall be identified in Exhibit 1.1 by mutual agreement of the parties. Medical Director shall keep monthly time logs submitted to Hospital and shall provide a minimum of ten (10) hours per month in Medical Director Services.
- (b) Professional Services and Coverage. During the term of this Agreement, UCSF Physicians shall provide professional services to Hospital patients as scheduled by Hospital in mutual agreement with UCSF as further described in Exhibit 1.1 (“Professional Services”).

1.2 Qualifications. During the term of this Agreement, each UCSF Physician providing services pursuant to this Agreement shall be experienced in rendering such services and shall maintain on an unrestricted basis:

- (a) California Licensure as a physician/or surgeon;
- (b) Federal Drug Enforcement Administration certification;
- (c) Hospital Medical Staff membership and appropriate clinical privileges at Hospital;
- (d) Board eligible or board certified in neonatology;
- (e) Faculty appointment at UCSF; and
- (f) Professional liability coverage as set forth in this Agreement.

1.3 UCSF's Obligations to Personnel. UCSF shall be solely responsible for satisfying any and all obligations for any UCSF Physician providing services under this Agreement. Such obligations shall include, but not be limited to, paying all federal and state withholding taxes applicable to employees, complying with federal and state wage-hour obligations (including overtime), workers compensation obligations, unemployment insurance obligations, and other applicable taxes and contributions to government mandated employment related insurance and similar programs. UCSF shall have authority and responsibility for providing the UCSF Physicians to Hospital (including recruiting, hiring, promoting, compensating, and disciplining) and for establishing the terms of the UCSF Physicians' employment with UCSF. The UCSF Physicians shall be employees of UCSF and shall be carried on UCSF's payroll. The UCSF Physicians providing services under this Agreement are identified in Exhibit 1.1, attached hereto and incorporated herein by reference.

1.4 Standard of Care. To the extent permitted by law, each UCSF Physician shall, at all times, perform services in accordance with and comply with the following:

- (a) All applicable laws, regulations, and policies of all government authorities relating to the Hospital, including all applicable hospital and professional licensure and reimbursement laws, regulations, and policies;
- (b) The Joint Commission standards and recommendations;
- (c) Hospital policies and rules;
- (d) Hospital's Medical Staff bylaws, rules and policies; and
- (e) The terms of this Agreement.

ARTICLE 2
RESPONSIBILITIES OF HOSPITAL

- 2.1 Space, Equipment and Supplies. Hospital shall furnish UCSF and UCSF Physicians with such space, equipment, staff, supplies and support services as reasonably necessary for UCSF to fulfill its responsibilities hereunder. Hospital agrees to keep and maintain said premises in good and sanitary order, condition and repair. Hospital's responsibilities are further described in Exhibit 2.1.
- 2.2 Environmental Laws. 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 all environmental health and safety permits, licenses, and authorizations ("Environmental Permits"), and for otherwise operating its premises (including that which it provides to the UCSF 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 UCSF Physicians hereunder, (c) providing any reports, warnings or other notifications that may be required of Hospital or physicians providing care at Hospital under any Environmental Laws or Environmental Permits, (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 a UCSF Physician, and (e) providing for the safety and wellbeing 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 on its own behalf and on behalf of any persons entering the premises provided to UCSF Physicians expressly waives and releases any claims against each UCSF Physician, UCSF and their respective successors, members, officers, directors, employees and agents in connection with the environmental matters addressed herein this Section 2.2.
- 2.3 Hospital Staff.
- (a) Hospital shall employ or otherwise retain all non-physician personnel required for providing the services in this Agreement. Such personnel shall be appropriately licensed or certified as required under California law. Hospital shall make all decisions regarding hiring, retaining, and terminating such personnel, but Hospital shall first attempt to consult with UCSF.
- (b) Hospital shall be solely responsible for satisfying any and all obligations for personnel that Hospital retains, employs, or contracts with in order to assist it in performing this Agreement. Such obligations

shall include, but not be limited to, paying all federal and state withholding taxes applicable to employees, complying with federal and state wage-hour obligations (including overtime), workers compensation obligations, unemployment insurance obligations, and other applicable taxes and contributions to government mandated employment related insurance and similar programs.

ARTICLE 3

INDEPENDENT CONTRACTOR

- 3.1 Independent Contractor Status. In performing all work, duties, and obligations under this Agreement, it is mutually understood and agreed that UCSF and UCSF Physicians are at all times acting and performing as independent contractors in relation to the Hospital herein. Nothing in this Agreement is intended to, nor shall be, construed to create between Hospital and UCSF or between Hospital and any of UCSF Physicians an employer/employee relationship, a joint venture relationship, a lease or landlord/tenant relationship, or any other relationship, except that of independent entities contracting with each other solely for the purpose of effectuating this Agreement. Hospital shall neither have nor exercise any control or direction over the methods by which UCSF shall perform its work and functions. Hospital's sole interest and responsibility is to assure that the services covered by this Agreement shall be performed and rendered in a competent, efficient and satisfactory manner.

ARTICLE 4

BILLING AND COMPENSATION

- 4.1 Billing.
- 4.1.1 Professional Services Fee Schedule. UCSF shall have sole discretion in establishing its professional fees for Professional Services provided pursuant to this Agreement; provided, however, that all professional fees shall be competitive with customary local fees for comparable services.
- 4.1.2 UCSF Billing. UCSF shall be solely responsible for billing and collecting for Professional Services provided by UCSF Physicians pursuant to this Agreement. UCSF is enrolled with Centers for Medicare and Medicaid Services (CMS), and other federal and state health care programs for reimbursement for services provided to federal and state healthcare beneficiaries.
- 4.1.3 Billing Compliance. UCSF shall use its best efforts to comply with all applicable laws, including those of the federal health care programs, customary professional practice, and other third-party payor programs, whether public or private, in connection with billing and coding for Professional Services provided pursuant to this Agreement. UCSF and Hospital shall cooperate in good faith to resolve any billing issues that arise under the Agreement. UCSF shall bill patients and/or appropriate third-party payors in a timely manner.

- 4.1.4 Patient Information. Hospital shall take all necessary and reasonable steps to provide sufficient patient information and obtain and provide any required insurance authorization to UCSF for services provided to facilitate UCSF's billing and collecting for Professional Services provided pursuant to this Agreement. Hospital shall provide to UCSF appropriate demographics for billing as well as insurance authorization information including outpatient registration and inpatient registration, including each admission face sheet.
- 4.1.5 Separate Billing. Each party shall separately bill all patients for its respective fees and charges, and neither UCSF nor Hospital shall bill for, or have any claim or interest in or to the amounts billed or collected by the other party. UCSF shall cooperate and shall ensure that UCSF Physicians cooperate with Hospital in completing such claim forms for Hospital patients as may be required by insurance carriers, health care service plans, governmental agencies, or other third-party payors.
- 4.1.6 Debt Collection Practices. UCSF shall comply and shall use its best efforts to ensure that any collection agency engaged by UCSF, in relation to the Professional Services hereunder, complies, with the UCSF's charity care policy.
- 4.2 Third-Party Payor Arrangements. UCSF shall cooperate in all reasonable respects necessary to facilitate Hospital's entry into or maintenance of any third-party payor arrangements for the provision of services under Federal Health Care Programs or any other public or private health and/or hospital care programs, including insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations. UCSF shall have no obligation to enter into any third-party payor contracts or arrangements with any of Hospital's third-party payors. UCSF and Hospital will work together to facilitate alignment with each party's respective third-party payor contracts or arrangements to the extent possible.
- 4.3 Compensation to UCSF.
- 4.3.1 Compensation. The total amount payable by Hospital to UCSF under this Agreement shall not exceed the sum of Seven Hundred Thousand Dollars (\$700,000).
- 4.3.2 Guarantee. Hospital and UCSF agree that Hospital shall pay to UCSF the difference (the "Guarantee") between (i) the Professional Services Net Collections, and (ii) the UCSF Physicians Compensation Expense. For purposes of this section, the term "Professional Services Net Collections" shall mean all net income (including adjustments for, but not limited to, fees, charges, taxes, direct pass through expenses, etc.) collected by UCSF on behalf of the Professional Services performed under this Agreement. The term "UCSF Physicians Compensation Expense" shall mean the sum of (i) 2.0 FTE of Pediatric Neonatology total salaries and fringe benefits paid and/or provided to the UCSF Physicians and (ii) professional liability coverage expenses in accordance with Exhibit 6.1 and other related expenses for the UCSF Physicians to provide clinical coverage at Hospital,. The Guarantee paid by

Hospital to UCSF shall not exceed \$300,000 per year. The Guarantee is based on UCSF Department of Pediatrics' fair market value assessment using the Medical Group Management Association ("MGMA") published rate for a neonatologist of \$333,235.

- 4.3.3 To the extent the Guarantee was utilized during the preceding quarter, UCSF shall submit an invoice to Hospital for the amount payable as the Guarantee for the preceding quarter, together with mutually acceptable documentation for the calculation of the Guarantee for that quarter. UCSF and Hospital shall conduct a final reconciliation of Guarantee payments for each year within six (6) months after each anniversary of the Commencement Date.
- 4.3.4 Hospital will provide payment for the Guarantee to UCSF 30 days following receipt in the Auditor-Controller's Office of the quarterly invoice, unless Hospital shall contest that invoice. Payment shall be made by check payable to the Regents of the University of California and mailed to: Department of Pediatrics, 550 16th Street, Fourth Floor, San Francisco, CA 94158.
- 4.3.5 Medical Director Services

- (a) Fee. Hospital shall pay UCSF at a rate of \$150 per hour for the Medical Director Services rendered by UCSF Physicians under this Agreement (the "Fee"). The Fee shall not exceed \$50,000 per contract year. Payment shall be made by check payable to the Regents of the University of California and mailed to: Department of Pediatrics, 550 16th Street, Fourth Floor, San Francisco, CA 94158.
- (b) Payment. Hospital shall remit payment of the Fee in full to UCSF thirty (30) days after receipt in the Auditor-Controller's Office of a detailed monthly invoice, including annual balance, from UCSF reflecting the Medical Director Services rendered by UCSF Physicians during the immediately preceding month. The invoice shall be completed and certified by the completing UCSF Physician in the form attached as **Exhibit 4(a)** to this Agreement.

4.4 Referrals and Fair Market Value

- (a) Referrals and Fair Market Value. Nothing in this Agreement shall be construed as an offer, solicitation, promise or payment by one party to any other party, or any affiliate of other party, of any cash or other remuneration, whether directly or indirectly overtly or covertly specifically for patent referrals or for recommending or arranging the sale, purchase, lease, or order for any item of service. Any payments made by Hospital to UCSF represent the fair market value of the Services rendered under this Agreement and are not in any way related to or depend upon referrals by and between the parties.
- (b) UCSF Physician Compensation. UCSF shall make all decisions regarding the distribution of compensation payments made to UCSF Physicians.

- 4.5 Compliance with Laws. Hospital represents that it maintains a compliance program designed to promote adherence to applicable federal and state laws, regulations, and interpretations. Hospital shall use its best efforts to ensure that all claims relating to the services satisfy all applicable payor rules, regulations, and instructions. Without limiting the scope of the indemnification provided in Section 7.2 below, Hospital shall indemnify, defend and hold harmless UCSF and UCSF Physicians from any liability, loss, damage, claim, fine, or expense, including costs and reasonable attorneys' fees, arising from any actual or alleged billing errors, false claims, or insurance fraud relating to claims for any service.

ARTICLE 5
TERM AND TERMINATION

- 5.1 Term of Agreement. This Agreement shall become effective on April 1, 2021 (the “**Effective Date**”), and shall continue until March 31, 2023 (the “**Expiration Date**”), subject to the termination provisions of this Agreement.
- 5.2 Termination. Notwithstanding any other provision in this Agreement, this Agreement may be terminated as follows:
- (a) Either party may terminate this Agreement without cause at any time by giving at least one hundred twenty (120) days' prior written notice to the other party; provided that the parties shall not enter into another agreement for the same services during the course of one year.
 - (b) Either party may terminate this Agreement upon the material breach of this Agreement by the other party by giving the other party thirty (30) days prior written notice. The party claiming the right to terminate hereunder shall set forth in the required notice of intended termination the facts underlying its claim that the other party has breach this Agreement. If such breach is remedied within twenty (20) days of the receipt of such notice, this Agreement shall remain in effect for the remainder of its term. If the breach is not cured, this Agreement shall terminate at the end of the thirty (30)-day notice period.
 - (c) Either party may terminate this Agreement immediately on written notice to the other party if, in the reasonable opinion of the notifying party's legal counsel, the performance of the notifying party of its obligations hereunder presents a material risk of noncompliance with any applicable law, ordinance, code, or regulation of federal, state, and local governments.
 - (d) If the parties receive notice of any Government Action, the parties shall attempt to amend this Agreement in order to comply with the Government Action. If the parties, acting in good faith, are unable to make the amendments necessary to comply with the Government

Action, or, alternatively, if either party determines in good faith that compliance with the Government Action is impossible or infeasible, this Agreement shall terminate ten (10) calendar days after one party notifies the other of such fact.

- (e) For the purposes of this Section, “Government Action” shall mean any legislation, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any notice of a decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to Hospital, because of the arrangement between the parties pursuant to this Agreement, if or when implemented, would:
- i. revoke or jeopardize the status of any health facility license granted to Hospital or any Affiliate of Hospital;
 - ii. revoke or jeopardize the federal, state or local tax-exempt status of Hospital or any Affiliate of Hospital, or their respective tax-exempt financial obligations;
 - iii. prevent UCSF or any UCSF Physician from being able to access and use the facilities of Hospital or any Affiliate of Hospital;
 - iv. constitute a violation of 42 U.S.C. Section 1395nn (commonly referred to as the Stark law) if UCSF or any UCSF Physician referred patients to Hospital or any Affiliate of Hospital;
 - v. prohibit Hospital or any Affiliate of Hospital from billing for services provided to patients referred to by UCSF or any UCSF Physician;
 - vi. subject Hospital or UCSF, any UCSF Physician, or any Affiliate of Hospital, or any of their respective employees or agents, to civil or criminal prosecution (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their participation in executing this Agreement or performing their respective obligations under this Agreement; or
 - vii. jeopardize Hospital’s full accreditation with any accrediting organization as Hospital designates from time to time.
- (f) For the purposes of this Agreement, “Affiliate” shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Hospital.

- 5.3 Effects of Expiration or Termination. Upon expiration or termination of this Agreement, neither party shall have any further obligation hereunder except for: (i) obligations due and owing which arose prior to the date of termination and (ii) obligations, promises, or covenants contained herein which expressly extend beyond the term of this Agreement.

ARTICLE 6 **INSURANCE**

- 6.1 Insurance. Each party shall maintain the insurance coverage set forth in Exhibit 6.1.

ARTICLE 7 **INDEMNIFICATION**

- 7.1 Indemnification of Hospital by UCSF. UCSF shall defend, indemnify, and hold Hospital, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent that such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of UCSF, its officers, employees, or agents.
- 7.2 Indemnification of UCSF by Hospital. Hospital shall defend, indemnify and hold UCSF, UCSF Physicians, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of Hospital's performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Hospital, its officers, employees, or agents.

ARTICLE 8 **GENERAL PROVISIONS**

- 8.1 Patient Records. Any and all patient records and charts created at Hospital produced as a result of either party's performance under this Agreement shall be and remain the property of Hospital both during and after the term of this Agreement. UCSF and its agents shall be permitted to inspect and/or duplicate, at UCSF's sole expense, any individual chart or record upon request, provided that such inspection or duplication is permitted and conducted in accordance with applicable legal requirements and pursuant to commonly accepted standards of patient confidentiality. Each party shall be responsible for maintaining patient confidentiality of all patient records created hereunder in accordance with applicable laws and regulations.

Each party agrees to notify the other party's privacy office of the unauthorized access, use, or disclosure of any personally identifiable information, or protected health information known or suspected by such party within two (2) days of learning of the same in order to ensure that the reporting of such unauthorized access, use or disclosure of this information is reported within five (5) days of detection to the California Department of Public Health (CDPH) and as appropriate, to the Office of Civil Rights and Centers for Medicare and Medicaid Services. Each party's privacy office will oversee the required notification to CDPH.

Each party agrees that if they fail to adhere to any of the privacy, confidentiality, and/or data security provisions set forth herein and, as a result, personally identifiable information or protected health information is unlawfully accessed, used or disclosed, that they agree to pay, upon written demand of the other party, all costs associated with any notification to affected individuals required by law or deemed appropriate, and that they also agree to pay for any and all fines and/or administrative penalties imposed for such unauthorized, access, use or disclosure of personally identifiable information or protected health information or for delayed reporting.

- 8.2 Cooperation in Disposition of Claims. Hospital and UCSF agree to cooperate with each other in the timely investigation and disposition of certain audits, disciplinary actions and third-party liability claims arising out of any Services provided under this Agreement. To the extent allowed by law, Hospital and UCSF shall have reasonable and timely access to the medical records, charts, and/or de-identified quality assurance data of the other party relating to any claim or investigation related to Services provided pursuant to this Agreement. Provided, however, that nothing shall require either Hospital or UCSF to disclose any peer review documents, records or communications which are privileged under Section 1157 of the California Evidence Code, under the Attorney-Client Privilege or under the Attorney Work-Product Privilege. UCSF shall be responsible for discipline of UCSF Physicians in accordance with UCSF's applicable policies and procedures.

To the extent allowed by law and in accordance with the applicable institution policies, the parties shall notify one another as soon as possible of any adverse event which may result in liability to the other party. The failure to provide notice shall not be deemed a breach of the Agreement, and such failure to do so shall not relieve the indemnifying party of its indemnity obligations if such delay does not prejudice the defense thereof.

It is the intention of the parties to fully cooperate in the disposition of all such audits, actions or claims. Such cooperation may include, but is not limited to, timely notice, joint investigation, defense, disposition of claims of third parties arising from Services performed under this Agreement, and making witnesses available; provided, however only to the extent consistent with UCSF policies and only so long as any personnel assistance by UCSF does

not materially interfere with any UCSF employee's performance of his or her UCSF employment responsibilities.

- 8.3 No Requirement to Refer. Nothing in this Agreement, or any other written or oral agreement, or any consideration in connection with this Agreement contemplates or requires the admission or referral of any patient to the Hospital or UCSF. This Agreement is not intended to influence any Physicians' judgment in choosing the medical facility appropriate for the proper care and treatment of their patients.
- 8.4 Non-Discrimination. The parties agree that they shall not discriminate against patients on the basis of race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to the patient in accordance with applicable laws and regulations.
- 8.5 Access to Books and Records.
- (a) UCSF agrees to cooperate fully with Hospital by, among other things, generating, maintaining, and making available all necessary records, in order to assure that Hospital will be able to meet all requirements for participation and payment associated with public or private third-party payment programs.
 - (b) Until the expiration of four years after the expiration or termination of this Agreement, UCSF shall make available, upon written request of the Secretary of the United States Department of Health and Human Services ("Secretary") or the Comptroller General of the United States General Accounting Office ("Comptroller"), or any of their duly authorized representatives, a copy of this Agreement and such books, documents and records of UCSF as are necessary to certify the nature and extent of costs of the services UCSF provided under this Agreement. UCSF further agrees that if it carries out any of its duties under this Agreement through a subcontract with a value or cost of \$10,000 or more over a twelve (12) month period with a related organization, that such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary or the Comptroller General, or any of their duly authorized representatives, the subcontract, books, documents, and records of such organization that are necessary to verify the nature and extent of such costs.
- 8.6 Assignment and Delegation. Neither this Agreement nor any of the rights or duties under this Agreement may be assigned or delegated by either party except as expressly authorized in writing by both parties.

8.7 Binding on Successors in Interest. The provisions of this Agreement and obligations arising hereunder shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of each of the parties hereto.

8.8 Notice. Any written notification required hereunder shall be personally served or mailed by certified mail, return receipt requested, to the following:

If to UCSF: Phil O'Brien
Associate Chair, Finance & Administration
Department of Pediatrics
550 16th Street, Fourth Floor
San Francisco, CA 94158

Government & Business Contracts
Senior Associate Director
Office of Sponsored Research
University of California, San Francisco
490 Illinois Street, Fourth Floor
Campus Box 0962
San Francisco, CA 94143
use 94158 for Federal Express.
orbusinesscontracts@ucsf.edu

If to Hospital: Attn: Chief Executive Officer
Natividad Medical Center
1441 Constitution Blvd., Bldg. 300
Salinas, CA 93912-1611

8.9 Use of Name. Hospital agrees that any use of the "UCSF" or "the "University of California" name, or other similar references to the University of California, San Francisco, its UCSF Physicians, or facilities, shall be subject to the prior written approval of The Regents of the University of California in accordance with the provisions of applicable law, including but not limited to California Education Code Section 92000. Hospital shall not advertise or market any of the UCSF Physicians' names in any marketing materials without the consent of UCSF.

8.10 Construction of Agreement. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the internal laws of the State of California. The parties agree that the terms and provisions of this Agreement embody their mutual intent and agreement and that they are not to be construed more liberally in favor of, nor more strictly against, any party hereto.

- 8.11 Severability. The provisions of this Agreement shall be deemed severable and if any portion shall be held invalid, illegal, or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties.
- 8.12 Captions. Any captions to or headings of the articles, sections, subsections, paragraphs, or subparagraphs of this Agreement are solely for the convenience of the parties, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.
- 8.13 Waiver of Provisions. Any waiver of any terms and conditions hereby must be in writing and signed by the parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other terms and conditions hereof.
- 8.14 Force Majeure. Neither party shall be liable nor deemed to be in default for any delay or failure in performance under the Agreement or other interruption of service or employment deemed resulting, directly or indirectly, from Acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery or supplies, vandalism, strikes or other work interruptions by Hospital'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 circumstance.
- 8.15 Change in Law. In the event that a change in state or federal law, statute, regulation or enforcement, or same materially affects this Agreement, the parties agree to negotiate immediately, in good faith, any necessary or appropriate amendment(s) to the terms of this Agreement. If the parties fail to reach a mutually agreeable amendment within thirty (30) days of such negotiation period, this Agreement shall terminate at the end of such thirty (30) day period.
- 8.16 Third-Party Beneficiaries. This Agreement is not intended and shall not be construed to create any rights for any third party.
- 8.17 Amendments. This Agreement may be amended or modified only in a written document signed by both Hospital and UCSF.
- 8.18 Exhibits. All Exhibits referred to herein are hereby incorporated herein. In the event any provision of this Agreement conflicts with any Exhibit to this Agreement, the Exhibit shall control with respect to the subject matter of such Exhibit.
- 8.19 Counterparts; Electronic Copies. This Agreement may be executed in any number or counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile, electronic signature, .pdf data file or other scanned executed counterpart by email shall

be equally as effective as delivery of a manually executed counterpart of this Agreement. Each duplicate and counterpart shall be equally admissible in evidence, and each shall fully bind each party who has executed it. The parties to this document agree that a digital signature or copy of the original signature may be used for any and all purposes for which the original signature may have been used. The parties agree they will have no rights to challenge the use or authenticity of this document based solely on the absence of an original signature.

- 8.20 Ability to Enter Agreement. The Hospital and UCSF each represents and warrants that it is free to enter into this Agreement and to perform each of the terms and conditions of the Agreement.
- 8.21 No Exclusion. Hospital represents and warrants to UCSF that Hospital and Hospital's representatives are not:
- (a) currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 U.S.C. Section 1320a-7b-(f) (the "Federal health care programs") and/or present on the exclusion database of the Office of the Inspector General ("OIG") or the Government Services Administration ("GSA");
 - (b) convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; and/or
 - (c) debarred, suspended, excluded or disqualified by any federal governmental agency or department or otherwise declared ineligible from receiving federal contracts or federally approved subcontracts or from receiving federal financial and nonfinancial assistance and benefits.

This shall be an ongoing representation and warranty during the term of this Agreement and Hospital shall immediately notify UCSF of any change in the status of any of the representations and/or warranties set forth in this Section. Any breach of this Section shall give UCSF the right to terminate this Agreement immediately for cause.

- 8.22 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with and subject to the laws of the State of California without regard to its conflict of law provision.

- 8.23 Singular and Plural. Words used herein in the singular, where the context so permits shall be deemed to include the plural and vice versa.


[Signature Page to Follow]

8.24 Entire Agreement. This Agreement including its Exhibits contains a full and complete expression of the rights and obligations of the parties and it shall supersede all other agreements, written or oral, previously made by the parties with respect to the subject matter herein.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth below.

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, on behalf of UCSF,
Department of Pediatrics (“UCSF”)

NATIVIDAD MEDICAL CENTER
 (“Hospital”)

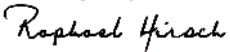
DocuSigned by:

By: 016A8FBA9C704C8...
Neal Cohen, MD

By: _____

Its: Vice Dean, UCSF, School of Medicine
3/8/2021
Date: _____

Its: _____
Date: _____

Read and Acknowledged:

DocuSigned by:

By: A92FE51CFE014F7...
Raphael Hirsch, MD
Chair, UCSF Department of Pediatrics


DocuSigned by:

By: C72B2D7C880E44F...
Martha Douglas-Escobar, MD
UCSF Physician/Medical Director

EXHIBIT 1.1

Medical Director Services and Professional Services

The parties shall mutually agree on UCSF Physicians who will provide Professional Services.

UCSF will provide two (2) full-time equivalent neonatologists to staff the Level III Neonatal Intensive Care Unit (“NICU”). UCSF Physicians will provide in house neonatal services 8 hours per day, 5 days per week, provide inpatient neonatal attending coverage on weekends, and be available for neonatal call coverage 24x7 (unless other arrangements have been made as agreed to in writing by the parties). UCSF Physicians will comply with the physician standards for neonatology established by the California Children's Services (CCS) program for a community level III NICU and as defined by the local county CCS offices covering patients hospitalized at Hospital.

Upon approval of Hospital, one of the UCSF Physicians will be designated as Medical Director of the NICU at Natividad Medical Center, initially Martha Douglas-Escobar, MD. The Neonatal Medical Director shall report to the Chair, Department of Pediatrics at UCSF and the Chief Medical Officer or his designee at Hospital.

Physician coverage to be provided shall include:

- Medical Director to a Level III NICU
- Attending physician coverage for all Infants admitted to the NICU
- Supervision of UCSF medical students and/or residents

Additional responsibilities of the NICU Medical Director include the following:

- Management and oversight of quality medical care for all infants
- Development and annual review of clinical policies and procedures including coordination with related ancillary services
- Oversight of a continuous performance improvement program
- Medical supervision of nurse practitioners in the NICU
- Monitoring of patient, physician, and staff satisfaction
- Participation in staff training and continuous education
- Participation in Hospital committee structure on behalf of the NICU and its ambulatory clinics
- Participation in maintaining California Children’s Services approval for a Level III NICU
- Participation in outreach and community relations activities
- Participation in marketing activities including the establishment of transfer agreements with surrounding hospitals for neonatal services

UCSF shall provide initial and ongoing consultation and educational services to physicians and non-physician employees through a Neonatal/Perinatal Outreach Agreement

UCSF physicians shall timely and accurately complete time studies as required by Medi-Cal for cost report purposes. Time studies will be submitted on a monthly basis by the 10th business day after the close of each month. Hospital agrees to inform UCSF of delinquent time studies by the 15th business day after the close of each month.

EXHIBIT 2.1

Responsibilities of Hospital

Hospital shall be responsible for providing UCSF Physicians with space, equipment, services, supplies and other physician and non-physician personnel required to operate a CCS approved Community Level III Intensive Care Nursery as described in the CCS Manual of Procedures, Chapter 3.35.

EXHIBIT 6.1

Insurance

HOSPITAL INSURANCE

Hospital, at its sole cost and expense, shall insure its activities in connection with this Agreement, and obtain, keep in force and maintain insurance as follows:

1. Professional Medical Liability Insurance with financially-sound and reputable companies with limits of five million dollars (\$5,000,000) per occurrence and a general aggregate of ten million dollars (\$10,000,000). If such insurance is written on a claims-made form, it shall continue for five (5) years following termination of this Agreement. The insurance shall have a retroactive date prior to coinciding with the effective date of this Agreement and a deductible of no more than five hundred thousand dollars (\$500,000). In the event that a claims-made policy is canceled or non-renewed, then Hospital shall obtain extended reporting (tail) coverage for the remainder of the five (5)-year period.
2. Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with a limit of (1) one million dollars (\$1,000,000) per occurrence (2) one million dollars (\$1,000,000) Personal and Advertising Injury; and (3) five million (\$5,000,000) General Aggregate. If such insurance is written on a claims-made form, it shall continue for five (5) years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement.
3. Workers' Compensation Insurance in a form and amount covering Hospital's full liability as required by law under the Workers' Compensation Insurance and Safety Act of the State of California as amended from time to time.
4. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of the parties against other insurance risks relating to performance.

It should be expressly understood, however, that the coverages required under this Agreement shall not in any way limit the liability of Hospital.

Hospital, upon execution of this Agreement, shall furnish UCSF with Certificates of Insurance evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days' advance written notice to UCSF of any modification, change or cancellation of any of the above insurance coverages.

UCSF PHYSICIANS' INSURANCE

UCSF warrants that it maintains a program of self-insurance that covers its activities in connection with this Agreement as follows:

1. Professional Medical Liability Insurance with self-insured retention of five million dollars (\$5,000,000) per occurrence, with a general aggregate of ten million dollars (\$10,000,000). If such insurance is written on a claims-made form, it shall continue for five (5) years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement and a deductible of no more than five hundred thousand dollars (\$500,000). In the event that a claims-made policy is canceled or non-renewed, then UCSF shall obtain extended reporting (tail) coverage for the remainder of the five (5) year period.
2. Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with a limit of two and a half million dollars (\$2,500,000) per occurrence. If such insurance is written on a claims-made form, it shall continue for five (5) years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement.
3. Worker's Compensation Liability Insurance with self-insured retention in amounts required by the State of California.
4. Such other insurance in such amounts from time to time may be reasonably required by the mutual consent of the parties against other insurance risks relating to performance.

It should be expressly understood, however, that the coverages required under this Agreement shall not in any way limit the liability of UCSF.

UCSF, upon execution of this Agreement, shall furnish Hospital with Certificates of Insurance evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days' advance written notice to Hospital of any modification, change or cancellation of any of the above insurance coverages.