

**FIRST AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT**

THIS FIRST AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT (the “**Amendment**”) is made and entered into as of July 1, 2021, by and between COUNTY OF MONTEREY (“**County**”) on behalf of NATIVIDAD MEDICAL CENTER (“**Hospital**”), and Thai Lan N Tran MD Inc., a California professional corporation (“**Contractor**”) with respect to the following:

**RECITALS**

A. County owns and operates Hospital, a general acute care teaching hospital facility and Level II Trauma Center located in Salinas, California and various outpatient clinics (collectively, the “**Clinic**”) under its acute care license.

B. Contractor and Hospital have entered into that certain Professional and Call Coverage Services Agreement dated effective June 1, 2019 (the “**Agreement**”) pursuant to which Contractor provides Specialty services to Hospital’s Patients.

C. Hospital and Contractor desire to amend the Compensation, extend the term by thirty-six (36) months and add One Million Dollars (\$1,000,000) to the aggregate amount payable to Contractor.

**AGREEMENT**

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, Hospital and Contractor agree as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.
2. **Section 1.1.** Section 1.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

**“1.1 Professional Services.**

- (a) Contractor shall provide professional services in the Specialty to Patients, upon the terms and subject to the conditions set forth in this Agreement (the “**Professional Services**”).

(b) Contractor shall provide twenty-four (24) hour shifts (“**Shifts**”) of on-site coverage services at Hospital and be available on an on-call basis to provide Professional Services to trauma Patients within fifteen (15) minutes of notification, upon the terms and conditions set forth in this Agreement (“**Trauma Coverage Services**”). Trauma Coverage Services shall include acute care surgery and critical care services as well as inpatient and outpatient procedures performed in Hospital’s operating rooms.

(c) In addition, Contractor shall provide Shifts of off-site general surgery and back-up trauma coverage services and be available on an on-call basis to provide Professional Services to Patients within thirty (30) minutes of notification, as well as follow-up and inpatient rounding on Patients as necessary during such Shift upon the terms and conditions set forth in this Agreement (collectively, the “**General Surgery Coverage Services**”). Trauma Coverage Services and General Surgery Coverage Services are sometimes referred to collectively in this Agreement as “**Coverage Services.**”

(d) Contractor shall provide Coverage Services along with other Panel Members in a manner that is sufficient to ensure Specialty coverage for the Hospital twenty-four (24) hours per day, seven (7) days per week, including all holidays, in accordance with the schedule developed by the trauma program director designated by Hospital (the “**Trauma Program Director**”). Contractor shall provide a minimum of five (5) Trauma Coverage Services Shifts per month. Notwithstanding the above, Contractor shall provide the Coverage Services a minimum of ten (10) Shifts per month, which may be comprised of any combination of Shifts of Trauma Coverage Services and General Surgery Coverage Services.

(e) Contractor shall provide timely initial follow-up care for all Hospital patients referred for care by the ED or attending physician. If Contractor is the physician on-call at the time of the referral, Contractor shall provide any necessary follow-up care for such patients regardless of the patient’s ability to pay for services at the time of the first visit.

(f) Contractor shall also provide Professional Services in the Clinic up to two (2) full, eight (8) hour days per month (the “**Clinic Services**”).

(g) Contractor shall provide to Hospital those services set forth on **Exhibit 1.1(g)** (the “**Associate Medical Director Services**”), upon the terms and subject to the conditions set forth in this Agreement. Contractor shall ensure that the Associate Medical Director Services are performed when and as needed and only upon the request of the Trauma Program Director from time to time, up to ten (10) hours per month.”

3. **Section 1.3.** Section 1.3 to the Agreement is hereby amended and restated to read in its entirety as follows:

**“1.3 Additional Services.** Contractor shall provide to Hospital those additional services set forth in **Exhibit 1.3** (the “**Additional Services**”), upon the terms and subject to the conditions set forth in this Agreement. The Professional Services, Teaching Services, Trauma Coverage Services, General Surgery Coverage Services, Coverage Services, Clinic Services, Additional Services, and Associate Medical Director Services are sometimes referred to collectively in this Agreement as the “**Services.**””

4. **Section 2.1.** Section 2.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

**“2.1 Compensation.** Hospital shall pay to Contractor the amount determined in accordance with **Exhibit 2.1** (the “**Compensation**”), upon the terms and conditions set forth therein. The total amount payable by Hospital to Contractor under this Agreement shall not exceed the aggregate amount of One Million Six Hundred Fifty Thousand Dollars (\$1,650,000).”

5. **Section 5.1.** Section 5.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

**“5.1 Term.** This Agreement shall become effective on June 1, 2019 (the “**Effective Date**”), and shall continue until June 30, 2024 (the “**Expiration Date**”), subject to the termination provisions of this Agreement.”

6. **New Exhibit 1.1(g).** A new Exhibit 1.1(g) is hereby added to the Agreement and incorporated by reference and attached hereto as **Exhibit 1.1(g).**

7. **Counterparts.** This Amendment 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.

8. **Continuing Effect of Agreement.** Except as herein provided, all of the terms and conditions of the Agreement remain in full force and effect from the Effective Date of the Agreement.


9. **Reference.** After the date of this Amendment, any reference to the Agreement shall mean the Agreement as amended by this Amendment.

*[signature page follows]*

IN WITNESS WHEREOF, Hospital and Contractor have executed this Amendment as of the day and year first written above.

**CONTRACTOR**

Thai Lan N Tran MD Inc., a California professional corporation

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

Date: May 24, 2021

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

**NATIVIDAD MEDICAL CENTER**

\_\_\_\_\_  
Deputy Purchasing Agent

Date: \_\_\_\_\_, 20\_\_

APPROVED AS TO LEGAL PROVISIONS:

  
Stacy Saetta, Deputy County Counsel

Date: 5/24/2021, 20\_\_

APPROVED AS TO FISCAL PROVISIONS:

  
Deputy Auditor/Controller

Date: 5-24-2021, 20\_\_

**Exhibit 1.1(g)**

**ASSOCIATE MEDICAL DIRECTOR SERVICES**

Contractor shall:

1. assist in the development and implementation of the trauma services and coordination and consultations with Hospital staff regarding the efficiency and effectiveness of the trauma department (the “**Department**”), as requested by Hospital from time to time;
2. provide general administration of the day-to-day operations of the Department;
3. advise and assist in the development of protocols and policies for the Department;
4. ensure physician coverage of the Department;
5. design of the trauma call system that is approved by the Trauma Program Director;
6. schedule, coordinate and supervise the provision of medical and ancillary services within the Department;
7. ensure the maintenance of consistently high quality service, and advise Hospital in the development and implementation of an appropriate quality assurance program with respect to the Department;
8. coordinate and consult with Hospital and Medical Staff regarding the efficiency and effectiveness of the Department, and make recommendations and analyses as needed for Hospital to improve services provided in the Department and reduce costs;
9. develop, review, and provide training programs for Medical Staff and Hospital personnel;
10. prepare such reports and records as may be required by this Agreement, Hospital or the Medical Staff;
11. participate in Hospital and Medical Staff committees upon request by Hospital;
12. participate in continuing medical education, research and teaching activities upon request by Hospital;
13. participate in utilization review programs, as reasonably requested by Hospital;
14. participate in risk management and quality assurance programs, as reasonably requested by Hospital; and
15. assist Hospital management with preparation for, and conduct of, any inspections and on-site surveys of Hospital or the Department conducted by governmental agencies, accrediting organizations, or payers contracting with Hospital;

16. upon appointment by the Trauma Medical Director, serve as the liaison to the trauma program; and

17. as liaison to Hospital's trauma program, be physically present for at least fifty percent (50%) of the trauma committee meetings and actively participate in all such meetings.

**Exhibit 2.1**

**COMPENSATION**

1. **Coverage Services Compensation.**

(a) Hospital shall pay to Contractor an amount equal to Three Thousand Two Hundred Seventy-Five Dollars (\$3,275) per Shift of **Trauma Coverage Services**;

(b) Hospital shall pay to Contractor an amount equal to Two Thousand Dollars (\$2,000) per Shift of **General Surgery Coverage Services** provided pursuant to this Agreement; provided, however, that Contractor is in compliance with the terms and conditions of this Agreement. For the avoidance of doubt, Contractor shall not simultaneously provide Trauma Coverage Services and General Surgery Coverage Services during the same Shift.

(c) If Contractor is asked to provide trauma back-up call coverage separate of General Surgery Coverage Services, Contractor shall be paid an amount equal to Five Hundred Dollars (\$500) per twenty-four (24) hour period ("**Back-up Call Coverage Compensation**") and One Hundred Thirty-Six Dollars and Forty-Six Cents (\$136.46) per each hour that Contractor is required to be physically present at Hospital, not to exceed Three Thousand Two Hundred Seventy-Five Dollars (\$3,275) per day in the aggregate.

2. **Associate Medical Director Services.** Hospital shall pay to Contractor the amount equal to Two Hundred Dollars (\$200) per hour for the provision of Associate Medical Director Services, not to exceed Two Thousand Dollars (\$2,000) per month.

3. **Clinic Services.** In recognition of the mutual obligations of the Parties hereunder, Hospital and Contractor acknowledge that there shall be no monetary compensation to Contractor for the Clinic Services furnished by Contractor hereunder.

4. **Non Clinic Uninsured Patient Services.**

(a) Hospital shall pay to Contractor an amount equal to then-current (as of the date of service), facility-based, Medicare Physician Fee Schedule amount for Uninsured Services (as defined below) provided by Group Physician (the "**Non Clinic Uninsured Patient Compensation**"). The Uninsured Patient Compensation shall be Contractor's sole and exclusive compensation for Uninsured Services provided by Contractor pursuant to this Agreement and Contractor shall not seek further compensation from any other source. Contractor shall be paid on the CPT codes submitted and verified by Hospital professional billing office coders.

(b) For purposes of this Agreement, "**Non Clinic Uninsured Services**" shall mean medically necessary, professional medical services that are rendered to Patients at Hospital who are not insured for medical care by any third-party payor and ineligible for federal or state medical assistance under the Medicare or Medicaid programs (collectively, the "**Uninsured Patients**"). Contractor understands and agrees that the determination of whether a patient is uninsured may not be made until sometime after the date of service. Uninsured Services do not include any Professional Services provided by Contractor to Excluded Patients.

(c) Procedures with the following modifiers will be reimbursed at the Medicare allowable rate using the current established Medicare guidelines for reimbursement when using the modifier:

(i) Procedures that are or could be billed with the modifier 22 (unusual procedural services) will not be considered for additional reimbursement to be paid to Contractor; rather the procedure will be reimbursed at the Medicare allowable rate and if other modifiers are used, the procedure will be paid at the current established Medicare reimbursement rate applying Medicare guidelines for those modifiers.

(ii) If modifier 52 (reduced services) and/or 53 (discontinued services) is/are needed for billing, the percentage of the Medicare allowable rate to be paid to Contractor will be determined by the Hospital physician billing manager and the Hospital Chief Medical Officer (CMO).

(iii) Unless a code is specifically designated as an add-on code, the Medicare rules for multiple procedure guidelines shall apply (*i.e.*, the main procedure will be paid at one hundred percent (100%) and subsequent procedures will be paid at fifty percent (50%)), consistent with Medicare reimbursement guidelines for modifiers.

(d) The Parties intend that Hospital will pay for Uninsured Services only if the Uninsured Patient has no means of paying for those services (*e.g.*, independent wealth, third-party payor, etc.). If it is later determined that an Uninsured Patient or a third-party payor will pay for the Uninsured Services the following shall apply:

(i) Hospital shall have the sole and exclusive right to bill, collect and own any and all fees that might be collected for Uninsured Services provided by Contractor pursuant to this Agreement. Contractor hereby grants Hospital the right to retain any and all collections received by Hospital for Contractor's Uninsured Services. In the event that Contractor receives any payment from third-party payors for Uninsured Services that Contractor furnishes pursuant to this Agreement, Contractor shall promptly turn over such payments to Hospital. Contractor shall designate Hospital as Contractor's



attorney-in-fact for billing for Uninsured Services provided by Contractor pursuant to this Agreement.

- (ii) For any procedure without an established RVU value and/or not listed procedure (*e.g.*, x stop), Hospital will reimburse Contractor based upon Hospital's reimbursement from a payor if Hospital has received payment from a payor. In the event no payment is received from a payor, no reimbursement will be made to Contractor.
- (iii) The Parties agree to resolve any and all billing, collection and reimbursement disputes as expeditiously as possible, up to and including the dispute resolution procedure outlined in the Agreement. If a claim is disputed by a payor, Contractor will make every effort to assist the Hospital billing manager to resolve the claim, If the claim is denied by the payor, and no payment is received within twelve (12) months of the service date, the amount of the disputed claim will be adjusted (recouped) from future payments due to Contractor after the twelve (12) month period.
- (iv) Hospital will adjust future invoices if Hospital is unable to recover payment for surgery/treatment due to a procedure being classified by a payor as non-payable (*e.g.*, it is considered experimental, represents non-covered services, is categorized as medically unnecessary, or is otherwise excluded from coverage), or if Contractor is found to have breached a necessary reimbursement procedure (*e.g.*, scheduling a procedure from its office and not obtaining the authorization for the procedure to be performed at Hospital). No payment will be allowed to Contractor in these circumstances. At its discretion and at its sole cost and expense, Contractor may appeal to the payor any determination that a procedure is non-payable.

(e) Hospital shall pay to Contractor the Uninsured Patient Compensation, so long as Contractor submits a “**Non-Clinic Uninsured Patient Compensation Claim**”, attached hereto as **Attachment B**, with information relating to its patient encounters as follows:

- (i) It has been 90 - 180 days since the date of service(s);
- (ii) Contractor has made a reasonable effort to collect payment and has been rejected for payment by the responsible third party(ies) and/or patient(s) for the patient(s) listed below;
- (iii) Contractor has received notification from the third party(ies) and/or patient(s) that no payment will be made. Copies of denials from all payor sources are attached to this form;
- (iv) Contractor has verified that patient has not become eligible for a government sponsored program; and
- (v) Contractor has completed a 1500 billing form.

4. **Professional Liability Reimbursement.** In the event that Contractor does not purchase the professional liability insurance set forth in the Agreement, Hospital will deduct Twenty Dollars and Fifty-Two Cents (\$20.52) per day worked, until such date that the Contractor starts providing the minimum Coverage Services in Section 1.1(b) and then Hospital will deduct Six Hundred Twenty Four Dollars and Twenty Five Cents (\$624.25) per month from Contractor to compensate for Hospital’s payment of professional liability insurance premiums on behalf of Contractor.

5. **Timing.** Hospital shall pay the compensation due for Services performed by Contractor after Contractor’s submission of the monthly invoice of preceding month’s activity and time report in accordance with this Agreement; provided, however, that if Contractor does not submit an invoice and time sheet within sixty (60) days of the end of the month during which Services were performed, Hospital shall not be obligated to pay Contractor for Services performed during that month. The County of Monterey Standard Payment Terms for contracts/PSAs and paying invoices is “30 days after receipt of the certified invoice in the Auditor-Controller’s Office”.