

EMPLOYMENT AGREEMENT:
NATIVIDAD MEDICAL CENTER CHIEF EXECUTIVE OFFICER

THIS AGREEMENT OF EMPLOYMENT ("Agreement") is entered into as of the date set forth below by and between the COUNTY of MONTEREY ("COUNTY" or "EMPLOYER"), on behalf of Natividad Medical Center ("Hospital") and Harry Weis, ("EMPLOYEE").

RECITALS

A. The County owns and operates a general acute care, teaching Hospital facility located in Salinas, California, known as NATIVIDAD MEDICAL CENTER ("NMC" or "Hospital"), which is fully accredited by The Joint Commission ("TJC"). Hospital requires a Chief Executive Officer ("CEO") to operate and administer the functions of the Hospital, including its activities and programs.

B. Harry Weis is a duly qualified, experienced hospital CEO, and has been appointed to perform the job duties of Chief Executive Officer at NMC as a County employee.

C. NMC is a 172 bed acute care Hospital owned and operated by the County of Monterey as a disproportionate share financed healthcare facility critical to the health and welfare of the residents of Monterey County and the business community; and

D. NMC is unique among Monterey County departments in that it operates as the County's only Enterprise Fund, a governmental fund that is intended to recover a majority of operating costs through externally generated operating revenues; and

E. For many years, NMC has experienced significant operating losses requiring unsustainable subsidies by Monterey County general funds, thereby jeopardizing the delivery of other critical County services; and

F. All medical technologies are rapidly advancing due to performance requirements and regulations, and highly trained and dedicated staff are required to implement and manage the provision of healthcare services to inpatients and outpatients alike; and

G. The Board of Supervisors has delegated authority and control over the Hospital's Human Resources, Purchasing and Information Technology operations to the Hospital's CEO in order to enhance dedicated operational efficiencies and provide effective oversight at the Hospital, thereby improving the level of service and Hospital operating revenues, as well as increasing the Hospital's business efficiencies.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt of which is hereby acknowledged by each party, the parties agree as follows:

1. **Employment of Professional.** Employer and Employee agree respectively to provide and accept "At-Will" employment which shall be pursuant to and governed solely and exclusively by the attached Terms and Conditions and Exhibits of this contractual Agreement, Sections I through XVII, and those other Attachments (if any) appended hereto, which are incorporated herein by this reference and form an integral part of this Agreement as if recited herein in full over the signatures affixed below. No external reference(s) are intended, and none are to be implied.

2. **Term.** The term of employment shall commence on May 1, 2009, and thereafter may be renewed from time to time, if the parties mutually agree to do so, until terminated in the manner provided in the Terms and Conditions of the Agreement.

3. **Letters.** Reference in this Agreement to the letters below shall be to the information set forth following each letter.

(A) Name of Employee: Harry Weis

(B) Hospital Department: Administration

(C) Attachment(s): **Ex. "A"** – Terms and Conditions of Employment Agreement;
Ex. "B" – Scope of Work
Ex. "C" – NMC CEO FY10 Performance Incentive
Compensation Plan Definition of Measures

(D) 1. Annual Salary: \$ 365,000 per year, without annual adjustment other than the Contractual Bonus.

2. Contractual Bonus not exceeding 30% of base annual salary per year, resulting from Participation in Performance Incentive Compensation Plan, as defined in Exhibit C. Contractual Bonus shall not exceed 30% of base annual salary per year.

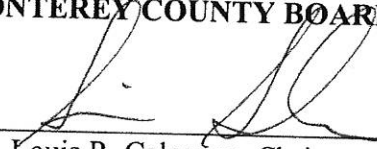
3. Relocation expenses shall be paid in the form of a one-time lump sum payment of \$50,000.00, as defined in Section V(B)(1) of Exhibit A. Such lump sum payment is contingent upon the Employee's actual relocation to Monterey County with the intent to establish and maintain primary residence in Monterey County throughout the term of this Agreement.

- (E) Annual Leave shall accrue at the same rate as for "Y" Unit employees.
- (F) Health, dental, and other miscellaneous benefits shall be the same as for "Y" unit employees.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year executed by both parties.

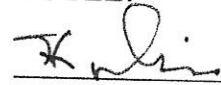
MONTEREY COUNTY BOARD OF SUPERVISORS

DATED: _____, 2009

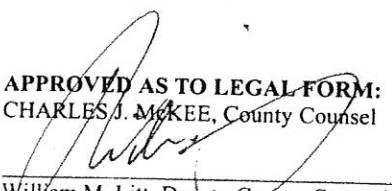
By 
Louis R. Calcagno, Chair

EMPLOYEE:

DATED: 3/31, 2009

By 

APPROVED AS TO LEGAL FORM:
CHARLES J. MCKEE, County Counsel


William M. Litt, Deputy County Counsel

DATE: 3/31, 2009

EXHIBIT "A"

EMPLOYMENT AGREEMENT (Chief Executive Officer)

TERMS AND CONDITIONS

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**TERMS AND CONDITIONS OF
AGREEMENT OF EMPLOYMENT (PROFESSIONAL)**

I. EMPLOYMENT AND DUTIES.

A. Employment. The County owns and operates a general acute care, teaching Hospital facility located in Salinas, California, known as NATIVIDAD MEDICAL CENTER ("NMC"), which is fully accredited by The Joint Commission ("TJC"). Hospital is in need of a Chief Executive Officer ("CEO") to operate and administer the functions of the Hospital, its activities and programs. Subject to and strictly within the terms, conditions and provisions of applicable law and regulations, and the Hospital's Bylaws, the Employer hereby employs Harry Weis, a duly qualified, experienced hospital CEO to be the Hospital's Chief Executive Officer and perform professional services under the direction and designation of the Employer, on an "at will" basis.

B. Duties. Harry Weis shall diligently perform all duties assigned to the position of Chief Executive Officer, NMC, as contained within the most recent Board of Supervisors' approved NMC Bylaws and attachments, and as set forth in **Exhibit "B," Scope of Work**, as well as other related duties assigned from time to time.

Employee shall comply with all applicable County personnel and other County policies and procedures, as adopted or amended from time to time, whether referenced in this Agreement or not, provided that Employer shall furnish Employee with notice of such policies and procedures. In addition, the Employee shall comply with all applicable NMC and Medical Staff Bylaws, regulations, policies and procedures as may be adopted or amended from time to time.

In the performance of his duties and obligations under this Agreement, Employee shall comply with all applicable laws, regulations and County policies as adopted or amended from time to time as they relate to the services to be rendered by Employee hereunder, whether referenced in this Agreement or not.

C. Performance. The Hospital's Board of Trustees shall review the performance of the CEO not less than annually. The Board of Trustees will make recommendations regarding Employee to the Board of Supervisors for its review, consideration and final action, in accordance with the most recently approved NMC Bylaws.

The Board of Trustees may from time to time establish standards of performance for Employee for the purpose of: (i) providing a visible benchmark for evaluation of the professional services provided by Employee; (ii) to create a feedback mechanism so that excellent performance can be encouraged and unsatisfactory performance can be identified and addressed, and (iii) to

develop a basis for recommended compensation adjustments. These standards are set forth more fully in Exhibit B.

The County or the Hospital, at its option and within its sole discretion, may seek evaluation of contractual performance by requesting input from other professionals within or outside the Hospital.

II. TERM.

A. Term. The commencement date and term of employment hereunder are set forth on Page 1, in Paragraph 2 of this Agreement. Employment is subject, however, to earlier termination as provided hereinafter.

B. Termination by Notice. Independent of and separately from the provisions of Paragraph X(B), the Employer and the Employee each individually reserve the right, pursuant to Paragraph X(A), to terminate the employment of the Employee at the sole discretion of each without cause, subject to the severance provisions set forth in Paragraph IV(C) if County initiates termination of Employee without cause, and conditioned only upon written notice by one to the other given not less than thirty (30) calendar days in advance of Employee's final day of employment by County.

III. STATUS OF EMPLOYEE.

A. "Full-time employment" under the provisions of this Agreement is defined as the rendering of professional and/or administrative services on behalf of the Employer for the equivalent of not less than 260 days per year. For purposes of this Agreement, a day shall be determined by Employer in accordance with the policies and procedures of Employer as adopted and modified from time to time, but shall otherwise be not less than eight (8) hours.

B. "At-Will" Employment Status. In executing this Agreement, Employee specifically acknowledges that his employment status pursuant to this Agreement is "At-Will," subject only to the terms and conditions contained or specifically referenced herein. It is expressly agreed by the parties hereto that no work, act, commission or omission of the Employee, including the Incentive Compensation Plan or participation in the plan, shall be construed to make or render him a "permanent" County and/or Hospital Employee with a vested property right either to continued County and/or Hospital employment, or to any County employee benefits other than those specifically set forth herein. Without limiting the foregoing, no offer or obligation of permanent employment with the County or with the Hospital is intended or implied in any manner by this Agreement.

C. Overtime. The parties acknowledge and understand that Employee, as an executive and as a highly compensated employee, is exempt from the minimum wage and overtime provisions of the statutes and regulations of the Fair Labor Standards Act, Title 29 U.S.C. Section 201, *et seq.*

D. Outside Employment. No outside employment shall be undertaken by the Employee which does or may present a conflict of interest, or which has or may have the appearance of a conflict of interests with the duties and obligations of the Employee under the provisions of this Agreement. No outside employment may be undertaken without consent of the Board of Supervisors.

IV. COMPENSATION.

A. Compensation. The Employee shall be compensated during the term of this Agreement at a Salary Rate of Three Hundred-Sixty Five Thousand Dollars (\$365,000.00) per year, which shall be paid in equal bi-weekly installments, in arrears, commencing with the Employer's first payroll after the beginning of the term hereof. CEO shall prepare within 60 days of being named CEO, and within the same time frame each subsequent year, a clear list of goals and objectives for the next twelve months. The CEO will then prepare at the end of each fiscal year an annual self evaluation report, which will be timely presented to the NMC Board of Trustees and the Monterey County Board of Supervisors, setting forth the CEO's performance objectives for the coming fiscal year and performance as measured against the objectives set for the just-concluded fiscal year. The Monterey County Chief Administrative Officer (CAO) or the CAO's designee or designees shall validate the measurement of each Incentive Compensation Plan metric, working in conjunction with the NMC personnel deemed by the CAO's Office to be most qualified to assist with evaluating the CEO's performance. Compensation paid pursuant to the Performance Incentive Compensation Plan shall be calculated based on Employee's base salary on the final day of the fiscal year for which the measures are evaluated (for example, performance incentive compensation for FY2010 shall be based on Employee's base salary as of June 30, 2010). Compensation shall be subject to all required or customary withholding(s) and deduction(s), as well as any payroll deductions authorized by Employee.

B. Performance Incentive Compensation Plan.

1. Plan Administration

As a member of Senior Hospital Management, the Employee is eligible to participate in a Performance Incentive Compensation Plan ("Plan") based on the Hospital's performance, as shown in part by Key Performance Indicators and the Employee's performance evaluation. The plan will provide additional compensation in the form of a percentage of the Employee's Base salary. Employee shall be eligible for additional compensation under the Plan beginning at the conclusion of Fiscal Year (FY) 2010, with the initial additional compensation, if any, calculated according to the Key Performance Indicators during FY 2010.

The salary used to calculate the bonus will be the salary effective July 1st of the current fiscal year.

Any incentive compensation payout achieved by CEO following any fiscal year shall be paid out in

or about December of the calendar year following the conclusion of the fiscal year upon which the incentive compensation is based. Employee must be on active status as CEO at the conclusion of any fiscal year to receive any incentive compensation payout based on that fiscal year's performance. If Employee is on inactive or severance status at the completion of any fiscal year, he is not eligible for an incentive compensation payout. The active status requirement shall continue during each successive year in which this Agreement is in effect.

2. Performance Indicators

The following performance indicators have been identified:

- Finance**
- Quality**
- Service**
- People**
- Growth**

3. Performance Measures

Finance

As further defined in Exhibit "C," the measure for the Finance performance indicator is set for threshold achievement, target achievement, and maximum "stretch" achievement. The bonus is calculated as a percent of base salary using the percentages listed in the table below, proportionally weighted over five key performance indicators. In order for a payout on any performance indicator, threshold achievement must be attained on the Finance indicator. Threshold achievement will pay out at one third of the maximum award opportunity; target achievement will pay out at two thirds of the maximum award opportunity; and maximum "stretch" achievement will pay out at the maximum award opportunity. The threshold, target, and maximum "stretch" award opportunities are as follows:

Position	Threshold Opportunity	Target Opportunity	Maximum Opportunity
Chief Executive Officer	10%	20%	30%

Employer will use **income from core operations** as the measure. Achievement will be dependent on the net operating income ratio and Hospital consolidated days of cash on hand.

Achievement will be based upon the audited June 30, 2010 consolidated balance sheets and income statements for the fiscal year ending June 30, 2010, as independently audited. The same methodology shall apply in subsequent years.

Achievement for the net operating income ratio, based on the Hospital's Board of Trustees' approved FY 2010 Operating Budget, is as follows:

Threshold	>0% operating margin
Target	1% operating margin
Maximum*	2% operating margin

This measure is further defined in Exhibit "C."

Quality

Employer will use the Joint Commission's Core Measures of National Hospital Inpatient Quality ("Core Measures") as the measures for the Quality performance indicator. The Core Measures are further defined in Exhibit "C."

Achievement will be based upon improvement in the Core Measures in calendar year-end results, as further defined in Exhibit "C."

Service

Employer will use **patient satisfaction** as the measure. Patient satisfaction will be measured using patient satisfaction surveys.

Achievement will be based upon improvement in patient satisfaction fiscal year-end results, as further defined in Exhibit "C."

People

Employer will use **voluntary employee turnover** as the measure.

Achievement will be based upon results for the fiscal year-end results.

Achievement is based upon the reduction in Hospital's voluntary employee turnover, as further defined in Exhibit "C."

Growth

Employer will use **adjusted average daily census** as the measure.

Achievement will be based upon results for the fiscal year-end results, as further defined in Exhibit "C."

C. **Severance Package and Severance Agreement.** This employment agreement includes a severance package if either of the following events occurs:

1. Employer terminates the employment of Employee without cause pursuant to Sections II(B). or X(A) of this Agreement; or
2. Mutual consent of Employer and Employee.

The severance benefit(s) are as follows:

1. If Employee has been employed as the Hospital's CEO for less than one (1) year, Employer shall make payments to Employee at Employee's Salary rate, in accordance with Section IV(A) of this Agreement for a period of twelve (12) months following the date of his termination of employment. For a period of twelve (12) months following the date of his termination of employment, Employee shall be eligible to continue to participate in the Employer's group health insurance plan, pursuant to Section (V)(E) of this Agreement, and the Public Employees' Retirement System ("PERS") plan, pursuant to Section (V)(B)(4) of this Agreement, in each case on the same terms and subject to the same conditions available to Employee prior to his termination date.

2. If Employee has been employed as the Hospital's CEO for more than one (1) year, Employer shall make payments to Employee at Employee's Salary rate, in accordance with Section IV(A) of this Agreement for a period of eighteen (18) months following the date of his termination of employment. For a period of eighteen (18) months following the date of his termination of employment, Employee shall be eligible to continue to participate in the Employer's group health insurance plan, pursuant to Section (V)(E) of this Agreement, and the Public Employees' Retirement System ("PERS") plan, pursuant to Section (V)(B)(4) of this Agreement, in each case on the same terms and subject to the same conditions available to Employee prior to his termination date.

Employee shall not be entitled to a severance package if any of the following events occurs:

1. Employer terminates the employment of Employee for breach of the Agreement or for cause, pursuant to Sections X(B) or X(C) of this Agreement;
2. The employment of Employee terminates because of death or illegality, pursuant to Section XI of this Agreement; or
3. Employee unilaterally terminates his employment without cause pursuant to Sections II(B) or X(A) of this Agreement.

V. **EMPLOYMENT BENEFITS AND BENEFIT PROGRAMS.**

A. **Limited Entitlement to Benefits and Benefit Programs.** The parties specifically acknowledge and mutually agree that this Agreement has been structured to provide limited Employee benefits on the one hand, while maximizing compensation to the Employee on the other hand. In establishing compensation under this Agreement, the value of certain permanent County Employee benefits has been considered. Accordingly, Employee acknowledges and agrees that he

shall be entitled to participate in County Employee benefit programs only in the manner and only to the extent specifically set forth in this Agreement and/or its attached Exhibits on the same basis as members of the "Y" Unit. The provisions of the Personnel Policies and Practices Resolution apply to this Agreement only where and to the extent specifically referenced herein. Employee shall not become entitled by virtue of this Agreement, and shall have no claim whatsoever under this Agreement, or otherwise, against the County or Hospital for any type or form of employment benefit(s) or benefit program(s) that are not specifically provided for herein.

B. Benefits. In addition to the benefits normally provided to Executive Management ("Y" unit) employees, the CEO shall receive the following enhancements:

1. Relocation Expenses. The CEO shall receive a one-time **relocation expenses allowance** of \$50,000. Said allowance shall be treated for tax purposes as earned income and shall be subject to the ordinary deductions and withholdings for employee income.

2. Business expenses shall be reimbursed in accordance with current applicable County policies.

3. Vehicle Usage/Lease/Monthly Allowance. The CEO shall receive a car allowance of \$375 per month, in accordance with Monterey County Personnel Policies & Procedures Resolution ("PPPR") §A.19.6.b. Automobile usage and mileage expense for travel shall be reimbursed in accordance with current County policies, including PPPR §A.19.6.b.

4. Retirement System. Pursuant to Government Code §§ 20305 and 20502, the Employee is required as a condition of employment, to participate in and contribute to the PERS plan offered by the Employer in the same manner as members of the County's Executive Management ("Y") Unit.

5. Employee shall have the same ability to participate in the County's **Dependent Care Assistance Program** as any other County employee.

C. Professional and General Liability Insurance Benefit. The County shall provide and maintain professional and other liability insurance coverage for all services performed by the CEO, and acts done in good faith.

1. The Employer shall, at its own cost and expense, obtain and maintain in force during the term hereof a professional liability insurance policy or policies, in amounts to be determined by Employer covering only those professional and administrative services rendered by the Employee within the course and scope of his employment hereunder. Such insurance coverage shall include any self-insured retention by Employer. Employer may change deductibles, modify any self-insured retention, and/or adopt any other insurance arrangement as Employer deems

appropriate within its sole discretion, so long as Employer maintains the minimum liability insurance coverage for the professional and administrative services rendered by the Employee that is required by the Employer.

2. The applicable provisions of the Governmental Tort Claims Act, Government Code §810, *et seq.*, shall govern the Employer's duty to defend and indemnify the Employee. Employee shall have a duty to cooperate fully with Employer and/or the insurer in any and all such matters, without additional compensation, in the prosecution and/or defense of any threatened or initiated legal proceeding, claim, investigation, or hearing of any nature whatsoever with respect to which the Employer's and/or Employee's liability is at issue or the Employer is/may be entitled to indemnification hereunder. Such duty shall survive the termination of this Agreement for any incident(s) occurring, either all or in part, within the term of this Agreement.

D. County Deferred Compensation Plan. Employee shall be entitled to participate in the County's Deferred Compensation Plan, pursuant to the applicable rules and regulations of that plan and the rules and regulations of the Internal Revenue Service.

E. Health Insurance Benefits. Employee shall be entitled to healthcare coverage for himself, his spouse and/or eligible dependents in Employer's health insurance program (health, dental and vision) on the same basis as for members of the "Y" Unit.

F. Professional Activities Benefits.

1. Employee shall at his sole cost and expense, be responsible for fulfilling on a timely basis all licensure, professional organization membership, and continuing professional education requirements imposed by law or regulation.

2. The Employer shall reimburse the Employee for actual reasonable expenses incurred through attendance at professional meetings or conventions away from the established headquarters, where it has been determined in advance that such attendance will benefit the Hospital and its patients. Reimbursement shall be subject to the following conditions:

a. The cost is within the budget limitations of the Hospital;

b. Reimbursement of the registration fees, travel and lodging expenses shall be subject to the practices, procedures and limits established, amended or adopted by the County of Monterey and the County's Auditor-Controller from time to time;

3. **Accuracy of Expense Reports.** By the submission of any expense report or request for reimbursement of a business or other expense pursuant to this Paragraph V, the Employee shall be deemed to represent and warrant to the Employer that the report or request is accurate and complete to the best of his knowledge, and that the Employee is entitled to such reimbursement under all applicable policies and procedures of the Employer and provisions of this Agreement.

G. Annual Leave and Holidays.

1. **Annual Leave.** Employee shall be entitled to accrue and use Annual Leave in lieu of sick leave and vacation time in the same manner as "Y" Unit Employees, as set forth in the applicable provisions of Personnel Policies and Procedures Resolution, Section A.30.1 through A.30.6.

2. **Holidays.** Employee shall observe the same legal/County holidays as "Y" Unit Employees, payment for which is included within the Salary set forth above in Section IV.A of this Agreement. Designated County holidays shall not accrue. If Employee is required to work on a holiday, for each such holiday worked, the Employee shall be entitled to compensatory time off on an hour-for-hour basis for up to a maximum of eight (8) hours for such work on a County holiday. There shall be no compensation or compensatory time off to the Employee for time worked on a County holiday in excess of eight (8) hours.

VI. LEAVE OF ABSENCE.

A. **Scheduling Vacations.** Scheduling of vacations and holiday observances are matters to be arranged between Employee and the NMC Board of Trustees of County Board of Supervisors, which shall be achieved in such a manner as to promote the most efficient functioning of the Hospital and patient care. Such scheduling shall be accomplished pursuant to such rules and procedures of the Hospital, as may be promulgated and/or modified from time to time.

B. **Leave of Absence Without Pay.** Employee may qualify for approval of a leave of absence without pay within the discretion of the Board of Supervisors, subject to applicable law and regulations, and the practices, policies and procedures of the County, as amended or modified by the County's Board of Supervisors from time to time.

C. **Unavailability or Absence After Notice of Termination.** If the Employee is absent or unavailable to perform the duties set forth in this Agreement because of illness, accident or injury, or because of required jury duty (but not an absence for the purpose of giving non-subpoenaed or expert witness testimony), or for any other reason not specifically approved in advance in writing by the Employer, or after the delivery of a termination notice by either party in accordance with Paragraph II.B:

1. The Employee shall not be entitled to receive Salary, or receive payment of any expenses incurred during that absence or unavailability as described in Paragraph VI.C of this Agreement.

2. However, the Employee shall continue to receive the benefits described in Paragraph V.B.

3. Any health insurance coverage being maintained for the Employee and/or his spouse/dependents through the Employer shall be continued subject to the Employee's reimbursement to the Employer of the cost of such coverage within five (5) days of demand therefor; and if reimbursement is not so made, the Employer may, at its option and within its sole discretion, thereafter terminate the Employee and/or dependent medical coverage in accordance with applicable law and regulations; provided that in the event of such a termination, Employer shall comply with the applicable provisions of the Consolidated Omnibus Budget Reconciliation Act ("COBRA").

D. Honoraria and Conflicts of Interest. Honoraria are subject to the policies, practices and procedures that are adopted, amended and revoked from time to time, by or under the authority of the County's Board of Supervisors or County Administrative Officer. Income received from professional honoraria, writings, patents, licenses, public appearances, lectures (outside of and apart from Employee's contractual obligations pursuant to this Agreement), medical business ventures and non-medical activities shall belong to Employee, who shall be solely responsible for payment of any applicable taxes and deductions therefrom; and Employee shall have the sole right to set the fees for such matters. Outside income-producing activities that may conflict or have the appearance of conflict with contractual obligations shall be discussed in advance with the Board of Supervisors, and prior written approval to engage in such activity must be obtained by the Employee, which approval shall not be unreasonably withheld.

VII. MEDICAL / MENTAL EXAMINATIONS AND TESTING.

A. Employee represents that he is physically and mentally capable of safely and competently performing the services required by this Agreement. During the term of this Agreement, the Employer, at its sole discretion, may require the Employee to undergo medical/ mental examination(s), including all necessary testing, which will be performed by physicians and/or other health care professionals designated by the Employer and at the Employer's sole expense, to verify that Employee is currently capable of safely and competently performing the services required by this Agreement; and if not, to determine those limitations to which the Employee is subject. The Employee agrees to undergo such examination(s) if requested by the Employer, in accordance with County and/or Hospital policies, as adopted and amended from time to time.

B. It is the policy of Employer to maintain a workplace that is free of alcohol and drugs, in order to protect patients and co-workers, and Employer has adopted policies to that effect in compliance with federal and state law. Employee represents that he is now and will remain in compliance with this policy, so that he can safely and competently perform all of the services required by this Agreement. The parties mutually agree that abuse of drugs or alcohol is incompatible with health, safety, efficiency and the successful delivery of high quality health care to patients. Employees who are under the influence of or impaired by a drug or alcohol on the job endanger their own health and safety, as well as that of patients.

1. The conduct prohibited by this policy includes but is not limited, to the following:

- a. the abuse of any legal drug;
- b. the possession or use of any illegal drug;
- c. the abuse of alcohol; and
- d. working while impaired by the use of a legal drug, an illegal drug, and/or alcohol.

2. If Employer has a reasonable suspicion that Employee is performing services in an impaired condition, Employer may refer the matter to the hospital's Medical Director for handling in accordance with applicable Hospital policies and/or Medical Staff Bylaws and/or County policies, as amended and adopted from time to time. Employee's refusal to cooperate with the process shall be deemed, within the Employer's discretion, a material breach of this Agreement, as set forth in Paragraph X.B.5.

VIII. COMPLIANCE WITH ETHICS AND LAWS.

A. Compliance Generally. In providing professional and/or administrative services under this Agreement, Employee shall at all times comply with: (i) all applicable laws, rules and regulations of each governmental authority having jurisdiction over the Hospital, including, without limitation, regulations, federal and state laws which apply to the operation of the hospital; (ii) the Hospital Bylaws, policies, rules and regulations; and with (iii) the Hospital and its quality assurance, utilization review, and hospital compliance plan functions. (iv) In addition, in performing his responsibilities and obligations pursuant to the terms of this Agreement, Employee shall actively assist the Hospital in assuring that the Hospital meets the standards and requirements of the TJC, the requirements of Hospital licensure, and/or applicable third party payor certification requirements.

B. Ethics. The Employee covenants that in performing his duties for the Employer, the Employee will comply with all of the ethics, laws and regulations governing the provision of professional and administrative services by a hospital CEO, including all applicable federal, state and/or local statutes, regulations or ordinances applicable to the practice of medicine.

C. Discrimination, Sexual Harassment and Workplace Violence. The Employer has policies which prohibit discrimination in any of its forms, including sexual harassment, and which forbid violence in the workplace or anywhere else that has a nexus with the workplace. Employee's signature on this Agreement constitutes Employee's promise to become and remain informed regarding such policies, and to fully comply therewith.

During the performance of this Agreement, Employee shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in fulfilling his employment responsibilities and obligations or in the furnishing of services to recipients. Employee shall ensure that the evaluation and treatment of those persons he supervises, and applicants for employment, and all persons receiving or requesting services are free of such discrimination. Employee shall, in the performance of this Agreement, fully comply with all federal,

state, and local laws and regulations that prohibit discrimination. The provision of services primarily or exclusively to a targeted population that may be designated in this Agreement shall not be deemed to be prohibited discrimination.

IX. TERMINATION OF EMPLOYMENT.

A. Termination of "At Will" Employment. The Employee and Employer each acknowledge that employment pursuant to this Agreement is "at will" employment, that the terms of this Agreement constitute their entire working relationship, and that there is no other or additional agreement or covenant, either express or implied, between the Employee and the Employer, for long-term or permanent employment. The Employee and the Employer each have the separate and independent right to terminate this employment relationship at any time, without cause, within the sole discretion of each of them, subject only to the procedural requirements of Paragraphs II(B) and (C), IV(C), and X of this Agreement.

1. Written notice of any early termination of this Agreement by Employer shall be given. If Employer gives such notice of termination, the Employee shall have the right, upon request, to discuss the termination of this Agreement with Employer prior to the effective date thereof. As set forth hereinabove, Employee shall not accrue any vested property right to or legally protected interest in continued or permanent employment because of this Agreement. The procedure(s) for termination of this employment Agreement shall be limited to that which is specifically set forth in this Agreement, or any mutually agreed upon written amendment hereto.

B. Termination For Breach of Agreement. Except as otherwise set forth herein, the employment of the Employee shall terminate immediately upon the occurrence of any one or more of the following events, and such termination shall constitute "termination for cause:"

1. The suspension or debarment of Employee from participation in Medicare programs;
2. The Employer determines that the Employee has violated Employer's policies for an alcohol/drug free workplace;
3. The Employee is charged with a serious violation of law, regulation, or professional ethics that the Employer determines may result in harm either to patient care or to the reputation of the Employer;
4. The Employer determines that the Employee is in material violation or breach of any provision of this Agreement, and thirty (30) days has passed since written notice of the violation or breach has been given by the Employer, without remedy thereof by the Employee to the satisfaction of the Employer;

5. The Employer determines that any representation made by the Employee in this Agreement, including but not limited to Paragraph VII, Paragraph VIII.C.3, Paragraph IX.A, or Paragraph X.B., hereinabove, is in any material respect false, untrue or misleading, including any material omission;

6. The Employer determines that the Employee has failed to give prompt written notice to the Employer of the existence of an investigation concerning the professional competence of the Employee by the medical staff of a hospital or health care facility at which the Employee has been granted staff privileges, by the applicable California licensing Board or the equivalent licensing authority of any other state, or of the existence of any pending or threatened action or proceeding concerning the Employee involving allegations of professional misconduct, malpractice or incompetence, or sexual harassment on the part of the Employee, or of the existence of any pending or threatened action or proceeding concerning the Employee involving allegations of Medicare fraud;

7. A finding of "Reasonable Cause" to believe, after investigation, that the Employee has committed acts of discrimination, and/or sexual harassment, and/or workplace violence, either in or having a nexus with the workplace.

8. A finding, after investigation, that the Employee has violated a workplace policy and/or procedure that the Employer determines has resulted in harm either to patient care or to the reputation of the Employer.

C. Breaches Generally. With respect to any material breach not specifically listed hereinabove, including the Employee's failure to meet the performance criteria established by the Board of Trustees of Employer, as modified from time to time, for either the provision of professional services or administrative performance, the parties mutually agree that each party shall give the other notice of any such breach, and shall afford the other a reasonable amount of time, not to exceed thirty (30) days, to cure said breach prior to giving notice of termination of this Agreement for cause.

D. Proration. Except as otherwise provided in this Agreement, the Employee's compensation and benefits under this Agreement shall be prorated to the last day during which the Employee actually performs services for the Employer.

E. Advancing Termination. If a notice of termination is given by the Employer, Employer may advance the effective date of termination as it deems advisable within its sole discretion, by paying to Employee the Salary, less withholdings and deductions, that would be earned had Employee worked from the advanced effective date of termination to the end of the applicable notice period. If a notice of termination is given by Employee, Employer may advance the effective date of termination as it deems advisable within its sole discretion, by paying to Employee the Salary, less withholdings and deductions, that would have been earned had Employee

worked from the advanced effective date of termination for an additional thirty (30) days. In order to do so, the Employer must make a determination within its sole discretion, that circumstances exist that make the immediate removal of the Employee in the best interests of the County, and that the Employee cannot be effectively used in his job classification within the Hospital.

F. Withholding of Amounts Owed by Employee to Employer at Termination. The Employer shall have the right to withhold from the Employee's compensation any amounts owed by the Employee to the Employer at the termination of employment, to the extent allowed by law, and Employee hereby expressly consents to such withholding.

X. TERMINATION BECAUSE OF DEATH OR ILLEGALITY.

A. In the event of the Employee's death during the term hereof, Employee's employment hereunder shall terminate immediately.

B. Notwithstanding anything to the contrary herein contained, in the event performance by either party hereto of any term, covenant, condition or provision of this Agreement should jeopardize the Hospital's license(s), its participation in or reimbursement from the Medicare, Medi-Cal, Blue Cross or other reimbursement or payment programs, its tax-exempt status or the tax-exempt status of interest earned on any of its bonds or other financial obligations, or its full accreditation by the TJC or any other state or nationally recognized accreditation organization, or if for any other reason said performance should be in violation of any statute, ordinance, or be otherwise deemed illegal, or be deemed unethical by any recognized body, agency, or association in the medical or hospital fields, the parties shall use their best efforts to resolve the illegality through the renegotiation of the applicable portions of this Agreement. If the parties are unable to reach agreement on such changes within thirty (30) days after initiating negotiations, Employer or Employee may, at its/his option, terminate this Agreement upon thirty (30) days' prior written notice to the other party. Such termination shall not render Employee eligible for severance.

XI. GENERAL PROVISIONS.

A. Notices in Writing. Notices under this Agreement shall be sent to the parties by personal delivery, by electronic facsimile, or by certified mail, return receipt requested, postage prepaid to the United States Postal Service at the addresses set forth below. Notice shall be deemed effective upon delivery or transmission if delivered or sent by facsimile and on the third (3rd) day after mailing. All notices required by this Agreement shall be sufficient if given in writing that is delivered to Employee personally or to Employee's residence, or sent by first class or by certified mail to the Employee's residence as to the Employee, or to the Employer's Administrative office as to the Employer. Employee undertakes to keep Employer notified at all times of Employee's current address and telephone number. Either party hereto may change its respective address by written notice in accordance with this Agreement.

County Administrative Officer
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

Contractor shall give prompt notice of any change of his address.

B. Waiver of Breach. The waiver by either party of a specific breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by the other party.

C. Integration, Modification, Waiver of Agreement. Each party agrees that the making, execution and delivery of this Agreement by the parties has not been induced by any representations, statements, warranties or agreements other than those herein expressed. This Agreement, including the recitals, attachments and exhibits hereto, embodies the entire understanding of the parties. There are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof, unless expressly referred to by reference herein. Without limiting the foregoing, this Agreement shall supersede all prior agreements between the parties as of the effective date hereof. This Agreement may be amended or modified only by an instrument in writing, signed by the party to be charged.

The parties mutually agree that no evidence of any waiver or modification of this Agreement shall be offered or received in evidence in any administrative or court proceeding, or in any litigation between the parties hereto arising out of or affecting this Agreement, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The parties further agree that the provisions of this section may not be waived except as herein set forth.

D. Interpretation. Article and Paragraph headings in this Agreement are not to be considered a part of this Agreement; they are included solely for convenience and reference, and are not intended to be full or accurate descriptions of the content thereof. They shall therefore not be interpreted to affect the validity of this Agreement or to limit or affect any rights, obligations, or responsibilities of the parties arising hereunder. This Agreement is to be interpreted as a whole document, taking into account the intent of its various provisions. Throughout this Agreement, the singular shall include the plural and one gender shall include the other gender wherever necessary.

E. Partial Invalidity. Except as otherwise provided in Paragraph XI.B hereof, if any provision of this Agreement is found to be invalid or unenforceable by any court, such provision shall be ineffective only to the extent that it is in contravention of applicable laws or regulations, without invalidating the remaining provisions hereof, unless such invalidity or unenforceability would defeat an essential business purpose of this Agreement.

F. Severability. If any provision of this Agreement shall be for any reason invalid or unenforceable, the remaining provisions shall nevertheless remain in effect.

G. Binding Effect. This Agreement shall bind and shall inure to the benefit of the heirs, successors and assigns of the parties. Notwithstanding the foregoing, this Agreement, and the rights, duties and obligations created hereunder are personal to the Employee and may not be assigned or delegated by the Employee.

H. Survival. Except as otherwise expressly provided in this Agreement, all covenants, agreements, representations and warranties, express and implied, shall survive the execution of this Agreement, and shall remain in effect and binding upon the parties until they have fulfilled all of their obligations hereunder and the statute of limitations shall not commence to run until the time such obligations have been fulfilled.

I. Confidentiality. Employer and Employee shall each comply with all applicable federal and state laws regarding the confidentiality of any and all patient medical records and other Protected Health Information in the Hospital.

Records and Confidentiality. Employee shall comply with any and all federal, state, and local laws that provide for the confidentiality of records and other information. Employee shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits Employee to disclose such records or information. Employee shall promptly transmit to County any and all requests for disclosure of any confidential records or information. Employee shall not use any confidential information gained by Employee in the performance of this Agreement except for the sole purpose of carrying out Employee's obligations under this Agreement.

County Records. When this Agreement expires or terminates, Employee shall return to County any County or Hospital records that Employee used or received from County to perform services under this Agreement.

J. Construction of Agreement. The parties agree that each party and its counsel, if any, have fully participated in the review and revision of this Agreement, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment or exhibit hereto.

K. Agreement to Perform Necessary Acts. Each party agrees to perform any further acts and to execute and deliver any further documents as may be reasonably necessary to fully effectuate the provisions of the Agreement during the term thereof.

L. Statutes and Regulations. Any reference in this Agreement to any statute, regulation, ruling, or administrative order or decree shall include, and be a reference to any successor statute, regulation, ruling, or administrative order or decree.

M. Governing Law. This Agreement is executed and is intended to be performed solely in the State of California. Any dispute as to the validity, construction, enforcement, or performance of this Agreement or any provision hereof shall be determined in accordance with the laws of the State of California. Venue for any legal action brought by a party pursuant to this Agreement shall be in the Courts of Monterey County.

N. Cumulation of Remedies. The various rights, options, elections, powers, and remedies of the respective parties hereto contained in, granted, or reserved by this Agreement, are in addition to any others that said parties may be entitled to by law, shall be construed as cumulative, and no one of them is exclusive of any of the others, or of any right or priority allowed by law.

O. Subcontracting, Delegation of Performance and Assignment. This Agreement and the rights, privileges, duties and obligations of the parties hereunder shall not be subcontracted, delegated and/or assigned by the Employee to a third party.

P. Time of Essence. The parties agree that time is of the essence throughout the term of this Agreement and any extension or renewal thereof, and of every provision hereof in which time is an element. No extension of time for performance of any obligations or acts shall be deemed an extension of time for performance of any other obligations or acts.

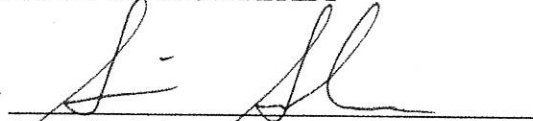
Q. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

COUNTY OF MONTEREY

DATED: _____, 2009

By



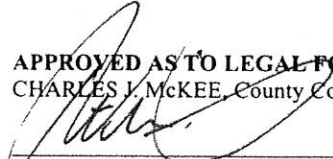
Louis R. Calcagno, Chair
Board of Supervisors

EMPLOYEE:

DATED: 3/31, 2009



APPROVED AS TO LEGAL FORM:
CHARLES J. MCKEE, County Counsel



William M. Litt, Deputy County Counsel

DATE: 3/31, 2009

EXHIBIT "B"

SCOPE OF SERVICES

The parties acknowledge that Natividad Medical Center ("NMC") is a general acute care teaching hospital wholly owned and operated by the County of Monterey, that is fully accredited by The Joint Commission ("TJC") and which provides both outpatient and inpatient care to meet the varied needs of both the general and indigent County populace.

Within policies established by the County Board of Supervisors and/or the NMC's Board of Trustees, Employee shall plan, organize, direct, coordinate, manage and administer all aspects of hospital activities to ensure Hospital compliance with established objectives, policies and goals in the treatment and care of patients and effective operation of NMC. Employee shall ensure quality and economical health care services are provided in accordance with all applicable laws and regulations, and with recognized applicable national and community standards.

The CEO shall have responsibility for planning, and for the overall functioning and general administrative direction of NMC, to include: medical, nursing, financial, ancillary and auxiliary support, residency program, procurement, research and other related hospital services, as well as overseeing the creation and implementation of the Hospital's business plan. The CEO shall also have oversight management responsibility for the Hospital's human resources, purchasing and information technology functions, in accordance with Memoranda of Understanding approved by the County Administrative Officer and the Board of Supervisors. It is understood that the CEO's duties shall be substantially the same as those of a Chief Executive Officer in a business corporation. The Chief Medical Officer, Chief Financial Officer, Chief Information Officer, Assistant Administrator, Director of Business Development, Assistant Administrator – Nursing, Family Practice Residency Director, Outpatient Services Director and Human Resources Manager, among others, shall each report directly to Employee. Individuals who report directly to the CEO shall be consistent with the approved NMC table of organization. The CEO's duties shall be carried out independently, with broad discretion in exercising control over the facility, its functions and the implementation of policy. The CEO is therefore vested with authority to act on behalf of the NMC Board of Trustees in accordance with the Bylaws and policies adopted by that Board and/or by the Board of Supervisors, as amended from time to time.

The CEO shall advise the NMC Board of Trustees and the County's Board of Supervisors on various issues related to the Hospital's strategic business plan and managed care plans that affect both the County and NMC. The CEO shall negotiate services and reimbursement under managed care plans with third party payors, and make specific recommendations relating to proposed contracts. The CEO shall provide consultation to NMC physicians in their role as participants in managed care plans.

The CEO shall actively assist the Hospital in assuring that the Hospital, its Departments and/or clinics meet the standards and requirements of the TJC, the requirements of Hospital licensure, and/or applicable third party payor certification requirements. He shall actively participate in assuring that the Hospital meets the standards established from time to time by the Accreditation Council for Graduate Medical Education ("ACGME")'s Residency Review Committee for Family Practice ("RRC") for the Hospital's Family Practice Residency Program. He shall assure compliance with all applicable Medicare rules and regulations relating to Hospital functions.

The CEO shall perform his duties in accordance with all applicable laws and regulations, Hospital By-laws, rules, regulations, policies and procedures, with any applicable Medical Staff By-laws, Rules and Regulations, and County rules and regulations. Examples of such include, without limitation:

a. All laws, rules and regulations of governmental authorities having jurisdiction over the Hospital, including Titles 22 and 24 of the California Code of Regulations, and federal and state laws and regulations applicable to the Hospital, its operation, and the provision of professional medical services therein;

b. The Hospital's and its Medical Staff's quality assurance and utilization review functions.

Rev. 10.24.2007

Exhibit C

NMC CEO FY10 PERFORMANCE INCENTIVE COMPENSATION PLAN DEFINITION OF MEASURES

Finance (“F¹”): The finance measure is the plan “trigger,” meaning if “Threshold” is not achieved, there will be no Compensation Plan payout under this Exhibit “C,” irrespective of performance as measured by the other four factors:

Threshold: total margin greater than 0% and less than 1%
Target: total margin greater than 1% and less than 2%
Maximum: total margin greater than 2%

Total margin is net income divided by total revenue, based on independently audited Hospital financials. Net income equals total revenues minus total expenses (for example, based on FY08 audited financials, net income was \$10.5M and total revenue was \$180.6M; therefore, total margin was 5.8%). Total revenues shall **not** include any County subsidy.

Quality (“F²”): Joint Commission Core Measures are the most commonly used quality measure in hospitals. The specific measure will be the composite score for percentage compliance of Perfect Care for Congestive Heart Failure, which includes the four process measures (discharge instructions, smoking cessation, evaluation of heart function, and prescribing appropriate medication). Instead of FY10, the measurement period is calendar year '09 compared to '08 because there is a lag in reporting of the Joint Commission Core Measures data. The score for Q3 of CY'08 was 35.71%.

Threshold 50% +
Target: 75% +
Maximum: 90% +

Service (“F³”): The patient satisfaction survey is the tool utilized for the service measure. Professional Research Consultants, Inc. (PRC) administers the NMC patient satisfaction survey. The specific measure is inpatient overall quality of care, which includes three components: 1) overall teamwork between doctors, nurses, and staff; 2) doctor’s courtesy and friendliness; and, 3) discharge process. The measurement is calculated based on the percentage of excellent responses. The score for the past four quarters (10/07-9/08) was 53.1%.

Threshold: 55% +
 Target: 57% +
 Maximum: 60% +

People (“F⁴”): Voluntary turnover rate is the measure for employee relations. The rate was 5.6% for Q1 FY09. The targets will be based on improvement from FY09 results.

Threshold: 0-.5% reduction from FY09 rate
 Target: .5-1.0% reduction
 Maximum >1.0% reduction

Growth (“F⁵”): Adjusted average daily census is the measure for growth. It is calculated by dividing total adjusted patient days (adjusted for inpatient and outpatient volume) by the number of calendar days in the period. FY09 adjusted average daily census for the five month period 7/1/08 through 11/30/08 was 124. The targets will be based on improvement from FY09 results.

Threshold: > 3% increase from FY09 results
 Target: 7% + increase
 Maximum: 10% + increase

Weighting: 20% per measure, represented by the formula:

$$\text{Bonus} = 0.2 \times F^1 + 0.2 \times F^2 + 0.2 \times F^3 + 0.2 \times F^4 + 0.2 \times F^5$$

“Threshold” represents 1/3 of the available 20% comprising each factor, “Target” represents 2/3 of the available 20%, and “Maximum” represents the entire available 20% comprising a particular factor.

Position	Threshold Opportunity	Target Opportunity	Maximum Opportunity
Chief Executive Officer	10%	20%	30%