

## PHYSICIAN SERVICES AGREEMENT

This Agreement is entered into as of September 1, 2018 (the "*Effective Date*"), by and between Lucile Salter Packard Children's Hospital at Stanford ("*LPCH*"), a California non-profit public benefit corporation, and the County of Monterey on behalf of Natividad Medical Center, an acute care hospital (the "*Hospital*").

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

WHEREAS, the Hospital desires the assistance of certain physicians who can provide retinopathy of prematurity screening services to patients in Hospital's neonatal intensive care unit ("*NICU*");

WHEREAS, LPCH, through its arrangement with the Stanford University School of Medicine ("*Stanford*"), desires to increase the access of patients to high-quality, cost-effective care by making the services of specialized physicians available to patients in community settings and is willing to make the services of certain physicians available remotely to the Hospital on the terms set forth below.

NOW, THEREFORE, the parties agree as follows:

### 1. RESPONSIBILITIES AND DUTIES OF LPCH

a. Professional Services. LPCH shall provide the Hospital with the professional services of one or more physicians from the Department of Ophthalmology (each a "*Physician*"), who shall be available to provide professional medical services (the "*Contracted Services*") to patients of the Hospital using remote access as described in Exhibit A (Description of Services). All references to the Contracted Services provided under this Agreement shall be understood to apply solely to services provided by a Physician to patients of the Hospital as described in Exhibit A.

b. Excluded Provider Representation and Warranty. LPCH represents and warrants that it (i) is not currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 USC § 1320a-7b(f) (the "*Federal healthcare programs*"); (ii) has not been convicted of a criminal offense related to the provision of healthcare items or services, and (iii) is not under investigation or otherwise aware of any circumstances which may result in being excluded from participation in the Federal healthcare programs. This shall be an ongoing representation and warranty during the term of this Agreement and LPCH shall immediately notify the Hospital of any change in the status of the representation and warranty set forth in this section.

### 2. RESPONSIBILITIES AND DUTIES OF THE HOSPITAL

2.1 The Hospital shall coordinate the delivery of services provided to patients of the Hospital by the Physician under this Agreement. The Hospital shall comply with the screening

criteria for retinopathy of prematurity (ROP) (the “*Screening Criteria*”) set forth in Attachment A (Section on Ophthalmology, American Academy of Pediatrics; American Academy of Ophthalmology; American Association for Pediatric Ophthalmology and Strabismus) and the Imaging Protocol and Synchronization Safeguard set forth in Attachment B. The Hospital shall, at its sole expense, employ and train physicians, nurses, medical assistants, and/or any other non-physician personnel (“*Non-Physician Personnel*”) necessary for the delivery of services by the Physician under this Agreement and shall be solely responsible for payment of Non-Physician Personnel salary, social security, workers compensation and other employee benefits of any kind as well as for any liabilities that may arise in connection with the employment on Non-Physician Personnel by the Hospital and for their direction and control. Such Non-Physician Personnel shall not be deemed to be employees of the Physician or LPCH for any purpose.

2.2 Except as explicitly provided for herein, the Hospital shall be solely responsible for all costs associated with the provision of services by the Physician pursuant to this Agreement, including the cost, if any, associated with Physician obtaining and maintaining privileges at the sites of service which are specified in Exhibit A to this Agreement and credentials with respect to managed care organizations with which the Hospital contracts. The Hospital shall ensure that the requirements of 42 C.F.R.482.12(a)(1) through (a)(7) are met with respect to the Physician providing Contracted Services pursuant to this Agreement. Hospital shall report to LPCH all adverse events that result from the Professional Services provided by the Physicians as well as any complaints received by Hospital about any Physician. The Hospital shall be solely responsible for complying with all applicable laws, regulations and ordinances, including without limitation all such laws and regulations associated with third party reimbursement. The Hospital shall ensure that it has redundant backup of physicians, nurses, medical assistants, and/or any other non-physician personnel to ensure continuous provision of screening as stipulated by the Physician and the Screening Criteria in Attachment A and the Imaging Protocol and Synchronization Safeguard set forth in Attachment B.

2.3 The Hospital shall ensure that consent for delivery of the Contracted Services to the Hospital’s patients is received prior to the delivery of such Contracted Services including, but not limited to, any consent required by California Business and Professions Code Section 2290.5, and shall ensure that such consent is documented as part of the patient’s medical record.

2.4 The Hospital will promptly advise LPCH in writing of any suit, proceeding, investigation, other action or event commenced or threatened against the Hospital which, if adversely determined, would result in a material adverse change in the condition or business, financial or otherwise, of the Hospital and of any facts that come to the Hospital's attention which might materially affect the operation of the Hospital or its ability to properly carry out the terms and conditions of this Agreement.

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

### 3. PAYMENT OF SALARY OF PHYSICIANS AND PROFESSIONALS

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

### 4. INSURANCE

4.1 LPCH Insurance. LPCH shall, at its expense, maintain policies of (i) general liability insurance in amounts of at least Three Million Dollars (\$3,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the annual aggregate and (ii) professional liability insurance in amounts of at least Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the annual aggregate to insure it, its employees and agents under this Agreement, against claims and liabilities arising out of or related to this Agreement. In the event that such coverage is written on a claims-made basis, LPCH shall arrange for appropriate tail coverage consistent with the requirements of this Section 4 in the event that such claims-made policy is canceled or not renewed.

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

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

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

Professional liability insurance, covering LPCH and each Physician with coverage of not less than One-Million Dollars (\$1,000,000) per Physician per occurrence and Three-Million Dollars (\$3,000,000) per Physician in the aggregate. If any professional liability insurance covering LPCH and each Physician is procured on a "Claims Made" rather than "Occurrence" basis, then LPCH shall either continue such coverage or obtain extended reporting coverage ("**Tail Coverage**"), as appropriate, upon the occurrence of any of the following: (i) termination or expiration of this Agreement; (ii) change of coverage if such change shall result in a gap in coverage; or (iii) amendment, reduction or other material change in the then existing professional liability coverage of LPCH if such amendment, reduction or other material change will result in a gap in coverage. Any Tail

Coverage shall have liability limits in the amount set forth above and shall in all events continue in existence until the greater of: (a) three (3) years or (b) the longest statute of limitations for professional and general liability for acts committed has expired. All insurance required by this Agreement shall be with a company acceptable to County and issued and executed by an insurer authorized to transact insurance business in the State.

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

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

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

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

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

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

LPCH shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by

Hospital, annual certificates to Hospital's Medical Staff Office. If the certificate is not received by the expiration date, Hospital shall notify LPCH and LPCH shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by LPCH to maintain such insurance is a default of this Agreement, which entitles Hospital, at its sole discretion, to terminate the Agreement immediately.

4.2 Hospital Insurance. The Hospital shall, at its expense, maintain policies of (i) general liability insurance in amounts of at least Three Million Dollars (\$3,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the annual aggregate, (ii) professional liability insurance in amounts of at least Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the annual aggregate and (iii) cyber liability insurance in amounts of at least Three Million Dollars (\$3,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the annual aggregate, to insure it, its employees and agents under this Agreement, against claims and liabilities arising out of or related to this Agreement. Evidence of such coverage shall be presented to LPCH upon request. In the event that such coverage is written on a claims-made basis, the Hospital shall arrange for appropriate tail coverage consistent with the requirements of this Section 4 in the event that such claims-made policy is canceled or not renewed.

## 5. INDEMNIFICATION

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

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

## 6. COMPENSATION

In consideration of the Contracted Services provided to the Hospital by LPCH, the Hospital shall pay LPCH thirty (30) days after receipt of the certified invoice in the Auditor-Controller's Office in accordance with the compensation schedule described in Exhibit B (Compensation for Contracted Services.) The total amount payable by Hospital to LPCH under this Agreement shall not exceed Ninety Thousand Dollars (\$90,000).

7. **CHARGES AND BILLINGS**

The Hospital shall make all collections from patients or third-party payors for the Contracted Services. LPCH shall and hereby does assign to the Hospital all of the Physician's rights, if any, to monies due on account of the Contracted Services rendered by the Physician to patients of the Hospital under this Agreement. LPCH shall require the Physician to execute a separate assignment to Hospital in the form attached as Exhibit C (Reassignment.) LPCH shall, and shall ensure that the Physician shall, cooperate fully with the Hospital in facilitating such billing and collections, including completion of all forms necessary for the collection of said monies as may be required by insurance carriers, health care service plans, governmental agencies or other third party payors. Under no circumstances shall LPCH or Physician bill any third party payors for the Contracted Services provided pursuant to this Agreement. The provisions of this Section 7 shall not affect the right of LPCH to bill for services provided by the Physician at sites other than those listed on Exhibit A.

8. **CHOICE OF FACILITY**

The parties understand that if Physician should determine that a patient of the Hospital requires transfer to for the purposes of surgical intervention, the choice of facility and physician shall be made in accordance with the following:

- i. Sound medical judgment in accordance with the quality standards established by the Hospital and availability of service at the Hospital.
- ii. Patient wishes.
- iii. The performance of any surgical intervention by an ophthalmologist who has sufficient knowledge and experience in the treatment of ROP. The Physician may choose to offer this treatment if the Physician is available.

The choice of facility shall be made without regard to the payor status of the patient.

9. **INTENT OF PARTIES**

Neither LPCH nor the Hospital intend that any payments made under this Agreement be in return for the referral of ongoing business, if any, or in return for the purchasing, leasing, or ordering of any services other than the specific services described in this Agreement. All payments specified in this Agreement are consistent with what the parties reasonably believe to be a fair market value for the services provided.

10. **TERM AND TERMINATION OF AGREEMENT**

- a. Term. This Agreement shall commence on the Effective Date and continue in full force and effect for a term of two (2) years, expiring on August 31, 2020, unless earlier

terminated in accordance with this Agreement. This Agreement may be renewed upon the written agreement of the parties.

b. Termination

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

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

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

For purposes of this Section 10(b)(iii), "Action" shall mean any legislation, regulation, rule or procedure passed, adopted or implemented by any governmental or legislative body or agency or other third party, or any notice of a decision, finding or action by any governmental or private agency, court or other third party which, in the reasonable and good faith opinion of either counsel to either party, if or when implemented, would (I) revoke or jeopardize the status of any license or permit granted to either party or any of its affiliates, (ii) revoke or jeopardize the federal, state or local tax-exempt status of either party or any of its affiliates, or (iii) subject either party, or any of its employees or agents, to civil or criminal prosecution or liability on the basis of their participation in executing this Agreement or performing their obligations under this Agreement.

**11. DISPUTE RESOLUTION.**

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

a. The parties shall use all reasonable efforts to resolve the Dispute through direct discussions between persons associated with each party who have the authority to resolve the Dispute. A party may give the other party notice of any Dispute not resolved in the normal course of business. Within ten (10) days after such notice is given, the receiving party shall submit to the other party a written response. The notice and the response shall include (i) a statement of that party's position and a summary of arguments in support of that position and (ii) the name and title of the person who will represent that party in any negotiations to resolve the dispute.

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

c. If the Dispute, has not been resolved as a result of the procedure in Section 11(a) and (b) above or otherwise within forty five (45) days of the initial written notice that there is a Dispute (or such additional time to which the parties may agree), the matter shall be resolved by final and binding arbitration in Palo Alto, California, administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedure. If the parties are unable to agree on the arbitrator within sixty (60) days of the original written notice of Dispute (or such additional time to which the Parties may agree), the parties shall each appoint one arbitrator approved by JAMS and the two arbitrators shall select a third neutral, independent and impartial arbitrator from the list of arbitrators approved by JAMS.

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

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

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

## **12. USE OF NAMES AND LOGOS**

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

## **13. NOTICES**

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



below or on such other address as the party may designate in writing in accordance with this Section:

To LPCH: Lucile Packard Children's Hospital  
770 Welch Road, Suite 150  
Palo Alto, California 94304  
Attn: Charlette Stallworth, Vice President, Strategic Partnerships

With a copy to: Office of the General Counsel  
Building 170, 3<sup>rd</sup> Floor, Main Quad  
Stanford, CA 94304  
Attn: Chief Hospital Counsel

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

**14. BINDING EFFECT**

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

**15. GOVERNING LAW**

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

**16. NON-ASSIGNMENT**

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

**17. RELATIONSHIP OF PARTIES**

None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for the purpose of effecting the provisions of this Agreement. The parties are not, and shall not be construed to be in a relationship of joint venture, partnership or employer-employee. Neither party shall have the authority to make any statements, representations or commitments of any kind on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided for herein.

**18. AMENDMENTS**

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

**19. ENTIRE AGREEMENT**

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

**20. COUNTERPARTS**

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

**21. SEVERABILITY**

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

**22. WAIVER**

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

**23. FORCE MAJEURE**

Neither Party shall be liable for any default or delay in the performance of its obligations under this Agreement if (a) to the extent the default or delay is caused, directly or indirectly, by fire, flood, elements of nature or acts of God, or any other cause beyond the reasonable control of the Party, including a declared emergency at Stanford Hospital and Clinics ("*SHC*") or LPCH which would require all Physicians providing Contracted Services under this Agreement to report to the SHC Emergency Department and be available for assignment to various care teams, and (b) the non-performing Party is without fault and the default or delay could not have been prevented by reasonable precautions. In such event, the non-performing Party is excused from further performance for as long as such circumstances prevail and the Party continues to use its best efforts to recommence performance. The non-performing Party shall provide notice to the Party to whom performance is due and describe the circumstances causing the delay or default.

**24. CONFIDENTIALITY AND PRIVACY**


LPCH agrees to maintain, and ensure Physician maintains, the confidentiality, privacy, and security of patient information to the extent required by law and Hospital policy. Without limiting the generality of the foregoing, LPCH agrees to comply, and ensure Physician complies, with the Health Insurance Portability and Accountability Act of 1996, as amended, and the

regulations promulgated thereunder (“**HIPAA**”) with respect to the privacy and security of “protected health information” (as defined by HIPAA) created, transmitted, maintained or received by LPCH or Physician pursuant to, or in connection with, the performance of LPCH or Physician’s obligations under this Agreement. Hospital shall be responsible for providing patients with a notice of privacy practices which covers Physician’s rights to access protected health information for services provided by Physician pursuant to this Agreement. Hospital shall be responsible for any HIPAA compliance obligations with respect to patients evaluated by Physician under this Agreement. For purposes of this section only, Physician shall be considered to be part of the Hospital's workforce. This covenant shall survive the termination or expiration of this Agreement.

*[signatures on following page]*

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

**LUCILE SALTER PACKARD CHILDREN'S HOSPITAL AT STANFORD**

By:   
Name: Kim Roberts  
Title: Chief Strategy Officer  
Date: 8/31/18

Approved as to Content:

By: \_\_\_\_\_  
Name: Jeffrey L. Goldberg, M.D., PhD  
Title: Chairman, Department of Ophthalmology  
Stanford University School of Medicine  
Date: \_\_\_\_\_

**NATIVIDAD MEDICAL CENTER**

  
Deputy Purchasing Agent

Approved as to legal provisions:

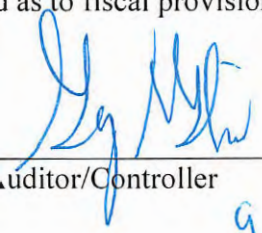
  
Stacy Saetta, Deputy County Counsel

Approved as to liability provisions:

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Steven Mauck, Risk Management

Approved as to fiscal provisions:



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Deputy Auditor/Controller

9/6/18

## EXHIBIT A

### Description of Services

#### 1. Sites of Service

The services shall be provided remotely to patients at the Hospital's location at 1441 Constitution Blvd., Salinas, California, 93906.

#### 2. Services Schedule

Routine screening will occur on Tuesday mornings, unless otherwise arranged with LPCH. If Physician is not available, s/he is responsible for ensuring adequate coverage so that screening can occur or informing Hospital in advance that s/he is not available for screening and alternate arrangements must be made.

#### 3. LPCH/Physician Responsibilities

a. LPCH shall make Physician available to provide remote retinopathy of prematurity ("ROP") screenings for premature patients in Hospital's NICU.

b. Screening for ROP will be performed remotely by the Physician by viewing digital images.

c. The Physician will acknowledge receipt of the digital images by sending an email to the Hospital within 24 hours of receipt of images.

d. If digital images are of poor quality, the Physician shall notify the Hospital within 48 hours of the date of transmission to repeat the examination.

e. The Physician shall create a report within 48 hours of acknowledged receipt of the screening images which will include Physician's determination of whether treatment is required or identifying the next screening date.

f. The Physician shall prepare a Parent Notification Letter, an example of which is included as Attachment C, to send to the Hospital.

g. The Physician shall arrange to have the Report and the Parent Notification Letter delivered to the Hospital in a mutually agreeable format and manner.

#### 4. Hospital Obligations

a. Hospital is responsible for identifying patients that meet the criteria for screening in Attachment A.

b. Screening will be done according to the guidelines in the Table 1, Timing of First Eye Examination Based on Gestational Age at Birth, included as Attachment D.

c. The Hospital is responsible for assuring that the digital images are sent to and received by the Physician in a timely manner so screening can occur. The digital images

will be sent electronically to the Physician using a secure, HIPAA approved method of delivery, immediately following completion of imaging. Absent email notification from the Physician, both parties shall assume that the Physician did not receive the images and Hospital shall resend the images and contact Physician to confirm that the images were received.

d. In the event of a synchronization or other imaging transfer failure, the Hospital shall comply with the Imaging Protocol and Synchronization Safeguard set forth in Attachment B to arrange for an alternate mode of transmission.

e. The Hospital shall notify Physician immediately, in writing, of (i) any complications and/or injuries resulting from the imaging protocol/session and (ii) any pre-existing and/or intercurrent ocular infection or any other concern regarding the eye system.

f. In the event of equipment malfunction or lack of availability of trained photographic screeners, the Hospital is solely responsible for ensuring that either replacement equipment is available or for ensuring that alternative screening occurs as defined by the criteria in Attachment A.

g. The Hospital is responsible for ensuring that the Physician's Parent Notification Letter is signed by the patient's parents and placed into the medical record.

h. The Hospital acknowledges that ROP is a blinding disease that can rapidly progress and that treatment must be arranged in the timeframe recommended by Physician. Hospital is solely responsible for arrangement for transfer of the patient to another facility if required for treatment, including surgical intervention. If treatment is recommended the Hospital may request transfer of the patient to LPCH, if desired by the Hospital and patient's parent or guardian. If LPCH is unable to accept the patient for transfer, neither LPCH nor Physician shall be responsible for arranging for the recommended treatment.

## EXHIBIT B

### Compensation for Contracted Services

A. In consideration of the Physician's provision of the Contracted Services and availability to the Hospital to provide the Contracted Services, Hospital shall pay LPCH in the amount of Forty-Five Thousand Dollars (\$45,000) per year, during the term of this Agreement provided the Hospital has zero (0) to five (5) patients per month that require the Contracted Services. Hospital shall pay LPCH in twelve (12) equal monthly installments, each in the amount of Three Thousand Seven Hundred Fifty Dollars (\$3,750) payable to the "Lucile Salter Packard Children's Hospital at Stanford" at the address provided below. The compensation amount has been determined by the most recent 12-month census of patients that meet initial screening criteria in Attachment A. If, after the first year of this Agreement, the average number of examinations per month, based upon criteria set forth in Attachment A, exceeds the projected volume of examinations, LPCH shall determine the charge which shall be assessed to the Hospital for the higher volume of patients.

B. Payment will be made on or before the first day of each and every month during the term of this Agreement. All payments shall be sent to the following address:

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



**EXHIBIT C**

**Reassignment**

At the direction of LPCH, I hereby reassign from Lucile Salter Packard Children's Hospital ("LPCH") to Natividad Medical Center ("Hospital), all of my rights, if any, to bill and receive payment for my services furnished to patients at the sites of service specified in Exhibit B and rendered pursuant to the agreement effective September 1, 2018 between LPCH and Hospital. This reassignment shall terminate upon termination of the above-referenced agreement or upon written notice by LPCH to Hospital.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT A**

## ATTACHMENT B

### IMAGING PROTOCOL AND SYNCHRONIZATION SAFEGUARD

1. Hospital shall evaluate the list of eligible babies for screening on each screening day.
2. Hospital shall dilate babies 60-90 minutes prior to photography to ensure proper dilation.
3. Hospital shall take six (6) standard photographs per eye beginning with external iris examination.
4. If iris demonstrates a small pupil on attempted photography, Hospital shall re-dilate and wait 60-90 minutes.
5. Hospital shall synchronize images by connecting Hospital's retinal camera(s) to Hospital's ethernet connection. A parity check is performed and images that are on the retinal camera storage but not on LPCH designated servers are copied to the LPCH designated servers. Hospital may also use secure email if agreed upon by Hospital and LPCH.
6. In the event of failed synchronization, Hospital shall re-attempt synchronization.
7. If synchronization fails again, Hospital shall take note of the error message (or photograph the error message).
8. Hospital shall immediately contact Hospital's local IT for correction of the issue. In parallel, Hospital shall download images to a portable thumb drive, arrange for them to be same-day couriered to Physician, and confirm with Physician that the previous steps have been taken and the images are being sent via courier.
9. Hospital shall contact Natus technical support if Hospital's local IT cannot correct the issue or if they determine that the issue is not a problem with Hospital's equipment or network.
10. Hospital shall follow any instructions provided by Natus to correct the issue.
11. Hospital shall notify Physician of the synchronization issue if Hospital is unable to correct within 60 minutes of Hospital's first attempt to synchronize or if Hospital does not receive instructions after escalating to Natus.
12. Hospital shall repeat the protocol for the next examination cycle.

## ATTACHMENT C

### **PARENTS: READ THIS INFORMATION ABOUT YOUR PREMATURE BABY'S EYE[S]!**

Date: \_\_\_\_\_

At the request of the neonatologist caring for your baby, an eye exam has been performed on your infant. This information explains why this eye exam was necessary, and when the baby will need to be examined again. I have performed this screening remotely by viewing the images taken at the hospital on a computer.

#### **What is Retinopathy of Prematurity?**

The retina is the inner lining of the eye that receives light and turns it into visual messages that are sent to the brain. If one thinks of the eye as being like a camera, the retina functions as the film. Blood vessels that supply the retina are one of the last structures of the eye to mature; they have barely completed growing when a full-term baby is born. This means that a premature infant's retina is not yet completely developed. For reasons not yet fully understood, the blood vessels in the immature part of the retina may develop abnormally in some premature infants. This is called Retinopathy of Prematurity (abbreviated ROP).

When ROP develops, one of three things can happen:

1. In most babies who develop ROP, the abnormal blood vessels will heal themselves completely, usually during the first year of life.
2. In some babies the abnormal blood vessels heal only partially. In these infants, nearsightedness, lazy eye, or a wandering eye commonly develops. Glasses may be required in early life. In some cases a scar may be left in the retina, resulting in vision problems that are not entirely correctable with glasses.
3. In the most severe cases, the abnormal blood vessels form scar tissues, which pull the retina out of its normal position in the back of the eye. This problem results in a severe loss of vision. Fortunately, there is treatment to minimize severe vision loss. Occasionally, despite all treatments, this condition can lead to blindness.

#### **What About Your Baby's Eyes? (Read the paragraph checked below)**

- Your infant's eyes have mature blood vessels and are at a low risk for developing ROP. He/she should have another eye exam by an ophthalmologist in six months. Other eye diseases, such as cross-eyes, lazy eye, and extreme nearsightedness, occur more frequently in premature infants and may only become apparent when the infants are 8 to 12 months of age. **It is your responsibility to arrange this follow-up eye exam for your baby.**
- Your baby does not have ROP but could develop problems later because the retinal blood vessels are still not fully mature. Your baby should have an ROP exam again on \_\_\_\_\_.

- Your baby has early ROP. The ROP is not severe and does not require treatment at this time. To watch for possible serious developments, your baby should have an ROP exam again on \_\_\_\_\_.
  
- Your baby has advanced ROP. However, your baby does not meet the definition of either Type I disease by the Early Treatment Retinopathy of Prematurity (ETROP) Study nor Threshold disease by the CRYO-ROP study. Therefore, the baby does not require treatment at this time. To watch for possible serious development, your baby should have an ROP exam again on \_\_\_\_\_.
  
- Your baby has advanced ROP (either Type I disease by the Early Treatment Retinopathy of Prematurity (ETROP) study or Threshold disease by the CRYO-ROP study.) Pursuant to these studies, I recommend treatment within 48-72 hours by an appropriately trained pediatric retinal surgeon.
  
- Your baby has advanced ROP. Despite previous treatment, your baby may need retreatment and needs to be followed closely. Despite previous laser treatment, your baby's disease may progress to require incisional surgery. To watch for possible serious developments, your baby should have an ROP exam again on \_\_\_\_\_.

The neonatologist taking care of your infant can give you more information. I am also available to answer questions by telephone if you ask your neonatologist to arrange a convenient time.

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Examining Ophthalmologist Signature Date

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Examining Ophthalmologist Name (print)

Parents: If your baby is discharged home prior to the next scheduled ROP exam, the nursery will attempt to schedule an outpatient ophthalmology appointment with a nearby provider. The appointment will be with Dr. \_\_\_\_\_ on the date noted above. This return appointment is extremely important for the health of your baby's eyes. Missing this appointment may result in blindness in your baby.

I have read and understand the information on this sheet:

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Parent/Guardian Signature Date

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Parent/Guardian Name

## ATTACHMENT D

**Table 1: Timing of First Eye Examination Based on Gestational Age at Birth**

**Timing of First Eye Examination Based on Gestational Age at Birth**

| Gestational Age<br>at birth wk, | <u>Age at Initial Examination,</u><br><u>wk</u> |             |
|---------------------------------|---|-------------|
|                                 | Postmenstrual                                   | Chronologic |
| 22 <sup>a</sup>                 | 31  | 9           |
| 23 <sup>a</sup>                 | 31  | 8           |
| 24                              | 31  | 7           |
| 25                              | 31  | 6           |
| 26                              | 31  | 5           |
| 27                              | 31  | 4           |
| 28                              | 32  | 4           |
| 29                              | 33  | 4           |
| 30                              | 34  | 4           |
| 31 <sup>b</sup>                 | 35  | 4           |
| 32 <sup>b</sup>                 | 36  | 4           |

Shown is a schedule for detecting prethreshold ROP with 99% confidence, usually well before any required treatment.

<sup>a</sup> This guideline should be considered tentative rather than evidence-based for infants with a gestational age of 22 to 23 weeks because of the small number of survivors in these gestational-age categories.

<sup>b</sup> If necessary.