

DATED 2022

THE NATIONAL MATERNITY HOSPITAL (HOLLES STREET)

ST. VINCENT'S HEALTHCARE GROUP

and

HEALTH SERVICE EXECUTIVE

CO-ORDINATION AGREEMENT

NATIONAL MATERNITY HOSPITAL SITE, ST. VINCENT'S CAMPUS, DUBLIN 4

McCann FitzGerald
Solicitors
Riverside One
Sir John Rogerson's Quay
Dublin 2

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THIS AGREEMENT is dated [•] 2022

AND MADE BETWEEN:

- (1) **THE NATIONAL MATERNITY HOSPITAL (HOLLES STREET)**, a Chartered Corporation having its address at National Maternity Hospital, Holles Street, Dublin 2, Dublin, D02YH21, Ireland (the “**NMH**”);
- (2) **ST. VINCENT’S HEALTHCARE GROUP**, a designated activity company limited by shares having its registered address at Elm Park, Dublin 4, Dublin, Ireland (“**SVHG**”); and
- (3) **HEALTH SERVICE EXECUTIVE**, a statutory body having its address at [Parkgate Street, Business Centre, Dublin 8]¹ (the “**HSE**”)

(each a “**Party**” and together, the “**Parties**”)

RECITALS

- (A) SVHG operates the Existing Hospital on the Campus.
- (B) The HSE is a statutory body with responsibility for the provision of healthcare services in Ireland and supports hospitals providing public health care facilities, including SVHG in the operation of the Existing Hospital.
- (C) The HSE approached SVHG and NMH in relation to the establishment and construction of the New National Maternity Hospital to be constructed on the Premises in accordance with the Planning Permission and has requested that the SVHG make the Premises available for this purpose pursuant to the Lease.
- (D) The Minister for Health, SVHG and NMH entered into mediated discussions in relation to certain legal and governance matters arising from the proposed development of the New National Maternity Hospital (the “**Project**”) which culminated in a report dated 21 November 2016 and submitted to the Minister for Health setting out terms of agreement between the Parties (the “**Mulvey Report**”).
- (E) The Parties have now agreed certain documentation to progress the Project in accordance with the Mulvey Report (save as otherwise agreed between the Parties). The Parties have also agreed to progress other documentation identified as necessary to progress the Project.
- (F) Due to the nature of the Project and the documentation of same, the Parties have agreed to enter into this Agreement to co-ordinate and confirm each Party’s intention to enter into the necessary document or as the case may be, progress such document to an agreed form with a view to advancing and concluding the Project.

NOW IT IS AGREED as follows in consideration of the receipt by each party to this Agreement of an amount of €10 from each other party to this Agreement (the receipt and sufficiency of which is hereby acknowledged):

¹ **MF Note:** PL to confirm

1. **Interpretation**

- 1.1 In this Agreement unless the context otherwise requires the following words and expressions have the following meanings:

“Agreement” means this Agreement and Schedules hereto;

“Car Park” has the meaning ascribed to it in the Lease;

“Car Park Agreement” means the agreement to be entered into by NMH DAC and SVHG in relation to the operation of the Car Park from the Completion Date.

“Campus” has the meaning ascribed to it in the Lease;

“Completion” means the date on which the HSE has completed the development of the New Maternity Hospital in accordance with the provisions of the Sixth Schedule of the Lease;

“Co-ordination Period” means the period commencing on the date of this Agreement and ending on Completion;

“Existing Hospital” means St Vincent’s University Hospital operated on the Campus by SVHG;

“Holles Street Hospital” means the current hospital of the NMH;

“HSE’s Solicitors” means Philip Lee or such other solicitors as may be appointed from time to time by HSE;

“First Option Agreement” means the option agreement between SVHG of the first part and HSE of the second part;

“Lease” means the 299 years lease of the Property entered into or to be entered into between SVHG and the HSE in the form agreed;

“New National Maternity Hospital” means the proposed hospital to be constructed on the Premises in accordance with the Planning Permission and the Lease for the purpose of the provision of all clinically appropriate and legally permissible healthcare services, including research, by a maternity, gynaecology, obstetrics and neonatal hospital, and a range of related health services in the community by National Maternity Hospital at Elm Park DAC and to provide the SVHG’s Area and the SVHG’s Shared Area for the benefit of the Existing Hospital;

“NMH’s Solicitors” means Mason Hayes & Curran LLP or such other solicitors as may be appointed from time to time by Holles Street Hospital;

“Operating Licence” means the operating licence in a form substantially agreed by the Parties to be granted by the HSE to SVHG and National Maternity Hospital at Elm Park DAC on or before Completion;

“Planning Permission” means An Bord Pleanála Order Reference No 29S.PA0049 and such variations to same as may be permitted from time to time in accordance with the Lease;

“Premises” has the meaning ascribed to it in the Lease;

“Restated Grant Agreement” means the Restated Grant Agreement to be entered into between SVHG and HSE;

“Share Transfer” means the transfer of the entire issued share capital in SVHG by the Congregation of the Religious Sisters of Charity to a newly formed company with charitable status called St. Vincent’s Holdings Company Limited by Guarantee.

“SVHG’s Area” has the meaning ascribed to it in the Operating Licence;

“SVHG’s Shared Area” has the meaning ascribed to it in the Operating Licence;

“SVHG’s Solicitors” means McCann FitzGerald Solicitors or such other solicitors as may be appointed from time to time by SVHG;

“The National Maternity Hospital at Elm Park DAC (limited by shares) or “NMH DAC” means the new company to be established to operate the National Maternity Hospital at the Premises.

2. Agreement to Co-ordinate

2.1 The Parties hereby agree and acknowledge their intention in accordance with this Agreement that during the Co-ordination Period:

- (a) SVHG shall procure the completion of the Share Transfer on or prior to the date hereof.
- (b) Subject to and conditional upon completion of the Share Transfer, **SVHG** will grant and the **HSE** will accept the Lease in or around the date hereof².
- (c) **SVHG** and **HSE** will enter into the First Option Agreement in or around the date hereof.
- (d) **NMH** and **SVHG** will agree to establish a new company, **NMH DAC**, to operate the new National Maternity Hospital, and agree the structure and the board of **NMH DAC** in accordance with the terms of the Mulvey Report save as otherwise agreed between the **HSE**, **NMH** and **SVHG** and that **NMH DAC** should be established and operational as soon as reasonably practicable subject to the agreement of the parties.
- (e) **NMH** and **SVHG** will agree a Facilities Operation Agreement to regulate operational matters in relation to the New National Maternity Hospital prior to Completion.
- (f) **NMH** and **SVHG (and where applicable NMH DAC)** will agree the Car Park Agreement in relation the operation of the Car Park.
- (g) Subject to and conditional upon approval of the structure of **NMH DAC** by the **HSE** and the Minister for Health, the **HSE** on or prior to Completion shall grant and **SVHG** and **NMH DAC** shall enter into the Operating Licence.
- (h) The **HSE** and **NMH** shall co-operate to agree any documentation required to facilitate a transfer to the **HSE** of the relevant portion of the Holles Street Hospital agreed between **NMH** and the **HSE**, such transfer to be effected as soon as possible following Completion.

² MHC Note: Can you clarify whether any third party consents/approvals or additional steps are required in advance of the ability of SVHG to grant the Lease.

3. **Co-Operate**

The Parties agree to continue to co-operate to finalise such documentation as may be required and anticipated in the Mulvey Report (save as otherwise agreed between the parties) to give effect to the Project and to achieve the Completion Date.

4. **Notices**

4.1 Notices given pursuant to this Agreement by one party hereto to the other shall be in writing and shall be sufficiently given:

- (a) if delivered by hand or sent by post to the addresses set forth as follows or (where applicable) to the registered office from time to time of such party or to such other address as such party shall communicate in writing to the party giving the notice or to the last known address of such party; and
- (b) if sent by post they shall be by registered post.

4.2 Notices to NMH shall be addressed to:-

National Maternity Hospital, Holles Street, Dublin 2, Dublin, D02YH21, Ireland (ref: Master).

and copied to Mason, Hayes & Curran LLP, South Bank House, Barrow St, Dublin 4 (ref: Alice Murphy).

4.3 Notices to SVHG shall be addressed to:

St. Vincent's Healthcare Group, Elm Park, Dublin 4, Dublin, Ireland (ref: Company Secretary)

and copied to McCann FitzGerald Solicitors, Riverside One, Sir John Rogerson's Quay, Dublin 2 (ref: ____).

4.4 Notices to the HSE shall be addressed to:

The Health Service Executive, a statutory body having its address at [Parkgate Street, Business Centre, Dublin 8]

and copied to Philip Lee, 7/8 Wilton Terrace, Dublin 2, D02 KC57 (ref: ____).

4.5 Where the last day for taking any step contemplated by this Agreement would but for this provision be Christmas Day, Good Friday, a Saturday or Sunday or a Public Holiday such last day shall instead be the next following working day.

5. **Counterparts**

5.1 This Agreement may be executed in any number of counterparts and by different parties to this Agreement on separate counterparts, each of which, when executed and delivered, shall constitute an original, but all the counterparts shall together constitute but one and the same instrument.

6. **Severability**

- 6.1 If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.

7. **Governing Law**

- 7.1 This Agreement shall be governed by and interpreted in accordance with the laws of Ireland, as the same is applicable to contracts to be wholly performed in Ireland and all parties hereby submit to the exclusive jurisdiction of the Courts of Ireland.

EXECUTION PAGE

THE NATIONAL MATERNITY HOSPITAL (HOLLES STREET)

By: _____

Name: _____

Title: _____

ST. VINCENT'S HEALTHCARE GROUP

By: _____

Name: _____

Title: _____

HEALTH SERVICE EXECUTIVE

By: _____

Name: _____

Title: _____