



## LIMITED GUARANTEE FOR ROBOTIC PROSTATECTOMIES

### TERMS AND CONDITIONS

- 1. Robotic Prostatectomy Care Plan.** Saint Luke's Hospital of Bethlehem, Pennsylvania d/b/a St. Luke's Hospital & Health Network ("St. Luke's"), St. Luke's Center for Urology ("SLCU") and Northgate Urology Associates ("NUA") have developed and implemented at St. Luke's a multi-faceted care plan to direct the pre-operative and inpatient process for patients who undergo prostate removal through robotic prostatectomy at St. Luke's (the "Robotic Prostatectomy Care Plan"). The Robotic Prostatectomy Care Plan is intended to optimize a patient's chances for a successful robotic prostatectomy.
- 2. Non-Reimbursable Events.** In addition to the development and implementation at St. Luke's of the Robotic Prostatectomy Care Plan, St. Luke's, SLCU and NUA have identified the following three specific events which should typically be preventable during a robotic prostatectomy: (a) rectal injury requiring fecal diversion and/or additional procedures related to rectal injury; (b) ureteral injury; and (c) prolonged anastomotic leak requiring retention of foley catheter by a patient for more than thirty (30) days following the date the patient undergoes the procedure (the "Non-Reimbursable Events").
- 3. Non-Reimbursable Readmission.** A "Non-Reimbursable Readmission" means readmission to St. Luke's within thirty (30) days following the date a patient undergoes a robotic prostatectomy at St. Luke's as a direct result of an adverse outcome caused solely by an urologist's technical portion of a robotic prostatectomy performed at St. Luke's. A Non-Reimbursable Readmission does not include a readmission caused by an adverse outcome if the adverse outcome is not caused solely by a surgeon's technical portion of a robotic prostatectomy. For example, if a patient experiences a heart attack, stroke or pulmonary embolism during or following the procedure requiring readmission, the adverse outcome would not be caused solely by a surgeon's technical portion of a robotic prostatectomy, and thus the adverse outcome resulting in the readmission would not be a Non-Reimbursable Event. The adverse events listed in the prior sentence are only examples and are not intended to include all adverse events not caused solely by an urologist's technical portion of a robotic prostatectomy.
- 4. Limited Guarantee.** If St. Luke's, SLCU or NUA fails to follow the Robotic Prostatectomy Care Plan with regard to an eligible patient, or if an eligible patient experiences a Non-Reimbursable Event or a Non-Reimbursable Readmission, then St. Luke's, SLCU and NUA agree to refrain from billing the eligible patient or his insurance company (if applicable) for any charges associated with the robotic prostatectomy or the Non-Reimbursable Readmission.
- 5. Eligible Patients.** The limited guarantee applies only to patients: (a) of SLCU or NUA; (b) who undergo prostate removal through robotic prostatectomy at St. Luke's; (c) who sign the patient acknowledgment described below; and (d) with respect to patients of SLCU or NUA who experience a Non-Reimbursable Readmission, who are readmitted to St. Luke's for the Non-Reimbursable Readmission. SLCU currently includes only the following physicians: Eric Mayer, M.D., Jarrod E. Rosenthal, M.D. and Frank J. Tamarkin, M.D. NUA currently includes only the following physician: Joseph B. Lennert, M.D. If a patient undergoes a robotic prostatectomy with any other physician, if a

patient undergoes a robotic prostatectomy at a hospital other than St. Luke's, or if a patient is admitted to a hospital other than St. Luke's for any adverse outcome which might otherwise be a Non-Reimbursable Readmission, he is not eligible to participate in the limited guarantee. In addition, the guarantee is only applicable to the practice employing or engaging the physician who performed the procedure on the patient. For example, a patient who had a procedure performed by a physician in SLCU shall not be entitled to rely on the guarantee offered by NUA to its patients, and a patient who had a procedure performed by a physician in NUA shall not be entitled to rely on the guarantee offered by SLCU to its patients.

6. **Patient Acknowledgement.** In order to be eligible for the limited guarantee, a patient must execute prior to the robotic prostatectomy a patient acknowledgement in the form delivered by SLCU or NUA, as applicable. The patient acknowledgement includes a verification by the patient that certain portions of the Robotic Prostatectomy Care Plan have been performed, such as a discussion between the physician and the patient of prostate cancer treatment options. The patient must also agree to follow his pre- and post-surgical instructions.

7. **Other Services.** Certain third parties other than St. Luke's, SLCU and NUA, including certain affiliates of St. Luke's, may provide services in connection with a robotic prostatectomy performed at St. Luke's, the treatment of a Non-Reimbursable Event or treatment provided during a Non-Reimbursable Readmission. For example, an anesthesiologist may provide and bill for professional services performed in connection with a robotic prostatectomy, a colorectal surgeon may attempt to correct a rectal injury, or a cardiologist may provide consultative services during a patient's recovery at St. Luke's. The limited guarantee is not intended to, and does not, preclude these professionals from billing a patient for services provided, including such professionals employed or engaged by St. Luke's or its affiliates.

8. **Requests for Payments.** If an eligible patient believes that St. Luke's, SLCU or NUA failed to follow the Robotic Prostatectomy Care Plan with regard to his procedure or if an eligible patient experiences a Non-Reimbursable Event or a Non-Reimbursable Readmission, the patient must deliver written notice to the applicable practice performing the procedure within ninety (90) days following the date of the procedure at the following address:

**SLCU Patients:**

St. Luke's Center for Urology  
1521 8<sup>th</sup> Avenue, Suite 201  
Bethlehem, Pennsylvania 18018  
Attn: Practice Administrator

**NUA Patients:**

Northgate Urology Associates  
5325 Northgate Drive, Suite 203  
Bethlehem Medical Arts Bldg.  
Bethlehem, PA 18017  
Attn: Practice Administrator

A patient must provide a detailed written description of the failure to comply with the Robotic Prostatectomy Care Plan, the Non-Reimbursable Event that transpired or the adverse outcome caused solely by a surgeon's technical portion of a robotic prostatectomy that led to a Non-Reimbursable Readmission. If requested by SLCU or NUA, as applicable, the patient shall submit to one (1) or more physical examinations by a physician employed or engaged by the applicable practice, so that the physician may adequately evaluate the patient and determine whether the limited guarantee applies.

9. **Purposes of the Limited Guarantee.** The Robotic Prostatectomy Care Plan is designed to improve patient outcomes, and the limited guarantee is intended to demonstrate the desire of St. Luke's, SLCU and NUA to follow certain practices and procedures in furtherance thereof. However, St. Luke's, SLCU and NUA cannot guarantee specific outcomes for patients. For example, the Non-Reimbursable Events are atypical, but they may occur from time to time. In addition, any failure to follow the Robotic Prostatectomy Care Plan, or the occurrence of a Non-Reimbursable Event or a Non-Reimbursable Readmission, is not intended to constitute an acknowledgement of fault or wrongdoing by St. Luke's, a practice or its physicians and shall not be deemed to be an admission of liability by St. Luke's, a practice

or a physician. Further, this document and its terms and conditions shall not be used as evidence in any legal proceeding alleging professional negligence or misconduct, nor shall the fact that an event defined as a “Non-Reimbursable Event” occurred be competent evidence in any such proceeding. The standards set forth in the limited guarantee may be a higher standard than the applicable standard of care required by law.

10. **Terms May Change.** The terms of the limited guarantee, including the elements of the Robotic Prostatectomy Care Plan, the specified Non-Reimbursable Events and/or the definition of a Non-Reimbursable Readmission, may change from time to time. Patients should revisit these terms and conditions prior to undergoing a procedure. The latest terms and conditions and Robotic Prostatectomy Care Plan posted on this web site at least five (5) days prior to the date of a procedure shall apply to a patient.

11. **Patients Scheduled Prior to September 24, 2008.** A patient who undergoes a robotic prostatectomy at St. Luke’s on or prior to September 24, 2008 is not eligible to participate in the limited guarantee. An eligible patient scheduled prior to September 24, 2008 for robotic prostatectomy but who undergoes the robotic prostatectomy after September 24, 2008 may participate in the limited guarantee only if the patient contacts the office of the physician scheduled to perform the robotic prostatectomy and schedules an office visit prior to the robotic prostatectomy for purposes of completing a patient acknowledgement, as described above.

12. **Disputes.** In the event of a dispute concerning an alleged failure to follow the Robotic Prostatectomy Care Plan, an alleged occurrence of a Non-Reimbursable Event or an alleged Non-Reimbursable Readmission, the dispute shall be submitted to a panel consisting of the Chief of Surgery of St. Luke’s, John J. Lukaszczuk, M.D. and Mark E. Schadt, M.D. The panel shall consider in its sole discretion information it deems relevant in making a determination, which decision shall be final. If requested by the panel, the patient shall meet with members of the panel, so that the panel may review the patient’s assertions. The patient may be required to answer questions from the panel. If requested by the panel, the patient shall undergo a physical examination by all or select members of the panel. The panel may review the patient’s medical records, including any physical examination conducted by the applicable practice. In the event of a disagreement among members of the panel, a decision by a majority of the members of the panel shall control.

13. **Choice of Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania without regard to the choice of law provisions thereto.