



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Agreement No.: A-13893

Upon motion of Supervisor Adams, seconded by Supervisor Phillips and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute an agreement with Premier Healthcare Solutions, Inc. for budget and financial reporting software services at NMC for an amount not to exceed \$484,412 with an agreement term of May 1, 2018 through April 30, 2023;
- b. Accepted the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, sole remedy, limitations of liability, and limitation on damages provisions within the agreement; and
- c. Authorized the Deputy Purchasing Agent for NMC or his designee to execute up to three (3) future amendments to the agreement which do not significantly alter the scope of work and do not cause an increase of more than twenty percent (20%) (\$96,882) of the original cost of the agreement in total.

PASSED AND ADOPTED on this 1st day of May 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Salinas, Phillips, Parker and Adams

NOES: None

ABSENT: None

I, Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting May 1, 2018.

Dated: May 18, 2018
File ID: A 18-116

Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy


COUNTY OF MONTEREY AGREEMENT FOR SERVICES
(MORE THAN \$100,000)

This Agreement for Services (hereinafter “Agreement”) is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter, “the County”), on behalf of Natividad Medical Center (“NMC”), a general acute care teaching hospital wholly owned and operated by the County, and **Premier Healthcare Solutions, Inc.** (hereinafter “CONTRACTOR”).

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. **GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED.** NMC hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of the Agreement. The services are generally described as follows: **Budgeting and Financial Services.**
2. **PAYMENTS BY NMC.** NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of **\$499,412.00.**
3. **TERM OF AGREEMENT.**
 - 3.1. The term of this Agreement is from **May 1, 2018** through **April 30, 2023** unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and NMC and with NMC signing last and CONTRACTOR may not commence work before NMC signs this Agreement.
 - 3.2. NMC reserves the right to cancel this Agreement, or an extension of this Agreement, without cause, with a thirty (30) day written notice, or with cause immediately.
4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Addendum No. 1

Exhibit A: Scope of Services/Payment Provisions

Exhibit B: County of Monterey Travel and Business Expense Reimbursement Policy

Exhibit C: Business Associate Agreement

5. **PERFORMANCE STANDARDS.**

- 5.1. CONTRACTOR warrants that CONTRACTOR and Contractor’s agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of NMC, or immediate family of an employee of NMC.

- 5.2. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.3. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use NMC premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6. PAYMENT CONDITIONS.

- 6.1. Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provide in this paragraph. NMC does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.2. Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety (90) days prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County (NMC) and the CONTRACTOR.
- 6.3. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement, and then only in accordance with any applicable County policies.
- 6.4. Invoice amounts shall be billed directly to the ordering department.
- 6.5. CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. NMC shall certify the invoice, either in the requested amount or in such other amount as NMC approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7. TERMINATION.

- 7.1. During the term of this Agreement, NMC may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.
- 7.2. NMC may cancel and terminate this Agreement for good cause effective immediately upon written notice to Contractor. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If NMC terminates this Agreement for good cause, NMC may be relieved of the payment of any consideration to Contractor, and NMC may proceed with the work in any manner, which NMC

deems proper. The cost to NMC shall be deducted from any sum due the CONTRACTOR under this Agreement.

7.3 NMC's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for NMC's purchase of the indicated quantity of services, then NMC may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8. INDEMNIFICATION.

8.1 CONTRACTOR shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any and all claims, liability and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

9. ~~INSURANCE.~~

~~9.1 Evidence of Coverage:~~

~~Prior to commencement of this Agreement, the CONTRACTOR 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, the CONTRACTOR upon request shall provide a certified copy of the policy or policies.~~

~~This verification of coverage shall be sent to NMC's Contracts/Purchasing Department, unless otherwise directed. The CONTRACTOR shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and NMC has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.~~

~~9.2 Qualifying Insurers: All coverage's, 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 NMC's Contracts/Purchasing Director.~~

~~9.3 Insurance Coverage Requirements: Without limiting Contractor's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:~~

~~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 \$1,000,000 per occurrence.~~

~~Exemption/Modification (Justification attached; subject to approval).~~

~~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 \$1,000,000 per occurrence.~~

~~Exemption/Modification (Justification attached; subject to approval).~~

~~Workers' Compensation Insurance, If CONTRACTOR 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 \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.~~

~~Exemption/Modification (Justification attached; subject to approval).~~

~~Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.~~

~~Exemption/Modification (Justification attached; subject to approval).~~

~~9.4 Other Requirements:~~

~~— All insurance required by this Agreement shall be with a company acceptable to NMC and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. 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 years following the date CONTRACTOR completes its performance of services under this Agreement.~~

~~— Each liability policy shall provide that NMC shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR 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 and automobile 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 the Contractor'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 Contractor's insurance.** The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11 85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.~~

~~Prior to the execution of this Agreement by NMC, CONTRACTOR shall file certificates of insurance with NMC's Contracts/Purchasing Department, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.~~

~~CONTRACTOR 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 NMC, annual certificates to NMC's Contracts/Purchasing Department. If the certificate is not received by the expiration date, NMC shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles NMC, at its sole discretion, to terminate the Agreement immediately.~~

10. RECORDS AND CONFIDENTIALITY.

10.1 Confidentiality. CONTRACTOR and its officers, employees, agents and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from NMC or prepared in connection with the performance of this Agreement, unless NMC specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to NMC any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out Contractor's obligations under this Agreement.

10.2 NMC Records. When this Agreement expires or terminates, CONTRACTOR shall return to NMC any NMC records which CONTRACTOR used or received from NMC to perform services under this Agreement.

10.3 Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal state, and County rules and regulations related to

services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.4 Access to and Audit of Records. NMC shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of NMC or as part of any audit of NMC, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.5 Royalties and Inventions. NMC shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize other to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of NMC.

11. **NON-DISCRIMINATION.** During the performance of this Agreement, Contractor, and its subcontractors, 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 Contractor's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, full comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by NMC pursuant to a contract with the state or federal government in which NMC is the grantee, CONTRACTOR will comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, NMC will deliver a copy of said contract to Contractor, at no cost to Contractor.

13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent CONTRACTOR and not as an employee of NMC. No offer or obligation of permanent employment with NMC or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from NMC any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Contractor's performance of this Agreement. In connection

therewith, CONTRACTOR shall defend, indemnify, and hold NMC and the County of Monterey harmless from any and all liability, which NMC may incur because of Contractor's failure to pay such taxes.

14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage per-paid mail to NMC and Contractor's contract administrators at the addresses listed below

NATIVIDAD MEDICAL CENTER:

Natividad medical Center
Attn: Contracts Division
Natividad Medical Center
1441 Constitution Blvd
Salinas, CA. 93906
FAX: 831-757-2592

CONTRACTOR:

Name: Premier Healthcare Solutions Inc.
Attn: Legal
Address: 13034 Ballantyne Corporate Pl
City, State, Zip: Charlotte NC 28277
FAX: _____
Email: solutioncenter@premierinc.com

15. MISCELLANEOUS PROVISIONS.

- 15.1 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 15.2 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by NMC and the Contractor.
- 15.3 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by NMC and the Contractor. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.4 **Contractor:** The term "Contractor" as used in this Agreement includes Contractor's officers, agents, and employees acting on Contractor's behalf in the performance of this Agreement.
- 15.5 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.

- 15.6 Assignment and Subcontracting: The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of NMC. None of the services covered by this Agreement shall be subcontracted without the prior written approval of NMC. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.7 Successors and Assigns: This Agreement and the rights, privileges, duties, and obligations of NMC and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.8 Compliance with Applicable Law: The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.9 Headings: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence: Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law: This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement: This Agreement is non-exclusive and each of NMC and CONTRACTOR expressly reserves the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement: NMC and CONTRACTOR agree that each party has 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 to this Agreement.
- 15.14 Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 Integration: This Agreement, including the exhibits, represents the entire Agreement between NMC and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations representations, or agreements, either written or oral, between NMC and CONTRACTOR as of the effective date of this Agreement, which is the date that NMC signs the Agreement.
- 15.16 Interpretation of Conflicting Provisions: In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

NATIVIDAD MEDICAL CENTER

By: [Signature]
Gary R. Gray, DO, CEO

Date: 5/10/18

APPROVED AS TO LEGAL PROVISIONS

By: [Signature]
Monterey County Deputy County Counsel

Date: 5/10/18

APPROVED AS TO FISCAL PROVISIONS

By: [Signature]
Monterey County Deputy Auditor/Controller

Date: 5-16-18

CONTRACTOR

Premier Healthcare Solutions, Inc
Contractor's Business Name*** (see instructions)

[Signature]
Signature of Chair, President, or Vice-President

BILL MARQUARDT, VP
Name and Title

Date: 4-27-2018

By: [Signature]
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Anna Maria Forest, Secretary
Name and Title

Date: 5-1-2018

*****Instructions:**

If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required). If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership (two signatures required). If CONTRACTOR is contracting in and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement (one signature required).

ADDENDUM NO. 1**TO AGREEMENT BY AND BETWEEN PREMIER HEALTHCARE SOLUTIONS, INC. AND
THE COUNTY OF MONTEREY ON BEHALF OF NATIVIDAD MEDICAL CENTER
FOR BUDGETING AND FINANCIAL SERVICES**

This Addendum No. 1 (“Addendum #1”) amends, modifies, and supplements the County of Monterey Agreement for Services (hereinafter “Agreement”) by and between Premier Healthcare Solutions, Inc. (hereinafter “CONTRACTOR” or “Premier”) and the County of Monterey (“County”), on behalf of Natividad Medical Center (hereinafter “NMC” or “Customer”). This Addendum #1 has the full force and effect as if set forth within the Agreement, and is incorporated by reference and made a part of the Agreement. Notwithstanding the provision of Section 15.16 of the Agreement, to the extent that any of the terms or conditions contained in this Addendum #1 may contradict or conflict with any of the terms and conditions of the Agreement, it is expressly understood and agreed that the terms and conditions of this Addendum #1 shall take precedence and supersede the Agreement.

NOW, THEREFORE, NMC and CONTRACTOR agree that the Agreement terms and conditions shall be amended, modified, and supplemented as follows:

I. Paragraph 9 of the Agreement shall be deleted and restated in its entirety to read as follows:

9. INSURANCE.

9.1 Evidence of Coverage:

Prior to commencement of this Agreement, the CONTRACTOR 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.

This verification of coverage shall be sent to NMC’s Contracts/Purchasing Department, unless otherwise directed. The CONTRACTOR shall not receive a “Notice to Proceed” with the work under this Agreement until it has obtained all insurance required and NMC has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.2 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 NMC’s Contracts/Purchasing Director.

9.3 Insurance Coverage Requirements: Without limiting Contractor’s duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

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, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Exemption/Modification (Justification attached; subject to approval). Contractor's commercial general liability insurance does not cover independent contractors; provided that Contractor shall ensure any such independent contractors, if any, shall have insurance coverages at least as protective as those set forth herein.

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 \$1,000,000 per occurrence.

Exemption/Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, If CONTRACTOR 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 \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Exemption/Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Exemption/Modification (Justification attached; subject to approval).

9.4 Other Requirements:

All insurance required by this Agreement shall be issued and executed by an admitted insurer authorized to transact insurance business in the State of California. 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 years following the date CONTRACTOR completes its performance of services under this Agreement.

CONTRACTOR shall provide NMC with notice in writing at least ninety days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR 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 insurance coverage at least as protective as those set forth herein.

Commercial general liability and automobile 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 the Contractor'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 Contractor's insurance. The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85

or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by NMC, CONTRACTOR shall file certificates of insurance with NMC's Contracts/Purchasing Department, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within thirty (30) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR 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 NMC, annual certificates to NMC's Contracts/Purchasing Department. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles NMC, at its sole discretion, to terminate the Agreement immediately.

II. The Agreement shall be amended by adding the following as Section 16:

16.1 Subscription to Performance Suite Solution(s).

(a) Solutions(s). Premier may, directly or through an Affiliate, from time to time, offer one or more Performance Suite Solution(s) and other products and services to Customer, including all modifications, updates, release, versions and enhancements thereto (collectively, the "**Solution(s)**"), as more particularly described in one or more exhibits corresponding to the Solution(s) (the "**Solution Exhibit(s)**" attached as Exhibit A). Customer's subscription to the Solution(s) shall be subject to (i) this Agreement, (ii) the Solution Exhibit(s), (iii) all other documents referenced in or attached to this Agreement, the Solution Exhibit(s) (collectively, the "**Transactional Agreements**"), all of which are incorporated herein by this reference. "**Affiliate**" means, with respect to any entity, any entity that, directly or indirectly through one or more entities, controls or is controlled by, or is under common control with, such entity; "controls," "control" and "controlled" mean the possession, direct or indirect, of the power to direct the management and policies of an entity, whether through the ownership of fifty percent (50%) or more of the voting interests of such entity or otherwise. The term Affiliate with reference to Premier includes Premier Healthcare Alliance, L.P.

(b) User Documentation. To properly access, use or enjoy the benefits of certain Solution(s), Customer must comply with Premier's user, technical and data reporting documentation and requirements, as may be amended by Premier (collectively, the "**Documentation**"). The Documentation will be made available with the Solution(s) and is incorporated herein by this reference.

(c) New Functionalities. Premier may incorporate or implement New Functionalities in the Solution(s), and when so incorporated or implemented shall constitute a part of the "Solution(s)." Customer may have access to and use the New Functionalities so long as it pays Premier the fees that Premier charges to other customers for the New Functionalities. "**New Functionalities**" means a new, upgraded or modified function, feature, module, or other component of a Solution that will be made generally available (rather than a customized change for a specific customer), and does not include updates, releases, versions, or enhancements to the Solution which Premier provides at no additional charge.

(d) Support and Maintenance. During the time the Customer has paid the applicable subscription fees, Premier shall provide support and maintenance during the term of this Agreement in accordance with Premier's standard support policies in the Solution Exhibit.



16.2 Fees and Taxes.

(a) Fees. Customer shall pay Premier the undisputed fees for the Solution(s) subscribed by Customer as set forth in the corresponding Solution Exhibit(s) and all other fees under this Agreement. Customer will also reimburse Premier for its reasonable pre-approved out-of-pocket travel and other business-related expenses incurred by Premier in providing services to Customer under this Agreement in accordance with the County of Monterey "Travel and Business Expense Reimbursement Policy." A copy of the "Travel and Business Expense Reimbursement Policy" is attached as Exhibit B. Except as set forth in this Agreement, as specifically stated in any Exhibit, or as otherwise agreed pursuant to a valid modification of this Agreement, there are no other fees or costs to be paid by Customer under this Agreement. Premier will issue invoices for all fees and expenses payable by Customer under this Agreement. The invoices shall set forth the amounts claimed by Premier for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. Customer shall certify the invoice, either in the requested amount or in such other amount as Customer approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within thirty (30) days from receipt of an invoice that has been certified by the County of Monterey Auditor-Controller for payment. Customer shall have the right to withhold amounts it disputes in good faith as being owed to Premier. Pending settlement or resolution of the dispute, Customer's non-payment of such disputed items shall not constitute default by Customer, and shall not entitle Premier to (a) collect late charges, fees, or interest, or (b) suspend or delay its provision of services or other compliance with this Agreement. The Parties shall use good faith efforts to reconcile the disputed amount as soon as practicable.

(b) Taxes. The charges listed in Exhibit A are not taxable as of the date of effectiveness of this Agreement. The amount of any applicable sales, use, personal property, or other similar tax applicable (other than taxes based on Premier's income, personnel, and property) to changes in tax laws, the customer's tax status or such future licenses or purchases made via addendum to this Agreement shall be paid directly by Customer or shall be paid to Premier on receipt of an invoice.

16.3 Term and Termination.

(a) Term. Subject to earlier termination pursuant to Section 16.3(b), the term of this Agreement is five (5) years and this Agreement shall be effective and commence upon execution by the last party.

(b) Termination.

(i) Either party (who is not the breaching party) may terminate any particular Solution Exhibit and the corresponding Solution if the other party breaches such Solution Exhibit and fails to cure such breach within thirty (30) days of receiving notice of the breach. Either party may also terminate any particular Solution Exhibit and the corresponding Solution pursuant to the termination terms, if any, of such Solution Exhibit.

(ii) Premier may terminate any particular Solution Exhibit and the corresponding Solution with notice to Customer if Customer fails to timely pay the fees and expenses set forth in such Solution Exhibit in accordance with Section 16.2 hereunder, unless Customer cures such failure within sixty (60) days of receiving notice from Premier; provided that, if such failure recurs more than three (3) times in any twelve-month period, Premier may immediately terminate such Solution Exhibit with notice to Customer.

(iii) Termination by Customer. Customer's payments to Premier under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for Customer's purchase of the indicated quantity of services, then Customer may give written notice of this fact to Premier, and the obligations of the Parties under this Agreement shall terminate immediately, or on such date thereafter, as Customer may specify in its notice, unless in the meanwhile the Parties enter into a written amendment modifying this Agreement.

(iii) Either party (who is not the breaching party) may terminate this Agreement if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days of receiving written notice of the breach. The parties agree that a material breach of this Agreement shall include, but not limited to, any breaches of Section 16.2, 16.4, 16.5, 16.6, 16.7, 16.9, or 16.10 of this Agreement.

(iv) The non-affected party may terminate this Agreement immediately with notice to the affected party upon any of the following occurrences (unless the non-affected party waives such termination): (A) a receiver or trustee is appointed for the affected party or all or substantially all of its assets; (B) the affected party makes an assignment for benefit of its creditors; (C) the affected party commences a voluntary proceeding in bankruptcy, insolvency, or other similar proceeding; (D) an involuntary proceeding in bankruptcy, insolvency, or other similar proceeding is commenced against the affected party, which proceeding is not discharged within sixty (60) days after the commencement; or (E) the affected party commences to liquidate or dissolve itself.

(c) **Effect of Termination.** Immediately upon termination of this Agreement, (i) Customer's access to and use of all Solutions shall terminate, (ii) Customer shall stop further use of all Solutions, and (iii) Premier may immediately stop performing all services under this Agreement, except for return of Customer Data in Section 16.4. Termination of this Agreement shall be in addition to, and not in limitation of, any other rights or remedies to which either party is or may be entitled. Termination of this Agreement shall not relieve Customer of liability for payment of sums due or to become due to Premier under this Agreement. In the event Customer terminates a Solution Exhibit or Agreement for material breach of Premier, the amount payable under the Solution Exhibit or Agreement shall be reduced in proportion to the service provided prior to the date of termination.

(d) **Survival.** The defined terms in this Agreement (to the extent applicable) and Sections 16.2 (with respect to any unpaid amounts), 16.3 (c) and (d), 16.4, 16.5, 16.6, 16.7, 16.8, 16.9, 16.10 and 16.11 shall survive the termination of this Agreement and remain enforceable in accordance with their terms.

16.4 **Ownership and Licensed Rights.**

Ownership of Customer Data. As between the parties, Customer has been and shall continue to be the sole and exclusive owner of all proprietary Customer data, including Protected Health Information, as provided by or on behalf of Customer to Premier ("**Customer Data**").

(a) Attached hereto as Exhibit C is the Business Associate Agreement entered into by the parties (the "BAA") setting forth the parties' obligations regarding Protected Health Information (as defined under the Health Insurance Portability and Accountability Act of 1996, as amended), that may be disclosed or transmitted to Premier under the terms of the Agreement. The BAA shall be deemed incorporated herein. With regard to the use and protection of Protected Health Information, the BAA shall exclusively govern the parties' rights, obligations, and liabilities. No provision of this Addendum will be construed as modifying or amendment the BAA.

(b) **Ownership of Premier Property.** As between the parties, Premier has been and shall continue to be the sole and exclusive owner of: (i) the Solutions; (ii) all source code, object code and protocols underlying any and all Solutions (collectively, the "**Code**"); (iii) except for Customer Data, all content and data that may be viewed, downloaded, printed, or copied from or by using the Solution(s) (collectively, the "**Content**"); (iv) all things developed by or on behalf of Premier for Customer pursuant to this Agreement or the Solution Exhibit(s) (collectively, the "**Deliverables**"); (v) Confidential Information of Premier or any of its Affiliates; (vi) all things that have been or may in the future be conceived, developed, enhanced, derived, or otherwise created by or on behalf of Premier in connection with the Solution(s), the Code, the Content, or any Deliverable, and (vii) all intellectual property rights and other proprietary rights in connection with any and all of the foregoing, including inventions, ideas, know-how, processes, methods, algorithms, technology, works of authorship, designs, formulae, research, trade secrets, derivative works, improvements, patentable matters, patents, copyrights, copyrightable works, trademarks, service marks, and all rights and claims related to any and all of the foregoing, and all

applications, registrations and other governmental issuances with respect to any and all of the foregoing (collectively, the “Premier Property”).

(c) License to Customer. Premier grants to Customer a nonexclusive, nontransferable (except as expressly permitted herein) and nonsublicensable (except as expressly permitted herein) right and license to use the Content and Deliverables associated with Solution(s) subscribed by Customer, subject to the terms and conditions of this Agreement, including the Solution Exhibit(s) corresponding to such Solution(s). The right and license granted to Customer pursuant to this Section 16.4(c) shall automatically terminate if Premier terminates this Agreement or such Solution Exhibit(s) pursuant to Section 16.3(b).

(d) License to Premier. Customer grants to Premier and its Affiliates a nonexclusive, non-transferable, license during the term of this Agreement to use the Customer Data solely as necessary to provide the Solution for Customer’s benefit. Customer represents and warrants that it has the right to provide Customer Data and grant the foregoing license. In addition, Customer grants to Premier and its Affiliates a nonexclusive, “as-is”, royalty free, perpetual, irrevocable, worldwide, and sub-licensable right and license to use Aggregate Data for all purposes, commercial or otherwise. “**Aggregated Data**” means Customer Data that is combined with other similar data of other customers. Aggregated Data shall not include (directly or by inference) any (i) information identifying the Customer or any identifiable customer or individual; (ii) Customer Confidential Information; or (iii) Customer intellectual property. The foregoing shall not be construed as a representation or warranty by the Customer that it has the rights, if any, to grant such license or to authorize such use of Aggregated Data. Premier acknowledges and agrees that the Aggregated Data is provided by the Customer as-is, without warranties of any kind. Customer hereby disclaims all warranties, express and implied, including the implied warranties of merchantability, fitness for a particular purpose, title/non-infringement, and quality of information with regard to the Aggregated Data. Premier’s disclosure of Customer’s name to third parties will be subject to Section 16.6 and 16.11(a).

(e) Data Security. Premier will maintain and enforce information and data privacy and security procedures with respect to its access, use and storage of all Customer Data that (a) are at least equal to industry standards taking into consideration the sensitivity of the relevant Customer Data, and the nature and scope of the Services to be provided, (b) are in accordance with Customer’s reasonable security requirements, (c) comply with all applicable international, foreign, federal, state and local laws, statutes, rules, orders and regulations, and (d) provide reasonably appropriate administrative, technical, and physical safeguards to protect against accidental or unlawful destruction, loss, alteration or unauthorized disclosure, access or use of Customer Data. Without limiting the generality of the foregoing, Premier will take all reasonable measures to secure and defend its location and equipment against “hackers” and others who may seek, without authorization, to modify or access Premier systems or the information found therein without the consent of Customer. Premier will periodically test its systems for potential areas where security could be breached. Premier will report to Customer within three (3) business days the successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system directly affecting Customer Data of which it becomes aware. Premier will use diligent efforts to remedy such breach of security or unauthorized access in a timely manner and deliver to Customer a root cause assessment and future incident mitigation plan with regard to any breach affecting Customer Data. The requirements of this Section shall apply regardless of whether Premier hosts the Customer Data itself or through a third party hosting or cloud services provider. Premier shall maintain and implement disaster recovery and avoidance procedures to ensure that the Services are not interrupted during any disaster. The disaster recovery procedures shall include and Premier shall comply with a recovery point objective or no less than 24 hours and a recovery time objective of no more than three (3) days. Premier shall create daily backup copies of all Customer Data, if any, in its possession and other work related to the services. At all times during the Term, Premier shall ensure the primary site and the recovery site are separated by at least two hundred (200) miles.

16.5 Certain Customer Responsibilities.

(a) Customer may use Solution(s) subscribed by Customer only during the term of the corresponding Solution Exhibit(s). Customer may create derivative works from the Content or Deliverable associated with such Solution(s) (the “**Derivative Works**”), provided that all Derivative Works shall be deemed Premier Property. All uses of such Solution(s), the Content and Deliverables associated with such Solutions, and Derivative Works by Customer shall be solely for

Customer's internal business purposes and shall comply with this Agreement and applicable laws. "Internal business purposes" includes uses to facilitate reasonable business purposes, but does not include any use for outsourcing for others or as part of a service bureau business or otherwise for the benefit of unaffiliated third parties who pay directly for its benefits. In no event may Customer use any Solution, Content, Deliverable or Derivative Works for any illegal, improper or unauthorized purpose. Customer's Affiliates and their respective contractors shall have the right to exercise Customer's rights to the Solution, provided all such use shall be subject the scope of use granted herein to the Solution and all other relevant terms of this Addendum and the Agreement. Customer shall be responsible for ensuring all such entities comply with all such terms.

(b) Customer shall not provide access to, disclose, reproduce, distribute, display or otherwise use any Content, Deliverable or Derivative Works to or for the benefit of any third party, except as specifically permitted under this Agreement. Customer may disclose Content, Deliverables and Derivative Works to the extent required by (i) regulatory or governmental reporting or investigation requirements with authority over Customer, (ii) accreditation organizations to which Customer is subject, and (iii) third-party payors pursuant to written contractual requirements for payment to Customer; provided that Customer (A) use commercially reasonable efforts to obtain confidentiality protections and prohibitions on any unauthorized or improper use or disclosure of any such Content, Deliverable or Derivative Works, and (B) obtain written contractual commitments by any third-party payors to comply with confidentiality protections and prohibitions, at least as restrictive as the confidentiality protections and prohibitions to which Customer is subject to herein, on any unauthorized or improper use or disclosure of any Content, Deliverable or Derivative Works.

(c) Customer shall not, directly or indirectly, provide access to, disclose, reproduce, distribute, perform, display or otherwise use any Solution, Content, Deliverable or Derivative Works in connection with providing, directly or indirectly, any services to or for any third party, including providing any mapping services, providing any service as a service bureau, or providing any service as a charge master.

(d) Customer shall not alter Premier's copyright or other proprietary notices on or with respect to any Solution(s), Content or Deliverable.

(e) Customer shall not allow, directly or indirectly, any person to access or use any Solution(s) other than Authorized Users of Customer's facilities identified in any applicable Solution Exhibit. Authorized Users are Customer's employees, contractors, and Affiliates of any such identified facilities. Customer shall ensure that all Authorized Users comply with the terms of this Agreement. Customer shall be responsible for all uses, including unauthorized or improper use, of any Solution by any Authorized User.

(f) Customer shall not, directly or indirectly, disassemble, decompile, modify, reverse engineer, reproduce, or copy any Solution(s) or any part thereof, including any Code, or otherwise attempt to determine any Code. Customer and Premier shall not introduce, or permit the introduction of, any viruses, spyware, malware, adware, worms, or other rogue software or routines into any Solution(s) or any Code. Customer shall not, directly or indirectly, create any derivative works or improvements, or otherwise attempt to create or obtain any intellectual property rights, with respect to any Solution(s) or any part thereof, including any Code.

(g) Premier will not be obligated to modify the Solution(s) or any part thereof to meet Customer's requirements or to create customized Content or Deliverables, unless specifically set forth in the Solution Exhibit(s) corresponding to such Solution(s). If Customer desires to have Premier modify the Solution(s) or create customized Content and Deliverables, the terms and conditions of such modifications and customizations must be set forth in a separate writing signed by Premier and Customer.

(h) With respect to any services that Premier provides Customer under and during the term of this Agreement, Customer agrees to provide Premier with such cooperation and assistance as is reasonably requested by Premier in order to allow Premier to properly and timely perform the services. Such cooperation and assistance may include providing necessary and accurate information regarding Customer's business and requirements and, if Premier is working on-site, providing appropriate work space.

16.6 Confidentiality Obligations.

(a) In connection with the performance of this Agreement, a party ("**Recipient**") may have access to certain confidential information of the other party or any of its Affiliates (the "**Confidential Information**") as provided by or on behalf of the other party ("**Discloser**"). Except as otherwise provided in this Agreement, the Recipient will not use or disclose any Confidential Information of the Discloser without the Discloser's prior written consent, except disclosure to and subsequent uses by the Recipient's authorized employees or consultants on a need-to-know basis, provided that such employees or consultants are subject to and have executed written agreements restricting use or disclosure of such Confidential Information that are at least as restrictive as the Recipient's obligations under this Section 16.6 (Confidentiality Obligations). Subject to the foregoing nondisclosure and non-use obligations, during and after the term of this Agreement, Recipient shall hold Discloser's Confidential Information in confidence using the same degree of care that it uses to protect its own Confidential Information (but not less than a reasonable standard of care). Subject to Section 16.6(d), Confidential Information includes: (i) any written information that is clearly identified or marked as confidential; (ii) Customer Data and customer records, (iii) the Code, (iv) the Content, Deliverables, and Derivative Works to the extent applicable; and (v) any information that Recipient should reasonably believe is confidential to Discloser even if it is not marked confidential. To the extent any Premier Property constitutes Confidential Information, it shall be deemed Confidential Information of Premier. On the Discloser's written request or upon expiration or termination of this Agreement for any reason, the Recipient will promptly return, in the format in which it was provided to Discloser, or destroy, at the Discloser's option, all originals and copies of all documents and materials it has received containing the Discloser's Confidential Information.

(b) A party's Confidential Information shall not include information that: (i) is or becomes a part of the public domain through no act or omission of Recipient or any third party in violation of any obligation of confidentiality; (ii) as evidenced by contemporaneous written documentation, was in Recipient's lawful possession prior to the date of disclosure and had not been obtained by Recipient either directly or indirectly from the disclosing party or any third party in violation of any obligation of confidentiality; (iii) as evidenced by documentation, is lawfully and properly disclosed to Recipient by a third-party without restriction on disclosure; (iv) is independently developed by Recipient without use of or access to any Confidential Information of Discloser; (v) is or becomes publicly known or available as a result of Customer's proper compliance with the CPRA (as defined below); this Agreement or any amendments thereto, which are public records subject to disclosure pursuant to the CPRA.

(c) Notwithstanding the foregoing in this Section 16.6, Customer acknowledges and agrees that Premier shall have the right (and in certain cases, be required) to disclose the name(s) of Customer (and its Affiliates and participants) to third parties with respect to certain Solution(s); solely (i) to the extent permitted under Section 16.11(a), (ii) with Customer's prior written consent, and (iii) as required by applicable laws.

(d) The County of Monterey ("**County**") is a public agency subject to the disclosure requirements of the California Public Records Act ("**CPRA**"). If County receives a CPRA request for documents (as defined by the CPRA) and said request relates to the Confidential Information described in this Agreement, County will notify Premier in writing of the request and confer with Premier regarding an appropriate response to said request. If Premier contends that any documents are Premier's Confidential Information, not subject to the CPRA, and/or exempt from the CPRA, and Premier wishes to prevent disclosure of said documents, Premier shall instruct County to withhold said documents. If Premier fails to respond to County in writing prior to County's reasonable deadline for responding to the CPRA request, County may

disclose the requested information under the CPRA without liability to Premier. Premier shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and reasonable attorney fees) that may result from denial of a CPRA request made at Premier's request.

16.7 **Compliance Matters.**

(a) **Regulatory Disclosures.** Premier agrees to make available upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States or any of their duly authorized representatives, the contracts, books, documents and records that are reasonably necessary to certify the nature and extent of the costs associated with this Agreement for a period of four years from the completion of all services provided under this Agreement.

16.8 **Limited Warranty, Sole Remedy and Limitation on Liability.**

(a) **Limited Warranty.** With respect to the Solution(s) subscribed by Customer, Premier warrants to Customer only that, during the term of the corresponding Solution Exhibit(s), that such Solution(s) will conform in all material respects with the terms of this Agreement, the applicable specifications provided in writing by Premier to Customer, if any, the descriptions set forth in the corresponding Solution Exhibit(s), and, to the extent not inconsistent therewith, Premier's Documentation. This warranty shall automatically expire or terminate upon the expiration or termination of this Agreement or such Solution Exhibit(s), whichever first occurs.

(b) **Premier further represents and warrants:** (i) its performance under this Agreement and the Solutions shall at all times comply with all applicable federal, state, and local laws and regulations, (ii) it will perform all services in a professional and competent manner using properly qualified and trained personnel; (iii) the Solutions provided hereunder are and when delivered to Customer will be free from viruses, spyware, and other similar harmful and destructive code; and (iv) Premier shall use commercially reasonable measures including anti-virus and anti-malware software, to continually scan the Solutions provided hereunder for viruses, spyware, and other similar harmful and destructive code. OTHER THAN THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES ARE HEREBY DISCLAIMED.

(c) **Sole Remedy.** In the event of Premier's breach of the warranty contained in Section 16.8(a) that is verified by Premier, Customer's remedy shall be, at Premier's election, for Premier to correct the problem that caused the breach as promptly as reasonably possible or to refund to Customer the fees paid by Customer for the applicable Solution(s) for the period of time such breach materially impaired Customer's ability to use such Solution(s). However, Premier shall not be obligated to remedy any breach of a Section 16.8 (a) warranty or make any refund if the breach resulted from or was otherwise caused, in whole or in part, by (i) use of the Solution in excess of the rights granted under this Agreement, (ii) Customer's unauthorized modification of the Solution(s) or any part thereof, or (iii) Customer's combination of the Solution(s) or any part thereof with any hardware or software of Customer or a third party not approved or provided by Premier.

(d) **Limitation on Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY LOST, DELAYED OR DIMINISHED PROFITS, REVENUES OR OPPORTUNITIES, LOSS OR DAMAGE TO DATA, SOFTWARE OR EQUIPMENT, OR ANY INCIDENTAL, SPECIAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER IN CONNECTION WITH, ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR THE PARTIES' RESPECTIVE INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT, AND FOR EITHER PARTY'S BREACH OF ITS CONFIDENTIALITY OR DATA SECURITY OBLIGATIONS UNDER THIS AGREEMENT, AND FOR CLAIMS BASED UPON FRAUD OR THE WILLFUL, MALICIOUS OR GROSSLY NEGLIGENT CONDUCT OF THE LIABLE PARTY, EACH PARTY'S TOTAL LIABILITY TO THE OTHER PARTY



ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED IN THE AGGREGATE THE ANNUAL SUBSCRIPTION FEES PAID BY CUSTOMER TO PREMIER FOR THE MOST RECENT ANNUAL PERIOD WITH RESPECT TO SUCH SOLUTION. FOR THE AVOIDANCE OF DOUBT, ALL THIRD PARTY DAMAGES AND SETTLEMENTS, HOWEVER CLASSIFIED, PURSUANT TO THE PARTY'S INTELLECTUAL PROPERTY INDEMNITY OBLIGATIONS IN SECTION 16.9 SHALL BE DEEMED DIRECT DAMAGES.

(e) **Non-Premier Data.** Certain Solution(s) may allow Customer to view data of other healthcare organizations, and certain Content and Deliverables may be based on, may be derived from or may otherwise contain data or information provided by Customer or third parties, including other healthcare organizations (collectively, "**Non-Premier Data**"). Customer agrees that (i) Premier is not the original source of Non-Premier Data, (ii) Premier has no control over the truth, accuracy or completeness of Non-Premier Data, (iii) Premier shall not be liable to Customer for any inaccuracies of any Non-Premier Data, and (iv) Customer is solely responsible for deciding how to use Non-Premier Data and for the consequences of such use. PREMIER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, WITH RESPECT TO NON-PREMIER DATA, AND ALL SUCH REPRESENTATIONS AND WARRANTIES ARE HEREBY DISCLAIMED BY PREMIER AND WAIVED BY CUSTOMER.

16.9 **Indemnification.**

(a) **Indemnification by Premier.** If a third-party (who is not an Affiliate of Customer) claims that Customer's use of the Solution(s) infringes or misappropriates any registered trademark, patent or copyright or a trade secret or other intellectual property right held by such third party, Customer must promptly notify Premier in writing of such claim. If so notified, Premier will, at its cost, defend, indemnify, and hold harmless Customer and its Affiliates and their respective employees, officers, agents, and assigns against such third party claim, action, proceeding, judgement, loss, payment, expense (including reasonable attorneys' fees), liabilities, and damages if Customer reasonably cooperates, at Premier's expense, with Premier and allows Premier to control the defense and all related settlement, provided that settlements shall require prior approval by Customer. If the Solutions become or are likely to become the subject of an infringement claim or an injunction is sought or obtained against Customer's use of the Solution(s) as a result of such third-party infringement claim, then, in addition to defending the claim and paying any damages and attorneys' fees as required above, Premier shall promptly, at its sole option and expense, (i) procure for Customer the right to continue using the infringing portion of the Solution(s), pursuant to the Agreement, (ii) replace or modify the infringing portion of the Solution(s) with equivalent functionality and performance so that it does not infringe, or (iii) terminate the Solution Exhibit(s) and the corresponding Solution(s) giving rise to such third-party infringement claim, in which case Premier will provide Customer a pro rata refund of any pre-paid fees for the then-current term based on the time period during which Customer will be prohibited from using the Solution(s) as a result of such third-party infringement claim. If Premier fails to provide one of the foregoing remedies within forty-five (45) days of notice of the claim, Customer may terminate this agreement and Premier will refund to Customer the prorated portion of all pre-paid fees. However, Premier shall have no liability for any third-party claim of infringement if the claim resulted from or is otherwise caused by, in whole or in part, (A) Customer's use of the Solutions in excess of the rights granted under this Agreement, including the applicable Solution Exhibit(s), (B) Customer's failure to implement an update or enhancement to the Solution, provided Premier provides Customer with notice that implementing the update or enhancement would avoid the infringement, (C) Customer's unauthorized modification of the Solution(s) or any part thereof, or (D) Customer's combination of the Solution(s) or any part thereof with any hardware or software of Customer or a third party that is not approved or provided by Premier. This Section 16.9 constitutes the liability of Premier, and Customer's remedy with respect to, any third-party claims of infringement. Additionally, Premier will defend, indemnify, and hold harmless Customer and its Affiliates and their respective employees, officers, agents, and assigns against any and all third-party claims, actions, proceedings, judgements, losses, costs, payments, expenses (including reasonable attorneys' fees), liabilities, and damages

arising from or relating to (i) the breach by Premier or its personnel of its confidentiality or security obligations under this Agreement, (ii) any breach incident involving any Customer Data in Premier's possession, custody or control or Customer's network or systems (excluding claims relating to Protected Health Information, which shall be exclusively governed by the BAA), (iii) the non-compliance by Premier or its personnel with applicable law, and (iv) the grossly negligent acts or omissions or willful misconduct of Premier or its personnel

(b) **Indemnification by Customer.** If a third-party (who is not an Affiliate of Premier) claims that any Customer Data provided to Premier infringes or misappropriates any registered United States trademark, patent or copyright or a trade secret held by such third party, Premier must promptly notify Customer in writing of such claim. If so notified, Customer will, at its reasonable cost, defend Premier against such claim if Premier reasonably cooperates with Customer, at Customer's expense, and allows Customer to control the defense and all related settlement, and then Customer will indemnify Premier from and against any damages finally awarded for such claims. In the event of any such claim, Premier shall have the right to terminate the applicable Solution Exhibit(s) and corresponding Solution(s) or part thereof giving rise to such claim or to terminate this Agreement; without liability to Customer. Additionally, Customer will defend, indemnify, and hold harmless Premier and its Affiliates and their respective employees, officers, and assigns against any and all third-party claims, actions, proceedings, judgements, losses, costs, payments, expenses (including reasonable attorneys' fees), liabilities, and damages arising from or relating to (i) the breach by Customer or its personnel of its confidentiality or security obligations under this Agreement, (ii) the non-compliance by Customer or its personnel with applicable law, and (iii) the grossly negligent acts or omissions or willful misconduct of Customer or its personnel.

16.10 **Nonsolicitation of Employees.** Each party agrees not to induce, hire, or directly or indirectly solicit or employ, any employee or independent contractor of the other party with whom it has had direct contact during the term of this Agreement. Such restriction shall continue during the term of this Agreement and for a period of twelve (12) months after the date this Agreement terminates. The foregoing restriction shall not apply to (i) any employee or independent contractor who has ceased to be employed by, or affiliated as a contractor with, a party hereto for a period of at least three (3) months, (ii) any solicitation or hiring consisting of or resulting from advertising in a newspaper of general circulation or through the Internet, nor (iii) hiring an employee of the other party who independently approaches the party. If this Section 16.10 is breached, then the party in breach shall pay the non-breaching party an amount equal to six (6) times the hired employee's or independent contractor's most recent monthly compensation rate as reasonable liquidated damages the non-breaching party would incur as a result of such breach.

16.11 **Miscellaneous.**

(a) **Publicity.**

(i) Subject to Customer's prior written consent in accordance with Section 16.11(ii), Premier may use Customer's name as a Premier customer on the Premier website, in Premier corporate presentations and collateral, in Premier corporate advertising, in email communications with Premier prospects and during discussions with press and analysts. Premier may, however, make oral references to Customer in the conduct of its business, including presentations with prospective customers. In no event shall the foregoing permission constitute an endorsement, representation, or warranty, express or implied, by Customer relating to Premier or its products. In the event of a dispute between the parties, Customer's agreement to permit use of its name shall not be deemed an admission or declaration against interest of Customer in any trial or dispute resolution proceeding between the parties.

(ii) Neither Customer nor Premier nor any Affiliate of either party thereof shall make, or cause to be made, any publicity, news release or other such general public announcement or make any other disclosure to any third party in respect of this Agreement or related to the transactions contemplated hereby, without the prior written consent (which may be

electronic mail) of the other party. Notwithstanding the foregoing provision, either party and its Affiliates shall not be prohibited from making any disclosure or release that is required by law, court order, or applicable regulation, or is considered necessary by legal counsel to fulfill an obligation under securities laws or the rules of a national stock exchange; provided, however, any such required disclosure shall be narrowly tailored to meet the applicable disclosure or release requirements. Prior to the release of any proposed communication or disclosure, whether voluntary or required, the requesting party shall provide the other party a reasonable opportunity (not less than two business days) to review such communication or disclosure and the requesting party agrees to accept comments reasonably made by the other party with respect to such permitted communication or disclosure. Premier shall acquire no right to use, and shall not use, without Customer's prior written consent, the terms or existence of this Agreement, the names, trade names, trademarks, service marks, artwork, designs, or copyrighted materials, of Customer, its related or subsidiary companies, parent, employees, directors, shareholders, assigns, successors or licensees: (a) in any advertising, publicity, press release, customer list, presentation or promotion; (b) to express or to imply any endorsement of Premier or Premier's software or services; or (c) in any manner other than expressly in accordance with this Agreement.

(b) Capacity. All signatories to this Agreement warrant and represent that they have capacity and authority to execute this Agreement, and to bind their respective principals in the capacities set forth below.

(c) Severability. If any provision contained in this Agreement is held to be unenforceable by an arbitrator or by a court of law or equity, this Agreement shall be construed as if such provision did not exist, and the unenforceability of such provision shall not in any way affect the enforceability of any other provision of this Agreement.

(d) Force Majeure. Any delays in or failure of performance of either party shall not constitute a default under this Agreement, or give rise to any claim for damages to the extent such delays or failure of performance are caused by circumstances beyond the reasonable control of such party, including acts of God, fire, flood, explosion, war, terrorism, strikes or work stoppages, inability to obtain equipment or transportation, breakage or failure of equipment, or loss of any necessary utility, and provided further that the party could not have mitigated, avoided, or prevented the cause or delay through the exercise of reasonable care and precautions (a "force majeure event"). The party failing to perform in any such force majeure event shall use best efforts to promptly resume or remedy, as the case may be, the performance of its obligations hereunder, and the time for performance so delayed will be deemed extended for the period of such delay. In the event a force majeure event continues for a period of fifteen (15) business days, Customer may terminate this Agreement by providing written notice to Premier with no further liability to Premier and Premier will refund any pro-rated pre-paid amounts.

(e) Remedies. Subject to the limitations set forth in Section 16.8, each party acknowledges that a violation of Sections 16.3(c), 16.5, 16.6, and 16.11(a) of this Agreement may cause substantial and irreparable injury to the other party for which the other party's remedies at law may not be adequate. Accordingly, the parties agree that the non-breaching party shall be entitled to seek injunctive relief with respect to any breach, or threatened breach, of said Sections of this Agreement, and that such right shall be in addition to, and not in limitation of, any other rights or remedies to which the non-breaching party may be entitled at law or in equity or otherwise.

(f) Entire Agreement. This Agreement and the other Transactional Agreements constitute the entire and integrated agreement between Premier and Customer with respect to the subject matter hereof. All previous understandings relative thereto, either written or oral, are hereby annulled and superseded. No shrink-wrap, click-wrap, click-through, click-accept, online terms or website terms shall modify any of the terms and conditions of this Agreement.

(g) If this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of Customer or as part of any audit of Customer, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

Signature page to follow.



IN WITNESS WHEREOF, the Parties hereto are in agreement with this Addendum No.1 on the basis set forth in this document and have executed this Addendum No. 1 the day and year set forth herein.




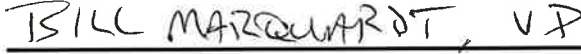


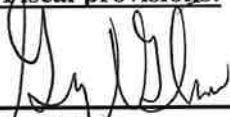

<u>County of Monterey, on behalf of Natividad Medical Center</u>	<u>Premier Healthcare Solutions, Inc.</u>
	
Gary R. Gray, DO, CEO	Signature of Chair, President or Vice-President
	
Date	Printed Name and Title
<u>Approved as to Legal Provisions:</u>	4-27-2018
	Date
Monterey County Deputy County Counsel	Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer
Date	
<u>Approved as to Fiscal provisions:</u>	Printed Name and Title
	
Monterey County Chief-Deputy Auditor-Controller	Date 5-1-2018
Date	<u>Signature Instructions</u>
	For a corporation; including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required).

Exhibit A

This Solution Exhibit, effective when signed by the last party (the "Effective Date"), is being entered into by and between Premier Healthcare Solutions, Inc., a Delaware corporation ("Premier"), and the County of Monterey ("County"), on behalf of **Natividad Medical Center** ("Customer") pursuant to and subject to the County of Monterey Agreement for Services (More than \$100,000) (the "Agreement") and Addendum #1 to the Agreement. Capitalized terms used, but not defined, herein shall have the same meanings set forth in the Agreement.

Billing Information

Billing Contact Name:	Natividad Medical Center	PO Required:	Yes
Billing Email Address:	AccountsPayableEmail@natividad.com	PO Number:	TBD
Billing Address:	Accounts Payable PO Box 81611, Salinas CA 93912-1611	Travel Receipts Required:	Yes
Billing Frequency:	Budgeting and Financial Reporting and Fixed Asset Solution Subscriptions will be billed monthly. Supply Chain Implementation and Financial Implementation will be billed as on time fees upon execution of this Agreement.	Payment Terms:	Net 30 days from receipt of a certified Invoice by the County of Monterey Auditor-Controller.

Solutions and Terms

This Solution Exhibit contains the specific terms and conditions applicable for Solution(s) identified below:

Solution(s) (Subscription)	Contract Start Date	Contract End Date	Term (years)
Budgeting and Financial Reporting	May 1, 2018	April 30, 2023	5
Fixed Assets	May 1, 2018	April 30, 2023	5

Solution(s) (One-Time)	Contract Start Date
Financial Implementation	May 1, 2018
Supply Chain Implementation	May 1, 2018

NOTES:

- The (Subscription) Solution(s) shall begin on the Contract Start Date and continue until the Contract End Date (the "Term").
- The (One-Time) Solution Service(s) indicated shall commence on the Contract Start Date and end upon completion of the Service.

Fees

Solution/Service	Y1 5/1/18 – 4/30/19	Y2 5/1/19 – 4/30/20	Y3 5/1/20 – 4/30/21	Y4 5/1/21 – 4/30/22	Y5 5/1/22 – 4/30/23
Budgeting and Financial Reporting	\$58,829	\$60,300	\$61,807	\$63,352	\$64,936
Fixed Assets	\$21,914	\$22,462	\$23,023	\$23,599	\$24,189
Financial Implementation	\$50,000	N/A	N/A	N/A	N/A
Supply Chain Implementation	\$10,000	N/A	N/A	N/A	N/A
YEARLY TOTALS	\$140,743	\$82,762	\$84,831	\$86,951	\$89,125

NOTES:

- Customer will reimburse Premier for all travel expenses directly related to this engagement in accordance with the County of Monterey Travel and Business Expense Reimbursement Policy. Unless otherwise agreed to by Customer in writing, travel expenses shall not exceed \$15,000 for the entire term of this Solution Exhibit.
- Upon anniversary date, the Customer's Annual Subscription Fee will increase by 2.5%.

Authorized Users

Only Authorized Users are permitted to access and use Solution(s). The term "Authorized User" means the employees of the following Customer hospitals:


Entity Code	Customer Account Name	City, State	MPN
TBD	Natividad Medical Center	Salinas, CA	050248

Solution Specific Terms

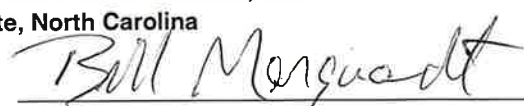
See Attachment One – Solution Specific Terms

IN WITNESS WHEREOF, the Parties have executed this Solution Exhibit individually or by signature of their duly authorized representatives as of the date first written above.

Natividad Medical Center
Salinas, California

By: 
 Name: Gary R Gray
 Title: CEO
 Date: 5/25/18

Premier Healthcare Solutions, Inc.
Charlotte, North Carolina

By: 
 Name: BILL MARQUARDT
 Title: VP, Premier
 Date: 4.27.2018

ATTACHMENT ONE – SOLUTION SPECIFIC TERMS

1. Fixed Assets

- a. **Data Transmission and Sources:** Customer will have the option to provide data to Premier either by 1) SFTP file transfer or; 2) via Premier provided integration technology (Pulse) details of which are provided in the Summary Documentation

MMIS System Name/Location	Version

Customer agrees it shall not disclose to Premier any Customer Data that it is prohibited from sharing with Premier.

New Interface	Interface	System/Vendor
	ERP MM: Item Export to OR	
	ERP MM: Requisition Import from OR	
	ERP MM: Item Export to Point-of-Use ("POU")	
	ERP MM: Requisition Import from Point-of-Use ("POU")	
	ERP MM: Export to Charge Master Description	
	ERP GL: Import from Payroll	
	ERP GL: Import from Budgeting System	
	ERP AP: Import from Patient AR	
	ERP AP: Export to Patient AR	

- b. **Data Interface:** Upon execution of an amendment signed by both parties, Premier will establish the interfaces listed below.
- i. Each additional interface costs \$4,000
- c. **Interface Services.** Premier will provide Customer with a virtual server image (the "Pulse Appliance") for deployment in the Customer's virtual hosting environment. Customer is responsible for maintaining a virtual hosting environment and network connectivity for the Pulse Appliance. The Pulse Appliance will contain one or more Interfaces, with an Interface defined as a data path that enables data exchange from one (1) source system to one (1) destination system and that is implemented, managed, and supported by Premier. Customer will receive the Interfaces defined in the chart below.

Facilities	Source	Destination	Description	Type
1	{Cerner, Epic, etc.}	{Application}	QA, eCQM, OA, etc. interface	Extract/Transform

- d. Premier ERP Conversion and EDI Services. If applicable, the following additional ERP conversion and EDI services are available to Customer for an additional fee. Please select the additional any additional services.

Task	Description	Customer Selection
Chart Change	Any change to Customer's existing General Ledger account structure that requires a cross walk or logic to modify account structure or move account data during conversion.	
Data Merge	Data from many tables into a single table. This would include but not be limited to multiple: - Databases, - Item Files, - Chart of Accounts, - Vendors.	
Creation of New Data	Data created during the course of conversion based on Customer conversion rules or supplied data.	
Accounts Payable History	Three additional years of Accounts Payable history	
General Ledger History	Three additional years of General Ledger History (where available)	
EDI Services	Non-Standard EDI Connection	

2. Budgeting and Financial Reporting

- a. Implementation On-Site Visits. Customer will receive four (4) on-site visits which includes the kick-off visit. Additional visits require an additional fee and must be approved via an amendment signed by both parties.
- b. The following Additional Implementation Related Services are available upon mutually agreement of the parties:
- If Customer requests additional historical data to be loaded from the same interface beyond the standard "2" years of history, an additional mutually agreed upon fee will be charged.
 - If Customer requests additional historical or future data be loaded from a different interface from a separate legacy system, an addition mutually agreed upon fee will be charged.
 - If Customer requests additional entities that need to be interfaced from a different legacy system, have a different chart of accounts or have a different fiscal year, an additional mutually agreed upon fee will be charged.
- c. Ad Hoc Reporting Fee. If Customer requests Ad Hoc reports to be run by Premier then a fee of \$150 per hour will be charged. The hours charged are defined as the labor hours required to write the queries, audit the data, and complete the requested analysis. Any and all additional reporting outside of the scope of this Solution Exhibit shall require an amendment signed by both parties.
- d. Statement of Work. If Customer requests additional assistance pertaining to this Solution Exhibit which is outside the scope of this Solution Exhibit, Premier will review with the Customer the scope of work, identifying the specific requests and requirements and create a "Statement of Work" outlining the scope discussed with the proposed fees. Any and all additional assistance outside of the scope of this Solution Exhibit shall require an amendment signed by both parties.

3. **Service Levels**. See Annex1 attached to this Solution Exhibit.

Annex 1**Service Level Attachment – for ITS Cost Management Solutions**

This Attachment (“**Service Level Attachment**” or “**SLA**”) is applicable for the Premier ITS Cost Management solutions outlined below. Premier shall perform the Services set forth in the original agreement (the “Agreement”) and shall ensure that the Solutions perform in a manner that meets or exceeds the performance criteria and Service Levels listed in this Attachment (“**Service Level Attachment**” or “**SLA**”). Premier acknowledges that its failure to meet one or more Service Levels may have an adverse effect on the business and operations of Customer and the Customer Facilities. Accordingly, if Premier fails to meet or exceed a Service Level, Customer and its Customer Facilities shall be entitled to remedies set forth in this SLA.

Premier provides tiered Service Levels based on the business critical nature of the applications. Tier 1 Service & Support is provided for transactional business critical applications. Tier 2 Service & Support is provided for business analytic applications.

Tier 1 Service & Support Applications

- ERP
- SCM
- Fixed Assets

Tier 2 Service & Support Applications

- Labor Solutions
- Budgeting & Financial Reporting
- Patient Analytics & Cost Accounting
- Supply Analytics

1. Definitions

For purposes of this SLA, the following terms shall have the meanings provided below:

“**Customer Contact**” shall mean the representative of Customer that reports a Malfunction to Premier.

“**Case**” shall mean the tracking file created by Member or Premier at the first report of a Malfunction, question or System Availability issue and tracked until Closure.

“**Closure**” occurs (or a Case is “**Closed**”) when Premier confirms with the Customer Contact originally generating the Case that the Case has been Resolved. If Premier reasonably believes that the Case has been Resolved, and has made at least two (2) attempts to contact the Customer Contact to confirm Closure and has not been able to communicate with the Customer Contact regarding the Case, then Premier may deem the Case Closed as of the time Premier believes it Resolved the Case, subject to such Case’s being reopened if the Customer Contact subsequently notifies Premier that the problem is not Resolved. Time spent by Premier in confirming Closure after Resolution shall not be counted in determining Service Level compliance.

“**Fee Reduction**” shall mean a credit against Premier subscription fees issued as a result of a failure to meet a service level metric or key performance indicator defined in this SLA. A Fee Reduction credit may be applied against one or more invoices issued by Premier to Customer or a Customer Facility.

“**Malfunction**” shall mean failure of the Programs to perform in accordance with the Documentation. Furthermore, Malfunctions shall not include failures of the Programs to function as a result of the failure of the computer systems of Customer or any Customer Facility to conform to the technical specifications for the Programs as set forth in the Documentation.

“Priority Levels” shall mean the levels established below in the section entitled “Solution Support Response Guidelines.”

“Programs” means the Solutions subscribed to by Customer pursuant to the Agreement.

“Response Time” is the period of time which elapses between: (1) the Customer Contact reporting a Malfunction and a Case being opened pursuant to the procedures mutually agreed to between Customer and Premier; and (2) the time when Premier provides verbal or written acknowledgement to the Customer Contact.

“Resolution” or **“Resolve”** shall mean the correction of the issue identified in a Case, which can include the complete update of Programs, the implementation of a reasonable and applicable work around, or the agreement by Customer and Premier that the issue is not then technically resolvable in a timely manner (e.g., dependencies on a third party software supplier release of an update), subject to Closure. Resolution is the time at which the issue is reasonably believed to be corrected by Premier. For purposes of this SLA, time calculations stop at resolution. However, the Case shall not be closed until Customer has tested and acknowledges correction. For the avoidance of doubt, Service Levels in respect of Resolution shall be measured to the time to actually resolve and not the time Closure occurs subsequent to such Resolution, notwithstanding the need for Closure in respect of a Resolution

“Resolution Time” shall mean the period of time which elapses between: (1) the Customer Contact reporting a Malfunction and a Case being opened pursuant to the procedures mutually agreed to between Customer and Premier; and (2) the time when the Malfunction is Resolved. Periods of time when Premier has provided procedures to be instituted by Customer or any Customer Facility or its agents to implement a fix or work-around and the Customer Contact reporting the results of such procedures to Premier shall be excluded from the calculation of Resolution Time.

“System Availability” shall mean the ratio of time Programs are accessible to the total time to be had within the defined coverage hours.

2. Service Level Specifications

2.1 System Availability

Premier will use all best efforts to minimize the number of occasions on which Premier's products will be impaired or disrupted, provided that such occasions are within Premier's reasonable control. However, in order to maintain our data center hardware in optimum operating condition, periodic preventive maintenance periods are required. Additionally, software maintenance may be scheduled to tune the applications or implement new software. Premier's goal is to communicate all scheduled downtime to our clients at least 72 hours prior to the event. Additionally, every effort is made to schedule these events outside of Business Hours.

2.1.1. Service Level Metric #1: System Availability

Premier warrants that the Programs will maintain the following System Availability:

- Tier 1 Applications will maintain a 99.9% System Availability, 24 hours a day, 7 days a week.
- Tier 2 Applications will maintain a 98% System Availability during Business Hours.

Service level availability measurement shall not include the following items:

A. Scheduled Maintenance Downtime

As used herein "Downtime" shall mean those periods of time during which Premier or other relevant parties must, by necessity, perform scheduled maintenance as described below and unscheduled maintenance or repair, provided that any unscheduled maintenance will not last longer than five (5) hours per month, of the various software and equipment that comprise the overall infrastructure used to deliver Premier products. Scheduled Maintenance Downtime is currently slated to occur between 9:00 PM and 11:00 PM, Eastern Standard Time, each Sunday evening. While scheduled, not all maintenance windows will require downtime.

Server specific patching updates occurs every 3rd Sunday between 5:00 PM – 9:00 PM, Eastern Standard Time. Premier will provide Client written notice if further scheduled maintenance is required. Premier cannot predict when the need for unscheduled maintenance will arise, but will use reasonable efforts to (a) advise Client of the date and estimated time period during which such unscheduled maintenance will occur; and (b) minimize the amount of unscheduled maintenance time.

B. Data flow outside of Premier Network

Premier does not and cannot control the flow of data to and/or from Premier's network and other portions of the Internet. Such flow depends in large part on the performance of Customer's Network and/or Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt Customer's connections to the Internet (or portions thereof). Although Premier will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, Premier cannot guarantee that such events will not occur. Accordingly, Premier disclaims any and all liability resulting from or related to such events not under Premier's reasonable control.

C. Catastrophic Disasters

Service Level Availability shall not include service problems or disruptions caused by Catastrophic Disasters. Catastrophic Disasters shall mean any act of God, fire, natural disaster, any act of government or any strikes or labor disputes, inability to provide materials, power or supplies or any other act or condition beyond the reasonable control of Premier, and provided further Premier could not have mitigated, avoided, or prevented the Catastrophic Disaster through the exercise of reasonable care and precautions.

D. The remedies set forth in this document shall not apply if unavailability of Premier's products are due to Customer's equipment, Customer's software, Customer's access connections (including Customer's Internet service provider (ISP), Customer's local telephone company and Customer's power company), or Catastrophic Disasters

E. The exceptions in Section 2.3.

2.2 System Malfunctions

Solution Support Response Guidelines

Customer needs vary based on a wide variety of factors. To better serve Customer needs, Support relies on a self-service portal where Customer requests and issues may be logged as cases (<http://clientcorner.premierinc.com/>). Cases should be used as the primary and preferred method to document all member support issues. Cases are automatically assigned to ensure that your issue is delivered to the most appropriate support team member for the module where support is needed.

TIER 1 APPLICATIONS - The following chart represents the Support response guidelines by Case Priority Type for Tier 1 Applications:

Case Priority	General Description	Initial Response Time	Support Resolution Time
Level 5	Standard Support & Maintenance – a request to provide training on routine system maintenance, answer a question, or an inconvenient error or issue in which the functionality differs from documentation.	Within One Business Day from the time the case is logged.	Within Five Business Days from the time the case is logged.

Level 4	Elevated Support and Maintenance — a request to perform a key system operation that cannot be completed by the application administrator	Within One Business Day from the time the case is logged.	Within Three Business Days from the time the case is logged.
Level 3	Minor Impact – a minor loss of service, access or documented functionality where the impact is an inconvenience and there is a temporary workaround available. Operations can continue.	Within One Business Day from the time the case is logged.	Within Thirty Business Days from the time the case is logged.
Level 2	Severe Impact – a severe loss of service, access or documented critical business functionality for which there is not a current work around. Operation can continue, but in a restricted state.	Within Four Business Hours from the time the case is logged.	Within Three Business Days from the time the case is logged.
Level 1	Fatal impact – a complete loss of all service, access & documented Product functionality. Operations are at a complete stop and cannot continue.	Within One Business Hour from the time the case is logged.	Within One Business Day from the time the case is logged.

TIER 1 SUPPORT HOURS

General application support is available during the Tier 1 business hours of Monday through Friday, excluding holidays, from 8:00 AM to 7:00 PM United States Eastern Time.

Support Cases can be logged 24x7 utilizing the online self-service support portal @ <http://clientcorner.premierinc.com/>

Level 1 – Fatal Impact issues that relate specifically to the ERP solution shall be available 24x7. This service will be provided after hours by an OnCall Support Specialist @ 1.877.633.4911

TIER 2 APPLICATIONS - The following chart represents the Support response guidelines by Case Priority Type for Tier 2 Applications:

Case Priority	General Description	Initial Response Time	Support Resolution Time
Level 5	Standard Support & Maintenance – a request to provide training on routine system maintenance, answer a question, or an inconvenient error or issue in which the functionality differs from documentation.	Within One Business Day from the time the case is logged.	Within Five Business Days from the time the case is logged.
Level 4	Elevated Support and Maintenance — a request to perform a key system operation that cannot be completed by the application administrator	Within One Business Day from the time the case is logged.	Within Three Business Days from the time the case is logged.

Level 3	Minor Impact – a minor loss of service, access or documented functionality where the impact is an inconvenience and there is a temporary workaround available. Operations can continue.	Within One Business Day from the time the case is logged.	Within Thirty Business Days from the time the case is logged.
Level 2	Severe Impact – a severe loss of service, access or documented critical business functionality for which there is not a current work around. Operation can continue, but in a restricted state.	Within Four Business Hours from the time the case is logged.	Within Ten Business Days from the time the case is logged.
Level 1	Fatal Impact – a complete loss of all service, access & documented Product functionality. Operations are at a complete stop and cannot continue.	Within One Business Hour from the time the case is logged.	Within Two Business Days from the time the case is logged.

TIER 2 SUPPORT HOURS

General application support is available during the Tier 2 business hours of Monday through Friday, excluding holidays, from 8:00 AM to 5:00 PM United States Eastern Standard Time.

Support Cases can be logged 24x7 utilizing the online self-service support portal @ <http://clientcorner.premierinc.com/>

2.2.1 Service Level Metric #2: System Malfunctions

- Tier 1 Applications - 80% of cases created within a given month for a given program will be resolved by Support during the stated resolution time.
- Tier 2 Applications - 80% of cases created within a given month for a given program will be resolved by Support during the stated resolution time.

2.3. Exceptions

For purposes of calculating the System Availability percentage, the following are exceptions to the service level requirement and Premier shall not be responsible for a failure to meet the Service Level and its associated Service Level Credit to the extent that such failure is directly attributable to any of the following:

- A. Customer's or any Customer Facility's gross failure to perform any of its responsibilities set forth in the Agreement, whether or not arising to a material breach which Premier can demonstrate materially impacted Premier's ability to perform the Services at the Service Level.
- B. Changes implemented at Customer's or any Customer Facility's request, provided that Premier informs Customer in writing prior to Customer making such change that such Change may have an adverse effect on Premier's ability to meet the Service Levels.
- C. Customer's or any Customer Facility's failure to reasonably cooperate with Premier in Premier's performance of Services provided Premier has requested such reasonable cooperation in advance.
- D. Customer's or any Customer Facility's (including its subcontractors') actions or inactions (other than as expressly permitted in the Agreement) that materially and adversely affects Premier's ability to perform the Services at the Service Levels.
- E. Factors outside Premier's reasonable control, provided that Premier would have been able to perform but for such factor, and Premier's action or inactions have not materially contributed in the cause of such factor or that Premier could not have reasonably foreseen and prevented the effect of such factor.

- F. Any third party software or hardware not provided by Premier (excluding Premier's own software and hardware).

3.0 Claims

Premier will cooperate with Customer in developing a monthly Service Level report and regular delivery will commence no greater than three months post go-live (the foregoing will not relieve Premier of any credit obligations hereunder during such three month period). If Customer believes that Premier has failed to meet a Service Level Metric for a given Program for a given month, it must submit to Premier a written claim within 60 days of the end of such month. Failure to submit a claim within the 60-day period will result in Customer forfeiting any rights for that month, but in no event does Customer's failure to submit a written claim within the 60 day period alleviate nor excuse Premier from remedying any Malfunction.

4.0 Remedies

4.1 Service Level: System Availability

The failure of a given Program to be available for use by Customer less than the stated System Availability time during stated coverage hours for (a) three (3) consecutive months or (b) any three (3) months during a consecutive six (6) month period, shall be deemed to be a "Service Level Termination Event" and entitle Customer and its Customer Facilities to terminate the Agreement for the given Program with no further liability, expense, or obligation to Premier. If Customer decides to terminate the Agreement for a given Program, then it shall do so by providing Premier with written notice of termination. In such event of a termination, Premier will refund to Customer any pro-rated pre-paid fees for the terminated Program.

4.2 Service Level: System Malfunction

Any combination of failures to meet the System Malfunction Service Level Metric in any (a) three (3) consecutive months or (b) any three (3) month during a consecutive six (6) month period for a given Program, shall be deemed to be a "Service Level Termination Event" and shall entitle Customer and its Customer Facilities to terminate the Agreement for the given Program with no further liability, expense, or obligation to Premier. If Customer decides to terminate the Agreement for a given Program, then it shall do so by providing Premier with written notice of termination. In such event of a termination, Premier will refund to Customer any pro-rated pre-paid fees for the terminated Program.

This termination provision is in addition to any termination provision specified under the Agreement and in no way whatsoever is intended to neither diminish nor replace any termination provisions found in the Agreement.

4.3 Credits

Subject to the exceptions in Section 2.3, the Service Level Credit payable for any failure to achieve the Service Level shall be calculated as provided below.

The maximum At Risk Amount for payment by Licensor of Service Level Credits for failures to Achieve Service Levels is an amount equal to 5% of the Service Fees to Licensee for the month in which the Service Level(s) failed. The Service Level Credits for "Failure to Achieve Service Level" will be assigned percentages such that in total across all Service Levels they will equal 100% for the respective Service Level Specification. No one single Service Level Credit percentage for a Service Level can exceed 5% and when failures of Service Levels occur the value of the Service Level Credit will equal the sum of the percentage values of the Service Levels failed multiplied by the applicable At Risk Amount provided the total aggregate Service Level Credits in any month cannot exceed the At Risk Amount, subject to Section below.

Example:

A = Maximum At Risk Amount = 5%

B = the sum of the percentages for Service Levels failed

C = Service Level Credit %

D = Service Level Credit Amount

$A*(B1+B2) = C$

$D = C * \text{failure month Service Fees}$

Service Levels	Percentage Importance
System Malfunctions (Resolution)	50%
System Availability	50%

$C = 0.05 * (50 + 50) = 5$

Maximum Service Credits: The maximum amount payable as Service Level Credits for any single month in which there is a Service Level failure shall not exceed 5 percent (5%), of the respective Service fees to Licensee for the month in which the Service Level(s) failed.

5. Service Level Performance Status Meetings

The parties agree to meet on an as needed basis as requested by Customer, but in no event less than quarterly, to discuss and verify that Premier is satisfactorily meeting its Service Levels as provided hereunder.

Exhibit B

County of Monterey Travel and Business Expense Reimbursement Policy

Exhibit C
Business Associate Agreement

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) entered into on April 26, 2018 (“Execution Date”), is entered into by and among between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center (“Covered Entity”), which includes the facilities listed in Exhibit A hereto and Premier Healthcare Solutions, Inc., a Delaware corporation, Premier Healthcare Alliance, L.P., a California limited partnership, and their respective subsidiaries to the extent that such subsidiaries act as Business Associates within the meaning of HIPAA (individually and collectively, “Business Associate”) (each a “Party” and collectively the “Parties”).

RECITALS

A. WHEREAS, the Parties have entered into one or more written agreements, and may in the future enter into additional agreements in the future (collectively, the “Services Agreement”) pursuant to which Business Associate provides certain Services (as defined below) for Covered Entity that involve the Use and Disclosure of Protected Health Information (“PHI”) that is created, received, transmitted, or maintained by Business Associate for or on behalf of Covered Entity.

B. WHEREAS, The Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), and their implementing regulations, including the Standards for the Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E (the “Privacy Rule”), the Breach Notification Standards, 45 C.F.R. Part 160 and 164 subparts A and D (the “Breach Notification Rule”), and the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C (the “Security Rule”), (collectively “HIPAA”), all as amended from time to time.

C. WHEREAS, The Parties are also committed to complying with the California Confidentiality Laws (defined below).

E. WHEREAS, The Privacy and Security Rules require Covered Entity and Business Associate to enter into a business associate agreement that meets certain requirements with respect to the Use and Disclosure of PHI. This BAA, sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”) shall be handled, in accordance with such requirement.

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this BAA, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS

*Approved by the County of Monterey Board of Supervisors on 11/01/16
and revised on 12/09/16*

1.1 All capitalized terms used in this BAA but not otherwise defined shall have the meaning set forth in the Privacy Rule, the Breach Notification Rule, or the Security Rule.

(a) “Breach” shall have the same meaning as “breach” as defined in 45 C.F.R. § 164.402 and shall mean the access, acquisition, Use, or Disclosure of PHI in a manner not permitted under the Privacy Rule that compromises the privacy or security of the PHI; the term “Breach” as used in this BAA shall also mean the unlawful or unauthorized access to, Use or Disclosure of a patient’s “medical information” as defined under Cal. Civil Code § 56.05(j), for which notification is required pursuant to Cal. Health & Safety Code 1280.15, or a “breach of the security of the system” under Cal. Civil Code §1798.29.

(b) “California Confidentiality Laws” shall mean the applicable laws of the State of California governing the confidentiality of PHI or Personal Information, including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code §56, et seq.), the patient access law (Cal. Health & Safety Code §123100 et seq.), the HIV test result confidentiality law (Cal. Health & Safety Code §120975, et seq.), the Lanterman-Petris-Short Act (Cal. Welf. & Inst. Code §5328, et seq.), and the medical identity theft law (Cal. Civil Code 1798.29).

(c) “Protected Health Information” or “PHI” shall have the meaning specified under HIPAA and mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual or the past, present or future payment for the provision of health care to an Individual; (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information that can be used to identify the Individuals, and (iii) is provided by Covered Entity to Business Associate or created, maintained, received, or transmitted by Business Associate on Covered Entity’s behalf. **PHI includes EPHI.**

(d) “Services” shall mean the services for or functions on behalf of Covered Entity involving PHI performed by Business Associate pursuant to a Services Agreement between Covered Entity and Business Associate to which this BAA applies.

2. PERMITTED USES AND DISCLOSURES OF PHI

Unless otherwise limited herein, Business Associate may:

(a) Use or Disclose PHI to perform Services for, or on behalf of, Covered Entity, provided that such Use or Disclosure would not violate the Privacy or Security Rules, this BAA, or California Confidentiality Laws;

(b) Use or Disclose PHI for the purposes authorized by this BAA or as otherwise Required by Law;

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(c) Use PHI to provide Data Aggregation Services for the Health Care Operations of Covered Entity, if required by the Services Agreement and as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) Use PHI if necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted under 45 C.F.R. § 164.504(e)(4)(ii), provided that Disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and be Used or further Disclosed only as Required by Law or for the purpose for which it was Disclosed to the person, and that such person will notify the Business Associate of any instances of which such person is aware that the confidentiality of the information has been breached;

(f) Use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1); and

(g) De-identify any PHI obtained by Business Associate under this BAA in accordance with 45 C.F.R. § 164.514 and Use or Disclose such de-identified information only as required to provide Services pursuant to the a Services Agreement between the Parties, or with the prior written approval of Covered Entity.

3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI

3.1. Responsibilities of Business Associate. With regard to its Use and/or Disclosure of PHI, Business Associate shall:

(a) Notify the Privacy Officer of Covered Entity, in writing, of: (i) any Use and/or Disclosure of the PHI that is not permitted or required by this BAA; (ii) any Security Incident of which Business Associate becomes aware; and (iii) any Breach. Such notice shall be provided within three (3) business days of Business Associate's discovery of such unauthorized access, acquisition, Use and/or Disclosure. Notwithstanding the foregoing, the Parties acknowledge the ongoing existence and occurrence of attempted but ineffective Unsuccessful Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and unsuccessful log-in attempts. "Unsuccessful Security Incidents" means, without limitation, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, as long as no such incident results in unauthorized access, use, disclosure, modification or destruction of PHI or intentional interference with system operations in an information system that contains PHI. Notwithstanding any other provision of this BAA, Business Associate shall not be obligated to report to Covered Entity any Unsuccessful Security Incident that is not a Breach. The Parties acknowledge and agree that this Section 3.1(a) constitutes notice by Business Associate to Covered Entity of such Unsuccessful Security Incidents and no additional notification to Covered

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Entity of such Unsuccessful Security Incidents is required, provided that no such Security Incident results in a Breach. A ransomware attack shall not be considered an Unsuccessful Security Incident and shall be reported to Covered Entity, irrespective of whether such Security Incident results in a Breach. Business Associate shall investigate each Security Incident or unauthorized access, acquisition, Use, or Disclosure of PHI, or Breach that it discovers and shall provide a summary of its investigation to Covered Entity, upon request. If Business Associate or Covered Entity determines that such Security Incident or unauthorized access, acquisition, Use, or Disclosure, or Breach constitutes a Breach, then Business Associate shall comply with the requirements of Section 3.1(a)(i) below;

(i) Business Associate shall provide a supplemental written report in accordance with 45 C.F.R. § 164.410(c), which shall include, to the extent possible, the identification of each Individual whose PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used or Disclosed during the Breach, to Covered Entity without unreasonable delay, but no later than five (5) business days after discovery of the Breach;

(ii) Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected Individual(s)(as such term is defined under HIPAA), the appropriate government agencies, and, if applicable, the media. Notwithstanding the foregoing, Business Associate shall not be prevented from providing notification Required by Law. Business Associate shall assist with the implementation of any decisions by Covered Entity to notify Individuals or potentially impacted Individuals. Covered Entity shall not notify the media nor disclose publicly information related to a Breach, Security Incident, or unauthorized use or disclosure of PHI naming Business Associate without obtaining Business Associate's prior written approval (which approval shall not be unreasonably withheld) as such notification may interfere with Business Associate's internal investigation and any obligations as Required by Law. Notwithstanding the foregoing, Business Associate's shall reasonably cooperate with Covered Entity in all notification obligations Required by Law;

(b) In consultation with the Covered Entity, Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper access, acquisition, Use, or Disclosure, Security Incident, or Breach. Business Associate shall take prompt corrective action, including any action required by applicable State or federal laws and regulations relating to such Security Incident or non-permitted access, acquisition, Use, or Disclosure. Business Associate shall reimburse Covered Entity for the following reasonable costs and expenses: i) reasonable costs in providing any required notification to affected Individuals, and ii) the reasonable costs of credit monitoring for affected Individuals required by applicable law;

(c) Implement reasonable and appropriate administrative, physical, and technical safeguards and comply with the Security Rule to prevent Use and/or Disclosure of EPHI other than as provided for by this BAA;

(d) Obtain and maintain a written agreement with each of its Subcontractors that creates, maintains, receives, Uses, transmits or has access to PHI that

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requires such Subcontractors to adhere to at least as restrictive restrictions and conditions as the restrictions and conditions with respect to PHI that apply to Business Associate pursuant to this BAA. The Parties contemplate that Business Associate may disclose PHI to agents and subcontractors, subject to the restrictions, exceptions and other terms and conditions as set forth herein;

(e) Make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the Use and/or Disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity to the Secretary of the Department of Health and Human Services ("Secretary") in a time and manner designated by the Secretary for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule. Business Associate has conducted a Service Organization Control 2, Type 1 ("SOC2") security audit and upon request shall provide Covered Entity with a copy of the most recent SOC2 report. Business Associate will maintain the SOC2 audit with periodic updates to be conducted in accordance with SOC2 requirements.

(f) Document Disclosures of PHI and information related to such Disclosure and, within thirty (30) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an Individual for an accounting of the Disclosures of the Individual's PHI in accordance with 45 C.F.R. § 164.528. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the Disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI Disclosed; and (iv) a brief statement of the purpose of such Disclosure which includes an explanation of the basis for such Disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within ten (10) business days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) Disclose to its Subcontractors or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(h) If all or any portion of the PHI is maintained in a Designated Record Set:

(i) Upon ten (10) days' prior written request from Covered Entity, provide access to the PHI to Covered Entity to meet a request by an Individual under 45 C.F.R. § 164.524. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for access to PHI from an Individual. Any denials of access to the PHI request shall be the responsibility of Covered Entity; and

(ii) Upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45

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C.F.R. § 164.526. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for amendment of PHI from an Individual. Any denials of amendment of the PHI request shall be the responsibility of Covered Entity;

(j) To the extent that Business Associate carries out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations;

(k) Unless prohibited by law, notify the Covered Entity within five (5) business days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall reasonably cooperate with the Covered Entity in such challenge; and

(l) Maintain policies and procedures materially in accordance with State Confidentiality Laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security.

3.2 Business Associate Acknowledgment.

(a) Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

(b) Business Associate further acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA and the HITECH Act. Business Associate shall comply with all California Confidentiality Laws, to the extent that such state laws are not preempted by HIPAA or the HITECH Act.

(c) Business Associate further acknowledges that uses and disclosures of protected health information must be consistent with NMC's privacy practices, as stated in NMC's Notice of Privacy Practices. The current Notice of Privacy Practices can be retrieved online at: <http://www.natividad.com/quality-and-safety/patient-privacy>.

3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) Provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) Notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI;

(c) Notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the Use or Disclosure of PHI provided

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to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI; and

(d) Notify Business Associate of any restrictions on Use and/or Disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

(e) Covered Entity represents and warrants that, to the extent Covered Entity provides PHI to Business Associate, Covered Entity has obtained any consents, authorizations and other legal permission required under HIPAA and other applicable law to the extent necessary or required in order to lawfully provide such PHI to Business Associate.

(f) Covered Entity shall make reasonable efforts to limit the disclosure of PHI to the minimum necessary to accomplish the intended purpose for which the PHI is disclosed.

3.4 Joint Responsibility. Each party agrees to use appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI when being transmitted from one party to the other pursuant to this BAA, in accordance with the standards and requirements of HIPAA.

4. TERM AND TERMINATION

4.1 Effective Date. This BAA is effective as of the effective date of the first Services Agreement by and between the Parties (the "Effective Date"). Any uses or disclosures prior to the Execution Date but since the Effective Date, if conducted in compliance with Section 2, were and are authorized by Covered Entity.

4.2 Term. This BAA shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Section 4. Certain provisions and requirements of this BAA shall survive its expiration or other termination as set forth in Section 5 herein.

4.3 Termination. Any other provision of the Services Agreement notwithstanding, this BAA may be terminated by either Party upon thirty (30) days written notice to the other Party in the event that such other Party breaches any material provision contained in this BAA and such breach is not cured within such thirty (30) day period.

4.4 Automatic Termination. This BAA shall automatically terminate without any further action of the Parties upon the termination or expiration of the last Services Agreement.

4.5 Effect of Termination. Upon termination or expiration of this BAA for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(J) if, and to the extent that, it is feasible to do so; provided, however, , that Business Associate may maintain i) any De-Identified Information; and, ii) PHI to the

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extent expressly permitted under applicable law. Prior to returning the PHI, Business Associate shall recover any PHI in the possession of its Subcontractors. Notwithstanding the foregoing, the Parties acknowledge that it is not feasible to return or destroy PHI maintained in Business Associate's aggregated databases and applications. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall: continue to extend the protections of this BAA to the PHI for as long as Business Associate retains PHI; limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions as set out in Section 2 above, which applied prior to termination; and return to Covered Entity or destroy the PHI retained by Business Associate when it is feasible to return or destroy, including when the PHI is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

5. MISCELLANEOUS

5.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 2, 4.5, 5.7, 5.10, and 5.11 shall survive termination of this BAA until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this BAA, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 Amendments; Waiver. This BAA may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of HIPAA, the HITECH Act, or California Confidentiality Laws is materially amended in a manner that changes the obligations of the Parties, the Parties agree to negotiate in good faith appropriate amendment(s) to this BAA to give effect to the revised obligations. Further, no provision of this BAA shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

5.3 No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below.

If to Business Associate, to:

Premier Healthcare Solutions, Inc.
13034 Ballantyne Corporate Place
Charlotte, NC 28277
Attn: Legal Department

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If to Covered Entity, to:
Natividad Medical Center
Attn: Compliance/Privacy Officer
1441 Constitution Blvd.
Salinas, CA 93906
Phone: 831-755-4111
Fax: 831-755-6254

Each Party named above may change its address and that of its representative for notice by the giving of ten (10) days prior written notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

5.5 Counterparts; Facsimiles. This BAA may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 Relationship of Parties. Notwithstanding anything to the contrary in the Services Agreement, Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all Business Associate obligations under this BAA.

5.7 Interpretation. Any ambiguities in this BAA shall be resolved in a manner that allows Covered Entity and Business Associate to comply with the Privacy Rule, the Security Rule, and the California Confidentiality Laws.

5.8 Indemnification. Each party shall indemnify, defend, and hold harmless the other party, its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage arising out of, or in connection with an unauthorized use or disclosure of PHI, a Breach of PHI, or a Security Incident, caused by the indemnifying party. Except to the extent an unauthorized use or disclosure of PHI arises from a party's gross negligence or willful misconduct, in no event shall either party's total aggregate liability to the other party for claims or damages arising out of this BAA or violation of applicable law, including the indemnification and reimbursement obligations specified above, exceed one million dollars (\$1,000,000.00).

5.9 Applicability of Terms. This BAA applies to all present and future Service Agreements and Business Associate relationships, written or unwritten, formal or informal, in which Business Associate creates, receives, transmits, or maintains any PHI for or on behalf of Covered Entity in any form whatsoever. This BAA shall automatically be incorporated in all subsequent agreements between Business Associate and Covered Entity involving the Use or Disclosure of PHI whether or not specifically referenced therein. In the event of any conflict or inconsistency between a provision of this BAA and a provision of any other agreement between Business Associate and Covered Entity, the provision of

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this BAA shall control unless the provision in such other agreement establishes additional rights for Business Associate or additional duties for or restrictions on Business Associate with respect to PHI, in which case the provision of such other agreement will control. All non-conflicting terms and conditions of this BAA and any other agreement between the Parties remain in full force and effect.

5.9 Insurance. In addition to any general and/or professional liability insurance required of Business Associate, Business Associate agrees to obtain and maintain, at its sole expense, liability insurance on an occurrence basis, covering any and all claims, liabilities, demands, damages, losses, costs and expenses arising from a breach of the obligations of Business Associate, its officers, employees, agents and Subcontractors under this BAA. Such insurance coverage will be maintained for the term of this BAA, and a copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity at Covered Entity's request.

5.10 Legal Actions. Promptly, but no later than five (5) business days after notice thereof, Business Associate shall advise Covered Entity of any action, proceeding, regulatory or governmental orders or actions, involving Covered Entity's PHI or this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

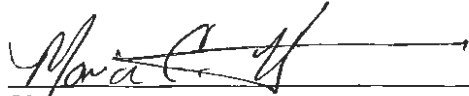
5.11 Audit or Investigations. Promptly, but no later than five (5) business days after notice thereof, Business Associate shall advise Covered Entity of any audit, compliant review, or complaint investigation by the Secretary or other state or federal agency related to compliance with HIPAA, the HITECH Act, or the California Confidentiality Laws involving Covered Entity's PHI.

5.12 Signatory Authority. Covered Entity represents and warrants that it is the legal representative of the facilities listed in Exhibit A hereto with respect to the power to enter into this BAA, and has the right to enter into this BAA on their behalf. Premier Healthcare Solutions, Inc., and Premier Healthcare Alliance, L.P., each represents and warrants that it is the legal representative of its subsidiaries with respect to the power to enter into this BAA, and has the right to enter into this BAA on their behalf. In each case, the Business Associate of record will be the Premier entity actually providing applicable Services. No other Premier entity will be liable, solely by virtue of being a party to this BAA, for any breach by such Business Associate of record of any obligation arising under HIPAA or this BAA in performance of such Services.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf as of the Effective Date.

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PREMIER HEALTHCARE SOLUTIONS, INC.,
on its own behalf and on behalf of its subsidiaries



Signature

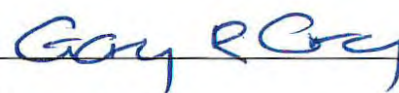
Date: 4/20/18

By: Maria Hilsmier
Title: VP, Chief Privacy Officer

County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center

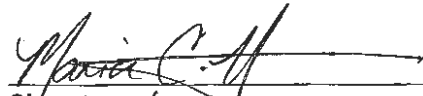
Signature

Date: 5/5/18

By: 
Title: CEO

PREMIER HEALTHCARE ALLIANCE, L.P.,
on its own behalf and on behalf of its subsidiaries

By: Premier Services, LLC, its general partner



Signature

Date: 4/20/18

By: Maria Hilsmier
Title: VP, Chief Privacy Officer

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