

MEDICAL INFORMATION TECHNOLOGY, INC.

Health Care Information System Software Subscription Agreement

This Health Care Information System Software Subscription Agreement made this 13th day of November, 2024, including all attachments referenced herein, (“Agreement”) is between Medical Information Technology, Inc., a Massachusetts corporation with offices at 7 Blue Hill River Road, Canton, Massachusetts 02021 (“MEDITECH”) and the company listed below (“Customer”). MEDITECH and Customer may be referred to herein individually as a “Party” or collectively as the “Parties.”

Customer: County of Monterey, on behalf of Natividad Medical Center
Address: 1441 Constitution Boulevard, Salinas, CA 93906
Phone:
Billing contact/Title:
Technical contact/Title:

IN CONSIDERATION OF THE MUTUAL PROMISES BELOW AND OTHER GOOD AND VALUABLE CONSIDERATION THE SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

The Service

MEDITECH shall provide to Customer The Service to meet the information processing needs of the following inpatient facility on or before November 13, 2024 “Access Date” (hereinafter defined).

1. Natividad Medical Center, operating 1441 Constitution Boulevard, Salinas, CA 93906

“The Service,” as detailed in Exhibit I, Schedules A through C, and Exhibit II shall mean the services associated with MEDITECH’s cloud offering, as described herein.

I. LICENSES; RESTRICTIONS

- a. Access to The Service and Licenses.** Subject to the terms and conditions of this Agreement, MEDITECH hereby grants Customer a non-exclusive right to access and use The Service solely for its business purposes as contemplated by this Agreement.
- b. License Restrictions.** The license set forth in Section I(a) is granted subject to the following restrictions:
 1. The Service shall be used or accessed only by Authorized Users (as defined below); and
 2. Customer shall not: (i) distribute or make available any copyright-protected content included in the MEDITECH Software (in print or electronic form) to anyone other than its Authorized Users ; (ii) remove, obscure, or change any copyright notices, disclaimers or other proprietary legends incorporated into the MEDITECH Software; (iii) alter, abridge, adapt or modify copyright-protected content or prepare derivative works based upon copyright-protected content incorporated into the MEDITECH Software; (iv) make copyright-protected content

incorporated into the MEDITECH Software available to the public via the Internet, World Wide Web or other unsecured network; (v) make sublicenses or agreements for access to copyright-protected content included in the MEDITECH Software with other individuals, organizations, vendors, affiliates, or partners, who are not their own individual Authorized Users.

These requirements apply to copyright-protected content delivered with the initial delivery of The Service as well as any future content delivery under this Agreement. All copyright-protected content and assessments may be labeled “copyright” and must not be edited by Customer or its Authorized Users.

3. Customer further agrees that it shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make The Service available to any third party, other than as expressly permitted by this Agreement; (ii) use The Service to process data on behalf of third parties, other than expressly permitted by this Agreement; (iii) interfere with or disrupt the integrity or performance of The Service or the data contained therein; or (iv) attempt to gain unauthorized access to The Service or its related systems or networks.
- c. **Authorized Users.** “Authorized Users” shall mean staff and employees of Customer who are authorized to access The Service and who must have access thereto to properly use The Service in Customer’s operations. The Service is accessed using a user identifier and password which are both administered and managed by Customer. Customer shall not make The Service available to any person or entity other than Authorized Users. Further, Customer agrees to notify MEDITECH promptly and fully in writing of the circumstances concerning any possession, use, or study of The Service by any person, corporation, or other entity (other than Customer’s staff and employees).
 - d. **Reservation of Rights.** Subject only to the rights expressly granted to Customer under this Agreement, all rights, title, and interest in and to The Service will remain with and belong exclusively to MEDITECH.
 - e. **Third Party Software and Content.** Third party software and content (Third Party Software) will be delivered with The Service. Usage of Third Party Software is governed by the applicable terms and conditions attached hereto as Exhibit III-A.
 - f. **MEDITECH Software.** The definition of MEDITECH Software is inclusive of MEDITECH proprietary software but may also include other vendor software, including open source software, to which MEDITECH has obtained the appropriate right to license and distribute. The version of MEDITECH Software in Exhibit I includes the physical embodiment thereof and any related documentation (incorporated in this Agreement as Exhibit II). The definition of MEDITECH Software does not include any software or content developed by a third party that MEDITECH has not obtained the right to license and distribute.

II. IMPLEMENTATION

- a. **Implementation Services.** Implementation services for The Service will be provided in accordance with Schedule A.
- b. **Project Management.** Subsequent to execution of this Agreement, MEDITECH and Customer will each assign Project Manager(s) who will be the other's main contact during the Implementation Period. The "Implementation Period" is defined as the period commencing upon execution of this Agreement and ending upon the attainment of Live Status. "Live Status" is the date on which The Service is used in Customer's daily operations utilizing real patient/hospital data. As detailed in the attached Schedule A, during the Implementation Period MEDITECH will provide support and assistance to Customer and Customer will make available sufficient resources so that the joint goal of a successful implementation of The Service is achieved. Following execution of this Agreement, the Project Managers will schedule an Orientation Meeting. At this meeting the relationship between MEDITECH and Customer will be detailed through the development of a firm schedule for all implementation tasks and delineate specific areas of responsibility between Customer and MEDITECH; actual dates will be finalized by Customer's personnel working with members of the MEDITECH implementation team. Customer shall use its best efforts to meet dates and timelines provided by MEDITECH.
- c. **Customer Resource Allocation.** Both parties agree that they will work jointly toward the mutual goal of a successful implementation. Customer acknowledges that MEDITECH has defined Customer staffing requirements, including healthcare experience and knowledge of the defined Customer role(s), to ensure a successful project implementation. Prior to Project Kick Off, MEDITECH and Customer will meet to review the defined staffing requirements, and as mutually agreed, Customer will provide appropriate staff resources in order to ensure it is able to meet its responsibilities during the implementation. If Customer is unable to fill the required Customer roles with their staff or if there are additional optional project lead roles Customer desires to obtain (e.g., Project Manager, Clinical/Financial/Ambulatory Leads), then Customer will be required to contract with a MEDITECH-certified consultant firm to fill these roles and Customer shall be responsible for any associated costs.

A periodic evaluation of the agreed upon resources being provided by Customer will be conducted during the Implementation Period in order to ensure the success of the project is not at risk. If through the evaluation MEDITECH determines the staffing resource allocation provided by Customer is not in compliance with the mutually agreed upon resource commitment, MEDITECH will inform Customer and both parties will mutually agree to an appropriate resolution, as defined above for the staffing deficiency. MEDITECH reserves the right to charge Customer additional fees for additional support in order to achieve a successful implementation

- d. **Expenses.** Should Customer's personnel visit MEDITECH's facility for training, travel and out-of-pocket expenses incurred by Customer during such visits shall be borne by Customer. Customer's personnel may also participate in web-based training sessions via a MEDITECH-approved web conferencing tool during the Implementation Period, and any connection fees incurred by Customer during such sessions shall be borne by Customer.

III. SUPPORT

- a. **MEDITECH Software and Third Party Software Support.** MEDITECH shall provide support and assistance to Customer for MEDITECH Software and Third Party Software and content pursuant to the support and maintenance terms and conditions set forth in Schedule B hereto.

- b. Infrastructure Requirements and Support.** Customer shall comply with the requirements outlined in Schedule C. MEDITECH shall provide support and assistance to Customer for the infrastructure pursuant to the support and maintenance terms and conditions set forth in Schedule C hereto.
- c. Updates.** Customer shall accept all updates to The Service in a time and manner prescribed by MEDITECH.

IV. TERM; TERMINATION

- a. Term and Subscription Term.** Unless earlier terminated as described below, the term of the Agreement shall commence on initial authenticated access (“Access Date”) and continue on a month-to-month basis (the “Term”).
- b.** The Access Date will be on or before September 30, 2024.
- c.** During the Term, Customer may terminate the Agreement by providing ninety (90) days’ written notice, and MEDITECH may terminate the Agreement by providing one hundred eighty (180) days’ written notice. For the avoidance of any doubt, Customer’s payment obligations shall continue until the end of the notice periods contained in this Section IV(c) and Section IV(d), or until Customer no longer accesses The Service, whichever is longer.
- d. Termination.** Each Party may terminate this Agreement upon written notice in the event the other commits any material breach of this Agreement and fails to cure such breach within sixty (60) days after written notice of such breach.
- e. Obligations on Termination.** Upon termination of this Agreement, all rights granted hereunder and all obligations of MEDITECH to provide The Service shall immediately terminate, and the Parties shall return or destroy any confidential information of the other Party in its possession or control to the other Party. Termination of this Agreement shall not relieve Customer from paying all fees accrued prior to termination. All sections of this Agreement that would customarily survive termination shall survive termination for any reason whatsoever, including but not limited to Sections IV, V, VI, VIII, IX, X(b), X(d), X(e), X(g), X(h), and X(i).

V. FEES; PAYMENT TERMS

- a. Subscription Fee; Payment Terms.** Customer will be billed the fees outlined in the table below on a monthly basis (“Subscription Fee(s)”). Except as otherwise specified herein or in a subsequent amendment to this Agreement, payment obligations are non-cancelable and fees paid are non-refundable.

Traverse Exchange	\$0
Total	\$0

- b. Subscription Fee Increases.** The Subscription Fee listed above may be increased by MEDITECH at any time by providing thirty (30) days written notice of such increase to Customer.

- c. **Invoicing and Payment.** If applicable, all payments for the Subscription Fee described in this Section V shall be made by Customer to MEDITECH within ten (10) business days after receipt by Customer of an invoice from MEDITECH. MEDITECH agrees that any amount due under the Order Form but disputed and withheld in good faith by Customer shall not be subject to a cessation of use penalty. Corporate reorganization, merger, acquisition, economic hardship, changes in market conditions, or insufficiency of funds shall not be considered good faith causes for Customer to withhold payment to MEDITECH.
- d. **Late Payments.** If Customer has failed to pay or dispute a Subscription Fee within the payment period set forth in Section V(c), MEDITECH shall send a notice of late payment to Customer, and if Customer does not pay such Subscription Fee within ten (10) days of receipt of such notice, MEDITECH may consider non-payment of the Subscription Fee to be outstanding and late and therefore subject to late fees. MEDITECH reserves the right to suspend its performance and access to The Service until payment for undisputed fees is received. MEDITECH's right to suspend The Service is conditioned upon its providing written notice of its intent to suspend performance and access to The Service due to late payments of undisputed amounts forty-five (45) days prior to the suspension to allow Customer an opportunity to cure. Customer's failure to make payments of such undisputed amounts within the forty-five (45) day cure period prior to suspension of the Service shall be a material breach under this Agreement. MEDITECH also reserves the right to charge interest at the maximum rate allowed by law for any late payments.
- e. **Net of Taxes.** All amounts payable by Customer to MEDITECH hereunder are exclusive of any sales, use, and other taxes or duties however designated (collectively "Taxes"). Customer shall be solely responsible for payment of any Taxes, except for those taxes based on the income of MEDITECH. Customer will not withhold any Taxes from any amounts due MEDITECH.

VI. CONFIDENTIALITY; HIPAA

- a. **Customer's Data and Information.** MEDITECH acknowledges that certain material which will come into its possession or knowledge in connection with this Agreement includes confidential or proprietary information of Customer or Customer's patients (hereinafter called "Protected Information"). MEDITECH may access and use Customer data and information, including Protected Information, in the administration and management of its business for purposes: improving The Service and system performance, improving implementation and support services provided by MEDITECH, and to perform data aggregation services; provided however, any such use shall be in accordance with all applicable law, including without limitation, the Health Insurance Portability and Accountability Act of 1996, as amended (HIPAA). MEDITECH shall not use Customer's data or information for marketing purposes without Customer's express written consent, which may be provided to MEDITECH via email. MEDITECH agrees to hold all Protected Information in confidence, to use it only in connection with the parties' performance under this Agreement and to disclose it only to those of its employees who require access thereto for such performance or as may otherwise be required by law. MEDITECH shall use commercially reasonable safeguards to prevent any other use or disclosure of Protected Information and shall promptly report to Customer any other use or disclosure of Protected Information of which it becomes aware. MEDITECH shall ensure that any agents of MEDITECH, including but not limited to subcontractors, to whom it provides Protected Information agree to the same restrictions and conditions as apply to MEDITECH with respect to such Protected Information. Upon the written request of the United States Department of Health and Human Services, MEDITECH shall make its internal practices, books and records relating to the use and disclosure of Protected Information provided to MEDITECH by Customer available to the Secretary of Health and Human Services (or his or her designee or duly authorized

representative), at MEDITECH's Massachusetts facility and at times convenient for MEDITECH, to the extent required for determining compliance with Federal privacy and security regulations. Upon Customer's written request MEDITECH shall return to Customer (when reasonably possible) or destroy any Protected Information.

MEDITECH further acknowledges that Protected Information will also include Personal Health Information ("PHI") and Personally Identifiable Information ("PII"). It is agreed that:

1. MEDITECH shall use appropriate safeguards to prevent use or disclosure of PHI/PII other than as provided for herein.
2. MEDITECH shall assist Customer by having appropriate technical and organizational measures in place to help Customer fulfill its obligation to respond to a request from a patient to access, correct and/or erase any Personally Identifiable Information (PII) pertaining to them. In addition, to the extent Customer does not have the ability to address this type of request, MEDITECH, shall upon Customer's request, use commercially reasonable efforts to assist Customer in responding to such request to the extent it is legally permitted to do so. Customer shall be responsible for any costs arising from MEDITECH's provision of such assistance.
3. MEDITECH agrees to identify to Customer all PHI/PII Sub-Processors. A PHI/PII Sub-Processor is an entity engaged by MEDITECH that processes PHI/PII on behalf of MEDITECH. Furthermore, MEDITECH shall ensure that any subcontractor, including a PHI/PII Sub-Processor, that creates, receives, maintains or transmits PHI/PII on behalf of MEDITECH, agrees in writing to the same restrictions and conditions that apply to MEDITECH with respect to such PHI/PII. MEDITECH agrees that it shall require the PHI/PII Sub-Processors to meet industry standard security controls in order to protect any and all data processed.

As of the date of this Agreement, the following subcontractors act as PHI/PII Sub-Processors for MEDITECH: Health Gorilla, Access, Forward Advantage, Google CloudPlatform, CloudWave, and Artera, Inc. Customer will receive notification of the addition of a new PHI/ PII Sub Processor and/or updates to an existing PHI/PII Sub-Processor via email from MEDITECH to Customer's technical contact as set forth in this Agreement. MEDITECH agrees to provide Customer with notification of the new PHI/PII Sub-Processor before authorizing such new PHI/II Sub-Processor to process personal data. Customer has the right to object to MEDITECH's use of the PHI/PII Sub-Processor by notifying MEDITECH in writing ten (10) business days after receiving notification of the updated list of PHI/PII Sub-Processors. Should Customer timely object to the use of the new PHI/PII Sub-Processor, MEDITECH shall use commercially reasonable efforts to change Customer's configuration without unduly burdening Customer. If MEDITECH is unable to make such change within a reasonable period of time (which shall not exceed sixty (60) days), Customer has the right to terminate this Agreement. Both MEDITECH and Customer agree that any addition of a new PHI/PII Sub-Processor will be handled by way of an Amendment to this Agreement.

4. MEDITECH shall report unauthorized use/disclosure of PHI/PII, of which it becomes aware to Customer as soon as possible by phone, followed by written notice.
5. In the event that an unauthorized use/disclosure of Protected Information, of which MEDITECH becomes aware, occurs, MEDITECH shall, upon Customer's written request, co-operate with Customer's investigation of a complaint that the Protected Information has

been compromised or used by MEDITECH in a manner inconsistent with that stated herein by responding to reasonable requests for access to its policies, procedures, protocols, and audit logs, as relevant, with respect to safeguarding its Customer's Protected Information.

6. Following the discovery of a breach of unsecured PHI/PII, MEDITECH shall notify Customer without unreasonable delay and no later than thirty (30) days following the discovery of such breach.
7. In addition to using PHI to perform the services set forth in this Agreement, MEDITECH may: aggregate and de-identify the PHI in its possession with the PHI of other MEDITECH customers that MEDITECH has in its possession through its capacity as a business associate to said other MEDITECH customers provided that the purpose of such aggregation is to provide Customer with data analyses relating to the health care operations of Customer.
8. MEDITECH may de-identify PHI and use and disclose the de-identified information, provided that the de-identification conforms with the requirements of 45 CFR Section 164.514(b), for the purposes of research and benchmarking. Customer has the option to opt out of any deidentification services.
9. The Service provided under this Agreement includes a connection on the Traverse Exchange network which is an interoperability platform enabling patient data exchange among participating organizations throughout the United States. If applicable, Customer gives MEDITECH consent to use the Traverse Exchange network to exchange Customer PHI with other MEDITECH customers, non-MEDITECH hospitals and health information exchange platforms. In regard to other non-PHI data, Customer will be provided an option to automatically send data to other entities via Traverse Exchange or provide manual approval for each exchange.
10. Customer is solely responsible for obtaining consent and authorization, as required and compliant with all applicable laws, rules, and regulations from each patient who is the subject of PHI (as defined under HIPAA) that is disclosed by Customer to MEDITECH. Customer will indemnify, defend and hold MEDITECH and the officers, directors, agents, and employees of MEDITECH ("MEDITECH Indemnified Parties") harmless from settlement amounts and damages, liabilities, penalties, costs and expenses that are payable to any third party or incurred by the MEDITECH Indemnified Parties (including reasonable attorneys' fees) arising from, directly or indirectly, any claim, demand, or allegation by a third party arising from or related to any disclosure of PHI by Customer to MEDITECH.

In the event of any conflict between this Section VI(a) and MEDITECH's Business Associate Agreement (BAA) with Customer, the BAA shall govern in situations involving PHI.

- b. MEDITECH's Data and Information.** Customer acknowledges that certain material which will come into its possession or knowledge in connection with this Agreement includes confidential or proprietary information of MEDITECH and/or MEDITECH's vendors, disclosure of which to third parties may be damaging to MEDITECH and/or such MEDITECH vendors. Customer agrees to hold all such material in confidence, to use it only in connection with the parties' performance under this Agreement and to release it only to those persons who require access thereto for such performance or as may otherwise be required by law. To the extent permitted by law, Customer must treat this Agreement and any amendments to the Agreement as a public record and cannot agree to provisions that contradict this fact. To the extent permitted by law,

this Agreement and any amendments thereto will placed on a public agenda for approval by the Natividad Finance Committee, Natividad Board of Trustees, and County of Monterey Board of Supervisors. Customer shall give MEDITECH fifteen (15) days advanced notice of this Agreement or any amendments being placed on a public agenda. In addition, Customer shall use commercially reasonable safeguards to prevent any other use or disclosure of confidential or proprietary information of MEDITECH and shall promptly report to MEDITECH any other use or disclosure of such information of which it becomes aware.

1. Notwithstanding the foregoing in Article VI(b) above, MEDITECH shall not prohibit or restrict Customer from disclosing Permitted Communications (defined below) when made for the following purposes in accordance with the information blocking provisions outlined in 45 CFR § 170.403:
 - i. Making a disclosure required by law;
 - ii. Communicating information about adverse events, hazards, and other unsafe conditions to government agencies, health care accreditation organizations, and patient safety organizations;
 - iii. Communicating information about cybersecurity threats and incidents to government agencies;
 - iv. Communicating information about information blocking and other unlawful practices to government agencies; or
 - v. Communicating information about a health IT developer's failure to comply with a Condition of Certification requirement, or with any other requirement of 45 CFR § 170, to ONC or an ONC-ACB.
2. To the extent Customer wishes to engage in Permitted Communications for any purpose other than those listed in Article VI(b)(1) above, Customer must request advance approval from MEDITECH in writing, which approval shall not be unreasonably withheld.
3. In accordance with 45 CFR § 170.403, Permitted Communications shall be defined as communications regarding:
 - i. The usability of The Service;
 - ii. The interoperability of The Service;
 - iii. The security of The Service;
 - iv. Information regarding Authorized Users experiences when using The Service;
 - v. MEDITECH's business practices related to the exchanging of electronic health information;
 - vi. The manner in which Authorized Users have used The Service.
- c. MEDITECH has provided to Customer a separate Business Associate Agreement that complies with the requirements of HIPAA as they pertain to Customer's relationship with MEDITECH and

The Service.

VII. REPRESENTATIONS, WARRANTIES, AND EXCLUSIONS

- a. **Representations and Warranties.** MEDITECH represents and warrants to Customer that MEDITECH shall provide The Service in a professional and workmanlike manner. MEDITECH warrants that, upon the attainment of Live Status, The Service shall have capabilities equal to the capabilities described in Exhibit II. Each Party represents and warrants to the other party that such Party has the required rights, power, and authority to enter into this Agreement and to grant all rights, authority, and licenses granted hereunder.
- b. **Exclusions.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICE IS PROVIDED “AS IS” WITHOUT ANY WARRANTY OF ANY KIND AND MEDITECH DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES THAT MEDITECH DOES NOT WARRANT THAT THE SERVICE WILL BE PROVIDED IN AN UNINTERRUPTED OR ERROR FREE FASHION AT ALL TIMES OR THAT THE SERVICE WILL MEET CUSTOMER’S REQUIREMENTS.

VIII. INDEMNIFICATION

- a. **Indemnification by MEDITECH.** In the event of any suit or claim against Customer of the infringement or misappropriation of a third party’s United States copyright, patent, trade secret, or trademark by reason of the use of The Service by Customer as permitted hereunder, MEDITECH shall, at its expense, defend, indemnify, and hold harmless Customer from such such claim, and pay damages actually awarded or paid in connection therewith, including the reasonable fees and expenses of the attorneys engaged by MEDITECH for such defense, provided that (i) Customer shall promptly notify MEDITECH of such claim within seven (7) days’ notice thereof, (ii) MEDITECH shall have the sole and exclusive authority to defend and/or settle any such claim, and (iii) Customer reasonably cooperates with MEDITECH in connection therewith. If the use of The Service by Customer has become, or in MEDITECH’s opinion is likely to become, the subject of any claim of infringement, MEDITECH may at its option and expense (1) procure for Customer the right to continue using The Service if The Service is still in use by Customer as set forth hereunder; (2) replace or modify The Service if The Service is still in use by Customer to make it non-infringing so long as The Service has at least equivalent functionality to that described in Exhibit II; or (3) if options (1) or (2) are not reasonably practicable, or available because The Service is no longer in use by Customer, terminate this Agreement. MEDITECH shall have no liability or obligation under this Section VIII(a) with respect to any claim if such claim is caused in whole or in part by (x) compliance with designs, data, instructions or specifications provided by Customer; (y) modification of The Service by any party other than MEDITECH without MEDITECH’s express written consent; or (z) the combination, operation or use of The Service with other applications, portions of applications, product(s), data, or services where The Service would not by itself be infringing.
- b. **Indemnification by Customer.** Customer acknowledges that The Service provided by MEDITECH constitutes part of a hospital information system to be used by Customer, its staff,

and employees in the performance of their professional responsibilities. The Service and any related content provided hereunder shall not be considered in any way a substitute for professional skill and judgment involved with patient care and safety. Customer agrees that it is solely responsible for the care of its patients and that the use of The Service for any purpose related to such care cannot in any way be controlled by MEDITECH. Customer is responsible for verifying the accuracy and completeness of any medical or other similar information contained in, entered into, or used in connection with The Service. Customer agrees to defend, indemnify, and hold harmless MEDITECH from any liability arising from improper or flawed operation or use of The Service. Customer warrants that it shall not furnish to MEDITECH any software, content, trade secret, or other materials that infringe upon, or cause MEDITECH to infringe, any third party's intellectual property rights (Third Party IP) or otherwise conflict with this Section VIII(b). Customer agrees to defend, indemnify, and hold harmless MEDITECH from and against any claims, damages, losses, costs and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that any Third Party IP provided by Customer to MEDITECH under this Agreement infringes or otherwise violates the intellectual property rights of any person or entity.

IX. LIMITATION OF LIABILITY

- a. LIMITATIONS ON REMEDY.** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL MEDITECH BE LIABLE TO CUSTOMER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOST SALES OR BUSINESS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST DATA, OR FOR ANY AND ALL OTHER DAMAGES OR LOSSES, EVEN IF A REPRESENTATIVE OF MEDITECH HAS BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. THE PROVISIONS OF THIS SECTION ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES, AND THE PARTIES HAVE RELIED ON THE LIMITATIONS SET FORTH HEREIN IN DETERMINING WHETHER TO ENTER INTO THIS AGREEMENT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT BE APPLICABLE TO MEDITECH'S OBLIGATIONS IN SECTION VIII(A) AND CUSTOMER'S OBLIGATIONS IN SECTION VIII(B).

X. GENERAL

- a. Access.** Customer will provide timely access to Customer personnel, systems, and information required for MEDITECH to perform its obligations hereunder. Customer shall provide to MEDITECH's implementation and service teams performing its obligations hereunder at Customer's premises, without charge, a safe and reasonable work environment in compliance with all applicable laws and regulations, including office space, furniture, telephone service, and reproduction, computer, facsimile, and other necessary equipment, supplies, and services.
- b. Compliance with Laws.** Without limiting the generality of the foregoing, Customer shall not transfer, either directly or indirectly, The Service, either in whole or in part, to any destination subject to export restrictions under United States law, unless prior written authorization is obtained from both MEDITECH and the appropriate United States agency(ies) and shall otherwise comply with all other applicable import and export laws, rules, and regulations. Each party shall comply with all applicable laws to which it is subject in the performance of its

obligations under this Agreement.

- c. **Force Majeure.** Neither party to this Agreement shall be liable for any delay or failure in performance of this Agreement if such delay or failure is caused by:
1. acts of God, such as severe acts of nature or weather events including floods, fires, earthquakes, hurricanes, explosions;
 2. acts of terrorism or insurrection;
 3. inability to provide services because of epidemics, pandemics, or other situations out of the affected party's control where the government recommends limiting travel due to safety and/or health concerns;
 4. acts of governmental authorities such as expropriation, condemnation, and changes in laws and regulations;
 5. events such as ransomware, denial of service attacks, computer viruses, malicious software intrusions, and internet outages so long as the affected party has followed basic industry-standard protocols to minimize the chances of such events.

In such event the affected party shall notify the unaffected party as soon as possible of such force majeure event and the estimated duration thereof. Both parties' obligations shall be suspended for so long as such force majeure event shall continue. A force majeure event excludes corporate reorganization, merger, acquisition, economic hardship, changes in market conditions, or insufficiency of funds.

- d. **Restrictions on Transfer.** The Service shall at all times remain the property of MEDITECH, and the license of use granted herein specifically excludes any right of reproduction, sale, lease, sublicense, or other transfer or disposition of The Service by Customer except as otherwise expressly stated herein. The rights granted hereunder are granted to Customer only and are not assignable to any other person, corporation or entity, except that, upon the transfer by sale, merger, or corporate reorganization, of substantially all the assets of Customer to a successor organization, this Agreement and the rights and obligations of Customer hereunder may be assigned to such successor. Customer agrees to notify MEDITECH promptly in writing of the transfer to such successor and of the assumption by such successor of Customer's obligations and responsibilities as described in this Agreement.

Notwithstanding anything to the contrary herein, in the event that a Customer owned facility listed above is sold to a third party ("New Owner"), and such New Owner desires to continue to use The Service at such facility and Customer desires to transfer its rights for the sold facility, then upon Customer's written request, MEDITECH will approve the transfer of The Service for the sold facility to New Owner, subject to the following conditions: (i) assent from Customer as evidenced by an executed Assignment Agreement between Customer, New Owner, and MEDITECH and (ii) the successful execution of a Health Care Information System Software Subscription Agreement between New Owner and MEDITECH. MEDITECH reserves the right to charge New Owner transfer fees and additional implementation and service fees for such transfer.

- e. **Amendment; Waiver.** This Agreement may not be amended or modified, in whole or part, except in writing signed by duly authorized representatives of both Parties. No provision or part of this Agreement or remedy hereunder may be waived except by a writing signed by a duly

authorized representative of the party making the waiver. Failure or delay by either party to enforce any provision of this Agreement will not be deemed a waiver or future enforcement of that or any other provision.

- f. Relationship.** Nothing in this Agreement shall be construed to place the Parties hereto in an agency, employment, franchise, joint venture, or partnership relationship. Neither party will have the authority to obligate or bind the other in any manner, and nothing herein contained shall give rise or is intended to give rise to any rights of any kind to any third party.
- g. Severability.** In the event that any provision of this Agreement is found to be unenforceable, such provision will be reformed only to the extent necessary to make it enforceable, and such provision as so reformed will continue in effect, to the extent consistent with the intent of the Parties as of the date of this Agreement.
- h. Governing Law.** The validity and effect of this Agreement shall be determined in accordance with the laws of the State of California.
- i. Notices.** All notices under or related to this Agreement will be in writing and will reference this Agreement. Notices will be deemed given when: (i) delivered personally; (ii) sent by confirmed telecopy or other electronic means; (iii) three (3) days after having been sent by registered or certified mail, return receipt requested, postage paid; or (iv) one (1) day after deposit with a commercial overnight carrier, with written verification of receipt. All communications will be sent to the address set forth on the first page of this Agreement. Either Party may change its address or contact person for the purpose of this Agreement by giving the other party thirty (30) days' written notice of such changes.
- j. Publicity.** Customer agrees that in the course of business MEDITECH may use Customer's name and non-confidential information in sales, marketing, and promotional efforts.
- k. Termination of Commonwell End User License Agreement.** Customer's previously executed End User License Agreement for use of the Commonwell Health Alliance Services shall be effectively terminated as of the date Customer is operational with the Traverse Exchange solution listed in Exhibit I.
- l. Entire Agreement.** This Agreement, including Schedules A through C, and Exhibits I through III constitutes the entire agreement between the Parties. It supersedes and replaces all prior or contemporaneous understanding or agreements, written or oral, regarding such subject matter, and prevails over any conflicting terms or conditions contained on printed forms submitted with purchase orders, sales acknowledgements, or quotations. In the event of any conflict between this Agreement and any Schedule, the following order of precedence shall apply: (i) this Agreement, (ii) Schedules (in chronological order, with the newest taking precedence) and (iii) Exhibits.

This Agreement is ACCEPTED AND AGREED TO 13th day of November, 2024.

COUNTY OF MONTEREY, on behalf of Natividad Medical Center

By: _____

Name: _____

Title: _____

MEDICAL INFORMATION TECHNOLOGY, INC.

By: _____

Name: _____

Title: _____

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Patricia Ruiz
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10/29/2024 | 12:08 PM PDT

EXHIBIT I

I. MEDITECH Solutions.

The following MEDITECH solutions are provided as part of The Service. All conversions (MEDITECH Format) and interfaces require adherence to MEDITECH’s standard specification. Not all features and functions will be taken Live during the initial go-Live.

Traverse Exchange

II. Third Party Solutions.

The below third party solutions are included in The Service:

Vendor Name	Vendor Product Name	Vendor Product Description
Health Gorilla	Health Interoperability Platform and Patient 360	Enables interoperability with connections to the Health Gorilla QHIN, HIN, and to other in scope non-QHIN entities. The platform consists of a proprietary Data Normalization and Aggregation Engine, Master Patient Index, and Record Locator Service, all of which work together to support secure data sharing between and data access by healthcare organizations, while leveraging the Patient360 viewer.

III. Connections.

The Service includes, but is not limited to, connections to the following solutions:

- a. Health Gorilla QHIN (Qualified Health Information Network)
- b. HG HIN (Health Information Network)
- c. Direct connections to non-QHIN entities
 - 1. eHealthExchange
 - 2. CommonWell
 - 3. Carequality
- d. MEDITECH Private Network

MEDITECH reserves the right to remove or add connections at any time during the Term, which may result in additional fees for The Service.

SCHEDULE A

IMPLEMENTATION SERVICES

MEDITECH provides a comprehensive implementation approach. MEDITECH provides best practice driven dictionary building, user training, technical configuration and testing, and Live support. MEDITECH will provide implementation support to assist Customer in its successful implementation of the Traverse Exchange software. If this support is determined jointly by the Parties prior to Month 1 of the implementation, to be insufficient, MEDITECH will work with Customer to reach a mutually agreeable adjustment of the support provided by MEDITECH, though additional cost may apply.

Implementation Timeline

<p>Prepare</p> <p>2 weeks prior to Access Date</p>	<p>Prerequisite Details Confirmed</p> <p>Kick Off Call Scheduled</p>
<p>Week 1</p>	<p>Kick Off Call</p> <p>Workflow Review</p>
<p>Week 2 (Access Date)</p>	<p>Interface Delivery</p> <p>Application Dictionary Build</p> <p>Connectivity Testing</p>
<p>Weeks 3-6</p>	<p>Integration Testing</p> <p>End User Training</p>
<p>Week 7</p>	<p>Complete LIVE Connectivity/Build/Setup</p>

Week 8	Go-LIVE
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The implementation is designed to bring Customer Live with Traverse Exchange configurations, builds and workflows in an eight (8) week timeframe. Each phase of the implementation is designed to efficiently accomplish all the critical steps leading up to Customer’s Live date. If items listed in Exhibit I are deemed out of scope but are required for the initial Live date, the eight (8) week implementation schedule may need to be extended or additional Customer resources will be needed to bring those items into scope.

There are key dictionaries which remain the responsibility of Customer for ownership and maintenance with the help and support of MEDITECH. Dictionaries, including data mapping, nomenclature association and CCD Parameters builds, are areas best suited to be the responsibility of Customer. A full accounting of the division of dictionary responsibility allocation will be furnished at the kick off meeting.

Implementation Preparation

During this pre-implementation phase, introductions are made to key members of MEDITECH staff who will be hands-on during the implementation. A kickoff meeting is scheduled during this phase to facilitate introductions and allow for an in-depth review of the implementation process, key milestones, and expectations.

Application Dictionary Build

During the dictionary build, MEDITECH specialists will provide documentation and guidance highlighting pertinent dictionary content, build and mapping needed as well as best practice workflow. This documentation and review process is designed to provide Customer staff with background knowledge necessary to provide input regarding system personalization efforts.

Build and Workflow Review

Dictionary personalization will be completed and dictionary validation will begin. This involves some hands-on work in the system where workflows are reviewed, and dictionaries are tested. Edits and adjustments identified will primarily be made. Dictionary edits to MEDITECH standard workflows will continue through Live to meet the needs of the users. MEDITECH reserves the right to determine whether any new workflows or major dictionary modifications identified after Month 4 are considered in scope or out of scope for go-Live.

Integrated Testing

Integration testing is a key component of training for all applications, and testing is an essential process that involves multiple applications across MEDITECH. Webinars will be conducted throughout the implementation to cover various aspects of system integration. This will be a collaborative effort with

MEDITECH, Customer and additional connected third parties, as applicable. Customer is expected to complete validation testing using workflows and processes of their current users.

End User Training

MEDITECH specialists will train a portion of Customer's end users in collaboration with Customer's super users utilizing best practice workflows as a guide. Users above and beyond the portion trained by MEDITECH, determined by the number of days and hours allocated for end user training, will be the responsibility of Customer to train. This can be done through a train the trainer approach or by retaining consulting services to accomplish the training requirement. Users gain a comprehensive understanding of how the system will work within the day-to-day operations of their departments and specific job functions. MEDITECH supplies learning tools such as training manuals, web-based tutorials, and practice scenarios. It is the responsibility of Customer to assess and gauge end user readiness as well as to set expectations and provision resources to participate in end user training. Customer should also provide an opportunity for end users to practice skills obtained through end user training until the Live date.

Go-Live and Post-Live

MEDITECH provides support during the go-Live process as well as a post-Live optimization to review and evaluate Live systems usage. Ultimately, the goal is to confirm user adoption/satisfaction and verify best practice utilization.

SCHEDULE B

MEDITECH SOFTWARE AND THIRD PARTY SOFTWARE POST-LIVE SUPPORT

The service described herein shall commence upon the attainment of Live Status and will continue for the Term of this Agreement.

I. ROUTINE/EMERGENCY SERVICE

MEDITECH will provide ongoing support to assist Customer in its successful utilization and optimization of the MEDITECH Software. MEDITECH will make available to Customer both routine and emergency service, via telephone contact with MEDITECH personnel and network access. Routine service shall be available between 8:30am and 10:00pm, Monday through Friday, Eastern Time, excluding Federal holidays. Emergency service will be available at any other time at no additional cost. In all instances of requests for service by Customer made by telephone, such request will be handled directly by MEDITECH personnel who will promptly thereafter enter the request into MEDITECH's task tracking system, and the problem will thereafter be addressed in accordance with this Section. Customer then has the ability to monitor the assigned task via MEDITECH's internet site. Alternatively, MEDITECH will provide Customer with the capability to enter tasks directly into the task tracking system via MEDITECH's internet site.

- a. If the problems result from program errors in the MEDITECH Software, MEDITECH shall correct program errors and shall exercise its best efforts to assure that the same is accomplished as expeditiously as possible. Program errors are defined as failures of the MEDITECH Software to operate in substantial conformity with descriptions of such operation in Exhibit II.
- b. If the problems originate from incorrect use of the MEDITECH Software which results in database errors which may require MEDITECH's assistance for correction, MEDITECH will generally provide such assistance; however, depending on the efforts to be expended, MEDITECH reserves the right to charge Customer for the associated consulting time. Incorrect use of the MEDITECH Software is defined as data processing procedures not in conformity with such procedures as described in Exhibit II.
- c. If the problems originate as a result from modifications to the MEDITECH Software made by anyone other than MEDITECH, MEDITECH's responsibility shall be limited to providing assistance and advice to enable Customer to determine appropriate remedial action to be taken by Customer or others (not by MEDITECH) to resolve such problems.

II. UPDATES AND ENHANCEMENTS

- a. Customer will receive updates of the MEDITECH Software on a schedule as prescribed by MEDITECH. A minimum of thirty (30) days notification will be given prior to all software updates so adequate preparation and education can occur. Some downtime is expected and will vary according to the nature of the update. An estimate of the downtime will be provided as part of the update notification. MEDITECH will provide education remotely via online tools and/or with appropriate materials in advance. Customer will be required to take these updates and bring them Live in accordance with MEDITECH's schedule.
- b. MEDITECH will provide updates to any third party component covered under this subscription similarly on a schedule as prescribed by MEDITECH. Notification will be given prior to all third party updates so adequate preparation and education can occur. Some downtime is expected and

will vary according to the nature of the update. An estimate of the downtime will be provided as part of the update notification. MEDITECH will provide education remotely via online tools and/or with appropriate materials in advance. Customer will be required to take these updates and bring them Live in accordance with MEDITECH's schedule.

- c. MEDITECH shall make available to Customer all enhancements of the MEDITECH Software which MEDITECH makes generally available to its Customers that subscribe to The Service. Enhancements include all amendments, corrections, and updates to the MEDITECH Software. MEDITECH will provide education of these enhancements as described below.
- d. MEDITECH acknowledges that Federal and State governments may mandate compliance by Customer with various regulatory requirements, some of which may necessitate modifications to the MEDITECH Software. Therefore, MEDITECH will, as far as technically feasible and within a reasonable period of time, modify the specific software capabilities of the MEDITECH Software documented within the attached Exhibit II so that Customer may comply with mandated Federal and State requirements to which it is subject. Customer acknowledges that certain regulations may require third party software, services, or content to meet certain requirements. (NOTE: MEDITECH reserves the right to charge Customer for additional functional capabilities beyond that documented in Exhibit II; however, MEDITECH will exercise its best efforts to minimize any such charges.)

III. CHANGE MANAGEMENT

- a. Dictionary maintenance is deemed a shared responsibility that requires a collaborative approach between Customer's staff and the MEDITECH application support teams. Certain dictionaries and parameters are controlled directly by MEDITECH and can be changed/alterd only by MEDITECH personnel. Customer may request changes to such dictionaries and/or parameters through a formal process. Requests for dictionary edits or additions are made in the MEDITECH task system. The MEDITECH support team will first determine if standard content is available to meet that request or if a new entry must be created. If standard content is not available and a new entry must be created, dictionary edits are first made in the Test environment and then in the Live environment once Customer indicates they are ready to proceed. If accepted, MEDITECH will inform Customer of when such changes will be implemented. MEDITECH will make best efforts to schedule the implementation of such changes at a time preferred by Customer.
- b. MEDITECH may require certain components of the third party solutions to be maintained centrally and as such, any changes to those tables/parameters would require request through a formal change control process.

IV. EDUCATIONAL SERVICES

- a. MEDITECH regularly conducts workshops and seminars to continue to educate its Customers in the use of The Service and enhancements that may be provided during the Term of this Agreement. Customer shall be entitled to participate in these workshops and seminars at no additional cost other than its own travel and out-of-pocket expenses or connection fees for web-based session.
- b. After the Implementation Period, if Customer requests additional training in the use of such MEDITECH Software, MEDITECH shall provide this training at MEDITECH's then-standard rates for these services.

- c. Upon Customer's request, MEDITECH's Client Services team will perform Operational Assessments for various modules. Operational Assessments can be performed remotely at no charge. MEDITECH will review Customer's use of MEDITECH Software, make recommendations for any necessary improvements and provide Customer with a detailed written report of its findings and recommendations. MEDITECH will perform Operational Assessments not more frequently than once per year, following attainment of Live Status.

V. SCHEDULED DOWNTIME

- a. **Customer Specific Downtime.** Customer agrees to coordinate planned downtime for changes specific to Customer's environment for maintenance, security patches, and vulnerability configuration recommendations specific to Customer's environment. The downtime shall be set solely at MEDITECH's discretion. Customer shall schedule and coordinate downtime with end users, and coordinate activities to bring MEDITECH down in a controlled and safe manner. Customer is responsible for communication to the users including validation of application and interface functionality.
- b. **Emergency and Enterprise Downtime.** On occasion, there may be emergency changes or changes that affect Customer, which will be coordinated at the discretion of MEDITECH. MEDITECH agrees to notify Customer in advance when possible.

SCHEDULE C

INFRASTRUCTURE CUSTOMER REQUIREMENTS AND SUPPORT

I. General Scope

- a. **Computing Infrastructure and Monitoring.** MEDITECH or its agents are responsible for deploying, maintaining, and monitoring cloud infrastructure and services to support The Service as described in Exhibit I.
- b. **Data Processing in the United States of America.** All information processing will take place in the United States within U.S. facilities and networks. All technical configuration, monitoring, support, and service desk offerings are managed by employees or subcontractors of MEDITECH located in offices in the United States of America.

II. Customer Responsibilities

- a. **Customer Network.** Customer is responsible for managing their local network equipment and infrastructure to ensure service delivery to end users. Network infrastructure and recommended guidelines will be reviewed during the Readiness Assessment.
- b. **Internet Connectivity.** Customer is responsible for managing its Internet connectivity. Two ISP connections are recommended for fault tolerant access to The Service. The connections should be two different carriers who do not use any common network backbone or carrier network, including last mile. Customer will ensure appropriate bandwidth for users to access The Service.
- c. **Security Management.** Customer is responsible for operational compliance with the Security and Vulnerability Management requirements as specified in Section V of this Schedule C, and for collaborating as an essential part of normal operations with MEDITECH to maintain an adequate security posture. Customer will be notified via email of any patches, updates, or configuration changes that are required to be applied by Customer in Customer's environment, with a window of two (2) days to fourteen (14) days specified based on severity of impact. Failure of Customer to comply with requests by MEDITECH as part of maintaining an adequate security posture will be considered a breach of Customer obligations under this Agreement. Customer will be allowed a cure period of seven (7) days after written notification by MEDITECH of breach of security management obligations. If Customer does not take corrective action within the cure period, Customer will be considered in material breach of this Agreement. Notwithstanding anything to the contrary contained in the Agreement or this Schedule C, MEDITECH reserves the right to immediately suspend Customer's access to The Service if necessary to mitigate any security vulnerabilities introduced to The Service by Customer. Further, if Customer is in breach of its security management obligations under this Agreement, then Customer agrees at its own expense to defend and indemnify MEDITECH from any third party suit or claim which may arise out of the weakened security posture.
- d. **Server/Infrastructure Provisioning.** Customer shall set up required virtual hardware, as defined in the separately documented Hardware Configuration Proposal, sixty (60) days prior to the Access Date. Failure to do so may result in the Access Date being rescheduled.

- e. **Access Control.** Customer agrees to provide appropriate levels of access to MEDITECH personnel to assist in setup, monitoring, and operations of The Service, including but not limited to:

1. Active Directory
2. MEDITECH Client/Server Login

III. Services Excluded

- a. **MEDITECH Production Operations.** Unless otherwise specified herein, MEDITECH is not responsible for any server operations at Customer's location.
- b. Unless otherwise specified herein, MEDITECH is not responsible for any of Customer's systems, components, or services.

IV. MEDITECH Responsibilities

- a. Maintain any third party licenses required to offer The Service to Customer, including any software or hardware licenses.

V. Security and Vulnerability Management

- a. **Connectivity.** In the event of any security related incidents (e.g., virus or denial of service), The Service may discontinue connectivity with Customer until the issue is resolved. It is Customer's responsibility to notify MEDITECH of any security related incident that may compromise the security of the MEDITECH environment and to mitigate any vulnerability(ies) that caused such security related incident.
- b. **Authentication and User Accounts.** Customer is responsible for maintaining User Accounts and Authorization included additions, terminations, and role changes for both Windows and MEDITECH user accounts.

EXHIBIT II

**USER MANUALS AND SPECIFICATIONS
FOR CORRESPONDING APPLICATION INTERFACES AND CONVERSIONS**

(DOCUMENT PROVIDED UNDER SEPARATE COVER)

EXHIBIT III

THIRD PARTY TERMS AND CONDITIONS

Health Gorilla End User Agreement (Exhibit III-A)

EXHIBIT III-A

HEALTH GORILLA END USER AGREEMENT

This Agreement includes products and services licensed by Health Gorilla, Inc. (“Health Gorilla”) to Medical Information Technology, Inc. (“Implementer”) pursuant to a separate SaaS agreement between Health Gorilla and Implementer (the “Master Agreement”). Use of, and access to, the Health Gorilla products and services (“Health Gorilla Technology”) by you (“End User”) is pursuant to a sublicense by Implementer in accordance with the Master Agreement. By accessing and/or using the Health Gorilla Technology, End User agrees to be bound by the following terms and conditions, which are fully incorporated herein by this reference: (1) the End User Terms and Conditions, located at: https://hg-policies.s3.amazonaws.com/ImplementerClientEndUser_TermsAndConditions.pdf; and (2) the Enabling Addendum for End Users, located at: https://hg-policies.s3.amazonaws.com/ImplementerClient_EnablingAddendumForEndUsers.pdf. Furthermore, End User and Implementer agree that Health Gorilla is a third-party beneficiary of this Agreement as it relates to the Health Gorilla Technology.