

Natividad MEDICAL CENTER
County of Monterey Agreement for Services
(Not to Exceed \$100,000)

This Agreement (hereinafter "Agreement") is made by and between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center, an acute care hospital (hereinafter, "NMC"), and **Med Turn, Inc., an Inmar company and parent company of EXP Pharmaceutical Services Corp.**, hereinafter "CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties.").

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

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: **Pharmaceutical reverse distribution services and Cactus Smart Sink supply and services.**

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 **\$96,000.**

~~**TERM OF AGREEMENT:** the term of this Agreement is from October 1, 2016 through September 30, 2019 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.~~

~~NMC reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.~~

SCOPE OF SERVICES AND ADDITIONAL PROVISIONS/EXHIBITS: the following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A: Scope of Services/Payment Provisions

Exhibit B: Cactus Sink User Agreement

Addendum No. 1 to Standard Terms and Conditions

1. PERFORMANCE STANDARDS:

- 1.1. 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.
- 1.2. 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.
- 1.3. 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.

2. PAYMENT CONDITIONS:

- 2.1. Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided herein. NMC (Monterey County) does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 2.2. Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) 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.
- 2.3. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to NMC. If not otherwise specified, the CONTRACTOR may 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 Administrator or his or her designee 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.
- 2.4. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

3. TERMINATION:

- ~~3.1. 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.~~
- ~~3.2. 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.~~

4. INDEMNIFICATION:

- ~~4.1. CONTRACTOR shall indemnify, defend, and hold harmless NMC (hereinafter "County"), its officers, agents and employees from any claim, liability, loss injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The CONTRACTOR shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the CONTRACTOR is obligated to indemnify, defend and hold harmless the County under this Agreement.~~

5. INSURANCE:

5.1. Evidence of Coverage:

- 5.1.1. 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.
- 5.1.2. 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.
- 5.1.3. 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.

- 5.2. 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.

- 5.3. 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:

- 5.4. 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.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

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

- 5.5. 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 \$500,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

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

- 5.6. Workers' Compensation Insurance. If CONTRACTOR employs other 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.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

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

- 5.7. 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.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

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

6. **Other Insurance Requirements:**

- 6.1. 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.
- 6.2. 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.
- 6.3. **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.**
- 6.4. 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 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.

6.5. 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.

7. RECORDS AND CONFIDENTIALITY:

~~7.1. 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.~~

~~7.2. 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.~~

7.3. 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.

~~7.4. 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.~~

~~8. 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.~~

9. 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.

~~10. 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.~~

11. 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.

12. 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: Med-Turn, Inc.
Attn: President
Address: 635 Vine St.
City, State, Zip: Winston Salem, NC 27101
FAX: _____
Email: With a Copy to General Counsel

MISCELLANEOUS PROVISIONS:

- 13.1 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.
- 13.2 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by NMC and the Contractor.
- 13.3 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.
- 13.4 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.

- ~~13.5 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.~~
- 13.6 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.
- 13.7 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.
- 13.8 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 13.9 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 13.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 13.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 13.12 Non-exclusive Agreement. This Agreement is non-exclusive and both NMC and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 13.13 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.
- 13.14 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.
- 13.15 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.
- ~~13.16 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.~~

Signature Page to follow

NATIVIDAD MEDICAL CENTER

By: _____
Gary R. Gray, DO, CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By: _____
Monterey County Deputy County Counsel

Date: 8-30-16

APPROVED AS TO FISCAL PROVISIONS

By: _____
Monterey County Deputy Auditor/Controller

Date: 8-30-16

CONTRACTOR

Med-Turn, Inc.
Contractor's Business Name*** (see instructions)

Signature of Chair, President, or Vice-President
Jeff Pepperworth, President
Name and Title

Date: 8/17/16

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

Rich Schmidt, CFO
Name and Title

Date: 8/17/16

*****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 an individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement (one signature required).

Approved By
MMR
Inmar Legal

**EXHIBIT A: Scope of Services / Payment Provisions
To Agreement by and between
Natividad Medical Center, hereinafter referred to as "NMC"
AND**

Med Turn, Inc., an Inmar company and parent company of EXP Pharmaceutical Services Corp., hereinafter referred to as "CONTRACTOR"

A 1. Reverse Medical Distribution Processing, sorting and shipping

NMC has products that NMC wishes to return and process for credit, including but not limited to pharmaceutical products such as full or partially full bottles of legend drugs, including Non-Controlled and Controlled Substances Schedule II-V, and List 1 Products (collectively, "Product(s)"), as defined by the United States Department of Justice Drug Enforcement Administration ("DEA").

A1.1 On-Site Processing Option

A 1.1.1 CONTRACTOR shall provide an on-site pharmacy return specialist (the "Specialist") to prepare NMC's Product at NMC's facility for shipment to a facility for the purpose of facilitating the return of Product (the "Returns Center"). Should NMC have controlled substances to be returned, the Specialist shall produce a computerized inventory of all Schedule II-V Products and will inventory and generate DEA 222 Forms as appropriate. The Specialist shall package the Products and will leave the prepared Products at NMC's facility for NMC to tender to the carrier for shipment to the Returns Center.

A 1.1.2 CONTRACTOR shall agree to use reasonable industry standard precautions and special handling as needed for safe handling and shipment of Product, and CONTRACTOR reserves the right to deal with Product in any way it deems proper without prior notice to NMC if CONTRACTOR reasonably suspects Product may become dangerous to property or person.

A 1.1.3 At the Returns Center, CONTRACTOR shall capture and report the following information for each Product (unit) processed: NDC #, Lot number, Expiration Date, Form, Package Size, and Quantity. After processing the Product, CONTRACTOR shall ship returnable Product to the manufacturer, its representative, or the wholesaler. CONTRACTOR shall properly dispose of non-returnable processed Products.

A 1.1.4 CONTRACTOR may; at any time before Products are processed for disposal, revoke its acceptance of any Products discovered to be non-conforming, (e.g., damaged shipping boxes, leaking containers, and the like).

A 1.1.5 CONTRACTOR shall not be held liable for any dispute regarding Product count discrepancies once the Product is no longer in CONTRACTOR's care, custody, and control, and CONTRACTOR has no liability for damage to or loss of pallets, boxes, or totes.

A 1.1.6 CONTRACTOR shall provide credit management services pertaining to the reverse distribution (i.e. returning expired pharmaceuticals back to the manufacturer for credit) to maximize VALUE-ADDED PROGRAMS which, if applicable, includes but is not limited to:

- a. Continuously update manufacturer return policies,
- b. Maintain Wholesaler partnerships allowing for credit attainment for manufacturers that typically allow return privileges only to direct purchasers,
- c. The "Indate" program in which products are stored, monitored and processed for future credit at the earliest possible opportunity,
- d. The "Exception" program for return processing of typically non-returnable products in which such products may be made returnable through obtaining special return authorizations from the manufacturers,
- e. Credit compensation consolidated and provided by wholesaler credit memo; or
- f. CONTRACTOR shall follow-up on outstanding credit reimbursement by CONTRACTOR's Customer Service Department.

A 1.1.7 CONTRACTOR shall provide NMC staff access to their online portal at no additional cost to NMC whereby NMC will be able to check status of credits and run reports on items removed. Functionality of the portal includes:

- a. Web portal available for 24/7 access,
- b. Access to all processing reports in both PDF and Excel formats,
- c. Ability to create customized cumulative management reports by facility/system access to business reports,
- d. *Account Quick View* provides a review of percentage of credits received,

- e. *Value-Added Tracking* details a summary of additional credit value processed,
- f. Credit Recovery Summary features the Anticipated Return Value (ARV) and actual credits received,
- g. An *Order Summary Report* posts actual credits received by manufacturer,
- h. Detail of credit(s) received listed by manufacturer product line item:
 - 1. An accounting of transactions (amount received, fees deducted, value delivered),
 - 2. Interactive *EXP Plus Rapid Entry* allowing for the incorporation of individual credit compensation,
 - 3. *Credit Memo Validation* page allows for validation of compensation received.

A 1.1.8 CONTRACTOR's FIELD PERSONNEL QUALIFICATIONS

- a. On-site service will be performed by CONTRACTOR employees, not by subcontracted labor,
- b. CONTRACTOR is currently registered with the Environmental Protection Agency (EPA) as necessary to perform the services under this Agreement. CONTRACTOR shall maintain this registration throughout the term of this Agreement. CONTRACTOR is not responsible for obtaining registrations with the EPA necessary for the management of hazardous waste at any NMC locations,
- c. CONTRACTOR employees will be bonded (insured) and experienced pharmaceutical return specialists,
- d. CONTRACTOR employees will comply with all State and Federal laws, regulations, and requirements in performance of their duties including but not limited to possessing a valid Power-of-Attorney allowing execution of DEA Form 222. A 222 form is a triplicate method in which scheduled meds are exchanged.

A 1.1.9 Unless otherwise agreed, CONTRACTOR shall process and report every Product piece and will request on behalf of NMC, allowable credit from the manufacturer for 100% of the returns. CONTRACTOR shall deliver all electronic or hard copy reports to NMC and reserves the right to use whatever cost-effective means necessary to deliver such reports.

A 1.1.10 All data entered by NMC is owned by NMC. If data is to be returned it should be returned in a format usable to NMC such as Excel or Comma Delimited format.

A2. Cactus Smart Sink Services and Supplies

A 2.1 CONTRACTOR shall sell Cactus Sink canisters to NMC for the specific purpose of storing disposed narcotic waste. CONTRACTOR shall sell batteries and other supplies as required, to NMC for use in the Cactus smart sink's alert alarms and lights systems.

A 2.2 CONTRACTOR shall properly dispose of the contents of the canisters as per State and Federal regulations.

A3. Obligations of NMC

A 3.1 NMC Product

A 3.1.1 NMC acknowledges that certain Products shipped to CONTRACTOR are Hazardous Materials(as defined herein and as defined under Title 49 of the Code of Federal Regulations) and are generally recognized in the industry as requiring special handling. NMC warrants, to the best of its knowledge, that the Hazardous Materials, in the condition in which they are tendered to CONTRACTOR, are fit to be safely processed. Such Hazardous Materials must be accompanied by a written declaration of their nature and contents and be properly labeled and safely packed in accordance with statutory declarations or other regulations or requirements set forth for the processing of Hazardous Materials. NMC agrees that CONTRACTOR reserves the right to accept or reject Hazardous Materials at its complete discretion.

A 3.1.2 NMC shall use Cactus Smart Sink Customer Order Forms and Return Authorization Forms as provided by CONTRACTOR for use in ordering supplies and requesting return of Cactus cartridges.

Exhibit A (continued) Fees

Reverse Distribution Processing Fees

CATEGORY	FEES
On-Site	7.70% of Anticipated Return Value
CONTRACTOR completes the following forms and provides NMC with hard copies:	
Controlled Substance: Schedule II	No Additional Charge
DEA 222 Form	No Additional Charge
Schedule II-V	No Additional Charge
Non-returnable Pharmaceuticals Minimum per pound	No Additional Charge
Incineration Charges: Non-hazardous	No Additional Charge
Non-hazardous	No Additional Charge
Hazardous	No Additional Charge
Shipping	NMC shall be responsible for all shipping charges
Destruction	Non-hazardous products: first 20 lbs. free then \$0.54 per lb. Hazardous products: first 2 lbs. free then \$2.59 per lb.
Product & Regulatory Accountability Fee:	
Invoice to \$100	\$5.00
Invoice to \$500	\$15.00
Invoice to \$5,000	\$25.00
Invoice over \$5,000	\$35.00

Minimum Invoice on Reverse Distribution Services:

On-Site \$350.00. This amount is deducted from the ARV credit which could reduce the credit received from the stated 7.70%.*ARV = Anticipated Return Value (based on assumption that all returnable Product will be processed by CONTRACTOR)

Original Agreement
Med Tum, Inc., and Inmar company and parent company of EXP Pharmaceutical Services Corp.
Pharmaceutical reverse distribution services and Cactus Smart Sink supply & services
Term: October 1, 2016 through September 30, 2019
NTE: \$96,000

Exhibit A (continued) Fees

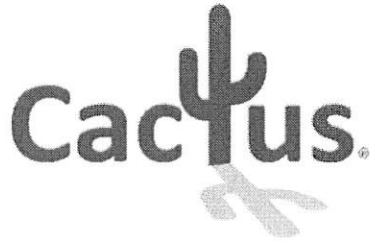
Cactus Smart Sink Supplies

PRODUCT #	PRODUCT DESCRIPTION	UNIT PRICE
10100	SMART SINK UNIT**	\$499.00
10100B	SMART SINK UNIT w/AC ADAPTOR**	\$524.00
10165	PHARMA LOCK OR UNIT**	\$239.00
10201	LIQUIDS CARTRIDGES (4PK)	\$248.00
10301	SOLIDS CARTRIDGES (4PK)	\$248.00
10601	MIXED 2 LIQUIDS & 2 SOLIDS	\$248.00
10400	REPLACEMENT BATTERY	\$59.00
10450	AC ADAPTOR	\$84.00
20101-20	REPLACEMENT LOCK SET	\$25.00
10510	PHARMALOCK HANGING BRACKET	\$19.50
10600	EXTENDED WARRANTY	\$59.00
10313	BLOCK OUT KIT	\$49.00

- a. Sales tax should be itemized and listed separately where applicable.
- b. There is no separate fee for returning the Cactus cartridges for disposal; the cost is included in the purchase of the cartridges.
- c. CONTRACTOR shall not invoice nor bill NMC for any labor or travel time.

Original Agreement
Med Turn, Inc., and Inmar company and parent company of EXP Pharmaceutical Services Corp.
Pharmaceutical reverse distribution services and Cactus Smart Sink supply & services
Term: October 1, 2016 through September 30, 2019
NTE: \$96,000

EXHIBIT B



CACTUS SMART SINK®

USER AGREEMENT

THIS CACTUS SMART SINK® PURCHASE AGREEMENT (this "Agreement") is made and entered into as of October 1, 2016 (the "Effective Date"), by and between Med-Turn, Inc., an Inmar company ("Inmar"), and the County of Monterey on behalf of Natividad Medical Center ("Client").

THIS AGREEMENT GOVERNS THE USE OF ALL CACTUS SMART SINK® ("SMART SINK") CARTRIDGE SERVICES (THE "SERVICES"), INCLUDING, WITHOUT LIMITATION, EVERY ORDER BY CLIENT OF SMART SINK UNITS, CARTRIDGES, BATTERIES, OR OTHER SUPPLIES AND ALL SMART SINK CARTRIDGES SENT TO INMAR FOR DISPOSAL SERVICES. THE CLIENT AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. ALL SERVICES ARE GOVERNED BY THE TERMS AND CONDITIONS IN THIS AGREEMENT. INMAR LIMITS ACCEPTANCE OF ANY ORDER TO THE TERMS AND CONDITIONS IN THIS AGREEMENT, AND OBJECTS TO ANY OTHER ADDITIONAL OR DIFFERENT TERMS IN ANY OTHER PURCHASE ORDER, ORDER FORM, OR ACCEPTANCE DOCUMENT. THE PERSON SIGNING THIS AGREEMENT REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO BIND THE CLIENT TO THESE TERMS AND CONDITIONS. IF THE PERSON DOES NOT HAVE SUCH AUTHORITY, OR IF THE PERSON DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, THE PERSON MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

This Agreement is effective between Inmar and Client as of the Effective Date.

CLIENT OBLIGATIONS

Inmar is pleased to offer the Smart Sink cartridge disposal only when doing so will not violate any hazardous waste regulations. Client shall not insert any hazardous waste ("Hazardous Waste"), as defined under federal law (see, <http://www3.epa.gov/epawaste/hazard/>, 40 C.F.R. §262.11 and subpart D of 40 CFR part 261), or applicable state law, in any unit. Client represents and warrants with every returned cartridge, and re-represents with each returned cartridge, that (i) no returned cartridge will contain Hazardous Waste, (ii) Client will only return cartridges placed in the provided zip lock bag and returned in its original DOT-compliant box, and otherwise packaged as shown in the "Special Packing Instructions," and (iii) Client certifies that it will be fully compliant with federal Hazardous Materials Regulations, and state equivalents, found at 49 C.F.R. Part 171, Subchapter C.

CARTRIDGE INVENTORY

Client should always maintain a back-up of each cartridge for each Smart Sink in use. If Client utilizes the pre-timed cartridge replacement cycles (30, 60, 90 days), Inmar offers an automated cartridge reorder service.

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Pharmaceutical reverse distribution services and Cactus Smart Sink supply and services

Term: 10/1/2016 – 9/30/2019

NTE: \$96,000

Disposal Benefits Include:

- Double-witness incineration for all cartridges
- Cartridge Unit receipt documented and maintained at Inmar
- Cartridges staged in secure and monitored area
- Cartridges securely shipped to incineration facility
- Full implementation of Inmar's licensed and regulated operations and procedures

STANDARD ORDER FORM AND RETURN AUTHORIZATION FORM

If Client orders Smart Sink supplies from Inmar, Client agrees to use an order form substantially similar to the order form attached hereto as Exhibit A to order such Smart Sink supplies, and if Client utilizes the Smart Sink disposal services of Inmar, Client agrees to use a return authorization form substantially similar to the return authorization form attached hereto as Exhibit B to return used cartridges to Inmar.

DISCLAIMER OF WARRANTIES

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, INMAR DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS PROVIDED BY IT, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY AGAINST INFRINGEMENT, THAT SUCH PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE AND ANY WARRANTY ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, THE PRODUCTS PROVIDED BY INMAR ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. IN NO EVENT WILL INMAR BE LIABLE TO CLIENT FOR ANY SPECIAL, EXEMPLARY, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, LOSSES, OR COSTS (INCLUDING LEGAL FEES AND EXPENSES), OR LOST TIME, SAVINGS, PROPERTY, PROFITS, OR GOODWILL, WHICH MAY ARISE IN CONNECTION WITH THE PRODUCTS PROVIDED BY INMAR, REGARDLESS OF THE FORM OF CLAIM OR ACTION, EVEN IF INMAR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, OR COSTS.

LIMITATION

Unless otherwise limited herein, the liability of Inmar to Client under this Agreement or otherwise, regardless of the form of claim or action, will not exceed the amounts actually paid by Client to Inmar for products provided by Inmar under this Agreement in the prior twelve (12) month period. No action arising out of this Agreement may be brought by either party more than one (1) year after the date on which the cause of action has accrued.

INDEMNIFICATION

INDEMNIFICATION OF THE PARTIES – Except as otherwise limited herein, each party (the "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (the "Indemnitee") and its officers, directors, and employees from and against any and all damages, losses, fines, costs and expenses (including reasonable attorneys' fees), judgments, and liabilities (collectively, "Expenses") that (i) are made against or incurred by the Indemnitee in connection with a third party claim and (ii) arise out of or relate to acts or omissions of the Indemnitor in the performance of this Agreement that constitute negligence or willful misconduct on the part of the Indemnitor, so long as such Expenses are not primarily caused by the Indemnitee, its officers, directors, or employees.

INDEMNIFICATION FOR HAZARDOUS MATERIALS - Client shall defend, indemnify, and hold harmless Inmar, its affiliates, and their respective directors, officers, employees, contractors, and agents (collectively, the "Inmar Parties") from and against any and all Expenses arising out of or otherwise relating to (i) the transportation, storage, handling, or disposal by Inmar of Hazardous Materials on behalf

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of Client or (ii) any violation of law by Client (including any government fines or other penalties). The foregoing indemnification obligations shall not apply to Expenses solely caused by the Inmar Parties.

The indemnification set forth in this section is conditioned upon (a) the Indemnitee providing the Indemnitor prompt written notice of any claim or cause of action upon which the Indemnitee intends to base a claim of indemnification hereunder, (b) the Indemnitee providing reasonable assistance and cooperation to enable the Indemnitor to defend the action or claim hereunder, and (c) the Indemnitee refraining from making prejudicial statements associated with such claim without the prior written consent of the Indemnitor.

Note: Should the facility qualify, Inmar may offer the feature of paying the Inmar Invoice in full or in part from the facility's pharmaceutical reverse distribution credits due.

SIGNATURES

Any Order Form, Return Authorization form or other document that incorporates the terms and conditions of this Agreement by reference, may be executed (i) 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, and (ii) using a manual signature, typed signature, electronic signature, or a photocopy, facsimile or other electronic reproduction or signature, any of which shall have the same binding effect as an executed original.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by a duly authorized agent or representative of each party hereto as of the date corresponding to such party's signature.

MED-TURN, INC.

NATIVIDAD MEDICAL CENTER

Signature: 

Signature: _____

Name Printed: Jeff Pepperworth

Name Printed: _____

Title: President

Title: _____

Date: 8/17/16

Date: _____

EXHIBIT A
ORDER FORM
CACTUS SMART SINK®
CUSTOMER ORDER FORM

DATE _____ PO # _____

CUSTOMER/FACILITY NAME _____

CONTACT NAME & TITLE _____

SHIP TO ADDRESS _____

SHIP TO CITY _____ ST _____ ZIP _____

EMAIL _____ PHONE _____ GPO _____

INMAR SALESPERSON _____ EXP ACCOUNT # _____

QTY	PRODUCT #	PRODUCT DESCRIPTION	UNIT PRICE	EXTENDED PRICE
	10100	SMART SINK UNIT		
	10100B	SMART SINK UNIT w/AC ADAPTOR		
	10165	PHARMA LOCK OR UNIT		
	10201	LIQUIDS CARTRIDGES (4PK)		
	10301	SOLIDS CARTRIDGES (4PK)		
	10601	MIXED 2 LIQUIDS & 2 SOLIDS		
	10400	REPLACEMENT BATTERY		
	10450	AC ADAPTOR		
	20101-20	REPLACEMENT LOCK SET		
	10510	PHARMALOCK HANGING BRACKET		
	10600	EXTENDED WARRANTY		
	10313	BLOCK OUT KIT		
		TOTALS		

Note – To avoid RUSH shipping & handling charges on replacement supplies a minimum of 1 backup cartridge of each type is recommended for each unit when numbering 10 or less and for half of the units when numbering above 10.

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☐ *If available, I would like to use my facility's pharmaceutical reverse distribution credits due for payment. If said credits are not available, I agree to be invoiced for any and all remaining balances.*

This Order Form is governed by the terms and conditions of that certain Cactus Smart Sink® Purchase Agreement executed by and between Med-Turn, Inc. and the customer identified above.

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EXHIBIT B

RETURN AUTHORIZATION FORM

CACTUS SMART SINK® CARTRIDGE RETURN AUTHORIZATION FORM

Complete, Execute, Scan, and Email to: expdxdisposal@inmar.com Please use Subject Line: "RA Request"

DATE: _____

CUSTOMER/FACILITY NAME: _____ ("Customer")

INMAR ACCT #: _____

ADDRESS: _____

CITY: _____

STATE AND ZIP CODE: _____

Customer is requesting return authorization for the following Smart Sink cartridges:

Solids Cartridge(s): (please list number of cartridges to be returned) # _____

Liquids Cartridge(s): (please list number of cartridges to be returned) # _____

Cactus Smart Sink Cartridge Customer Certification

Med-Turn, Inc., an Inmar company ("Med-Turn"), only accepts returns of Cactus Smart Sink cartridges if Customer fully and accurately completes this Cactus Smart Sink Cartridge Return Authorization Form and returns this completed form to Inmar as instructed. Upon receipt of the completed Return Authorization from Inmar, Customer shall place the cartridges identified in this form in the provided zip lock bag, return in their original DOT-compliant box, further package as shown in the "Special Packing Instructions," and send to Inmar's processing facility.

This Return Authorization Form is governed by the terms and conditions of that certain Cactus Smart Sink® Purchase Agreement executed by and between Inmar and the Customer. As provided in such Cactus Smart Sink® Purchase Agreement, an original, typed or other electronic signature on this Return Authorization Form is binding.

☐ Customer hereby certifies that no hazardous waste, as defined under 40 C.F.R. Part 261 et seq., or applicable state law, has been placed into the cartridge(s). Customer further certifies that it has complied with the applicable requirements of the Hazardous Materials Regulations, 49 C.F.R. Part 171, et seq., including without limitation, the shipper's responsibilities set forth in 49 C.F.R. § 173.22. (Note: If your facility is located in Washington State, used cartridges must be managed as Washington-state Dangerous Waste at a TSD and cannot be shipped to Inmar.)

This Cactus Smart Sink Return Authorization Form may be delivered by scanned PDF image delivered via electronic mail.

NAME: _____

TITLE: _____

SIGNATURE: _____

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ADDENDUM #1

TO AGREEMENT BY AND BETWEEN MED TURN, INC., AN INMAR COMPANY AND PARENT COMPANY OF EXP PHARMACEUTICAL SERVICES CORP., AND THE COUNTY OF MONTEREY ON BEHALF OF NATIVIDAD MEDICAL CENTER FOR PHARMACEUTICAL REVERSE DISTRIBUTION SERVICES

This Addendum #1 amends, modifies, and supplements the County of Monterey Agreement for Services (hereinafter "Agreement") by and between Med Turn, Inc., an Inmar company and parent company of EXP Pharmaceutical Services Corp. (hereinafter "CONTRACTOR") and the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC" or the "County"). This Addendum #1 has the full force and effect as if set forth within the Terms. 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 attached Agreement.

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

I. Agreement paragraph "TERM OF AGREEMENT" shall be deleted in its entirety and replaced with the following:

The term of this Agreement is from October 1, 2016 through September 30, 2019 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.

II. Agreement paragraph 3.1 under section titled "TERMINATION" shall be deleted in its entirety.

III. Agreement paragraph 3.2 under section titled "TERMINATION" shall be deleted in its entirety and replaced with:

3.2 NMC may cancel and terminate this Agreement for a material breach provided that NMC shall provide CONTRACTOR at least thirty days (30) notice of such material breach. CONTRACTOR shall have the opportunity to cure such material breach. If CONTRACTOR does not cure in thirty days (30), NMC may cancel and terminate this Agreement.

IV. An additional paragraph 3.3 under section titled "TERMINATION" shall be added as follows:

3.3 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. Notwithstanding the foregoing, NMC shall remain liable for payment to CONTRACTOR for services rendered prior to such notice described in this Section 3.3.

V. Agreement paragraph 4.1 under section titled "INDEMNIFICATION" shall be deleted in its entirety and replaced with the following:

4.1 CONTRACTOR shall indemnify, defend, and hold harmless The County of Monterey on behalf of Natividad medical Center (hereinafter the County), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by CONTRACTOR and/or its agents, members, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the Parties to this Agreement to provide the broadest possible indemnification for the County. CONTRACTOR shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred by the County with respect to any litigation in which CONTRACTOR is obligated to indemnify, defend and hold harmless The County under this Agreement.

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

VI. Agreement paragraph 7.1 "Confidentiality" shall be deleted in its entirety and replaced with the following:

7.1 Confidentiality: Each party and its officers, employees, agents shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. Neither party to this Agreement shall disclose any confidential records nor other confidential information received in connection with the performance of this Agreement. Communication shall be promptly transmitted between parties regarding any and all requests for disclosure of any such confidential records or information. Neither party shall use any confidential information gained by the performance of this Agreement except for the sole purpose of carrying out the obligations under this Agreement. CONTRACTOR acknowledges this Agreement cannot be kept confidential in the event NMC receives a Public Records Act request.

- VII. Agreement paragraph 7.2 “NMC Records” shall be deleted in its entirety and replaced with the following:**
- 7.2 NMC Records: When this Agreement expires or terminates, CONTRACTOR shall return to NMC or destroy, any NMC records which CONTRACTOR used or received from NMC to perform services under this Agreement.
- VIII. Agreement paragraph 7.4 “Access to and Audit of Records” shall be deleted in its entirety and replaced with the following:**
- 7.4 Access to and Audit of Records: NMC shall have the right at its sole cost and expense to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR 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 (3) years after final payment under the Agreement.
- IX. Agreement paragraph 8, “Royalties and Inventions”, shall be deleted in its entirety.**
- X. Agreement paragraph 10, “Compliance with Terms of State or Federal Grant”, shall be deleted in its entirety.**
- XI. Agreement paragraph 13.5 “Disputes” shall be deleted in its entirety.**
- XII. Agreement paragraph 13.16 “Interpretation of Conflicting Provisions”, shall be deleted in its entirety and replace with the following:**
- 13.16 Interpretation of Conflicting Provisions:
In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Exhibit B titled, “Cactus User Agreement”, to this Agreement, the provisions of such exhibit shall prevail and control as related solely to that Exhibit B only.
- XIII. An additional paragraph 13.17 “Limitations” shall be added as follows:**
- 13.17 Limitations: Unless otherwise limited herein, the liability of CONTRACTOR to NMC under this Agreement or otherwise, regardless of the form of claim or action, will not exceed the amounts of maximum insurance required as stated in this agreement.

XIV. An additional paragraph 13.18 “DISCLAIMER OF WARRANTIES” shall be added as follows:

- 13.18 DISCLAIMER OF WARRANTIES: Except as otherwise expressly provided in this agreement, CONTRACTOR disclaims all warranties, express or implied, regarding the services provided by it, including, but not limited to, any warranty, that such services will be uninterrupted or error free and any warranty arising from a course of dealing, usage, or trade practice. Except as otherwise provided in this agreement, the services provided by CONTRACTOR are provided “as is” without warranty of any kind. In no event will Inmar be liable to NMC for any special, exemplary, incidental, indirect, or consequential damages, losses, or costs (including legal fees and expenses), or lost time, savings, property, profits, or goodwill, which may arise in connection with the services provided by Inmar, regardless of the form of claim or action, even if contractor has been advised of the possibility of such damages, losses, or costs.