

 **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 \_\_\_\_\_ 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:

\_\_\_\_\_  
\_\_\_\_\_.

**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 \_\_\_\_\_.

**TERM OF AGREEMENT;** the term of this Agreement is from \_\_\_\_\_ through \_\_\_\_\_ 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

**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:

Prior to commencement of this Agreement, the CONTRACTOR shall provide a “Certificate of Insurance” certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the CONTRACTOR upon request shall provide a certified copy of the policy or policies.

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

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.

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<p><b><u>NATIVIDAD MEDICAL CENTER:</u></b></p> <p>Natividad Medical Center Attn: Contracts Division Natividad Medical Center 1441 Constitution Blvd Salinas, CA. 93906 FAX: 831-757-2592</p>	<p><b><u>CONTRACTOR:</u></b></p> <p>Name: _____</p> <p>Attn: _____</p> <p>Address: _____</p> <p>City, State, Zip: _____</p> <p>FAX: _____</p> <p>Email: _____</p>
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**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: \_\_\_\_\_

**APPROVED AS TO FISCAL PROVISIONS**

By: \_\_\_\_\_  
Monterey County Deputy Auditor/Controller

Date: \_\_\_\_\_

**CONTRACTOR**

\_\_\_\_\_  
Contractor's Business Name\*\*\* (see instructions)

\_\_\_\_\_  
Signature of Chair, President, or Vice-President

\_\_\_\_\_  
Name and Title

Date: \_\_\_\_\_

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

\_\_\_\_\_  
Name and Title

Date: \_\_\_\_\_

**\*\*\*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).



## Exhibit A: Scope of Services /Payment Provisions

To Agreement by and between  
**Natividad Medical Center**, hereinafter referred to as “NMC”  
AND

**PREVENTICE SERVICES LLC**, hereinafter referred to as “CONTRACTOR”

### Scope of Services/Payment Provisions

#### I. CONTRACTOR Obligations:

- a. At the request or direction of the physicians of NMC, CONTRACTOR shall provide arrhythmia monitoring services (the “Services”) including 24-hour attended monitoring where applicable. Such Services may include, depending upon monitor and service requested, CONTRACTOR generation of reports to ordering physician and priority notice to physician if patient meets or exceeds notification criteria provided by physician. For Holter monitor service, a report will be generated within agreed upon timeframe of receipt of data by CONTRACTOR. For other monitors, and where applicable, a report containing ECG strips, patient data and technician’s observations will be available on the secure CONTRACTOR website after each telephonic transmission is received by CONTRACTOR and within agreed upon timeframe with NMC based upon severity of cardiac event and stoplight protocol, and a final summary will be provided upon completion of the cardiac event monitoring period. A report protocol will be established with regard to communication with NMC in form and manner that best suits the needs of NMC and physicians.
- b. **Patient Enrollment and Activation.** : During enrollment NMC shall ensure that all necessary information to provide Services to each patient and bill such Patient’s insurance company, including but not limited to, prescription forms from an authorized provider, is provided to CONTRACTOR. To complete activation of Services, NMC will confirm via telephone communication that certain required information has been received by CONTRACTOR, including patient name, applicable Holter, cardiac event diagnostic or mobile cardiac telemetry monitor (“Monitor”) serial number and any Monitor setting changes required.
- c. **Remote Cardiac Monitoring:** CONTRACTOR will loan its cardiac event monitors to NMC solely for the purpose of providing the Services. Monitors shall be provided on loan to NMC at no charge. All monitors, equipment, software and technology remain the property of CONTRACTOR. NMC agrees to reimburse CONTRACTOR \$900 for any lost or damaged cardiac event monitor, \$1,080 for any lost or damaged Holter and \$2,100 for any lost or damaged Mobile Cardiac Telemetry Monitor; provided, however, NMC is not responsible for lost equipment in the possession of the patient at the time of loss.
- d. **Training:** The Services include an initial in-service training at no cost to NMC by CONTRACTOR to NMC’s designated personnel and additional training upon request by NMC.

## Exhibit A: Scope of Services /Payment Provisions

### II. NMC Obligations:

- a. As a condition of CONTRACTOR's obligation to provide the Services, NMC, at its sole cost and expense, agrees to provide a high-speed internet connection for continuous use by NMC to access applicable Services. At any time that NMC is unable to provide the high-speed internet connection as required hereunder, CONTRACTOR shall not be responsible for any failure to provide the Services.
- b. **Responsibility for Patient Care:** The NMC and its hospital, physicians and staff retain the professional and administrative responsibility for the patient care provided.
- c. **Return of Monitors, Equipment, Accessories:** NMC shall promptly return all Monitors, equipment, accessories, software and technology to CONTRACTOR in good repair, condition and working order upon any termination or expiration of this Agreement.

### III. Both Parties Agree to the following:

- a. **Acknowledgement of HIPAA Requirements:** All Parties shall comply with applicable HIPAA Requirements and shall exercise and maintain necessary protections and confidentiality with regards to Protected Health Information ("PHI") as defined in 45 CFR § 164.501.
- b. **Patient Billing:** NMC will bill directly to patient's insurance carrier using appropriate billing code for the professional interpretation component and any applicable professional hook up component if hook up component is performed at NMC's location. CONTRACTOR will bill the patient's insurance company directly for the technical component. CONTRACTOR requires NPI numbers for all physicians ordering the Service, and NMC agrees to provide such NPI number for all applicable physicians to CONTRACTOR prior to enrollment of patients by said physician.
- c. **Compliance with Applicable Regulations:** Each Party's performance hereunder shall comply with applicable federal, state and local laws, regulations and ordinances.
- d. **Force Majeure:** Neither Party shall be liable for any delays in the performance of any of its obligations hereunder due to causes beyond its reasonable control, including without limitation acts of God, civil unrest, strikes, labor disputes and governmental demands or requirements.

### IV. Additional Payment Terms:

- a. There is no reimbursement of expenses of any kind allowed under this Agreement.
- b. CONTRACTOR warrants that the cost charged for services under the terms of this contract are not in excess of those charged any other NMC for the same services performed by the same individuals.
- c. Payment may be based upon acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.
- d. NMC may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to comply with any material term or condition of this Agreement.
- e. No payments in advance or in anticipation of Services or supplies to be provided under this Agreement shall be made by NMC.

## **EXHIBIT B**

### **Justification for Exemption to Auto Insurance Requirements**

Both NMC and CONTRACTOR agree that because there is no driving associated with providing the services as per this Agreement and its Scope of Services, CONTRACTOR is not required to comply with the auto insurance requirements as stated herein.

Should the scope of services change at any time during the term of this Agreement, this exemption may be revoked.

## **ADDENDUM NO. 1**

### **TO AGREEMENT BY AND BETWEEN PREVENTICE SERVICES, LLC, AND THE COUNTY OF MONTEREY ON BEHALF OF NATIVIDAD MEDICAL CENTER FOR ARRHYTHMIA MONITORING SERVICES**

This Addendum No. 1 amends, modifies, and supplements the County of Monterey Agreement for Services (hereinafter "Agreement") by and between Preventice Services, LLC (hereinafter "CONTRACTOR") and the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"). 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. Paragraph 4.1, "INDEMNIFICATION", shall be amended to:**

4.1.a The Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents, employees, or subcontractors from any claim, liability, loss, injury or damage arising out of, or in connection with, i) the performance of this Agreement by the Contractor and/or its officers, agents, employees or sub-contractors; or ii) failure of the Contractor to materially comply with any applicable federal, state, or local laws or regulations in the performance of its obligations under this Agreement, or; iii) breach by the Contractor and/or its officers, employees, agents or subcontractors of any representation, warranty, or other obligation under this Agreement, excepting only loss, injury or damage caused by the negligence or willful misconduct of County and/or its officers, agents, employees and subcontractors. The Contractor shall reimburse the County for any and all costs, attorneys' fees, expenses, damages, and liabilities resulting from any claim, suit, proceeding or cause of action in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

4.1.b The County shall indemnify, defend, and hold harmless the Contractor, its officers, agents, employees, and subcontractors from any claim, liability, loss, injury or damage arising out of, or in connection with, i) the performance of this Agreement by the County and/or its officers, agents, employees or sub-contractors; or ii) any failure of the County to materially comply with any applicable federal, state, or local laws or regulations in the performance of its obligations under this Agreement, or iii) breach by the County and/or its officers, employees, agents or subcontractors of any representation, warranty, covenant, or

obligation under this Agreement, excepting only loss, injury or damage caused by the negligence or willful misconduct of the Contractor and/or its officers, agents, employees and subcontractors. The County shall reimburse the Contractor for any and all costs, attorneys' fees, expenses, damages, and liabilities incurred resulting from any claim, suit, proceeding or cause of action in which the County is obligated to indemnify, defend and hold harmless the Contractor under this Agreement.

**II. Paragraph 5.2, "Qualifying Insurers", shall be amended to:**

5.2 Qualifying Insurers. All coverages except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A, according to the current Best's Key Rating Guide for a company of equal financial stability that is approved by NMC's Contracts/Purchasing Director.

**III. Paragraph 5.7, "Professional Liability Insurance", shall be amended to:**

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 professional 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 two (2) years following the expiration or earlier termination of this Agreement.

**IV. Paragraph 6.1, "Other Insurance Requirements", shall be amended to:**

6.1 All insurance required by this Agreement shall be with a company acceptable to NMC and executed by an admitted insurer authorized to transact business in the State of California. If the policy is not written on an occurrence basis, the coverage required herein shall continue in effect for a period of two (2) years following the expiration or earlier termination of this Agreement.

**V. Paragraph 6.2, "Other Insurance Requirements", shall be amended to:**

6.2 CONTRACTOR shall endeavor to provide NMC with at least thirty (30) days advance written notice of the cancellation, termination, or reduction in coverage limits of insurance coverage required hereunder. CONTRACTOR shall require all subcontractors to obtain and maintain during the time in which they are engaged in performing work hereunder, adequate insurance coverage as required in their

subcontracts with CONTRACTOR, by applicable law, and as is reasonable and customary for the work to be performed under such subcontract.

**VI. Paragraph 6.3, “Other Insurance Requirements”, shall be omitted in its entirety.**

**VII. Paragraph 6.4, “Other Insurance Requirements”, shall be amended to:**

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 CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate within a reasonable time after any material 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 the Agreement which shall continue in full force and effect.

**VIII. Paragraph 6.5 “Other Insurance Requirements”, shall be amended to:**

6.5. CONTRACTOR shall at all times to during the term of the Agreement maintain in force the insurance coverage required under this Agreement and shall send, upon receipt of a written request from NMC, annual certificates to NMC’s Contracts/Purchasing Department. After receipt of NMC’s written request, CONTRACTOR shall have ten (10) business days to send in the certificate, evidencing no lapse of coverage in 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.

**IX. Paragraph 7.1, “CONFIDENTIALITY”, shall be amended to:**

7.1 Confidentiality. Confidential Information means all data, reports and information received by one Party (the “Recipient”) from a disclosing Party (the “Discloser”) about the Discloser’s business, business plans, customers, patients, suppliers, strategies, trade secrets, operations, records and technologies; provided, however, Confidential Information does not include information that: (i) now or later becomes generally available to the public without fault of the Recipient; (ii) is rightfully in the Recipient’s possession without obligation of confidentiality prior to its disclosure by the Discloser; (iii) is independently developed by the Recipient without the use of any Confidential Information of the Discloser; (iv) is obtained by the Recipient without obligation of confidentiality or use from a third party who has the right to so disclose it; or (v) is approved in writing for release by the Discloser. Neither Party shall disclose to any third party nor use for any purpose except as required hereunder any Confidential Information of the Discloser. In the event that the Agreement or the contents therein are (a) required to be disclosed per a Public Records Act request

made pursuant to California Government Code Sections 6250-6270, or (b) required to be disclosed under law due to the valuation of the Agreement being equal to or greater than one hundred thousand dollars (\$100,000.00), CONTRACTOR agrees that the Agreement including pricing for the Agreement shall be turned over to the appropriate party.

- X. Section 8, “Royalties and Inventions”, shall be omitted in its entirety.**
- XI. Section 11, “Independent Contractor”, shall be amended to:**  
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 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.
- XII. Section 13 “MISCELLANEOUS PROVISIONS”, and paragraphs 13.1-13.16 therein shall be renumbered to Section 14, and paragraphs 14.1-14.16 respectively.**
- XIII. A new Section 13, “LIABILITY LIMITATION”, shall be added as follows:**  
13. Liability Limitation. a. EXCEPT FOR BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER THE AGREEMENT AND ANY ACTIONS FOR INTELLECTUAL PROPERTY INFRINGEMENT, CONTRACTOR SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT FOR LOSS OF PROFITS OR OTHER ECONOMIC LOSS OR FOR CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR INCIDENTAL DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CONTRACTOR’S TOTAL, AGGREGATE LIABILITY UNDER THIS AGREEMENT, IF ANY, INCLUDING ANY LIABILITY ARISING OUT OF CONTRACT, NEGLIGENCE, AND STRICT LIABILITY IN TORT OR WARRANTY, SHALL NOT EXCEED THE AMOUNT OF SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00).  
b. EXCEPT FOR BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER THE AGREEMENT AND ANY ACTIONS FOR INTELLECTUAL PROPERTY INFRINGEMENT, NMC SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT FOR LOSS OF PROFITS OR OTHER ECONOMIC LOSS OR FOR CONSEQUENTIAL,

SPECIAL, EXEMPLARY, OR INCIDENTAL DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NMC'S TOTAL, AGGREGATE LIABILITY UNDER THIS AGREEMENT, IF ANY, INCLUDING ANY LIABILITY ARISING OUT OF CONTRACT, NEGLIGENCE, AND STRICT LIABILITY IN TORT OR WARRANTY, SHALL NOT EXCEED THE AMOUNT OF SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00).

**XIV. Paragraph 14.6, "Assignment and Subcontracting", shall be amended to:**

14.6 Assignment and Subcontracting. Neither Party shall assign, sell, or otherwise transfer its interest or obligations in the Agreement without the prior consent of the other party, which shall not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign its interest or obligations in this Agreement to any third party or affiliate who acquires all or substantially all of its business. None of the Services covered by this Agreement shall be subcontracted to any subcontractor without such subcontractor entering into an agreement with requirements no less stringent than those contained in this Agreement and HIPAA. CONTRACTOR shall continue to be liable for the performance of all requirements under this Agreement.

*Signature page to follow.*



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

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