

**AMENDMENT NO. 1
TO SERVICES AGREEMENT
BETWEEN STRYKER SALES CORPORATION, DBA STRYKER INSTRUMENTS AND
NATIVIDAD MEDICAL CENTER
FOR
PREVENTATIVE MAINTENCNE ON POWER TOOLS AND NEPTUNE EQUIPMENT, PLUS
MAINTENANCE ON ENDOSCOPY EQUIPMENT**

This Amendment No. 1 to the Services Agreement ("Agreement") which became effective on May 1, 2018 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"), and Stryker Sales Corporation Dba Stryker Instruments (hereinafter "CONTRACTOR"); (collectively, the County, NMC and CONTRACTOR are referred to as the "Parties"), with respect to the following:

RECITALS

WHEREAS, the Agreement was executed for preventative maintenance on surgical Power Tools and Neptune equipment with a term of May 1, 2018 through April 30, 2020 and a total Agreement amount not to exceed \$69,789; and

WHEREAS, NMC and CONTRACTOR currently wish to amend the Agreement to add a Procure Protect maintenance and repair plan on endoscopy equipment for a thirty six (36) month period costing \$3,175 per month (\$114,300 total cost for 36 months) for a revised total Agreement amount of \$184,089.

AGREEMENT

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the Agreement incorporated herein by this reference, except as specifically set forth below.

1. Section 2 / Paragraph titled, "PAYMENTS BY NMC" shall be amended to the following:
"NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in EXHIBIT A, EXHIBIT B plus EXHIBIT C as per Amendment No. 1 attached hereto this Amendment No. 1. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$184,089."
2. The first sentence of paragraph titled, "TERM OF AGREEMENT" on page 1 of the original Agreement shall be amended to the following:
*"The Preventative Maintenance term for Power Tools and Neptune Equipment is May 1, 2018 through April 30, 2020.
The Procure Protect Maintenance Plan for the Endoscopy Equipment is May 15, 2019 through May 14, 2022.
As such, the full term of this Agreement is from May 1, 2018 through May 14, 2022 unless sooner terminated pursuant to the terms of this Agreement."*

3. Section 4/ Paragraph titled, "SCOPE OF SERVICES AND ADDITIONAL PROVISIONS/EXHIBITS" shall be amended to the following:
"The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:
Exhibit A: Scope of Services/Payment Provisions for Power Tools & Neptune Equipment
Exhibit A-1: Product Service Plan and Inventory Sheet for Power Tools & Neptune Equipment
Exhibit B: Additional Risk Provisions
Exhibit C: Scope of Services/Payment Provisions for Procure Protect Plan for Endoscopy Equipment
4. Except as provided herein, all remaining terms, conditions and provisions of the Original Agreement are unchanged and unaffected by this Amendment No. 1 and shall continue in full force and effect as set forth in the Agreement.
5. A copy of this Amendment No. 1 shall be attached to the Original Agreement.
6. This Amendment No. 1 shall be effective May 15, 2019.

The remainder of this page was intentionally left blank.

~ Signature page to follow ~

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

NATIVIDAD MEDICAL CENTER

By: _____
Gary R. Gray, DO, CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By: CB
Monterey County Deputy County Counsel

Date: April 9, 2019

APPROVED AS TO FISCAL PROVISIONS

By: [Signature]
Monterey County Deputy Auditor/Controller

Date: 4-10-19

CONTRACTOR

Stryker Sales Corporation Dba Stryker Instruments

CONTRACTOR's Business Name

See instructions below

By: [Signature]
(Signature of: Chair, President, or Vice-President)

Brad Canada Director of Sales, ProCare
Name and Title

Date: 02-25-2019

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

Brent Ladd President, Endoscopy
Name and Title

Date: March 20, 2019

*****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 C: Additional Scope of Work/Payment Provisions for Endoscopy Equipment

ENDOSCOPY SERVICE PLAN

EFFECTIVE DATE (if left blank, then the last- signed date below):	May 15, 2019			
SERVICE PLAN TERM:	36 MONTHS (May 15, 2019 – May 14, 2022)			
PARTICIPANT NAME:	NATIVIDAD MED CTR (ACCT 21989)			
BILLING ADDRESS:	PO BOX 81611 SALINAS, CA, 93912, US		CUSTOMER PO #: _____ PO must match Agreement Term	
SHIP TO NAME AND ADDRESS:	1441 CONSTITUTION BLVD SALINAS, CA, 93906, US			
SELECT PLAN:	<u>ProCare Protect</u> Endoscopy	ProCare-Prevent Endoscopy– (Novadaq Spy-Elite and LUNA-products-only)	<u>OnSite Specialist(s)</u> Endoscopy [±] [±] Endoscopy OnSite services are set forth in the "Additional Services" box below.	<u>Handheld Instrument Repair ("HIR")</u> Endoscopy
SELECT PAYMENT PLAN:	Monthly payment of: \$3,175.00 (total cost over 36 mo shall not exceed \$114,300, unless amended in writing by the parties)			

SERVICES :

ProCare Protect

1. **ProCare Protect Coverage**. Stryker shall provide the Services for Equipment set forth in the applicable Service Plan, subject to the limitations and exclusions contained herein ("**ProCare Protect Coverage**"):
 - 1.1. An unlimited number of repairs or replacements of the Equipment, due to damage associated with normal use, and wear, including all parts and labor associated with mail-in services. For purposes of clarity, Services provided by Stryker Medical are upon request and at the Customer's facility, there is no additional cost for Stryker's travel and expense;
 - 1.2. Repair or replacement of the Equipment at Stryker's sole discretion;
 - 1.3. If applicable, Loaner Equipment during the period that Equipment is in Stryker's possession for repair, except that all such loaner Equipment is subject to availability and Stryker's Loaner Policy (set forth in Schedule A of the Agreement);
 - 1.4. All freight costs associated with shipments of repairs and loaner Equipment to Customer's facility;
 - 1.5. Prioritized repairs over non-contracted customers, with no additional administration or approval process;
 - 1.6. Training to Participant personnel and surgeons in the safe and effective use of the Equipment; and
 - 1.7. Other assistance reasonably requested by Participant in connection with the Equipment.

Exhibit C: Additional Scope of Work/Payment Provisions for Endoscopy Equipment

EQUIPMENT COVERED:

Item No.	Part No.	Description	Years	Quantity	Sell Price Ea. / Month	Total Monthly Sell Price
1	1588610122	PKG, 1588 AIM CAMERA HEAD WITH INTEGRATED COUPLER	3	2	\$233.33	\$466.67
2	1588TWR	1588 TOWER COVERAGE	3	2	\$100.00	\$200.00
2.1	1588010000	PKG, 1588 AIM CAMERA CONTROL UNIT (CCU)	3	2	\$60.00	\$120.00
2.2	0220220300	PKG, 110 LED LIGHT SOURCE WITH AIM	3	2	\$100.00	\$200.00
2.3	0240060100	SDC3 BASE SYSTEM	3	2	\$63.33	\$126.67
2.4	0240260000	CLARITY CONSOLE	3	1	\$50.00	\$50.00
2.5	0620050000	PNEUMOCLEAR PLUS CO2 CONDITIONING INSUFFLATOR (AMERICAS)	3	1	\$60.00	\$60.00
2.6	0240031010	PKG, SYNK WIRELESS TRANSMITTER	3	1	\$26.67	\$26.67
2.7	0475100000	PKG, CROSSFIRE 2 CONSOLE	3	1	\$50.00	\$50.00
2.8	0450000000	PKG, CROSSFLOW CONSOLE	3	1	\$50.00	\$50.00
3	0240031000	PKG, VISIONPRO SYNK 26" WIRELESS LED DISPLAY	3	2	\$83.33	\$166.67
4	0240031020	PKG, VISIONPRO 26" LED DISPLAY	3	1	\$83.33	\$83.33
5	0240080230	SDP1000	3	2	\$33.33	\$66.67
6	PC9001	Video Processor/Illuminator (VPI)	3	1	\$191.67	\$191.67
7	PC9002	Pinpoint S1 Camera Head	3	2	\$291.67	\$583.33
8	SC9104	Pinpoint Laparoscope - 10mm, Standard, 0 with Wolf and Storz adaptor	3	2	\$183.33	\$366.67
9	SC9134	Pinpoint Laparoscope - 10mm, Standard, 30 with Wolf and Storz adaptor	3	2	\$183.33	\$366.67
Monthly Sell Price						\$3,175.00

ADDITIONAL SERVICE TERMS:

1. Endoscopy Equipment Coverage: Term and Termination of Exhibit C.
 - a. Stryker shall perform the Services more particularly described in the applicable Service Plan. The Services will cover the Equipment identified in herein this Exhibit C. At any time during the term of a Service Plan, a Participant may request to have additional Stryker equipment covered under a Service Plan. Any such change must be approved in writing by both parties via an amendment signed by both parties.
 - b. Service Plans are applicable only to Equipment which has been determined by Stryker personnel to be in good operating condition upon his/her initial review thereof. If, upon review, initial repairs are required to put any Equipment back into good operating condition, the cost of such initial repairs will not be covered under this Agreement or any Service Plan, and will be separately invoiced at Stryker's then-current list price.
 - c.
 - d. The term of this Exhibit C shall be as stated therein ("**Exhibit C Term**"). The Participating Stryker Division, Customer or a Participant may cancel a Service Plan for convenience by giving not less than sixty (60) days prior written notice to the other party. The Participating Stryker Division shall promptly refund any unused prepaid Service fees upon any such termination for convenience. To the extent there are outstanding charges, Customer or Participant shall be responsible for all costs incurred by Stryker up to and through the effective date of termination.
2. Loaner Policy. During the Service Plan Term, if a Participating Stryker Division has a loaner program, it may provide to Customer at Stryker's sole discretion and based on availability, a complimentary item of equipment on loan ("**Loaner**") during the period in which Stryker is servicing, repairing and/or replacing Customer's Equipment ("**Loaner Period**"). The Loaner will remain the property of Stryker during the Loaner Period. At the end of the Loaner Period, Customer will have seven (7) days (unless a date soon thereafter is mutually agreed upon) to return the Loaner to Stryker ("**Return Period**"). If Customer does not return the Loaner by the end of the Return Period, Customer agrees to pay the purchase price of the Loaner ("**Loaner Purchase Price**"), which shall be equal to its current fair market value (as determined by Stryker). The Loaner Purchase Price shall be invoiced against the Customer's current purchase order on file. Upon payment of the Loaner Purchase Price ("**Payment**"), title to the Loaner shall transfer to the

Customer. If, within a reasonable time after Payment, Customer wishes to return the Loaner to Stryker, then Stryker, in its sole discretion, may purchase the Loaner from Customer at its then-current fair market value.

3. .
4. **Invoices/Payments.** Except as otherwise provided in a Service Plan, Stryker will submit to Customer an invoice for Services, and Customer's Auditor-Controller shall pay the invoice in full within thirty (30) days from the receiving the invoice which is to be certified by Natividad. In the event Customer wishes to dispute an invoice or portion thereof, Customer must notify Stryker in writing within fifteen (15) days of its receipt. The writing must provide Stryker with sufficient detail regarding the basis and amount of the dispute. If Customer does not dispute an invoice within fifteen (15) days of its receipt of same, the invoice will be deemed to have been accepted by Customer. If payment is overdue, Stryker reserves the right to: (a) suspend any or all Participants' ProCare Protect coverage and OnSite Services until full payment is made; and/or terminate this Agreement or any Service Plan upon written notice to the Participant or Institution, as appropriate.
5. **Non-Solicitation.** Customer agrees that, while a Service Plan is in effect hereunder, and for a period of one (1) year following the termination or expiration of the last Service Plan, it will not solicit any employees of Stryker to terminate their employment with Stryker, unless Stryker consents in writing. Nothing herein shall prohibit Customer from hiring employees of Stryker who respond to a general employment solicitation such as a newspaper advertisement.
6. **Background Check.** Stryker warrants that all of its employees who will be at a Participant's facility to perform Services will have undergone a criminal background check as part of Stryker's hiring practice and for vendor credentialing for its regular employees. The background check will consist of the following:
 - Education verification, which includes a review of employee's submitted educational institutions to ensure proper accreditation;
 - Employment history verification;
 - SSN trace, including address history verification;
 - OFAC Watch List search, including a search of global terrorist and national drug trafficker lists;
 - FDA Debarment and Disqualified/Restricted List search;
 - OIG/HHS Exclusion List check;
 - EPLS/GSA Exclusion List check;
 - Criminal history search, including an Auxiliary National Criminal Index (ANCI) search and a national sex offender registry search and a search of all jurisdictions where the employee has lived or worked during the last seven years; and
 - Motor vehicle check.

During a Service Plan Term, a Participant may request a conference with Stryker at any reasonable time regarding the performance, behavior or expectations of any Stryker service personnel who are assigned to Participant's facility. Any Stryker service personnel who willingly and knowingly violate Customer's rules, procedures, or policies may be removed immediately at Participant's option and will be replaced by Stryker promptly.

7. Limitations and Exclusions from Service Plan

Notwithstanding any other provision of this Agreement or the above Service Descriptions, the Service Plan(s) do not cover the following, as determined by Stryker in its sole discretion: (1) abnormal wear or damage caused by reckless or intentional misconduct, abuse, neglect or failure to perform normal and routine maintenance as set out in the applicable maintenance manual or operating instructions provided with the Equipment; (2) catastrophe, fire, flood or act(s) of God; (3) damage resulting from faulty maintenance, improper storage, repair, handling or use, damage and/or alteration by non-Stryker-authorized personnel; (4) equipment on which any original serial numbers or other identification marks have been removed or destroyed; (5) damage caused as a result of the use of the Equipment beyond the useful life, if any, specified for such equipment in the user manual; (6) service Stryker cannot perform because the Equipment has been discontinued or its parts have been discontinued or made obsolete; (7) service to the Equipment if the Equipment or the Equipment site is contaminated with potentially infectious substances; (8) Equipment that has been repaired with any unauthorized or non-Stryker components or by an unauthorized or non-Stryker third party; (9) any Services provided by Stryker Endoscopy do not include Lightsource replacement lamps, fee-based software upgrades, voice control upgrades and disposable or consumable products or parts;

In addition, in order to ensure safe operation of the Equipment, only Stryker accessories and FDA-approved consumables should be used. Stryker reserves the right to refuse service to Equipment, terminate a Service Plan, and recall any Loaner if the Equipment is used with accessories or consumables not manufactured by Stryker. If, at any time, upon review of the Equipment, Stryker deems any single unit of Equipment to be unserviceable, a record and report of such will be made, and provided to the Customer.