

**AMENDMENT NO. 8
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN KPMG LLP (FORMERLY BEACON PARTNERS, INC.), AND
COUNTY OF MONTEREY
on behalf of NATIVIDAD MEDICAL CENTER
FOR
MEDITECH MANAGEMENT, SUPPORT AND CONSULTING SERVICES**

This Amendment No. 8 to Professional Services Agreement is made and entered into when fully executed, (" the Effective Date), by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"), and KPMG LLP (hereinafter "CONTRACTOR"), with respect to the following:

RECITALS

WHEREAS, NMC and Beacon Partners, Inc. ("Beacon") entered into that certain Professional Services Agreement for management consulting services with a one year term of January 1, 2010 through December 31, 2010 and a total Agreement amount not to exceed \$97,000; and

WHEREAS, NMC and Beacon amended the Agreement via Amendment No. 1 to extend the term through January 31, 2011 with no change to the amount; and

WHEREAS, NMC and Beacon amended the Agreement via Amendment No. 2 to extend the term through June 30, 2011 and adding \$95,880 for a revised total Agreement amount of \$193,080; and

WHEREAS, NMC and Beacon amended the Agreement via Amendment No. 3 to add an additional \$150,000 for a revised total agreement amount of \$343,080; and

WHEREAS, NMC and Beacon amended the Agreement via Amendment No. 4 to extend the term through June 30, 2012 and adding \$170,000 for a revised total Agreement amount of \$513,080; and

WHEREAS, NMC and Beacon amended the Agreement via Amendment No. 5 to extend the term through June 30, 2013 and adding \$520,000 for a revised total Agreement amount of \$1,033,080; and

WHEREAS, NMC and Beacon amended the Agreement via Amendment No. 6 to extend the term through April 15, 2015 and adding \$3,022,790 for a revised total Agreement amount of \$4,055,870; and

WHEREAS, NMC and Beacon amended the Agreement via Amendment No. 7 to extend the term through June 30, 2015 and adding \$4,098,400 for a revised total Agreement amount of \$8,154,270; and

WHEREAS, Beacon and CONTRACTOR agree to execute an Assignment and Assumption Agreement wherein Beacon assigned the Agreement to CONTRACTOR, effective as of the Effective Date; and

WHEREAS, NMC shall consent in writing, effective as of the Effective Date, to the assignment by Beacon and assumption by CONTRACTOR of the Agreement; and

WHEREAS, NMC and CONTRACTOR currently wish to amend the Agreement to extend it for an additional one year period through June 30, 2016 to allow for consulting services associated with the implementation of Meditech's Operating Room Manager (ORM) as per the attached "Amendment No. 8 to Exhibit A Scope of Services" attached hereto, with a \$3,192,000 increase for the added services for a total Agreement amount of \$11,346,270.

AGREEMENT

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

Amendment No. 8
KPMG, LLC
Term: January 1, 2010 through June 30, 2016
Not to Exceed: \$11,346,270

The Agreement is hereby renewed on the terms and conditions as set forth in Original Agreement, as amended by Amendments 1 through 7 incorporated herein by this reference, except as specifically set forth below.

1. Section 1, "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 to the original Agreement, Attachment A of Amendment No. 1, Attachment A of Amendment No. 2, Attachment A of Amendment No. 3 Amendment No. 5 to Exhibit A per Amendment No.5, Amendment No. 6 to Exhibit A per Amendment No.6, Amendment No. 7 to Exhibit A per Amendment No.7, plus Amendment No. 8 to Exhibit A per Amendment No.8, attached hereto. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$11,346,270"*.
2. The first sentence of Section 2 "TERM OF AGREEMENT" shall be amended to the following: *"The term of this Agreement is January 1, 2010 to June 30, 2016 unless sooner terminated pursuant to this Agreement"*.
3. Section 3, "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 of original Agreement,
Attachment A of Amendment No. 1,
Attachment A of Amendment No. 2,
Attachment A of Amendment No. 3
Amendment No. 5 to Exhibit A per Amendment No.5,
Amendment No. 6 to Exhibit A per Amendment No.6,
Amendment No. 7 to Exhibit A per Amendment No.7,
Amendment No. 8 to Exhibit A per Amendment No.8"*
4. New Section 6.3 is hereby added to the Agreement:

6.3 Termination Due to Regulatory Concerns. CONTRACTOR reserves the right to terminate the Agreement upon written notice to NMC if (i) a conflict of interest, as contemplated by the professional standards of the AICPA, law or regulation, arises or becomes known to CONTRACTOR that is not waived, or in CONTRACTOR's judgment, would impair CONTRACTOR's ability to perform the services under the Agreement objectively; (ii) such professional standards, law or regulation (including SEC or PCAOB rules) preclude CONTRACTOR from continuing to perform such services (e.g., its auditor independence becomes impaired) whether due to changes in relevant circumstances or otherwise, or (iii) CONTRACTOR transfers or disposes of all or part of its relevant business and NMC declines to consent to assignment of the Agreement to the party acquiring the same. For purposes hereof, "SEC" means the Securities and Exchange Commission and "PCAOB" means the Public Company Accounting Oversight Board."
5. Section 7 of the Agreement is hereby deleted in its entirety and the following shall be substituted in lieu thereof:

"7. INDEMNIFICATION.

- 7.01. **Indemnification by CONTRACTOR: Intellectual Property Infringement.** CONTRACTOR agrees to defend, indemnify, and hold harmless NMC and its directors, officers, agents, employees, members, subsidiaries and successors-in-interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees, experts' fees and court costs, arising out of any claim by a third party that NMC authorized use of KPMG Property, as defined in Section 14.18 below, infringes a third party's patent, copyright, trademark, trade secret or other intellectual property rights (collectively, "Claim(s)"), including the payment of all amounts that a court

or arbitrator finally awards or that Contractor agrees to in settlement of any Claim(s) as well as any and all reasonable expenses or charges as they are incurred by NMC or any other party indemnified under this Section in cooperating in the defense of any Claim(s). NMC agrees to (i) give CONTRACTOR prompt written notice of such Claim; and (ii) allow CONTRACTOR to control, and fully cooperate with CONTRACTOR in, the defense and all related negotiations. CONTRACTOR shall not enter into any stipulated judgment or settlement that purports to bind NMC without NMC's express written consent, which shall not be unreasonably withheld or delayed. If KPMG Property becomes or is likely to become the subject of an infringement Claim, then, in addition to defending the Claim and paying any damages and attorneys' fees as required above, CONTRACTOR shall, at its option and in its sole discretion, either (A) promptly replace or modify KPMG Property, without loss of material functionality or performance, to make it non-infringing or (B) promptly procure for NMC the right to continue using KPMG Property pursuant to this Agreement. Any costs associated with implementing either of the above alternatives will be borne by CONTRACTOR. If after using commercially reasonable efforts CONTRACTOR fails to provide one of the foregoing remedies within forty-five (45) days of notice of the claim, NMC shall have the right to terminate this Agreement with no further liability to CONTRACTOR, and CONTRACTOR shall refund to NMC all sums paid by NMC for the infringing KPMG Property.

- 7.02. **Indemnification by CONTRACTOR: Other Claims.** CONTRACTOR shall indemnify, defend, and hold harmless NMC, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever occurring or resulting from physical injury to, or illness or death of, any person, and damage to or destruction of any tangible property of, any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, in each case arising out of or connected with CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of NMC. "CONTRACTOR's performance" includes CONTRACTOR's acts or omissions and the acts or omissions of CONTRACTOR's officers, employees, agents and subcontractors.
- 7.03 **Indemnification by NMC.** NMC shall indemnify, defend, and hold harmless CONTRACTOR, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever occurring or resulting from physical injury to, or illness or death of, any person, and damage to or destruction of any tangible property of, any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, in each case arising out of or connected with NMC's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of CONTRACTOR. "NMC's performance" includes NMC's acts or omissions and the acts or omissions of NMC's officers, employees, agents and subcontractors."

The parties agree that the indemnification obligations under this Agreement shall only apply to the extent that such indemnified acts or omissions are not covered by insurance, in whole or in part."

6. New Section 14.17 is hereby added to the Agreement:

"14.17. Limitations of Liability.

- 14.17.1 **LIMITATION ON SPECIFIED DAMAGES, EXCEPT FOR THE PARTIES' RESPECTIVE EXPRESS INDEMNITY OBLIGATIONS IN THIS AGREEMENT (SECTION 7 (INDEMNIFICATION)), BREACH OF CONFIDENTIALITY IN SECTION 9 AND THE ACCOMPANYING BUSINESS ASSOCIATE AGREEMENT, , IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES (INCLUDING DAMAGES RELATED TO DELAYS, LOSS OF DATA.**

INTERRUPTION OF SERVICE OR LOSS OF BUSINESS OR PROFITS OR REVENUE). EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

14.17.2 **LIMITATION ON CUMULATIVE LIABILITY.** EXCEPT FOR THE PARTIES' RESPECTIVE EXPRESS INDEMNITY OBLIGATIONS IN THIS AGREEMENT (SECTION 7 (INDEMNIFICATION)), BREACH OF CONFIDENTIALITY IN SECTION 9 AND THE ACCOMPANYING BUSINESS ASSOCIATE AGREEMENT, , THE CUMULATIVE LIABILITY OF ONE PARTY TO THE OTHER PARTY FOR ANY ACTUAL OR ALLEGED DAMAGES ARISING OUT OF, BASED ON OR RELATING TO THIS AGREEMENT, WHETHER BASED UPON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR ANY OTHER LEGAL THEORY, WILL NOT EXCEED THE TOTAL OF THE PROFESSIONAL SERVICES FEES PAID TO CONTRACTOR UNDER THIS AGREEMENT."

7. New Section 14.18 is hereby added to the Agreement:

"14.18. **Intellectual Property Ownership.** CONTRACTOR has created, acquired, owns or otherwise has rights in, and may, in connection with the performance of services under the Agreement, use, provide, modify, create, acquire or otherwise obtain rights in, (i) concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and software and (ii) the general elements of style, design, art work and graphics and content of general applicability included in KPMG's Deliverables (as defined below) or work product not specific to NMC or the services under the Agreement (collectively, the 'KPMG Property'). CONTRACTOR retains all ownership and use rights in the KPMG Property. NMC shall acquire no rights or interest in the KPMG Property, except as expressly provided in the next paragraph. CONTRACTOR acknowledges that KPMG Property shall not include any of NMC's confidential information or tangible or intangible property, and CONTRACTOR shall have no ownership rights in such property.

Except for KPMG Property, and upon full and final payment to CONTRACTOR under the Agreement, the tangible items specified as deliverables or work product in the Agreement, including any intellectual property rights appurtenant thereto (the 'Deliverables') will become the property of NMC. If any KPMG Property is contained in any of the Deliverables, CONTRACTOR hereby grants NMC a royalty-free, paid-up, non-exclusive, perpetual license to use such KPMG Property in connection with NMC's use of the Deliverables. NMC acknowledges and agrees that CONTRACTOR shall have the right to retain for its files copies of each of the Deliverables, subject to the confidentiality provisions of the Agreement."

8. New Section 14.19 is hereby added to the Agreement:

"14.19. **Use of Third Party Service Providers.** CONTRACTOR uses third party service providers within and outside of the United States to provide at CONTRACTOR's direction administrative and clerical services to CONTRACTOR. These third party service providers may in the performance of such services have limited access to information, including but not limited to Confidential Information, received by CONTRACTOR from or at your request or direction. CONTRACTOR represents to you that each such third party service provider has agreed to conditions of confidentiality with respect to your information to the same or similar extent as CONTRACTOR has agreed to pursuant to the Agreement. CONTRACTOR has full responsibility to cause these third party service providers to comply with such conditions of confidentiality and CONTRACTOR shall be responsible for any consequences of their failure to comply.

Accordingly, you consent to CONTRACTOR's disclosure to a third party service provider of data and information, including but not limited to Confidential Information, received

from or at your request or direction for the purposes set forth in the paragraph above.”

9. New Section 14.20 is hereby added to the Agreement:

“14.20 **California Accountancy Act.** For engagements where services will be provided by KPMG through offices located in California, you acknowledge that certain of KPMG's personnel who may be considered "owners" under the California Accountancy Act and implementing regulations (California Business and Professions Code section 5079(a); 16 Cal. Code Regs. sections 51 and 51.1) and who may provide services in connection with this engagement, may not be licensed as certified public accountants under the laws of any of the various states.”

10. New Section 14.21 is hereby added to the Agreement:

14.21 **Volume Rebates.** Where CONTRACTOR is reimbursed for expenses by NMC, it is CONTRACTOR's policy to bill its clients the amount incurred at the time the good or service is purchased. If CONTRACTOR subsequently receives a volume rebate or other incentive payment from a vendor relating to such expenses, CONTRACTOR does not credit such payment to you. Instead CONTRACTOR applies such payments to reduce its overhead costs, which costs are taken into account in determining CONTRACTOR's standard billing rates and certain transaction charges that may be charged to clients. CONTRACTOR agrees to adhere to the County of Monterey Travel Policy with regards to reimbursable expenses.

11. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment No. 8 and shall continue in full force and effect as set forth in the Agreement, as amended by Amendments No. 1 through 7.

12. A copy of this Amendment No. 8 shall be attached to the Agreement.

Signature page to follow

IN WITNESS WHEREOF, the parties hereto are in agreement with this Amendment No. 8 on the basis set forth in this document and have executed this Amendment on the day and year set forth herein.

Natividad Medical Center

By: _____
Gary R. Gray, DO, Interim CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By: _____
Stacy Dretter
Monterey County Deputy County Counsel

Date: _____
6/11/15

APPROVED AS TO FISCAL PROVISIONS

By: _____
[Signature]
Monterey County Deputy Auditor/Controller

Date: _____
6-11-15

CONTRACTOR

KPMG LLP*** (see instructions)

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

LIAM WALSH
ADVISORY INDUSTRY LEADER - HC
Name and Title

Date: _____
6/11/15

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

Bridget Anderson, Partner
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)

Amendment Number 8 to
EXHIBIT A STATEMENT OF WORK

This Amendment Number 8 to Exhibit A Statement of Work (the “**Amendment**”) is made effective as of February 11, 2015 (the “**Amendment Effective Date**”) by and between Natividad Medical Center (“**NMC**”), and Beacon Partners, Inc. (“**Beacon Partners**”) to modify and amend that certain to Exhibit A Statement of Work dated December 9, 2008 to the Professional Services Agreement, (the “**Agreement**”) effective February 11, 2009, as amended (“**SOW**”).

IV. PERSONNEL, PROJECT DURATION and FEES

All personnel assigned to the engagement shall be fully qualified to perform the tasks assigned to them and shall perform the services in a competent and professional manner. Consultants will be engaged to provide MEDITECH subject matter expertise on many modules, including but not limited to:

- Billing and Accounts Receivable
- Beside Medication Verification
- Electronic Medication Administration Record
- Order Entry
- Emergency Department Management
- Provider Order Management
- Abstracting
- Community Wide Scheduling
- Prescription Management
- Pharmacy
- Materials Management
- Laboratory
- Imaging and Therapeutic Services
- Medical Record Inquiry
- Non-Procedural Reporting (NPR)

Other MEDITECH modules may be introduced into the scope of work as identified by NMC leadership.

The Program Manager will be responsible for providing oversight to IT-related projects, as designated by NMC, while providing strategic planning guidance to NMC IT leadership.

One consultant will be designated to serve as Project Manager / SME during the implementation of MEDITECH’s Operating Room Manager (ORM) module, from approximately July 1, 2015, through June 30, 2016

The remaining consultants will provide support services of existing MEDITECH modules as listed above. We anticipate the engagement will span approximately 14 months, commencing on or about May 1, 2015, and extending through June 30, 2016.

Beacon Partners recognizes that NMC is conducting an ongoing recruitment process to fully staff its IT department with FTEs. We also recognize that NMC intends to issue a Request for Proposal (RFP) for IT applications and operations roles not yet filled by FTEs. If a Beacon Partners held position is filled by a new FTE hire or RFP awardee, Beacon Partners will deliver a clear transition plan to NMC IT administration. Once the transition plan is signed off by NMC IT administration, Beacon Partners will fully execute the agreed upon transition plan.

Beacon Partners will provide the following consultants for this engagement:

CONSULTANTS	HOURS	HOURLY RATE	FEEES
MEDITECH Subject Matter Experts (SMEs)	12,000	\$175	\$ 2,100,000
Program Manager	2,400	\$175	\$ 420,000
ORM Implementation Manager and SME	3,840	\$175	\$ 672,000
Total			\$3,192,000

The terms and conditions governing our other engagements with NMC will apply to this engagement. Fees represented above are inclusive of travel and administrative expenses in accordance with all applicable Monterey County policies, including without limitation the Monterey County travel policy and are valid for 45 days from the date of this Amendment.

Beacon Partners, Inc.	Natividad Medical Center
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By: *Chris Kondrat*
Signature

By: _____
Signature

Christopher Kondrat
Name

Name

Vice President
Title

Title

March 3, 2015
Date

Date