



COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES
(NOT TO EXCEED \$100,000)

This Professional Services Agreement (hereinafter "Agreement") is made by and between Natividad Medical Center ("NMC"), a general acute care teaching hospital wholly owned and operated by the County of Monterey, which is a political subdivision of the State of California and Karl Storz Endoscopy-America, Inc. hereinafter "CONTRACTOR").

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

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: Protection 1 No-Fault Service Agreement

1. 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 \$35,712.50
2. TERM OF AGREEMENT. The term of this Agreement is from May 5, 2011 to Jun 30, 2012 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.
3. ADDITIONAL PROVISIONS/EXHIBITS. The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A/Schedule A: Scope of Services/Payment Provisions
4. PERFORMANCE STANDARDS.
 - 4.1. 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.
 - 4.2. 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.

4.3. 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.

5. PAYMENT CONDITIONS.

5.1. 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.

5.2. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

6. TERMINATION.

6.1. 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.

6.2. 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.

7. INDEMNIFICATION: CONTRACTOR shall indemnify, defend and hold harmless. NMC and the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, the performance of this Agreement by CONTRACTOR and/or its agent, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by NMC. It is the intent of the parties to this Agreement to provide the broadest possible coverage for NMC. The CONTRACTOR shall reimburse NMC 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 NMC and the County under this Agreement.

8. INSURANCE.

8.1. 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.

8.2. 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 that 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.

8.3. 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:

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.

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

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.

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

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.

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

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.

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

8.4. Other Insurance Requirements:

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.

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.

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. The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

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.

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.

9. RECORDS AND CONFIDENTIALITY.

9.1. 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.

- 9.2. 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.
 - 9.3. 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.
 - 9.4. 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 or \$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.
 - 9.5. 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.
10. **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.
 11. **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.
 12. **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 an 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.

13. 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.

FOR NATIVIDAD MEDICAL CENTER: Contracts/Purchasing Manager	FOR CONTRACTOR:
Name	Name and Title
1441 Constitution Blvd. Salinas, CA. 93906	Address
Address	Phone
831.755.4111	
Phone	

14. MISCELLANEOUS PROVISIONS.

- 14.1. 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.
- 14.2. Amendment. This Agreement may be amended or modified only by an instrument in writing signed by NMC and the Contractor.
- 14.3. 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.
- 14.4. 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.
- 14.5. Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 14.6. 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.

- 14.7. 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.
- 14.8. Compliance with Applicable Law . The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 14.9. Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 14.10. Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement
- 14.11. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 14.12. 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.
- 14.13. 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.
- 14.14. 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.
- 14.15. 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.
- 14.16. 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.

NATIVIDAD MEDICAL CENTER

By: [Signature]
NMC Contracts/Purchasing Agent

Date: 8-17-11

By: [Signature]
Department Head (if applicable)

Date: 8/4/11

Approved as to Legal Form

By: [Signature]
Stacy Saetta
Deputy County Counsel

Date: 8/12/11

Approved as to Fiscal Provisions

By: [Signature]
Auditor/Controller

Date: 8-12-11

CONTRACTOR

Karl Storz Endoscopy
Contractor's Business Name***

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

Name and Title

Date: 6/1/11

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

Director of Protectional Service
Name and Title

Date: 8/11/11

***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 specific officers. 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. If CONTRACTOR is contracting in and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement.



KARL STORZ
Endoscopy-America, Inc.

2151 E. Grand Avenue
El Segundo, California 90245-5017

Toll Free 800 421 0837
Fax 424 218 8770

July 29, 2011

NATIVIDAD MEDICAL CENTER
ATTN SID CATO
1441 CONSTITUTION BLVD
SALINAS, CA 93906

RE: Protection 1[®] No-Fault Service Agreement

Dear SID CATO:

On behalf of KARL STORZ Endoscopy-America, Inc., thank you for the opportunity to present you with a Protection 1[®] No-Fault Service Agreement. KARL STORZ has a proud tradition of quality, innovative technology and solutions. We recognize that after-sale care and high standards of service support are as important to our customers as the decision regarding the original product purchase. With a Protection 1[®] No-Fault Service Agreement you will receive many of the benefits that our Protection 1[®] Service Agreement offers for our preferred customers highlighted by unlimited repairs and exchanges on the selected devices.

Our No-Fault service plan includes the following:

- ✓ Unlimited transactions for covered KARL STORZ products,
- ✓ No surprises, unexpected, nor unbudgeted repair costs, just simple fixed monthly charges,
- ✓ Priority exchange and repair turn-around times allows maximum inventory availability and minimizes OR delays,
- ✓ Field Service Technician (FST) support at no additional cost (*Available in most metropolitan areas*)*,
- ✓ E-class[®] endoscopes that are newly manufactured and certified to meet all of the same high standards of quality, integrity and optical and illumination performance specifications as our new endoscopes – repair level prices with same-as-new warranties,
- ✓ Free technology upgrades with each exchange or repair on designated KARL STORZ products,
- ✓ Upon request, Damage Evaluation for each transaction and Transaction Summary Reports are provided to assist in tracking trends and evaluating care and handling process improvements,
- ✓ Free, pre-paid shipping to and from our facilities, including free shipping supplies,
- ✓ 24/7/365 Technical Service Support.

These services are designed to help you achieve your mission of delivering consistent, high quality health care to your patients.

For additional support, please ask your KARL STORZ representative about our New Protection 1[®] On-Site Services program. Simply stated, it is an expanded service option for Protection 1[®] customers interested in the full-time assistance of a KARL STORZ factory-trained *On-Site Endoscopic Specialist* (OES). An OES, being a resident expert, supports and helps manage all KARL STORZ equipment including video and OR1[®] integration to ensure and expedite successful minimally invasive surgical procedures while minimizing expenses due to damage, disposable devices and down time.

Should you need additional information or have any questions about KARL STORZ Services, please contact your KARL STORZ Representative. They will be glad to assist you.

Best Regards,

Gregg Agoston
Associate Director, Protection 1[®] Services

* Please check with your KSEA representative for availability of FST Services.

EXHIBIT A

CUSTOMER NAME:	NATIVIDAD MEDICAL CENTER		
CUSTOMER ADDRESS:	1441 CONSTITUTION BLVD		
CITY, STATE, ZIP CODE:	SALINAS, CA 93906		
ATTN: (HOSPITAL CONTACT)	SID CATO	EMAIL:	catosl@natividad.com
CUSTOMER ACCOUNT #:	109331	SHIP TO:	310263
AGREEMENT #:	TBD	PURCHASE ORDER #:	TBD
SERVICE TERM:	1 YEAR	EFFECTIVE DATE:	TBD
PAYMENT TYPE:	1 INVOICE		
SERVICE CHARGE OPTION 1:	\$8,800.00		
SERVICE CHARGE OPTION 2:	\$35,712.50		
SERVICE CHARGE OPTION 3:	\$98,327.50		
PROPOSAL EXPIRATION DATE:	August 28 th , 2011		

KARL STORZ Endoscopy-America, Inc. ("KSEA") and Customer (identified above) hereby enter into this PROTECTION 1® NO-FAULT SERVICE AGREEMENT ("Agreement") for the exchange and repair needs of Customer's KSEA branded products listed on Exhibit A ("Products"). The following terms and conditions apply to all transactions covered under this Agreement.

1. KSEA Obligations.

- (a) Provide labor and replacement parts, as necessary, to return the Products to normal operating condition, provided that such service is necessitated by device failure during normal usage for its intended purpose and such failure is not otherwise excluded from coverage. The number of repairs or exchanges that may be performed on the Products covered by this Agreement is unlimited. All replaced parts shall become the property of KSEA.
- (b) Provide Field Service Technician visits at no charge, where coverage is available*.
- (c) Provide automatic free technology upgrades, as designated by KSEA, at the time of exchange or repair.
- (d) Upon request provide Damage Evaluation Report for each Product submitted and Transaction Summary Reports.
- (e) Pay shipping costs from and to Customer using KSEA preferred carrier.

2. Exclusions. The following items are excluded from coverage under this Agreement: Cosmetic damage; Products that have been altered other than by KSEA; Consumable or disposable supplies (light bulbs, lamps, tubing, fuses, filters, electrodes, batteries, print packs, etc.); Damage resulting from Customer's failure to follow manufacturers recommendations for care and handling; Gross abuse and neglect.

3. Customer Obligations.

- (a) **Concurrent with the execution and delivery of this Agreement, customer shall also provide a "hard copy" Purchase Order (P.O.) for the services to be provided during the full term of this Agreement.**
- (b) Utilize KSEA as its provider of the services for all Products.
- (c) Submit all Products to KSEA in a high-level disinfected or sterilized condition only.
- (d) Obtain a Return Material Authorization (RMA) number from KSEA prior to submitting any Products to KSEA for exchange or repair.
- (e) Submit all Products to be exchanged to KSEA within ten (10) business days after issuance of a RMA number. If the damaged product is not returned within thirty (30) days of receipt of the replacement product, Customer will be invoiced for the List Price of the replacement less any applicable discounts.

5. Term; Termination.

- (a) **Term.** The term ("Service Term") of this Agreement will commence on May 5th 2011 through June 30th 2012
- (b) **Termination.** Either party may terminate this Agreement prior to the scheduled End Date without cause upon ninety (90) days prior written notice to the other party. Either party may terminate this Agreement with cause if the terminating party notifies the other party in writing of the basis for cause and such other party does not cure same within thirty (30) days after receipt of such written notice. In the event of termination for cause by KARL STORZ, or in the event of termination without cause by Customer; Customer agrees to pay within thirty (30) days of termination all the amounts due under the remaining term of the Agreement.

6. Limited Repair Warranty. All repairs shall be performed in a good and workmanlike manner and all replaced parts shall be free from defects in materials and workmanship for the remainder of the original product warranty period (if any) or ninety (90) days from the date of such repair, whichever is longer, when used by qualified medical personnel who are trained in their use. This limited repair warranty is in lieu of all other repair warranties, express, implied and/or statutory, including, but not limited to, warranties of merchantability, fitness and/or of suitability for a particular purpose, with respect to all KSEA repair services. Any and all other repair warranties, representations and/or guarantees, of any type, nature or extent, implied or

express, and/or whether arising under or as a result of any statute, law, commercial usage, custom, trade or otherwise, are hereby expressly excluded and disclaimed.

7. **Entire Agreement.** This Agreement and Exhibit A, (Products and No-Fault Pricing Schedule), Exhibit B, (General Standard Terms and Conditions) and Exhibit C, (Direct Debit (The Monterey County Professional Services Agreement) Authorization Form) attached hereto constitute the entire agreement between KSEA and Customer with respect to the transactions contemplated herein and supersede all prior oral or written agreements, commitments or undertakings with respect thereto.

* Please check with your KSEA representative for availability of FST Services.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the Effective Date.

KARL STORZ Endoscopy-America, Inc.	Customer: NATIVIDAD MEDICAL CENTER
Authorized Agent: Gregory Agoston	Authorized Agent:
Title: Associate Director, Protection ₁ [®] Services	Title: E-mail address:
Signature:	Signature:
Date:	Date:

<p><u>For Submittal by Mail:</u></p> <p>To receive an original counter-signed copy from KSEA, please mail two (2) original Customer signed copies to the following address:</p> <p>KARL STORZ Endoscopy- America, Inc. ATTN: Services 2151 E. Grand Avenue El Segundo, CA 90245-5017</p>	<p><u>For Electronic Submittal:</u></p> <p>Please FAX a signed copy of this Agreement to:</p> <ul style="list-style-type: none"> • ATTN - Services: Facsimile # (424) 218-8770 <p>OR</p> <ul style="list-style-type: none"> • Email a scanned signed copy to: <u>RepairServices@KSEA.com</u> <p>Please include a return Fax # or E-mail address for the return of a KSEA counter-signed copy.</p>
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EXHIBIT A

PRODUCTS AND NO-FAULT PRICING SCHEDULE

Products subject to this Agreement:

“Option 1” No-Fault for the Camera Heads only

Quantity	Model #	Serial #	Description	Selling Price Each	Extended Price
4	22220055-3	QZ762230-H QZ762233-H QZ762234-H QZ762293-H	IMAGE 1 H3-Z HIGH DEFINITION 3-XHIP	\$2,200	\$8,800

*Serial numbers will be inserted upon shipment of the product.

“Option 2” No-Fault for the Camera Heads and Other Electromechanical Devices

Quantity	Model #	Serial #	Description	Customer Selling Price	Extended Price
4	22220055-3	QZ762230-H QZ762233-H QZ762234-H QZ762293-H	IMAGE 1 H3-Z HIGH DEFINITION 3-XHIP	\$2,200	\$8,800
2	26430520-1	NZ0658656 NZ0658659	ELECTRONIC, C02 ENDOFLATOR	\$1,000	\$2,000
5	9426HDA	10-150769 10-150771 10-150778 10-151279 10-151300	26" WIDEVIEW HD FLAT PANEL W/ATLAS BOARD	\$850 PER	\$4,250
5	R26046AA	1554516S 1573248S 1574705S 1577226S 1580837S	TELESCOPE,HOPKINS II, 0°, ENLARGED VIEW,	\$1,487.50	\$7,437.50
5	R26046BA	1451075S 1556291S 1582016S 1583704S 1583953S	TELESCOPE,HOPKINS II, 30°, ENLARGED	\$1,487.50	\$7,437.50
2	201331-20-1	OZ0659813 RZ0660740	SCB 300W XENON LIGHT SOURCE	\$900	\$1,800
2	22201011U110	QZ671541-P	CCU, IMAGE1,	\$1,250	\$2,500
1	R26003AA	1397297S	TELESCOPE,HOPKINS	\$1,487.50	\$1,487.50

“Option 3” No-Fault Coverage Large Purchase

Quantity	Model #	Serial #	Description	Customer Selling Price	Extended Price
3	26003AE	TBD	ENDOCAMELEON HOPKINS TELESCOPE, 0-120°	\$8995.00	\$26,985.00
2	13801NKS	TBD	9.7 VIDEO GASTROSCOPE COLOR SYSTEM NTSC	\$9995.00	\$19,990.00
8	22220055-3	TBD	IMAGE 1 H3-Z HIGH DEFINITION 3-XHIP	\$1,855.00	\$14,840.00
4	26430520-1	TBD	ELECTRONIC, C02 ENDOFLATOR	\$1,000	\$4,000.00
2	26432020-1	TBD	THERMOFLATOR, W/ INTEGRATED	\$1,000	\$2,000.00
9	9426HDA	TBD	26" WIDEVIEW HD FLAT PANEL W/ATLAS BOARD	\$750	\$6,750.00
5	R26046AA	TBD	TELESCOPE, HOPKINS II, 0°, ENLARGED VIEW,	\$1,487.50	\$7,437.50
5	R26046BA	TBD	TELESCOPE, HOPKINS II, 30°, ENLARGED	\$1,487.50	\$7,437.50
4	201331-20-1	TBD	SCB 300W XENON LIGHT SOURCE	\$700	\$2,800.00
4	22201011U110	TBD	CCU, IMAGE1,	\$1,150	\$4,600.00
1	R26003AA	TBD	TELESCOPE, HOPKINS	\$1,487.50	\$1,487.50

EXHIBIT B

GENERAL STANDARD TERMS AND CONDITIONS

1. **ORDERS.** Orders are to be placed with the Customer Support Department of KARL STORZ Endoscopy-America, Inc. ("KSEA") or with its sales force. However, orders will only be accepted by KSEA's Customer Support Department in El Segundo, California and only on the condition that in the event of any conflicting, inconsistent and/or additional provisions in a customer purchase order, the within Terms and Conditions will supersede and prevail and such conflicting, inconsistent and/or additional provisions shall be of no force or effect. By accepting delivery of products, and/or the performance of services, from KSEA, and/or by paying for same, Customer agrees that notwithstanding anything to the contrary in Customer's own purchase order, Customer accepts and agrees to the within Terms and Conditions, all of which constitute the sole and entire Agreement of KSEA and Customer, unless and to the extent modified and/or superseded by an agreement in writing signed by both Customer and an authorized representative of KSEA.

2. **PRICES.** Prices are subject to change without notice. Nevertheless, prices in effect at the time that an order is accepted will prevail. Written quotations are valid for sixty (60) days unless otherwise specified. All applicable taxes, as well as shipping and/or handling charges, will be added to the invoice. KSEA reports all discounts in accordance with 42 CFR §1001.952(h).

3. **TERMS.** Shipments are F.O.B. shipping point, freight prepaid by KSEA and added to the invoice. All controversies, disputes and claims, shall be adjudicated by a court of competent jurisdiction within the County of Monterey, State of California or the United States District Court, Central District of California, which courts shall have exclusive jurisdiction of such matters. All transactions by and between Customer and KSEA shall be governed by and construed in accordance with the laws of the State of California. The invalidity or unenforceability of any of the within Terms and Conditions will not affect the validity or enforceability of any other or remaining Term or Condition hereof. The within Terms and Conditions apply to products that are supplied to Customer as samples or loans from KSEA. Amounts payable to KSEA for the purchase, lease, or rent of products and/or services are not subject to withholding, set-off, or counter-claim under any circumstances without prior written consent of KSEA.

4. **SECURITY INTEREST.** Until Customer has paid KSEA in full for all products purchased pursuant to an order, KSEA shall have, and Customer hereby grants to KSEA, a security interest in all products purchased, pursuant to such order, and in all proceeds there from (including that which Customer receives as payment from an insurer or third party for or as a result of any damage to or loss of said products), to secure payment of the entire purchase price for all products sold, shipped and delivered to Customer pursuant to such order, and to secure all costs, expenses or other charges relating thereto which are payable by Customer to KSEA. Customer is required to execute and deliver such documents, as required and requested by KSEA, to perfect KSEA's security interest(s) and Customer authorizes KSEA to prepare, execute, deliver, file and/or record, on behalf of Customer, any and all documents that are required, necessary and/or appropriate to protect, preserve and/or enforce KSEA's security interest(s) in the products sold, shipped and delivered to Customer pursuant to such order.

5. **SHIPPING.** Although KARL STORZ products are carefully packed to minimize in-transit damage, all shipments should be carefully examined upon receipt and if a product is damaged, Customer must document the nature and extent of the damage and immediately contact KSEA. If concealed loss or damage is discovered, Customer must retain all packing materials and immediately notify KSEA, requesting an inspection. If shipments are received short, Customer must contact KSEA's Customer Support Department at once. KSEA reserves the right to make partial shipments on any Order. Invoices for partial shipments are payable upon receipt. KSEA is not liable for any damages caused by or attributable to delays and/or non-delivery due to any cause whatsoever.

6. **RETURN POLICY.** A return merchandise authorization (RMA) must be obtained from KSEA's Customer Support Department prior to returning any products. When phoning or writing KSEA, for an RMA, the Customer Support Representative must be provided with: (1) Customer name and number, as it appears on the invoice; (2) the telephone number and the person to contact; (3) the applicable P.O. number; (4) the KARL STORZ catalog number and, if applicable, the serial number for each product; and, (5) the reason for the return. KSEA reserves the right to refuse or return any products sent back to KSEA without prior authorization of its Customer Support Department. Returns must be carefully packed and shipped pre-paid to KSEA, attn: RMA number. KSEA's Customer Support Department will provide the return address and the RMA number. When returning products, Customer should include a copy of the original invoice or packing slip to ensure prompt issuing of credit. Full credit will only be issued for products that are returned within thirty (30) days of invoice date and so long as such items are unused, in resalable condition and in their original product container. All products returned after thirty (30) days from the date of invoice are subject to a fifteen percent (15%) restocking fee. Shipping charges will be reimbursed, restocking fees will not be charged and full credit will be given if the return was due to an error on the part of KSEA. The following products may not be returned for credit or exchanged: (1) products held longer than ninety (90) days from invoice date; (2) sterile packaged products where the package is opened and/or damaged; (3) discontinued products; (4) instruments that are etched or engraved by Customer; (5) products damaged by the Customer; (6) products purchased "as is" or as demo products; and, (7) used products. In order to prevent the transmission of disease to the medical facilities' and/or KSEA's personnel, all products must be cleaned and then sterilized and/or disinfected before sending such products back to KSEA, who reserves the right to return unclean and contaminated products to the Customer. Additionally, if any product becomes damaged and is not immediately returned, KSEA assumes no responsibility or liability for Customer's continued use of that damaged product. KSEA does not guarantee the performance, and may decline to repair or accept for repair/exchange, any product that has been repaired, modified and/or altered by any person or entity other than KSEA or an authorized repair facility of KSEA.

7. **REPAIR PROGRAM.** If repairs become necessary, for other than damages incurred during initial shipment, the Customer must follow the RMA procedure set forth in the "Return Policy" in Section 6, above. Warranty repairs will be made without charge (see "Warranty Policy," section 8 below, for covered repairs). All other repairs are subject to KSEA's applicable standard repair or exchange charges. If requested,

Customer will be advised of the estimated cost of the repair work or a product exchange before it is undertaken. All repairs carry a ninety (90) day warranty. Exchange products carry the applicable KARL STORZ product warranty. If the damaged product is not returned within thirty (30) days of receipt of the replacement product, Customer will be invoiced for the full list price of the replacement. KSEA reserves the right to refuse or return any product sent back without prior authorization of KSEA's Customer Support Department.

8. WARRANTY POLICY. Except as otherwise provided herein and/or by the applicable warranty information for a specific product or type of product, all KARL STORZ-branded products are generally warranted to be in good working order at the date of delivery and free from defects in workmanship and materials for one (1) year from date of delivery. However, since some products carry a shorter or a longer warranty period, Customer should check with KSEA's Customer Support Department or product specific literature, instruction manual and/or labeling for the exact warranty period. Any such product(s) with a defect occurring during the applicable warranty period will be promptly replaced or, at the sole discretion of KSEA, repaired at no charge to Customer. **THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED AND/OR STATUTORY, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS AND/OR OF SUITABILITY FOR A PARTICULAR PURPOSE, WITH RESPECT TO ALL KARL STORZ PRODUCTS OR SERVICES. ANY AND ALL OTHER WARRANTIES, REPRESENTATIONS AND/OR GUARANTEES, OF ANY TYPE, NATURE OR EXTENT, BE IT IMPLIED, EXPRESS AND/OR WHETHER ARISING UNDER OR AS A RESULT OF ANY STATUTE, LAW, COMMERCIAL USAGE, CUSTOM, TRADE OR OTHERWISE, ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.** Any contrary course of performance by and between the parties will not modify any representations and/or warranties set forth herein. KSEA neither assumes nor authorizes any person to assume for it any other liabilities in conjunction with and/or related to the sale and/or use of its products. To ensure proper use, handling and care of KARL STORZ products, Customer should consult the product specific literature, instruction manual, and/or labeling included with the product or otherwise available. Repairs, modifications or alterations of KARL STORZ products, performed by any person or entity, other than by KSEA or an authorized repair facility of KSEA, nullifies and otherwise voids all applicable KARL STORZ warranties. Repair or replacement of a KARL STORZ product shall not extend the term of any applicable warranty. The remedies provided herein are Customer's exclusive remedies under this Warranty Policy.

9. LIMITATION OF LIABILITY. KSEA is not liable, directly or by way of indemnity, either expressly or impliedly, for: (1) any damages which might arise or be caused, whether by the Customer or by any of the users of the products provided by KSEA, as a result of, in connection with, or otherwise attributable to: (a) misuse, abuse, mishandling and/or improper operation and/or storage; (b) repairs, servicing, modifications and/or alterations performed by any person or entity, other than KSEA or an authorized repair facility of KSEA; (c) use in combination with adaptors, accessories and/or equipment from other manufacturers unless authorized or recommended by KSEA or, (d) use in any manner other than those for which such products are designed and are otherwise intended to be used; and, (2) any special, incidental, consequential, punitive, exemplary or indirect damages, including but not limited to alleged damages for delayed shipment, non-delivery, product failure, product design or production, inability to use such products or services, loss of future business (lost profits), or from any other cause, whatsoever, in connection with or arising from the purchase, sale, lease, rental, installation or use of such KARL STORZ products, even if Customer has been advised of the possibility of such damages. **SOME JURISDICTIONS DO NOT ALLOW EXCLUSIONS AND DISCLAIMERS OF CERTAIN WARRANTIES OR LIMITATIONS OF LIABILITY, SO THE LIMITATIONS AND/OR EXCLUSIONS, SET FORTH IN THESE TERMS AND CONDITIONS, MAY NOT APPLY. IN THAT EVENT, KSEA'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW IN THE SUBJECT JURISDICTION.**

10. SOFTWARE OWNERSHIP AND LICENSING. With respect to products provided by KARL STORZ and containing software components, Customer is granted a non-exclusive, limited, non-transferable license (the "License") to use the programmed logic, computer programs and/or software, including software developed by or on behalf KARL STORZ ("KARL STORZ Software") and/or software developed by or on behalf of a third party ("Third Party Software") (collectively, "Software") embedded in, or for use in conjunction with, such products, internally, but only in the form in which delivered to Customer and for the sole purpose of operating in accordance with KARL STORZ' written instructions for the products provided to Customer (and for no other product or purpose). The Software, and all modifications, enhancements and upgrades thereto, will, at all times, remain the property of KARL STORZ or the applicable third party. Customer may not duplicate, copy, reverse-engineer, de-compile, or disassemble the Software or in any way modify the Software. Customer has no right to, and may not, create derivatives of the Software, and Customer may not attempt to copy, create or re-create the source code of the Software. Any and all such modifications or enhancements to the Software by Customer, in contravention of this License, will immediately become the sole property of KARL STORZ. Customer hereby acknowledges and agrees that (i) the purchase, lease or other acquisition of products does not constitute a transfer of the Software, (ii) the Software is the property of KARL STORZ or the applicable third party, (iii) Customer neither owns nor acquires any interest in any copyright, patent or other intellectual property right in or to the Software as a result of such purchase, lease or other acquisition of products, (iv) KARL STORZ, or the applicable third party, retains and owns all right, title, and interest in and to the Software and the ownership rights therein, at all times, regardless of the form or media in or on which the original or other copies of the Software may exist, and (v) by using the products, Customer is subject to, and is bound by, the terms of any separate third-party license agreement relating to the Third Party Software. In the event of a failure of Customer or its agents, employees or representatives, to comply with any terms and conditions of the License herein granted, the License will, without any further action by KARL STORZ or any other party, immediately end and terminate.

BUSINESS ASSOCIATE AGREEMENT

This Agreement, hereinafter referred to as “**Agreement**”, is made effective **May 5, 2011** by and between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center, hereinafter referred to as “**Covered Entity**”, and **Karl Storz Endoscopy-America, Inc.** hereinafter referred to as “**Business Associate**”, (individually, a “**Party**” and collectively, the “**Parties**”).

WITNESSETH:

WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, known as “the Administrative Simplification provisions,” direct the Department of Health and Human Services to develop standards to protect the security, confidentiality and integrity of health information; and

WHEREAS, pursuant to the Administrative Simplification provisions, the Secretary of Health and Human Services has issued regulations modifying 45 CFR Parts 160 and 164 (the “HIPAA Privacy Rule”); and

WHEREAS, the State of California has enacted statutes designed to safeguard patient privacy including, without limitation, the Confidentiality of Medical Information Act (“CMIA”), California Civil Code § 56 *et seq.*, Senate Bill 541, enacted September 30, 2008, and Assembly Bill 211, enacted September 30, 2008; and

WHEREAS, the parties acknowledge that California law may include provisions more stringent and more protective of the confidentiality of health information than the provisions of HIPAA; and

WHEREAS, the Parties wish to enter into or have entered into an arrangement whereby Business Associate will provide certain services to Covered Entity, hereby referred to as the “Service Agreement” and, pursuant to such arrangement, Business Associate may be considered a “business associate” of Covered Entity as defined in the HIPAA Privacy Rule and under California law; and

WHEREAS, Business Associate may have access to Protected Health Information (as defined below) in fulfilling its responsibilities under such arrangement;

THEREFORE, in consideration of the Parties’ continuing obligations under the Service Agreement, compliance with the HIPAA Privacy Rule, compliance with California law, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement in order to address the requirements of the HIPAA Privacy Rule and California law and to protect the interests of both Parties.

I. DEFINITIONS

Except as otherwise defined herein, any and all capitalized terms in this Section shall have the definitions set forth in the HIPAA Privacy Rule. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Privacy Rule, as amended, the HIPAA Privacy Rule shall control. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of CMIA or other California law, California law shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Privacy Rule and California law, but nonetheless are permitted by the HIPAA Privacy Rule and California law, the provisions of this Agreement shall control.

The term “Protected Health Information” means individually identifiable health information including, without limitation, all information, data, documentation, and materials, including without limitation, demographic,

medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Business Associate acknowledges and agrees that all Protected Health Information that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

II. CONFIDENTIALITY REQUIREMENTS

(a) Business Associate agrees:

(i) to access, use, or disclose any Protected Health Information solely: (1) for meeting its obligations as set forth in any agreements between the Parties evidencing their business relationship or (2) as required by applicable law, rule or regulation, or by accrediting or credentialing organization to whom Covered Entity is required to disclose such information or as otherwise permitted under this Agreement, the Service Agreement (if consistent with this Agreement the HIPAA Privacy Rule, and California law), the HIPAA Privacy Rule, or California law and (3) as would be permitted by the HIPAA Privacy Rule and California law if such use or disclosure were made by Covered Entity;

(ii) at termination of this Agreement, the Service Agreement (or any similar documentation of the business relationship of the Parties), or upon request of Covered Entity, whichever occurs first, if feasible, Business Associate will return or destroy all Protected Health Information received from or created or received by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form and retain no copies of such information, or if such return or destruction is not feasible, Business Associate will extend the protections of this Agreement to the information and limit further access, uses, and disclosures to those purposes that make the return or destruction of the information not feasible; and

(iii) to ensure that its agents, including a subcontractor, to whom it provides Protected Health Information received from or created by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply to Business Associate with respect to such information. In addition, Business Associate agrees to take reasonable steps to ensure that its employees' actions or omissions do not cause Business Associate to breach the terms of this Agreement.

(b) Notwithstanding the prohibitions set forth in this Agreement, Business Associate may use and disclose Protected Health Information as follows:

(i) if necessary, for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that as to any such disclosure, the following requirements are met:

(A) the disclosure is required by law; or

(B) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and accessed, used, or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached, within five calendar days of discovering said breach of confidentiality;

(ii) for data aggregation services, if to be provided by Business Associate for the health care operations of Covered Entity pursuant to any agreements between the Parties evidencing their business relationship. For purposes of this Agreement, data aggregation services means the combining of Protected Health Information by Business Associate with the protected health information received by

Business Associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

(c) Business Associate will implement appropriate safeguards to prevent access to, use of, or disclosure of Protected Health Information other than as permitted in this Agreement. The Secretary of Health and Human Services shall have the right to audit Business Associate's records and practices related to use and disclosure of Protected Health Information to ensure Covered Entity's compliance with the terms of the HIPAA Privacy Rule. Business Associate shall report to Covered Entity any access, use, or disclosure of Protected Health Information which is not in compliance with the terms of this Agreement of which it becomes aware within five calendar days of discovering such improper access, use, or disclosure. In addition, Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use, disclosure, or access of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

III. AVAILABILITY OF PHI

Business Associate agrees to make available Protected Health Information to the extent and in the manner required by Section 164.524 of the HIPAA Privacy Rule. Business Associate agrees to make Protected Health Information available for amendment and incorporate any amendments to Protected Health Information in accordance with the requirements of Section 164.526 of the HIPAA Privacy Rule. In addition, Business Associate agrees to make Protected Health Information available for purposes of accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy Rule.

IV. TERMINATION

Notwithstanding anything in this Agreement to the contrary, Covered Entity shall have the right to terminate this Agreement and the Service Agreement immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement. If Covered Entity reasonably believes that Business Associate will violate a material term of this Agreement and, where practicable, Covered Entity gives written notice to Business Associate of such belief within a reasonable time after forming such belief, and Business Associate fails to provide adequate written assurances to Covered Entity that it will not breach the cited term of this Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then Covered Entity shall have the right to terminate this Agreement and the Service Agreement immediately, and seek injunctive and/or declaratory relief in a court of law having jurisdiction over Business Associate.

V. MISCELLANEOUS

Except as expressly stated herein, in the HIPAA Privacy Rule, or under California law, the parties to this Agreement do not intend to create any rights in any third parties. The obligations of Business Associate under this Section shall survive the expiration, termination, or cancellation of this Agreement, the Service Agreement and/or the business relationship of the parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.

This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party. None of the provisions of this Agreement are intended to create, nor will they be deemed to create any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. This Agreement will be governed by the laws of the State of California. No change, waiver or

discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

The parties agree that, in the event that any documentation of the parties, pursuant to which Business Associate provides services to Covered Entity contains provisions relating to the use or disclosure of Protected Health Information which are more restrictive than the provisions of this Agreement, the provisions of the more restrictive documentation will control. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of Protected Health Information.

In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect. In addition, in the event a party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Privacy Rule or California law, such party shall notify the other party in writing. For a period of up to thirty days, the parties shall attempt in good faith to address such concern and amend the terms of this Agreement, if necessary to bring it into compliance. If, at the conclusion of such thirty-day period, a party believes in good faith that the Agreement still fails to comply with the HIPAA Privacy Rule or California law, then either party has the right to terminate this Agreement and the Service Agreement upon written notice to the other party. Neither party may terminate this Agreement without simultaneously terminating the Service Agreement, unless the parties mutually agree in writing to modify this Agreement or immediately replace it with a new Business Associate Agreement that fully complies with the HIPAA Privacy Rule and California law.

Business Associate acknowledges that Natividad Medical Center (NMC) has established a Corporate Compliance Program, and under this program NMC has developed a Code of Conduct Manual to provide guidance in the ethical and legal performance of our professional services. Business Associate further agrees to abide by all principles stated in the Code of Conduct while conducting business with Natividad Medical Center. A copy of the Code of Conduct & Principles of Compliance is available upon request.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.


COVERED ENTITY:

By: 

Title: CEO

Date: 8/4/11

BUSINESS ASSOCIATE:

By: 

Title: Assoc Director

Date: 4/29/11



KARLS-1

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/15/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Commercial Lines - (949) 225-6900 Wells Fargo Insurance Services USA, Inc. - CA Lic#: 0D08408 2030 Main Street, Suite 200 Irvine, CA 92614-7253	CONTACT NAME: Maegan Kawczynski	
	PHONE (A/C, No, Ext): 949-225-6914 FAX (A/C, No): 949-225-6910 E-MAIL ADDRESS: maegan.kawczynski@wellsfargo.co	
INSURED KARL STORZ Endoscopy-America, Inc. KARL STORZ Property, LLC. 2151 E. Grand Avenue El Segundo, CA 90245	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: XL Insurance America, Inc.	24554
	INSURER B: Hartford Fire Insurance Co.	19682
	INSURER C: XL Insurance Company Ltd.	
	INSURER D: Hartford Accident and Indemnity Company	22357
	INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 3021604

REVISION NUMBER: See below

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Retro Date 01/01/02 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			US00006198L11A	01/01/2011	01/01/2012	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			72UENIL7721 (AOS) 72MCPJK5929 (MA)	12/31/2010 12/31/2010	12/31/2011 12/31/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	UMBRELLA LIAB EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE DED RETENTION \$			DE00009428L11A	01/01/2011	01/01/2012	EACH OCCURRENCE \$ 1,000,000USD AGGREGATE \$ 1,000,000USD
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A	72WELT9658	12/31/2010	12/31/2011	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The County of Monterey, Its Officers, Agents and Employees are named as Additional Insured with respects to General Liability and Automobile Liability. This insurance is primary and any insurance carried by the Additional Insured is non-contributory.

Excess Policy Limits are shown in US Dollars. Conversion rate for EUROS changes daily and will be determined at time of loss

CERTIFICATE HOLDER**CANCELLATION**

Natividad Medical Center
Contracts Manager
1441 Constitution Blvd.
Salinas, CA 93906

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – DESIGNATED
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)
County of Monterey, Its Officers, Agents and Employees
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A. In the performance of your ongoing operations; or
- B. In connection with your premises owned by or rented to you.

ENDORSEMENT #10

This endorsement, effective 12:01 a.m., July 8, 2011, forms a part of
Policy No. US00006198LI11A issued to Karl Storz Endoscopy America, Inc.

by XL Insurance America, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY INSURANCE CLAUSE ENDORSEMENT - SCHEDULED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
RAILROAD PROTECTIVE LIABILITY COVERAGE FORM

It is agreed that to the extent that insurance is afforded to the following Additional Insured under this policy, this insurance shall apply as primary and not contributing with any insurance carried by such Additional Insured, as required by written contract.

Name of Person or Organization:

County of Monterey, Its Officers, Agents and Employees

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY CHANGES



This endorsement forms a part of the Policy numbered below:

Policy Number 72 UEN IL7712	Named Insured KARL STORZ ENDOSCOPY AMERICA, INC.	
Policy Change Effective Date 08/04/11	Change No. 001	Agent or Broker WELLS FARGO INS 25-1477

CHANGE(S)

IN CONSIDERATION OF NO CHANGE IN PREMIUM, IT IS HEREBY AGREED AND UNDERSTOOD THE FOLLOWING FORM IS ADDED TO AND ATTACHED TO THE POLICY: HA99130187.

THE APPLICABLE WORDING FOR THE HA99130187 IS AS FOLLOWS:

"THE COUNTY OF MONTEREY, ITS OFFICERS, AGENTS AND EMPLOYEES"
 "CONTRACTOR'S INSURANCE IS "PRIMARY" AND THE COUNTY OF MONTEREY IS
 "NON-CONTRIBUTORY".

ANY CHANGES IN YOUR PREMIUM WILL BE REFLECTED IN YOUR NEXT STATEMENT. THIS IS NOT A BILL.

	Additional	Return
Due at Policy Change effective date:	\$	\$

Installment Premium Schedule

Due Dates	Prior to this change	Result of Change		*Revised Installment
		Additional	Return	
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$
	\$	\$	\$	\$

Revised installments, if not shown on this endorsement, will be shown in the Declarations or on Form HM 99 01.

*If Future Annual Installments, this excludes Automobile Premium.

This endorsement does not change the policy except as shown.

Policy Expiration Date

12/31/11

Countersigned by _____
 (Where required by law) Authorized Representative Date



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED AND RIGHTS OF RECOVERY AGAINST OTHERS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

- A. Any person or organization whom you are required by contract to name as additional insured is an "insured" for LIABILITY COVERAGE but only to the extent that person or organization qualifies as an "insured" under the WHO IS AN INSURED provision of Section II - LIABILITY COVERAGE.
- B. For any person or organization for whom you are required by contract to provide a waiver of subrogation, the Loss Condition - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US is applicable.

Withholding Exemption Certificate

2011

(This form can only be used to certify exemption from nonresident withholding under California R&TC Section 18662. This form cannot be used for exemption from wage withholding.)

590

File this form with your withholding agent. (Please type or print)		Withholding agent's name	
Vendor/Payee's name Karl Storz Endoscopy - America, Inc		Vendor/Payee's <input type="checkbox"/> Social security number <input type="checkbox"/> SOS. no. <input type="checkbox"/> California corp. no. <input checked="" type="checkbox"/> FEIN	Note: Failure to furnish your identification number will make this certificate void.
Vendor/Payee's address (number and street) 2151 E Grand Ave		9 5 - 2 6 7 8 4 4 9	
City El Segundo		APT no.	Private Mailbox no. Vendor/Payee's daytime telephone no. ()
State CA		ZIP Code 90245	

I certify that for the reasons checked below, the entity or individual named on this form is exempt from the California income tax withholding requirement on payment(s) made to the entity or individual. Read the following carefully and check the box that applies to the vendor/payee:

- Individuals — Certification of Residency:**
I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly inform the withholding agent. See instructions for Form 590, General Information D, for the definition of a resident.
- Corporations:**
The above-named corporation has a permanent place of business in California at the address shown above or is qualified through the California Secretary of State to do business in California. The corporation will withhold on payments of California source income to nonresidents when required. If this corporation ceases to have a permanent place of business in California or ceases to be qualified to do business in California, I will promptly inform the withholding agent. See instructions for Form 590, General Information E, for the definition of permanent place of business.
- Partnerships:**
The above-named partnership has a permanent place of business in California at the address shown above or is registered with the California Secretary of State, and is subject to the laws of California. The partnership will file a California tax return and will withhold on foreign and domestic nonresident partners when required. If the partnership ceases to do any of the above, I will promptly inform the withholding agent. **Note:** For withholding purposes, a Limited Liability Partnership is treated like any other partnership.
- Limited Liability Companies (LLC):**
The above-named LLC has a permanent place of business in California at the address shown above or is registered with the California Secretary of State, and is subject to the laws of California. The LLC will file a California tax return and will withhold on foreign and domestic nonresident members when required. If the LLC ceases to do any of the above, I will promptly inform the withholding agent.
- Tax-Exempt Entities:**
The above-named entity is exempt from tax under California or federal law. The tax-exempt entity will withhold on payments of California source income to nonresidents when required. If this entity ceases to be exempt from tax, I will promptly inform the withholding agent.
- Insurance Companies, IRAs, or Qualified Pension/Profit Sharing Plans:**
The above-named entity is an insurance company, IRA, or a federally qualified pension or profit-sharing plan.
- California Irrevocable Trusts:**
At least one trustee of the above-named irrevocable trust is a California resident. The trust will file a California fiduciary tax return and will withhold on foreign and domestic nonresident beneficiaries when required. If the trustee becomes a nonresident at any time, I will promptly inform the withholding agent.
- Estates — Certification of Residency of Deceased Person:**
I am the executor of the above-named person's estate. The decedent was a California resident at the time of death. The estate will file a California fiduciary tax return and will withhold on foreign and domestic nonresident beneficiaries when required.

CERTIFICATE: Please complete and sign below.

Under penalties of perjury, I hereby certify that the information provided herein is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent.

Vendor/Payee's name and title (type or print) _____

Vendor/Payee's signature ► _____ Date _____