

**AMENDMENT NO. 3
TO SERVICES AGREEMENT
BETWEEN META DYNAMIC, INC AND
NATIVIDAD MEDICAL CENTER
FOR
RENTAL OF GUIDED SURGERY EQUIPMENT AND SERVICES**

This Amendment No. 3 to the Services Agreement ("Agreement") which was effective on April 15, 2015 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"), and **META Dynamic, Inc.** (hereinafter "CONTRACTOR"); (collectively, the County, NMC and CONTRACTOR are referred to as the "Parties"), with respect to the following:

RECITALS

WHEREAS, the Agreement was executed by and between the County of Monterey on behalf of Natividad Medical Center and META Dynamic, Inc. for rental of guided surgery equipment and services with an initial term of April 15, 2015 through April 14, 2016 and a total Agreement amount not to exceed \$100,000; and

WHEREAS, NMC and CONTRACTOR amended the Agreement on April 1, 2016 via Amendment No. 1 to extend the term for an additional one year period through April 14, 2017 at no cost increase; and

WHEREAS, NMC and CONTRACTOR amended the Agreement on April 15, 2017 via Renewal and Amendment No. 2 to extend the term for an additional three (3) year period through April 14, 2020 and to add an additional \$80,000 thereby increasing the total Agreement amount to \$180,000; and

WHEREAS, NMC and CONTRACTOR currently wish to amend the Agreement via Amendment No. 3 to allow for services to continue with revisions to the current scope of work (Exhibit A-1 of Renewal and Amendment No. 2) and to increase the amount payable by \$95,000 for a revised total Agreement amount of \$275,000 with no change to the term of the Agreement April 15, 2015 through April 14, 2020.

AGREEMENT

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

The Agreement is hereby renewed on the terms and conditions as set forth in the Original Agreement and in Amendment No. 1 and Renewal and Amendment No. 2 incorporated herein by this reference, except as specifically set forth below.

1. Section 2 / Paragraph titled, "PAYMENTS BY NMC" shall be amended to the following:
"NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in EXHIBIT A-3 as per Amendment No. 3 attached hereto this Amendment No. 3. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$275,000."
2. Section 4/ Paragraph titled, "SCOPE OF SERVICES AND ADDITIONAL PROVISIONS/EXHIBITS" shall be amended to the following:
*"The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:
~~Exhibit A: Scope of Services/Payment Provisions~~
~~Exhibit B: Business Associate Agreement~~
~~Exhibit A-1: Revised Scope of Services/Payment Provisions as per Renewal and Amendment No. 2.~~
Exhibit A-3: Revised Scope of Services/Payment Provisions as per Amendment No. 3." (Replaces Exhibit A-1: Revised Scope of Services/Payment Provisions as per Renewal and Amendment No. 2)*

3. Except as provided herein, all remaining terms, conditions and provisions of the Original Agreement are unchanged and unaffected by this Amendment No. 3 and shall continue in full force and effect as set forth in the Agreement and in Amendment No. 1 and Renewal and Amendment No. 2.
4. A copy of this Amendment No. 3 shall be attached to the Original Agreement.
5. This Amendment No. 3 shall be effective when signed by both Parties.

The remainder of this page was intentionally left blank.

~ Signature page to follow ~

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 3 on the basis set forth in this document and have executed this Amendment No. 3 on the day and year set forth herein.

NATIVIDAD MEDICAL CENTER

By: _____
Gary R. Gray, DO, CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By: CB
Monterey County Deputy County Counsel

Date: July 10, 2019

APPROVED AS TO FISCAL PROVISIONS

By: [Signature]
Monterey County Deputy Auditor/Controller

Date: 7-10-19

CONTRACTOR

META Dynamic, Inc.

CONTRACTOR's Business Name

See instructions below

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

Tom Pfeider/CEO
Name and Title

Date: 7/3/19

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

Rick D. Christensen Corporate Controller
Name and Title

Date: 7/3/19

*****Instructions*****

If CONTRACTOR is a corporation; including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required).

If CONTRACTOR is a partnership; the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership (two signatures required).

If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement (one signature required).

EXHIBIT A-3

Revised Scope of Services/Payment Provisions as per Amendment No. 3

This Scope of Services is entered into by and between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center, an acute care hospital (hereinafter, "NMC"), and **META Dynamic, Inc.** hereinafter referred to as ("CONTRACTOR") pursuant to the Service Agreement between NMC and CONTRACTOR attached hereto with a start date commencing upon the execution of this Agreement (the "Agreement") and is subject to the terms and conditions of the Agreement.

I. Description of All Services to be Rendered by CONTRACTOR:

Intraoperative image guided navigational surgery (IGS) allows the surgeon to operate within a surgical site whose standard anatomical landmarks may be ambiguous because of tumor, infection, fracture or previous surgery. Studies suggest that IGS may result in decreased complications, increased disease removal, decreased length of stay and in some cases decreased operative time.

CONTRACTOR shall supply the Brainlab neuronavigation system which includes the equipment, hardware and software to perform neurosurgery. Digital patient data is uploaded from the computed tomography (CT) or magnetic resonance imaging (MRI) located at NMC to the Brainlab neuronavigation system in the Operating Room (OR) assisting the surgeon in identifying the right surgical approach. Surgeons are guided through procedures with real time data allowing for smaller skull openings and minimizing damage to healthy structures. With the universal instrument holder (VarioGuide™), preplanned trajectories can be targeted systematically within seconds and anytime during the surgery.

The equipment shall arrive from CONTRACTOR within twenty-four (24) hours of surgery. The CONTRACTOR's technician shall arrive within one (1) hour of surgery to set up the equipment. The technician shall assist the surgeon with the operation of the equipment.

This service shall take place at NMC in one of the surgical suites located on the 2nd floor.

II. CONTRACTOR Obligations:

- a. CONTRACTOR shall deliver a navigation system within twenty-four (24) hours prior to the scheduled surgery.
- b. CONTRACTOR's technician shall arrive one (1) hour before the scheduled start time of the surgery.
- c. CONTRACTOR shall maintain equipment in good working condition.
- d. CONTRACTOR shall ensure technicians are properly trained and credentialed to work in a hospital environment.
- e. CONTRACTOR shall provide documentation of the services for each patient upon completion of the surgical procedure.

III. NMC Obligations:

- a. NMC shall provide a safe haven for the equipment during its time at the hospital.
- b. NMC shall provide appropriate electrical connections and other services for the functioning of the equipment.
- c. NMC shall provide a Bio Med technician to quality check the equipment before start of each scheduled surgery.
- d. NMC shall request services within one (1) day of each surgery when the equipment and services is requested.
- e. NMC shall provide access to the CT / MRI scans of the operative patients.
- f. NMC shall provide an operating suite large enough to accommodate the extra equipment.
- g. NMC shall provide competent staff to participate in surgery.

IV. Patient Data:

- a. All data provided by Natividad Medical Center (County of Monterey) belongs to Natividad Medical Center (County of Monterey). All records compiled by CONTRACTOR in completing the work described in this Agreement, including but not limited to written reports, studies, drawings, blueprints, negatives of photographs, graphs, charts, plans, source codes, specifications and all other similar recorded data, shall become and remain the property of Natividad Medical Center (County of Monterey). Use or distribution of Natividad Medical Center (County of Monterey) data by CONTRACTOR is prohibited unless CONTRACTOR obtains prior written consent from Natividad Medical Center (County of Monterey).
- b. For systems hosted or stored on equipment not owned by Natividad Medical Center (County of Monterey), CONTRACTOR shall furnish all data to Natividad Medical Center (County of Monterey) upon request by Natividad Medical Center (County of Monterey) at any time during the term of this Agreement in a useable format as specified by NMC and at no additional cost to Natividad Medical Center (County of Monterey).
- c. Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that CONTRACTOR shall retain all of its rights in its proprietary information including, without limitation, methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge and experience possessed by CONTRACTOR prior to this Agreement.

V. Pricing/Fees:

- a. For pricing, please refer to attached schedule.
- b. There shall be no travel reimbursement allowed during this Agreement.
- c. Sales tax is applicable to rental fees, technician time and single use products at the prevailing tax rate for the hospital. Please note that the State Board of Equalization has ruled that technician time is taxable because the equipment, which is not owned by the Contractor, is not rented without a technician.
- d. CONTRACTOR to submit invoices upon completion of deliverables.
- e. CONTRACTOR warrants that the cost charged for services under the terms of this contract are not in excess of those charged any other client for the same services performed by the same individuals.

- f.** Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.
- g.** County may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.
- h.** No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.
- i.** NMC shall not pay any claims for payment of services submitted more than twelve (12) months after the calendar month in which the services were completed.
- j.** Services used during holidays will be charged at holiday rate. Holidays are defined as:
 - Memorial Day
 - Independence Day (4th of July)
 - Labor Day
 - Thanksgiving Day
 - Christmas Day
 - New Year's Day
- k.** Holidays falling on a Saturday will be recognized the previous Friday also.
- l.** Holidays falling on a Sunday will be recognized the following Monday also.
- m.** Weekend/afterhours fees apply to a surgery start time of 6 p.m. or later, a surgery taking place on a Saturday, a Sunday or a holiday.

Navigation Rental & Services		
2-RF	Rental Fee	\$2,795.00
2-RF-WE	Rental Fee-Weekend/Holiday/After Hours	\$2,995.00
2-TF	Hourly Tech Fee* (3 hour minimum)	\$86.00
2-TF-WE	Tech Fee--Weekend/Holiday/After Hours*	\$150.00
2-RS	Radiology Services (> 2 hours prior to surgery)	\$350.00
2-RS-PO	Radiology Services-Pre-Op	\$150.00
Single Use Products		
5-BN/BL	Biopsy Needle	\$595.00
5-DB 2.5-S	Drill Bit 2.5mm short	\$350.00
5-DB 3.2-S	Drill Bit 3.2mm short	\$350.00
5-DB 2.6-L	Drill Bit 2.6mm long	\$350.00
5-DB 3.2-L	Drill Bit 3.2mm long	\$350.00
5-F	Registration Marker - Universal (per surg.)	\$50.00
5-FD	Fluoro Drape	\$60.00
5-PNT	Pedical Access Needle Trocar Insert	\$225.00
5-PPK	Patient Fiducial Prep Kit	\$25.00
5-RC	Clip-On Remote Control Button for spine probe	\$95.00
5-RH	Reference Headband	\$75.00
5-SS-3, 4, 5	Schanz Screw (3, 4, or 5mm)	\$95.00
5-STY	Ventricular Catheter Passer-Stylet	\$595.00
Tissue Removal Equipment & Supplies		
4-UA	Rental Fee - Ultrasonic Aspirator	\$1,995.00
4-UA-WE	Rental Fee - Ultrasonic Aspirator, Weekend/Holiday/After Hours	\$2,195.00
4-D	Rental Fee (with Navigation at same surgery) (Replaces previous \$200 discount code)	\$1,795.00
4-UA Kit	Ultrasonic Aspirator Kit (1ea tubing, liner, flu)	\$495.00
4-UA-L	2nd liner	\$50.00
4-TF	Technician Fee	\$86.00
Cancellation/Misc. Fees/ (Cumulative)		
6-CF-AD	After Equipment Delivery	\$695.00
6-CF-ATA	After Tech Arrival	\$295.00
6-CF-ATA-WE	Weekend Cancellation-After Tech Arrival	\$495.00
6-ED	Emergency Response/Delivery (same day or after 2PM day prior)	\$395.00