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July 18, 2018

Daniel Leon
Chief Financial Officer
Natividad Medical Center
1441 Constitution Blvd
Salinas, CA 93906

Re: **Letter of Agreement (“LOA”) – Amendment - iRound, Nursing Executive Center, Health Care IT Advisor, and Health Care Advisory Board**

Dear Mr. Leon:

Thank you again for the time you have afforded us to evaluate iRound (“**iRound**”), Nursing Executive Center (“**NEC**”), and Health Care IT Advisor (“**HCITA**”) memberships (the “**New Memberships**”) and for your interest in renewing your Health Care Advisory Board (“**HCAB**”) membership (the “**Renewal Membership**”) and collectively with the New Memberships, the “**Memberships**”). The Advisory Board Company (the “**Advisory Board**” or “**we**”) are excited about the opportunity to work with Natividad Medical Center (“**Member**” or “**you**”) and are submitting this document for your signature to enroll and renew your organization as a member of the Memberships.

I. Terms of Coverage

Under the terms of this LOA, Advisory Board research, services and materials made available to you, as described in the Membership Overviews attached to this LOA, are for the sole use of Member.

The following institutions are included in this LOA:

Natividad Medical Center

II. Terms of Membership

The term of your Memberships will begin on September 1, 2018 and end on August 31, 2023 (“**Membership Term**”) and each year herein a “**Year**”).

The Advisory Board is pleased to provide the preferred Membership details outlined below, including your contribution amounts and membership dates. In addition, the Standard Terms of Membership attached hereto and incorporated herein by reference are applicable to the Memberships. The Advisory Board requests payment of the full membership contribution of a member's membership Year within thirty (30) days from receipt of a certified invoice by the County of Monterey Auditor-Controller. The total amount payable by Member to the Advisory Board under this LOA shall not exceed the sum of \$857,396.

1. iRound

We are pleased to extend Preferred Annual Membership Fees in recognition of Member's involvement in and support of iRound:

	Preferred Set-Up Fees (One-Time)	Preferred Annual Membership Fees Year 1	Preferred Annual Membership Fees Year 2	Preferred Annual Membership Fees Year 3	Preferred Annual Membership Fees Year 4	Preferred Annual Membership Fees Year 5	Total
iRound	\$24,250	\$40,693	\$42,353	\$44,095	\$45,925	\$47,846	\$245,162

2. Nursing Executive Center

We are pleased to extend Preferred Annual Membership Fees in recognition of Member's involvement in and support of NEC:

	Preferred Annual Membership Fees Year 1	Preferred Annual Membership Fees Year 2	Preferred Annual Membership Fees Year 3	Preferred Annual Membership Fees Year 4	Preferred Annual Membership Fees Year 5	Total
Nursing Executive Center	\$26,500	\$27,750	\$29,063	\$30,441	\$31,888	\$145,642

3. Health Care Advisory Board

Termination of Existing Agreement

Member currently subscribes to the HCAB Membership set forth in Table I below (the "Existing Membership") pursuant to existing agreements with Advisory Board referenced in Table I (such agreements, together with any amendments or addenda thereto executed prior to the date of this LOA the "Existing Agreements"). To align the Existing Membership(s) under this LOA effective August 31, 2018 (the "Termination Date"), the parties agree that the Existing Agreements are hereby terminated and superseded in their entirety by this LOA. Any prepaid amounts related to the Existing Membership(s) (a) for services to be performed under the Existing Agreements after the Termination Date will be credited on Member's first invoice under this LOA, and (b) any amounts currently due for under the Existing Agreements prior to the Termination Date will be invoiced upon execution of this LOA. For avoidance of doubt, any membership(s) included in the Existing Agreements, other than the Memberships(s) listed in Table I, will continue in accordance with the terms of the Existing Agreements.

Existing Agreements	Existing Memberships	Institution	Current Contracted End Date	Revised Contracted End Date	Current Total Contracted Fees Due	Revised Total Contracted Fees Due through New Termination Date	Total Paid as of 7/18/2018	Total Credit Due as of 7/18/2018
Letter of Agreement – dated February 18, 2016	Health Care Advisory Board	Natividad Medical Center	12/30/2018	8/31/2018	\$204,922	\$181,166	\$204,922	(\$23,756)
Total:								(\$23,756)
*Amounts in () represent a credit owed to Member based on a previously paid invoice(s). Member will receive a credit in the amount of \$23,756 as outlined above, toward the first invoice under this LOA.								

Enrollment in HCAB

We are pleased to extend Preferred Annual Membership Fees in recognition of Member's involvement in and support of HCAB:

	Preferred Annual Membership Fees Year 1	Preferred Annual Membership Fees Year 2	Preferred Annual Membership Fees Year 3	Preferred Annual Membership Fees Year 4	Preferred Annual Membership Fees Year 5	Total
Health Care Advisory Board	\$65,960	\$65,960	\$65,960	\$65,960	\$65,960	\$328,450

4. Health Care IT Advisor

We are pleased to extend Preferred Annual Membership Fees in recognition of Member's involvement in and support of HCITA:

	Preferred Annual Membership Fees Year 1	Preferred Annual Membership Fees Year 2	Preferred Annual Membership Fees Year 3	Preferred Annual Membership Fees Year 4	Preferred Annual Membership Fees Year 5	Total
Health Care IT Advisor	\$25,000	\$26,250	\$27,563	\$28,941	\$30,388	\$138,142

5. One-Time Fees

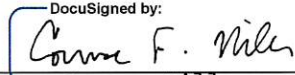
Upon execution of this LOA, we request a payment of \$24,250 representing the One-Time Preferred Set-Up Fee for Member's membership in the iRound membership.

III. Enrollment

Member hereby agrees to the Standard Terms of Membership attached hereto and incorporated herein by this reference. Member will also enter into a Business Associate Agreement with us that will contain additional terms to set forth obligations of the parties with respect to protected health information.

To initiate and renew Member's involvement as a member of the Memberships under these terms of this LOA, please return a signed copy of this LOA to our offices by e-mail to **PowersL@advisory.com** no later than **August 31, 2018**

THE ADVISORY BOARD COMPANY:

DocuSigned by:

 Name: Corinne F. Miller
 Title: EVP, Optum Analytics

THE COUNTY OF MONTEREY ON BEHALF OF NATIVIDAD MEDICAL CENTER:

 Dr. Gary Gray
 Chief Executive Officer

APPROVED AS TO LEGAL PROVISIONS

By: 
 Monterey County Deputy County Counsel

Date: 8-1-18

APPROVED AS TO FISCAL PROVISIONS

By: 
 Monterey County Deputy Auditor/Controller

Date: 8-3-18

Annex A

Scope of Services – iRound

iRound Overview

The purpose of the iRound program is to serve a permanent network of health systems, clinics, and hospitals focused on developing the infrastructure to become the consumer's destination of choice. The iRound™ platform combines a mobile application, web-based analytical dashboard system, and suite of training and change management support services to help hospital leaders transform their approach to experience—by enabling communication, issue resolution, and personalized care.

Nurse leaders and other staff can automate daily rounding with iRound using any internet-connected device and iRound's proprietary Status Map interface, which provides a real-time view of patient locations and occupancy as well as tracking of rounds and service recovery requests at the patient level. Once complete, each round may be automatically synchronized to a secure dashboard system, which transforms the data into interactive reports for in-depth analysis and systematic performance improvement in real time. Service recovery & physician/employee recognition capabilities further drive real time performance improvement by allowing for *in the moment* patient centric issue resolution as well as timely and specific employee feedback.

iRound eliminates the need to manually key in paper notes from daily patient rounds, reducing the risk of transcription errors and saving potentially thousands of hours of nursing time. More importantly, iRound enables staff to take rapid action upon identifying a patient need or concern during a round, rather than waiting weeks or months to see results from today's patients in future survey data. To engage the patient after discharge, the iRound solution can also be enabled to equip patients with audio recordings of discharge instructions, captured via any device, and becoming part of the patient record. Patients can access discharge instructions via web portal or toll-free number, and the Member will be equipped to monitor how often patients access discharge instructions, with the ability to follow up and clarify discharge instructions if patients have accessed recordings multiple times.

iRound expands Member's use of the iRound platform's auditing and reporting functionality to support the needs of the hospital in common use cases such as Quality & Safety and Environment of Care. iRound includes a suite of supportive services and direct assistance to help hospital leaders transform their approach to non-clinical observational auditing, data collection and reporting. This document summarizes the services offered to members of the iRound™ program generally, as well as the particular configuration and specifications of Member's membership. Specific services may change based on Member's selection of optional services and components, as well as during the course of the program year as we continue to gather advice from our members as to how we can help them improve clinical, operational, and financial performance.

iRound Rounding and Reporting Tool

The keystone of membership in the iRound program is an application that provides automation of rounding, coupled with a seamless synchronization of accumulated data with a web-based central database and analytic tool for data aggregation and reporting, including:

- Dashboards to provide at-a-glance views of Member's rounding performance on a daily basis for all units
- Service Recovery Task tracking and reporting in a real time manner to facilitate faster action to resolve service issues
- Ability for multiple users to easily access and track key patient rounding on demand
- Detailed, drill-down reporting of accumulated data with daily, weekly, or monthly frequency

The iRound program is comprised generally of the following major components:

- Web-Based Application for Rounding and Wireless Synchronization of Accumulated Data
- Web-Based Analytics Engine, Dashboards, and Reporting Tool
- Patient Experience Rounding Forms and Reports based on Best Practices
- Audit Forms and Reports for Quality & Safety and/or other user cases
- Optional Patient Discharge Instruction Recordings
- Optional HL7 ADT integration for real time patient level rounding data.
- Optional Federated Single Sign-on
- Orientation, Training, Site Configuration, and Support
- Best Practice Research and Member Networking

Technology Components

Components	Description
iRound Web-Based Application for Rounding	Web browser based application for data collection at the room, bed, or patient level, transmitting data via wireless connectivity to an Advisory Board Company hosted environment.
Patient Experience Rounding Forms and Reports	Foundational best practice-based Patient Experience rounding forms and reports for Daily Patient Rounding, Staff Recognition, Service Recovery and Leader Rounding on Employees
Audit Forms and Reports	Library of templated audit/survey forms supporting Quality & Safety, Infection Prevention, Environment of Care and Regulatory & Compliance, tailorable to Member's needs.
Patient Discharge Instruction Recordings	Audio recordings of discharge instructions that patients can access via web portal or toll-free number, and Member can monitor how often patients access the recordings
HL7 ADT Integration	Admission, Discharge and Transfer activity from a member's Admissions application to iRound allows the ability track historical rounding and profile information at the patient level
Federated Single Sign-on	Ability to allow users to access iRound application through Member's network credentials without having to log-in separately

The *Configuration and Specifications section* below provides a more detailed description of the Member-specific configurations to be delivered.

Orientation, Training, Implementation, and Optimization

The Member's assigned implementation and optimization team includes a Dedicated Advisor and Business Analyst. The assigned implementation and optimization team partners with the Member's project team to assist in meeting the Member's goals for membership in the iRound program within the Member facilities specified in this LOA. Key roles and responsibilities of the iRound implementation and optimization team include:

Dedicated Advisor

- Serving as the Member's primary point of contact for strategic and overall program utilization throughout the partnership
- Delivering an assessment using proprietary Patient Experience Competencies Model™ (PECM) framework to highlight immediate opportunities for performance improvement and set forth a staged, systematic process to ensure continued development of capabilities
- Establishing strategic priorities and chronicling progress against performance milestones
- Integrating iRound reporting tools and outputs with unit, department, and senior leadership rounding and review processes
- Providing proactive data analyses to identify improvement opportunities; and updates to the executive sponsor and project team as needed to support technology adoption and usage
- Quarterly project sponsor meetings to assess progress and leadership priorities
- Supporting Member's process to efficiently and effectively integrate census data including HL7 ADT data (if applicable)
- Leading web-based and on-site training to instruct authorized Member users in product updates, releases, and periodically for new Member staff.
- Providing collateral to educate Member nursing staff on the use and navigation of the iRound tool, and ongoing program support
- Collaborating with Member to modify the foundational or add additional Patient Experience related forms and reports to support the needs of Member's authorized nursing units.

Business Analyst

- Develops detailed implementation plan and manages deliverables
- Communicates technical requirements and information needed from the Member
- Reviews Member's existing data and processes to customize iRound forms and reports
- Tests setup of technology and accuracy of data
- Manages user configuration and ensures training readiness
- Leads project status calls and provides regular status updates during implementation

Member's team plays a critical role in the success of the iRound program. Member will nominate a project partner (the "Project Partner") to work with the iRound team to assist in the success of Member's iRound membership. The Project Partner will be responsible for the following:

- Providing data in accordance with iRound Specifications for rounding and analytic tool usage noted in the Configurations and Specifications section of this document.
- Engaging appropriate executive team members as well as Member's technical and clinical resources to assist in the success of Member's iRound membership; including active participation and support of quarterly executive update sessions led by the iRound Dedicated Advisor
- Defining and enforcing process changes to assist in the alignment and achievement of Member's iRound membership goals
- Educating Member's staff to assist in the alignment and achievement of Member's iRound membership goals.
- Accurately scoping and prioritizing requests with Dedicated Advisor for any technical configurations and modifications.
- Providing access to IT support teams to facilitate data acquisition for non-hosted systems and HL7 ADT integration (if applicable)

Best Practice Research and Member Networking

The iRound program also includes access to a full complement of resources and services aimed at fostering networking across the cohort and sharing knowledge of how member hospitals are leveraging their membership in the iRound program to drive better clinical, operational and financial results. These resources include:

- Case studies profiling patient experience, quality and safety rounding successes
- Research briefs on driving performance improvement and best practices
- Annual summit to explore best practices and provide input on product roadmap
- iRound and Patient Experience webinars and teleconferences led by member organizations and subject matter specialists
- Access to the iRound on-Line Training and Education Forums
- Networking opportunities – at Member's request, the Dedicated Advisor will coordinate conference calls with other cohort members to discuss relevant topics of Member's choice

CONFIGURATION AND SPECIFICATIONS

The information below reflects the iRound configuration for Member.

Number of Hospital Facilities	Up to: 1
Annual Inpatient Volume	Up to: 7200
HL7ADT Integration for Patient Level Data	YesYes
If Yes:	Up to: 1 Unique ADT System Interfaces

iRound Web Application	Version Number: 10
iRound Automated Rounding Forms (to include option lists tailored to facility units)	<ol style="list-style-type: none"> 1. Patient Daily Rounding (foundational questions) 2. Staff Recognition 3. Service Recovery 4. Leader Rounding on Employees
iRound Best Practice-Based Reports	<ol style="list-style-type: none"> 1. Detailed queries of rounding data for all forms, including patient daily rounding, service recovery tasks, recognition, and leader rounding on employees

	<ol style="list-style-type: none"> 2. Aggregated best practice reports to ensure visibility into trends and to drive adoption of the tool. Examples include the weekly patient rounding huddle, open service recovery tasks, weekly/monthly employee recognition, and rounder activity reports. 3. Standard Patient Experience Dashboard
iRound Audit Forms and Reports	<p>Applications of forms and reports will be defined, prioritized and sequenced one at a time. Common applications include:</p> <ol style="list-style-type: none"> 1. Quality & Safety 2. Infection Prevention 3. Environment of Care 4. Regulatory & Compliance

Volume Changes

Should Member's inpatient volume (*i.e. the most recent 12 months inpatient volume*) increase by more than 10% for any continuous 90-day period, the Advisory Board reserves the right to increase the annual membership fees for the remainder of the membership term based on the new projected annual inpatient volume via an amendment signed by both parties. Annual inpatient volume will be assessed three months prior to each membership anniversary date; fees will be adjusted by the Advisory Board accordingly for the remainder of the membership term and executed via an amendment signed by both parties.

Reconfiguration, Modifications, and Other Changes

Membership fees are based upon Member's current system configuration of the iRound mobile device and application, the foundational forms and reports included as standard best practices for Patient Experience, and daily census data or HL7 ADT feed (if applicable). The Advisory Board is pleased to accommodate changes within Member's system configuration to accommodate requirements as may be necessitated through the course of the iRound program.

Specifications

Data Capture

Data capture associated with iRound includes:

- Facility/unit/room bed structure
- Leaders and Rounders requiring access to iRound Audit or rounding form responses
- Recognition recommendations
- Service recovery tasks identification and status
- HCAHPS data scores (up to 24 months of historical data)
- Daily census data
- HL7 ADT data feed (if applicable)
 - Secure virtual private network (SVPN) with The Advisory Board Company
 - Data dictionary or sample test data from Member's HL7 ADT system

Data Transmission

- The Advisory Board will provide data specifications to Member defining the standard content and format of data files required.
- Member is responsible for acquiring data in the agreed upon format from all applicable data sources.
- Advisory Board will make commercially reasonable efforts to accommodate non-standard data file formats. If the formats are significantly different or are in non-industry standard formats, Advisory Board will work on a time and material basis at the Advisory Board's preferred hourly rate of \$175 per hour to support the format if technically feasible.

Member Requirements – Devices/Operating Systems/ Internet Browsers

Component	Specifications
Devices for Data Collection and Analytics	<ul style="list-style-type: none"> • iPad, iPad Mini, iPad Air, iPhone 6/6 Plus/6s/6s Plus/7/7 Plus with iOS 9+, Windows Surface II RT, Windows Surface II Pro, Google Nexus 7, Samsung Note 8.1 and 10.1, Samsung Galaxy Tab 2 10.1, desktops and laptops running Macintosh OS X 10.7+, Windows 7+ • Microsoft Internet Explorer 11+, Microsoft Edge, Google Chrome 50+, Mozilla Firefox 46+, Safari 9+ • With either 3G, 4G LTE, or Wi-Fi connectivity • 1-2 devices per unit recommended, devices may be shared (depending on organizational policy)
Optional Web-Based Analytics Engine	<ul style="list-style-type: none"> • Minimum: 1.5 GHz, 1 GB RAM, 1 GB free disk • Recommend: Dual Core 2+ GHz with 2+ GB RAM, 1 GB free disk • Requires MS Silverlight 5 browser plug-in • Desktops and laptops running Macintosh OS X 10.7+, Windows 7 • Browsers: Internet Explorer v11, 64-bit Firefox, Safari 8+

Authorized Users

- Rounding application utilization in accordance with the Member's configuration and specifications noted above, related to number of units, departments, rounders, and inpatient volume.
- An unlimited number of Member's employees and those individuals affiliated with Member may access iRound dashboards, reports and drill-down capability to assist with performance monitoring, trend analysis, problem-solving and decision-making.

Annex B

Membership Overview

Nursing Executive Center

The Advisory Board Company is a membership of over 3,600 of the country's largest and most progressive health systems. Gathering data across and beyond the membership, the Advisory Board publishes 50 major studies and more than 3,000 customized research briefs each year on progressive management and clinical practices in health care. In general, the research focuses on the best demonstrated practices, helping member institutions benefit from one another's learning curves.

The Nursing Executive Center is the Advisory Board program dedicated to helping nursing executives and their teams elevate nursing performance and patient care. To that end, Center staff annually examine the health care industry's most pressing problems, analyze a multitude of data sets, and conduct hundreds of interviews with nursing leaders. Our findings are shared with members through a series of meetings, publications, implementation tools, on-site workshops, and informal discussions.

2017-2018 Research Agenda

State of the Union—Setting Strategy Amid Uncertainty

The changing political landscape means hospitals and health systems must grapple with renewed uncertainty, so an informed, unbiased perspective is critical. Join to hear Advisory Board's latest analysis and learn about how health care organizations can generate returns in tomorrow's market.

Build a Culture of Resilience

Leaders can't readily fix an increasingly complex and uncertain care environment. So in this session, we will discuss the stress "trigger points" exacerbating frontline burnout that leaders can control. Learn strategies and best practices to enable staff to remain flexible, agile, and effective in the face of challenge.

Design and Embed Care Standards the Front Line Will Embrace

Progressive organizations are aiming to reduce costs and improve care quality through a collaborative, multidisciplinary approach to care variation reduction. Rather than force-fit a poorly designed standard into caregiver workflow, nurse executives are looking upstream, to incorporate caregiver realities into the design process. Join this session to learn how to decide which care to standardize, and how to design and embed standards that will make bedside care easier—not harder—to deliver.

The CNO's Table

Join for an interactive discussion on emerging nurse executive challenges. Discuss your perspective with peer chief nursing officers and learn actionable tips for ensuring your nursing organization is prepared to respond.

2016-2017 Research Agenda

State of the Union: The Next Era of Health Care Reform

The new consumer imperative: How are changes in health insurance markets and unprecedented transparency transforming health care into a real marketplace? And, what does this mean for nursing?

Put an End to Nurse Manager Overload

Progressive leaders are now looking at the responsibilities of their organization's nurse managers with a critical eye and revising the role to set managers up for success. Learn strategies to transform overwhelmed unit managers into high performing and inspiring nursing leaders.

Win Millennials' Loyalty

Learn strategies for managing millennials and the most powerful retention levers for stopping nurse turnover within the first three years.

Master the Art of Persuasive Communication

In today's environment, nurse executives must secure commitment from key stakeholders about future care delivery changes. We've set aside an hour to focus on how you can become a more persuasive and effective communicator.

Recent Publications

Best Practice Studies

- Put an End to Nurse Manager Overload
- Win Millennials' Loyalty
- The High Reliability Clinical Enterprise
- Build Your Future Workforce from the Outside-In
- Untapped Opportunities for Saving Millions
- Achieving Care Continuity
- The National Prescription for Nurse Engagement
- Building the High-Value Care Team
- 360-Degree Nurse Staffing Benchmarks
- The Integrated Nursing Enterprise
- Achieving Top-of-License Nursing Practice
- Enhancing the Patient Experience
- Nursing's Role in Safeguarding Acute Care Margins
- Strengthening Interdisciplinary Collaboration
- Instilling Frontline Accountability
- Elevating Frontline Critical Thinking

Implementation Toolkits

- The First-Year Nurse Retention Toolkit
- The Nurse Manager's Guide to Improving Unit Outcomes
- Motivational Interviewing 101
- Patient Decision Aids 101
- The Market Force Course
- The Patient Experience Toolkit
- The Peer Accountability Toolkit
- The Critical Thinking Toolkit

Nursing Executive Center Services

1. **CNO Roundtables**: Annual gatherings of member nurse executives for working group sessions highlighting recent Center research and facilitating group discussion among peers.
2. **Best Practice Summits**: National forums held in select cities each year for member CNOs and their most senior direct reports; designed to widen exposure to Center research and expedite best-practice implementation.
3. **National Webconferences**: Bi-monthly web-based conference calls providing insight from recent research and discussion of new developments.
4. **Onsite Presentations/Facilitated Workshops**: Sessions facilitated by Nursing Executive Center faculty "on site" at member institutions. *One onsite included annually in membership.*
5. **Publications Library**: In-depth reports on emerging developments in nursing, challenges facing Center members, and effective responsive strategies including detailed case studies, best practice profiles, key constituency briefs, and implementation guidelines. *Entire library of publications available in unlimited quantities (45+ publications to date).*
6. **Automated Assessment Surveys**: Web-based survey tools enabling members to garner frontline staff and leader perspectives and identify improvement opportunities; map to Center best practices. *Critical Thinking Diagnostic, Nursing Practice Readiness Tool, Leadership Competency Diagnostic.*
7. **Implementation Resources**: Suite of implementation tools including step-by-step guides and customizable templates; designed to support members in best practice implementation. *Motivational Interviewing 101, Patient Decision Aids 101, The Market Force Course, The Critical Thinking Toolkit, The Patient Experience Toolkit, The Peer Accountability Toolkit.*
8. **Nursing Insights**: Weekly e-newsletter analyzing frontier developments in nursing and providing updates on Center initiatives; emailed monthly to over 25,000 members.
9. **On-Call Experts**: Researchers are available to answer questions on any past or current research topic as well as to discuss related member initiatives. *Dedicated support available in unlimited quantities.*
10. **Advisory.com**: Dedicated web portal providing full access to Center resources; no limit on the number of registered users per member. *Individual usernames and passwords available for all interested employees.*
11. **Nurse Manager Portal**: One-stop hub featuring the Nursing Executive Center's latest insights and tools for nurse managers; provides one-click access to: crosswalks that identify the right best practices for improving unit performance, ready-to-use tools and templates, registration for upcoming webconferences and events, and much more.
12. **Nursing Strategic Scorecard**: Customizable, plug-and-play strategic planning templates for nurse leaders to identify nursing strategic objectives, metrics, and initiatives to advance their organization's own strategic goals.

13. **Online Best Practice Compendium and Best Practice Finder:** Evergreen online library of 300+ best practices, searchable by topic; full case profiles and tools individually downloadable. *Nursing Best Practice Crosswalk, Magnet Crosswalk, HCAHPS Crosswalk, Pay-for-Performance Crosswalk.*
14. **Networking:** Use the Nursing Executive Center to connect with peers who have implemented effective solutions to common nursing problems.

Annex C

Scope of Services – Health Care Advisory Board

The Advisory Board is a membership of over 2,800 of the country's largest and most progressive health systems. Gathering data across and beyond the membership, the Advisory Board publishes 50 major studies and more than 3,000 customized research briefs each year on progressive management and clinical practices in health care. In general, the research focuses on the best (and worst) demonstrated practices, helping member institutions benefit from one another's learning curves.

The Health Care Advisory Board is the Advisory Board Company's flagship research program, offering tools, insights, and guidance to address the most pressing issues facing hospital CEOs and their executive teams. Our principal research terrains include:

- Margin management
 - Physician partnership
 - Business model evolution
 - Care model transformation
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2017-2018 Health Care Advisory Board Research Agenda

- State of the Union—The Next Wave of Health Care Reform
- Preserving the Community Safety Net
- The New Cost Mandate
- Beyond Meaningful Use
- The New Innovation Agenda

Publications and Research Briefs

- 12 Things CEOs Need to Know in 2018
- Playbook for the Consumer-Focused Health System
- Medicare Risk Strategy
- The New Physician Network Advantage
- The Consumer Relationship Platform
- The Community Hospital Advantage
- Outlook for Academic Medical Centers
- The System Blueprint for Clinical Standardization

Tools and Analytics

The Health Care Advisory Board membership includes a suite of forecasting and analytical tools designed to inform future strategy and investment decisions. The suite is expanded and updated on a regular basis and our Data and Analytics Group is available on call to assist as needed. The following tools are currently available to member hospitals and health systems:

Forecasting and Market Sizing Tools

- Inpatient Market Estimator
- Outpatient Market Estimator
- ED Market Estimator
- Operating Room Forecaster
- Bed Demand Forecaster
- Inpatient Service Line Assignments
- Outpatient Service Line Assignments
- Service Line Prioritization Toolkit

Margin Performance Tools

- Customized Benchmark Portal
- Customized Assessment Portal

- The Critical Access Hospital Benchmark Generator
- Self-Pay Discount Calculator
- Regional Cost Driver
- Episodic Cost Profiler
- Care Coordination Episode Profiler
- ED Overutilization Reduction Program Tool

Physician Strategy Tools

- Customized Physician Variation Assessment
- Physician Practice Acquisition Due Diligence Evaluation
- Clinical Integration Investment Calculator
- Physician Documentation Tracker

Policy and Reimbursement Tools

- Customized Medicare Inpatient Payment Assessment
- Customized Pay-for-Performance Assessment
- Customized Two Midnight Impact Assessment
- APC Rate Calculator
- Pay-for-Performance Map
- Hospital Overall Star Rating Map
- Hospital HCAHPS Star Rating Map
- Nursing Home Compare Star Ratings
- Home Health Star Rating Map
- Comprehensive Care for Joint Replacement (CJR) Participant Map
- Customized Post-Acute Care Transfer Opportunity Assessment

Care Transformation Tools

- Care Transformation Capability Assessment
- Customized Preventable Admissions Identification Assessment
- Regional Preventable Admission Profiler
- Customized Avoidable ED Utilization Assessment
- Medical Home Health Coach Practice Impact Calculator
- Population Health Staffing Toolkit

Onsite Presentation

The Health Care Advisory Board's onsite service brings a senior member of the research team to member organizations to discuss major industry trends and present our latest research. Select from a variety of topics and presentation formats. Current onsite presentation offerings include:

Health Care Overview

- State of the Union: Landscape Scan of the Latest Trends in Health Care

Systemness and Integration

- Case Study Profiles of Systemness
- Unlocking Radical Growth

Physician Alignment

- Employed Medical Group Strategy and Operations
- Clinical Workforce of the Future
- Physician Network Strategy
- Partnering with Physicians in Enterprise Cost Control

Margin Improvement

- Reducing and Restructuring Fixed Costs
- Using Philanthropy to Boost Margin Performance

Payment Innovation

- Understanding Medicare Pay-for-Performance
- Bundled and Episodic Payment Strategy
- Navigating Medicare ACOs and Medicare Advantage Plans

Care Transformation

- Population Health Clinical Strategy
- Population Health Care Model Implementation
- Patient Self-Management and Engagement Roadmap

Consumer Strategy

- Consumer Growth Strategy
- Best-in-Class Consumer Experience Implementation
- Consumer-Oriented Ambulatory Network
- The Consumer-Focused Delivery Model
- Consumer Loyalty Strategy

Community Hospital Strategy

- The Community Hospital Advantage

The Health Care Advisory Board is also pleased to offer all the presentations from the 2017 CEO Special Sessions and 2016-2017 National Meeting:

- Unlocking Radical Growth
- The High-Performing Clinical Enterprise
- Medicare Risk Strategy
- The New Physician Network Advantage
- The Consumer Relationship Platform

On Demand Webconferences

Partnering with Physicians in Enterprise Cost Growth

January 12th (Part 1) and 26th (Part 2), 2018 | On-Demand Webconference | Health Care Advisory Board

As organizations face downward pressure for margin management, health systems must expand the cost-control playbook. This two-part series offers seven practices that bring margin management to the forefront of system-physician relationships. The first session describes how best-in-class organizations engineer low-cost clinical products and enable front-line clinicians to practice cost-conscious medicine. The second session offers practical guidance to bringing margin management to the forefront of system-physician relationships. This session describes a new economic model, where best-in-class organizations establish a cost-efficient, productive, and sustainable clinical workforce.

Unlocking Radical Growth

December 11th, 2017 | On-Demand Webconference | Health Care Advisory Board

Influence demands scale, and scale demands growth. This session will help leaders understand opportunities for radical growth both within and beyond existing markets.

State of the Union 2017: Health System Strategy in the Next Era of Reform

November 14th, 2018 | On-Demand Webconference | Health Care Advisory Board

In the wake of the 2016 election and the GOP's unsuccessful efforts to immediately repeal and replace the Affordable Care Act, the health care industry continues to grapple with a period of prolonged uncertainty. Tune in to hear the Health Care Advisory Board's most up-to-date analysis on the future of health care reform and get our latest guidance on how hospital and health system leaders should proceed amid uncertainty.

What CEOs Don't Know About Pharmacy

August 9th, 2017 | On-Demand Webconference | Health Care Advisory Board

Skyrocketing drug spend, emerging revenue opportunities, and growing concerns about patient access have elevated pharmacy issues to the C-suite's agenda. Join Rob Lazerow and Lindsay Conway as they discuss new and emerging trends in health system pharmacy.

The Consumer Relationship Platform

July 21st (Part 1) and August 4th (Part 2), 2017 | On-Demand Webconference | Health Care Advisory Board

In response to new consumer forces, hospitals and health systems have made substantial investments in access, patient satisfaction, and branding. However, few systems have balanced these investments in patient acquisition with tactics for patient retention. In part 1 of the series, hear how to apply platform strategy to build loyal patient relationships—including lessons learned from out of industry exemplars.

For hospitals and health systems to establish durable consumer relationships that can withstand new competition, organizations must expand their loyalty strategy beyond ease-of-use. In part 2 of the series, learn how to become the platform of choice by creating an ROI for loyalty and building trust-based relationships.

The New Physician Network Advantage

June 26th (Part 1) and July 7th (Part 2), 2017 | On-Demand Webconference | Health Care Advisory Board

Most health systems' physician networks are built defensively with market share in mind, leaving these networks ill-equipped to provide the accessible, affordable, and reliable care the market demands. In part 1 of the series, learn how to create a clear sense of purpose to guide your physician network in the right direction. With risk-based payment slow to materialize, most systems have been able to take a gradual approach to physician network refinement. As incentives grow more complex and physician burnout increases, organizations no longer have the luxury of time on their side. In part 2 of the series, learn how to curate and support a high-performing physician network as purchasers, patients, and physicians raise the stakes.

How States Utilize Waivers to Reform Medicaid: What Providers Need to Know

May 23rd, 2017 | On-Demand Webconference | Health Care Advisory Board

Join us to hear about some of the most innovative Medicaid reform initiatives, how they have impacted providers, and what results may mean for the future of state health care policy.

Medicare Risk Strategy

May 12th (Part 1) and June 1st (Part 2), 2017 | On-Demand Webconference | Health Care Advisory Board

With the government's continued focus on alternative payment models and the implementation of MACRA underway, providers must confront major Medicare contracting decisions. In part 1 of the series, learn how to evaluate risk for your fee-for-service Medicare population with our latest analysis of the Medicare ACO programs. While MACRA positions ACO program evaluation as an immediate priority, providers should not ignore opportunities to extend their risk-contracting strategies into the Medicare Advantage market. In part 2 of the series, hear our latest research on risk-contracting in Medicare Advantage and learn how to move beyond contract negotiations to ensure a durable risk strategy that will stand the test of time.

What You Need to Know About the Post-AHCA Health Policy Outlook

April 10th, 2017 | On-Demand Webconference | Health Care Advisory Board

Join us for an update on the outlook for health care reform and other health policy issues in the wake of Republicans' withdrawal of the American Health Care Act.

What to Know about the GOP's Repeal and Replace Plan

March 17th, 2017 | On-Demand Webconference | Health Care Advisory Board

House Republicans recently released their proposal to repeal and replace portions of the Affordable Care Act. Join us for a look at the key details and implications as well as the latest updates on timeline and prospects for the bill.

You Were Selected for CPC+: Now What?

January 31st, 2017 | On-Demand Webconference | Health Care Advisory Board

Join Executive Vice President and Chief Medical Officer, Dennis Weaver, as he discusses CMS' CPC+ program, its implications for participating organizations, and takes your questions.

Foundations of the Consumer-Focused Health System

January 12th (Part 1) and 18th (Part 2), 2017 | On-Demand Webconference | Health Care Advisory Board

If hospitals and health systems hope to grow in today's consumer-driven health care market, they'll need to build long-term, durable relationships with their customers. Get an overview of the four core tenets of consumer-focused care delivery.

What It Will Take to Win in a Direct-to-Consumer Market

December 8th, 2016 | On-Demand Webconference | Health Care Advisory Board

Learn the fundamental steps to make the purchase of health care easier and explore tactics to retain long-term consumer loyalty through consumer experience investments, membership programs, and value-based insurance design.

How Health Systems Can Prepare for the Retail-Oriented Market

December 1st, 2016 | On-Demand Webconference | Health Care Advisory Board

Learn the limitations of a one-size-fits-all approach to health care and review strategies to build multiple market postures for discrete consumer needs.

The Post-Election Outlook for Health Policy

November 18th, 2016 | On-Demand Webconference | Health Care Advisory Board

Hear a panel of Advisory Board experts recap the election and discuss how the election outcome will impact the evolution of health policy.

MACRA: How the Final Rule Impacts Providers

October 28th, 2016 | On-Demand Webconference | Health Care Advisory Board

CMS released final details for MACRA implementation in 2017. This webconference provides a high-level summary of the final rule and initial takeaways for providers.

How Community Hospitals Can Survive—and Thrive—in Their Markets

July 13th, 2016 | On-Demand Webconference | Health Care Advisory Board

As the industry changes from volume-based to value-based payment, community hospitals must develop their traditional strengths—such as modest cost structure, strategic agility, and proximity to consumers—to provide superior value to the market.

Bundled Payment Strategy: Securing Profitable Growth Through Superior Episodes of Care

May 17th, 2016 | On-Demand Webconference | Health Care Advisory Board

CMS's emerging focus on bundled payment has drastically raised industry focus on episode efficiency—yet many questions remain. Get the answers to those questions and understand the outlook for bundled payment contracting with different purchaser segments.

What Maryland's All-Payer Model Teaches About the Future of Payment Reform

May 13th, 2016 | On-Demand Webconference | Health Care Advisory Board

Hear from leaders from Maryland provider organizations about their experiences in the state's unique all-payer model and thoughts on how the lessons they're learning might shape the national transition to value-based care.

Concrete Tactics to Restructure Fixed Costs and Build the Hospital of the Future

April 19th (Part 1) & 26th (Part 2), 2016 | On-Demand Webconference | Health Care Advisory Board

Shifts toward population health and the rise of consumerism are fundamentally changing the future demand for acute care—which means your strategy has to change, too. Learn how to build a sustainable service-based asset strategy.

Annex D

Membership Overview

Health Care IT Advisor

I. The Advisory Board in Brief

The Advisory Board is a membership of over 3,100 of the country's largest and most progressive health systems. Gathering data across and beyond the membership, the Advisory Board publishes 50 major studies and more than 3,000 customized research briefs each year on progressive management and clinical practices in health care. In general, the research focuses on the best demonstrated practices, helping member institutions benefit from one another's learning curves.

II. Health Care IT Advisor

The Health Care IT Advisor membership was developed in response to the CIO's expanding role at the executive suite level and recognizing the importance of the utilization of IT in all organizational challenges.

The membership is a unique service model that fulfills CIO, IT leaders, and their staff's needs for comprehensive, customizable, and cost-effective support. We provide the following services for CIOs, IT leaders, and their staff to:

1) Develop Market-Leading Strategy:

- Special IT Summit for you and your "C-suite buddy"
- Presentations and facilitated discussions on critical IT-related topics to get IT and non-IT leaders on the same page
- Analysis of national trends and industry news
- Strategic planning tools
- On-call expert consultations

2) Accelerate Performance Improvement

- Executive briefings, reports, and presentations
- Decision guides
- Tools
- Templates
- CIO IT Cost and Performance Management Survey

3) Enhance Team Effectiveness

- Staff training and development
- Health Care Delivery Boot Camp series
- Health care cheat sheets
- Sample policies, procedures, and job descriptions
- Ready-made presentations
- News digests and analysis



STANDARD TERMS OF MEMBERSHIP

The Letter of Agreement (together with any attachments and any subsequent amendments or addenda thereto, the “LOA”) to which these Standard Terms of Membership (these “**Terms**”) are incorporated (collectively, the “**Agreement**”) constitute an agreement between the entity to which the LOA is addressed (“**Member**”) and The Advisory Board Company (the “**Advisory Board**”) regarding the services described in the LOA (the “**Services**”). Capitalized terms not otherwise defined herein will have the meanings given to them in the LOA.

1. **Site and Software; License.** As part of the Services, Member shall be provided access to a password-protected website as described in the LOA (“**Site**”). During the term of the Agreement (and subject to its terms), the Advisory Board grants Member a limited, non-exclusive, non-transferable, non-assignable, non-sublicensable license to access and use the Software via the Site through use of the unique user identifiers provided to Member (“**Identifiers**”), solely for purposes of (a) creating and viewing analyses and reports based on the M-P Data, and (b) obtaining other information made available through the Software. Member agrees that access to and use of the Services may require an End User to agree to terms of use provided by the Advisory Board. “**End Users**” are end users of the Services who are not Personnel, including, as applicable, patients and prospective patients of Member and/or students and prospective students of Member.
For purposes of these Terms, “**Software**” is any software to which Member is provided access as part of the Services, including software provided by a third party, and is included in the defined term “**Services**”. The Advisory Board and its suppliers and licensors reserve the right to update or enhance the Software at any time.
2. **Member-Provided Data.** Member shall provide or make available to the Advisory Board the data as required pursuant to the LOA. Member acknowledges and agrees that the Advisory Board exercises no control whatsoever over the content of such data or other content or information that Member or an End User so supplies to be used in connection with the Services (such data or other content or information, collectively, “**Member-Provided Data**” or “**M-P Data**”). Member shall have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all M-P Data, and the Advisory Board does not assume responsibility for unintended, objectionable, inaccurate, misleading, or unlawful M-P Data. The Advisory Board makes no warranty, representation, endorsement, or guarantee regarding, and accepts no responsibility for, the quality, content, nature or reliability of such M-P Data or any products or services referenced thereby. Unless otherwise specifically set forth in the LOA or required in order to provide the Services, Member acknowledges and agrees that the Advisory Board will have no obligation to archive or back up M-P Data, nor will the Advisory Board have any liability for any loss or corruption of M-P Data, nor will the Advisory Board have any obligation under the Agreement to retain any M-P Data, after the expiration or termination of the term of the Agreement.
3. **Authorized Users.** Member shall only allow its employees, authorized Personnel, End Users and other individuals or entities authorized by the Advisory Board in the LOA to access and use the Software as “**Authorized Users**”, solely in accordance with the terms of the Agreement. Member shall ensure that the number of Authorized Users accessing and using the Software shall not exceed the number specified in the LOA, and shall be solely responsible for ensuring that Authorized Users only access the portions of the Site that they are legally permitted to access. Member shall, and shall ensure that its Authorized Users shall, solely use the Services for the benefit of the Member site(s) specified in the LOA (each, a “**Member Site**”) and solely for Member’s own internal operations. Member shall not, and shall ensure its Authorized Users do not, (a) use the Services in any manner or for any purpose that violates any law or regulation, or any right of any person, including, without limitation, intellectual property rights, (b) modify, alter, reverse engineer, decompile, or disassemble the Software or otherwise attempt to obtain or perceive the source code from which the Software is compiled or interpreted, and Member acknowledges that nothing in the Agreement will be construed to grant Member any right to obtain or use such code, (c) use the Services to transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs, (d) interfere with or disrupt the integrity or performance of the Services or the data contained therein, (e) attempt to gain unauthorized access to the Services, computer systems or networks related to the Services, or (f) interfere with another user’s use and enjoyment of the Advisory Board’s Services and Software. Member is responsible for any breach of its obligations, representations and warranties within the Agreement by any Authorized User, any other of its Personnel, or any other person within its control or to whom it grants access. For purposes of these Terms, “**Personnel**” means a party’s officers, directors, trustees and employees.
4. **Connectivity.** Member is solely responsible, at its own cost and expense, for acquiring, installing and maintaining all connectivity and other equipment, hardware, software, and bandwidth as may be necessary for it and its Authorized Users to connect to and use the Site and Software.
5. **Fees and Payment.** Member will pay the Advisory Board fees for the Services as stated in the LOA. Unless expressly stated otherwise in the LOA, Member shall pay the Advisory Board within 30 days of receipt of an invoice certified for payment by the County of Monterey Auditor-Controller. Member will be responsible for all costs and expenses incurred by the Advisory Board in collecting any fees or other sums owed by Member. If Member fails to pay undisputed amounts in accordance with the LOA, the Advisory Board shall have the right, in addition to any of its other rights or remedies, to suspend the Services, without liability to Member until such amounts are paid in full.
6. **Disputed Fees.** If Member disputes any fees, taxes, or other charges billed by the Advisory Board, Member shall notify the Advisory Board, in writing, of the disputed amount and provide any relevant information regarding the circumstances of the dispute. All parties

agree to work cooperatively to resolve any such disputed amounts. If Member fails to provide the Advisory Board with a notice of such a disputed amount within ten (10) days following receipt of the Advisory Board's invoice for such disputed charge, then such amount is deemed undisputed and due to the Advisory Board.

7. Taxes. Member will be responsible for payment of any applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges (other than taxes based on the Advisory Board's income), and any related penalties and interest for the grant of the Services hereunder. If Member is tax exempt, it shall furnish the Advisory Board with evidence of its tax exempt status. Member will make all required payments to the Advisory Board free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments to the Advisory Board will be Member's sole responsibility, and Member will, upon the Advisory Board's request, provide the Advisory Board with official receipts issued by appropriate taxing authorities, or such other evidence as the Advisory Board may reasonably request, to establish that such taxes have been paid.
 8. Ownership. The Advisory Board is authorized to use such M-P Data to the extent expressly authorized in these Terms and the BAA (as defined herein). As between the parties, Member owns the M-P Data. Member acknowledges that the Advisory Board may use the M-P Data, and Member hereby grants the Advisory Board a non-exclusive right and license to use, reproduce, host, reformat, and create derivative works from, publicly display and otherwise exploit all or portions of the M-P Data, including M-P Data that constituted PHI but that was de-identified in accordance with the Privacy Rule (it being agreed that such de-identified data is not M-P Data): (a) in connection with providing the Services; (b) for internal tracking, reliability testing and research purposes; and (c) in a manner that does not identify Member or any End Users for any lawful purpose in the Advisory Board's discretion. The rights granted in the foregoing clauses (b) and (c) shall be perpetual and shall survive the termination or expiration of this Agreement. As between the parties, the Advisory Board owns all right, title and interest in and to the research, research results, tools, methods, analyses, reports, improvements, developments, or other materials or information relating to the Services (including, without limitation, any such materials based on or incorporating M-P Data, except for the M-P Data therein) (collectively, "**Materials**"), the Services, the know-how, techniques or procedures used or acquired in creating the Materials or performing the Services, and any derivative works of any of the foregoing. Except as stated in this Agreement, no right, license, permission or interest of any kind in the Services or Materials is intended to be given, transferred to or acquired by Member by the Agreement. Member is authorized to use such items only to the extent expressly authorized in these Terms. Upon termination or expiration of the Agreement, Member's rights to and its use of the applicable Services and Materials shall promptly cease, except that Member shall continue to be able to use any Materials provided to Member prior to the expiration of the term of the Agreement to the extent the Materials include M-P Data. Upon request, Member shall return any Materials that it is using in violation of this Agreement.
- To the extent Member presently participates in more than one Advisory Board membership program or service offering or enrolls in or purchases additional Advisory Board membership programs or service offerings in the future ("**Programs**"), the data that Member provides to the Advisory Board in connection with a particular Program may be combined with data provided by Member in connection with other Programs or otherwise used by the Advisory Board in connection with other Programs to provide services to Member pursuant to the Agreement and other membership or services agreements between Member and the Advisory Board.

9. Protected Health Information. The parties acknowledge that certain Services may involve the use and disclosure of Protected Health Information. iRound Pilot is a trademark of The Advisory Board Company

Information (as defined in 45 C.F.R. § 160.103, "**PHI**") that is subject to the federal privacy regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended from time to time (the "**Privacy Rule**") and, with regard to such Services, agree to comply with the terms and conditions of the Business Associate Agreement to be entered into by the parties in connection with this Agreement (the "**BAA**").

10. Qualifications. Member warrants that each Provider covered by this Agreement possesses a valid and unrestricted license for all jurisdictions in which he/she practices medicine (the, "**Qualifications**"). The Qualifications shall apply to each Provider with a physician profile. Member will alert the Advisory Board if a Provider ceases to meet the Qualifications and the Advisory Board will remove the subject profile. Member must promptly notify the Advisory Board to any changes in Provider licensure status. The Advisory Board is not responsible for verifying each Member Provider meets the Qualifications. For purposes of these terms "**Provider**" means any Member employed physician

11. Confidentiality; Reference. Except as required by law or as reasonably necessary in the performance of the Services or as otherwise agreed to by Member in this LOA or in a separate writing, the Advisory Board will keep confidential any and all M-P Data. Notwithstanding the foregoing and subject to the terms of the BAA, Member agrees that the Advisory Board shall not be obligated to maintain the confidentiality of M-P Data that is known to the Advisory Board prior to receiving the M-P Data from Member, that becomes known (independently of disclosure by Member) directly or indirectly from a source other than one having an obligation of confidentiality to Member or that is independently developed by the Advisory Board. Member agrees that the Advisory Board may collect de-identified aggregated statistical data regarding Member's use of the Service and provide such de-identified aggregated statistical data to third parties.

The Materials are confidential to the Advisory Board and its suppliers, if any. Thus, Member shall not disseminate to, or permit the use of, and shall take reasonable precautions to prevent such dissemination or use of, Materials by any of its Personnel to any third party. Member shall not remove from the Materials any confidential markings, copyright notices and other similar indicia therein and shall not create any derivative works thereof.

Notwithstanding the foregoing, the County of Monterey ("**County**") is a public agency subject to the disclosure requirements of the California Public Records Act (CPRA). If County receives a CPRA request for documents (as defined by the CPRA) and said request relates to the Confidential Information described in this Agreement, County will notify the Advisory Board in writing of the request and confer with the Advisory Board regarding an appropriate response to said request. If the Advisory Board contends that any documents are the Advisory Board's Confidential Information, not subject to the CPRA, and/or exempt from the CPRA, and the Advisory Board wishes to prevent disclosure of said documents, the Advisory Board shall instruct County to withhold said documents. If the Advisory Board fails to respond to County in writing prior to County's deadline for responding to the CPRA request, County may disclose the requested information under the CPRA without liability to the Advisory Board. The Advisory Board shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and reasonable attorney fees) that may result from denial of a CPRA request made at the Advisory Board's instruction

Notwithstanding the foregoing, a party may disclose M-P Data and the Materials to the limited extent required (x) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order shall first have given

written notice to the other party and made a reasonable effort to obtain a protective order; or (y) to establish a party's rights under the Agreement, including to make such court filings as it may be required to do.

The Advisory Board may use Member's name on a list of members in Advisory Board programs.

12. **Limitations on Liability.** Member agrees that neither the Advisory Board nor its Personnel will be liable to Member for any claims, liabilities, or expenses relating to the Services, the Materials or the Agreement for an aggregate amount in excess of two times the fees paid by Member to the Advisory Board pursuant to the Agreement during the 12 month period before the claim, liability or expense arose, except to the extent finally judicially determined to have resulted from the Advisory Board's bad faith or intentional misconduct. In no event will a party or its Personnel be liable to the other party and/or its Personnel for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to the Services, the Materials or the Agreement, including, without limitation, lost profits, costs of delay, any failure of delivery, business interruption, costs of lost or damaged data or documentation, or liabilities to third parties arising from any source, even if a party has been advised of the possibility of such damages. In addition, the Advisory Board will not be liable in respect of the following: (a) any decisions made by Member as a result of the performance of the Services (including the Software) or as a result of any transactions made using the Software by any person using one of the Identifiers, or in reliance upon any of the Materials, or (b) Member's misuse of the Services, Materials or other data provided to Member in connection with the Services.
13. **Warranties.** The Advisory Board represents and warrants that it will provide the Services in a professional and workmanlike manner. Member represents and warrants that (a) its signatory is authorized to enter into this Agreement on behalf of Member, and (b) (i) its provision of M-P Data and (ii) its and its Authorized Users' receipt of and access to the Services (including the Software and M-P Data and other data and information made available through the Software) will not violate any of its obligations to third parties or violate any applicable laws and that Member has obtained all necessary third party consents to provide the M-P Data and for such M-P Data to be used in the manner contemplated by the Agreement. **EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND MATERIALS ARE PROVIDED "AS IS," AND THE ADVISORY BOARD MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICES AND MATERIALS AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, AND NON-INFRINGEMENT. THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS AND THE ADVISORY BOARD IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. THE ADVISORY BOARD SHALL USE REASONABLE EFFORTS TO MAKE THE SITE AVAILABLE 95% OR MORE OF THE TIME DURING ANY CALENDAR MONTH**
14. **Essential Basis of the Agreement.** Member acknowledges and understands that the disclaimers, exclusions and limitations of liability set forth in these Terms form an essential basis of the Agreement between the parties, that the parties have relied upon such disclaimers, exclusions and limitations of liability in negotiating the terms and conditions in the Agreement, and that absent such
- disclaimers, exclusions and limitations of liability, the terms and conditions of the Agreement would be substantially different.
15. **Termination.**
 - a. The Agreement may be terminated by a party upon written notice to the other party if such other party (a) fails to perform any material obligation required of it under the Agreement, and such failure is not cured within 60 days of receipt of written notice thereof, or (b) files a petition for bankruptcy or insolvency, has an involuntary petition filed against it, commences an action providing for relief under bankruptcy laws, files for the appointment of a receiver and such petition, action or filing is not dismissed within 60 days of such filing, or is adjudicated a bankrupt concern. Upon termination pursuant to clause (a) of the preceding sentence by (i) the Advisory Board, all fees due to the Advisory Board under the Agreement shall promptly become due and payable and (ii) Member, the Advisory Board will waive (or refund, as applicable) a pro-rata portion of any prepaid fees for Services (i.e., fees due for Services to be performed after the termination date) and, in each case, the Advisory Board will be released from any further obligation to provide the Services.
 - b. Member's payments to The Advisory Board under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for Member's purchase of the indicated quantity of services, then Member may give written notice, at least 60 days in advance, of this fact to the Advisory Board, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as Member may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.
16. **Independent Contractor; Subcontractors.** In performing the Services, the Advisory Board acts as an independent contractor and not as Member's employee or agent. The Advisory Board shall have the right to use third parties, including, without limitation, its affiliates, in performance of its obligations and Services hereunder.
17. **Health Care Programs.** The Advisory Board represents to Member that neither it nor any of its Personnel are or have been sanctioned or excluded from participating in Medicare, Medicaid or other similar federal or state health care programs.
18. **Assignment.** The Agreement is not assignable by either party without the other parties' prior written consent. The Agreement is binding upon, and inures to the benefit of, the parties and their respective successors and assigns.
19. **Notice.** Any notices under the Agreement shall be in writing and sent by overnight courier, mail or facsimile. For the Advisory Board, notice shall be sent to The Advisory Board Company, Attn: General Counsel, 2445 M Street, NW, Washington, DC 20037. For Member, notice shall be sent to the name and address set forth in the LOA.
20. **Entire Agreement; Amendment.** The Agreement consists only of the LOA, and these Terms and, once executed and delivered by the parties, the BAA, and supersedes in its entirety all other understandings and agreements regarding the provision of the Services. This Agreement constitutes a legal, binding, valid and enforceable obligation of each party. In the event of an express conflict between any provision of these Terms and of the LOA, the provision of the LOA shall control. Any amendment or supplement to the Agreement must be in writing and signed by both parties.
21. **Headings; Interpretations Construction; Severability.** The captions and headings used in the Agreement are inserted for convenience only

and shall not affect the meaning or interpretation of the Agreement. The Agreement shall be construed fairly according to its terms, without regard to the drafter of any provision hereof. In the event that any provision of the Agreement conflicts with the law under which the Agreement is to be construed or if any such provision is held invalid by a court with jurisdiction over the parties to the Agreement: (a) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law; and (b) the remaining terms, provisions, covenants and restrictions of the Agreement shall remain in full force and effect.

22. Force Majeure. The Advisory Board shall be excused from performance of its obligations under the Agreement if such a failure to perform results from compliance with any requirement of applicable law, acts of God, fire, strike, embargo, terrorist attack, war, insurrection or riot or any other cause beyond the reasonable control of the Advisory Board. Any delay resulting from any of such causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances.
23. Remedies. Except where otherwise specified, the rights and remedies granted to a party under the Agreement are cumulative and in addition to, and not in lieu of, any other rights or remedies which the party may possess at law or in equity.
24. No Waiver. The failure of either party to insist upon or enforce strict performance by the other party of any provision of the Agreement or to exercise any right under the Agreement shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect.
25. No Third Party Beneficiaries. The parties acknowledge that the covenants set forth in the Agreement are intended solely for the benefit of the parties, their successors and permitted assigns. Nothing in the Agreement, whether express or implied, will confer upon any person or entity, other than the parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of the Agreement.
26. Governing Law; Jurisdiction; Survival. The Agreement is to be governed by and construed in accordance with the laws of the State of California, without regard to conflict of laws rules or the United Nations Convention on the International Sale of Goods. Each party irrevocably consents and submits to the exclusive jurisdiction of the state and federal courts situated in the State of California, in connection with any action to enforce the provisions of the Agreement, to recover damages or other relief for breach or default under the Agreement, or otherwise arising under or by reason of the Agreement. Sections 6 through 27 of these Terms, and any provision of the Agreement that by its nature should survive, shall survive the expiration or termination of the Agreement.
27. Counterparts; Facsimile. The Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.
28. Mutual Indemnification.
 - a. The Advisory Board will indemnify, defend and hold harmless Member and its Personnel from any and all third party claims, liabilities and expenses arising from any infringement, misappropriation, or other violation by the Services of any United States patent, copyright, trademark, service mark, or trade secret right of a third party; provided that Member used the Services in accordance with the terms of the Agreement and consistent with the purpose for which they were provided to Member (the "ABC Indemnity"). The Advisory Board shall have no liability for any claim of infringement based on (a) Services which have been modified by Member or any third party on Member's behalf, (b) Member's use of

the Services in connection with data, including M-P Data, where use with such data gave rise to the infringement claim, or (c) Member's use of the Services with third party software or hardware, where use with such other software or hardware gave rise to the infringement claim. Should the Services become, or in the Advisory Board's opinion are likely to become, the subject of a claim of infringement, the Advisory Board may, at its option, (x) obtain the right for Member to continue using the Services, replace or modify the Services so they are no longer infringing, or (z) if neither of the foregoing options is commercially reasonable, terminate the right of Member to use the affected Services. Upon such termination, the Advisory Board will refund to Member, as Member's sole remedy for such termination, any fees paid for Services to be provided following the effective termination date. This Section states the Advisory Board's entire liability with respect to any claim of infringement regarding the Services.

29. Insurance

a. Evidence of Coverage:

Prior to commencement of this Agreement, the Advisory Board 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 Advisory Board upon request shall provide a copy of the policy or policies.

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

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

- c. Insurance Coverage Requirements: Without limiting the Advisory Board's duty to indemnify, the Advisory Board 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 \$1,000,000 per occurrence.

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

Workers' Compensation Insurance. If the Advisory Board employs others 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 Advisory Board 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).

d. Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to Member 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 the Advisory Board 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 the Advisory Board 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 Advisory Board'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 Advisory Board'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 Member, the Advisory Board shall file certificates of insurance with Member's Contracts/Purchasing Department, showing that the Advisory Board has in effect the insurance required by this Agreement. The Advisory Board shall file a new or amended certificate of insurance within thirty (30) 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.

The Advisory Board 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 Member, annual certificates to Member's Contracts/Purchasing Department. If the certificate is not received by the expiration date, NMC shall notify the Advisory Board and the Advisory Board shall have thirty (30) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by the Advisory Board to maintain such insurance is a default of this Agreement, which entitles Member, at its sole discretion, to terminate the Agreement immediately.