

**AMENDMENT NO. 2
TO SERVICES AGREEMENT
BETWEEN SWIPESENSE, INC. AND
NATIVIDAD MEDICAL CENTER
FOR
SWIPESENSE SYSTEM**

This Amendment No. 2 to the Services Agreement ("Agreement") which was effective on November 1, 2016 is entered into by and between the County of Monterey (hereinafter "COUNTY"), on behalf of Natividad Medical Center (hereinafter "NMC"), and **SwipeSense, Inc.** (hereinafter "CONTRACTOR"). Collectively, COUNTY, NMC and CONTRACTOR are referred to as the "Parties", with respect to the following:

RECITALS

WHEREAS, the County of Monterey on behalf of Natividad Medical Center and SwipeSense, Inc. entered into an Agreement for SwipeSense System, a cloud-based sensor network to monitor hand hygiene data, with a term November 1, 2016 through October 31, 2017 and a total Agreement amount not to exceed \$56,500; and

WHEREAS, the Parties amended the Agreement on January 25, 2018 via Renewal and Amendment No. 1 on the same or similar terms to extend the term for an additional one year period through October 31, 2018 to allow for services to continue for a revised full Agreement term of November 1, 2016 through October 31, 2018 and to add an additional \$43,500, thereby increasing the total Agreement amount to \$100,000; and

WHEREAS, the Parties currently wish to amend the Agreement to extend the term for an additional one (1) year period through October 31, 2019 to allow for services to continue for a revised full Agreement term of November 1, 2016 through October 31, 2019 with revisions to the Scope of Services attached hereto as "Exhibit A-2 per Amendment No. 2" with a \$43,500 increase for the added services for a revised total Agreement amount not to exceed \$143,500.

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 Renewal and Amendment No. 1 incorporated herein by this reference, except as specifically set forth below.

1. **The first sentence of Paragraph titled, "GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED" shall be amended by removing:**

"NMC hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibit A in conformity with the terms of the Agreement."

and replacing it with:

"NMC hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibit A-2 as per Amendment No. 2 attached hereto this Amendment No. 2 in conformity with the terms of the Agreement."

2. **Paragraph titled, "PAYMENTS BY NMC" shall be amended by removing:**

"NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A and Exhibit A-1, subject to the limitations set forth in this Agreement and in this RENEWAL AND AMENDMENT 1. The total amount payable by NMC to CONTRACTOR shall not exceed the sum of \$100,000."

and replacing it with:

"NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A-2 as per Amendment No. 2 attached hereto this Amendment No. 2, subject to the limitations set forth in this Agreement, Renewal and Amendment No. 1, and Amendment No. 2. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$143,500."

3. **The first sentence of paragraph titled, "TERM OF AGREEMENT" shall be amended by removing:**

"The term of this Agreement is from November 1, 2016 through October 31, 2018 unless sooner terminated pursuant to the terms of this Agreement."

and replacing it with:

"The term of this Agreement is from November 1, 2016 through October 31, 2019 unless sooner terminated pursuant to the terms of this Agreement."

4. **Paragraph titled, "SCOPE OF SERVICES AND ADDITIONAL PROVISIONS/EXHIBITS" shall be amended by removing 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 A-1: Revised Scope of Services/Payment Provisions as per Renewal and Amendment No. 1"

and replacing it with:

"The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A-2: Revised Scope of Services/Payment Provisions as per Amendment No. 2"

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

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 2 on the basis set forth in this document and have executed this Amendment No. 2 on the day and year set forth herein.

NATIVIDAD MEDICAL CENTER

By: _____
Gary R. Gray, DO, CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By: _____
Monterey County Deputy County Counsel

Name

Date: _____

APPROVED AS TO FISCAL PROVISIONS

By: _____
Monterey County Deputy Auditor-Controller

Name

Date: _____

CONTRACTOR

SwipeSense, Inc.

CONTRACTOR's Business Name

**Signature instructions below*

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

MERT ISERI CEO
Name and Title

Date: **10.3.18**

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

YURI MALINA, SECRETARY
Name and Title

Date: **10.3.18**

***Signature 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 (2 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 (2 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 (1 signature required).

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 2 on the basis set forth in this document and have executed this Amendment No. 2 on the day and year set forth herein.

NATIVIDAD MEDICAL CENTER

By: _____
Gary R. Gray, DO, CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By: _____
Monterey County Deputy County Counsel

Name

Date: _____

APPROVED AS TO FISCAL PROVISIONS

By: _____
Monterey County Deputy Auditor-Controller

Name

Date: _____

CONTRACTOR

SwipeSense, Inc.

CONTRACTOR's Business Name

**Signature instructions below*

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

Name and Title

Date: _____

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

Name and Title

Date: _____

***Signature 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 (2 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 (2 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 (1 signature required).

**EXHIBIT A-2 Revised Scope of Services/Payment Provisions
To the Agreement by and between
NATIVIDAD MEDICAL CENTER
and
SWIPESENSE, INC.**

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

SwipeSense, Inc. ("CONTRACTOR") shall provide NMC the necessary software and hardware for NMC to utilize the SwipeSense System, a cloud-based network for monitoring hand hygiene data to aid in managing infection control. The SwipeSense System consists of badges, sensors, location/room hubs, and communication hubs, including software and hardware maintenance services.

II. CONTRACTOR Obligations:

1. Technical Services.

- (a) Provide SwipeSense's standard and customary support via email at support@swipesense.com and/or telephone at (800) 974-4940 (M-F 9-6 EST) with response time of one (1) workday, as well as basic ongoing technical assistance on all aspects of hand-hygiene compliance (including onsite support for major hardware failures). NMC shall use commercially reasonable efforts to assist with minor hardware failures where reasonable and practicable.
- (b) Provide on-line access to management of hand-hygiene compliance data via a secure online portal, with standard reports and System and user maintenance screens.
- (c) Maintain System components inventory at NMC's Site for replacements:
 - i. No less than 3 Room HUBs, 3 Comm HUBs, 10 Sensors and 10 Badges
 - ii. Upon NMC's written notice of device failure, use commercially reasonable efforts to achieve two (2) business day turn-around.
 - iii. SwipeSense will provide Badge replacements onsite before or upon expected battery depletion. NMC will not be responsible for the replacement cost of damaged, lost or stolen Badges (up to 5% annually of the original installed Badge count).
 - 1. Replacements above the 5% original installed Badge count will be billed at \$149 per Badge.

2. Clinical Support.

- (a) Basic clinical support is standard and includes education on the SwipeSense application and guidance relative to clinical implementation of the Services, development of a communications infrastructure and behavior modification within the Sites. The standard support is via email at support@swipesense.com and/or telephone at (800) 974-4940 (M-F 9-6 EST) with response time of one (1) business day.

3. Adoption Support.

- (a) Work with NMC to create a community awareness campaign, including internal

hospital communication, health-care worker-specific presentations addressing quality and safety improvements at the local and national level, and other mutually agreed upon communication pieces and materials. Provide on-line access to management of hand-hygiene compliance data via a secure online portal, with standard reports and System and user maintenance screens.

- b. Provide annual reports to NMC's chief executive or designated staff, which will demonstrate with NMC's data, benchmarking (as available).
- i. Hospital by department
 - ii. Individuals
 - iii. Hospitals to other comparable hospitals (based on available data)
 - iv. Changes in the compliance over time
 - v. Suggest practices and protocols to increase or maintain compliance

4. Pricing/Fees:

NMC will pay CONTRACTOR as follows:

YEAR 1

Item	Quantity	Unit Price	Extended Price
NA-1000 SwipeSense System, Complete	110	\$400.00	\$44,000.00
NA-9002 TotalCare Hardware Maintenance	1	\$7,500.00	\$7,500.00
NA9003 TotalCare Informatics Maintenance	1	\$5,000.00	\$5,000.00
Year 1 Total:			\$56,500.00
Original Agreement Amount Not to Exceed (NTE):			\$56,500.00

YEAR 2

Item	Extended Price
NA-1000 SwipeSense System, Complete (Includes Software, Hardware, and Maintenance Services)	\$43,500.00
Year 2 Total:	\$43,500.00

Agreement Amount NTE per Renewal and Amendment No. 1:	\$100,000.00
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YEAR 3

Item	Extended Price
NA-1000 SwipeSense System, Complete <i>(Includes Software, Hardware, and Maintenance Services)</i>	\$43,500.00
Year 3 Total:	\$43,500.00
Agreement Amount NTE per Amendment No. 2:	\$143,500.00

Payment Schedule:

10% due upon signed contract
 20 % due upon inventory arriving at the hospital dock
 Balance due upon Go Live.

- (a) 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.
- (b) 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.
- (c) 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.