



**FIRST DATABANK, INC. AND COUNTY OF MONTEREY
D/B/A NATIVIDAD MEDICAL CENTER LICENSE AGREEMENT**

This **LICENSE AGREEMENT** made and entered into at South San Francisco, California as of the Effective Date noted on Exhibit 1 (attached and made a part hereof) between **FIRST DATABANK, INC.**, with offices at 701 Gateway Boulevard, Suite 600, South San Francisco, California 94080 ("FDB"), and **LICENSEE** identified in Exhibit 1.

WHEREAS:

1. FDB owns or is a Licensee of, and licenses or sublicenses various copyrighted databases of medical, pharmaceutical and nutritional information, and periodic updates thereto ("Databases"), related access software products ("Toolkits") and user manuals ("Manuals") referred to collectively, as the "FDB Knowledge Bases";
2. Licensee desires to obtain the use of one or more of the FDB Knowledge Bases with the Licensee's electronic information system or other computer system (the "System") as described in the Declaration of Use (Exhibit 1);
3. Subject to the terms and conditions of this Agreement, FDB is willing to grant to Licensee a nonexclusive license or sublicense to use the FDB Knowledge Bases indicated in Exhibit 1.

NOW, THEREFORE, in consideration of the premises and of the covenants and Agreements hereinafter set forth, it is agreed as follows:

1. **DEFINITIONS OF CERTAIN TERMS.** As used in this Agreement:

- a) "Licensed Solutions" means those FDB Knowledge Bases indicated in Exhibit 1 as being licensed to Licensee;
 - b) "Effective Date" is the date stated in Exhibit 1 and is the Effective Date of this Agreement;
 - c) "Fee Term" means the twelve-month period beginning on the Effective Date and each successive twelve-month period;
 - d) "Territory" means the United States of America and its territories and possessions.
2. **LICENSE.** Subject to the terms and conditions of this Agreement, FDB grants and Licensee accepts the following limited, non-transferable and non-exclusive license or sublicense:
- a) To use the Licensed Solutions in the Territory solely for its business operations, as defined in Exhibit 1 during the Term of this Agreement;
 - b) To the extent Exhibit 1 permits bundling of any or all of the Licensed Solutions, Licensee agrees to add substantial value to the Licensed Solutions contained in the bundle;
 - c) Licensee shall have no right to use the Licensed Solutions on behalf of any third party, on a service bureau basis or otherwise unless (i) such services are specifically permitted in Exhibit 1, and (ii) such third party has entered into a license Agreement with Licensee or FDB and FDB has been paid the required license fee;
 - d) Under no circumstances shall Licensee use the Licensed Solutions, or any portion thereof, to develop a competitive product, regardless of what is set forth in Exhibit 1;
 - e) Licensee shall obtain no implied license rights to the Licensed Solutions. Any rights not expressly granted to Licensee in this Agreement shall be retained by FDB;
 - f) Although some tangible objects may be delivered to Licensee pursuant to this Agreement, title to such objects shall not pass to Licensee, and this Agreement is not for the sale of goods. The Licensed Solutions shall be delivered to Licensee within twenty (20) working days from whichever is later, the date this License Agreement is executed or the Effective Date on the Exhibit 1. Updates thereto shall be delivered with the frequency and in the format indicated in Exhibit 1;
 - g) Licensee will not alter, amend, modify, or change in any respect, any of the Licensed Solutions unless authorized to do so by FDB. Without limiting the foregoing, Licensee shall have no right to use, modify, reproduce or distribute the Licensed Solutions, nor the right to license third parties to exercise any rights with regard to the Licensed Solutions other than as permitted in Exhibit 1.

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3. TERM AND TERMINATION.

- a) This Agreement and license shall continue for a term of five (5) year from the Effective Date. Renewal of this Agreement will occur only upon mutual agreement of both parties; such mutual agreement shall be in the form of an Amendment to this Agreement. If both parties fail to execute an Amendment to this Agreement on or before December 31, 2018, then the delivery and use of the Licensed Solutions will be discontinued as of the end of the current term that is in effect.
- b) Either party may terminate this license on thirty (30) days written notice, if the other party has materially breached any provision of this Agreement, and such breach has not been cured within such thirty (30) day period;
- d) Upon termination of this Agreement, Licensee shall immediately cease use of the Licensed Solutions, and shall take such steps as are necessary to prohibit further use of the Licensed Solutions within Licensee's System and shall furnish FDB a written description of the steps so taken. Termination of this Agreement shall automatically terminate all sublicenses of the Licensed Solutions granted by Licensee. Within thirty (30) days of termination, Licensee shall return to FDB all copies or duplicates thereof of the Licensed Solutions.

4. PAYMENT OF LICENSE FEES. In consideration of the grant of the license, Licensee agrees to pay the Fees ("License Fees") listed in Exhibit 1. Licensee's obligation to pay License Fees for periods preceding termination will survive termination of this Agreement.

5. IMPLEMENTATION. Licensee assumes all responsibility to program or obtain compatible software for use of the Databases. All programming shall be done in accordance with specifications included in Database Manuals and supplements and other documentation provided by FDB. Licensee agrees that when programmed, the System shall display Copyright Notices, Disclaimers, and Expiration Dates as specified in individual Database and Licensed Solutions Manuals.

6. COVENANTS OF LICENSEE. Licensee hereby agrees with FDB as follows:

- a) In the event that FDB grants Licensee permission to modify any of the Licensed Solutions, then Licensee assumes all liability for such modified Licensed Solutions. Licensee hereby acknowledges and agrees that FDB disclaims all warranties, express and implied, regarding any Licensee-modified Licensed Solutions. Further, Licensee hereby agrees to defend, indemnify, and hold FDB harmless from any third party claim arising from such Licensee-modified Licensed Solutions to the extent that such claim would not have existed but for Licensee's modification of the Licensed Solutions.
- b) Licensed Solutions will be delivered via FTP to the contact identified on the Contact Information and FTP Pull Form, unless otherwise requested. Other methods of delivery will be subject to shipping and delivery fees.
- c) Licensee will pay all taxes, however designated, including sales and use taxes and state and local privilege or excise taxes arising out of this Agreement and the transaction contemplated hereby;
- d) That as long as this Agreement is in effect, and for a one (1) year period thereafter, Licensee shall maintain complete records with respect to the use of the Licensed Solutions, and the number and type of end user sites, if any. During normal business hours, at reasonable intervals but no more often than quarterly, and upon reasonable notice, FDB or its designated representative may audit and review those records necessary to confirm that the fees paid to FDB are correct and that Licensee has complied with all of the terms of this Agreement, including but not limited to, the Declaration of Use and Fee and Payment Schedule set forth in Exhibit 1;
- e) USAGE. Licensee shall use the Licensed Solutions in the Territory solely for Licensee's business purposes as described in Exhibit 1, "Declaration of Use". Licensee may not, without the prior written consent of FDB, transmit the Licensed Solutions to other data processing systems or units that are "on-line" with Licensee's data processing unit, or use the Licensed Solutions, or any data derived from the Licensed Solutions in a computer service business, network, time-sharing, multiple CPU, or multiple user arrangements including the Internet and Intranets, except as, if applicable, explicitly identified in Exhibit 1. Licensee shall not copy, reproduce, store in a retrieval system, sell, assign, pledge, sublicense, convey, transfer, redistribute, transmit, grant other rights in, or permit any unauthorized use of the Licensed Solutions, or any of them, in any form or by any media (electronic, mechanical, photocopy, recording, or otherwise), on either a permanent or temporary basis to any third party except as authorized in Exhibit 1. Licensee may use an outside Data Recovery Center in the Territory provided FDB is notified in writing within thirty (30) days of such location. In such case, the terms of this Agreement shall be fully applicable.
- f) INTENTIONALLY OMITTED.
- g) Licensee acknowledges and agrees that the covenants and Agreements made in this Paragraph 6 are made for the benefit of FDB and shall survive the termination of this Agreement. In the event of any breach by Licensee of the terms of this Agreement, in addition to other relief to which FDB shall be entitled, FDB shall be entitled to terminate this License.

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7. CONFIDENTIALITY:

- a) In connection with their obligations under and pursuant to this Agreement, each of the parties hereto may disclose to the other Confidential Information (as defined herein);
 - b) Disclosing Party means a party that discloses Confidential Information pursuant hereto and "Receiving Party" means a party that receives Confidential Information pursuant hereto;
 - c) The term "Confidential Information" shall mean information or data, including without limitation, computer programs, software, code, algorithms, names and expertise of employees and consultants, know-how, formulas, processes, ideas, inventions (whether patentable or not), trade secrets, schematics and other technical business and customer information, financial and product development plans, forecasts and strategies, furnished by the Disclosing Party to the Receiving Party (whether before or after the date hereof) and all analyses, compilations, forecasts, studies or other documents prepared by the Receiving Party which contain or reflect any such information. Without limiting the foregoing, the term "Confidential Information" shall include the Licensed Solutions and the terms of this Agreement. "Confidential Information" may include information disclosed orally and information saved in digital or analog form, in electronic or magnetic mediums and on film or tape. The term "Confidential Information" will not, however, include information which:
 - (i) is or becomes available to the Receiving Party on a non-confidential basis from a source (other than the Disclosing Party) which, to the knowledge of the Receiving Party, is not prohibited from disclosing such information to the Receiving Party by a legal, contractual or fiduciary obligation;
 - (ii) was known by the Receiving Party, as evidenced by its written records, prior to receipt from the Disclosing Party; or,
 - (iii) is independently developed by the Receiving Party without use of any Confidential Information;
 - d) Each Party:
 - (i) will keep the Confidential Information confidential and will not (except as permitted by this Agreement or required by legal process, and only after compliance with the paragraph below) without the prior written consent of the other Party, disclose any Confidential Information in any manner whatsoever; and,
 - (ii) will not use any Confidential Information other than in connection with this Agreement, provided, however, that the Receiving Party may reveal the Confidential Information to its affiliates, controlling persons, employees, representatives and agents that have a need to know such Confidential Information to further the permitted use thereof, as long as said affiliates, controlling persons, employees, representatives and agents are informed by the Receiving Party of the confidential nature of the Confidential Information and agree to act in accordance with the terms of this Agreement. Each Party will cause its affiliates, controlling persons, employees, representatives and agents to observe the terms of this Agreement, and will be liable for any breach of this Agreement by any of its affiliates, controlling persons, employees, representatives and agents;
 - e) In the event that the Receiving Party is requested pursuant to, or required by, applicable law, regulation or legal process to disclose any of the Confidential Information, the Receiving Party will notify the Disclosing Party promptly (and in any event in advance of providing Confidential Information) so that the Disclosing Party may seek a protective order or other appropriate remedy (and the Receiving Party will consult with the Disclosing Party with respect to taking steps to resist or narrow the scope of any such request or legal process) or, in the sole discretion of the Disclosing Party, waive compliance with the terms of this Agreement. In the event that no such protective order or other remedy is obtained, or that the Disclosing Party waives compliance with the terms of this Agreement, the Receiving Party will furnish only that portion of the Confidential Information which it is advised by the Receiving Party's counsel is legally required and will exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.
8. PROPRIETARY RIGHTS INDEMNIFICATION. FDB shall indemnify, hold harmless, and defend Licensee against suits based solely on a claim by a third party that the use of Licensed Solutions by Licensee under this Agreement infringes on any patent, copyright, trademark, or other property right in the Territory, provided that Licensee gives FDB prompt written notice of such suits and permits FDB to control the defense thereof. Should any of the Licensed Solutions become, or in FDB's reasonable opinion be likely to become, subject of a claim of infringement for which Licensee is entitled to be indemnified against as set forth herein, FDB, may at its option and in addition to any other remedies available to it:
- (i) obtain a license at no cost to Licensee, or its customers, permitting their continued use of such Licensed Solutions;
 - (ii) modify such Licensed Solutions (such modification must maintain comparable functionality and performance) in a manner so that such Licensed Solutions are no longer infringing;
 - (iii) substitute other products of comparable functionality and performance that does not infringe any copyright, patent, trademark or other intellectual property law in the Territory; or, if (i) – (iii) are not commercially reasonable,
 - (iv) terminate Licensee's license to such Licensed Solutions upon written notice to Licensee whereupon Licensee and its customers shall immediately terminate all further use of the affected Licensed Solutions.

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9. DISCLAIMERS.

- a) Unless Licensee provides FDB with written notice detailing any errors in delivery or access, including but not limited to damaged or unloadable media, within ten (10) business days of receipt thereof, the Licensed Solutions shall be deemed acceptable. Any subsequent request for redelivery may be subject to additional fees and charges;
 - b) FDB represents and warrants that it has utilized reasonable care in collecting and reporting the information contained in the Licensed Solutions and has obtained such information from sources believed to be reliable. FDB, however, does not warrant the accuracy of codes, prices or other data contained in the Licensed Solutions. Information reflecting prices is not a quotation or offer to sell or purchase. The clinical information contained in the Licensed Solutions is intended as a supplement to, and not a substitute for, the knowledge, expertise, skill, and judgment of physicians, pharmacists, or other healthcare professionals in patient care. The absence of a warning for a given drug or drug combination should not be construed to indicate that the drug or drug combination is safe, appropriate or effective in any given patient.
 - c) **FDB MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OTHER THAN THOSE IN THIS LICENSE AGREEMENT, AND FURTHER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE ACCURACY OF THE DATA FROM WHICH THE LICENSED SOLUTIONS ARE COMPILED, NOR THE COMPATIBILITY OF THE LICENSED SOLUTIONS WITH LICENSEE'S HARDWARE AND SYSTEMS, AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
 - d) **EXCEPT FOR FDB'S INDEMNIFICATION OBLIGATIONS OUTLINED IN SECTION 8, IN NO EVENT SHALL FDB BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, RELIANCE, OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, EVEN IF FDB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
 - e) **EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTIONS 6 AND 8, BREACH OF THE CONFIDENTIALITY OBLIGATIONS AS SET FORTH IN SECTION 7, AND LICENSEE'S BREACH OF THE GRANT OF THE LICENSE OR LIMITATIONS OF USE AS SET FORTH IN SECTIONS 2 OR 6.e, IN NO EVENT SHALL EITHER PARTY'S LIABILITY ARISING HEREUNDER EXCEED THREE TIMES THE AMOUNT PAID OR PAYABLE BY LICENSEE TO FDB FOR THE THEN CURRENT FEE TERM OF THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION OR CLAIM, AND REGARDLESS OF WHETHER THE ACTION OR CLAIM IS BASED ON ANY ALLEGED ACT OR OMISSION OF FDB AND LICENSEE, INCLUDING BUT NOT LIMITED TO ANY ACTION BASED ON NEGLIGENCE, BREACH OF WARRANTY OR BREACH OF CONTRACT.**
10. PROFESSIONAL RESPONSIBILITY. Licensee acknowledges that the professional duty to the patient in providing healthcare services lies solely with the healthcare professional providing patient care services. Licensee takes full responsibility for the use of information provided by the Licensed Solutions in patient care and acknowledges that the use of the Licensed Solutions in no way is intended to replace or substitute for professional judgment. FDB does not assume any responsibility for actions of Licensee which may result in any liability or damages due to malpractice, failure to warn, negligence or any other basis. Licensee shall ensure that all healthcare professionals using the Licensed Solutions are aware of the limitations of the use of the Licensed Solutions.
11. USE OF PATIENT EDUCATION. Licensee hereby agrees not to modify the Patient Education Knowledge Databases. If Licensee distributes the Patient Education Knowledge Database information, then Licensee agrees to distribute an unmodified version of the information from the Patient Education Knowledge Database for each applicable drug. Licensee further agrees to include the following disclaimer, or subsequent disclaimer language that may be provided by FDB, at the top of any patient education information material provided to patients from the Patient Education Knowledge Databases:

NOTE: This is a summary and does not contain all possible information about this product. For complete information about this product or your specific health needs, ask your healthcare professional. Always seek the advice of your healthcare professional if you have any questions about this product or your medical condition. This information is not intended as individual medical advice and does not substitute for the knowledge and judgment of your healthcare professional. This information does not contain any assurances that this product is safe, effective or appropriate for you.

12. ASSIGNMENT. This license and Licensee's rights hereunder may not be assigned or otherwise transferred, voluntarily or by operation of law. Any purported assignment of the rights or delegation of the duties under this Agreement by Licensee shall be void unless prior written consent is secured from FDB.
13. FORCE MAJEURE. Failure of FDB to perform or delay in the performance of FDB's obligations under this Agreement due to any cause or event not reasonably within FDB's control, including but not limited to casualty, labor disputes, failure of equipment, compliance with governmental authority, war, terrorism, or Act of God, shall not constitute a breach of this Agreement, and FDB's performance shall be excused during such period of delay.

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14. **NOTICES.** Notices hereunder shall be delivered by hand, air courier express or certified mail with return receipt requested to the address of the Licensee identified on Exhibit 1, and shall be deemed delivered three (3) days after mailing. Any notices Licensee submits to First Databank shall be sent to: First Databank, Inc., Attn: Contract Administration, 500 East 96th Street, Suite 500, Indianapolis, Indiana 46240.
15. **CHOICE OF LAW; VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of California without giving effect to its principles of conflict of laws. The application of the United Nations Convention for Contracts for the International Sales of Goods is hereby expressly excluded. In the event of any dispute concerning this Agreement or the Licensed Solutions, suit may be brought only in a court of competent jurisdiction in the U.S. District Court of the Northern District of California or the California Superior Court for the County of Monterey.
16. **ENTIRETY; AMENDMENTS.** This Agreement, including all Exhibits hereto, constitutes the complete and exclusive statement of the Agreement between the parties which supersedes all prior Agreements, proposals, oral or written, and all other communications between the parties relating to the subject matter of this Agreement. All amendments to this Agreement shall be in writing signed by both parties.
17. **NO WAIVER.** No term or provision hereof shall be deemed waived and no such breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by a party to, or waiver of a breach by the other, whether express or implied, shall not constitute a consent for, or waiver of, or excuse for any other different subsequent breach.
18. **SEVERABILITY.** If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.
19. **PUBLICITY.**
- Licensee is permitted to publicly refer to FDB as its drug knowledge vendor.
 - Licensee may use the name "FDB (First Databank)" in a press release announcement relating to this business relationship, as well as identify FDB on Licensee's website, user interface(s) within Licensee's applications, and within Licensee's product literature, promotional materials and customer proposals. Licensee must obtain logo files, boilerplate copy and other materials from the FDB marketing department. Licensee must review all descriptive text – including press announcements – with the FDB marketing department prior to execution.
 - Except for these purposes Licensee will not use the name of "First Databank," "FDB," the names of any of the FDB solutions, or any trademark owned by or licensed to FDB, except as authorized in writing.
 - FDB is permitted to publicly refer to Licensee as its customer.
 - FDB may use Licensee's name in a press release announcement relating to this relationship, as well as identify Licensee on FDB's website, and within FDB's solution literature, promotional materials and customer proposals. FDB must obtain logo files, boilerplate copy and other materials from Licensee. FDB must review all descriptive text – including press announcements – with Licensee prior to execution.
 - Except for these purposes FDB will not use the name of Licensee, the names of any of Licensee's products, or any trademark owned by or licensed to Licensee, except as authorized in writing.

20. INSURANCE.

9.1 Evidence of Coverage:

Prior to commencement of this Agreement, FDB shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements (including blanket endorsements) executed by the insurance carrier shall accompany the certificate.

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

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

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9.3 Insurance Coverage Requirements: Without limiting FDB's duty to indemnify, FDB 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, 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 FDB 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, FDB 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.

9.4 Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to Licensee 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 FDB completes its performance of services under this Agreement.

FDB shall provide that Licensee 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 FDB 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 Licensee, its officers, agents, and employees as Additional Insureds with respect to liability arising out of FDB'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 Licensee and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by FDB'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 Licensee, FDB shall file certificates of insurance with Licensee's Contracts/Purchasing Department, showing that the FDB has in effect the insurance required by this Agreement. FDB shall file a new or amended certificate of insurance within five (5) 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

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shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

FDB 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 Licensee, annual certificates to Licensee's Contracts/Purchasing Department. If the certificate is not received within ten (10) days of the expiration date, Licensee shall notify FDB and shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by to maintain such insurance is a default of this Agreement, which entitles Licensee, at its sole discretion, to terminate the Agreement immediately.

- 21. NON-DISCRIMINATION.** During the performance of this Agreement, FDB and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in FDB's employment practices or in the furnishing of services to recipients. FDB shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. FDB and any subcontractor shall, in the performance of this Agreement, full comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.
- 22. INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, FDB is at all times acting and performing as an independent CONTRACTOR and not as an employee of Licensee. No offer or obligation of permanent employment with Licensee or particular County department or agency is intended in any manner, and FDB shall not become entitled by virtue of this Agreement to receive from Licensee any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. FDB shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of FDB's performance of this Agreement. In connection therewith, FDB shall defend, indemnify, and hold Licensee and the County of Monterey harmless from any and all liability, which Licensee may incur because of FDB's failure to pay such taxes.

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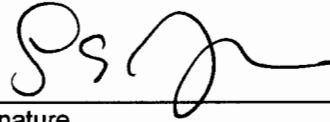
IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the Effective Date on Exhibit 1.

FIRST DATABANK, INC.

DATED: 7/27/2015

500 East 96th Street, Suite 500
Indianapolis, IN 46240-3767
(800) 428-4495
(317) 571-7200
(317) 571-7253 (FAX)

By



Signature

Lance E. Jennings

Name (Print)

Director, Finance

Title

COUNTY OF MONTEREY D/B/A NATIVIDAD MEDICAL CENTER

DATED: _____

By

1441 Constitution Boulevard
Salinas, CA 93906
(831) 755-4111

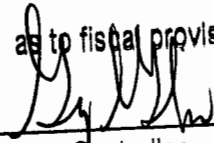
Signature

Name (Print)

Title

OK
Director
8-20-15
Dep. Controller

Reviewed as to fiscal provisions



Auditor-Controller
County of Monterey

8/2/15

**EXHIBIT 1
LICENSEE REPRESENTATION
LICENSED SOLUTIONS
DECLARATION OF USE
LICENSE FEES AND PAYMENT SCHEDULE
ADDITIONAL TERMS AND CONDITIONS**

This Exhibit 1 is a part of the License Agreement between FDB and Licensee and identifies Licensee, the Licensed Solutions, Declaration Of Use, License Fees, and Additional Terms (if any) applicable to that Agreement.

The Effective Date of this Agreement is: January 1, 2014

A. LICENSEE REPRESENTATION

Licensee Name: County of Monterey d/b/a
Natividad Medical Center

Street Address: 1441 Constitution Boulevard

City/State/Zip: Salinas, CA 93906

Telephone: (831) 755-4111

B. LICENSED SOLUTIONS: Unless otherwise specified, Licensed Solutions are updated monthly via CD-ROM.

FDB MEDKNOWLEDGE™, MEDITECH Package
DOSAGE RANGE CHECK MODULE™
DRUG ALLERGY MODULE™
DRUG-DISEASE CONTRAINDICATIONS MODULE™
DRUG-DRUG INTERACTION MODULE™
DRUG-FOOD INTERACTION MODULE™
INDICATIONS MODULE™
MIN/MAX DOSE MODULES™
PATIENT EDUCATION MODULE™, English

PRESCRIBER ORDER ENTRY MODULE™ (POEM)

Premium Modules

PATIENT EDUCATION MODULE™, Spanish
FDB AlertSpace® (includes the following functionality: **DOSAGE RANGE CHECK MODULE™, DRUG-DRUG INTERACTION MODULE™** and **DRUG ALLERGY MODULE™**)
FDB Interoperability Module™, Core Package

C. DECLARATION OF USE:

1. Licensee shall use the **FDB MEDKNOWLEDGE, MEDITECH Package** the Premium Module(s), **Go Live Med Orders Custom Database**, and **FDB OrderKnowledge, MEDITECH's READY Implementation** in a single MEDITECH inpatient hospital computer system at the site identified in Section A, to:
 - a) support the MEDITECH inpatient pharmacy dispensing system to regulate the distribution of medication to the patient and assist in clinical screening from within the boundaries of a single hospital institution. The **PATIENT EDUCATION MODULE, English**, may be accessed by nurses' stations throughout the hospital for reference inquiries in the provision of patient care.
 - b) support the MEDITECH Physician Order Management (POM) system for computerized physician order entry (CPOE) in an inpatient hospital setting.

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2. Licensee shall use the **FDB MEDKNOWLEDGE, MEDITECH Package** and **POEM** in a MEDITECH Ambulatory Order Management (AOM) computer system at the site identified in Section A:
- a) to support medical reconciliation management and documentation in the MEDITECH Emergency Department Management (EDM) solution and in the MEDITECH Physician Care Manager (PCM).
 - b) to support ambulatory order management in the MEDITECH Medical and Practice Management (MPM) solution for use in outpatient clinics and physician offices.

User Definition:

A User is defined as a Clinician using the MEDITECH Ambulatory Order Management (AOM) dictionary in the MEDITECH EDM solution and MEDITECH PCM or the MEDITECH MPM solution. For purposes of this Agreement, a Clinician is defined as a physician or a prescribing medical practitioner. A count of the total number of Clinicians is listed on Exhibit 2 – User Survey to this Agreement and shall be updated annually by Licensee as the basis for fee assessment.

Authorized use of Licensed Solutions expressly excludes distribution of data to any third party outside of Licensee's organization, or use in a medical practice management system which supports drug dispensing, a clinical data repository, electronic medication administration record, e-prescribing, disease management applications, prescription pricing in a retail setting, clinical medical records management systems, claims preparation and adjudication for the purpose of third party billing, litigation or regulatory investigations or inquiry (other than pursuant to a subpoena or other legal process compelling disclosure), supporting internet websites, or any other use not clearly defined above.

D. LICENSE FEES AND PAYMENT SCHEDULE:

	01/01/2014 to 12/31/2014	01/01/2015 to 12/31/2015	01/01/2016 to 12/31/2016	01/01/2017 to 12/31/2017	01/01/2018 to 12/31/2018
Annual License Fee for FDB MEDKNOWLEDGE, MEDITECH Package for uses as defined in Section C.1:					
101-200 licensed beds	\$ 11,628	\$ 11,923	\$ 12,217	\$ 12,521	\$ 12,835

	01/01/2014 to 12/31/2014	01/01/2015 to 12/31/2015	01/01/2016 to 12/31/2016	01/01/2017 to 12/31/2017	01/01/2018 to 12/31/2018
Annual License Fee for PATIENT EDUCATION MODULE, Spanish for uses as defined in Section C.1:	\$ 2,261	\$ 2,318	\$ 2,375	\$ 2,432	\$ 2,489

	01/01/2014 to 12/31/2014	01/01/2015 to 12/31/2015	01/01/2016 to 12/31/2016	01/01/2017 to 12/31/2017	01/01/2018 to 12/31/2018
Annual License Fee for FDB AlertSpace for uses as defined in Section C.1:					
101-200 licensed beds	\$ 8,246	\$ 8,455	\$ 8,664	\$ 8,883	\$ 9,101

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	01/01/2014 to 12/31/2014	01/01/2015 to 12/31/2015	01/01/2016 to 12/31/2016	01/01/2017 to 12/31/2017	01/01/2018 to 12/31/2018
Annual License Fee for FDB Interoperability Module, Core Package for uses as defined in Section C.1:					
101-200 licensed beds	\$ 1,796	\$ 1,843	\$ 1,891	\$ 1,938	\$ 1,986

	01/01/2014 to 12/31/2014	01/01/2015 to 12/31/2015	01/01/2016 to 12/31/2016	01/01/2017 to 12/31/2017	01/01/2018 to 12/31/2018
Annual User Fees for FDB MEDKNOWLEDGE, MEDITECH Package and POEM for Use as defined in Section C.2:					
Clinicians 1 - 50	\$ 69	\$ 71	\$ 72	\$ 74	\$ 76
Clinicians 51- 150	\$ 62	\$ 64	\$ 65	\$ 67	\$ 68
Clinicians 151 - 300	\$ 55	\$ 56	\$ 58	\$ 59	\$ 61
Clinicians 301+	\$ 48	\$ 49	\$ 51	\$ 52	\$ 53

*Annual User Fees for **NDDF, MEDITECH Package and POEM** for Use as defined in Section C.2 for are per Clinician per year and are calculated incrementally based on the number of Clinicians falling into each tier.

	01/01/2014 to 12/31/2014	01/01/2015 to 12/31/2015	01/01/2016 to 12/31/2016	01/01/2017 to 12/31/2017	01/01/2018 to 12/31/2018
Annual License Fee for the continued Use of the initial POEM order string for Use as defined in Section C.2:	Waived	Waived	Waived	Waived	Waived

- i) License Fees consist of Annual Fees plus User Fees as specified in Exhibit 1. Payment should be submitted with the signed Agreement. Annual Fees for subsequent Fee Terms are due and payable on each anniversary of the Effective Date. Fees for each Fee Term will be based on the then current total number of licensed beds. Upon request from FDB, Licensee will provide to FDB a written statement from a senior officer or director of Licensee (a "Certification") certifying the total number of licensed beds in accordance with this Agreement. In the event that Licensee fails to provide FDB with such Certification within fifteen (15) days after FDB's request, FDB may at its option, use the number of licensed beds as outlined in the current edition of Billian's HEALTHDATA™ Hospital Blue Book for fee assessment.
- ii) Upon receipt of an invoice from FDB, Licensee shall certify the invoice, either in the requested amount or in such other amount as NMC approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice. In no event, will the County Auditor-Controller pay a certified invoice later than 60 days from the invoice date. Failure to pay amounts when due may result in discontinuation of product delivery and suspension of implementation support and customer service.
- iii) **STANDARD CUSTOMER SUPPORT SERVICES:** Standard customer support services will be available to Licensee for the term of the License Agreement via FDB's customer support toll-free number (1-800-633-3453) during normal business hours (8:00 A.M. to 8:00 P.M. EST Monday through Friday), via e-mail at cs@fdbhealth.com, or via the Support Link at FDB's website at www.fdbhealth.com.

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E. ADDITIONAL TERMS AND CONDITIONS:

1. The Annual License Fees outlined in Section D are based upon Licensee's total licensed beds falling into the 101-200 licensed bed tier. License Fees for future Fee Terms will be based upon then current total number of licensed beds. Should Licensee's total licensed beds fall below 100 or increase above 200, the Annual License Fees for future Fee Terms will be adjusted accordingly.
2. This Agreement supersedes the previous Agreement between FDB, Inc. and County of Monterey d/b/a Natividad Medical Center effective January 1, 2005.

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EXHIBIT 2 - USER SURVEY

USER COUNT

In accordance with Section C.2 of Exhibit 1 to this Agreement the following is a count of Clinicians accessing the Licensed Solutions under the terms of the Agreement.

Number of Clinicians: 38

LICENSEE:

BY: _____

DATE: _____