


COUNTY OF MONTEREY AGREEMENT FOR SERVICES
(MORE THAN \$100,000)

This Agreement for Services (hereinafter "Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter, "the County"), on behalf of Natividad Medical Center ("NMC"), a general acute care teaching hospital wholly owned and operated by the County, and The Data Systems Group of California Inc., a wholly owned subsidiary of Passport Health Communications, Inc. (hereinafter "CONTRACTOR").

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

1. ~~GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED.~~ NMC hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of the Agreement. The services are generally described as follows: Provide software that enables NMC to process healthcare claims for adjudication by Medicaid (Medi-Cal), Medicare, and commercial payers.

2. **PAYMENTS BY NMC.** NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$550,000.

3. **TERM OF AGREEMENT.**

3.1. The term of this Agreement is from July 1, 2015 through June 30, 2018 unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and NMC and with NMC signing last.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A: Scope of Services/Payment Provisions

Exhibit B: Business Associates Agreement

5. **PERFORMANCE STANDARDS.**

5.1. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of NMC, or immediate family of an employee of NMC.

5.2. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.3. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use NMC premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6. PAYMENT CONDITIONS.

6.1. Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provide in this paragraph. NMC does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement other than the monthly Subscription Fees as set forth in Exhibit A.

6.2. Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety (90) days prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County (NMC) and the CONTRACTOR.

6.3. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement, and then only in accordance with any applicable County policies.

6.4. Invoice amounts shall be billed directly to the ordering department.

6.5. CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. NMC 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.

7. TERMINATION.

7.1. NMC may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If NMC terminates this Agreement for good cause, NMC may be relieved of the payment of any consideration to CONTRACTOR for any services not yet received or disputed within ninety (90) days of NMC's receipt of invoice, and NMC may proceed with the work in any manner, which NMC deems proper. The cost to NMC shall be deducted from any sum due the CONTRACTOR under this Agreement. CONTRACTOR shall have the right to terminate this Agreement for good cause upon ninety (90) days' notice if NMC fails to pay any undisputed invoice when due.

7.2 NMC's payments to CONTRACTOR 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 NMC's purchase of the indicated quantity of services, then NMC may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8. INDEMNIFICATION.

8.1 Subject to the applicable insurance policy limits set forth in Section 9.3 herein, CONTRACTOR shall indemnify, defend, and hold harmless The County of Monterey on behalf of Natividad Medical Center, its officers, agents and employees (hereinafter NMC), from any claim, liability, loss, injury or damage but only to the proportional extent arising out of, or in connection with the negligent acts or omissions of CONTRACTOR, the willful misconduct of CONTRACTOR or any contractual breach associated with the performance of this Agreement by CONTRACTOR and/or its agents, members, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by NMC or other third party.

9. INSURANCE.

9.1 Evidence of Coverage:

Prior to commencement of this Agreement, the CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the CONTRACTOR upon request shall provide a certified copy of the policy or policies.

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

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 an equivalent rating from a similar rating agency.

9.3 Insurance Coverage Requirements: Without limiting Contractor's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and

Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

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

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

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

Workers' Compensation Insurance, If CONTRACTOR 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 CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

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

9.4 Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to NMC and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

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 by CONTRACTOR or its insurer(s). Each policy shall provide coverage for CONTRACTOR and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance

from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional insureds with respect to liability arising out of the Contractor's work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Contractor's insurance.** Prior to the execution of this Agreement by NMC, CONTRACTOR shall file certificates of insurance with NMC's Contracts/Purchasing Department, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five (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 shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by NMC, annual certificates to NMC's Contracts/Purchasing Department. If the certificate is not received by the expiration date, NMC shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles NMC, at its sole discretion, to terminate the Agreement immediately.

10. RECORDS AND CONFIDENTIALITY.

- 10.1 Confidentiality. CONTRACTOR and its officers, employees, agents and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from NMC or prepared in connection with the performance of this Agreement, unless NMC specifically permits CONTRACTOR to disclose such records or information. NMC specifically grants CONTRACTOR permission to use NMC's patients' protected Health Information ("PHI") as required to provide the services set forth in Exhibit A Scope of Services/Payment provisions of this Agreement as per the attached Exhibit B Business Associates Agreement. CONTRACTOR shall promptly transmit to NMC any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out Contractor's obligations under this Agreement.
- 10.2 NMC Records. When this Agreement expires or terminates, to the extent feasible, CONTRACTOR shall return or destroy to NMC any NMC records which CONTRACTOR used or received from NMC to perform services under this Agreement.

- 10.3 Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 Access to and Audit of Records. NMC shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess or \$10,000, the parties to this Agreement may be subject, at the request of NMC or as part of any audit of NMC, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 Royalties and Inventions. NMC shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced exclusively for NMC in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of NMC.
11. **NON-DISCRIMINATION**. During the performance of this Agreement, Contractor, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in Contractor's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, full comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.
12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT**. If this Agreement has been or will be funded with monies received by NMC pursuant to a contract with the state or federal government in which NMC is the grantee, CONTRACTOR will comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, NMC will deliver a copy of said contract to Contractor, at no cost to Contractor.
13. **INDEPENDENT CONTRACTOR**. In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent CONTRACTOR and not as an employee of NMC. No offer or obligation of permanent employment with NMC or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from NMC any form of employee benefits including but not limited to sick leave, vacation, retirement benefits,

workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Contractor's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold NMC and the County of Monterey harmless from any and all liability, which NMC may incur because of Contractor's failure to pay such taxes.

14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage per-paid mail to NMC and Contractor's contract administrators at the addresses listed below

NATIVIDAD MEDICAL CENTER:

Natividad Medical Center
 Attn: Contracts Division
 Natividad Medical Center
 1441 Constitution Blvd
 Salinas, CA. 93906
 FAX: 831-757-2592
 Phone 831-755-4111

CONTRACTOR:

The Data Systems Group
 c/o Passport Health Communications, Inc.
 720 Cool Springs Blvd, Suite 200
 Franklin, TN 37067
 Attn: General Counsel
 FAX: 877-442-2150
 Phone: 615-661-5657

15. MISCELLANEOUS PROVISIONS.

15.1 Conflict of Interest: CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.

15.2 Amendment: This Agreement may be amended or modified only by an instrument in writing signed by NMC and the Contractor.

15.3 Waiver: Any waiver of any terms and conditions of this Agreement must be in writing and signed by NMC and the Contractor. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.

15.4 Contractor: The term "Contractor" as used in this Agreement includes Contractor's officers, agents, and employees acting on Contractor's behalf in the performance of this Agreement.

15.5 Disputes: CONTRACTOR shall continue to perform under this Agreement during any dispute.

15.6 Assignment and Subcontracting: The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of NMC which will not be unreasonably withheld. None of the services covered by this Agreement shall be subcontracted without the prior written approval of NMC.

Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement. Notwithstanding anything contained in the foregoing, a merger with an existing parent or affiliate entity, including but not limited to Passport Health Communications, Inc. shall not constitute an assignment for purposes of this Section 15.6 provided there is no change to the legal business name who is a party to this Agreement and provided there is no change to the tax ID number of CONTRACTOR.

- 15.7 Successors and Assigns: This Agreement and the rights, privileges, duties, and obligations of NMC and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.8 Compliance with Applicable Law: The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.9 Headings: The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence: Time is of the essence in each and all of the provisions of this Agreement
- 15.11 Governing Law: This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement: This Agreement is non-exclusive and each of NMC and CONTRACTOR expressly reserves the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement: NMC and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 Integration: This Agreement, including the exhibits, represents the entire Agreement between NMC and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations representations, or agreements, either written or oral, between NMC and CONTRACTOR as of the effective date of this Agreement, which is the date that NMC signs the Agreement.
- 15.16 Interpretation of Conflicting Provisions: In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

NATIVIDAD MEDICAL CENTER

By: _____
Gary R. Gray, DO, CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By: *Hay Daulton*
Monterey County Deputy County Counsel

Date: 12/16/15

APPROVED AS TO FISCAL PROVISIONS

By: *[Signature]*
Monterey County Deputy Auditor/Controller

Date: 12-16-15

CONTRACTOR

The Data Systems Group of California, a wholly owned subsidiary of Passport Health Communications, Inc.

Contractor's Business Name*** (see instructions)

Melissa Moore
Signature of Controller

Melissa Moore, Controller
Name and Title

Date: 12/10/2015

By: *Christa Harwood*
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Christa Harwood, General Counsel
Name and Title

Date: 12/10/2015

*****Instructions:**

If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required). If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership (two signatures required). If CONTRACTOR is contracting in and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement (one signature required).

EXHIBIT A to AGREEMENT

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

System Software is currently installed and has been operational since 2002. Contractor provides software designed to process healthcare claims for adjudication by Medicaid (Medi-Cal), Medicare, and Commercial Insurance payers.

II. CONTRACTOR Obligations:

System Software will accept data file(s) in specified format(s) containing data elements for UB04 and CMS1500 medical claims provided to the System via network connection or other Contractor approved method. The System Software will accurately recognize and process data elements as a warranted function.

The System Software provides data file outputs conforming to the requirements of the State Medi-Cal program for Medi-Cal claims submission to the designated fiscal intermediary for the State or the designated recipient Health Plan. DSG will provide update services for on-going enhancements of the System Software to meet billing requirements set forth by the State Medi-Cal Program. The System Software provides data file(s) conforming to the requirements of the Centers for Medicare and Medicaid Services (CMS) for Medicare Part A and Part B. Contractor will provide update services to meet billing requirements for Medicare Part A & B claims for submission to the designated Medicare intermediary for the Licensee. Contractor will provide updates to meet the billing requirements of Commercial Payers.

Any modifications provided to extract from licensee's billing system will be warranted to function correctly as part of the combined system and will include all data elements on the claim form provided from the Hospital Financial System and any missing data elements will be included as data entry elements within the biller correction screens.

It is understood that the Software may require modification. Contractor will confer with licensee regarding such modification necessary to interface with the existing billing system and as considered by the Licensee necessary for optimal use of the software. Such modifications shall be made by Contractor, at the rates specified in Schedule A, to include specialized programming and training approved by Licensee.

III. NMC Obligations:

NMC will provide Contractor access to the system server to update the software and provide system troubleshooting and maintenance.

IV. Monthly Subscription Fees:

Claim Source Direct	Implementation Fee (One-time)	Monthly Subscription Fee
Claim Source Direct Database, operating system, system network and HIS Integration	Previously Paid	\$230
Institutional UB Claims Editor	Previously Paid	\$5,000
Professional CMS-1500 Claims Editor	Previously Paid	Included
Automated Secondary Billing – UB to UB	Previously Paid	Included
Automated Secondary Billing – CMS1500 to 1500	Previously Paid	Included
ERA Retrieval and Custom Posting File Creation – Up to 10 payers	Previously Paid	Included
Eligibility – Business Office / Post Claim – Medi-Cal: Includes Self-Pay	Previously Paid	\$650
Eligibility – Business Office / Post Claim – Medicare	Previously Paid	\$650
OneSource Install Hospital plus Eligibility includes the initial install of the OneSource solutions for one hospital and provides individual payer eligibility, benefits data, claim status, view/submit referrals, provider panels, online coding tools, pre-certification, authorization, payer ID, and notice of admission.	Waived	\$1,875* (see Transaction Table below)
Denial Management & Payment Analysis	Previously Paid	Included
Estimated Totals* (does not include any Excess Usage Fee)		\$ 8,405

ELIGIBILITY VERIFICATION TRANSACTION FEES. The eligibility verification transaction fee (“Eligibility Transaction Fee”) includes eligibility verification transactions across all product platforms, including Passport eCare NEXT, IntelliSource, EDI, OneSource and BatchSource. The Eligibility Transaction Fee shall be equal to the applicable Excess Usage Fee, if any, and shall be billed as provided below. These fees are billed on a monthly basis during the Term of the Agreement. The Eligibility Transaction Fee does not include Pass-Through Fees. For any partial calendar months, the Eligibility Transaction Fee shall be prorated.

Eligibility Verification Transaction Pricing	
Monthly Max Transactions included with Subscription Fee	Excess Usage Fee
12,500 EV transactions per month	\$0.15 per transaction in excess of 12,500 EV transactions per month

Pass-Through Fees.* Fees exclude pass-through fees (“Pass-Through Fees”) from state and federal governmental entities (“Governmental Entities”), Medicaid and Medicare Managed Care Organizations (“MCO”s), third-party payers, communication tariffs, and/or other similar fees. Without prior notice, Pass-Through Fees will be billed monthly in addition to all other Fees at the cost that PASSPORT pays to obtain transaction data. Notwithstanding any other provision of the Customer Agreement to the contrary, PASSPORT shall have the right to increase the Pass-Through Fees to offset any increases in rates, changes, or other costs from Governmental Entities, MCOs and other third parties, including without limitation Medicaid and Medicare administrators, or any increase in the cost of providing services hereunder resulting from rules, regulations and operating procedures of any federal, state or local agency or regulatory authority. The Pass-Through Fees are not subject to approval by PASSPORT.

V. Additional Fees/Pricing Terms:

- Support services requested outside standard business hours may be billable at the standard hourly rate. Standard business hours are Monday to Friday, 6am to 5pm PST.
- Custom programming routines specific to SFGH and LHH are billed at the standard rate. Current Hourly Programming Rates: \$160 per hour.
- Equipment and hardware is the responsibility of Natividad Medical Center as long as the system is hosted by NMC. DSG/Passport can host the system software at no additional cost.
- Travel and other reimbursable expenses are not allowed for this Agreement.
- 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.

- 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.
 - NMC may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for disputed services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement; provided that NMC provides written notice to CONTRACTOR of any disputed fees.
 - No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.
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- CONTRACTOR may terminate this Agreement for cause if NMC fails to make any payment when due on any undisputed Services.

VI. Business Associate Agreement:

The Business Associate Agreement of even date herewith between the parties shall is hereby incorporated by reference into the Agreement and is subject to Section XII herein.

VII. Licensed Rights:

7.1 Grant: Subject to the terms and conditions of this Agreement, and for so long as NMC is not in breach of the terms and conditions, CONTRACTOR grants the NMC a perpetual, nonexclusive, non-assignable, and non-transferable right to use the Products and Services at the site(s) designated in the Agreement for the purposes of internal data processing, report and claim generation and conveyance for the Initial Term or Amended Term, as applicable (“License Term”). The License Term will remain in effect until the Agreement is terminated. These license grants also apply to any user documentation provided by CONTRACTOR (“Documentation”). Upon termination of this Agreement for any reason, NMC shall immediately return all copies of the software comprising the Products and Services all other intellectual property of CONTRACTOR. To the extent necessary, NMC shall grant CONTRACTOR access to its premises during regular business hours to allow CONTRACTOR to remove or delete such intellectual property. CONTRACTOR shall deliver the data to NMC in X12 format.

7.2 Limitation: The NMC may not: (1) reverse engineer the Products; (2) use the Products to provide time-sharing or service-bureau services, either for profit or not, except as stated above; (3) allow third-parties to access or use the Products; (4) give copies of the Products to any other party including parent or sister company(ies), subsidiaries, or contractors; and (5) reproduce the Products or user Documentation except as stated above. NMC will not copy or modify the Products except as expressly permitted in this Agreement. NMC will not alter any trademark, copyright notice, or other proprietary notice on the Products or Documentation, and will

duplicate each such trademark or notice on each copy of the Products and Documentation. All Products used to provide the Services are herein identified as proprietary to CONTRACTOR, its licensors or vendors as applicable, and may not be copied, reproduced, modified, reverse engineered, translated, decompiled, disassembled, emulated, sublicensed, rented, leased, conveyed, assigned or used in any way other than as specifically authorized in this Agreement except to the extent and for the express purposes authorized by applicable law notwithstanding this limitation. All copies and partial copies of the Products will remain the property of CONTRACTOR.

7.3 Changes to Services: CONTRACTOR reserves the right at any time to (i) change, add, or modify any Product or Service or the manner in which such Product or Service is delivered or (ii) withdraw any Product or Service.

VIII. System Requirements:

CONTRACTOR has previously installed and configured and will continue to provide all technical support to maintain operations of the Linux Red Hat operating system software as part of this Agreement. CONTRACTOR assumes complete responsibility for the application software installed by CONTRACTOR on the System Server. The NMC is responsible for regular system backups, for archiving of backups and data files, for maintaining the network, for maintaining VPN access to the System Server and for reporting system difficulties to CONTRACTOR. CONTRACTOR System Support includes system maintenance via VPN access, assistance in the diagnosis of hardware or network related problems and technical assistance for all system operations.

IX. Data:

9.1 Data Authority. The state or federal government, commercial payer and/or various data source's records are the final authority on eligibility, benefits, claims or other patient data. The data NMC and CONTRACTOR may exchange pursuant to this Agreement may change as a result of changes in law or regulation, or actions taken in accordance with the terms and conditions of certain health care benefits contracts, or changes made to those contracts.

9.2 Non-Guarantee of Reimbursement. CONTRACTOR does not warrant the accuracy or completeness of the data it sends to NMC as it is returned directly from a payer or data source. Acceptance by NMC of the data CONTRACTOR sends electronically does not constitute guarantee of reimbursement. CONTRACTOR exercises no control whatsoever over any third-party content, data and information entered into or displayed by the Products or any third-party content, data and information passing to/from NMC via the Products. NMC's use of any third-party content, data and information obtained via the Products is at NMC's own risk and CONTRACTOR specifically disclaims any warranty or responsibility for the accuracy or quality of third-party content, data and information obtained or provided through such use. CONTRACTOR shall have no responsibility or liability with regard to actions of third parties,

including but not limited to disputes concerning payment of claims, eligibility status of a patient, or any other payer-submitted information. Information submitted by a payer through CONTRACTOR is no guarantee of payment and does not constitute a promise to pay; eligibility information is subject to change, and waiting periods may apply.

X. System Testing: CONTRACTOR reserves the right to process test transactions on NMC's behalf in order to monitor service performance and quality assurance, but NMC shall not be responsible for any fees associated with such monitoring.

XI. Proprietary Rights and Confidentiality. NMC, and on behalf of its employees, agents, vendors and clients, recognizes, acknowledges, and hereby agrees that CONTRACTOR and its licensors and vendors, as applicable, retain a proprietary interest in the Products and Services provided hereunder, and also to any and all copies, versions and derivative works of the same. NMC, and on behalf of its employees, agents, vendors and clients, shall not use or disclose the Products and Services, or any equipment, provided hereunder except for purposes consistent with this Agreement. To the extent that CONTRACTOR's employees or agents obtain access to NMC's proprietary information (i.e., a patient's Protected Health Information), CONTRACTOR shall use the information for the sole purpose of providing the Products and Services offered under this Agreement. CONTRACTOR shall not disclose such proprietary information to any third party except where the third party is contractually obligated to CONTRACTOR to facilitate the delivery of Products and Services. NMC also acknowledges and agrees that certain payers, fiscal intermediaries, government entities, and other third-party information suppliers may require compliance with obligations involving confidentiality, liability, and scope of use, as a condition of accessing their information. In the event such compliance obligations are directed to CONTRACTOR then CONTRACTOR will convey such written obligations to NMC as a requirement to access data. NMC also acknowledges and agrees that this Agreement and all pricing information and performance standards contained within and any of its related amendments, addendums, exhibits and schedules is considered confidential, competitive health care information and trade secrets and shall not be disclosed to any third party without the prior written consent of CONTRACTOR. This entire section shall survive the termination of this Agreement.

XII. Warranties, Remedies, Indemnities and Liabilities. CONTRACTOR warrants that it has the authority to provide the Products and Services to NMC under this Agreement, and as of the Effective Date and to the best of CONTRACTOR's knowledge, the use of the Products and Services by NMC in accordance with the terms of this Agreement shall not infringe upon the United States patent, trademark or copyrights of any third party. NMC's sole and exclusive remedy and CONTRACTOR's sole and exclusive liability in the event of a breach of the foregoing representation or warranty is the indemnification set forth in Section XIII below. In the event of a breach of the foregoing warranty, CONTRACTOR shall use commercially reasonable efforts to repair or replace the affected Product.

CONTRACTOR warrants that the Products and Services will accept data file(s) in specified format(s) containing data elements for institutional and professional medical claims provided to the system via network connection or other CONTRACTOR approved method. The Products and Services will accurately recognize and process data elements as a warranted function. Changes to the Products and Services that relate to the use of additional data file formats for medical claims data may incur additional programming charges from CONTRACTOR. These charges will be billed to the NMC based at CONTRACTOR's current hourly programming rate and will be provided prior to programming for approval.

If NMC requests warranty service that results in the determination that the licensed software was not deficient or at fault, then NMC agrees to pay all expenses and labor costs incurred by CONTRACTOR at the then current rate.

EXCEPT AS OTHERWISE PROVIDED HEREIN, the Services and products are provided "AS IS" without warranty of any kind, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. NMC AGREES THAT CONTRACTOR WILL NOT BE LIABLE FOR ANY CLAIM OR DEMAND AGAINST NMC BY ANY OTHER PARTY. DUE TO THE NATURE OF THE SERVICES BEING PERFORMED BY CONTRACTOR, IT IS AGREED THAT IN NO EVENT WILL CONTRACTOR BE LIABLE FOR ANY CLAIM, LOSS, LIABILITY, CORRECTION, COST, DAMAGE, OR EXPENSE CAUSED BY CONTRACTOR'S PERFORMANCE OR FAILURE TO PERFORM HEREUNDER WHICH IS NOT REPORTED BY NMC WITHIN NINETY (90) DAYS OF SUCH FAILURE TO PERFORM.

NMC ACKNOWLEDGES THAT, IN CONNECTION WITH THE SERVICES PROVIDED UNDER THIS AGREEMENT, INFORMATION SHALL BE TRANSMITTED OVER LOCAL EXCHANGE, INTEREXCHANGE AND INTERNET BACKBONE CARRIER LINES AND THROUGH ROUTERS, SWITCHES AND OTHER DEVICES OWNED, MAINTAINED AND SERVICED BY THIRD PARTY LOCAL EXCHANGE AND LONG DISTANCE CARRIERS, UTILITIES, INTERNET SERVICE PROVIDERS, AND OTHERS, ALL OF WHICH ARE BEYOND THE CONTROL AND JURISDICTION OF CONTRACTOR. ACCORDINGLY, CONTRACTOR ASSUMES NO LIABILITY FOR OR RELATING TO THE DELAY, FAILURE, OR INTERRUPTION OF INFORMATION TRANSMITTED IN CONNECTION WITH THE SERVICES PROVIDED UNDER THIS AGREEMENT.

IN NO EVENT SHALL EITHER PARTY, ITS LICENSORS, SUPPLIERS AND/OR SUBCONTRACTORS BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL,

CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF REVENUE OR PROFITS, COST OF CAPITAL, CLAIMS OF NMCS FOR SERVICE INTERRUPTIONS OR FAILURE OF SUPPLY, AND COSTS AND EXPENSES INCURRED IN CONNECTION WITH LABOR, OVERHEAD, TRANSPORTATION, INSTALLATION, OR REMOVAL OF EQUIPMENT OR PROGRAMMING OR SUBSTITUTE FACILITIES OR SUPPLY RESOURCES, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The obligations under this section shall survive termination of this Agreement.

XIII. INTELLECTUAL PROPERTY INDEMNIFICATION. CONTRACTOR will indemnify, defend and hold harmless NMC from any action or other proceeding brought against NMC to the extent that it is based on a claim that the use of the Products or Services delivered under this Agreement infringes any U.S. copyright or U.S. patent of a third party; provided that NMC gives CONTRACTOR commercially reasonable notice in writing of a complaint, gives CONTRACTOR sole authority to defend the same and gives CONTRACTOR all available information assistance and authority (at NMC's expense) in connection therewith. CONTRACTOR will have control of the defense of such proceeding including appeals and of all negotiations for, including the right to effect the settlement or compromise thereof. In the event of such a complaint or if in CONTRACTOR's reasonable opinion such a complaint is likely to be successfully made, CONTRACTOR shall, at its option and expense, to the extent necessary to provide substantially equivalent and compatible Product and/or Service, procure for NMC the right to continue using the Product and/or Service, replace the same with non-infringing Product and/or Service, or modify the same so that it becomes non-infringing and conforms in all material respects. In the event that the infringing Product and/or Service cannot be replaced or modified as set forth herein in a commercially reasonable manner, CONTRACTOR may discontinue the Product and/or Service, or that portion of the Product and/or Service, and the access granted hereunder will terminate. CONTRACTOR will not have any liability to NMC if any such infringement, or complaint thereof, is based upon or arises out of (a) non-compliance with the design, plans or specifications furnished by or on behalf of CONTRACTOR or the Documentation or this Agreement; (b) the use of the Product and/or Service in a manner for which the same was neither designated nor contemplated; (c) modifications made to the Products or Services by or on behalf of NMC; or (d) the claimed infringement of any patent in which NMC or any subsidiary or affiliate of NMC has any direct or indirect interest, by license or otherwise. **THE FOREGOING ARE CONTRACTOR'S SOLE AND EXCLUSIVE OBLIGATIONS, AND NMC'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT.**

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”), effective July 1, 2015 (“Effective Date”), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of **Natividad Medical Center** (“Covered Entity”) and **Data Systems Group of California, Inc., a wholly owned subsidiary of Passport Health Communications, Inc.** (“Business Associate”) (each a “Party” and collectively the “Parties”).

Business Associate provides certain services for Covered Entity (“Services”) that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity (“PHI”). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the “Privacy Rule”), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the “Security Rule”), under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (“HITECH”). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 *et. seq.* apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 *et seq.* (“CMIA”), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. The Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 (“Red Flag Rules”). This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”), shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose data breach notification or information security obligations, and it is their further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

1. **DEFINITIONS**

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

2. **PERMITTED USES AND DISCLOSURES OF PHI**

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, provided that such use or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the CMIA;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner permitted under 45 C.F.R. § 164.504(e)(4)(ii); ~~provided that disclosures are Required by Law, or Business Associate obtains~~ reasonable assurances from the persons to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(f) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1);

(g) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R. § 164.502(d)(1).

3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI

3.1 Responsibilities of Business Associate. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise permitted by law or Required by Law;

(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, without unreasonable delay and in any event within five (5) days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. The parties acknowledge and agree that this Section 3.1(b) constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence or attempts of unsuccessful security incidents for which no additional notice to Covered Entity shall be required. "Unsuccessful security incidents" means, without limitation, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI. In the event of a successful security incident or Breach of unsecured PHI, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is

reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents agree to adhere to substantially the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(e) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of ~~determining Covered Entity or Business Associate's compliance with the Privacy Rule;~~

(f) document disclosures of PHI and information related to such disclosure and, within ten (10) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within ten (10) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) Reserved.

(h) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) if all or any portion of the PHI is maintained in a Designated Record Set:

(i) upon ten (10) days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and

(ii) upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;

(j) maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(k) notify the Covered Entity within five (5) business days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge;

(l) maintain a formal security program materially in accordance with all applicable data security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security

The Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

3.2 Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and

(c) report to the privacy officer of Covered Entity, in writing, any successful security incident that results in the unauthorized use or disclosure of EPHI of which Business Associate becomes aware without unreasonable delay and in any event within five (5) days of Business Associate's discovery of such successful security incident. Consistent with Section 3.1 (b) above, the parties acknowledge and agree that this Section 3.2 (c) constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence or attempts of unsuccessful security incidents for which no additional notice to Covered Entity shall be required. In the event of a successful security incident involving EPHI, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.

3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4. TERMS AND TERMINATION

4.1 Term. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in Section 5.1 herein.

4.2 Termination. Either Covered Entity or Business Associate may terminate this Agreement if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; provided, however, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

4.3 Automatic Termination. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 Effect of Termination. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. The parties hereby acknowledge and agree that it may not be feasible for Business Associate to return or destroy certain PHI or EPHI received from Covered Entity. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI or EPHI, Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

5. MISCELLANEOUS

5.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 4.4, 5.1, 5.6, and 5.7, and Section 2.1 (solely with respect to PHI that Business Associate retains in accordance with Section 4.4 because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this Agreement, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 Amendments; Waiver. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

5.3 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

Passport Health Communications, Inc.
720 Cool Springs Boulevard, Suite 200
Franklin, TN 37067
Attn: General Counsel
Phone: (615) 661-5657
Fax: (877) 442-2150

If to Covered Entity, to:

Natividad Medical Center

1441 Constitution Blvd.

Salinas, CA 93906

Attn: Contracts Division

Phone: 831-755-4111

Fax: 831-757-2592

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

5.5 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 Choice of Law; Interpretation. This Agreement shall be governed by the laws of the State of California; as provided, however, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

5.7 Indemnification. Subject to the applicable insurance policy limits set forth in Section 9.3 of the Natividad Medical Center County of Monterey Agreement for Services between the parties of even date herewith, Business Associate shall indemnify, defend, and hold harmless the County of Monterey on behalf of Natividad Medical Center, its officers, agents, and employees (hereinafter "NMC") from any claim, liability, loss, injury, cost, expense, penalty or damage, including costs incurred by NMC with respect to any investigation, enforcement proceeding, or third party action but only to the proportional extent arising out of, or in connection with, a material violation of this Addendum or a Breach that is attributable to a negligent or willful act or omission of Business Associate and/or its agents, members, employees, or Subcontractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by NMC or other third party. This provision is in addition to, and independent of, any indemnification provision in any related or other agreement between the Parties.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

**PASSPORT HEALTH COMMUNICATIONS,
INC., ON BEHALF OF ITS WHOLLY OWNED
SUBSIDIARY, THE DATA SYSTEMS GROUP
OF CALIFORNIA, INC.**

**COUNTY OF MONTEREY, ON BEHALF OF
NATIVIDAD MEDICAL CENTER**

By: Melissa Moore

By: _____

Print Name: Melissa Moore

Print Name: _____

Print Title: Controller

Print Title: _____

Date: 12/10/2015

Date: _____