

First Amendment to the Healthcare Master Agreement

This First Amendment ("First Amendment"), effective as of the date signed by the last party ("First Amendment Effective Date"), is to the Healthcare Master Agreement effective October 15, 2013 (the "Agreement") by and between Nuance Communications, Inc. ("Nuance") and the County of Monterey on behalf of Natividad Medical Center ("Customer"). Any capitalized terms referenced herein but not otherwise defined shall have the meanings ascribed to them in the Agreement.

WHEREAS, Nuance and Customer entered into the Agreement;

WHEREAS, Customer desires to purchase medical transcription services as provided by Nuance;

WHEREAS, Nuance and Customer desire to amend the Agreement in accordance with the following provisions; and

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Exhibit A (Definitions) of the Agreement is hereby amended to add the following definition:

"Professional Services" means any installation, project management and/or consulting services provided by Nuance pursuant to an Order, as specified in an Order, and which may be more fully described in a Statement of Work.

2. The parties hereby agree to amend the Agreement to add the additional terms and conditions set forth in the **Transcription Services Schedule** and Attachment A (Service Level Exhibit) attached hereto. The Transcription Services Schedule shall be effective upon the First Amendment Effective Date.
3. The total value of the Transcription Services shall not exceed \$350,000.00 for the Order Term as per the Order attached hereto and executed by the parties and governed by the Transcription Services Schedule; provided, however, in the event that Customer increases Expected Volume or acquires new facilities intending to purchase the Transcription Services, the value set forth therein shall be evaluated and amended by the parties to account for such changes. The foregoing limit shall apply to the services provided pursuant to the Transcription Services Schedule only, and shall not be construed as a limit on other Nuance services provided pursuant to the Agreement. The Order for Transcription Services shall be effective as of the date signed by the last party ("Order Effective Date") and the Order Term shall be for thirty-six (36) months.
4. The parties hereby agree to add the Order attached hereto for Maintenance Services of existing translation Software and Equipment, with such services beginning on November 25, 2016, and ending on November 24, 2019. The total amount for Maintenance Services for the period beginning on November 25, 2016 through November 24, 2019 shall not exceed \$212,700.
5. Notwithstanding anything contrary in Section 7.1 (Term) of the Agreement, effective as of October 15, 2016, the Agreement Term is hereby extended for a revised Agreement Term ending on November 24, 2019.
6. This First Amendment constitutes the sole and complete agreement between the parties with regard to its subject matter, and the Agreement or this First Amendment may not be modified or amended except by a writing signed by both parties hereto. For the avoidance of doubt, the parties acknowledge and agree that any previous amendments or order documents reviewed but not fully executed by the parties shall be of no force or effect.
7. This First Amendment and the Transcription Services Schedule constitute the sole and complete agreement between the parties with regard to its subject matter, and may not be modified or amended except by a writing signed by both parties hereto. For the avoidance of doubt, the parties acknowledge and agree that any previous agreement documents, schedules and/or orders not fully executed by the parties are hereby rescinded, and shall be of no force or effect.

Except as set forth in this First Amendment, the terms of the Agreement remain in full force and effect. If any discrepancies or inconsistencies exist between the terms and conditions of the Agreement and this First Amendment then the terms and conditions of this First Amendment shall prevail.

IN WITNESS WHEREOF, the parties have executed this First Amendment through their duly authorized representatives on the dates indicated below. **EACH OF THE INDIVIDUALS SIGNING THIS FIRST AMENDMENT REPRESENTS AND WARRANTS THAT THE PARTY FOR WHOM HE OR SHE IS ACTING HAS DULY AUTHORIZED THE EXECUTION AND PERFORMANCE OF THIS FIRST AMENDMENT.**

Natividad Medical Center

Nuance Communications, Inc.

By: _____

By:  _____

Name: Gary R. Gray, DO

Name: BRUCE BOWDEN

Title: CEO

Title: EVP CORP STRATEGY + DEVELOPMENT / CHIEF TRANSPORTATION / ACTING OFFICER / SECRETARY

Date: _____

Date: 4.12.16

By:  _____

Name: DANICA TEMPERA

Title: EVP + CFO / TREASURER

Date: 4.12.16

Approved as to legal provisions:

By:  _____

Name: Anne K. Brereton

Title: Deputy County Counsel

Date: April 13, 2016

Approved as to fiscal provisions:

By:  _____

Name: Gary Giboney

Title: Chief-Deputy Auditor-Controller

Date: 4.15.16

Transcription Services Schedule

The General Terms and Conditions and this Schedule for Transcription Services ("Schedule") apply to the Transcription Services (as defined below) specified in an Order (such Order, the "Applicable Order"). In the event of a conflict between the General Terms and Conditions and the terms of this Schedule the terms of this Schedule will prevail.

1. **Definitions.** As used in this Schedule, the following defined terms have the meanings indicated below.

"Authorized User(s)" are those employees and contractors of Customer who are permitted to access the Platform subject to the terms and restrictions contained in this Schedule.

"Contract Month" means a calendar month or the period beginning on the same calendar day of the month as the Go-Live Date and ending at the end of the calendar month.

"Draft Text" means text created from Voice Files utilizing speech recognition software.

"Editing Services" means the minor formatting and editing of Draft Text for mistakes in translation, punctuation, or grammar consistency and any other possible errors.

"Expected Volume" means the monthly expected volume set forth on the Applicable Order. Customer acknowledges Nuance's reliance on the expected volume in its delivery of the Transcription Services.

"Go-Live Date" means the date upon which Transcription Services are first provided by Nuance to the Customer. Customer and Nuance will verify and sign off on functionality and testing of all interfaces included in the Order prior to the Go-Live Date. Nuance will not begin billing Customer for Transcription Services until the Go-Live Date. If Customer does not sign off on functionality and testing of all interfaces, then the parties shall reasonably cooperate to resolve any issues in connection with functionality and the testing of all interfaces.

"Hosted Software" means Nuance (or an Affiliate's) proprietary software product or Third Party Software loaded on a Nuance or Nuance controlled server by Nuance and accessed by Customer under a license granted in this Schedule or, for Third Party Software, licensed under a separate license if provided to Customer.

"Medical Report" means an electronic report dictated by Customer, transcribed or edited (as applicable) by Nuance, and delivered to Customer.

"Order" means the form entered into by the parties from time to time setting forth the Transcription Services purchased by Customer from Nuance.

"Order Effective Date" means the date the last party signed the Applicable Order, unless otherwise specified in the Applicable Order.

"Order Term" means the period of time an Applicable Order is in effect, as specified by the Applicable Order, which shall begin on the Order Effective Date.

"Platform" means Nuance software (licensed by Nuance or by a third party) and the servers on which the software is loaded, used to implement the services procured by Customer as set forth on an Applicable Order.

"Provider" means Nuance and/or a third party medical transcription provider.

"Phase-in-Period" means the period beginning on the Go-Live Date and continuing for the time established by the Applicable Order

"SLA" means the Service Level Agreement set forth in Attachment A.

"Transcribing Services" means the recording and typing of Draft Text.

"Transcription Services" means the comprehensive set of Nuance services available from Nuance that can accomplish the complete transcription of Voice Files, including the transcription and formatting of medical records dictated by medical providers, into data. Customer may purchase the entire comprehensive set of services from Nuance, or a subset, as indicated in the Applicable Order. Nuance may as necessary and at its discretion utilize various hardware, Software, and labor to implement the Transcription Services procured by Customer as indicated in an Applicable Order. Among other items, the Applicable Order will specify whether the Transcription Services will include Transcribing Services, dictation capture, and/or Editing Services.

"Turnaround Time" or "TAT" with respect to any Voice File, means the maximum elapsed time permitted (as indicated in an Applicable Order) between the moment a Voice File becomes available to Nuance (after speech recognition, if applicable) and the moment the Medical Report created from such Voice File is delivered to Customer.

"Voice Files" means electronic copies of voice dictation.

"Work Type(s)" means the type of Medical Report as described in the Applicable Order.

2. **Scope of Schedule.**

a. **Scope.** Subject to the terms and conditions of this Schedule, Nuance agrees to provide to the Customer Transcription Services and/or Professional Services in accordance with an Applicable Order and the SLA. Customer shall dictate the Medical Report into the Platform, make Voice Files and Draft Text available for transcription and/or editing and Nuance shall supply Medical Reports to Customer in accordance with the Applicable Order.

b. **Exclusivity.** In material consideration for the rights granted to Customer herein, Customer agrees to use Nuance during the entire Order Term as the sole and exclusive provider of the Transcription Services purchased from Nuance for all of its outsourced volume.

3. **Nuance Obligations.**

a. **Transcription Equipment.** Nuance shall maintain the transcription hardware and Software necessary for Nuance to fulfill its obligations and duties under this Schedule and any Applicable Order.

b. **Emergency Support.** During the term of this Schedule, Nuance agrees to provide support for the Transcription Services twenty four (24) hours per day, seven (7) days per week and three hundred and sixty five (365) days per year. Nuance shall provide Customer with a listing of contact personnel and a manager assigned to Customer to

facilitate Customer's access to support for resolution of Nuance Transcription Services issues.

4. Customer Obligations

- a. *Facilities.* Customer at its sole cost and expense shall procure and maintain the Internet connections and other telecommunications facilities Customer requires in the performance of this Schedule, including without limitation, all data circuits and/or telephone lines required to transmit dictation to Nuance.
- b. *Location.* Customer understands and agrees that the Transcription Services may be provided from (i) North America (onshore), (ii) Canada or (iii) either or both United States and outside of the United States (multishore) as set forth on an Applicable Order.
- c. *User Administration.* Customer shall make available to Nuance the ability to create and manage users and security groups for the purposes of transcription, quality control (both pre-delivery and retrospective), statistical reporting, payroll, invoicing and management of services provided to Customer.
- d. *Workflow.* Nuance will not agree to any Authorized Users (i.e. physicians, radiologists) request for a Provider's employee or agent to copy from a historical patient document into a current Medical Report while delivering the Transcription Services.
- e. *Work Types.* All work types shall follow standard workflow. The physician is responsible for entering the Work Type during dictation that will be used by the medical transcriptionist for transcription/editing services. All Work Types shall be dedicated to Nuance and shall not be shared with the Customer's in house medical transcriptionists a third party provider.
- f. *Expected Volume Increases.* The Customer agrees to execute an add-on Applicable Order for (i) upon Nuance's request if any volume is ten percent (10%) or more over the Expected Volume; or (ii) if Nuance provides Transcription Services to a new Affiliate or location, in each case subject to a Phase-in-Period.
- g. *Platform Updates.* The implementation of the Transcription Services requires that the Customer be on the then-current version of the Hosted Software prior to the Go-Live Date. Additionally, Customer agrees that updates and/or upgrades for Nuance provided software Platform will be implemented within three (3) months of the release date.
- h. *Nuance Personnel.* Nuance personnel shall provide all services remotely. Without the prior written consent of Nuance, Customer shall not recruit or hire any employee of Nuance who is or has been assigned to perform any of the Transcription Services during the term of this Schedule and for one (1) year following the completion or termination of this Schedule. The parties acknowledge the delays, expense and difficulties involved in proving in a legal or arbitration preceding the actual loss suffered by Nuance for breach of this Section. Accordingly, if Customer breaches this Section, Customer shall pay Nuance, as liquidated damages (but not as a penalty), an amount equal to the individual's annual (or annualized if appropriate) compensation from Nuance at the time of termination of the individual's business relationship with Nuance. Nuance will provide Customer an invoice for the amount due as a result of such breach, which shall be payable in accordance with the terms hereof.

5. Fees and Payments.

- a. *Fees.* Customer shall pay for the Transcription Services and/or Professional Services at the rates specified in an Applicable Order. Each invoice will include Nuance's calculated unit count and cost per unit. Such calculations, if not disputed by Customer in good faith

within forty-five (45) days of the date of Nuance's invoice, shall be deemed correct. Customer shall pay each undisputed invoice within thirty (30) days from when the County Auditor-Controller receives the invoice. All invoices shall be sent via email to the Customer's contact information set forth on the applicable Order.

- b. *Annual Adjustment.* Each year after the first anniversary of the Order Effective Date, effective January 1, Nuance may increase the fees described in the Order by an amount equal to the increase in the Consumer Price Index (Medical Services) from the prior calendar year.

6. Term; Termination.

- a. *Order Term.* An Order shall be effective for the Order Term and unless sooner terminated in accordance with Section 6.b hereof, shall remain in effect regardless of the term of the Agreement. At the end of the Order Term, the Order may be renewed for additional one (1) year periods by a written agreement signed by both parties.
- b. *Termination for Cause.* The Customer may terminate the applicable Order with cause in the event that Customer does not sign off on functionality of interfaces for the then-current version of the Platform before the Go Live Date, provided, however, that Nuance has a thirty (30) day period in which to cure. In the event cure is not possible, as reasonably determined by the Parties, Customer shall notify Nuance in writing of such termination of the Order, and Customer shall have no further obligations to Nuance except for payment of Professional Services fees incurred by Customer up to and including the date of termination. The Customer or Nuance may terminate any Applicable Order by written notice if (i) the other party commits a material breach of an Applicable Order and fails to cure such breach within thirty (30) days after receipt of written notice of such breach; (ii) the other party shall be or becomes insolvent or (iii) Customer's Expected Volume decreases by more than fifty percent (50%) for (i) two (2) consecutive Contract Months or (ii) three (3) Contract Months out of a six (6) Contract Month period.
- c. *Effect of Termination or Expiration.* Upon the termination or expiration of any Applicable Order by either party, Customer shall cease using the applicable Transcription Services. Neither the expiration nor termination of this Schedule or any individual Orders shall affect the parties' respective payment obligations for Transcription Services previously provided. Immediately upon the termination of any Applicable Order, Customer shall have no further rights to access and/or use the Transcription Services and any Software and within ten (10) days of such termination, return or destroy all copies of the Software and Documentation in its possession.
- d. *Delivery and Acceptance.* Beginning on the Go Live Date and for a period for fifteen (15) days thereafter ("Review Period"), Customer may give notice in writing to Nuance of: (i) any failure of the functionality of the interfaces in connection with the then-current version of the Platform ("Correction Request"), describing the non-conformity in reasonable detail; or (ii) acceptance of the Platform via an Acceptance Go Live Certificate. If Customer does not provide Nuance with an Acceptance Go Live Certificate or Correction Request within the Review Period, then Customer shall be deemed to have accepted the Platform. Upon receipt of Customer's Correction Request Nuance shall use reasonable efforts to remedy the non-conformity and retender such nonconforming software within fifteen (15) business days. After Nuance has remedied the non-conformity, Customer shall have another fifteen (15) day Review Period in which to report a Correction Request. Upon the conclusion of a Review Period, in which Nuance does not receive a Correction Request, the

Platform shall be deemed finally accepted. In the event that Nuance is unable to remediate a non-conformity after two (2) attempts to do so, either party may at its option terminate the applicable Order. Upon termination, Customer shall promptly return or destroy Nuance Software and all copies, written or electronic, of related Nuance documentation, and Customer shall be responsible for payment of all fees incurred up to and including the date of termination.

7. *Intentionally Omitted.*

8. License Grant – Software.

a. Any Software ordered by Customer and/or provided by Nuance is provided under the terms of the Limited License and the License Restrictions below.

b. *Limited License.* Subject to the terms and conditions of this Schedule, Nuance hereby grants Customer a revocable, non-exclusive, non-transferable, non-sublicensable limited license to allow Customer, during the Order Term, to use the Software provided by Nuance in a manner commensurate with its intended use, as prescribed herein and in the Documentation, and solely for Customer's internal business purposes.

9. License Grant – Hosted Software.

a. Any Hosted Software accessed and or utilized by Customer will be accessed or utilized under the terms of the Limited License below and Section 3.b of the Agreement.

b. *Limited License.* Subject to the terms and conditions of this Schedule, Nuance hereby grants Customer, a revocable, non-exclusive, non-transferable, non-sublicensable, limited license to allow Customer to access the Hosted Software, during the Order Term, for the sole and limited purpose of using the Hosted Software as part of the Transcription Services in a manner commensurate with the intended use of the Hosted Software as prescribed herein and solely for Customer's internal business purposes. Customer may only access and use the Hosted Software to translate and edit documents internally if such process is expressly permitted on an Applicable Order.

10. Transcription Service License. Subject to the terms of this Schedule, Nuance grants Customer a limited, non- transferrable non-exclusive license to use the Transcription Services as purchased by Customer in an Applicable Order during the Order Term. Customer is granted no rights to the Transcription Services except those rights specified in this Schedule and/or the Applicable Order. Customer agrees that Nuance or other third parties own all legal right, title and interest in and to the Transcription Services, including any Intellectual Property Rights therein. "Intellectual Property Rights" means any and all rights under patent law, copyright law, trade secret law, trademark law, and any other proprietary rights. Nuance reserves all rights not expressly granted to Customer. Except as expressly permitted in this Schedule, Customer shall not attempt to disable or circumvent any security mechanisms used by the Transcription Services or any applications running on the Transcription Services, nor re-sell, re-distribute or re-package the Transcription Services to a third-party.

Attachment A to Transcription Services Schedule

SERVICE LEVEL EXHIBIT

Accuracy Commitments.

After the Phase-in Period, Nuance shall maintain a 98% average accuracy rate per contract month.

Critical Patient Safety Errors: This is defined as any error impacting patient care. Examples include errors in laboratory data, medication doses and/or names, vital signs, etc. This does not include minor misspelling of a medication; i.e., capitalizing a generic drug. Critical Patient Safety Errors also include gross medical term errors and incorrect English language errors (i.e., omission of “no history of”, transcribed as “history of”). Wrong patient name is also a Critical Patient Safety Error.

Major Errors include errors in medical terminology or English language that are significant but do not alter the care of the patient. Examples include omission or addition of words not altering patient care, use of the wrong template, creative transcription.

Minor Errors include any errors not adversely impacting patient care. Examples include use of a wrong signature line, typos, improper macro use not resulting in critical patient safety errors, capitalization errors, and formatting errors.

QA Error Values:

| Type | Quality Compliance Code | Nuance Value |
|-----------|-------------------------------|--------------|
| CPSE | Incorrect Patient | 3 |
| CPSE | Incorrect Values (Lab/Vitals) | 3 |
| CPSE | Incorrect Medication | 3 |
| CPSE | Word Misuse | 3 |
| CPSE | Inaccurate Verbiage | 3 |
| CPSE | HIPAA Violation | 3 |
| CPSE | Misc/Other | 3 |
| Major | Wrong Template | 1 |
| Major | Wrong Worktype | 1 |
| Major | Carbon Copy Missing | 1 |
| Major | Added/Omitted Dictation | 1 |
| Major | Medical/English Word Misuse | 1 |
| Major | Demographic Error | 1 |
| Major | Incorrect Visit Encounter | 1 |
| Major | Incorrect Date of Service | 1 |
| Major | Incorrect Verbiage | 1 |
| Minor | English Misspelling/Typo | 0.5 |
| Minor | Blanks Filled in By Reviewer | 0.5 |
| Minor | Drug/Medical Misspelling/Typo | 0.5 |
| Minor | Omission/Addition | 0.25 |
| Minor | Punctuation Error | 0.25 |
| Minor | Account Specific/Style Error | 0.25 |
| Minor | Grammar/Word Misuse | 0.25 |
| Minor | Capitalization Error | 0.25 |
| Education | Comments | 0 |
| Education | Blanks as per Specs | 0 |

The following sets forth Nuance’s entire obligation, and Customer’s entire right and remedy, for failure to meet after the Phase-in Period, the accuracy commitments. In the event that problems or failures occur that are beyond the control of the Provider or Nuance, Nuance shall temporarily be excused from nonperformance under this Agreement.

| | |
|---|---|
| TAT Penalties | |
| Each report returned after the contracted TAT | Base Rate fee for affected Lines -- Reduced 2% |
| Quality/Accuracy Penalties | |
| Less than 98% accuracy per Contract Month | Total Fee for the Contract Month -- Reduced 2% |



NUANCE

SERVICE SUPPORT CENTER
3984 PEPSI COLA DRIVE
MELBOURNE, FL 32934
1 (800) 228-1210

Attachment B to First Amendment to the Healthcare Master Agreement

Contract Number
11197217 - 1

Creation Date
03/16/2016

Ship To: NATIVIDAD MEDICAL CENTER
1441 CONSTITUTION BLVD
SALINAS, CA 93912
United States

Invoice To: NATIVIDAD MEDICAL CENTER
PO BOX 81611
ACCOUNTS PAYABLE
SALINAS, CA 93912-1611
United States

| DP OPTION1 MAINT - MAINTENANCE: Remote Only Support | | | | | | | | |
|---|------------------------|---|------------------|---------|------------|------------|------------|--------------|
| Qty | Model/Part No | Description | Serial No. | Term | Start Date | End Date | Unit Price | Amount |
| 60 | OPOWM2N-D04 | POWERMIC II NON-SCANNER LEVEL D (51+) | * | 3 Years | 11/25/2016 | 11/24/2019 | 59.00 | 10,620.00 |
| 1 | DMEN101S-F20 | Nuance Management Server DMNE 2 for Dragon Medical Enterprise Network Edition, Perpetual | BZ7D-VPHE- 7N | 3 Years | 11/25/2016 | 11/24/2019 | 2,000.00 | 6,000.00 |
| 172 | DMNE10-HSSITE-15 00 | LICENSE, DMENE 10.1 PERPETUAL HEALTH SYSTEM SITE LICENSE (501-1,500) | | 3 Years | 11/25/2016 | 11/24/2019 | 380.00 | 196,080.00 |
| DP OPTION1 MAINT SUBTOTAL : | | | | | | | | \$212,700.00 |

* Indicates multiple Billed Terms and/or Serial Numbers associated to this line.

The above 3year Maintenance pricing will be billed in 3 annual installments, commencing on 11/25/2016 to coincide with the original delivery of the above products.

Total Amount: \$212,700.00
(sales tax not applicable to the
maintenance)

Additional Terms:

If the Customer does not have a valid Master Agreement with Nuance, then Customer acknowledges that it has reviewed the terms of sale published at <http://www.nuance.com/company/po/Terms-of-Sale.pdf> (for Canadian Customers: <http://www.nuance.com/company/po/Can-Terms-of-Sale.pdf>) (the "Terms of Sale") and, as a material inducement for Nuance to accept this Order, agrees that the Terms of Sale will govern the transaction contemplated by this Order in all respects, and that the Terms of Sale shall not be varied or supplemented by any terms or conditions inserted into, printed on the reverse of, or otherwise accompanying a Purchase Order or any acknowledgement or other form provided by Customer to Nuance.

**By its receipt of this quote, Customer acknowledges and agrees that the pricing and product configuration contained herein are Confidential in nature, and, as such cannot be shared with any other party, including, but not limited to, any affiliate of Customer, without Nuance's prior written consent. In addition to Nuance pursuing any other remedies available to it in law or equity, in the event Customer violates the terms of this provision, this quote shall immediately terminate or, if Customer has entered into an Agreement with Nuance for the purchase of the above Products and/or Services, the foregoing pricing shall be null and void and Customer shall immediately pay an amount equal to the list price of the Products and/or Services less any amounts paid (or currently owed) to Nuance for such Products and/or Services.

Customer Signature: _____

Date: _____



ORDER

This Order ("Order") is entered into the date signed by the last party ("Order Effective Date") and is governed by the terms and conditions of the Transcription Services Schedule dated _____ (the "Schedule") by and between Natividad Medical Center ("Customer") and Nuance Communications, Inc. ("Nuance"). Capitalized terms referenced herein but not otherwise defined shall have the meanings ascribed to them in the Schedule and the Healthcare Master Agreement dated October 15, 2013 (the "Agreement").

Billing Information

Customer Name: Natividad Medical Center
Contact Name & Title: Kim Williams-Neal, MACL, BSBM, RHIT, HIM Director
Address: 1441 Constitution Boulevard
City: Salinas
State: CA
Zip: 93906
Phone and/or Email: 831-783-2440, williams-nealk@natividad.com

Shipping Information

Customer Name: Natividad Medical Center
Contact Name & Title: Kim Williams-Neal, MACL, BSBM, RHIT, HIM Director
Address: 1441 Constitution Boulevard
City: Salinas
State: CA
Zip: 93906
Phone and/or Email: 831-783-2440, williams-nealk@natividad.com

HOSTED SOFTWARE/CUSTOMER PLATFORM

| | |
|---------------|------------------|
| Name | Current Version |
| eScription RH | New installation |

SUMMARY OF PRODUCTS AND SERVICES NUANCE SHALL PROVIDE:

Nuance shall provide Health Information Management (HIM) Transcription Services (the "Services"). The Services (excluding certain Professional Services, if applicable) are provided offsite (i.e. not performed at Customer's site). In order to provide the Services, Nuance agrees to grant Customer use of its Software components associated with the Services, subject to the license grant set forth in Sections 8 (License Grant – Software) and 9 (License Grant – Hosted Software) of the Schedule.

| HEALTH INFORMATION MANAGEMENT TRANSCRIPTION SERVICES | |
|---|---|
| Phase-In Period | 90 days |
| Order Term | 36 months |
| Delivery Type | Onshore |
| Billing Metric | Virtual Line |
| Expected Annual Volume* | Year 1: 679,454 Year 2: 611,508 Year 3: 550,358 |

*NOTE: Expected Volumes shown above are used by Nuance for projection purposes. The Expected Volumes ensure that Nuance has adequate resources to meet the TAT requirements as set forth in this Order.

Work Types Table (shows all report types to be transcribed. The numbers in the TAT Hours column reflect the required turn-around times for the Services)

| Work Type Name | TAT Hours |
|---------------------------------|-----------|
| STAT Reports | 2 |
| Transfer Summary (14) | 2 |
| Emergency Medicine Report (30) | 2 |
| History & Physical (10) | 2 |
| MNC/NMG History & Physical (61) | 2 |
| Psychiatric Evaluations | 4 |
| Operative Report (12) | 4 |
| Inpatient Consultation (11) | 12 |
| Progress Note (15) | 12 |
| NMC Clinic Note (80) | 12 |
| NMC Outpatient Consult (81) | 12 |
| NMC Procedure Note (84) | 12 |
| NMC/NMG Progress Note (60) | 12 |
| NMG Procedure Note (84) | 12 |
| EEG (55) | 12 |
| Echocardiogram (50) | 12 |
| Event Monitor (52) | 12 |
| Holter Monitor (51) | 12 |
| Transesop (57) | 12 |
| No Dictation (999) | 12 |
| MedicoLegal (83) | 24 |
| No Dictation (999) | 24 |
| Discharge Summary (13) | 24 |
| Workers Comp Letter (16) | 24 |
| Letter (82) | 24 |
| zDocQsing Cancel (9998) | 24 |

Pricing Table

Nuance shall bill based on the number of lines that are transcribed as per the TAT requirements listed in the "Work Types" table above. Billing shall be submitted to Customer after the end of each Contract Month.

| TAT Bracket | TAT Required (%) (% of Expected Volume for each TAT bracket) | TAT Price (Billed based on Work Type and associated required TAT) |
|---------------|--|---|
| 24 and up | 3% | \$0.1275 |
| 12 hours | 78% | \$0.1319 |
| 6 and 8 hours | 0% | \$0.1344 |
| 4 hours | 8% | \$0.1362 |
| 2 hours | 11% | \$0.1405 |

*All invoices issued by Nuance shall reflect actual lines transcribed by Customer within each TAT tier (as set forth in the Work Types table and required TAT hours above) per Contract Month.

TAT Distribution and Variances

Nuance shall calculate the monthly fee based on the TAT breakout described above. If the percentage of total actual volume in an applicable TAT tier changes by more than five percent (5%) during a sixty (60) day period, then the pricing shall be reviewed by the parties. For avoidance of doubt, any revisions to the pricing shall be upon mutual written agreement of the parties. Notwithstanding the foregoing, if the volume decreases due to other Nuance products including but not limited to Dragon Medical then pricing shall not be increased by Nuance. Monitoring of the TAT breakout and actual volume shall be done on a monthly basis by Nuance and reported to the Customer.

| |
|--|
| TECHNOLOGY INFORMATION AND SERVICES |
|--|

| | |
|------------------------|--|
| Order Term | 36 months |
| Billing Metric | Virtual Line |
| Expected Annual Volume | Annually Year 1: 679,454 Year 2: 611,508 Year 3: 550,358 |

Monthly Program Subscription Fees

No subscription charge shall be applied.

Products and Professional Services including Software Installation/Configuration Fees necessary to provide transcription services are described below.

Implementation:

The implementation cost includes all the eScription RH software components.

| Item Code | Description | List |
|-------------|---|----------|
| RH-IMPL-001 | Implementation fee systems < 5 Million lines per annum Implementation of core Dragon Medical 360 eScription RH System Components <ul style="list-style-type: none"> • Project Management and Technical Configuration • Interfacing to Hospital EHR • Online Training for End-users and Physicians | \$ 9,850 |

Software components included at no charge to Customer include:

| Component | Description | Qty | Price |
|-------------|---|-----|--------|
| InTouch | Telephone Dictation Interface | 1 | \$0.00 |
| ShadowLink | Automates secure interfaces between hospital and the transcription servers | 1 | \$0.00 |
| ShadowPrint | Manages document distribution to printers throughout the customer location(s) | 1 | \$0.00 |
| InSync | Digital Recorder Interface & PC based Dictation | 0 | \$0.00 |
| InQuiry | Customer Portal for Managing Transcriptions | 1 | \$0.00 |
| InCommand | System management and administration | 0 | \$0.00 |
| InScribe | MT application for typing inbound dictations | 0 | \$0.00 |
| Mobile Apps | iOS and Android | 0 | \$0.00 |

Interfaces provided to Customer at no cost include:

| Model No | Interface type | Qty | Price |
|----------|----------------|-----|--------|
| RHADTINT | ADT | 1 | \$0.00 |
| RHSIUINT | SIU | 0 | \$0.00 |
| RHORMINT | ORM | 0 | \$0.00 |

| | | | |
|------------|--|---|--------|
| RHORUINT | ORU | 1 | \$0.00 |
| RHMDMINT | MDM | 0 | \$0.00 |
| RHOTHERINT | Report Upload from EHR Interface - Meditech | 1 | \$0.00 |
| RHESINTVPN | VPN to ES DataCenter | 0 | \$0.00 |

Third Party Hardware and Software

\$ 0.00

Total Implementation Costs

\$ 9,850.00

Discount

- \$ 9,850.00

Total Due for Implementation Costs

\$ 0.00

- Customer will verify and sign off on functionality and testing of all Interfaces included in this Order prior to the Go-Live Date. Nuance will not begin billing Customer for Transcription Services until the Go-Live Date.

Customer Site Equipment

No equipment will be placed on site.

BILLING METRIC DEFINITION

Definition of a Virtual (Net) Line: For each document, the number of ASCII characters in that document (including spaces and black characters) are added and divided by 65. That number is rounded up to the nearest integer value. For this calculation, the characters in the header and footer are not counted. Fifteen (15) additional lines are added as a fixed amount to cover the header, footer, and any CCs.

(Signature page follows)

IN WITNESS WHEREOF: The undersigned have executed this Order as of the date signed by the last party.

Nuance Communications, Inc.

Customer

Signature: 

Signature: _____

Name: Bruce Bowdell

Name: _____

Title: VP CORP STRATEGY + DEV / CHIEF TRANSFORMATION OFFICER / ACTING SECRETARY

Title: _____

Date: 4.12.16

Date: _____

Signature: 

Name: Daniela Tompessa

Title: VP + CFO / TREASURER

Date: 4.12.16

HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement ("Agreement"), effective the date of last signature set forth below ("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 Nuance Communications, Inc. ("Business Associate") (each a "Party" and collectively the "Parties").

WHEREAS, Covered Entity and Business Associate (or their direct or indirect subsidiaries or predecessors in interest) have entered into, or are entering into between each other one or more agreements, amendments, orders, or other ordering forms (each, a "Services Agreement"), under which 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"); and

WHEREAS, 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. 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.

NOW, THEREFORE, the Parties agree to incorporate and make a part of and thereby amend each Services Agreement under which Business Associate receives PHI from, or creates or receives PHI on behalf of Covered Entity while performing services for Covered Entity, the following additional terms and conditions, which terms and conditions shall govern the use and/or disclosure of such PHI received or create by Business Associate as a result of Services performed. References to the "Services Agreement" are understood to mean each Services Agreement as applicable.

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 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, within ten (10) days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in

consultation with the Covered Entity, mitigate, to the extent reasonable and necessary, 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. 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.

(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 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) subject to Section 4.4 below, return to Covered Entity within twenty-one (21) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

(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;

(k) notify the Covered Entity within ten (10) 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

(m) 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. Notwithstanding the foregoing, the retention of ownership in the PHI by Covered Entity will not result in Covered Entity having any rights in any Business Associate software and/or services.

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 involving EPHI of which Business Associate becomes aware within ten (10) days of Business Associate's discovery of such successful Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent reasonable and necessary, 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.

(f) Covered Entity hereby acknowledges to Business Associate Covered Entity hereby acknowledges to Business Associate that Covered Entity is subject to compliance with the applicable HIPAA rules and applicable California State confidentiality laws with respect to the use or disclosure of PHI, and in that regard: (i) shall use appropriate safeguards to prevent the unauthorized or improper use or disclosure of PHI; (ii) shall establish policies and procedures for mitigating, and shall mitigate, to the extent practicable, any harmful effects of any known unauthorized or improper use or disclosure of PHI of which Covered Entity becomes aware; (iii) shall implement and utilize Administrative Safeguards, Physical Safeguards, and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI, in electronic form, that it creates, receives, maintains, or transmits, as required by applicable law; and (iv) shall implement and maintain, throughout the term of the Underlying Agreement, reasonable and appropriate systems and security measures for the detection, prevention, and prompt reporting of breaches of PHI and ePHI.

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 and any related agreements 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. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. 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 or HITECH 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. No amendment shall be effective unless in writing and signed by duly authorized representatives of both parties. Either party may terminate this Agreement upon thirty (30) days' written notice in the event that the parties fail to enter into an amendment that each party deems sufficient to comply with such laws and regulations. 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:

Nuance Communications, Inc.
Attn.: Healthcare Legal
One Wayside Road
Burlington, MA 01803

If to Covered Entity, to:

Natividad Medical Center
Attn: Contracts Division
1441 Constitution Blvd.
Salinas, CA 93906
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.

5.4 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. Business Associate shall at Business Associate's expense, defend the Covered Entity from any claim or action made or brought against the Covered Entity to the extent it is caused by conduct of Business Associate, or its employees, officers, agents or subcontractors, in violation of this BAA and indemnify the Covered Entity from and against: (i) losses, liabilities, damages, costs, or expenses (including court costs and reasonable attorneys' fees) that are attributable to such claim or action and are assessed against the Business Associate in a final judgment by a court of competent jurisdiction (including any court awarded indirect, incidental, special or consequential damages included as part of such final judgment); (ii) any settlement agreed to by Business Associate and any fines, awards or other penalties assessed by a governmental entity against the Business Associate and (iii) the costs associated with the following remedial actions, to the extent that the Covered Entity is required to take such remedial action, under the HIPAA information privacy or security rules or other applicable laws as a result of Business Associate's failure to protect PHI from unauthorized use or disclosure: (1) the costs of notification of any individual affected by a breach of the HIPAA information privacy or security rules, and (2) any credit monitoring or credit repair services offered to such individual. Business Associate's indemnification is subject to the Covered Entity giving the Business Associate prompt notice of any such claim of which the Covered Entity has actual knowledge and that the Covered Entity cooperates fully with the Business Associate in the defense of such claim. The Business Associate will have the right to direct the defense and settlement at its sole expense of all claims, suits or proceedings arising out of the foregoing, provided, however, that Business Associate will obtain Covered Entity's prior written consent to any settlement that involves a statement of guilt or wrongdoing or imposition of any non-monetary penalty on the part of the Covered Entity.

5.8 Severability. If a court of competent jurisdiction finds any term of this Agreement invalid, illegal, or unenforceable, that term shall be curtailed, limited, or deleted, but only to the extent necessary to remove the invalidity, illegality, or unenforceability, and without in any way affecting or impairing the remaining terms.

5.9 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the parties to comply with HIPAA and applicable State laws.

5.10 Entirety. The terms and conditions of this Agreement supersede and replace, any prior business associate agreements and any existing terms and conditions between the parties (including any such terms and conditions in any Services Agreement) pertaining to the privacy and security of PHI. This Agreement is made a part of and subject to the terms of each Services Agreement. In the event of any conflict between this Agreement and a Services Agreement, this Agreement shall control with respect to such conflict.

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.

NUANCE COMMUNICATIONS, INC.

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

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____