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Contract Number

10-10

SAP Number

Arrowhead Regional Medical Center

Department Contract Representative	Sally Urquiza
Telephone Number	(909) 580-1046
Contractor	Nuance Communications, Inc.
Contractor Representative	Robert Shollin
Telephone Number	951 264-1013
Contract Term	February 21, 2020 through February 20, 2025
Original Contract Amount	\$ 3,589,932
Amendment Amount	
Cost Center	8700

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, the County of San Bernardino (County) desires to designate a contractor of choice to provide clinical medical dictation and speech recognition services; and

WHEREAS, the County conducted a competitive process to find Nuance Communications Inc. ("Nuance" or "Contractor" and, together with the County, the "Parties" and each, a "Party") to provide these services, and

WHEREAS, the County finds Contractor qualified to provide clinical medical dictation and speech recognition services; and

WHEREAS, the County desires that such services be provided by Nuance and Nuance agrees to perform these services as set forth below;

NOW, THEREFORE, the County and Contractor mutually agree to the following terms and conditions:

A. DEFINITIONS

A.1 "Authorized Users" are those employees and independent contractors of County who are authorized by the applicable Attachment and permitted by the County to access the Hosted Services and Nuance Software to perform services for the benefit of the County subject to the terms and restrictions contained in this Contract and the applicable Attachment.

A.2 "Documentation" means the administrative guide and user's guide provided by Contractor to County to facilitate the use of the Nuance Products and Hosted Services.

A.3 "Equipment" means Nuance Equipment and Third-Party Equipment, collectively.

A.4 "Hosted Services" means a Nuance proprietary subscription-based software as a service (SaaS) offering specified in an Order, as more particularly described in the applicable Attachment. Any software provided by Nuance which is sited at the County (for example client software to access the Hosted Services) is considered Software and subject to the terms governing Software.

A.5 "Maintenance Services" means (i) the services that Nuance provides, pursuant to an Order, to maintain Software and Equipment (as applicable), as more fully described at <http://support.nuance.com/healthcare> under "Healthcare Hardware and Software Maintenance Options" ("Web Maintenance Services Terms") or (ii) as otherwise provided in an applicable Attachment. Maintenance Services does not mean or include Hosted Service support.

A.6 "Nuance Equipment" means Nuance manufactured hardware specified in an Order

A.7 "Nuance Products" means the Nuance Software and Nuance Equipment, collectively.

A.8 "Nuance Software" means the object code version of any Nuance proprietary software product specified in an Order, including all corrections, modifications, enhancements, Updates and Upgrades (if any) thereto that Nuance may provide to the County under this Contract, and all related Documentation.

A.9 "Order" means an order for Software licenses, Equipment and/or Services that is (a) issued by County in the form of a Nuance Quote or Company PO signed by the County (physically or electronically), and (b) accepted by Nuance. An Order includes any applicable Statement of Work.

A.10 "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.

A.11 "Services" means Maintenance Services, Training Services, Professional Services, Hosted Services and/or Transcription Services, as applicable.

A.12 "Software" means Nuance Software and Third Party Software, collectively.

A.13 "Third Party Equipment" means any third party manufactured hardware specified in an Order.

A.14 "Training Services" means any training services provided by Nuance pursuant to an Order, as specified in an Order.

A.15 "Transcription Services" means any transcribing services and/or editing services provided by Nuance pursuant to an Order, as specified in an Order and more fully described in Attachment C for Transcription Services.

A.16 "Update" means a release of Nuance Software, issued as part of Maintenance Services, that may include minor feature enhancements, and/or bug fixes and/or fixes of minor errors and/or corrections, and typically is identified by an increase in a release or version number to the right of the first decimal (for example, an increase from Version 5.1 to 5.2 or from Version 5.1.1 to 5.1.2). "Update" shall not be construed to include Upgrades.

A.17 "Upgrade" means a release of Nuance Software, issued as part of Maintenance Services, that may include some feature enhancements and/or additional capabilities (functionality) over versions of the Nuance Software previously supplied to the County, and typically is identified by an increase in the release or version number to the left of the decimal (for example, an increase from Version 5.2 to Version

6.0). Upgrades do not include new software and/or products that Nuance, in its sole discretion, designates and markets as being independent from the previously purchased Nuance Software.

B. SOFTWARE, HOSTED SERVICES AND OTHER SERVICES TO BE PROVIDED BY CONTRACTOR TO THE COUNTY

B.1 See Attachment A for the Order by the County for the Nuance Software, Hosted Services, Professional Services and Training Services, defined and to be provided by Contractor to the County in accordance with the terms and conditions set forth in Attachment B, the Order and this Contract. Each of Attachment A and Attachment B is made a part of this Contract.

B.2 Grant of Rights

B.2.1 License Grant. Subject to the terms and conditions of this Contract, Nuance grants to County, and County accepts, a limited, non-exclusive, non-transferable, non-sub-licensable license to permit its Authorized Users to use the Nuance Software and/or Hosted Services listed in the Order, strictly in accordance with the license grant specified in the applicable Schedule set forth in Attachment B, provided such use is (i) commensurate with the intended use of the Nuance Software (as prescribed in this Contract and the applicable Documentation), and (ii) solely for County's internal business purposes.

B.2.2 Third Party Software. Third Party Software supplied by Nuance is subject to the terms and conditions of this Contract and the applicable third-party terms, as provided to the County.

B.2.3 Updates and Upgrades. Upon installing any Update or Upgrade to Nuance Software, County shall discontinue use of the previous version of such Nuance Software and County will be licensed to use only the updated or upgraded version of the Nuance Software, in accordance with the license granted by Nuance with respect to such Nuance Software.

B.2.4 Equipment. Equipment supplied by Nuance is subject to the terms and conditions of this Contract and, if Third Party Equipment, the applicable third-party terms.

B.3 Services

B.3.1 Maintenance Services Terms. Unless otherwise agreed, Nuance shall not be obligated to provide Maintenance Services (defined on Attachment B) for, or required as result of, (i) any Software or Equipment modified by any party not authorized by Nuance to make such modification, (ii) any Software or Equipment used for other than its intended purpose, (iii) any Software or Equipment used with equipment not specified as compatible in the Documentation, (iv) any Software or Equipment being used with software not supplied by Nuance, unless specified as compatible or required in the Documentation, (v) any Software or Equipment (or any associated equipment, software or firmware) which County failed to properly install or maintain, (vi) any computer malfunction not attributable to the Software or Equipment, or (vii) damage to Software or Equipment from any external source, including computer viruses not attributable to Nuance, computer hackers, or force majeure events.

B.3.2 Training Services. Unless otherwise agreed by the Parties, Training Services will be held at a designated Nuance location during Nuance's standard business hours, excluding Nuance recognized holidays. If the Parties agree to hold any Training Services at County's site, all such Training Services (including associated travel time) will be conducted between the hours of 8:00 a.m. to 5:00 p.m. local County site time, Monday through Friday, excluding Nuance recognized holidays. County shall ensure that all Training Services attendees are or will be Authorized Users and have the skills and experience to participate in the training sessions.

- B.3.3 Professional Services.** Unless otherwise agreed by the Parties, all Professional Services (including associated travel) will be conducted between the hours of 8:00 a.m. to 5:00 p.m. local County site time, Monday through Friday, excluding Nuance recognized holidays. Nuance reserves the right to deliver Professional Services directly or via third party subcontractors.
- B.3.4 Hosted Services.** Hosted Services will be as further described in, and will be provided by Nuance in accordance with, the applicable Schedule on Attachment B.
- B.3.5 Transcription Services.** Transcription Services will be as further described in, and will be provided by Nuance in accordance with, the applicable Schedule on Attachment B.
- B.3.6 On-Location.** If Nuance will perform Services at a location other than a Nuance facility, County shall provide or arrange for the necessary equipment, information, and facilities required by Nuance to perform such Services, as reasonably specified by Nuance.
- B.4 Limited Warranties**
- B.4.1 Nuance Software Warranty.** Nuance warrants that upon initial installation of the Nuance Software (in the case of Nuance Software that, pursuant to the applicable Order, is to be installed by Nuance) or initial delivery of the Nuance Software to County (in all other cases), and for a period of ninety (90) days thereafter (the "Software Warranty Period"), the Nuance Software will operate in all material respects in conformity with its Documentation. County's sole and exclusive remedy and Nuance's sole obligation for any breach of the warranty set forth in this Section will be for Nuance, at Nuance's option, to undertake reasonable efforts to correct or replace the nonconforming Nuance Software reported by County during the Software Warranty Period, or to accept a return of and refund to County, the fees paid by County to Nuance for such non-conforming Nuance Software, and terminate the license to any such non-conforming Nuance Software.
- B.4.2 Nuance Equipment Warranty.** Nuance warrants that upon initial installation of the Nuance Equipment (in the case of Nuance Equipment that, pursuant to the applicable Order, is to be installed by Nuance) or initial delivery of the Nuance Equipment to County (in all other cases), and for a period of ninety (90) days thereafter (the "Equipment Warranty Period"), the Nuance Equipment will operate in all material respects in conformity with its Documentation. County's sole and exclusive remedy and Nuance's sole obligation for any breach of the warranties set forth in this Section will be for Nuance, at Nuance's option, to undertake reasonable efforts to correct or replace the nonconforming Nuance Equipment reported by County during the Equipment Warranty Period, or to accept a return of and refund to County, the fees paid by County to Nuance for such non-conforming Nuance Equipment.
- B.4.3 Services Warranty.** Nuance warrants that the Maintenance Services, Training Services and Professional Services provided by Nuance pursuant to this Contract shall be performed in a professional manner by trained and skilled personnel. County must notify Nuance of any breach of such warranty within ninety (90) days following performance of the non-conforming Services giving rise to the breach of warranty claim. County's sole and exclusive remedy and Nuance's entire liability for any breach of the warranty set forth in this Section will be for Nuance to re-perform such non-conforming Services that County notified Nuance of in accordance herewith.
- B.4.4 Limitation of Warranties.** The warranties set forth in this Section shall not apply, and Nuance shall have no warranty obligation or liability with respect to, (a) any Nuance Product that: (i) is damaged through no fault of Nuance, (ii) is modified by anyone not authorized by Nuance to make such modification, (iii) is used for any purpose other than its intended purpose (as specified in the Documentation), (iv) is used with equipment not specified as compatible with or required by the Nuance Product in such Nuance Product's Documentation, (v) is used with software not specified as compatible with said Nuance Product in the Nuance Product's Documentation, or (vi) County

fails to properly install or maintain; (b) any computer malfunction not attributable to the Nuance Products or Nuance; (c) any incorrect use of the Nuance Products, or (d) any willful misconduct or negligent action or omission of County.

B.4.5 **DISCLAIMER.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION ARE EXCLUSIVE AND THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND NUANCE HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, AND/OR NON-INFRINGEMENT. NUANCE DOES NOT GUARANTEE THAT THE SOFTWARE, EQUIPMENT OR SERVICES WILL YIELD ANY PARTICULAR BUSINESS OR FINANCIAL RESULT, OR THAT THE SERVICES WILL BE PERFORMED WITHOUT ERROR OR INTERRUPTION. NUANCE MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO ANY THIRD-PARTY SOFTWARE OR ANY THIRD-PARTY EQUIPMENT. UNDER NO CIRCUMSTANCES SHALL NUANCE'S THIRD-PARTY SUPPLIERS OF ANY COMPONENT OF THE NUANCE SOFTWARE, HOSTED SERVICES OR NUANCE EQUIPMENT BE RESPONSIBLE OR LIABLE TO COUNTY OR ITS AFFILIATES FOR ANY DAMAGES, DIRECT OR OTHERWISE, ARISING UNDER THIS CONTRACT OR OTHERWISE ARISING FROM THE TRANSACTIONS CONTEMPLATED HEREIN. SUCH THIRD-PARTY SUPPLIERS ARE THIRD PARTY BENEFICIARIES OF THE FOREGOING SENTENCE.

B.4.6 COUNTY ACKNOWLEDGES THAT SOFTWARE AND SERVICES ARE NOT ERROR FREE. FURTHERMORE, SPEECH RECOGNITION, NATURAL LANGUAGE PROCESSING, AND MEDICAL FACT EXTRACTION (SUCH AS PERFORMED IN MEDICAL TRANSCRIPTION SERVICES) ARE STATISTICAL PROCESSES THAT ARE INHERENTLY INACCURATE AND THAT ERRORS OCCUR IN THE CONTENT, OUTPUT AND RESULTS OF SUCH PROCESSES THAT NUANCE IS NOT RESPONSIBLE FOR. COUNTY AGREES THAT IT IS THE SOLE RESPONSIBILITY OF COUNTY AND EACH AUTHORIZED USER TO IDENTIFY AND CORRECT ANY SUCH ERRORS AND INACCURACIES BEFORE USING AND/OR RELYING ON THE CONTENT, RESULTS OR OUTPUT OF ANY SOFTWARE AND/OR SERVICES PROVIDED UNDER THIS CONTRACT, FOR ANY MEDICAL-PRACTICE-RELATED PURPOSES. COUNTY AGREES THAT NUANCE IS NOT PROVIDING MEDICAL PRACTICE ADVICE, AND THAT COUNTY AND EACH AUTHORIZED USER WILL CONSULT WITH AND RELY EXCLUSIVELY ON ITS OWN PHYSICIANS OR OTHER MEDICAL DIRECTION FOR REVIEW, NECESSARY REVISIONS AND APPROVAL OF ANY AND ALL SUCH MEDICAL-PRACTICE-RELATED CONTENT, RESULTS OR OUTPUT. NUANCE ASSUMES NO RESPONSIBILITY FOR ANY OF THE FOREGOING.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

C.2 Contract Amendments

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

C.3 Contract Assignability

Neither party should have the right to assign the contract except in case of a merger, sale of all party's assets or to an affiliate with the requirement that the assignee agrees to be bound by the terms of the contract.

C.4 Contract Exclusivity

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

C.5 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements set forth herein.

C.6 Background Checks for Contractor Personnel

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County and not in violation of applicable law, Contractor shall conduct, or have conducted by a third party, a background check, at Contractor's sole expense, on all its personnel providing Services, except if such personnel have already had a background check performed by or on behalf of Contractor. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable. Contractor personnel who do not meet the County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or Services, and County shall have the right, at its sole option, to refuse access to any Contract personnel to any County facility.

C.7 Change of Address

Contractor shall notify the County in writing, of any change in mailing address promptly within 10 business days following the change.

C.8 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

C.9 Compliance with County Policy

In performing the Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County made available to such personnel as provided below regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County made available to such personnel as provided below; and (d) abide by all laws applicable to the County facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) made available to such personnel as provided below (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives

and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Contract.

C.10 Confidentiality

Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

Notwithstanding the foregoing, the County is solely responsible for obtaining all necessary consents under applicable laws and regulations in order to allow Contractor to use the Data in accordance with this paragraph. The County gives Nuance the right, and Nuance has permission to use, the Data in accordance with this paragraph, and to de-identify the Data in accordance with 45 C.F.R. §164.514. Nuance and third parties acting under the direction of Nuance may use, compile (including creating statistical and other models), annotate and otherwise analyze the Data to develop, train, tune, enhance and improve the speech recognition, natural language understanding and other components of its software and services. Nuance shall own all intellectual property rights in all enhancements and improvements to its software and services that result from such use of the Data. Any and all information that the County provides will remain confidential, and Nuance may only provide access to Data to third parties acting under the direction of Nuance in order to fulfill the foregoing use of the Data, pursuant to confidentiality agreements, or to meet legal or regulatory requirements, such as under a court order or to a government institution if required or authorized by law. Nuance will not use the names of individuals and companies to contact anyone for any reason. Nuance receives, uses and/or maintains only copies of official medical records or portions thereof, the originals of which must continue to be maintained by the County or its contractors. Accordingly, the foregoing Data shall not be deemed an official medical record or health record for any patient.

C.11 Primary Point of Contact

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries promptly within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.12 County Representative

The Hospital Director or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

C.13 Damage to County Property

Contractor shall repair, or cause to be repaired, at its own cost, all damages to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or its employees or agents. Such repairs shall be made promptly after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor, as determined by the County, shall repay all costs incurred by the County for such repairs provided that County provides Contractor with receipts evidencing such repairs, by cash payment within thirty (30) days of County's demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at the County's sole discretion.

C.14 Debarment and Suspension

Contractor certifies that neither it nor its principals or subcontracts is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

C.15 Drug and Alcohol Free Workplace

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

C.15.1 Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.

C.15.2 Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.

C.15.3 Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The County may terminate for default or breach of this Contract, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

C.16 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.17 Employment Discrimination

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

C.18 Environmental Requirements

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), upon the written request of the County no more than once annually, Contractor must also be able to report on environmentally preferable goods and materials used in the provision of their service to the County, if any, utilizing a County approved form provided to Contractor.

C.19 Improper Influence

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any significant direct financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

C.20 Improper Consideration

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

C.21 Informal Dispute Resolution

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use reasonable efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

C.22 Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.23 Licenses, Permits and/or Certifications

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by applicable federal, state, and local laws ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify County promptly of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in termination of this Contract immediately upon written notice to Contractor.

C.24 Material Misstatement/Misrepresentation

If during the course of the administration of this Contract, the County determines that Contractor has made an intentional material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be terminated immediately upon written notice to Contractor. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

C.25 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.26 Nondisclosure

C.26.1 Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract.

C.26.2 This Contract is subject to the San Bernardino County Sunshine Ordinance, County Code of Ordinances Section 19.0101, California Government Code 54950, and California Public Records Act (Government Code Section 6250) (collectively, "Regulations"). All information, including detailed price and cost information, is public information. If Contractor believes that any portion of this Contract (including any attachments, amendments, SOWs, and SLAs), materials, or work product provided to the County is exempt from public disclosure, Contractor must clearly mark that portion "Confidential" or "Proprietary". Contractor also must include a brief description that identifies the recognized exemption from disclosure under the Regulations. County will use reasonable means to ensure that such information is safeguarded. Information marked "Confidential" or "Proprietary" in its entirety will not be honored, and the County will not deny public disclosure of any information so marked. Contractor represents that it has a good faith belief that such portions are exempt from disclosure under the Regulations.

C.26.3 If the receiving Party receives a subpoena, other validly issued administrative or judicial process, or public records request requesting Confidential Information of the other Party, it will, to the extent legally permissible, promptly notify the other Party and, if requested by the other Party, tender to the other Party the defense of the subpoena or process. Unless the subpoena or process is timely limited, quashed or extended, the receiving Party will then be entitled to comply with the request to the extent permitted by law.

C.26.4 To the extent legally permitted, the Receiving Party shall return to the Disclosing Party, or destroy, all Confidential Information of the Disclosing Party in tangible form (i) upon the written request of the Disclosing Party, or (ii) upon the expiration or termination of this Contract, whichever comes first. Notwithstanding the foregoing,

each Party may retain a copy of the Confidential Information in electronic format in accordance with its corporate security and/or disaster recovery procedures, provided that such information remains subject to this section.

C.27 Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within 3 business days, give notice thereof, including all relevant information with respect thereto, to the other party.

C.28 RESERVED

C.29 Air, Water Pollution Control, Safety and Health

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

C.30 Records

Contractor shall maintain all records and books pertaining to the delivery of services under this Contract. All records shall be complete and current and comply with all Contract requirements set forth below in this Section.

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

C.31 Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C.32 Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used by either Party without prior written approval of the other Party, except as required by law.

C.33 Representation of the County

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

C.34 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C.35 Subcontracting

Contractor shall obtain County's written consent, which County may withhold in its sole discretion, before engaging any subcontractors to supply any part of the Services to County. At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the county, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors. All approved subcontractors shall be subject to the provisions of this Contract applicable to Contractor Personnel.

For any subcontractor, Contractor shall:

C.35.1 Be responsible for subcontractor compliance with applicable terms of this Contract and the subcontract terms and conditions; and

C.35.2 Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.

C.35.3 Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities and C. General Contract Requirements.

C.36 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

C.37 Termination for Convenience

Following the first year of the Term of the Contract, the County reserves the right to terminate the Contract if the State of California or the federal government does not appropriate sufficient funds to the County to pay the fees due under the Order, with a ninety (90) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Contractor for services rendered and expenses incurred through the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice requests that services be discontinued at a date later than the notice date.

C.38 Force Majeure Except for the obligation to make payments, if either party is prevented, hindered or delayed from the performance of any act required hereunder by reason of contingencies beyond its control, including without limitation, strike, lock-out, or other labor or industrial disturbances, fire, accidents to equipment, acts of God, legal process, injunctions or compliance with laws, regulations, guidelines or orders of any governmental body or instrumentality thereof, failure of power or any other similar reason not directly the fault of such party, or by reason of the other party or its agents, then performance of such act (other than payment of any amount when due hereunder) shall be excused for the period of delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Irrespective of any extension of time, if an event of Force Majeure occurs and its effect continues for a period of sixty (60) days, County or Nuance may, in their respective sole discretion, terminate this Contract without any further obligation.

C.39 Venue

The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their commercially reasonable efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, and San Bernardino District.

C.40 Conflict of Interest

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

C.41 Former County Administrative Officials

Contractor agrees to provide, or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

C.42 Disclosure of Criminal and Civil Procedures

The County reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. Contractor also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination. Contractor is required to disclose whether the firm, or any of its key employees (as that term is defined herein), within the last seven years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its key employees, has within the last seven years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. In addition, the Contractor is required to disclose whether the firm, or any of its key employees, within the last seven years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. For

purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

C.43 RESERVED

D. TERM OF CONTRACT

This Contract is effective as of February 21, 2020 and expires February 20, 2025 but may be terminated earlier in accordance with provisions of this Contract.

E. COUNTY RESPONSIBILITIES

E.1 Pay Contractor in accordance with the Fiscal provisions below. County net term is thirty (30) days from the date of County's receipt of invoice. Interest shall accrue at the rate of one-and-one half percent (1.5%) per month on any amounts past due. County shall reimburse Nuance for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts from County. Nuance reserves the right to suspend Services to County in the event any invoice is past due. County must notify Nuance within thirty (30) days of the date of invoice if it disputes any amount contained in an invoice.

E.2 The County reserves the right to approve or disapprove of all Contractor personnel.

E.3 Absent gross negligence by the County, the County will not be responsible for Contractor's supplies, equipment, material, or personal belongings that may be damaged, lost, or stolen.

E.4 Notwithstanding any use of the term "sale," "purchase" or other similar terms in this Contract, Nuance and its licensors retain all right, title and interest in and to the Nuance Software, Services and Documentation, and any derivative works thereof, including, but not limited to, all patent, copyright, trade secret, trademark and other intellectual property rights associated therewith. Without limiting the generality of the foregoing, County will not itself, directly or indirectly, and will not permit Authorized Users, other employees or contractors, or any third party to (i) access the Hosted Services with software or means other than as described in this Contract, (ii) submit any automated or recorded requests to the Hosted Services except as otherwise provided in this Contract, (iii) modify, port, translate, or create derivative works of the Nuance Software, Services, or Documentation, (iv) decompile, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, or algorithms of the Nuance Software or Services by any means, (v) sell, lease, license, sublicense, copy, assign, transfer, share, market, or distribute the Nuance Software, Services or Documentation, except as expressly permitted in this Contract, (vi) grant any access to, or use of, the Nuance Software or Services on a service bureau, timesharing or application service provider basis, (vii) remove any proprietary notices, labels or marks from the Nuance Software, Services or Documentation, (viii) release to a third party the results of any benchmark testing of the Nuance Software or Services, or (ix) defeat or circumvent any controls or limitations contained in or associated with the use of the Software. In no event shall anything in this Contract or in Nuance's conduct or course of dealing convey any license, by implication, estoppel or otherwise, under any patent, copyright, trademark or other intellectual property right not explicitly licensed. All rights not expressly granted to County under this Contract are reserved by Nuance and/or its licensors.

E.5 The County is responsible for each Authorized User's compliance with the terms of this Contract and shall ensure each Authorized User's compliance with the terms of this Contract. County will be liable for any act or omission by an Authorized User that, if

performed or omitted by County, would be a breach of this Contract. County shall promptly notify Nuance upon learning of any actual or suspected unauthorized possession or use of any Software or Hosted Services supplied under this Contract.

- E.6** County shall keep full, true and accurate records and accounts to support its use of the Nuance Software and Hosted Services, as applicable, under this Contract. Nuance, or a third party appointed by Nuance, will have the right, not more than once a year and upon reasonable notice, to conduct an audit of County's systems and records, to confirm compliance with the terms of this Contract. If Nuance's appoints a third party to conduct the audit, Nuance shall ensure that such party is bound by written obligations of confidentiality regarding any Confidential Information to which such third party may receive or may have access to during the course of such audit, and Nuance shall be liable for any breach of confidentiality by such agents or representatives. Any audit will be performed during County's normal business hours. In the event that an audit discloses an underpayment to Nuance, County shall promptly remit payment to Nuance equal to such underpayment. In the event that an audit discloses an overpayment to Nuance, County may, in its sole discretion, offset such overpayment from future payments to Nuance or require reimbursement within 30 days after the audit. Nuance shall be solely responsible for the costs of any audit.
- E.7** County acknowledges its responsibility to regularly back-up data and to adequately test prior to deployment each production version of the Nuance Software in a configuration that reasonably simulates County's planned production environment. For Hosted Services, Nuance shall be under no obligation to maintain Data for County beyond the data retention periods specified in the Documentation.

F. FISCAL PROVISIONS

- F.1** Contractor will be paid by County for the Nuance Software and Services (as such terms are defined in Attachment B) in accordance with rates listed in Attachment A. All fees due under this Contract are non-cancelable, except as otherwise provided herein. Prices do not include travel expenses that may be incurred in the course of providing Services, including, but not limited to, transportation, meals, lodging and other living expenses. County shall pay or reimburse Nuance for all such charges and expenses reasonably incurred in accordance with Section F.6 below.
- F.2** Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments. County agrees to pay Nuance's invoices without a purchase order reference. County acknowledges and agrees that if it is County's standard practice to issue unsigned purchase orders, such purchase orders are valid and binding. Neither Party shall be subject to provisions of any pre-printed terms on or attached to purchase orders generated by County, or any County policies, regulations, rules, or the like, including those set forth in any County-sponsored registration system, regardless if such requires affirmative acknowledgement from a Nuance representative.
- F.3** County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract. County shall reimburse Nuance for any encumbrance, fine, penalty, or other expense which Nuance may incur as a result of County's failure to pay any such taxes, duties, fees, charges, or assessments referred to in the foregoing sentence.

F.4 Costs for Services under the terms of this Contract shall be incurred during the contract period except as approved by County.

F.5 Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.

F.6 RESERVED

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

Nuance shall, at its own expense, defend or, at its option, settle, any action brought against County by a third party, during the Term, to the extent it is based on a claim that the Nuance Software and/or Hosted Services infringes any United States or Canadian patent, copyright or trademark, or misappropriates a trade secret of such third party. Nuance will indemnify County against any damages and losses that are attributable to such claim or action and are assessed against County in a final judgment. In addition, Nuance agrees to indemnify, defend, and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability that Nuance or Nuance personnel or subcontractors caused physical injury, death or property damage while on County premises.

If a credible claim is made or threatened, including without limitation the filing of a lawsuit against County, or County receives a demand or notice claiming actual or potential infringement or misappropriation of any intellectual property right, County will notify Contractor promptly of such lawsuit, claim or election. However, County's failure to provide or delay in providing such notice will relieve Contractor of its obligations only if and to the extent that such delay or failure materially prejudices Consultant's ability to defend such lawsuit or claim. County will give Contractor sole control of the defense and settlement of such claim; provided that Contractor may not settle the claim or suit absent the written consent of County unless such settlement (a) includes a release of all claims pending against County, (b) contains no admission of liability or wrongdoing by County, and (c) imposes no obligations upon County other than an obligation to stop using the goods or services that are the subject of the claim. If the Nuance Software and/or Hosted Services becomes, or in the opinion of Nuance, is likely to become, the subject of an infringement claim or action, Nuance may, at its option, (a) procure, at no cost to County, the right to continue using the Nuance Software and/or Hosted Services, (b) replace or modify the Nuance Software and/or Hosted Services to render it non-infringing, provided there is no material loss of functionality, or (c) if, in Nuance's reasonable opinion, neither (a) nor (b) above are commercially feasible, terminate County's right to use such Nuance Software and/or Hosted Services and (i) with respect to perpetual Nuance Software licenses, refunding the license fees County paid for such Nuance Software, depreciated on a straight-line sixty (60) month basis from the delivery date, and (ii) with respect to Hosted Services, or term licenses or maintenance and support fees for Nuance Software, refund any prepaid and unused fees paid by the County for the infringing Nuance Software and/or Hosted Services.

Nuance will have no obligation or liability under this Section for any claim or action resulting from any of the following: (a) any claim or action that would have arisen due to County's business activities without use of the particular technology employed by the Nuance Software and/or Hosted Services, or (b) any claim or action resulting from any of the following: (i) modifications to the Nuance Software and/or Hosted Services nor performed or authorized by Nuance, (ii) the combination of the Nuance Software and/or Hosted Services with other products, processes, or materials not provided by Nuance if

the Nuance Software and/or Hosted Services itself would not infringe, (iii) specifications or requirements supplied by County that were used for the configuration of the Nuance Software and/or Hosted Services, or (iv) where County continues allegedly infringing activities after being provided with modifications that would have avoided the alleged infringement. This Section states the sole obligation and exclusive liability of Nuance (express, implied, statutory or otherwise), and the sole remedy of County, for any third-party claims or actions of infringement of any intellectual property or other proprietary right.

G.2 Additional Insured

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy.

G.3 Waiver of Subrogation Rights

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

G.4 Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

G.5 Severability of Interests

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

G.6 Proof of Coverage

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

G.7 Acceptability of Insurance Carrier

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

G.8 Deductibles and Self-Insured Retention

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

G.9 Failure to Procure Coverage

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

G.10 Insurance Review

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

G.11 The Contractor agrees to provide insurance set forth in accordance with the requirements herein.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

G.11.1 Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

G.11.2 Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the

Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations).
- d. Explosion, collapse and underground hazards.
- e. Personal injury.
- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

G.11.3 Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

G.11.4 Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

G.11.5 Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) annual

or

Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) annual

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of three (3) years after contract completion.

H. RIGHT TO AUDIT

H.1 Not more than once a year, the County, State and Federal government shall have the right to request to review and audit all records, books, papers, and documents of Contractor directly related to the delivery of services provided under this Contract in order to confirm compliance with the terms of this Contract. Contractor shall provide such records and other documents requested pursuant to the foregoing sentence

H.2 All records pertaining to services delivered shall be available for examination and audit by County representatives in accordance with the terms set forth in section H.1. above for a period of three years after final payment under this Contract.

I. CORRECTION OF PERFORMANCE DEFICIENCIES

- I.1 By County.** In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
- a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be ten (10) calendar days or such longer period established at the sole discretion of County; and/or
 - b. Withhold funds pending duration of the breach and, in the event the breach is cured by Contractor, release the funds to Contractor promptly following the date the breach is cured; and/or
 - c. Terminate this Contract immediately if the breach is incapable of cure. Upon such termination, payment will be made to the Contractor for services rendered and expenses incurred through the effective date of termination.
- I.2 By Contractor.** Contractor may terminate this Contract and the Order upon written notice if County commits a material breach of this Contract or the Order and fails to cure such breach within thirty (30) days of receipt of written notice describing such breach. Nuance also may terminate this Contract and the Order immediately upon written notice to County if County (a) infringes Nuance's intellectual property rights, (b) commits, or permits any third party to commit, any breach of confidentiality obligations under this Contract, or (c) County has a receiver appointed to handle its assets or affairs, admits that it is insolvent, or is otherwise unable to pay its debts as they mature, or ceases to do business in the ordinary course.
- I.3 Effect of Termination.** Upon termination of this Contract, all Orders issued under this Contract will immediately terminate. Upon the termination of an Order, all Nuance Software licenses and Services under such Order shall immediately terminate, and County shall immediately (a) cease use of the applicable Nuance Software (in any form, including partial copies in its possession or under its control) and/or Services, (b) return to Nuance or destroy all copies of the Nuance Software and certify in writing to Nuance that no copies have been retained by County within ten (10) days of any expiration or termination, and (c) pay any outstanding amounts due to Nuance. In addition, upon termination of this Contract, Contractor shall provide the County with a one-time extract of all Data to the extent possible.
- I.4 Survival.** Notwithstanding anything to the contrary in this Section, the provisions of this Contract that are intended by their terms to survive shall survive expiration or termination of this Contract.

J. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by email, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

County of San Bernardino
Arrowhead Regional Medical Center
400 N. Pepper Avenue
Colton, CA 92324

Nuance Communications, Inc.
One Wayside Road
Burlington, MA
01803

Notice shall be deemed communicated five (5) calendar days from the time of mailing if mailed as provided in this paragraph.

K. LIMITATION OF LIABILITY.

The following provisions set out the exclusions and limitations of liability of each Party, and their respective officers, agents, contractors and employees, to the other Party, and their respective officers, agents, customers, contractors and employees, under or in connection with this Contract, and/or in connection with any tortious act or omission including without limitation negligence and/or breach of duty including statutory duty arising under or in connection with this Contract.

Nothing in this Contract shall be taken to exclude or limit Nuance's liability for fraud or fraudulent misrepresentation, for intentional or criminal misconduct; for death, personal injury or tangible property damage caused by its negligence in providing services at County locations; or to the extent that such exclusion or limitation is not otherwise permitted by law.

Subject to the foregoing provisions of this Section, neither Party shall be liable for loss of profits or revenues, loss of anticipated savings, loss of customers, or loss of use of any software or data, nor for any special, consequential or indirect loss or damage, costs, expenses or other claims for consequential compensation, howsoever caused, which arise out of or in connection with this Contract or the Services.

Except for Nuance's liability under the second paragraph of this Section, which shall not be excluded or limited under this Contract, neither party's total liability under the Contract shall exceed the total contract amount.

L. MISCELLANEOUS.

L.1 Order of Precedence. In the event of a conflict between or among the provisions in this Contract, the order of precedence shall be as follows:

- a) Applicable federal and State laws, regulations and policies;
- b) The Business Associate Agreement (Attachment E);
- c) The terms of the Attachments (except Attachment E), schedules, exhibits and/or other documents attached to this Contract that are specific to the applicable Nuance Product, provided that no order of precedence shall be applied among such schedules, Attachments (except Attachment E), exhibits, and/or other documents;
- d) The terms and conditions in the body of this Agreement;
- e) Change Orders;
- f) Contractor Response to the RFP (Exhibit X);
- g) County RFP (Exhibit Y);
- h) The Documentation

L.2 No Third-Party Beneficiaries. Except as expressly stated otherwise in this Contract, nothing in this Contract is intended to create any rights in, or confer any benefits upon, any person or entity other than the Parties to this Contract.

L.3 Export Controls; Government Use. County shall comply with all applicable export and import laws and regulations and, unless authorized by applicable governmental license or regulation, shall not directly or indirectly export or re-export any technical information or software subject to this Contract to any prohibited destination. If software or services are being acquired by or on behalf of the U.S. Government or by a U.S Government prime contractor or subcontractor (at any tier), the software, services and related documentation are "commercial items" as that term is defined at 48 C.F.R. 2.101. The software and documentation consists of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end-users acquire the software and documentation with only those rights set forth herein.

- L.4 **HHS Audit Right.** Until the expiration of four (4) years after the furnishing of Services under this Contract, Nuance shall make available, upon written request of the Secretary of the Department of Health and Human Services ("Secretary"), or upon request of the Comptroller General, or any of their duly authorized representatives, this Contract and the books, documents and records of Nuance that are necessary to certify the nature and extent of the costs for which County seeks reimbursement. Nuance further agrees that if Nuance carries out any of the duties of this Contract through a subcontract with a value or cost of ten thousand dollars (\$10,000) or more over a twelve (12) month period with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after furnishing services pursuant to such subcontract, the related organization shall make available to the Secretary or the Comptroller General, as the case may be, or any of their duly authorized representatives, the subcontract, and such books and documents and records of such organization that are necessary to verify the nature and extent of such costs.

- L.5 **Discount Reporting Obligations.** Any discount or rebate, including a single discounted item or bundled discounts, received by County hereunder is a "discount or other reduction in price," as such terms are defined under (i) the discount exception of the Medicare/Medicaid Anti Kickback Statute (42 U.S.C. § 1320a 7b(b)(3)(A)) ("Discount Exception") and (ii) the "safe harbor" regulations regarding discounts or other reductions in price set forth in 42 C.F.R. § 1001.952(h) ("Discount Safe Harbor"), on the products or services purchased by County under the terms of this Contract. Under the Discount Exception or Discount Safe Harbor, County may have an obligation to accurately report the net cost actually paid by County, under any state or federal program which provides cost- or charge-based reimbursement for the products or services covered by this Contract, or as otherwise requested or required by any governmental agency.

- L.6 **GPO.** Nuance and County agree that this Contract (inclusive of any Schedules and Orders) is not connected in any way to any General Purchasing Organization ("GPO") and is not made part of or subject to the provisions of any GPO contract. No administrative fees (or similar fees) will be paid to any GPO as a result of the revenue hereunder.

M. ENTIRE AGREEMENT


This Contract, including Attachments A through F and other documents, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and entire agreement between the parties hereto with respect to the subject matter hereof. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

IN WITNESS WHEREOF, the County of San Bernardino and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

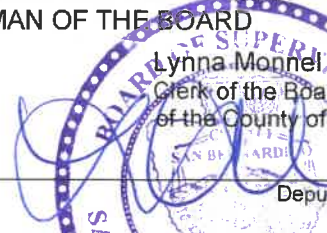
COUNTY OF SAN BERNARDINO



 Curt Hagman, Chairman, Board of Supervisors

Nuance Communications, Inc.
 (Print or type name of corporation, company, contractor, etc.)
 By  _____
 (Authorized signature - sign in blue ink)

Dated: FEB 11 2020
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

By 
Lynna Monnel
Clerk of the Board of Supervisors
of the County of San Bernardino
Deputy




Name Simon J. Senior
(Print or type name of person signing contract)

Title VP Sales and Marketing Operations
(Print or Type)

Dated: 1/31/2020

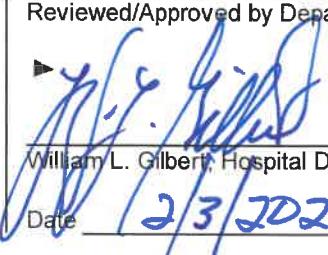
Address 1 Wayside Road
Burlington, MA 01803

FOR COUNTY USE ONLY

Approved as to Legal Form
▶

Bonnie Uphold, Deputy County Counsel
Date 2-4-20

Reviewed for Contract Compliance
▶

Date _____

Reviewed/Approved by Department
▶

William L. Gilbert, Hospital Director
Date 2/3/2020

Attachment A

Order

This Order is entered into on February 21, 2020 ("Order Effective Date") and is governed by the terms and conditions of the Contract dated February 21, 2020 between County of San Bernardino on behalf of Arrowhead Regional Medical Center (ARMC) and Nuance..

Quote Expires: February 21, 2020

Billing/Shipping Information

Company Name: The County of San Bernardino on behalf of Arrowhead Regional Medical Center
Contact Name & Title: Becky Giroux, Material's Management
Address: 400 N. Pepper Avenue
City: Colton
State: CA
Zip: 92324
Email: GirouxB@armc.sbcounty.gov
Phone: 909-580-6132

SUMMARY – PURCHASE ORDER AND INVOICE DESCRIPTION

Fixed Fee: Site license and Professional Services for Dragon Medical One, Dragon Medical Advisor, PowerMic Mobile, Dragon Medical Embedded in Epic Haiku/Canto with Virtual Assistant, Dragon Medical Embedded in Epic Rover with Virtual Assistant, PowerScribe One

Variable Fee: eScription One and Nuance Transcription Services

HOSTED SOFTWARE/PLATFORM

Name	Current Version
eScription One (Converting from eScription LH)	

HIM TRANSCRIPTION SERVICES

Order Term	60 months
Delivery Type	On-shore
Billing Metric	Virtual Line
Expected Volume Annually (in the event of a power-outage or emergency)	10,674
Hours of Coverage	7x24

Pricing

Nuance shall calculate the monthly fee based on the following calculations:

Billing Metrics	Fee per Billing Metric
Virtual Line	\$0.12

The above rate applies to both volume on eScription LH and also once converted to eScription One

Work Types

Nuance shall calculate the rate per billing metric based on the Work Types and Turnaround Time required as listed on Attachment 1. A Change Order will be used to memorialize any change in Turnaround Time for any Work Type. The Change Order will be effective by amending the Contract to attach the Change Order, which will be effective following approval by the San Bernardino County Board of Supervisors and upon execution by both Parties. The Change Order will include the effective date of the new Turnaround Time as well as any update in the rate per billing metric.

Hosted Software/Platform

Order Term	60 months
Billing Metric	Virtual Line
Expected Volume Annually Completed by Company's medical transcriptionists	0

Hosted Software/Platform Rate per Billing Metric

All work completed by Nuance	Included in the HIM Transcription Services pricing above
All work completed by Company	\$0.0455

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 CC's.

APPLICABLE SOFTWARE SUITE AND ASSOCIATED PROFESSIONAL SERVICES

Pricing Model Fixed Fee
Billing Basis Monthly
Order Term 60 months

Monthly Program Subscription Fees

Fees	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Monthly Technology Fee	\$42,945	\$63,054	\$63,054	\$63,054	\$63,054	
One Time Professional Services Fee*	\$28,800					
Total Annual	\$544,140	\$756,648	\$756,648	\$756,648	\$756,648	\$3,570,732

*Professional Services Invoice Terms: The Professional Services Fees above shall be invoiced in full on month twelve (12) following Order Effective Date

Annual Fee Summary including Not to Exceed Travel Expense as required by The County of San Bernardino is shown below. Travel expense is a **Not to Exceed amount**. Actual travel expense will be billed as incurred

Fees	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Annual Fees	\$544,140	\$756,648	\$756,648	\$756,648	\$756,648	\$3,570,732
Estimated PowerScribe One Travel Expenses	\$9,600					
Estimated Dragon Medical One Travel Expenses		\$9,600				
Total	\$553,740	\$766,248	\$7,56,648	\$756,648	\$756,648	\$3,589,932

Monthly	QTY	Model #	Monthly Fee
Dragon Medical One , HS, Term, IP Admissions License	22,500	DMOIP-TERM	Included In Fixed Fee Above
Dragon Medical One , HS, Term, Emergency Visits License	120,000	DMOED-TERM	
Dragon Medical One , HS, Term, Outpatient Visits License	254,000	DMOOP-TERM	
Dragon Medical Advisor with Core & HCC Specificity Content, HS, Term, IP Admissions	22,500	DMAIP-TERM	
Dragon Medical Advisor with Core & HCC Specificity Content, HS, Term, ED Vsits	120,000	DMAED-TERM	
Dragon Medical Advisor with Core & HCC Specificity Content, HS, Term, OP Visits	254,000	DMAOP-TERM	
Dragon Medical embedded in Epic Haiku (2018) with Virtual Assistant capabilities, Hosted Service, IP Encounters	22,500	EHVA-IP-TERM	
Dragon Medical embedded in Epic Haiku (2018+) with Virtual Assistant capabilities, Hosted Service, ED Encounters	120,000	EHVA-ED-TERM	
Dragon Medical embedded in Epic Haiku (2018+) with Virtual Assistant capabilities, Hosted Service, OP Encounters	254,000	EHVA-OP-TERM	
PMMobile, Hosted Service, IP Adm Encs, Unlimited User	22,500	PMOBILE-IPS-TRM PMOBILE-IPS-SVC	
PMMobile, Hosted Service, ED Adm Encs, Unlimited User	120,000	PMOBILE-EDS-TRM PMOBILE-EDS-SVC	
PMMobile, Hosted Service, OP Adm Encs, Unlimited User	254,000	PMOBILE-OPS-TRM PMOBILE-OPS-SVC	
Dragon Medical Embedded in Epic Rover with Virtual Assistant, Hosted Service, Term, Inpatient Admissions License	22,500	DMERVA-IP-TERM	
Dragon Medical Embedded in Epic Rover with Virtual Assistant, Hosted Service, Term, Outpatient Visits License	254,000	DMERVA-OP-TERM	

Dragon Medical Embedded in Epic Rover with Virtual Assistant, Hosted Service, Term, Emergency Department License	120,000	DMERVA-ED-TERM
Dragon Med One, Term, Site License - Fulfillment (new)	1	DMO-N-STE-FUL
Dragon Medical Advisor with Core & HCC Content, Site License, Fulfillment	1	DMACHC-STE-FUL
PM Mobile for Encounters, Site License, Fulfillment	1	PPMBL-ENCF-TRM
Clinical Documentation Support Services	1	PPMBL-SUPP-SVC
Dragon Medical Embedded in Epic Rover with Virtual Assistant, Site License-Fulfillment	1	DMERVA-STE-FUL
Dragon Medical embedded in Haiku (2018+) with Virtual Assistant capabilities, Hosted Service, Site License - Fulfillment	1	EPHVA-STE-FUL
PowerScribe One, Core Reporting Conversion, Hosted Service, Term License	12,417	PSONE-CV-TERM
PS Mobile Bridge Server, DL360 G9 Eight Core 1P	1	PTS3001R-SVC-036
PS Level 2 Application/SQL Server, 150K-300K Reports, DL380 G9 6 Core 1P	1	PTS0021R-SVC-038
PS PowerExpress Server, DL360 G9 Eight Core 1P	1	PTS4001R-SVC-036
PS PowerExpress Server, DL360 G9 Eight Core 1P	1	PTS9001R-SVC-038
PS Speech Utility Server, DL360 G9 Eight Core 2P	1	PTS6001R-SVC-036
PS SQL2016 Standard SW and Four Core License	1	PS360SS-E-164C- SVC-01
PS SQL2016 Standard Two Core License Add On	1	PS360SS-E-162C-SVC-01
PS SQL2016 Standard SW and Test System Licensing 5 CALs	1	PS360ST-E-164C-SVC-01

Description	SKU
Nuance Professional Services (PowerScribe One)	PROFESSIONAL SERVICES
Professional Services to include Project Management, Technical Installation Services and Training/Consulting Services for Dragon Medical One, Dragon Medical Advisor, PowerMic Mobile, Dragon Medical Embedded in Epic Haiku/Canto with Virtual Assistant and Dragon Medical Embedded in Epic Rover with Virtual Assistant	PROSVC-BNDL

See Attachment 2 for Professional Services Statement of Work. (Dragon Related)

See Attachment 3 for PowerScribe One Statement of Work

NAMED LOCATION INFORMATION

Named Location	Street Address	City	State	Zip
Arrowhead Regional Medical Center	400 North Pepper Avenue	Colton	CA	92324

OTHER TERMS

- Fees above are subject to the Annual Fee Adjustments as outlined in the Schedule
- PowerScribe One annual adjustment information

Committed Annual Report Volume	149,000/year
Per Report Overage Fee	\$0.83/report

- Company and Nuance mutually agree that the following existing maintenance service orders are affected by this Order. If any of the maintenance service orders are Nuance Maintenance Services orders then such orders will not be renewed upon the expiration of the then-current term. Company is responsible for all contractual obligations and agreements between Company and any third parties. Nuance will work with its business partners where Nuance and business partners have contracts related to Company. Company represents and warrants that it has the authority to bind its Affiliates, if applicable, to the terms set forth herein and to effectuate the changes to the affected orders as described herein.

Description of Previous Arrangement	Nuance Identifier
N/A	

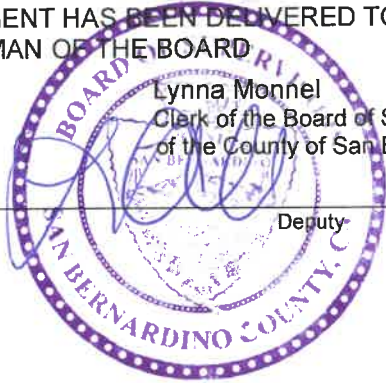
IN WITNESS WHEREOF: The undersigned have executed this Order as of the date signed by the last party.

COUNTY OF SAN BERNARDINO

▶ Curt Hagman
Curt Hagman, Chairman, Board of Supervisors

Dated: FEB 11 2020
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By Lynna Monnel
Lynna Monnel
Clerk of the Board of Supervisors
of the County of San Bernardino
Deputy



Nuance Communications, Inc.
(Print or type name of corporation, company, contractor, etc.)

By Simon J. Senior
(Authorized signature - sign in blue ink)

Name Simon J. Senior
(Print or type name of person signing contract)

Title VP Sales and Marketing Operations
(Print or Type)

Dated: 1/31/2020

Address One Wayside Road
Burlington, MA 01803

Attachment 1: Work Types and Turnaround Time

Work Type Name/Number	TAT
Preoperative History and Physical	6 hours
History and Physical	12 hours
Discharge Summary	24 hours
Operative Reports	24 hours
Procedure Notes	24 hours
Delivery Notes	24 hours
NICU Notes	24 hours
Cardiac Catheterization	6 hours
Consultations	12 hours
Transfer Summary	2 hours
Letters	24 hours
Diagnostic Reports	12 hours
EEG	12 hours
EMG	12 hours
Auditory Evoked Response	12 hours
Treadmill Stress Test	12 hours
Psychiatric Evaluation	12 hours
PT/OT	24 hours
Speech	24 hours
Radiation/Oncology	24 hours
Other	48 hours
Clinic Note	24 hours
Spoken	24 hours
Progress Notes	4 hours
Miscellaneous	24 hours
Psychological Evaluation	24 hours
Walk In Clinic	6 hours
Office Visit	6 hours
Clinical Event Note	24 hours
Infant Monitoring	24 hours
Neurosurgical Report	24 hours
Appeal Letter	12 hours
Tumor Board Note	12 hours
Rad – Addendum Report	6 hours
Rad – Medical Imaging 2013	6 hours
Rad – Medical Imaging	6 hours
Rad – Mammogram	6 hours
Rad – Worksheet	6 hours
Neurology Report	24 hours
Electroencephalogram	12 hours
Cardiology Procedures	24 hours
Death Report	24 hours
Pulmonary Function	24 hours
Magnetic Resonance	6 hours
Special Studies Report	6 hours
Echocardiographic Report	6 hours
Psychosocial Assess	12 hours
Stat	2 hours

Attachment 2: Professional Services Statement of Work

HEALTHCARE PROFESSIONAL SERVICES

Overview

Arrowhead Regional Medical Center Expected Outcomes / Objectives

- ♦ Enable EMR adoption/utilization by providing clinicians solutions organization-wide that fit within their workflow
- ♦ Providing flexible mobility options for clinicians to meet their workflow needs exactly where they are (office, hospital, academia location)
- ♦ Reduced Physician Burnout (Dragon Medical One, PowerMic mobile)
- ♦ Reduced Transcription costs (Dragon Medical One)
- ♦ Specificity clarification at point of documentation leading to more complete patient documentation and reduced retrospective queries

Scope

- ♦ Implementation of Dragon Medical One (DMO) – From Meditech to Epic
- ♦ Implementation of Dragon Medical Advisor (DMA)
- ♦ PowerMic Mobile (PMM) integration with Dragon Medical One
- ♦ Implementation of Haiku / Canto with Virtual Assistant
- ♦ Implementation of Dragon Medical embedded in Epic Rover
- ♦ Implementation of eScription One
- ♦ Within 45 days of Order Effective Date, Nuance and Arrowhead Regional Medical Center will have created a mutually agreed upon project schedule that includes a timeline, dependencies, resource requirements, key milestones

Assumptions

- ♦ EHR's in use: Meditech moving to Epic
- ♦ Total providers (clinicians) for Named Locations covered in contract: Site License
- ♦ Epic Installation in progress. Approximate Go Live is 2020
- ♦ Number of Named Locations to be covered in this contract: 1
 - See list of included Named Locations in the contract
- ♦ New Customer for:
Haiku / Canto; PowerMic Mobile; Dragon Medical embedded in Epic Rover; Dragon Medical Advisor; eScription One
- ♦ Existing Customer for:
Dragon Medical One; eScription LH

General Nuance Provided Services

Nuance Professional Services (excluding Nuance CSO Services) includes standard activities listed below (unless noted differently in the specific product sections). Other specific activities are described individually under each specific product section.

- ♦ Establishment of environment
- ♦ Project Management
- ♦ Scope Management with Customer Project Manager (PM)
- ♦ Regular project status calls with Customer PM / Team
- ♦ Issue list management with Customer PM
- ♦ Project schedule development and maintenance with Customer PM
- ♦ Project Charter development and maintenance with Customer PM, if applicable
- ♦ Best Practices consulting
- ♦ Training scheduling consulting
- ♦ Testing planning consulting, including UAT scripts
- ♦ Testing support
- ♦ HelpDesk Enablement
- ♦ Go Live and post Go Live support

• Customer Provided Services

Services to be provided by Arrowhead Regional Medical Center includes the standard activities listed below.

• General Activities

- ♦ Technical support and expertise in establishing the environment
- ♦ Project Management
- ♦ Scope Management with Nuance Project Manager (PM)
- ♦ Regular project status calls with Nuance PM
- ♦ Issue list management with Nuance PM
- ♦ Project schedule development and maintenance with Nuance PM
- ♦ Project Charter development and maintenance with Nuance PM
- ♦ Training schedule development
- ♦ Testing plan development
- ♦ Testing
- ♦ Testing support
- ♦ Go Live and post Go Live support

• Training Activities

Training Activities to be provided by Arrowhead Regional Medical Center for education includes:

- ♦ Identification of the attendees for each class / session
- ♦ Schedule training session resources as needed
- ♦ Drive full attendance for all training sessions
- ♦ Participation in training sessions as required
- ♦ Engage Physician Champions and other leadership as requested/needed for project scope
- ♦ If the training scope outlined includes train-the-trainer session(s), ensure all trainers attending the sessions are Arrowhead Regional Medical Center employees.

• Technical Activities

Technical Activities to be provided by Arrowhead Regional Medical Center for technical project elements are as follows:

- ♦ Timely and complete responses for the Technical Assessment
- ♦ Ownership of the technical tasks
- ♦ Technical Services resources assigned at time of project start
- ♦ Participation in all necessary technical training
- ♦ Expert help with the Arrowhead Regional Medical Center side of integration / interface tasks
- ♦ Installation and testing of all necessary hardware on Arrowhead Regional Medical Center side

• Nuance General Escalation Path

For problems and escalations, the general path is to start with your Nuance Project Manager. Should the need arise to not use the PM, the following people should be the primary contacts:

Teresa Avery	+1-318-243-4856	Teresa.Avery@nuance.com	Regional VP, Account Management
Toni McManus	+1-321-412-7349	Toni.McManus@nuance.com	VP, Account Management

• Arrowhead Regional Medical Center General Escalation Path / Initial Contacts

For problems and escalations, the general path is to start with the Arrowhead Regional Medical Center Project Manager. Should the need arise to not use the PM, the following people should be the primary contacts:

Becky Giroux	909-580-6132	GirouxB@armc.sbcounty.gov	Material Management(Initial Contact)
Sally Urquiza	909-580-0005	UrquizaA@armc.sbcounty.gov	HIM Director (Executive Sponsor)
Sally Urquiza	909-580-0005	UrquizaA@armc.sbcounty.gov	License Key Recipient

Dragon Medical Advisor (DMA)

• Nuance Provided Services

Nuance Professional Services includes standard activities listed in the overview section and specific activities as described individually under the sections below. Following our best practice approach, DMA will be configured and enabled for your hospitalists.

• Training

In addition to the items listed in the General Nuance Provided Services section, Training services for DMA can include the items below for your hospitalists unless noted differently:

- ♦ Group Training for up to four (4) hospitalists in each group
- ♦ Train the Trainer for up to 3 Trainers
- ♦ Web based Foundational training with (up to 64 hospitalists) including complimentary live Question & Answer Session (on request).
 - eLearning for Dragon Medical Advisor

• Technical Services

In addition to the items listed in the General Nuance Provided Services section, additional specific technical services included for DMA are as follows:

- ♦ NMC Training for DMA Configuration
- ♦ CLU Application Services Integration Setup
- ♦ The following interfaces:
 - HL7 Feed - ADT
 - HL7 Feed – MDM or ORU
 - 837 Claims File

Dragon Medical One (DMO)

• Nuance Provided Services

Nuance Professional Services includes standard activities listed in the overview section and specific activities as described individually under the sections below.

• Training

In addition to the items listed in the General Nuance Provided Services section, Training services for DMO does include (as appropriate based on current adoption levels) the items below for up to 64 people unless noted differently:

- ♦ Train the Trainer training for up to 3 Trainers (up to four attendees per class)
- ♦ Web based Foundational training with (up to 64 Providers) including complimentary live Question & Answer Session (on request).
 - eLearning for Dragon Medical One
 - eLearning for PowerMic Mobile
- ♦ Group Instructor Led Training (ILT) for Providers. (up to four providers per class).
- ♦ One on One Instructor Led Training (ILT) for Providers.
- ♦ With the aid of customer Physician Champions, design and build optimized specialty-based provider workflow in Dragon Medical One for up to 2 departments
- ♦ PowerMic training (embedded in the web foundational and ILT training)
- ♦ PowerMic Mobile training (embedded in the web foundational and ILT training)
- ♦ Haiku / Canto Training for up to 13 providers (embedded in ILT training)

- ◆ Rover Group Nurse Training for up to 13 Nurses (embedded in the ILT training)

● Technical Services

In addition to the items listed in the General Nuance Provided Services section, additional specific technical services for DMO does include:

- ◆ Technical Assessment
- ◆ Delivery of NMS (Admin) training
- ◆ SSO Integration
- ◆ Citrix Integration
- ◆ PowerMic Mobile Integration
- ◆ Haiku / Canto Technical Services
- ◆ Dragon Medical embedded in Epic Rover Technical Services

● Arrowhead Regional Medical Center Provided Services

Arrowhead Regional Medical Center Services includes standard activities listed in the overview section and specific activities as described individually below.

- ◆ Arrowhead Regional Medical Center, with Nuance, will collaborate to jointly identify the Target Physician Group for the Named Locations utilizing input from Arrowhead Regional Medical Center (key physicians, specific areas for improving clinical documentation, data from Arrowhead Regional Medical Center's existing transcription environment, etc.).
- ◆ Arrowhead Regional Medical Center will provide Nuance access to the Target Physician Group for training.
- ◆ Arrowhead Regional Medical Center will appoint a Physician Champion. The Physician Champion will be actively engaged in planning and will assist in a leadership role with providers usage of Nuance solutions.
- ◆ Arrowhead Regional Medical Center should comply with all minimum technical requirements for optimal performance.
- ◆ Nuance recommends that Arrowhead Regional Medical Center adhere to Nuance best practice approach for Nuance solutions as it pertains to workflow recommendations and training approach for end users.
- ◆ Arrowhead Regional Medical Center will establish goals and objectives in support of Nuance solutions and will communicate such objectives to clinicians creating clinical documentation related to the delivery of patient care.
- ◆ Arrowhead Regional Medical Center will provide trainers who will complete the Nuance Train the Trainer Program.

HIM On-Demand: eScript One

● Nuance Provided Services

Nuance Professional Services includes standard activities listed in the overview section and specific activities as described individually under the sections below

● Training

In addition to the items listed in the General Nuance Provided Services section, Training services can include the items below. Includes training for eScript One for up to 1 users.

- ◆ Remote Live Training
- ◆ eLearning Training(s)

● Technical Services

In addition to the items listed in the General Nuance Provided Services section, the following additional specific technical services does include:

- ◆ Installation of InTouch
- ◆ Shadowlink interface installation (Automates secure interfaces between hospital and the transcription servers)
- ◆ Shadowprint - Manages document distribution to printers throughout the customer location(s)
- ◆ InSync - Digital Recorder Interface & PC based Dictation

- ♦ Support for InQuery setup (Web based portal for document management)
- ♦ InScribe - MT application for typing inbound dictations
- ♦ Support for Mobile Application install / distribution (iOS and Android)
- ♦ Interface enablement on the system for the following HL7 interfaces
 - ADT Interface - RHADTINT
 - SIU Interface - RHSUIINT
 - MDM Interface - RHMDMINT
 - ORM interface - RHORMINT
 - ORU Interface – RHORUINT

Nuance Transcription Services (NTS)

• Nuance Provided Services

Nuance Transcription Services provides a flexible, full lifecycle transcription solution that delivers cost-effective, on-time, high-quality clinical documentation. Due to the nature of the services offered, they do not share the same Nuance General Services as mentioned towards the beginning of the Statement of Work. The Services include:

- ♦ Transcription services for dictations captured on Nuance transcription platforms.
- ♦ Monthly Operations Management meetings to review Quality and turnaround time (TAT) metrics

• Customer Provided Services

- ♦ Open and honest discussion regarding successes and challenges
- ♦ Help schedule and encourage regular attendance for Monthly Operations Management meetings
- ♦ Participate in regular Monthly Operations Management meetings
- ♦ Support/Follow up on Nuance flagged transcription documents in a timely fashion

Arrowhead Regional Medical Center Roles Needed

This section is a listing of roles for multiple Nuance products. Please see your order for the products that you purchased that apply here. Inclusion of a product in this listing is not an indication of ownership of said product.

Role	Role Description	DMO	eScript One	DMA	Epic NoteReader CDI or Cerner DQR	Nuance CDE*	Epic NoteReader (Fact Finder)
Executive Sponsor	Provide leadership and governance over the implementation, while also enabling resources, communicating priorities and defining success metrics. Protects the project from outside influences. Communicates how the project relates to overall vision, strategy, and mission.	✓	✓	✓	✓	N	✓
Steering Committee Member	Agree upon project objectives, metrics, and expected outcomes. Oversees and approves change requests, project schedule, project scope and project closure. Build consensus and support across departments. Escalation Point. Recommend meeting once or twice per month depending on project length and scope.	✓	✓	✓	✓	N	✓
Physician Champion	Participate in Workflow discussions. Provide insight into how providers use the EHR in their clinical environment. Actively advocate for the project and support the team in integrating new changes. Work with others at each location to drive change and provide a consistent approach	✓	✓	✓	✓	N	✓

Role	Role Description	DMO	eScript One	DMA	Epic NoteReader CDI or Cerner DQR	Nuance CDE*	Epic NoteReader (Fact Finder)
Project Manager	The project manager is responsible for facilitating a successful implementation on the customer side. Primary point of contact and escalation point throughout the product implementation. Responsible for all project management activities and communication while serving as an advocate for each product. Facilitates resource assignments, ensures participation and on time completion of project deliverables.	✓	✓	✓	✓	N, C	✓
Clinical Application Specialists (Clinical Informatics)	Attend training session(s) to gain knowledge and understanding of NMC and Dragon Medical to support Dragon Medical, understand how it relates to their EHR, and build building workflows	✓					
Functional System Administrator (CFSA)	Handle all non-technical administration tasks, determines policies and procedures necessary to perform non-technical functions (e.g., user Ids, password conventions & system settings), responsible for configuring the test and production Nuance system(s). In addition, this person will champion all operations, procedures and standards for the system. They also need to understand all aspects of the Nuance system(s).		✓				
Trainer(s)	Participate in Administrator Training and/or Support Training, Train-the-Trainer, optimization sessions and workflow enhancements. Learn effective system and process training, as well as optimization tools and techniques to be prepared to deliver high quality standardized training as needed.	✓	✓	✓	✓	N, C	✓
Health Information Systems Manager (HISM):	The health information systems manager is responsible for championing the policies and procedures used by the transcriptionists and/or providers in addition to championing the Nuance System(s) on an ongoing basis. The health information systems manager is responsible for tracking productivity measures, identifying issues, redesigning workflow and providing feedback on a regular basis. When transcription services are provided by Nuance, the health information systems manager will work with the Nuance PM to verify volumes and processes to ensure documents are completed to expectations.		✓				
CDI / HIM Subject Matter Expert or business owner	Provide expertise needed when reviewing and approving policies involving and impacting the CDI / HIM departments. Provide workflow input and approval. Advocate for managing success and adoption of products by the CDIS/HIM team members.			✓	✓	N, C	✓
Nuance Management Console (NMC) Administrator	Attend training session(s) to gain knowledge and understanding of NMC and Dragon Medical. Setup initial provider profiles and assign licenses. Nuance recommends two NMC Administrators to ensure proper coverage for this ongoing role	✓		✓			
Technical Project Manager	Accountable for completion of all the technical tasks and resolution of technical issues on the customer side. Understands the technical aspects of installing software in the customers environment. Responsible for engaging technical resources as needed. May be combined with other roles as needed.			✓	✓	N, C	✓
Integration/ Interface Administrator	The integration administrator is responsible for the development of the integration specification with the Nuance installation programmer. They know and understand the information system(s) to be integrated with the Nuance system(s). They facilitate integration testing in the required environments. They also work closely with the other 3 rd party information system(s) vendor(s) to identify the integration requirements. Additionally, they are responsible for testing and administering the integration on an ongoing basis.	✓	✓	✓	✓	N, C (Lv 2-4)	✓
Desktop Technical Support	Responsible for installing Dragon Medical on physical and virtual desktops. Participate in testing and hardware validation sessions as needed. Ensure provider workstations meet Dragon Medical requirements.	✓		✓			

Role	Role Description	DMO	eScript One	DMA	Epic NoteReader CDI or Cerner DQR	Nuance CDE*	Epic NoteReader (Fact Finder)
Help Desk	Attend training to gain knowledge of how the product work, participate in issues resolution during any testing to get experience in troubleshooting the product and understand the use of the products in your environment.	✓	✓	✓	✓	N, C	✓

* N – New Nuance CDE Implementation C – Nuance CDE Conversion

When more than one product is being implemented, similar roles can be combined for efficiency gains. Please discuss with your services team as part of the planning process. Other technical resources to be considered that may need to be engaged depending on Arrowhead Regional Medical Center’s environment, size and topology includes: Network Architect; Security Administrators; Security/Network Infrastructure Engineers; DBAs; Single-Sign-On Administrator; and Citrix Server Administrator.

Nuance Common Acronyms

ADT	Admission, Discharge, Transfer	EHR	Electronic Health Record	NPA	Nuance Performance Analytics
CAPD	Computer Assisted Physician Documentation	EMR	Electronic Medical Record	NTS	Nuance Transcription Services
CDE	Clinical Document Excellence	FTE	Full-Time Equivalent	ORM	Object-Relational Mapping
CDI	Clinical Documentation Improvement	HCC	Hierarchical Condition Categories	ORU	Observation Result
CDS	Clinical Documentation Specialist	ILT	Instructor Led Training	PMM	PowerMic Mobile
CE	Continuing Education	IMO	Intelligent Medical Objects	PM	Project Manager
CLU	Clinical Language Understanding	IVR	Interactive Voice Response	SIU	Scheduling Information Unsolicited
CSD	Clinical Service Desk	MDM	Medical Document Management	SOW	Statement of Work
DMA	Dragon Medical Advisor	MFN	Master File Notification	SSO	Single Sign On
DME	Dragon Medical Embedded	MLS	Medical Language Specialist	TAT	Turnaround Time
DMNE	Dragon Medical Network Edition	NLP	Natural Language Processing	UAT	User Acceptance Testing
DMO	Dragon Medical One	NMC	Nuance Management Console	VPN	Virtual Private Network
DRG	Diagnostic Related Grouping	NMS	Nuance Management Server		

Nuance Customer Engagement

Nuance Healthcare provides a variety of channels for customers to engage with Nuance executives and other industry leaders on key issues and priorities, as well as avenues to provide product, support, and general feedback. The following programs are available to all Nuance Healthcare customers:

The Reference and Advocacy Connection (TRAC)

The Reference and Advocacy Connection (TRAC) is a growing community of Nuance Healthcare customers who are dedicated to delivering compassionate care and superior patient outcomes. TRAC provides benefits and resources designed to educate and showcase our customers’ expertise and successes. As a TRAC member, customers can:

- Gain visibility and recognition within the healthcare industry as a thought leader
- Build a network with peers, other industry leaders, and Nuance Healthcare experts
- Expand healthcare industry and product knowledge through educational opportunities, research, industry best practices, and training

TRAC is designed to reward our most valuable assets—our reference customers—by connecting them to other clients and prospects through a personalized reference program designed to make referencing a rewarding experience. For more information, please contact TRAC@nuance.com.

Net Promoter Score® Surveys

Nuance provides customers with the opportunity to periodically participate in brief Net Promoter Score® (NPS) surveys, giving our customers a voice to share feedback and insights. This feedback allows Nuance to address key customer issues and concerns,

including product development, technology roadmaps, and individual customer experiences. NPS has been the hallmark of measuring customer experience journeys for 20 years. For more information, please contact clientloyalty@nuance.com.

Nuance Executive Team

The Healthcare Executive Team would like to take this opportunity to say thank you for choosing to partner with Nuance Communications, Inc. We are pleased that you have chosen our company and for showing such confidence in our abilities. Your success and satisfaction are important to us. Everyone at Nuance is excited about the prospect of working with you on this project and to help you drive better clinical and financial outcomes.

Name	Title	Phone	Email
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Karen Holzberger	VP and General Manager, Diagnostics	781-565-4886	karen.holzberger@nuance.com
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Jake O'Leary	Sr VP Healthcare R&D	781-565-4473	jacob.o'leary@nuance.com

Attachment 3: PowerScribe One Professional Services Statement of Work

Nuance Professional Services Statement of Work

● INTRODUCTION

This Statement of Work ("SOW") captures in the services and deliverables to be provided by **Nuance** Communications, Inc. (hereinafter "**Nuance**"). It also defines responsibilities of both **Nuance** and **Arrowhead Regional Medical Center**, in order to clarify expectations and ensure a successful project. Any services not explicitly defined in this SOW or agreed upon in the Project Plan shall be deemed out of scope for this project and could result in additional products or services to be quoted.

● PROJECT SUCCESS CRITERIA

Every project should start with a baseline of criteria that promotes Project success, Nuance recommends the following criteria be established and maintained throughout the project lifecycle.

- Client has established a Project Team that includes an Executive Sponsor, Provider Champions, System Administrator, Project Manager, HL7 Interface Engineer and applicable Technical Resources
- Ensure Key Project Team Members availability during the Project lifecycle, this should include all 3rd party vendors
- Project Scope is clearly identified, and agreed upon
- Maintaining the agreed upon Project Plan
- Comprehensive Testing
- Commitment to Training
- Timely Completion of Deliverables

- Weekly Meetings – Managing Project to the Project Plan

• **PROFESSIONAL SERVICES:**

Listed below are the Professional Services available to partner with you on your move to PowerScribe One. During the Discovery Phase of your project, the Nuance PM will review specific services purchased and provide specific scope of work and timelines to ARMC for review.. All Project Management services are performed remotely unless otherwise noted.

Type	Description
Project Management (PM)	<p>PM services are provided by Nuance for delivery throughout the project lifecycle for the time period agreed upon in the Project Timeline/Plan.</p> <ul style="list-style-type: none"> • Creation and Maintenance of Project Documentation including Project Plan, Team Contact List, Control Log, Meeting Agenda and Minutes • Technical Planning • Interface Planning • Deployment Planning • Nuance Resource Management • Status Meetings & Issue Tracking/Resolution • Software, Interface, Integration Testing and Support • Go-Live Management • Transition to Nuance Support
Training:	
Administrative Training -Melbourne	Comprehensive training program for PowerScribe Administrators that includes self-paced, functional and technical online courses, facilitated webinars, and classroom training with follow up remote consultative configuration support.
Provider Training	<p>Based on your actual Project Scope and project type. Provider Training is delivered in a series of non-sequential sessions that includes:</p> <ul style="list-style-type: none"> • Speech Enrollment (1-hour hour). • Production Session - Observe/support dictating, editing and signing and basic navigation through the application (Up to 1-hour). • Advanced Sessions (Post go-live 30 days) that includes more advanced functionality with speech best practices and basic troubleshooting speech recognition issues. Auto text creation/maintenance customized to the needs of the individual provider. (Up to 1-hour).
Optimization Consulting	<p>Remote Configuration and Optimization for the following:</p> <ul style="list-style-type: none"> • Workflow Discovery • Procedure Master Translator Validation

	<ul style="list-style-type: none"> • Feature Utilization and Planning • Configuration/Validation • AutoText Configuration and Optimization • Custom Field Creation and Management • Speech Expectations and Readiness
Other Services:	

a. PHASED APPROACH

For the second phase of your PowerScribe project, both the services and durations will change depending on actual project scope. Listed below are the Professional Services available to partner with you on your system deployment. During the Discovery Phase of your project, the Nuance PM will review specific services purchased and provide specific scope of work and timelines to ARMC for review. . All Project Management services are performed remotely unless otherwise noted.

Type	Description
Project Management (PM)	<p>PM services are provided by Nuance for delivery throughout the project lifecycle for the time period agreed upon in the Project Timeline/Plan.</p> <ul style="list-style-type: none"> • Creation and Maintenance of Project Documentation including Project Plan, Team Contact List, Control Log, Meeting Agenda and Minutes • Technical Planning • Interface Planning • Deployment Planning • Nuance Resource Management • Status Meetings & Issue Tracking/Resolution • Software, Interface, Integration Testing and Support • Go-Live Management • Transition to Nuance Support
Training:	
Administrative Training - Melbourne	Comprehensive training program for PowerScribe Administrators that includes self-paced, functional and technical online courses, facilitated webinars, and either classroom or remote training.
Provider Training	<p>Based on the Project Scope and project type. Provider Training is delivered in a series of non-sequential sessions that includes:</p> <ul style="list-style-type: none"> • New Features and Production Session - Observe/support dictating,

	<p>editing and signing and basic navigation through the application (Up to 1-hour).</p> <ul style="list-style-type: none"> • Functionality with speech best practices and basic troubleshooting speech recognition issues. Auto text creation/maintenance customized to the needs of the individual provider. (Up to 1-hour).
Optimization Consulting	<p>Remote Configuration and Optimization for the following:</p> <ul style="list-style-type: none"> • Workflow Discovery • Procedure Master Translator Validation • Feature Utilization and Planning • Configuration/Validation • AutoText Configuration and Optimization • Custom Field Creation and Management • Speech Expectations and Readiness
Other Services:	

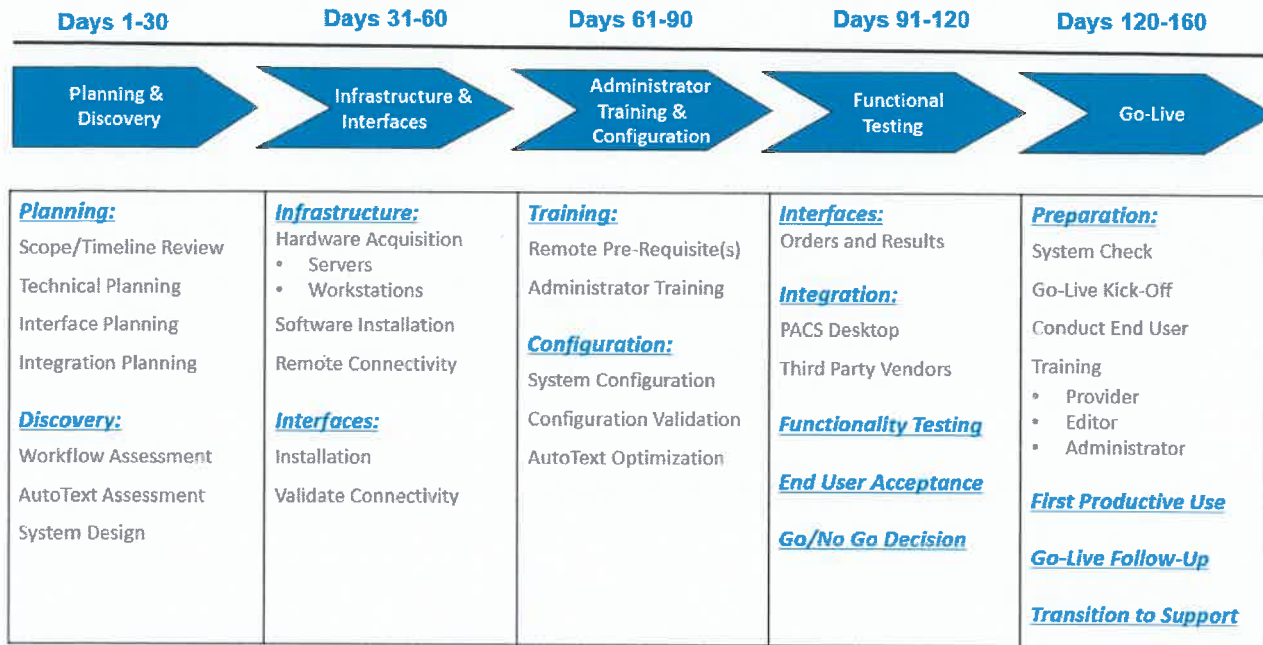
Additional Training and Project Management services may be required, based on project scope, additional components and specific Arrowhead Regional Medical Center requirements.

b. DEVIATIONS FROM RESPONSIBILITIES DEFINED ABOVE

NO DEVIATIONS

PROJECT TIMELINES

PowerScribe Implementation Timeline



a. PROJECT MILESTONES AND TIMING

The durations set forth below should be used as an example and serves only as an estimate of milestones based on a typical PowerScribe deployment. All durations are subject to change depending upon agreed upon go-live date, finalized start dates, and Arrowhead Regional Medical Center completion of any tasks or responsibilities assigned per this Statement of Work, and the occurrence of any underlying assumptions and contingencies upon which the project depends. A project schedule is applicable, will follow once a project manager is assigned, project risk assessment is completed, and resource assignments are determined.

Key Milestones and Phases	Approximate Duration
Order Booking and Initial Discovery	14-days
Planning and Discovery	45-days
System Installation	10-days
Administrator Training	21-days
Testing	45-days
User Acceptance Testing	5-days
Go-live	Based on Project Scope
Go-Live Follow-up	30-days

b. PHASED APPROACH

For the second phase of your PowerScribe implementation the durations set forth below should be used as an example and serves only as an estimate of milestones based on a typical PowerScribe One deployment. All durations are subject to change depending upon agreed upon go-live date, finalized start dates, and Arrowhead Regional Medical Center completion of any tasks and the

occurrence of any underlying assumptions and contingencies upon which the project depends. A project schedule as applicable, will follow once a project manager is assigned, project risk assessment is completed, and resource assignments are determined.

Key Milestones and Phases	Approximate Duration
Order Booking and Initial Discovery	14-days
Planning and Discovery	45-days
System Installation	10-days
Administrator Training	21-days
Testing	45-days
User Acceptance Testing	5-days
Go-live	Based on Project Scope
Go-Live Follow-up	30-days

● ROLES AND RESPONSIBILITIES BY PROJECT PHASE

a. Project Control:

Nuance:

- Nuance will provide the following management-related functions: Development and maintenance of a project schedule to encompass all key activities, deliverables, and milestones for the project, (“Project Schedule”).
- Management and coordination of all aspects of the discovery, design, implementation, and deployment phases for the Project in accordance with the Project Schedule.
- Coordination of all **Nuance** Professional Services and Training Services with the **Arrowhead Regional Medical Center** project manager.
- Management of project risks, issues, and changes in coordination with the Arrowhead Regional Medical Center project manager.
- Facilitation of regularly scheduled conference calls with the **Arrowhead Regional Medical Center** project manager.
- Communication of project status regarding milestones specified below.
- Management of the consultation to **Arrowhead Regional Medical Center** regarding testing, deployment, and use of the Product in the **Arrowhead Regional Medical Center** environment.
- Managing the formal closure of the project in coordination with the **Arrowhead Regional Medical Center** project manager on completion of all SOW Deliverables, Professional Services, and Training Services.

Arrowhead Regional Medical Center:

- Provide a single point of contact for all project management related activities. These activities include, but are not limited to, the following:
- Prompt reply and any other requisite actions in response to all notices provided by **Nuance**, including notices regarding project status against milestones transmitted to **Arrowhead Regional Medical Center** via e-mail, as well as communicate these updates to **Arrowhead Regional Medical Center** stakeholders.
- Provide timely access to necessary **Arrowhead Regional Medical Center** resources and personnel (including third parties contracted by **Arrowhead Regional Medical Center**) required to execute the SOW in accordance with the Project Schedule.
- Manage all site activities relating to installation, testing, and deployment of the Project.
- Communicate and approve any scope changes to the Project’s **Arrowhead Regional Medical Center** stakeholders and **Nuance**.

b. DISCOVERY AND DESIGN PHASE

Nuance:

- Review project scope and technical requirements with **Arrowhead Regional Medical Center** and summarize overall system requirements.
- Provide interface specifications representing the design for an interface between the PowerScribe and the **Arrowhead Regional Medical Center** information systems (RIS, HIS, or EMR).
- Conduct an implementation planning meeting with **Arrowhead Regional Medical Center** and identify Project objectives, scope, and critical paths.
- Develop the Project Schedule and resource planning needs for implementation tasks.

Arrowhead Regional Medical Center

- Identify and provide timely access to all stakeholders with material input to the overall requirements for the Project.
- Attend the implementation planning meeting and identify the overall requirements for the Project.
- Provide comprehensive and timely review and approval of the project deliverables including but not limited to the, integration verification document, Project Schedule and discovery document prior to commencement of the implementation phase of the Project.

c. IMPLEMENTATION PHASE

Nuance:

- Develop the Project Schedule including the key milestones: Planning/Discovery, Installation, Training/Configuration, Testing, Go-Live, and Follow-Up.
- Identification of **Nuance** and **Arrowhead Regional Medical Center** resources required for successful deployment.
- Manage and use reasonable efforts to obtain approval of any scope change to the Project.

Arrowhead Regional Medical Center

- Identify and provide timely access to all stakeholders with material input to the discovery.
- Provide comprehensive and timely review and approval of the implementation discovery documents prior to commencement of the deployment phase.
- Prepare the **Arrowhead Regional Medical Center** environment for installation.
- Provide static IP addresses for all servers.
- When applicable, install rack(s) with adequate space for all hardware, install backup software and UPS.
- Install and configure all servers, workstations, switches, KVM, etc., per the minimum or preferred specifications.
- Verify that all requirements are complete prior to physical installation.
- Ensure network connectivity for installation of client software.
- Test interfaces and desktop integration according to the test plan.
- Attend PowerScribe Administrator Training (remote or offsite)
- Once administrative training is complete, configure product to meet workflow design.

d. EXECUTION PHASE

Nuance:

- Coordinate deployment initiatives with **Arrowhead Regional Medical Center** as identified in the Project Schedule.
- Deliver training as specified; following the training schedule agreed upon in the Project Schedule.
- Oversee a controlled deployment of the Project throughout the deployment phase and according to schedules defined in the Project Schedule.

Arrowhead Regional Medical Center

- Coordinate and assure designated personnel availability for training as defined in the Project Schedule.
- Prepare training environment as defined in the Project Schedule.

e. TRANSITION PHASE

Nuance:

- Continue to conduct regular status meetings and resolve issues.
- Provide a transition to support and support escalation plan.

Arrowhead Regional Medical Center:

- Attend regular status meetings and work with **Nuance** to transition to Maintenance Services.
- Receipt of support documentation and movement to Maintenance Services.

f. DEVIATIONS FROM RESPONSIBILITIES DEFINED ABOVE

NO DEVIATIONS.

• TERMS AND CONDITIONS

a. PROJECT PLAN

Within forty-five (45) days of the Effective Date of the applicable Order, **Nuance** shall develop a final detailed implementation plan based on the applicable services on the Order. The Implementation Plan shall include an allocation of responsibility for each task to **Nuance** or **Arrowhead Regional Medical Center**, any technical or physical requirements necessary for **Nuance** to complete the installation of the purchased Products, and any assumptions and/or critical events, the occurrence or nonoccurrence of which serves as condition upon which the installation services occur. The Fees for the Professional Services are subject to **Arrowhead Regional Medical Center's** fulfillment of its responsibilities, and/or the occurrence or non-occurrence of any assumptions and/or critical events, each as set forth in this Agreement, the applicable Order, or Implementation Plan. Failure of **Arrowhead Regional Medical Center** to fulfill a responsibility, the non-occurrence of an assumption and/or critical event, or any other modification to Implementation Plan may result in an extended timeline for **Nuance** to complete the applicable Professional Services and/or **Arrowhead Regional Medical Center** incurring additional Fees. Scope changes to the Implementation Plan shall be identified in writing by **Nuance** and presented to the **Arrowhead Regional Medical Center** for approval before such additional Professional Services are delivered, provided **Nuance** shall not be liable for any uncompleted or undelivered installation services should **Arrowhead Regional Medical Center** not approve such changes.

b. CONTRACTUAL

- For Melbourne Administrator Training: Expenses for Travel, Hotel, and Meals (with the exception of lunch during class) are the responsibility of the **Arrowhead Regional Medical Center**.
- All Expenses incurred for Nuance Personnel when onsite are reimbursable to Nuance by the **Arrowhead Regional Medical Center**.

c. DEVIATIONS FROM RESPONSIBILITIES DEFINED ABOVE

NO DEVIATIONS.

Attachment B

Choice for Clinical Documentation –Encounter Based Model

The terms of this Attachment for Choice for Clinical Documentation – Encounter Based Model (“Attachment B”) apply to the Applicable Software Suite (defined below) specified in an Order as licensed on a Choice basis with no encounters-based annual adjustment, and to any additional licenses for User-Based Products and Services identified in the same Order. This Attachment B supplements the terms of the contract between Nuance and the County of San Bernardino (the “Contract”), subject to Section K, Order or Precedence, of the Contract. All capitalized terms not otherwise defined in this Attachment shall have the meanings ascribed to them by the Contract.

1. **DEFINITIONS.** For purposes of this Attachment B, the following terms shall have the following meanings:

1.1. **“Applicable Software Suite”** means Nuance’s proprietary Choice for Clinical Documentation software and services offering, which is a customized bundled suite of Nuance Software and Hosted Services consisting of the components indicated on the Order. The Applicable Software Suite also includes Hosted NMS as described in Section 2.5. The Applicable Software Suite does not include transcription labor services that may be purchased separately for use in conjunction with Nuance’s eScription platforms.

1.2. **“Application”** means a software application or hosted service developed and made available to County by a third-party vendor that includes a proprietary interface or access method that enables the Application to access and utilize a particular Embedded Hosted Service to the extent integrated by the third party vendor. The Application for Dragon Medical embedded in MEDITECH Expanse is the MEDITECH Expanse EHR application (including Web Ambulatory, Web Acute, and Web ED) developed by Medical Information Technology, Inc. dba MEDITECH. The Application for Dragon Medical embedded in athenaClinicals EMR is the athenaClinicals application for athenaNet developed by athenahealth, Inc. The Applications for Dragon Medical embedded in Epic Haiku and/or Canto, are the Epic Haiku and Canto applications, respectively, developed by Epic Systems Corporation. The Applications for Clinical Language Understanding (CLU) for Epic NoteReader Fact Extraction and for Epic NoteReader CDI with Clinical Strategies are the Epic NoteReader and Epic NoteReader CDI functionalities, respectively, within the Epic Hyperspace application developed by Epic Systems Corporation. The Applications for Dragon Medical embedded in Epic Rover and Dragon Medical embedded in Epic Cadence are the Epic Rover and Epic Cadence applications, respectively, developed by Epic Systems Corporation.

1.3. **“Authorized User”** means a Clinician working on behalf of County as an employee, independent contractor or medical staff member with admitting privileges, except that in connection with use of Epic NoteReader CDI with Clinical Strategies, “Authorized User” means a physician employee, or physician contractor of County. “Clinician” means a person qualified in the clinical practice of healthcare (including, but not limited to, a physician, chiropractor, physical therapist, and physician’s assistant). Authorized User shall also include any employee of County who is performing transcription services for the benefit of the County.

1.4. **“Client Software”** means the Nuance Software, if any, provided to County by Nuance for use in accessing a Hosted Service. Client Software also means the client software components of the Nuance Software included as part of the Applicable Software Suite, if any.

1.5. **“Embedded Hosted Services”** means any of the following Hosted Services made available via integration within an Application: Dragon Medical embedded in MEDITECH Expanse, Dragon Medical embedded in athenaClinicals EMR, Dragon Medical embedded in Epic Haiku and/or Canto, Dragon Medical embedded in Epic Rover, Dragon Medical embedded in Epic Cadence, Clinical Language Understanding (CLU) for Epic NoteReader Fact Extraction and Epic NoteReader CDI with Clinical Strategies. Embedded Hosted Services do not include the applicable third-party Application which County will need to obtain separately from a source other than Nuance. Dragon Medical embedded in Epic Haiku includes optional Virtual Assistant functionality that requires separate activation for an additional fee and is included in the license for Dragon Medical embedded in Epic Haiku granted under this Attachment B only if Virtual Assistant for Epic Haiku is identified in an Order.

1.6. **“Hosted Services”** means any of the software as a service offerings owned and operated by Nuance that is made available to County as a service via the Internet and that is specified in an Order as being part

of the Applicable Software Suite or licensed on a per-user basis, including but not limited to the following Hosted Services: Dragon Medical One, PowerMic Mobile, Dragon Medical Advisor, Dragon Medical eScripton (any platform), PowerPack for Dragon Medical One and any of the Embedded Hosted Services.

1.7. **“Hosted Solution”** means the collective offering of the Hosted Services and the associated Client Software (if any). Hosted Solutions do not include labor-based transcription services.

1.8. **“Initial Order Term”** means the period of time beginning on the Order Effective Date and continuing for the duration of the Order Term specified in the applicable Order (which may be designated in the Order as the Order Term, Service Term or by other indication of duration).

1.9. **“Named Location”** means each healthcare facility delivering healthcare services listed on the applicable Order as of the Order Effective Date (including healthcare facilities added as Named Locations by a subsequent Order or Order amendment) excluding Outpatient Locations.

1.10. **“Nuance Software”** means any of the following software products specified in an Order: Dragon Medical Network Edition (DMNE) and Dragon Medical PowerPack for DMNE. Unless priced separately or otherwise specified in the Order, any Nuance Software listed on the Order is a part of the Applicable Software Suite.

1.11. **“Order Effective Date”** means the date the last Party signed or otherwise validly accepted the Order, unless otherwise specified in the Order.

1.12. **“Order Term”** means collectively, the Initial Order Term and, if applicable, the Renewal Term(s) set forth in Section 8.1 below. Order Term is the period of time that County commits to paying for the Applicable Software Suite and the User-based Products or Services, as applicable.

1.13. **“Outpatient Location”** means a physician's office, ambulatory clinic, outpatient center, surgical facility, and any other non-acute care facility of County delivering medical treatment on an outpatient basis that is affiliated with the County.

1.14. **“User-based Products and Services”** means Nuance Software and Hosted Services licensed on a per-user basis as indicated in the applicable Order.

2. GRANT OF RIGHTS.

2.1. **Grant of Rights to the Applicable Software Suite.** Subject to the restrictions in Section 2.3, the additional Product Specific Terms in Section 3 and the other terms and conditions of the Contract (including this Attachment B), Nuance hereby grants County, and County accepts, a limited, revocable non-exclusive, non-transferable and non-sublicensable license right, solely during the Order Term, to allow its Authorized Users at the Named Locations and Outpatient Locations to access and use the Applicable Software Suite, to access and use the Hosted Services remotely via the Internet, and to use the Client Software for the sole and limited purpose of accessing the applicable Hosted Services, provided all such use and access is in a manner commensurate with the intended use of the Applicable Software Suite (as prescribed by the Contract and the applicable Documentation) and solely for the internal business purposes of such Named Locations and Outpatient Locations.

2.2. **Grant of Rights to User-Based Products and Services.** Subject to the restrictions in Section 2.3 and the other terms and conditions of the Contract (including this Attachment B), if the Order for the Applicable Software Suite also includes User-Based Products and Services licenses then for each such user license for a particular User-based Product or Service indicated in the Order, Nuance hereby grants County, and County accepts, a limited, revocable, non-exclusive, non-transferable right, solely during the Order Term, to allow a single Authorized User at the Named Locations and/or Outpatient Locations to use that User-based Product or Service, provided such use is in a manner commensurate with the intended use of that User-based Product or Service (as prescribed by the Contract and the applicable Documentation), and solely for the internal business purposes of such Named Locations and/or Outpatient Locations.

2.3. **Restrictions.** The Applicable Software Suite may only be used for purposes of clinical documentation, and not for generating imaging reports. County shall not allow any Authorized User to use the Applicable Software Suite or any User-based Products or Services (i) for the Authorized User's own personal use; or (ii) for the benefit of any third party healthcare facility (other than for the benefit of Unaffiliated Entities if authorized in connection with County's purchase of Multisite Rights as described in

Section 3.5). County shall not allow anyone other than the Authorized Users to use the Applicable Software Suite, or any components thereof.

2.4. **Client Software.** County may reproduce and install copies of such Client Software on as many supported personal computing devices of a type specified in the accompanying Documentation as is reasonably necessary to exercise its license rights under Section 2. All such copies must be true and complete copies (including intellectual property notices) and be made from media or files supplied by Nuance to County under the Contract or from a network source if true and complete copies of such media or files supplied by Nuance are copied to the network source. From time to time Nuance may provide County with Updates and Upgrades to the Client Software. County will need to implement and deploy such Updates and Upgrades (as defined in the Contract) to Authorized Users within twelve (12) months from Nuance's release date. Nuance will support all versions of the Client Software (with 'version' defined as a release with an increment of 0.1 or higher) for a minimum of 12 months as follows: Nuance will support the current version and the immediately preceding version of the Client Software; in addition, at any point in time Nuance will also support any version with a general release date within the preceding 12 months.

2.5. **Hosted NMS.** Use of the Nuance Software and Hosted Services licensed hereunder requires County to use Hosted NMS which is included in County's purchase of the Applicable Software Suite. Hosted NMS is a cloud version of Nuance's proprietary Nuance Management Server software ("NMS"). Hosted NMS provides administrative functionality (processing of usernames and passwords) that is necessary to support County's use of the other components of the Applicable Software Suite. If County has a pre-existing on-premise server installation of NMS, County agrees to transition to use of Hosted NMS. Unless otherwise stated in the Statement of Work and approved in advance by the County Chief Information Security Officer, the physical location of the Hosted NMS data center where County Data is stored shall be within the Continental United States ("CONUS"), and County Data accessed by Nuance in connection with the provision of administrative functionality provided by Hosted NMS shall not be transmitted, processed or stored outside of CONUS.

3. **PRODUCT SPECIFIC TERMS.**

3.1. **Dragon Medical One License Required.** PowerMic Mobile, Dragon Medical Advisor and PowerPack for Dragon Medical One may only be used in conjunction with a valid subscription of Dragon Medical One (licensed separately). PowerPack for DMNE may only be used in conjunction with a valid license of Dragon Medical Network Edition (licensed separately).

3.2. **PowerPack.** If the Order specifies that the Applicable Software Suite includes PowerPack for DMNE or PowerPack for Dragon Medical One, then County's rights under Section 2 shall include allowing up to two (2) County employees, agents, or contractors to use the PowerPack Administrator licenses to manage the user options and perform maintenance tasks on PowerPack for DMNE or on PowerPack for Dragon Medical One, as the case may be. For the avoidance of doubt, the PowerPack Administrator licenses cannot be used for clinical documentation.

3.3. **Dragon Medical Advisor.** Unless otherwise indicated in the Order, County is only licensed to use the base content package of Dragon Medical Advisor (DMA). From time to time Nuance may issue various DMA content packs that Nuance in its sole discretion deems to be separate from the DMA base content package. County is not authorized to access and use any DMA content pack(s) unless County acquires a separate license to any such content pack(s) (as indicated on an Order between County and Nuance). Any reference to DMA in the Attachment shall mean the DMA base content package as well as any content pack(s) that County has validly licensed from Nuance (if any).

3.4. **Embedded Hosted Services.** County is responsible for maintaining a valid license to use the Application associated with each Embedded Hosted Service indicated on an Order for the duration of the Order Term. Nuance does not sell, license or support any of the Applications that provide access to the Embedded Hosted Services. County shall ensure that Authorized Users access and use the Embedded Hosted Service(s) via the Application(s) operating in a personal computing environment designated as a supported platform in the Application's documentation. County shall set a unique series of letters and digits (a global unique identifier or 'GUID') provided by Nuance in the Application to activate Authorized Users before connection to the Embedded Hosted Service(s) is accepted. Use of the Virtual Assistant functionality associated with Dragon Medical embedded in Epic Haiku requires a separate license GUID for activation.

Nuance reserves the right to deny connection attempts to the Embedded Hosted Service(s) if County does not set the correct reporting identifiers.

3.5. Multisite Rights.

3.5.1. **Grant of Rights.** If the Order specifies that the license for the Applicable Software Suite or any Dragon Medical One user-based license includes a Multisite Rights license, then County's rights under Section 2 further include allowing the number of Authorized Users for whom Multisite Rights licenses are indicated in the Order to use Dragon Medical One for the internal business purposes of an Authorized User's clinical practice at an Unaffiliated Entity (such use rights hereinafter referred to as "Multisite Rights"). "Unaffiliated Entity" means a healthcare facility identified in the Unaffiliated Entity Exhibit (defined below) at which an Authorized User maintains a clinical practice that is not owned or controlled by County. For purposes of this definition, "control" means the power to operate or manage the day-to-day operations of a health care facility. County is required to have and maintain in good standing a subscription license to Dragon Medical One for each Authorized User of a Multisite Rights license.

3.5.2 **Requirements.** County shall deliver to Nuance a complete list of Unaffiliated Entities in the below format when placing its Order ("Unaffiliated Entity Exhibit"), and such Unaffiliated Entity Exhibit shall form part of this Attachment B and the Order. County shall immediately notify Nuance upon any changes to such Unaffiliated Entity Exhibit. An Authorized User's failure to pay County any amount charged by County for the Multisite Right(s) shall not excuse County's payment obligations for the Multisite Right(s).

Appendix A – Unaffiliated Entity Exhibit

Name	Address(es)

4. NUANCE RESPONSIBILITIES.

4.1. **Hosted Services.** Subject to the terms and conditions of the Contract, Nuance agrees to host, operate and maintain the equipment and software comprising its Hosted Services (directly or via third party service providers) and to allow County to access and use the Hosted Services during the Order Term in accordance with the terms of the Contract. County acknowledges that Nuance cannot prevent the actions or inactions of third parties from impairing or disrupting County's connections to the internet and/or County's telecommunications networks which in turn may impair or disrupt County's access to the Hosted Services. Accordingly, Nuance disclaims any and all responsibility for such events and liability related to such events.

4.2. **Exclusions.** Nuance shall not provide the Authorized Users' personal computers or equipment located at County's site, unless otherwise specified in an Order. Nuance makes no warranties whatsoever and is not liable in any way in connection with any Third Party Software, third party hosted service or the performance or operation of any product or service provided by a third party with whom County enters into contractual arrangements, regardless of whether such arrangements are required for County to enjoy the full benefit of its rights to the Hosted Services under the Contract.

4.3. **Support for Hosted Services (excluding the Embedded Hosted Service(s)).** During the applicable Order Term, Nuance will provide County with maintenance and support services for the Hosted Services as described in this Section 4.3, except for the Embedded Hosted Service(s) which Nuance will support as described in Section 4.4.

4.3.1. **Error Correction.** Nuance shall promptly repair any errors which are reported either in writing or verbally. An error is defined as any operation of the Hosted Solution that is different than described in the Documentation. An error also includes a "bug" or "crash" in which the Hosted Solution or portions of the Hosted Solution cease to function.

4.3.2. **County Contact; Question and Answer Support.** County must identify an administrative contact, a technical contact and an executive contact. These individuals must communicate to Nuance about the services rendered hereunder and then will be responsible for communicating, as needed, with County staff. Nuance will provide question and answer support only to the administrative contact, the technical contact, and the executive contact or their designee. Nuance is not responsible for providing support

services directly to transcriptionists or to clinicians. Nuance does not designate a specific limit on the Question/Answer support that it provides, but rather assumes that the existing staff will be adequately trained. However, if over a period of two consecutive weeks, a County contact persistently calls Nuance for question/answer support, and such County contact has not attended the appropriate Nuance training classes, then County agrees to either send the contact(s) to Nuance University classes at Nuance's then-standard rates, or, alternatively, meet with Nuance to review the situation. For the purposes of this Section, the term "persistently" shall mean multiple telephone calls with questions every day.

4.3.3. **Service Hours.** Nuance shall provide service/support from 8:30 am to 5:00 pm, Monday through Friday in County time zones, excluding the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day. Nuance shall provide seven days a week, 24-hour per day support for Emergency Events. An Emergency Event is defined as a problem that (a) prevents Clinicians from dictating reports; (b) prevents Authorized Users from accessing the Hosted Solution; (c) prevents multiple transcriptionists from transcribing or editing documents; (d) prevents the printing of documents or (e) prevents interface transactions (i.e., the transmission from or receipt of data by County's computer systems).

4.3.4. **Third Party Supplied Software interoperability.** Software residing on County's workstations is not covered by this Attachment B. Upgrades and new releases of all such third-party software are not provided or maintained by Nuance and must be obtained separately by County. In a Microsoft environment, it is possible that programs provided by other vendors (e.g. an email program) may conflict with the Hosted Services. Nuance disclaims responsibility for any such conflicts.

4.3.5. **Version Support.** From time to time Nuance may provide County with Updates and Upgrades to the Client Software. County will need to implement and deploy such Updates and Upgrades (as defined in the Contract) to Authorized Users within 12 (twelve) months from Nuance's release date. Nuance will support all versions of the Client Software (with 'version' defined as a release with an increment of 0.1 or higher) for a minimum of 12 (twelve) months as follows: Nuance will support the current version and the immediately preceding version of the Client Software; in addition, at any point in time Nuance will also support any version with a general release date within the preceding 12 (twelve) months.

4.4. **Support for the Embedded Hosted Service(s).** During the applicable Order Term, Nuance will provide County with hosted service support for the Embedded Hosted Services indicated in an Order. Nuance will provide the support terms for the Embedded Hosted Service(s) upon County's request. County must install each new version of the Application that contains an Update or Upgrade to the Nuance client run-time components within six months of the date it is made available to County by the third party vendor of the Application.

4.5. **Maintenance Services for the Nuance Software.** During the applicable Order Term, Nuance will provide Maintenance Services for the Nuance Software as part of the License Fees.

5. COUNTY RESPONSIBILITIES.

5.1. **Implementation Schedule.** County acknowledges and agrees that all implementation of all components of the Applicable Software Suite or any User-based Products or Services identified on the initial Order must be completed within twelve (12) months from the Order Effective Date; failure of County to do so may result in additional Professional Services fees.

5.2. **Project Manager.** During installation and operation of any part of the Applicable Software Suite or User-based Products or Services that consists of a Hosted Solution, County shall provide a qualified individual who will manage and monitor the installation and assist with any issues that may arise during routine operation of the Hosted Solution.

5.3. **Equipment and Internet Connectivity.** The communications and network interoperability requirements for Internet access to the Hosted Services are as described in the Documentation. County shall provide, at its own expense, the telecommunications (including Internet connectivity), firewalls, and all equipment and operating system software necessary for Authorized Users to access and use the Hosted Solution, as recommended in the Documentation. Nuance shall have no responsibility for any costs incurred in connection with modifications or enhancements to County's system necessary for implementing County's interface with the Hosted Services or in connection with County's use of the Hosted Services. County acknowledges and agrees that the Hosted Services may use County's wireless network to send and receive

data, and that County's mobile operator may bill County for the airtime, data and/or usage fees. In no event is Nuance responsible for any of the fees billed by County's mobile operator.

5.4. Canadian Customer Consent. The Hosted Services covered by this Attachment B are provided from data centers in the United States except that the following Hosted Services are provided to Canadian customers from data centers in Canada: Dragon Medical One, PowerMic Mobile, eScription One, and Dragon Medical embedded in third-party Applications, excluding Dragon Medical embedded in browser-based third-party Applications which is provided from United States-based data centers. Hosted Services covered by this Attachment B that are provided from United States data centers are not available for sale, access or use by public health entities in Nova Scotia and British Columbia. If County is located in Canada, by placing an Order for the Hosted Services covered under this Attachment B: 1) County hereby acknowledges that support for any Hosted Service may be provided from Nuance's United States and global support centers and consents to transfer of County Data outside of Canada for support purposes, and 2) with respect to Orders for Hosted Services provided from United States data centers, County hereby consents to the transfer, processing, use and storage of County Data into and within the United States.

5.5. Compliance. County is responsible for each Authorized User's and Unaffiliated Entity's compliance with the terms of the Contract, including this Attachment B, and guarantees each Authorized User's and Unaffiliated Entity's compliance with such terms. County will be liable for any act or omission by an Authorized User or Unaffiliated Entity that, if performed or omitted by County, would be a breach of the Contract or this Attachment B. County shall promptly notify Nuance upon learning of any actual or suspected unauthorized possession or use of any Nuance Software or Hosted Solution supplied under this Attachment B.

5.6. Data Use and Cooperation. If an applicable Order includes Dragon Medical Advisor, Dragon Medical Advisor with Hierarchical Category Condition, Dragon Medical Embedded in Epic NoteReader Fact Extraction and/or Dragon Medical Embedded in Epic NoteReader CDI with Clinical Strategies, then County agrees to the terms of the Data Use and Cooperation terms in Schedules 1 and 2 to this Attachment B.

6. SERVICES. Other than the Hosted Services Support and Maintenance Services that Nuance will provide as part of the License Fees as described in Section 4, County is required to separately purchase additional Services for the Applicable Software Suite at Nuance's prevailing rates as set forth in the Order.

7. FEES.

7.1. Fees and Payments.

7.1.1. License Fees. County shall pay license fees for use of the Applicable Software Suite and User-based Products and Services as follows (collectively, the "License Fees"): (i) County will pay the monthly fee specified in the Order for the license rights granted herein to the Applicable Software Suite specified in the Order, which includes Nuance's delivery of the Professional Services specifically identified in the Order as being provided as part of the monthly fee for the Applicable Software Suite (for which no separate additional fee is indicated in the Order), and (ii) County will separately pay License Fees indicated in the Order for the license rights granted herein to the User-based Products and Services indicated in the Order. All License Fees due under the Order are non-cancelable. Nuance will begin invoicing County for the License Fees on the Order Effective Date and County shall pay the License Fees in accordance with the payment schedule specified in the Order and the payment terms in the Contract.

7.1.2. Fees excluded from the License Fees. License Fees do not include, and County shall separately purchase and pay for the cost of Equipment, Nuance Transcription Services and any other Services or Software other than the Services and Software specifically identified in the Order as being provided as part of the License Fees for the Applicable Software Suite or for User-based Products and Services. Fees for other Services, Software and Equipment will be billed as Up-Front Fees as described in section 7.1.3. License Fees also do not include, and County shall separately owe and pay Nuance any taxes, shipping costs, and/or travel expenses due in connection with applicable Orders, in accordance with the Contract.

7.1.3. Upfront Fees. "Upfront Fees" means the specific Professional Services, Program Management Services, Third Party Software and/or Third Party Equipment fees set forth on the Order (including, but not limited to, all taxes, shipping, freight, handling and similar costs). Unless otherwise specified on the Order, Nuance shall invoice County fifty percent (50%) of the Upfront Fees upon the Order

Effective Date and fifty percent (50%) of the Upfront Fees sixty (60) calendar days after the Order Effective Date.

7.2. **Added Location Fees.** The licenses granted in this Attachment B extend only to the Named Locations, the Outpatient Locations, and any Unaffiliated Entity listed on the Unaffiliated Entity Exhibit (as defined in Section 3.5.2) if Multisite Rights are purchased. County shall notify Nuance within sixty (60) days of creating or acquiring a healthcare facility (an "Added Location"). Subject to the terms of this Attachment B, County may add an Added Location as a Named Location by entering into a new or amended Order for the Added Location for the additional License Fees mutually agreed in that Order. If the Added Location is already a Nuance customer for any of the Hosted Services, then County and Nuance may mutually agree to add such Added Location as a Named Location in the foregoing manner, if appropriate, only after the initial term of the Added Location's agreement with Nuance expires or terminates.

8. **ORDER TERM AND TERMINATION.**

8.1. **Order Term.** An Order shall be effective for the Initial Order Term, unless the Order is otherwise terminated in accordance with the Contract.

8.2. **Effect of Termination.** Upon expiration of the Order(s) (which shall expire at the end of the Order Term) or termination of the Contract by either Party, all rights granted to County with respect to the Applicable Software Suite and any User-based Products or Services shall terminate and County shall immediately cease using the Applicable Software Suite and any User-based Products or Services and return all copies of the same to Nuance. The rights and obligations under this Section shall survive expiration or termination of the Order and/or the Contract.

Schedule 1 to Attachment B

Data Use

In addition to the use of Data permitted by the Contract, County agrees to allow and support the following activities of Nuance and County with respect to the following products included in Orders governed by this Schedule for Choice for Clinical Documentation: Dragon Medical Advisor (“DMA”), Dragon Medical Advisor with Hierarchical Category Condition (“DMA w/HCC”), Dragon Medical Embedded in Epic NoteReader Fact Extraction (“NRFE”) and/or Dragon Medical Embedded in Epic NoteReader CDI with Clinical Strategies (“NRCDI”).

1. DATA REQUIRED.

1.1. **Data.** County agrees to provide the following Data to Nuance for reporting and analytics on the use of Nuance Products and Services. Nuance may be unable to provide some reports or analysis without this Data. Specific details for the Data requirements will be provided during product implementation planning. Data received under this Attachment shall be protected under the applicable requirements of the Contract and (as applicable) the business associate agreement between the parties. Additional Data types may be added from time to time for specific Nuance Products or Services, as needed according to the requirements for that Nuance Product or Service.

Data Element	Nuance Product or Service				
	DMA w/HCC	CDE	NRFE / NRCDI	Vincari	DMA
Case Mix Index (CMI)	N	Y	Y	Y	Y
Risk Adjustment Factors Scores (RAF)	Y	N	N	N	Y
Coder and/or CDI provider query statistics - types and volumes	Y	Y	Y	Y	Y
CDI Program Statistics	Y	Y	Y	Y	Y
Final Coding Summary Data	Y	Y	Y	Y	Y
Medicare Blended Rate for FY	N	Y	Y	Y	Y
Other Payor Blended Rates for Fiscal Year	N	Y	Y	Y	Y
Annual Discharge Volume	N	Y	N	N	N
837 Claims Data	Y	Y	Y	Y	Y
Weighted Relative Value Unit (WRVU)	N	Y	N	Y	Y

1.2. **Use for Improvements, Analytics and Data Aggregation.** This data will be used to improve the Nuance Product or Service tuning process, the quality of clarifications, and/or implementing or improving the Nuance CLU engine or other Nuance software. Data may also be used for calculating analytics metrics used in client dashboards, benchmarking services for County and other Nuance customers (no County-patient-specific or County-specific data will be shared with other customers), and outcome services.

1.3. **Access Methods.** One of the following secure access methods will be used to access and collect the data:

Access Methods	Nuance Product or Service				
	DMA w/HCC	CDE	NRFE/NRCDI	Vincari	DMA
HL7 Feed – ADT	Y	Y	Y	Y	Y
HL7 Feed – MDM	Y	Y	Y	Y	Y
HL7 feed – BAR	N	Y	Y	Y	Y
837 Claims File	Y	Y*	Y	Y	Y
Other methods as determined by implementation needs	Y	Y	Y	Y	Y
*Nuance CDE Level 4 Only					

2. **FREQUENCY.** Nuance may compare and analyze the Data as described above using baseline Data collected prior to or during the Nuance implementation, and then from time to time during the term of the applicable Order, following the date on which the applicable Hosted Services are first used in production.

3. **FEEDBACK.** County agrees to provide evaluation concerning its use of the Hosted Services, including but not limited to providing constructive review and feedback of functionality and performance of the Hosted Services, training, documentation, and Professional Services provided by Nuance. Nuance shall solely own the results of such feedback to the extent it results in any improvements or modifications to Nuance's software, hosted services or other technology.

Schedule 2 to Attachment B

Cooperation

County agrees to allow and support the following activities of Nuance and County with respect to the following products included in Orders governed by this Schedule for Choice for Clinical Documentation: Dragon Medical Advisor ("DMA"), Dragon Medical Advisor with Hierarchical Category Condition ("DMA w/HCC"), Dragon Medical Embedded in Epic NoteReader Fact Extraction ("NRFE") and/or Dragon Medical Embedded in Epic NoteReader CDI with Clinical Strategies ("NRCDI"):

1. appoint one (1) single primary contact and a supporting team to: (A) be reasonably available as needed during on-site installation and use, and to attend all training and user group meetings, including but not limited to the webcasts, conference calls, and other group meetings, and (B) work in good faith with Nuance to facilitate and coordinate activities as agreed upon during the implementation process;
2. complete feedback forms upon milestones provided by Nuance, assist in preparing, articulating and translating user reports and worksheets, and report on any issues regarding use of the Hosted Services to Nuance.

Attachment C
Transcription Services

The terms of this Transcription Services Attachment (this “**Attachment C**”) apply to the Transcription Services and Hosted Software (as defined below) specified in an Order (such Order, the “**Applicable Order**”). This Attachment C supplements the terms of the contract between Nuance and the County of San Bernardino (the “Contract”), subject to Section K, Order or Precedence, of the Contract. All capitalized terms not otherwise defined in this Schedule shall have the meanings ascribed to them by the Contract. **This order shall only be used in the event of an emergency when there is no power to Arrowhead Regional Medical Center.**

1. **DEFINITIONS.** As used in this Attachment C, the following defined terms have the meanings indicated below.

1.1 “**Authorized User(s)**” are those employees and independent contractors of County who are permitted to access the Platform subject to the terms and restrictions contained in this Attachment C and have a need to use the Hosted Software and Nuance Software to perform transcription services for the benefit of the County.

1.2 “**Contract Month**” means a calendar month or the period beginning on the Go-Live Date and ending at the end of the calendar month.

1.3 “**Draft Text**” means text created from Voice Files utilizing speech recognition software.

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

1.5 “**Expected Volume**” means the expected volume set forth on the Applicable Order. County acknowledges Nuance’s reliance on the Expected Volume in its delivery of the Transcription Services.

1.6 “**Go-Live Date**” means the date upon which Transcription Services are first provided by Nuance to the County.

1.7 “**Hosted Software**” means Nuance or an Affiliate’s proprietary software product or Third Party Software loaded on a Nuance owned or Nuance controlled server by Nuance and accessed by County under a license granted in this Attachment C or, for Third Party Software, licensed under a separate license if provided to County.

1.8 “**Initial Order Term**” means the period beginning on the Order Effective Date and continuing for the duration of the Order Term specified in the applicable Order (which may be designated in the Order as the Order Term, Service Term or by other indication of duration).

1.9 “**Medical Report**” means an electronic report dictated by an Authorized User, transcribed or edited (as applicable) by Nuance as part of the Transcription Services, and delivered to County.

1.10 “**Order Effective Date**” means the date the last party signed the Order, unless otherwise specified in the Order.

1.11 “**Order Term**” means collectively, the Initial Order Term and, if applicable, the Renewal Term(s) set forth in Section 8.1 below. Order Term is the period of time that County commits to paying for the Transcription Services. t

1.12 “**Platform**” means Software (licensed by Nuance or by a third party) and the servers on which the Software is loaded, used to implement the Transcription Services procured by County as set forth on an Applicable Order.

1.13 “**Transcribing Services**” means the recording and typing of Draft Text.

1.14 “**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 Authorized Users, into data. County 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, Equipment, Software, and labor to implement the Transcription Services procured by County 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.

1.15 **“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 County.

1.16 **“Voice Files”** means electronic copies of voice dictation.

1.17 **“Work Type(s)”** means the type of Medical Report as described in the Applicable Order.

2. **SCOPE.Scope.** Subject to the terms and conditions of this Attachment C, Nuance agrees to provide to the County Transcription Services and/or Professional Services in accordance with an Applicable Order. County shall dictate the Medical Report into the Platform, make Voice Files and Draft Text available for Transcribing Services and/or Editing Services and Nuance shall supply Medical Reports to County in accordance with the Applicable Order.

3. **NUANCE OBLIGATIONS.3.1 Transcription Equipment.** Nuance shall maintain the transcription hardware and Software necessary for Nuance to fulfill its obligations and duties under this Attachment C and any Applicable Order.

3.2 **Emergency Support.** During the Order Term, 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 County with a listing of contact personnel and a manager assigned to County to facilitate County’s access to support for resolution of Transcription Services issues.

4. **LICENSE GRANT – HOSTED SOFTWARE AND NUANCE SOFTWARE.4.1 Limited License.** Subject to the terms and conditions of this Contract and Attachment C, Nuance hereby grants County, a revocable, non-exclusive, non-transferable, non-sublicensable, limited license to allow County’s Authorized Users to access the Hosted Software and/or Nuance Software, during the Order Term, for the sole and limited purpose of using the Hosted Software and/or Nuance Software as part of the Transcription Services in a manner commensurate with the intended use of the Hosted Software and/or Nuance Software as prescribed herein and solely for County’s internal business purposes. County may only use the Hosted Software and have its own personnel perform Transcribing Services and/or Editing Services if the Applicable Order permits such access and contains a “Hosted Software only” fee.

5. **COUNTY SITE EQUIPMENT.** Nuance may sell/license certain Equipment to County under Nuance’s standard terms and conditions of sale under a contract separate from this Attachment C. Under certain circumstances, Nuance may provide County with Equipment to be located on County’s premises on a lease basis to facilitate the Transcription Services (**“County Site Equipment”**) at the rates set forth on the Order. This County Site Equipment shall be furnished under the terms of this Attachment C, remain the property of Nuance, and be returned to Nuance at the termination or expiration of this Attachment C in the same condition as it was received, normal wear and tear excepted.

6. **COUNTY OBLIGATIONSFacilities.** County at its sole cost and expense shall procure and maintain the internet connections and other telecommunications facilities County requires in the performance of this Attachment C, including without limitation, all data circuits and/or telephone lines required to transmit dictation to Nuance.

6.2 **Location.** Nuance may not use personnel and resources outside of the Continental United States, including third party contractors and subprocessors for the delivery of the Transcription Services unless approved by the County in writing. Further, Nuance may not transfer County Data, including personally identifiable information, across country borders in connection with providing Transcription Services. Nuance is responsible for the obligations under the Contract even if Nuance uses a third party contractor or subprocessors.

6.3 **User Administration.** County 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 County.

6.4 **Workflow.** Nuance will not agree to any Authorized User's request for a Nuance employee or agent to copy from a historical patient document into a current Medical Report while delivering the Transcription Services.

6.5 **Work Types.** All work types shall follow standard workflow. The Authorized Users are responsible for entering the Work Type during dictation that will be used by the medical transcriptionist for Transcribing Services and/or Editing Services.

6.6 **Additional Orders.** The County agrees to execute an Applicable Order if Nuance provides Transcription Services to a new Affiliate or location.

6.7 **Platform Updates.** The implementation of the Transcription Services requires that the County be on the then-current version of the Hosted Software prior to the Go-Live Date. The County will install any new Updates and/or Upgrades as mutually agreed upon by the Parties.

6.8 **Canadian Customer Consent.** The Hosted Software covered by this Attachment C is provided from data centers in the United States except that the following Hosted Software is provided to Canadian customers from data centers in Canada: eScription One. The Hosted Software covered by this Attachment C that is provided from United States data centers is not available for sale, access or use by public health entities in Nova Scotia and British Columbia. If County is located in Canada, by placing an Order for the Transcription Services covered under this Attachment C: 1) County hereby acknowledges that support for any Hosted Software may be provided from Nuance's United States and global support centers and consents to transfer of County Data outside of Canada for support purposes, and 2) with respect to Orders that include Hosted Software provided from United States data centers, County hereby consents to the transfer, processing, use and storage of County Data into and within the United States.

7. **FEES AND PAYMENTS.Fees.** County 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 County in good faith within sixty (60) days of the date of Nuance's invoice, shall be deemed correct.

8. **TERM; TERMINATION.Order Term.** An Order shall be effective for the Initial Order Term, unless the Order is otherwise terminated in accordance with the Contract.

8.2 **Termination for Cause.** The County or Nuance may terminate any Applicable Order by thirty (30) days' prior written notice. Nuance may also terminate any applicable Order if County's Expected Volume decreases by more than fifty percent (50%) for two (2) consecutive Contract Months upon written notice to County.

8.3 **Effect of Termination or Expiration.** Upon the termination or expiration of any Applicable Order by either party, County shall cease using the applicable Transcription Services and Nuance will complete all pending transcription in a timely manner. Neither the expiration nor termination of this Attachment C or any individual Orders shall affect the parties' respective payment obligations for Transcription Services previously provided up to and including the date of termination. Immediately upon the termination of any Applicable Order, County 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.

Attachment D

PowerScribe One and Add-On Products License

The terms of this Schedule for PowerScribe One and Add-On Products License ("Attachment D") apply to Nuance's PowerScribe One Hosted Solution and any related Add-On Products purchased in an order (the "Applicable Order"). This Attachment D supplements the terms of the contract between Nuance and the County of San Bernardino (the "Contract"), subject to Section K, Order or Precedence, of the Contract. All capitalized terms not otherwise defined in this Attachment D shall have the meanings ascribed to them by the Contract.

1. **Definitions.** For purposes of this Attachment D, the following terms shall have the following meanings:
 - 1.1. **"Add-On Products"** means Software term-based licenses and Hosted Services subscriptions to the following diagnostic-related Software and Hosted Services that Nuance will provide for an additional fee to supplement the PowerScribe One Hosted Solution if indicated in an Applicable Order, and any other diagnostic-related Software or Hosted Services that are identified in an Applicable Order as being subject to the terms of this Attachment D: (a) Hosted Service subscriptions to PowerConnect Actionable Findings (fka PowerScribe Critical Results) and/or mPower Clinical Analytics (cloud version) (either or both of which may be referred to as "Add-on Hosted Services"); and (b) Software term licenses for ModLink (Dicom), ModLink Webforms, PowerScribe Lung Cancer Screening ("LCS"), PowerScribe Follow-up Manager ("Follow-up Manager"), PowerConnect Communicator, and PowerConnect Peer Campaigns (each may be referred to as "Add-on Software"). PowerShare is expressly excluded from the definition of "Add-on Products" and is not licensed under this Attachment D. Although certain functionalities of the PowerScribe One Hosted Solution utilize Nuance's PowerShare platform to deliver service, County is not authorized to access and use PowerShare functionality unless it acquires a separate PowerShare Image Sharing license. County is not authorized to access and use PowerConnect Peer Campaigns without acquiring and maintaining a separate license to PowerConnect Communicator.
 - 1.2. **"Actual Report Volume"** means the aggregate number of Reports created by Authorized Users during an Annual Billing Period.
 - 1.3. **"Annual Billing Period"** means each successive one-year period during the Order Term, commencing on the Order Effective Date.
 - 1.4. **"Annual Baseline Report Volume"** is the number of Reports that County and its Licensed Affiliates are authorized to create during an Annual Billing Period. The initial Annual Baseline Report Volume is specified in the Applicable Order.
 - 1.5. **"Authorized Users"** means the employees and individual independent contractors of County and its Licensed Affiliates who are authorized by County or its Licensed Affiliates to access and use the Hosted Solution or Add-on Products in accordance with the license rights granted in this Attachment D.
 - 1.6. **"Client Component"** means the software that allows a personal computing device (as specified in the applicable Documentation) to access and utilize functionality in the Server Component.
 - 1.7. **"Contract Month"** means each full and partial calendar month within the Order Term.
 - 1.8. **"Core"** means a processing unit contained within a physical Processor. Processors may have two or more Cores.
 - 1.9. **"PowerScribe One Hosted Solution"** or **"Hosted Solution"** means the PowerScribe One Hosted Service and its associated on-premises software components.
 - 1.10. **"Initial Order Term"** means the period of time beginning on Order Effective Date and continuing for the duration of the Order Term specified in the applicable Order (which may be designated in the Order as the Order Term, Service Term or by other indication or duration.)
 - 1.11. **"Instance"** means an instance of the Server Component that is created by installing the Server Component, or by duplicating an existing Instance. References to the Server Component include all Instances of the Server Component.

- 1.12. **"LCS Licensed Facilities"** means the healthcare facilities (if any) where LCS (or LCS together with Follow-up Manager if on the same Applicable Order) is licensed for use, as identified in an Applicable Order.
- 1.13. **"Licensed Affiliate"** means each County department, independent contractor, or individual (if any) listed below that County authorizes to access and use the Hosted Solution and the applicable Add-On Products in the Applicable Order.

Licensed Affiliate	Address

- 1.14. **"Operating System Environment"** means a single instance of an operating system and instances of applications, if any, configured to run on that single operating system instance.
- 1.15. **"Order Effective Date"** means the date the County signed the Order or submits a purchase order, unless otherwise specified in the Order.
- 1.16. **"Order Term"** means collectively, the Initial Order Term, and, if applicable, the Renewal Term(s) described in Section 7.1 below.
- 1.17. **"Physical Operating System Environment"** means an Operating System Environment configured to run directly on a physical hardware system that uses physical Processors, each occupying a single socket on a system's motherboard in a physical hardware system.
- 1.18. **"Processor"** means generally a physical chip that resides in a physical socket of the hardware partition and contains one or more Cores.
- 1.19. **"Rental Equipment"** means equipment included in an applicable Order that is provided to County on a term basis for a periodic rental fee.
- 1.20. **"Report"** means an individual document, such as a medical report, or an addendum to a medical report, that is created by the Hosted Solution. For example, a single medical report with four addendums shall constitute five Reports for purposes of this Attachment D.
- 1.21. **"Server Component"** means with respect to the Hosted Solution, the on-premises software components of the Hosted Solution that run on a County server and provide services/functionality to the Client Component of the Hosted Solution. "Server Component" means with respect to an Add-on Software, the on-premises software components of the Add-on Software that run on a County server and provide services/functionality to the Client Component of the Add-on Software. Physical hardware systems capable of running the Server Component are "servers." A hardware partition or blade is considered to be a separate physical hardware system.
- 1.22. **"Virtual Operating System Environment"** means an Operating System Environment configured to run on a virtual or otherwise emulated hardware system that uses virtual processors, whereby a "virtual processor" is a Processor in a virtual or otherwise emulated hardware system. A "virtual processor" is considered to have the same number of threads and Cores as a physical Processor on the underlying physical hardware system.

2. GRANT OF RIGHTS.

2.1 License Rights. Subject to the terms and conditions of the Contract (including this Attachment D), Nuance hereby grants County, and County accepts a limited, revocable, non-exclusive and non-transferable license right, solely during the Order Term, for County and its Licensed Affiliates to:

- 2.2.1 install and run, at any one time, (i) one Instance of the Server Component on one compatible Physical Operating System Environment or one Virtual Operating System Environment, and (ii) one Instance of the Test System on one compatible Physical Operating System Environment or one Virtual Operating System Environment for each license to the Hosted Solution or applicable Add-on Product purchased by County and one additional such Instance of the Test System for each additional Test System license purchased by County; where "Test System" means a non-production Instance of the Server Component, and to "run an Instance" means to load the Server Component into memory and execute one or more of its instructions (once running, an Instance is considered to be running,

whether or not its instructions continue to execute, until it is removed from memory). One Instance of the Server Component is licensed only for use with one database;

2.2.2 allow Authorized Users to access and use the PowerScribe One Hosted Solution and Add-on Products identified in an Applicable Order, provided that in each case such use and access is in a manner commensurate with the intended use of the Hosted Solution or Add-on Product as prescribed by the Contract or applicable Documentation, and solely for the internal business purposes of County and its Licensed Affiliates; and

2.2.3 allow Authorized Users to reproduce and install copies of the Client Components and the on-premises components of the Hosted Solution on as many devices of a type prescribed by the Documentation as is reasonably necessary to exercise its license rights hereunder, and to use the Client Components and on-premises components of the Hosted Solution solely for the purpose of accessing the associated PowerScribe One Hosted Solution or Add-on Products, as applicable. All such copies must be true and complete copies (including intellectual property notices) and be made from media or files supplied by Nuance to County under the Contract or from a network source if true and complete copies of such media or files supplied by Nuance are copied to the network source.

2.2 Restrictions.

2.2.1 County shall not allow any Authorized User to use the Hosted Solution or any Add-On Product (i) for the Authorized User's own personal use; or (ii) for the benefit of any third party healthcare facility. County shall not allow anyone other than the Authorized Users to use the Hosted Solution or any Add-On Product, or any components thereof.

2.2.2 License rights to Add-on Products that are Third Party Software such as ModLink (Dicom) and ModLink Web Forms are further subject to each product's End User License Contract incorporated in the applicable Order or accompanying such product. If County acquires a license to Microsoft SQL Server software from Nuance, such license is subject to the Microsoft End User License Contract distributed with such SQL Server software.

2.2.3 All rights not expressly granted to County under this Attachment D are reserved by Nuance and its licensors.

2.3 License Conversion. The terms in this Section 2.3 apply only if County has an existing license to PowerScribe 360.

2.3.1 The PowerScribe One Hosted Solution incorporates or replaces the functionality of the following PowerScribe-related products ("Legacy Products"): PowerScribe 360 Reporting and any predecessor version of PowerScribe; Clinical Guidance, Quality Check, Peer Review, Mobile Radiologist, EMR Follow-Up Delivery, and Data Integration. The Parties therefore acknowledge and agree that upon installation of the replacement components, County's licenses to the Legacy Products, if any, are converted to the license for the PowerScribe One Hosted Solution and the license County acquires hereunder for use of the PowerScribe One Hosted Solution shall terminate and replace all of County's previously acquired rights and licenses to the Legacy Products. Upon termination of the Legacy Product licenses, the associated maintenance and support services shall also terminate and will be replaced by the maintenance and support services described herein.

2.3.2 If the Applicable Order for the PowerScribe One Hosted Solution includes an Add-on Hosted Service that County has previously licensed for which County has a current on-prem Software license, (each a "Legacy Add-on Software"), then as of the Order Effective Date for the Add-on Hosted Service, County's licenses and maintenance and support terms for the Legacy Add-on Product(s) shall terminate automatically and the rights, licenses and maintenance and support terms granted for such Add-on Product hereunder shall apply.

2.4 Rental Equipment. County may only use Rental Equipment in connection with the Hosted Solution and Add-On Products during the Order Term. County shall neither have nor obtain any other right, title or interest in such Rental Equipment. County shall return Rental Equipment to Nuance at the end of the Order Term.

2.5 Canadian Customers. The PowerScribe One Hosted Solution is currently not available for license in Canada, as it includes components that operate in United States-based data centers.

3. **LICENSED AFFILIATES.** County is responsible for each Licensed Affiliates' and Authorized User's access to and use of the Hosted Solution and guarantees each Licensed Affiliate's and Authorized User's full and faithful compliance with the terms of the Contract and this Attachment D. County will be liable for any breach under the terms of the Contract and this Attachment D, and for any act or omission by a Licensed Affiliate or Authorized User to the same extent as if County itself had taken such action or made such omission.

4. **PAYMENTS.**

4.1 **Professional Services and Training Fees.** Nuance will invoice County, and County agrees to pay Nuance the fees for Professional Services and Training Services ("Services Fees") as set forth in the Applicable Order.

4.2 **Subscription Fees and Rental Fees.** County agrees to pay Nuance the fixed monthly Rental Equipment fees, the fixed monthly subscription license fees for access to and use of the PowerScribe One Hosted Solution and other Add-on Products ("Subscription Fees"), and any other fixed monthly fees set forth in the Applicable Order during the Order Term. In addition, County agrees to pay additional fees on an annual basis for exceeding the annual service usage by more than 5.00% if applicable, as set forth in Section 4.3 below. Nuance will invoice County for the Subscription Fees, Rental Equipment fees and other monthly fees on the Order Effective Date and County shall pay the License Fees in accordance with the payment schedule specified in the Order and the payment terms in the Contract.

4.3 **Additional Report Volume Fees (excluding LCS and LCS when licensed together with Follow-up Manager on the same Order).** In addition to payments in 4.2 above, if the Actual Report Volume exceeds the Annual Baseline Report Volume during an Annual Billing Period by five percent (5.00%) or more, County shall pay Nuance additional fees for the PowerScribe One Hosted Solution and if licensed hereunder, Follow-up Manager (unless licensed together with LCS on the same Applicable Order), PowerConnect Peer Campaigns, or any other Add-on Software made subject to the terms of this Attachment D and listed in the Applicable Order with an explicit per Report Overage Fee, to be calculated at such contracted Per Report Overage Fee set forth in the Applicable Order ("Additional Report Volume Fees") for the Actual Report Volume that exceeded the Annual Baseline Report Volume. Nuance will invoice County for the Additional Report Volume Fees as amounts due under the Applicable Order and will include an Additional Report Volume Fee calculation with its invoice.

4.4 **Fees for Lung Cancer Screening ("LCS") or LCS and Follow-up Manager When Licensed Together on the Same Order.** The Subscription Fees for use of LCS (or LCS and Follow-up Manager when licensed together), if identified on the same Applicable Order, will be a fixed fee for each Annual Baseline Report Volume during the Service Term (the "LCS License Fee") based on the pricing license fee category applicable to the Annual Baseline Report Volume for that Annual Billing Period. The Annual Baseline Report Volume and LCS License Fee for the first Annual Billing Period are set forth in the Applicable Order and will remain the same for each Annual Billing Period during the Service Term unless increased as described below in Section 4.5. If LCS is ordered, Nuance will invoice County for the LCS License Fees on the Order Effective Date and County shall pay the License Fees in accordance with the payment schedule specified in the Order and the payment terms in the Contract.

4.5 **Additional LCS Licensed Facilities.** Notwithstanding anything to the contrary set forth in this Attachment D, the license rights to LCS granted hereunder apply only to the LCS Licensed Facilities identified in the initial Applicable Order and those added by new or amended Applicable Orders ("Add-on Facility Orders") placed with Nuance. County may add healthcare facilities owned or controlled by County or its Affiliates as additional LCS Licensed Facilities (including pre-existing, acquired and newly constructed facilities) by placing an Add-on Facility Order that identifies the additional LCS Licensed Facilities and the mutually agreed Report volume County is expected to generate at the added facilities during the next 12 months (the "Add-on Facility Report Volume"). County shall notify Nuance in writing of events and circumstances that significantly increase actual or anticipated Report volume, such as facility acquisitions and construction, and Nuance may audit County's Report volume at the Licensed Facilities from time to time. If Nuance determines that County's actual or anticipated annual Report volume at the Licensed Facilities has increased to a higher volume license fee category than applies to the Annual Baseline Report Volume (whether as a result of Add-on Facility Report Volume, facility expansion or organic growth), County will enter into a new or amended order increasing the LCS License Fee for the remainder of the Service Term to be the license fee due for that higher volume license fee category.

5. NUANCE RESPONSIBILITIES

5.1 Delivery and Installation. Nuance will provide County access to the PowerScribe One Hosted Solution and Add-on Products within six months of the Applicable Order pursuant to a Nuance Project Plan and a mutually-agreed upon schedule, and thereafter, will host, operate and/or maintain the PowerScribe One Hosted Solution and the Add-on Hosted Services during the Service Term (directly or via third party data centers). All applicable Nuance hosted service infrastructure and databases are located within the United States.

5.2 Maintenance and Support Service. (a) Unless otherwise set forth in the Applicable Order, Nuance provides the following maintenance and support services during the Service Term at no additional charge for the Hosted Solution and for Add-on Hosted Services. Nuance supplies 7x24 remote support using commercially reasonable efforts to diagnose and resolve errors that are reported verbally or in writing. An error is a program malfunction or operation that indicates that the Hosted Solution is not executing in accordance with its Documentation. For example, an error may include a "bug" or "crash" in which any component of the Hosted Solution ceases to function. (b) For Add-on Software, Nuance provides the Maintenance Services described in the Contract. (c) County agrees to appoint an administrator as the prime contact for Nuance support matters. Nuance will provide question and answer support to the administrator or a temporary designee. The administrator shall be responsible for communicating as needed with County staff to provide support services directly to the radiologists. If the administrator persistently calls Nuance for question/answer support and has not attended appropriate Nuance training classes, County agrees to send the administrator to Nuance University classes at Nuance's then-standard rates, or, alternatively, to meet with Nuance to review the County's support methods. The term "persistently" means multiple telephone calls with questions over a period of days. All Maintenance and Support Services shall terminate upon expiration or termination of the Service Term.

5.3 Actionable Findings Component; Active Clinician Directory. If County purchases Actionable Findings in an Applicable Order, County may request an annual update to the Active Clinician Directory (i.e., add/delete Active Clinicians including contact information) by providing Nuance such information electronically in database or spreadsheet format. "Active Clinician" means a clinician (physician, nurse, chiropractor, physical therapist, physician assistant) eligible to receive diagnostic exam results and notifications thereof from County's diagnostic departments via Actionable Findings. "Active Clinician Directory" means a database of Active Clinicians and their respective contact information (first/last name, primary phone number, address, email, and fax number).

6. COUNTY RESPONSIBILITIES.

6.1 Installation and Operation. During installation and operation of the Hosted Solution and any other Add-On Products on an Order, County agrees to provide a qualified individual to monitor and manage the installation and assist with any issues that may arise. County shall not permit anyone to subject the Hosted Solution or any Add-On Product or its infrastructure to security testing including penetration testing, network discovery, port and service identification, vulnerability scanning, password cracking, or remote access testing without the express written approval of Nuance.

6.2 Access and Report. County hereby authorizes Nuance to establish a virtual private network (VPN) or other high-speed, robust, two-way electronic connection between Nuance and County's PowerScribe One Hosted Solution server components to provide maintenance and support services, and to measure Report volume and calculate Fees due hereunder. County also authorizes Nuance to enter County premises during normal business hours to access the PowerScribe One Hosted Solution server components to confirm license fee calculations due hereunder. Any disruption of Nuance's ability to access the PowerScribe One Hosted Solution server components to calculate license fees due hereunder shall constitute a material breach by County of this Attachment D. With respect to the Quality Check, Assure, or EMR Follow-Up Delivery Services functionalities, whether within PowerScribe One Hosted Solution or purchased separately, County agrees to permit Nuance to access, process and store report texts and associated metadata to enable such service's functionality and to optimize its performance.

6.3 Service Infrastructure. County agrees to provide, at its own expense, telecommunications (including Internet connectivity), firewall, and all equipment and operating system software necessary for County, Licensed Affiliates and Authorized Users to access and use the Hosted Solution and any Add-On Products as recommended in the applicable Documentation. Nuance shall have no responsibility for any costs

incurred for modifications or enhancements to County's system or infrastructure necessary to implement County's interface with the Hosted Solution or Add-On Products in connection with County's access and use of the Hosted Solution or Add-On Products. Communications and network interoperability requirements for the Hosted Service are described in the applicable service's Documentation.

6.4 Data. County is solely responsible for obtaining all necessary consents under applicable laws and regulations in order to allow Nuance to use the Data in accordance with this Section 6.4. County gives Nuance the right, and Nuance has permission to use, the Data in accordance with this Section 6.4, and to de-identify the Data in accordance with 45 C.F.R. §164.514. Nuance and third parties acting under the direction of Nuance may use, compile (including creating statistical and other models), annotate and otherwise analyze the Data to develop, train, tune, enhance and improve the speech recognition, natural language understanding and other components of its software and services. Nuance shall own all intellectual property rights in all enhancements and improvements to its software and services that result from such use of the Data. "Data" means the audio, image, and/or text data input, all data elements output (e.g. interpretation of clinical contents in xml or other format), associated transcripts or medical reports, whether in draft or final form, any information received from County under any Order under this Attachment D, or any other clinical information received by Nuance from County under this Attachment D. Any and all information that County provides will remain confidential, and Nuance may only provide access to Data to third parties acting under the direction of Nuance in order to fulfill the foregoing use of the Data, pursuant to confidentiality agreements, or to meet legal or regulatory requirements, such as under a court order or to a government institution if required or authorized by law. Nuance will not use the names of individuals and companies to contact anyone for any reason. Nuance receives, uses and/or maintains only copies of official medical records or portions thereof, the originals of which must continue to be maintained by County or its contractors. Accordingly, the foregoing Data shall not be deemed an official medical record or health record for any patient.

7. TERM AND TERMINATION.

7.1 Order Term. An Order shall be effective for the Initial Order Term, unless the Order is otherwise terminated in accordance with the Contract.

7.2 Effect of Termination. Upon expiration or termination of the Applicable Order or the Contract by either party, all licenses granted, and services provided to County under the Applicable Order shall terminate. County shall cease using the Hosted Solution and/or Add-on Products as applicable, and immediately return or destroy any Nuance Software or Third Party Software. County will provide a certification of destruction signed by an officer of County on written request by Nuance. Neither the expiration nor termination of the Applicable Order shall affect the parties' respective rights and obligations under Sections 3, 4, 5, 6 and 7 of this Attachment D. In the event of early termination of the Applicable Order, other than by County for cause, County shall pay Nuance a fee equal to the total amount of unpaid Professional Services Fees, Rental Fees, Subscription Fees, and Report Fees that otherwise would have come due during the remainder of the Service Term but for the early termination ("Early Termination Fee"). Nuance shall invoice County, in full, for the Early Termination Fee on or about the termination date of the Applicable Order, and County shall pay such invoice within sixty (60) days of the invoice date.

8. SQL SERVER.

County acknowledges that Microsoft SQL Server software is required for the PowerScribe One Hosted Solution and certain Add-on Products to run properly, and that it is County's responsibility to have and maintain the necessary SQL Server licenses.

Service Level Agreement (SLA) for Dragon Medical One

This SLA is incorporated into and made a part of Attachment B and the Contract.

1. DEFINITIONS

“**Base Time**” means the total number of minutes in a billing month beginning on the first day of such month and ending on the last day of such month. A billing month is by default a calendar month, unless explicitly stated otherwise in Attachment B or the applicable Order.

“**Downtime**” means the time in minutes that Nuance declares Dragon Medical One to be unavailable due to a crash, material malfunction, or other failure, or a time period during which use of Dragon Medical One is materially and substantially restricted because it produces erroneous results. Downtime does not include Excluded Events.

“**Excluded Events**” means the time in minutes that Dragon Medical One is either not performing or unavailable due to: (a) Internet or County network downtime, (b) scheduled maintenance including software/network/hardware upgrades/releases, (c) County activity that prevents Nuance’s timely service delivery, (d) failure of a non-Nuance-supplied modality, information system, or networking component, (e) County’s failure to operate/maintain Dragon Medical One (or relevant Client Software) in accordance with its current service specifications, Documentation, and intended use, or if County contributed to the performance issue, (f) factors outside Nuance’s reasonable control (i.e., force majeure events, or network/device failure external to Nuance data center); (g) use of services/hardware/software not provided, specified or recommended by Nuance; (h) County’s failure to follow prior Nuance instructions regarding use of Dragon Medical One; (i) use of pre-release, beta or trial versions of Dragon Medical One or feature thereof; (j) a County employee’s, contractor’s or vendor’s unauthorized action or lack of action resulting in faulty input or attempts to perform operations that exceed prescribed service limits, or (k) suspension of County’s access to Covered Hosted Service by Nuance in accordance with the Agreement.

“**Incident(s)**” means (i) any single event, or (ii) a set of events, that result in Downtime.

“**Product Downtime**” and “**Product Uptime**”, respectively, mean the Downtime and Uptime for Dragon Medical One.

“**Uptime**” is defined / calculated as $100 * [1 - (\text{Downtime divided by (Base Time minus Excluded Events)})]$.

“**Service Fee**” means the monthly fees under an Order for Dragon Medical One.

“**SLA Credits**” are defined below in Section 3.

2. UPTIME COMMITMENT

2.1. **General.** Nuance will meet the Uptime Commitment set forth in the table below for Dragon Medical One during each Base Time period less Excluded Events, provided the Prerequisites in Section 2.1.1 below are met (“**Dragon Medical One Uptime Commitment**”). If the Dragon Medical One Uptime Commitment is not met, Nuance will issue a credit to County’s account in accordance with Section 3 below (“**SLA Credit**”). If any of the Prerequisites are not met, for the billing month for which an SLA Credit is requested, the SLA will still apply, however the credit shall be calculated using the table set forth in Section 2.2 below.

Uptime Commitment	SLA Credit
99.9% - 100%	0%
98.5% to less than 99.9%	5%
Less than: 98.5%	10%

2.1.1. Prerequisites for applicability of the above SLA Credit Table.

2.1.1.1. The locations covered under the applicable Order must all be using the Client Software version of at least Dragon Medical One 5.0; and

2.1.1.2. As of the beginning of the applicable billing month under the applicable Order, either (i) County must be on the then-current Client Software version of the Client Software, or (ii) less than 90 days must have elapsed since Nuance made such then-current Client Software version available to County.

2.2. Uptime Commitment Table for Dragon Medical One if the Prerequisites above are not met:

Uptime Commitment	SLA Credit
99.5% - 100%	0%
98.5% to less than 99.5%	5%
Less than: 98.5%	10%

3. SLA CREDITS.

3.1. **Calculation.** The SLA Credits shall be calculated based on the applicable monthly Service Fee on the applicable Order. SLA credits are calculated at the Order level (multiple Orders are treated separately). The applicable Service Fee shall be County's monthly Hosted Services Subscription Fee, or the regular recurring monthly fee which includes Dragon Medical One.

3.2. **Combined Monthly Fees.** If Dragon Medical One and other Nuance hosted services provided under a single Order experience Downtime during an applicable billing month, where they are included as part of a single applicable Service Fee, only the hosted service Downtime yielding the largest monthly SLA Credit for that billing month, shall apply.

3.3. **Separate Monthly Fees Under a single Order.** If Dragon Medical One and any other Nuance hosted services are covered under separate Service Fees within a single Order, then the Downtime for each respective Nuance hosted service will be treated and calculated as part of its own respective Service Fee, for purposes of the SLA Credit calculation.

3.4. **Process and Terms.**

3.4.1. County must request an SLA Credit within ten (10) business days of conclusion of the applicable Incident by contacting Nuance Technical Support to open a service request. Nuance will evaluate all information reasonably available and make a good faith determination of whether SLA Credit is owed. Nuance will use commercially reasonable efforts to process SLA Credit claims within thirty (30) calendar days of receipt of the claim. If Nuance issues an SLA Credit, the Credit will appear on the second scheduled invoice following the Base Time period for which SLA Credit applies.

3.4.2. To be eligible for SLA Credit, in addition to the meeting the Prerequisites in Section 2.1, County must be in compliance with all terms and conditions of the Agreement including all payments due to Nuance. SLA Credits are County's sole and exclusive remedy for Nuance's failure to meet an Uptime Commitment for Dragon Medical One. SLA Credits may not be transferred or applied to any other account. SLA Credits may not be applied to other unpaid balances or future purchases of Nuance products or service(s).

Service Level Agreement (SLA) for the eScripton Service

This SLA is incorporated into and made a part of Attachment C and the Contract.

1. DEFINITIONS

“**Base Time**” means the total number of minutes in a billing month beginning on the first day of such month and ending on the last day of such month. A billing month is by default a calendar month, unless explicitly stated otherwise in the Attachment C or the applicable Order.

“**Downtime**” means the time in minutes that Nuance declares the eScripton Service to be unavailable due to a crash, material malfunction, or other failure, or a time period during which use of the eScripton Service is materially and substantially restricted because it produces erroneous results. Downtime does not include Excluded Events.

“**Excluded Events**” means the time in minutes that the eScripton Service is either not performing or unavailable due to: (a) Internet or County network downtime, (b) scheduled maintenance including software/network/hardware upgrades/releases, (c) County activity that prevents Nuance’s timely service delivery, (d) failure of a non-Nuance supplied modality, information system, or networking component, (e) County’s failure to operate/maintain the eScripton Service (or relevant Client Software) in accordance with its current service specifications, Documentation, and intended use or if County contributed to the performance issue, (f) factors outside Nuance’s reasonable control (i.e., force majeure events, network/device failure external to Nuance data center); (g) use of services/hardware/software not provided, specified or recommended by Nuance; (h) County’s failure to follow prior Nuance instructions regarding use of an eScripton Service; (i) use of pre-release, beta or trial versions of the eScripton Service or feature thereof; (j) a County employee’s, contractor’s, or vendor’s unauthorized action or lack of action resulting in faulty input or attempts to perform operations that exceed prescribed service limits; or (k) suspension of County’s access to the eScripton Service by Nuance in accordance with the Agreement.

“**Incident(s)**” means (i) any single event, or (ii) a set of events, that result in Downtime.

“**eScripton Service**” means the eScripton One Hosted Service.

“**Service Fee**” means the monthly fee under an Order for eScripton Services.

“**Uptime**” Uptime is calculated as $100 * [1 - (\text{Downtime divided by (Base Time minus Excluded Events)})]$.

2. ESCRIPTION SERVICE UPTIME COMMITMENT

Nuance will meet the eScripton Service Uptime Commitment set forth in the table below for eScripton Services during each Base Time period less Excluded Events (“**eScripton Service Uptime Commitment**”). If the eScripton Service Uptime Commitment for the eScripton Service is not met, Nuance will issue a credit to County’s account in accordance with this Section 2 (“**SLA Credit**”) based on a percentage of the Service Fee in accordance with the following schedule:

Uptime Commitment	SLA Credit
99.5% - 100%	0%
98.5% to less than 99.5%	5%
Less than: 98.5%	10%

2.1 Calculation. The SLA Credits shall be calculated based on the monthly Service Fee for the eScripton Service on the applicable Order.

2.2 SLA Credit. County must request an SLA Credit within ten (10) business days of the conclusion of the applicable Incident by contacting Nuance Technical Support to open a service request. Nuance will evaluate all information reasonably available and make a good faith determination of whether SLA Credit is owed. Nuance will use commercially reasonable efforts to process SLA Credit claims within thirty (30) calendar days of receipt of the claim. If Nuance issues an SLA Credit, the Credit will appear on the second scheduled invoice following the Base Time period for which SLA Credit applies.

To be eligible for SLA Credit, County must be running the current or the most recent prior version of the Client Software (if any) for the eScripton Service and must be in compliance with all terms and conditions of the Agreement including all payments due to Nuance. SLA Credits are County’s sole and exclusive remedy for Nuance’s failure to meet the eScripton Service Uptime Commitment. SLA Credits may not be transferred or applied to any other account. SLA Credits may not be applied to other unpaid balances or future purchases of Nuance products or service(s).

ATTACHMENT E

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (Agreement) is entered into by and between the County of San Bernardino on behalf of Arrowhead Regional Medical Center (ARMC) (hereinafter Covered Entity) and Nuance Communications, Inc. (hereinafter Business Associate) in connection with the Contract between the parties to which this Agreement is attached.

RECITALS

WHEREAS, Covered Entity (CE) wishes to disclose certain information to Business Associate (BA), which may include Protected Health Information (PHI); and

WHEREAS, CE and BA intend to protect the privacy and provide for the security of the PHI disclosed to BA pursuant to this Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (HITECH Act), their implementing regulations, and other applicable laws; and

WHEREAS, The Privacy Rule and the Security Rule require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, sections 164.314, subdivision (a), 164.502, subdivision (e), and 164.504, subdivision (e) of the Code of Federal Regulations (C.F.R.) and as contained in this Agreement; and

WHEREAS, CE and BA want to establish their respective responsibilities regarding PHI provided by CE to BA in connection with the performance by BA of the Contract in order to bring the Contract in compliance with HIPAA;

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

A. Definitions

Unless otherwise specified herein, capitalized terms used in this Agreement shall have the same meanings as given in the Privacy Rule, the Security Rule, the Breach Notification Rule, and HITECH Act, as and when amended from time to time.

1. Breach shall have the same meaning given to such term under the HIPAA Regulations [45 C.F.R. §164.402] and the HITECH Act [42 U.S.C. §§17921 et seq.], and as further described in California Civil Code section 1798.82.
2. Business Associate (BA) shall have the same meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to 42 U.S.C. section 17921 and 45 C.F.R. section 160.103.
3. Covered Entity (CE) shall have the same meaning given to such term as under the Privacy Rule and Security Rule, including, but not limited to 45 C.F.R. section 160.103.
4. Designated Record Set shall have the same meaning given to such term under 45 C.F.R. section 164.501.
5. Electronic Protected Health Information (ePHI) means PHI that is maintained in or transmitted by electronic media as defined in the Security Rule, 45 C.F.R. section 164.103.
6. Individual shall have the same meaning given to such term under 45 C.F.R. section 160.103.
7. Privacy Rule means the regulations promulgated under HIPAA by the United States Department of Health and Human Services (HHS) to protect the privacy of Protected Health Information, including, but not limited to, 45 C.F.R. Parts 160 and 164, subparts A and E.

8. Protected Health Information (PHI) shall have the same meaning given to such term under 45 C.F.R. section 160.103, limited to the information received from, or created or received by Business Associate from or on behalf of, CE.
9. Security Rule means the regulations promulgated under HIPAA by HHS to protect the security of ePHI, including, but not limited to, 45 C.F.R. Part 160 and 45 C.F.R. Part 164, subparts A and C.
10. Unsecured PHI shall have the same meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act, including, but not limited to 42 U.S.C. section 17932, subdivision (h).

B. Obligations and Activities of BA

1. Permitted Uses and Disclosures

- a. CE shall disclose PHI to BA for the following purposes: in order for BA to provide certain clinical medical dictation and speech recognition services under the Contract
- b. BA may disclose PHI: (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) for purposes of Treatment, Payment and Operations (TPO); (iv) as required by law; or (v) for Data Aggregation purposes for the Health Care Operations of CE. Prior to making any other disclosures, BA must obtain a written authorization from the Individual.
- c. If BA discloses PHI to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such PHI will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the PHI, to the extent it has obtained knowledge of such breach. [42 U.S.C. section 17932; 45 C.F.R. sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)]
- d. BA may use PHI: (i) to create de-identified health information in accordance with 45 C.F.R. §164.514(b) and may disclose de-identified health information for any purpose permitted by law; (ii) to report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. §164.502(j)(1); and (iii) for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate, and except as otherwise limited by this Agreement, as permitted by HIPAA.

2. Prohibited Uses and Disclosures

- a. BA shall not use, access or further disclose PHI other than as permitted or required by this Agreement or as required by law. Further, BA shall not use PHI in any manner that would constitute a violation of the Privacy Rule or the HITECH Act. BA shall disclose to its employees, subcontractors, agents, or other third parties, and request from CE, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.
- b. BA shall not use or disclose PHI for fundraising or marketing purposes.
- c. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. (42 U.S.C. section 17935(a) and 45 C.F.R. section 164.522(a)(1)(i)(A).)
- d. BA shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of CE and as permitted by the HITECH Act (42 U.S.C. section 17935(d)(2); and 45 C.F.R. section 164.508); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to this Agreement.

3. Appropriate Safeguards

- a. BA shall implement appropriate safeguards to prevent the unauthorized use or disclosure of PHI, including, but not limited to, administrative, physical and technical safeguards that reasonably protect the confidentiality, integrity and availability of the PHI BA creates, receives, maintains, or

transmits on behalf of the CE, in accordance with 45 C.F.R. sections 164.308, 164.310, 164.312 and 164.316. [45 C.F.R. sections 164.504(e)(2)(ii)(b) and 164.308(b).]

- b. In accordance with 45 C.F.R. section 164.316, BA shall maintain reasonable and appropriate written policies and procedures for its privacy and security program in order to comply with the standards, implementation specifications, or any other requirements of the Privacy Rule and applicable provisions of the Security Rule. BA shall provide appropriate training to applicable employees as required by HIPPA.

4. Subcontractors

BA shall enter into written agreements with agents and subcontractors to whom BA provides CE's PHI that impose substantially the same restrictions and conditions on such agents and subcontractors that apply to BA with respect to such PHI in accordance with 45 C.F.R. § 164.502(e)(1)(ii).

5. Reporting of Improper Access, Use or Disclosure or Breach

BA to report to CE promptly, but in no case longer than fifteen (15) business days, any use or disclosure of PHI not provided for by this Agreement of which BA becomes aware, including a Breach of Unsecured PHI as required by 45 C.F.R. § 164.410, and any successful Security Incident of which it becomes aware. The Parties acknowledge and agree that this section constitutes notice by BA to CE of the ongoing existence and occurrence or attempts of Unsuccessful Security Incidents for which no additional notice to CE shall be required. "Unsuccessful Security Incidents" means, without limitation, pings and other broadcast attacks on BA'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. The contact information for the BA and CE employees to whom reports of unauthorized use or disclosure of PHI, Breaches of Unsecured PHI and successful Security Incidents under this Section shall be made as provided below (as such information may be updated from time to time between the parties). Notification shall be made using the methods as provided in the Contract.

Business Associate:
Chief Privacy Officer
Nuance Communications, Inc.
1 Wayside Road
Burlington MA 01803
Phone: (781) 565-5000
Email: privacy@nuance.com.

Covered Entity:
Collin Goodrum, ARMC-Privacy and Security Officer
ARMC
400 N. Pepper Ave.
Colton, Ca, 92324
(909) 580-3287
goodrumc@armc.sbcounty.gov

6. Access to PHI

To the extent BA maintains a Designated Record Set on behalf of CE, BA shall make PHI maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying promptly following a request by CE to enable CE to fulfill its obligations under the Privacy Rule. Unless otherwise expressly set forth in the Contract, CE acknowledges that BA does not maintain any Designated Record Set on behalf of CE. If BA maintains ePHI, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act. If BA receives a request from an Individual for access to PHI, BA shall promptly forward such request to CE.

7. Amendment of PHI

If BA maintains a Designated Record Set on behalf of the CE, BA shall make any amendment(s) to PHI in a Designated Record Set that the CE directs or agrees to, pursuant to 45 C.F.R. section 164.526, or take other measures as necessary to satisfy CE's obligations under 45 C.F.R. section 164.526, in the time and manner designated by the CE. Unless otherwise expressly set forth in the Contract, CE acknowledges that BA does not maintain any Designated Record Set on behalf of CE.

8. Access to Records

BA shall make internal practices, books, and records, including policies and procedures, relating to the use, access and disclosure of PHI received from, or created or received by BA on behalf of, CE available to the Secretary of HHS, in a time and manner designated by the Secretary, for purposes of the Secretary determining CE's compliance with the Privacy Rule and Security Rule and patient confidentiality regulations.

9. Accounting for Disclosures

BA agrees to make the information required to provide an accounting of disclosures of PHI with respect to the Individual available to CE in response to a request from an Individual in accordance with 45 C.F.R. §164.528.

10. Termination

Either Party may immediately terminate this Agreement if such Party determines that the other Party has breached a material term of this Agreement. Either Party may, at its sole discretion, provide the other Party an opportunity to cure the breach or end the violation within the time specified by the such Party.

11. Return of PHI

Upon termination of this Agreement, BA shall return or destroy all PHI required to be retained by the BA or its subcontractors, employees or agents on behalf of the CE. In the event the BA determines that returning or destroying the PHI is not feasible, the BA shall provide the CE with written notification, and BA further agrees to extend any and all protections, limitations, and restrictions contained in this Agreement, to any PHI retained by BA or its subcontractors, employees or agents after the termination of this Agreement, and to limit any further use, access or disclosures.

12. Breach by the CE

Pursuant to 42 U.S.C. section 17934, subdivision (b), if the BA is aware of any activity or practice by the CE that constitutes a material Breach or violation of the CE's obligations under this Agreement, the BA must take reasonable steps to address the Breach and/or end the continued violation, if the BA has the capability of mitigating said violation. If the BA is unsuccessful in ending the violation, the BA must terminate the Agreement (if feasible).

13. Mitigation

BA shall take reasonable steps to mitigate, to the extent practicable, any harmful effect that is known to BA of a use, access or disclosure of PHI by BA, its agents or subcontractors in violation of the requirements of this Agreement.

14. Intentionally omitted

15. Intentionally omitted

16. Indemnification

BA shall reimburse, indemnify and hold harmless CE for all Reasonable Indemnification Amounts (as defined in this paragraph) to the extent resulting from the negligence of the BA that causes a breach of this Agreement, Security Incident or Breach of PHI maintained by BA or BA's agent or Subcontractor, subject to the provisions of the Contract. "Reasonable Indemnification Amounts" means: fines or settlement amounts owed to a state or federal government agency; the cost of any notifications to individuals or government agencies; credit monitoring for affected individuals; damages or settlement amounts payable to affected individuals; and reasonable attorneys' fees paid by CE. Notwithstanding the foregoing or any contrary provisions set forth in the Contract, in no event

shall BA's obligations for Reasonable Indemnification Amounts exceed an aggregate amount of five hundred thousand dollars (\$500,000.00).

17. Intentionally Omitted
18. Intentionally Omitted
19. Intentionally Omitted

C. Obligations of CE

1. CE shall notify BA of the following:
 - a. CE's notice of privacy practices in accordance with 45 C.F.R. section 164.520, as well as any changes to such notice.
 - b. Any changes in, or revocation of, permission by an individual to use, access or disclose PHI. Upon receipt by Business Associate of such notice of changes, Business Associate shall cease the use and disclosure of any such Individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under HIPAA expressly applies.
 - c. Any restriction to the use, access or disclosure of PHI that CE has agreed to in accordance with 45 C.F.R. section 164.522.
2. CE shall not request or require BA to use and/or disclose PHI in a manner not permitted by HIPAA.

D. General Provisions

1. Remedies

BA agrees that CE shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which CE may have at law or in equity in the event of an unauthorized use, access or disclosure of PHI by BA or any agent or subcontractor of BA that received PHI from BA.

2. Ownership

The PHI shall be and remain the property of the CE. BA agrees that it acquires no title or rights to the PHI.

3. Regulatory References

A reference in this Agreement to a section in the Privacy Rule and Security Rule and patient confidentiality regulations means the section as in effect or as amended.

4. 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 CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

5. Amendment

The parties acknowledge that state and federal laws related to privacy and security of PHI are rapidly evolving and that amendment of the Contract or this Agreement may be required to ensure compliance with such developments. The parties shall negotiate in good faith to amend this Agreement when and as necessary to comply with applicable laws. If either party does not agree to so amend this Agreement within 30 days after receiving a request for amendment from the other, either party may terminate the Agreement upon written notice. This Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed and agreed to by BA and CE.

6. Interpretation

Any ambiguity in this Agreement shall be resolved to permit CE to comply with the Privacy and Security Rules, the HITECH Act, and all applicable patient confidentiality regulations.

7. Compliance with State Law

In addition to HIPAA and all applicable HIPAA Regulations, BA acknowledges that BA and CE may have confidentiality and privacy obligations under State law, including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code §56, et seq. ("CMIA")). If any provisions of this Agreement or HIPAA Regulations or the HITECH Act conflict with CMIA or any other California State law regarding the degree of protection provided for PHI and patient medical records, then BA shall comply with the more restrictive requirements if applicable to BA.

8. Survival

The respective rights and obligations and rights of CE and BA relating to protecting the confidentiality or a patient's PHI shall survive the termination of the Contract or this Agreement.

9. Jurisdiction

This Agreement shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws. The Parties agree to the exclusive jurisdiction of the federal court located in the County of Riverside and the state court located in the County of San Bernardino, for any and all disputes arising under this Contract, to the exclusion of all other federal and state courts

10. Addendum

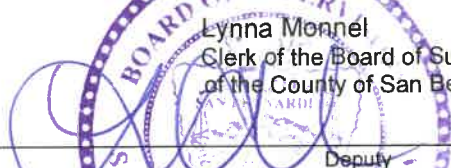
If Business Associate is using hosted cloud computing services for any part of the services hereunder, the terms of the Business Associate Addendum for Cloud Services shall apply and are hereby incorporated as though fully set forth herein. The undersigned affirms that he/she is a duly authorized representative of the Business Associate for which he/she is signing and has authority to execute this Agreement on behalf of the Business Associate.

COUNTY OF SAN BERNARDINO

► 
Curt Hagman, Chairman, Board of Supervisors

FEB 11 2020


Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By  _____
Lynna Monnel
Clerk of the Board of Supervisors
of the County of San Bernardino
Deputy



Nuance Communications, Inc.

(Print or type name of corporation, company, contractor, etc.)

By ► 
(Authorized signature - sign in blue ink)

Name Simon J. Senior
(Print or type name of person signing contract)

Title VP Sales and Marketing Operations
(Print or Type)

Dated: 1/31/2020

Address 1 Wayside Road

Burlington, MA 01803

ATTACHMENT F
Security Addendum for Hosted Services

This Security Addendum for Hosted Services (this "Addendum") is entered into by and between the County of San Bernardino (County) and Nuance Communications, Inc. ("Service Provider") pursuant to the Healthcare Master Agreement between the parties (the "Contract"). County and Service Provider are each referred to in this Addendum as a "Party" and collectively as the "Parties".

A. PURPOSE AND ORDER OF PRECEDENCE

1) **Purpose and Effect.** This Security Addendum sets forth the Parties' mutual understanding relating to the privacy and security of County Data which is transmitted and processed through and/or stored in the applicable Hosted Service. This Security Addendum is hereby made part of and subject to the terms of the Contract.

2) **Order of Precedence.** In the event any term or condition in this Addendum conflicts with a term or condition in the Contract, then the terms and conditions of this Addendum will take precedence and control over any conflicting terms of the Contract, with respect to the subject matter of this Addendum.

B. DEFINITIONS

Capitalized terms used herein have the same meaning as ascribed in the Contract. In addition, the following capitalized terms shall have the meaning ascribed herein:

1) **"Applicable Law"** means any applicable laws, including HIPAA and any state and federal data protection and privacy laws, which are applicable to Service Provider in its ordinary course of providing the Services pursuant to the Contract. Applicable Law shall also include the California Information Practices Act (Civil Code Sections 1798 et seq.), to the extent applicable to Contractor's use and disclosure of County Data under the Contract or the Business Associate Agreement between the parties.

2) **"CISO"**: County Chief Information Security Officer or other County-designated officer responsible for cyber-infrastructure security.

3) **"CONUS"**: Continental United States

4) **"County Data"**: Any information, formulae, algorithms, or other content that County, County's employees, agents and/or Authorized Users upload, create or modify using the Hosted Service pursuant to this Contract or that has been processed or transmitted through the Hosted Service. County Data also includes user identification information, personally identifiable information, and metadata which may contain County Data or from which County Data may be ascertainable that has been processed or transmitted through the Hosted Service. For the avoidance of doubt, County Data may contain Protected Health Information ("PHI").

- 5) **"Data Breach"**: Any access, acquisition, use, destruction, loss, modification or disclosure of County Data by an unauthorized party or that is in violation of Applicable Law.
- 6) **"Hosted Service"**: the Dragon Medical One, Dragon Medical Advisor, PowerMic Mobile, Powerscribe One and eScripture One hosted services provided by Service Provider to County pursuant to the terms of the Contract.
- 7) **"Independent Certification/Attestation"** means: (i) HITRUST CSF Certification; or (b) an alternative certification, such as SOC II or ISO27001, designed to document and measure performance against control objectives that map to applicable requirements of a commercially reasonable industry standard security framework.
- 8) **"Information Security Program"** means a written information security program as described below in Section C.2.a below.

c. SaaS and SECURITY

C.1 Certification

Once annually upon County's prior written request, Service Provider shall certify in writing:

C.1.a the sufficiency of its security standards, tools, technologies and procedures in providing the Hosted Service under this Contract;

C.1.b its compliance with the California Information Practices Act (Civil Code Sections 1798 et seq.), to the extent applicable to Service Provider;

C.1.c its compliance with privacy provisions of the Federal Privacy Act of 1974;

C.2 Safeguards

C.2.a Service Provider shall implement and maintain a comprehensive Information Security Program consistent with a framework consistent with reasonable industry standard practices under which Contractor documents, implements and maintains the physical, administrative and technical safeguards designed to (a) comply with Applicable Law; and (b) protect the confidentiality, integrity and availability of County Data. As part of the Information Security Program, Service Provider shall maintain written security policies and procedures to identify, prevent, detect, contain, and correct violations of measures taken to protect the confidentiality, integrity, availability, or security of the County Data (collectively, "Policies"). The Policies and procedures shall: (a) assign specific information security roles and responsibilities to specific individuals; (b) include periodic risk assessments; and (c) provide an adequate framework of controls to safeguard the County Data.

C.2.b Service Provider shall implement and maintain all appropriate administrative, physical, technical and procedural safeguards at all times during the term of the Contract to secure County Data from Data Breach, protect the

County Data and the Hosted Service from hacks, introduction of viruses, disabling devices, malware and other forms of malicious or inadvertent acts that can disrupt the County's access to County Data.

C.3 High-Availability and Redundancy

Service Provider shall have a high-availability and a redundant environment, where the minimum requirements are:

C.3.a Power and/or generators shall be 2N

C.3.b UPS power shall be 2N

C.3.c Redundant servers shall be N+1

C.3.d Data center shall be Tier-2

C.3.e Data center cooling shall be 2N

C.3.f All UPS's and Generators must be tested and inspected on a quarterly basis. Inspection and testing records must be retained for a minimum of 3 years

C.3.g Data center cooling must have preventative maintenance performed quarterly. Preventative maintenance records must be retained for a minimum of 3 years.

C.4 Physical

Service Provider shall provide access to County Data only to those employees, contractors and subcontractors who need to access the County Data to fulfill Service Provider's obligations under this Attachment F, any SLA or the Contract. Service Provider will ensure that, prior to being granted access to County Data, employees, other than employees who provide transcription labor to County, who perform work under the Contract, this Attachment F, or any SLA have all undergone and passed criminal background screenings and all Service Provider employees, including employees who provide transcription labor to County, have successfully completed annual trainings in relation to the handling and protection of PHI as well as compliance with physical, technical and administrative information security safeguards. For Service Provider employees who provide transcription labor to County, Service Provider runs OIG (Office of Inspector General) and E-Verify checks. In addition, Service Provider shall have a reasonable physical security environment for the Hosting Service, where the minimum requirements are:

C.4.a Physical access to facility, data center(s), and/or server room(s) is restricted using an access control system that utilizes iCLASS SE or multiclass SE readers.

C.4.b Access control system must be capable of restricting access by time of day and groups

C.4.c Access control system must be auditable providing customize reports on demand for inspection by the County

C.4.d Access control system components and batteries must be inspected annually.

C.4.e Access control system batteries must be replaced every 3 years or when they fail

C.4.f Vendor must be able retain access control history for a minimum of 3 years or as required by law

C.4.g Alerts are generated when physical security has been breached by the access control system or intrusion detection system

C.4.h Intrusion detection systems must be monitored by a third party UL central station

C.4.i Intrusion detection systems must be inspected and tested quarterly with signals sent to the central station. Testing reports must be retained for 3 years.

C.4.j Intrusion detection batteries must be inspected annually and replaced every 3 years or when they fail.

C.4.k Facility, data center(s), and server room(s) have an appropriate Video Surveillance System in-place for surveillance.

C.4.l Video surveillance system must have the capability to interface with the access control system and intrusion detection system

C.4.m Video surveillance system must be inspected quarterly to make sure cameras are recording and video is being archived

C.4.n Video surveillance system must archive video

C.4.o All access control systems, intrusion detection systems and video surveillance systems must be on the facilities emergency power system and protected by UPS.

C.4.p Data center have protections in-place that minimize environmental issues such as temperature, fire, smoke, water, dust, electrical supply interference, and electromagnetic radiation.

C.4.q A chemical fire suppression system installed in the data center as per NFPA 2001.

C.4.r The chemical fire suppression system must be inspected semiannually as per NFPA 2001 §8.3

C.4.s Smoke detectors under the raised floors.

C.4.t Water detection system under the raised floors and above the ceiling.

C.4.u Facility must be protected 100% by an automatic fire sprinkler system with the data center being protected with an automatic pre-action fire sprinkler system.

C.4.v Facility automatic fire alarm system must be tested and inspected as per NFPA 25

C.5 Verification

Upon County's written request, but not more than once per calendar year, Service

Provider shall provide to County a copy of its SOC 2 Type II Reports for the applicable Hosted Service, to the extent such a report exists for that Hosted Service. For the avoidance of doubt, Service Provider only has a SOC 2 Type II report in place for the Dragon Medical One, Dragon Medical Advisor and eScript One applications.

C.6 Security

Service Provider shall make reasonable efforts to maintain the security and confidentiality, integrity, and availability of the County Data under its control in accordance with the terms of this Attachment F and its internal Information Security Program and Policies. Unless otherwise provided for in the Contract, no County Data shall be modified, destroyed or deleted by Service Provider other than for normal operation or maintenance of the Hosted Service or in performance of the Services under the Contract during the Contract period without prior written notice to and written approval by the CISO.

When County Data is destroyed or disposed by Service Provider, it shall be in accordance with the National Institute of Standards of Technology (NIST) Special Publication 800-88 published by the U.S. Department of Commerce. Upon County's written request, Service Provider shall promptly provide County with a written confirmation certifying destruction of such County Data in accordance with this provision.

D. ENCRYPTION

Service Provider agrees that all County Data processed, transmitted or stored through the Hosted Service will be encrypted in while in route to and from the Service Provider (in transit), including via web interface, using Transport Layer Security (TLS) version 1.2 or equivalent, and, while stored in the datacenter (at rest) at a level equivalent to or stronger than Advanced Encryption Standard (AES) 128-bit level encryption.

E. DATA LOCATION

Unless otherwise stated in the Contract and/or approved in advance by the CISO, County Data will be stored in data centers that are physically located within the CONUS. County acknowledges that Service Provider has operations as well as research and development teams located in the European Union, Canada, India and the Philippines (collectively, the "Offshore Locations") and that such resources may require access and use of the customer data for purposes of providing, monitoring, support and maintenance, and further development of the products. All access by Service Provider that is outside the U.S. shall be performed by Service Provider employees, agents and subcontractors. Service Provider will ensure that the permitted uses conducted from an Offshore Location by Service Provider employees, agents and subcontractors, if any, will only be conducted in accordance with the terms of the Contract.

F. DATA BREACH

F.1 Notification

Upon discovery or reasonable belief of any Data Breach involving County Data, Service Provider shall promptly notify the CISO and in writing to the County Notices contact in compliance with relevant regulatory standards. At a minimum, the notification shall include, to the extent known:

- F.1.a the nature of the Data Breach;
- F.1.b County Data accessed, used or disclosed;
- F.1.c any evidence of County Data extricated;
- F.1.d the identity of the person(s) who accessed, used, disclosed and/or received County Data (if known);
- F.1.e the law enforcement agency(ies) contacted; and
- F.1.f actions taken or will be taken to quarantine and mitigate the Data Breach; and
- F.1.g corrective action taken or will be taken to prevent future Data Breaches.

F.2 Investigation

Service Provider shall conduct an investigation of the Data Breach and shall share the relevant findings of the investigation with the CISO, if permitted by Applicable Law. If required by Applicable Law, County and/or its authorized agents shall have the right to participate in the investigation. Service Provider shall reasonably cooperate with County, its agents and law enforcement in the event of a Data Breach involving County Data.

G. DISASTER RECOVERY AND BUSINESS CONTINUITY

Unless otherwise stated in the Contract or an applicable SOW between the parties:

G.1 Notification

In the event of disaster or catastrophic failure that results in significant loss of County Data or extended loss of access to County Data, Service Provider shall notify the County promptly in writing, with additional notification provided to the CISO. In the notification, Contactor shall inform County of:

- G.1.a The scale of the data loss, if known to Service Provider at the time the initial notification is made;
- G.1.b What Service Provider has done or will do to recover the data and mitigate any deleterious effect of the data loss, if known to Service Provider at the time the initial notification is made; and
- G.1.c What corrective action Service Provider has taken or will take to prevent future data loss, if known to Service Provider at the time the initial notification is made.

G.2 Restore and Repair Service

Service Provider shall take reasonable steps to:

G.2.a restore continuity of the Hosted Service

G.2.b restore County Data

G.2.c restore accessibility of County Data, and

G.2.d repair the Hosted Service.

Failure to do so may be considered a material breach under the Contract.

G.3 Investigation

Service Provider shall conduct an investigation of the disaster or catastrophic failure and shall share a summary of the report of the investigation with the County.

H. AUDIT AND SECURITY QUESTIONNAIRE:

H.1 Audit.

Based on a good faith reasonable belief that Service Provider is not in compliance with the security terms of this Security Addendum, suffers a security breach or otherwise breaches this Security Addendum, County reserves the right, upon not less than thirty (30) days prior written notice, and at its expense, to examine records related to Service Provider's compliance with the security terms set forth herein, which includes but is not limited to, applicable pertinent books and records, provided the said books and records are not bound by any other confidentiality agreements and/or restrictions that prohibit Service Provider from sharing such information with a third party. This right may be exercised no more than once annually during normal business hours and in a manner that does not unreasonably interfere with the business operations of Service Provider. County shall have the right to come onsite to Service Provider's administrative offices for purposes of reviewing applicable documentation related to the audit. Notwithstanding the foregoing, County shall have no onsite right to access Service Provider's data centers, infrastructures, and/or facilities housing servers containing Service Provider customer data, and County shall have no right to conduct security testing, including but not limited to, penetration testing, network discovery, port and service identification, vulnerability scanning, password cracking, or remote access testing. Any information reviewed in connection with the foregoing, including any audit results, shall be treated as Service Provider Confidential Information. Furthermore, Service Provider shall not be required to disclose any information that would result in: (i) breach of confidentiality obligations with any of its other customers, (ii) breach of any agreement it has with any other third party, and/or (iii) violation of any applicable law or regulation (including, but not limited to, HIPAA).

H.2 Security Questionnaire.

Not more than once per calendar year, Service Provider shall complete a non-invasive security questionnaire provided by County's information security team, or a third-party security professional selected by County ("Security Questionnaire"). The Security

Questionnaire shall be limited to County's reasonable requests for information related to Service Provider's Information Security Program and related controls that are related to the Services provided under the Contract. Service Provider shall reasonably respond to such Security Questionnaire and, if applicable, shall provide non-confidential documents to support of Service Provider's responses. The parties acknowledge and agree that, in the event Service Provider provides an Independent Certification/Attestation for the applicable Hosted Service, where such Independent Certification/Attestation exists, Service Provider shall not be required to complete an Information Security Questionnaire for such Hosted Service unless County reasonably determines that the provided Certification/Attestation is not sufficient to (i) determine the security controls in place for the applicable Hosted Service and (ii) confirm Service Provider's compliance with the terms of this Security Addendum.

H.3 Remediation.

Any remediation requirements identified and mutually agreed to during a Security Questionnaire or audit will be documented and tracked. Service Provider shall use commercially reasonable efforts to complete such remediation requirements within the timeframes as are mutually agreed upon by the parties.

H.4 Results.

The results of such Security Questionnaire and audits shall be treated as Service Provider Confidential Information, and County shall be prohibited from sharing the results of any such Security Questionnaire or audits with any third party or subcontractor.

I. DISCOVERY: Unless prohibited by Applicable Law, Service Provider shall promptly notify the County upon receipt of any requests which in any way might reasonably require access to the County Data or the County's use of the Hosted Service(s). Service Provider shall notify the County in writing, unless prohibited by law from providing such notification. Service Provider shall provide such notification within five (5) business days after Service Provider receives the request. Service Provider shall not respond to subpoenas, service of process, Public Records Act requests, and other legal requests directed at Service Provider regarding this Contract without first notifying the County unless prohibited by law from providing such notification. Unless prohibited by law, Service Provider agrees to provide its intended responses to the County with adequate time for the County to review, revise and, if necessary, reasonably assist County in seeking a protective order in a court of competent jurisdiction. Service Provider shall not respond to legal requests directed at the County unless authorized in writing to do so by the County.

[END OF ATTACHMENT F]