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Contract Number

25-364

SAP Number

## Arrowhead Regional Medical Center

Department Contract Representative	Andrew Goldfrach
Telephone Number	(909) 580-6150
Contractor	Nuance Communications, Inc.
Contractor Representative	Greta Marston
Telephone Number	(781) 565-5000
Contract Term	July 1, 2025 and expires sixty months thereafter
Original Contract Amount	Not-to-Exceed \$4,200,000
Amendment Amount	Not Applicable
Total Contract Amount	Not-to-Exceed \$4,200,000
Cost Center	8483
Grant Number (if applicable)	Not Applicable

### IT IS HEREBY AGREED AS FOLLOWS:

**WHEREAS**, San Bernardino County (County) desires to clinical/medical dictation and speech recognition software, services and equipment; and

**WHEREAS**, the County conducted a competitive process to find Nuance Communications, Inc. (Contractor or Nuance) to provide these software, services and equipment, and

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

**WHEREAS**, the County desires that such services be provided by Contractor and Contractor agrees to perform these services and provide the software and equipment as set forth below;

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

#### A. DEFINITIONS

- A.1** ARMC: The San Bernardino County department denominated San Bernardino County Medical Center, which is also known as Arrowhead Regional Medical Center.

- A.2** 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.3** Board: The San Bernardino County Board of Supervisor.
- A.4** Contract: This Contract between the County and the Contractor.
- A.5** Documentation: The administrative guide and user's guide provided by Contractor to County to facilitate the use of the Nuance Products and Hosted Services.
- A.6** Hosted Services: Nuance proprietary subscription-based software as a service (SaaS) offering specified in an Order, as more particularly described in the applicable Attachment C. 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.7** Maintenance Services: (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.8** Nuance Equipment: means Nuance Equipment and Third-Party Equipment, collectively, as specified in an Order.
- A.9** Nuance Products: Nuance Software and Nuance Equipment, collectively.
- A.10** Nuance Software: 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 the County under this Contract, and all related Documentation. For the avoidance doubt, Nuance Software includes only Nuance software to support the County's connectivity to or usage of the Hosted Services (e.g. API's) and expressly excludes all other Nuance on-premise software.
- A.11** Order: An order for Software licenses, Equipment and/or Services that is (a) issued by County in the form of a County purchase order signed by the County (physically or electronically) which references the applicable Nuance quote, and (b) accepted by Nuance. An Order includes any applicable Statement of Work.
- A.12** "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 are more fully described in a Statement of Work.
- A.13** Services: Maintenance Services, Training Services, Professional Services Hosted Services and Hosted Services Support, as applicable.
- A.14** "SOW" or "Statement of Work": a statement of work or work order issued by Nuance attached to an Order that identifies the Professional Services to be provided by Contractor, including a detailed task list or specifications, the estimated period of performance, the fixed price or hourly rate to be charged for the Professional Services, together with any milestones, acceptance criteria and other information regarding the scope of work, as mutually agreed by the Parties.
- A.15** Training Services: Any training services provided by Nuance pursuant to an Order, as specified in an Order.

- A.16** Update: A release of Nuance Software, issued as part of Maintenance Services, that may include minor feature enhancements, and/or bug 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: 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 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. CONTRACTOR RESPONSIBILITIES**

- B.1** Comply with the Health Insurance Portability and Accountability Act (HIPAA), applicable State and Federal laws/regulations, and any legally required accreditation requirements
- B.2** Agree to comply with County policies, procedures, and requirements as set forth or referenced herein.
- B.3** Contractor agrees to comply with applicable local, State, and Federal requirements.
- B.4** Contractor will supply education materials for Physicians/Medical service providers if set forth in an Order or Statement of Work.
- B.5** Clearly delineate and itemize all costs of implementation, management, training, and support of the clinical/medical dictation systems in the applicable Product Schedule or Statement of Work.
- B.6** Provide and ensure confidentiality and security of information as set forth herein.
- B.7** Provide software, hosted services and other services in accordance with the terms as set forth in Exhibit 1, as attached hereto and incorporated herein.

**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**  
The parties agree that 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**  
Without the prior written consent of the non-assigning party, the Contract is not assignable by either in whole or in part.
- 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's fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney's fees directly arising from a third-party legal action against a party hereto and payable under Section G, Indemnification and Insurance Requirements.

**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; (d) 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 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 within ten (10) business days of 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**

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, regulations have been promulgated governing the privacy of individually identifiable health information. The HIPAA Privacy Rule and Security Rule specify requirements with respect to contracts between a Covered Entity and its Business Associates. Each Party shall comply with the attached Business Associate Agreement (Attachment A). Each party further agrees to comply with the requirements of other federal and state law that applies to the information collected and maintained by such Party related to the Services performed pursuant to Contract.

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 Contractors 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. 5164.514 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 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 ARMC Chief Executive Officer of 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 the County provides Contractor with receipts evidencing such repairs, by cash payment upon demand.

**C.14 Debarment and Suspension**

Contractor certifies that neither it nor its principals or subcontractors is presently debarred, 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 Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

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. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. 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), Contractor must be able to annually report the County's environmentally preferable purchases. 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 the laws of Federal, State, County, and municipal 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 immediately 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 a 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**

"Confidential Information" means all confidential or proprietary information, regardless of form, of a Party ("Disclosing Party") disclosed or made available to the other Party ("Receiving Party") including but not limited to information about its business affairs, data, financial information, marketing and business requirements, goods and services, technology, software, implementation plans, services, materials comprising or relating to intellectual property rights, including without limitation, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether disclosed orally or in writing, that is designated as confidential and falls within a recognized exemption 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 7920.005) ("Regulations"). Contractor Confidential Information. Notwithstanding the foregoing, Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party. The Receiving Party will use the Disclosing Party's Confidential Information solely for purposes of performing its obligations under this Contract.

The Receiving Party 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. Reasonable care shall mean using the same degree of care as the Receiving Party uses to protect its own confidential information of a like nature, but no less than a reasonable degree of care. If the Receiving Party receives a subpoena, other validly issued administrative or judicial process, or public records request requesting Confidential Information of the Disclosing Party, it will, to the extent legally permissible, promptly notify the Disclosing Party and if requested by the Disclosing Party, tender to the Disclosing 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.

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 three (3) business days, give notice thereof, including all relevant information with respect thereto, to the other party.

#### **C.28 Ownership of Documents**

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.

## **C.29 Participation Clause**

The County desires that Municipalities, School Districts, and other Tax Districts within the San Bernardino County requiring the same services provided herein may at their option and through the County Purchasing agent, avail themselves of this Contract. Upon notice, in writing, the Contractor agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this Contract, with the provisions that:

- C.29.1** Such governmental body does not have and will not have in force any other contract for like purchases.
- C.29.2** Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Contractor. The County will not be liable for any such purchase made between the Contractor and another governmental body who avails themselves of this contract.

## **C.30 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.31 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.32 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.33 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 without prior written approval of the other Party, except as required by law.

**C.34 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 San Bernardino County.

**C.35 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.36 Subcontracting**

Contractor shall obtain County's written consent, which County may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may 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.36.1** Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- C.36.2** Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.
- C.36.3** Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities and C. General Contract Requirements.

Upon expiration or termination of this Contract for any reason, County will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County.

**C.37 Subpoena**

In the event that a subpoena or other legal process commenced by a third party related to this Contract is served upon Contractor or the County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process, unless prohibited by law. 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 for California Public Records Act requests or as otherwise provided herein in connection with defense obligations by Contractor for County.

**C.38 Termination by the County for Non-Appropriation of Funds**

The County reserves the right to terminate the Contract in the event funds are not appropriated for fees due to Contractor hereunder with a thirty (30) 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 reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

**C.39 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.40 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, San Bernardino County, 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 best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

**C.41 Conflict of Interest**

Contractor shall make 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.42 Former County Administrative Officials**

Contractor has already provided information on former San Bernardino County 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.43 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. The 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 partners, principals, members, associates or key employees (as that term is defined herein), within the last seven (7) 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 partners, principals, members, associates or key employees, has within the last seven (7) 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 partners, principals, members, associates or key employees, within the last seven (7) 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.44 RESERVED**

**C.45 RESERVED**

**C.46 Iran Contracting Act**

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

**C.47 RESERVED**

**C.48 California Consumer Privacy Act**

To the extent applicable, if Contractor is a business that collects the personal information of a consumer(s) in performing Services pursuant to this Contract, Contractor must comply with the provisions of the California Consumer Privacy Act (CCPA). (Cal. Civil Code §§1798.100, et seq.). For purposes of this provision, "business," "consumer," and "personal information" shall have the same meanings as set forth at Civil Code section 1798.140. Contractor must contact the County immediately upon receipt of any request by a consumer submitted pursuant to the CCPA that requires any action on the part of the County, including but not limited to, providing a list of disclosures or deleting personal information. Contractor must not sell, market or otherwise disclose personal information of a consumer provided by the County unless specifically authorized pursuant to terms of this Contract. Contractor must immediately provide to the County any notice provided by a consumer to Contractor pursuant to Civil Code section 1798.150(b) alleging a violation of the CCPA, that involves personal information received or maintained pursuant to this Contract. Contractor must immediately notify the County if it receives a notice of violation from the California Attorney General pursuant to Civil Code section 1798.155(b).

**C.49 Executive Order N-6-22 Russia Sanctions**

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>), as well as any sanctions imposed under state law (<https://www.dgs.ca.gov/OLS/Ukraine-Russia>). The EO directs state agencies and their contractors (including by agreement or receipt of a grant) to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of

Economic Sanctions. Accordingly, should it be determined that Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. Contractor shall be provided advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the County.

**C.50 RESERVED**

**C.51 RESERVED**

**D. TERM OF CONTRACT**

This Contract is effective as of July 1, 2025 and expires sixty (60) months thereafter, but may be terminated earlier in accordance with provisions of this Contract. The parties may extend the term of this Contract by a mutually executed amendment. Unless as otherwise expressly provided herein, each Party's rights and obligations of the Parties with respect to the Nuance Software and/or Services delivered pursuant to an Order shall be limited to the duration or term of such Nuance Software license or Service as specified in the applicable Schedule or Order, and no Order shall have an Order term length that exceeds the length of this Contract.

**E. COUNTY RESPONSIBILITIES**

- E.1** County shall provide all information and data reasonably requested by Contractor to provide the services.
- E.2** 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.3** County acknowledges its responsibility to regularly back-up data 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** The maximum amount of payment under this Contract shall not exceed \$4,200,000, of which some may be federally funded, and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.
- F.2** Contractor shall provide County itemized monthly invoices, in arrears, and in a format acceptable to the County for Services performed under this Contract within twenty (20) days of the end of the previous month. The County shall make payment to Contractor within sixty (60) days after receipt of invoices or the resolution of any billing dispute.
- F.3** Contractor will be paid by County for the Nuance Software and Services in accordance with rates listed in the applicable Order. All fees due under this Contract are non-cancelable, except as otherwise provided herein, including termination for non-appropriation as set forth in Section C.38. 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.4 below.

- F.4** 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.5** 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.6** Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.

**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 RESERVED**

**G.3 RESERVED**

**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 to the County Department administering the Contract evidence of the insurance coverage at the time the Contract is executed.

**G.7 RESERVED**

**G.8 RESERVED**

**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. Notwithstanding anything to the contrary contained herein, Contractor may, at its option, meet the insurance requirement outlined above via commercial insurance, self-insurance, alternative risk financing techniques, or a combination of these options. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

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) aggregate limits

or

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

**G.11.6** **Cyber Liability Insurance** - Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

## **H. RIGHT TO AUDIT**

**H.1** Contractor acknowledges that the County may receive funding from the State of California and/or the Federal Government for the amounts due Contractor hereunder, and correspondingly the State and/or Federal Government may have certain audit rights mandated by State or Federal law. Contractor shall give reasonable cooperation, in any auditing conducted by such parties pursuant by the State and/or Federal Government pursuant to such laws. Contractor shall reasonably cooperate with the County in the implementation and evaluation of this Contract and comply with any and all reporting requirements established by the County. Not more than once a year, the County shall have the right to review and remotely audit all records, books, papers and documents of Contractor directly related to the delivery of services provided under this Contract. Contractor shall provide such records and other documents requested pursuant to the foregoing sentence.

**H.2** All records pertaining to Contractor’s performance of services shall be available for examination and remote audit by County representatives for a period of three years after final payment under this Contract or until all pending County, State and Federal audits are completed, whichever is later. All such records shall be deemed Contractor Confidential Information.

## **I. CORRECTION OF PERFORMANCE DEFICIENCIES**

**I.1** In the event of a non-cured material 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:

**I.1.1** Afford Contractor thereafter a time period within which to cure the breach, which period shall be ten (10) calendar days or such longer cure period established at the sole discretion of County; and/or

**I.1.2** 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

- I.1.3** Terminate this Contract immediately if the breach is incapable of cure. In the **event** of such termination, payment will be made to the Contractor for services rendered and expenses incurred through the effective date of termination.
- I.1.4** 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.1.5** 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.1.6** 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 deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County  
ARMC  
400 N. Pepper Ave.  
Colton, CA 92324  
Attention: ARMC Chief Execution Officer

Nuance Communications, Inc.  
15 Wayside Road  
Burlington, MA 01803  
Attn: Legal Department

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 either party's liability for: (i) fraud or fraudulent misrepresentation; (ii) for intentional or criminal misconduct; (iii) with respect to Contractor, for death, personal injury or tangible property damage caused by Contractor's negligence in providing services at County locations; (v) misappropriation by the County of Contractor's intellectual property; or (v) 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 either party'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 A);
- c) Amendments to the Contract;
- d) The terms and conditions in the body of this Contract;
- e) Change Orders;
- f) The terms of the Attachments (except Attachment A), 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 A), exhibits, and/or other documents;
- g) 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.

**M. 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.

**N. ENTIRE AGREEMENT**

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. 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.

**O. ELECTRONIC SIGNATURES**

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained

therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.



## EXHIBIT 1

### A. SOFTWARE, HOSTED SERVICES AND OTHER SERVICES TO BE PROVIDED BY CONTRACTOR TO THE County

A.1 See the applicable Order by the County for the 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 the Order and this Contract. Attachment A is made a part of this Contract.

#### A.2 Grant of Rights

A.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 this Exhibit, provided such use is: (i) commensurate with the intended use of the Nuance Software and Hosted Services (as prescribed in this Contract and the applicable Documentation), and (ii) solely for County's internal business purposes.

A.2.2 Third Party Software. Any third party software embedded in the Nuance Software is subject to the terms and conditions of this Contract and the applicable third-party terms, as provided to the County upon request.

A.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.

#### A.3 Services

A.3.1 Maintenance Services Terms. Unless otherwise agreed, Nuance shall not be obligated to provide Maintenance Services (defined on Exhibit 1) 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.

A.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. All such details will be set forth in the applicable Order. 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.

A.3.3 Professional Services. Unless otherwise agreed by the Parties, all Professional Services (including associated travel, if any) 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.

A.3.4 Hosted Services. Hosted Services will be as further described in, and will be provided by Nuance in accordance with, the applicable Schedule.

A.3.6 On-Location. If Nuance will perform Professional Services or Training 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 Professional Services or Training Services, as reasonably specified by Nuance.

#### A.4 Limited Warranties

A.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 and terminate the license to any such non-conforming Nuance Software.

**A.4.2 Training and Professional 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 reperform such non-conforming Services that County notified Nuance of in accordance herewith.

**A.4.3 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 Software 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 Software in such Nuance Software's Documentation, (v) is used with software not specified as compatible with said Nuance Software in the Nuance Software's Documentation, or (vi) County fails to properly install or maintain; (b) any computer malfunction not attributable to the Nuance Software; (c) any incorrect use of the Nuance Software, or (d) any willful misconduct or negligent action or omission of County.

**A.4.4 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.

**A.4.5 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.**

## ATTACHMENT A

### BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (BAA) 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 BAA is attached.

#### RECITALS

**WHEREAS**, San Bernadino County ("Covered Entity" or "CE") wishes to disclose certain information to Contractor ("Business Associate" or "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 BAA 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 BAA; 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 HIPPA;

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

#### A. Definitions

Unless otherwise specified herein, capitalized terms used in this BAA 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 BAA 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)(ii)(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 BAA, 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 BAA 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 BAA.

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 HIPAA.

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 BAA 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.  
15 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 BAA if such Party determines that the other Party has breached a material term of this BAA. 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 BAA 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 BAA, to any PHI retained by BA or its subcontractors, employees or agents after the termination of this BAA, 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 BAA, 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 BAA (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 BAA.

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 BAA, 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 Two Million Sixty Thousand Dollars (US\$2,060,000.00).

17. Intentionally omitted

18. Intentionally Omitted

19. Assistance in Litigation or Administrative Proceedings

BA shall make itself, and any subcontractors, employees, or agents assisting BA in the performance of its obligations under the Agreement, reasonably available to CE to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers, or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is a named adverse party.

**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 BAA 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 BAA 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 BAA may be required to ensure compliance with such developments. The parties shall negotiate in good faith to amend this BAA when and as necessary to comply with applicable laws. If either party does not agree to so amend this BAA within 30 days after receiving a request for amendment from the other, either party may terminate the BAA upon written notice.

6. Interpretation

Any ambiguity in this BAA 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 BAA 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.

9. Intentionally omitted

10. Intentionally omitted

## **ATTACHMENT B**

### **Security Addendum for Hosted Services**

This Security Addendum for Hosted Services (this "Addendum") is entered into by and between San Bernardino County (County) and Nuance Communications, Inc. (hereinafter, "Service Provider") pursuant to the Contract to which this Attachment B is attached. 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**

**A.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.

**A.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:

**B.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 Service Provider's use and disclosure of County Data under the Contract or the Business Associate Agreement between the parties.

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

**B.3 "CONUS"**: Continental United States

**B.4 "County Data"**: Any information, formulae, algorithms, or other content that County, County 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").

**B.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.

**B.6 "Hosted Service"**: the Dragon Medical One, Dragon Medical Advisor, PowerMic Mobile, Powerscribe One and eScription One hosted services provided by Service Provider to County pursuant to the terms of the Contract.

**B.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.

**B.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 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 setvers 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 Providers obligations under this Attachment B, 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 B, 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.4d 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 centers 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 S8.3

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 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 eSubscription 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 B 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 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 CISC 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 Providers 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 Providers 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 nonconfidential documents to support 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.



This Addendum ("**Addendum**") is governed by and issued in accordance with Contract between Nuance Communications, Inc. and San Bernardino County ("**County**") effective as of July 1, 2025 (the "**Agreement**"). Except as modified by this Addendum, the Agreement shall remain in full force and effect and shall be enforceable in accordance with its terms. In the event that the terms of this Addendum conflict with the terms of the Agreement, the terms of this Addendum shall govern. All capitalized terms not otherwise defined in this Addendum shall have the meanings ascribed to them by the Agreement. Nuance and County are sometimes referred to individually as a "Party" and collectively as the "Parties."

**WHEREAS**, Nuance and County entered into the Agreement specified above; and

**WHEREAS**, Nuance and County wish to supplement the Agreement with certain terms and a schedule; and

**WHEREAS**, Nuance and County wish to enter into one or more Orders pursuant to the Agreement.

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

1. The ***Schedule for Dragon Ambient experience ("DAX") Copilot*** ("**DAX Copilot Schedule**" or "**Schedule**") is attached to this Addendum as Product Schedule #1 and is hereby incorporated into the Agreement as of the Addendum Effective Date.
2. The ***Service Level Agreement (SLA) for DAX Copilot*** is attached to this Addendum as Attachment C and is hereby incorporated into the Agreement as of the Addendum Effective Date.
3. The ***Schedule for Choice for Clinical Documentation – Encounter Based Model*** is attached to this Addendum as Product Schedule #2 and is hereby incorporated into the Agreement as of the Addendum Effective Date.
4. The terms for ***Data Use*** is attached to this Addendum as Exhibit A to Product Schedule #2 and is hereby incorporated into the Agreement as of the Addendum Effective Date.
5. The term for ***Cooperation*** is attached to this Addendum as Exhibit B to Product Schedule #2 and is hereby incorporated into the Agreement as of the Addendum Effective Date.
6. The ***Service Level Agreement (SLA) for Dragon Medical One*** is attached to this Addendum as Exhibit C and is hereby incorporated into the Agreement as of the Addendum Effective Date.
7. The ***Schedule for PowerScribe One and Add-on Product License*** is attached to this Addendum as Product Schedule #3 and is hereby incorporated into the Agreement as of the Addendum Effective Date.
8. The ***Service Level Agreement (SLA) for PowerScribe One and mPower Hosted*** is attached to this Addendum as Exhibit D to Product Schedule #3 and is hereby incorporated into the Agreement as of the Addendum Effective Date.
9. As of the Addendum Effective Date, Nuance and County agree to enter into the following Orders that are attached hereto as Attachments under which County will purchase Nuance's products and services pursuant to the Agreement.

Attachment D – Hosted Services – DAX Copilot Order #1

Attachment E – Hosted Services – DAX Copilot Order #2

Attachment F – Professional Services

Attachment G – Statement of Work

Attachment D – Hosted Services – Dragon Order #1

Attachment I – Hosted Services – PowerScribe One Order #1

**Product Schedule #1  
DAX Copilot**

**Schedule for Dragon Ambient eXperience Copilot (“DAX Copilot”)**

This Schedule for Dragon Ambient eXperience Copilot (“DAX Copilot”) (hereinafter, the “DAX Copilot Schedule” or “Schedule”) is entered into in connection with one or more Orders which are separately signed, and which are hereby incorporated into and made part of this Schedule by reference. This Schedule forms part of the Healthcare Master Agreement between Nuance and County (the “Agreement”) and becomes binding when County executes an applicable Order. In the event of a conflict between this Schedule and the terms of the Agreement, the terms of this Schedule will prevail. County may also be referred to as “Customer” in applicable Orders. All capitalized terms not otherwise defined in this Schedule shall have the meanings ascribed to them by the Agreement.

**1. DEFINITIONS.** For purposes of this Schedule, the following terms shall have the meanings set forth below:

- 1.1. **“Authorized User”** means a Clinician working on behalf of County as an employee, independent contractor or medical staff member. “Clinician” means a person qualified in the clinical practice of healthcare who is eligible for a National Provider Identifier (NPI), which enables eligibility to bill to Medicare/Medicaid. This definition applies regardless of whether the licensing model is user based (Authorized User Subscriptions) or site-based (a Site License).
- 1.2. **“Authorized User Subscription”** means the license and subscription to DAX Copilot granted to an Authorized User under this Schedule as provided in Section 2.2.3.1.
- 1.3. **“BAA”** shall mean the business associate agreement between the Parties as required under HIPAA.
- 1.4. **“County EHR” or “EHR”** means County’s electronic health records or electronic medical records system (as applicable).
- 1.5. **“DAX Copilot Applications”** has the meaning set forth in Section 2.1.2 (“Subscriptions to DAX Copilot”).
- 1.6. **“Dragon Ambient eXperience Copilot” or “DAX Copilot”** means all software, hardware, technology and services provided by Nuance to County to enable Encounter Data to be collected and transcribed into a form suitable for inclusion in supported electronic health records systems. Further, DAX Copilot may include: (a) provision of, access to, and use of DAX Copilot Applications; (b) transcription or transformation of raw Encounter Data into Encounter Documentation; (c) transmission of Encounter Documentation to County; and (d) activities to analyze, test, develop, maintain, refine, train, tune, improve, enhance, optimize, automate, and expand the insights, processes, methods, and tools relating to, DAX Copilot, including such activities relating to the speech recognition, natural language understanding and other components of the DAX Copilot Applications and other software and services used in providing DAX Copilot. DAX Copilot also includes any other related capabilities which may be added to this Schedule by written amendment, either individually or in combination. This includes DAX Copilot for Epic, if specified on an applicable Order.
- 1.7. **“De-Identified Data”** means PHI (including PHI within Encounter Data) that has been de-identified pursuant to this Schedule in accordance with HIPAA requirements for de-identification. De-Identified Data shall be considered as excluded from the definition of Confidential Information under the Agreement.
- 1.8. **“DMO”** means Nuance’s speech machine recognition and transcription product, as further described in Section 2.2.6 (“Dragon Medical One (DMO)”).
- 1.9. **“Documentation”** means the administrative guide and user’s guide or related materials provided by Nuance to County to facilitate the use of the DAX Copilot Applications.
- 1.10. **“Encounter Data”** means, with respect to each health care encounter for which Nuance provides DAX Copilot, the Recordings and, to the extent required by Nuance for provision of DAX Copilot, any medical records, metadata, or other data related to Encounter Data from County’s EHR and/or other information systems that are associated with each patient for whom a Recording is made.
- 1.11. **“Encounter Documentation”** means Encounter Data that has been transcribed or transformed by Nuance into a form suitable for inclusion in a supported electronic health records system. Encounter Documentation is the output of DAX Copilot, which is the draft clinical note that is considered proprietary to Nuance (excluding any PHI contained therein). Once the draft note is edited and/or approved by the Authorized User and uploaded to County’s EHR, the Encounter Documentation shall be owned by County.
- 1.12. **“HIPAA”** means the Health Insurance Portability and Accountability Act of 1996 as amended from time to time, including the federal privacy regulations and security regulations promulgated thereunder and codified at 45 C.F.R. parts 160 and 164, and the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, Pub. Law No. 111-5 and its implementing regulations.
- 1.13. **“Hosted Services”** for purposes of this Schedule means the cloud-based portions of the DAX Copilot Applications.
- 1.14. **“Intellectual Property Rights”** means all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (i) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask work rights; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patent and industrial property rights; (v) other proprietary rights in intellectual property of every kind and nature; and (vi) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses (i) through (v) of this sentence.
- 1.15. **“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) that is wholly

owned or controlled by County, excluding Outpatient Locations. Named Locations are listed on an applicable Order(s) in connection with a Site License. For purposes of this definition, “control” means (i) the power to elect a majority of the directors of a corporation or similar officers of an entity, or (ii) the power by contract to operate or manage the day-to-day operations of a health care facility.

1.16. **“Nuance Products”** means any or all products and services developed or commercialized by Nuance, including DAX Copilot.

1.17. **“Orders”** has the meaning set forth in Section 2.4 (“Order Process”).

1.18. **“Order Effective Date”** means, unless otherwise explicitly defined in the applicable Order, the date the Order is fully executed by both Parties, or is otherwise entered into and becomes binding between the Parties as provided in this Agreement.

1.19. **“Order Term”** means the period of time that County commits to paying for DAX Copilot.

1.20. **“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 wholly owned or controlled by County, and which is associated with a Named Location and may be listed on an Order in connection with a Site License. For purposes of this definition, “control” means (i) the power to elect a majority of the directors of a corporation or similar officers of an entity, or (ii) the power to operate or manage the day-to-day operations of a healthcare facility.

1.21. **“Participant”** means any patient, Authorized User, associated care team member or other individual person(s) whose personal information is included in any Recording, or who is present during that Recording and provides such information during that Recording.

1.22. **“PHI”** means protected health information, as defined in HIPAA.

1.23. **“Recording”** means any and all audio recorded or created during or otherwise in connection with a health care encounter, which are submitted to DAX Copilot or DAX Copilot Applications.

1.24. **“Representatives”** means employees, contractors, agents and other representatives of County or Nuance, as applicable. As it relates to County, “Representatives” includes Authorized Users employed by, affiliated with or that perform services for County, and all other healthcare providers practicing at the site(s) where an Authorized User provides health care services.

1.25. **“Required Authorization”** means any consent required under Applicable Laws to (a) collect, capture, make and/or store Recordings relating to Participants, (b) use a Recording, an individual’s PHI, or other Personally Identifiable Information for the purposes described in Section 2.5.1 (“Data Collection; Authorizations; Provision and Use of Data”), and (c) to disclose any of the foregoing information for such purposes to Nuance, Nuance Affiliates, and their respective subcontractors and other third party providers. “Personally Identifiable Information” means all data defined as personally identifiable information, personal information, or personal data under Applicable Laws, and this term also includes PHI. “Applicable Laws” are defined as federal, state or local law or regulations pertaining to privacy or security of patient or other personal or medical information of individuals, including but not limited to HIPAA or laws pertaining to wiretaps or consents to make recordings.

1.26. **“Site License”** means the license and subscription to DAX Copilot granted to Authorized Users at Named Locations and/or Outpatient Locations under this Schedule as provided in Section 2.2.3.2.

## **2. DRAGON AMBIENT EXPERIENCE COPILOT (“DAX COPILOT”).**

### **2.1. Delivery of DAX Copilot.**

2.1.1. **Overview.** Nuance provides an offering called Dragon Ambient eXperience Copilot or “DAX Copilot,” that includes technology and services that enable audio and other data from healthcare encounters to be collected and automatically transcribed into a standardized note format that can be included in electronic health records systems as clinical documentation. Via DAX Copilot, Nuance shall provide the Encounter Documentation for County’s Authorized User(s) to review and edit within Dragon Medical One and then transfer to and sign within, the EHR. For the avoidance of doubt, the preceding sentence does not apply for DAX Copilot for Epic.

2.1.2. **Subscriptions to DAX Copilot.** Nuance will provide subscriptions to, and use of, certain Hosted Services, as well as a software application for the County-supplied devices (an “app”), sufficient to deliver DAX Copilot, which enables collection of Encounter Data, secure transmission of such Encounter Data, automated transformation of Encounter Data into clinical Encounter Documentation, and transmission of the clinical Encounter Documentation to County (collectively, the “DAX Copilot Applications”). The DAX Copilot Applications are licensed pursuant to Section 2.2.3 below. For clarity, (i) the County EHR system is not part of Nuance’s DAX Copilot offering and is the responsibility of County to maintain and manage, (ii) delivery of Recordings is not in the scope of services for DAX Copilot (the only DAX Copilot deliverable is the Encounter Documentation), and (iii) Nuance is not responsible for failure of telecommunications or Internet connectivity used for providing DAX Copilot. As detailed in an applicable Order, subscriptions may be on a site-licensing basis for Authorized Users at the Named Locations and/or Outpatient locations under Section 2.2.3.1 or may be user-based under Section 2.2.3.2.

### **2.2. Implementation and Licensing.**

2.2.1 **Implementation.** Nuance will make DAX Copilot available for use for the specified number of Authorized User Subscriptions (or Authorized Users at the Named Locations and/or Outpatient Locations in the case of a Site License) following execution of the applicable Order for DAX Copilot. County will provide, or enable, supported mobile devices, based on specifications provided by Nuance, to be utilized by each enrolled Authorized User to run the Nuance-provided software app needed to access and utilize DAX Copilot. County is responsible for the provision of Wi-Fi and/or Internet access with required bandwidth for DAX Copilot, and the installation of the Nuance-provided app on the mobile devices.

**2.2.2 Training and Support; Updates.** Nuance will provide training and support for County in its initial installation and implementation of the Nuance-provided app on each Authorized User mobile device. Nuance reserves the right to make available updates to the Nuance-provided app by notice to County, and County agrees to promptly install or implement any such updates, and in any case within sixty (60) days of receipt of (or Nuance providing access to) such update.

**2.2.3 DAX Copilot Application Terms (License Grant).**

**2.2.3.1 Authorized User Subscriptions (User-Based Licensing).** **This section applies to the extent the applicable Order specifies user-based licensing (Authorized User Subscriptions).** Nuance hereby grants to County a nonexclusive, nontransferable, non-sublicensable, limited right and license to access and use, and to permit the subscribed Authorized Users to access and use, the DAX Copilot Applications made available to County by Nuance; in each case solely during the applicable Order Term and solely for purposes of: (a) collecting and transmitting Encounter Data to Nuance; and (b) otherwise for purposes of facilitating receipt and use of DAX Copilot by County. Such license is called a "Authorized User Subscription" as further described in Section 3 below.

**2.2.3.2 Site License.** **This section applies to the extent the applicable Order specifies a Site License.** Nuance hereby grants to County a nonexclusive, nontransferable, non-sublicensable, limited right and license for its Authorized Users to access and use, the DAX Copilot Applications made available to County by Nuance; in each case solely during the applicable Order Term, and solely for the internal business purposes of such Named Locations and/or Outpatient Locations, and solely for purposes of: (a) collecting and transmitting Encounter Data to Nuance; and (b) otherwise for purposes of facilitating receipt and use of DAX Copilot by County. Such license is called a "Site License" as further described in Section 3 below.

**2.2.3.3 Restrictions.** County shall not allow any Authorized User to use DAX Copilot (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 DAX Copilot, or any components thereof and shall not allow anyone to interfere with or disrupt the integrity or performance of the Hosted Services. County is responsible for each Authorized User's compliance with the terms of the Agreement, including this Schedule, and guarantees each Authorized User's compliance with such terms. 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 the Agreement or this Schedule. 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 Schedule.

**2.2.4 Authorized User Roles and Responsibilities.** Authorized Users must review for accuracy and completeness the draft Encounter Documentation and finalize the Encounter Documentation in their own name (legally sign a document and take clinical responsibility for same). To avoid any doubt, the provisions of the Agreement relating to medical care responsibility (for example, County's Authorized Users' obligation to review the Encounter Documentation provided by the Hosted Services) apply to this Schedule. If such provisions cover speech recognition, for purposes of this Schedule, they shall also cover use of the DAX Copilot results which include transformation of text (transcribed voice data) into Encounter Data. The Authorized User is the physician or other provider of record to the patient, for purposes of signing the EHR medical record. County is responsible for the adherence of its Authorized Users to the foregoing and to the other provisions of this Schedule which are applicable to such Authorized Users.

**2.2.5 Acceptable Use Policy and Other Terms Relating to Use of DAX Copilot and Other AI-enabled Hosted Services.** The Parties agree to further terms and conditions relating to use of DAX Copilot in connection with AI-enabled components of DAX Copilot, at the following link, which may be updated from time-to-time and is hereby incorporated by reference:

[https://www.nuance.com/content/dam/nuance/en\\_us/terms-and-conditions/healthcare/DAX\\_Copilot\\_AITerms.pdf](https://www.nuance.com/content/dam/nuance/en_us/terms-and-conditions/healthcare/DAX_Copilot_AITerms.pdf).

When County renews a subscription or purchases a new subscription under this Schedule, the then-current terms will apply and will not change during Customer's Order Term. When Nuance introduces features, supplements or related software (such as a new app) that are new (i.e., that were not previously included with the Order), Nuance may provide terms or make updates to the online terms above that apply as of County's first use of such new features, supplements or related software. Notwithstanding the foregoing, changes to such terms which are required by applicable law to be effective during the then current Order Term, will become effective upon posting or otherwise as required by such applicable law.

**2.2.6 Dragon Medical One (DMO).** Separately purchased license(s) for Dragon Medical One (DMO) that cover the Authorized User(s) are required and must be licensed separately by County from Nuance, in order for such Authorized User(s) to be licensed for and use of DAX Copilot under this Schedule. Such separate licenses to access and use DMO are subject to the terms of the Agreement and applicable Schedule between the Parties that covers DMO (for example, without limitation, a Schedule for Choice Encounters). This section does not apply for DAX Copilot for Epic.

**2.2.7 Enhancements and Upgrades.** From time to time, Nuance may make enhancements or upgrades to the Hosted Services in the form of new features or functionality that are specified in the Documentation. Nuance reserves the right to designate and market such enhancements or upgrade as being independent from the previously purchased Hosted Services, pursuant to the terms of a new applicable Order.

**2.2.8 Disclaimer.** DAX Copilot is not intended, designed, or made available to: (a) diagnose, monitor, or treat individual patients or be a medical device, (b) support decision making by producing predictions, classifications, recommendations, evaluations, or analysis, or (c) provide or be a substitute for professional medical advice, diagnosis, treatment, or judgment and should not be used to replace or as a substitute for professional medical advice, diagnosis, treatment, or judgment.

Output from DAX Copilot is generated using artificial intelligence-based tools and technologies and should be reviewed to ensure accuracy and completeness.

**2.3. DAX Copilot Applications Support.** During the term of the applicable Order, Nuance will provide County with maintenance and support services for the Hosted Services as described in this Section 2.3, provided however, that for DAX Copilot for Epic, County initially will submit each reported error request to Epic and Epic will advise as to whether it will support such request or direct County to seek support from Nuance.

**2.3.1. Error Correction.** Nuance shall make commercially reasonable efforts to promptly repair any errors which are reported per Nuance's standard issue reporting processes. County shall cooperate with Nuance upon request to assist Nuance in reproducing errors as part of troubleshooting processes. An error is defined as any operation of the Hosted Services that is different than described in the Documentation. An error also includes a "bug" or "crash" in which the Hosted Services or portions thereof cease to function.

**2.3.2. 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 to the administrative contact, the technical contact, and the executive contact or their designee.

**2.3.3. 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 prevents Authorized Users from accessing or using the DAX Copilot Applications.

**2.3.4. Third-Party-Supplied Software Interoperability.** Software residing on County's workstations is not covered by this Schedule. Upgrades and new releases of all such third-party software are not provided or maintained by Nuance and must be obtained separately by County.

**2.4. Order Process.** County shall subscribe its Authorized Users to DAX Copilot, by entering into an Order with Nuance.

**2.5. County Responsibilities and Grant of Permissions.**

**2.5.1. Data Collection; Authorizations; Provision and Use of Data.**

**2.5.1.1 Required Authorizations.** County will deliver Encounter Data to Nuance through a DAX Copilot Application provided by Nuance or through another secure means mutually agreed between the Parties. County is solely responsible for obtaining and renewing if and as required, the relevant Required Authorizations prior to submitting Encounter Data to DAX Copilot. County will secure and maintain, and, upon written request, provide to Nuance evidence of any Required Authorization, which may include copies of any requested signed authorization-to-record form or other document for each Participant whose voice is present on a Recording.

**2.5.1.2 Use of Data.** During the Term of the Agreement, County grants Nuance the right to access and use, and to permit its Affiliates and its and their Representatives the right to access and use the Encounter Data and Encounter Documentation only for the purposes of or in connection with: (i) performing DAX Copilot; (ii) using the Encounter Data, Encounter Documentation for the purpose of analyzing, testing, developing, maintaining, refining, training, tuning, improving, enhancing, optimizing, automating, and expanding the insights, processes, methods, and tools relating to, DAX Copilot and successor versions. County acknowledges and agrees that 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 Nuance-maintained data shall not be deemed a medical record, health record or designated record set as defined under HIPAA, for any patient. For clarity, nothing in this Schedule shall be interpreted to mean that Nuance owns any PHI provided by County hereunder.

**2.5.1.3. Use of De-Identified Data.** During the Term of the Agreement, County grants Nuance, its Affiliates, and Representatives, the right to generate De-identified Data in accordance with HIPAA, and to access and use such De-Identified Data for the purpose of analyzing, testing, developing, maintaining, refining, training, tuning, improving, enhancing, optimizing, automating, and expanding the insights, processes, methods, and tools relating to, DAX Copilot and successor versions.

**3. FEES.**

**3.1. Authorized User Subscriptions.** For Authorized User Subscriptions, County will be provided an Authorized User Subscription for each Authorized User to complete patient encounter documentation. For each Authorized User, County will be charged fees to cover the use of DAX Copilot for the Order Term, with specific pricing and terms as set forth on the applicable Order. Each Authorized User is licensed for the duration of the Order Term as provided in Section 4 below.

**3.2. Site Licenses.** For Site Licenses, County will be provided subscriptions to DAX Copilot for its Authorized Users at the Named Locations and/or Outpatient Locations specified on the Order for each Authorized User to complete patient encounter documentation. County will be charged fees to cover the use of the Site license for DAX Copilot for the Order Term, with specific pricing and terms as set forth on the applicable Order. Each Authorized User at the Named Locations and/or Outpatient Locations is licensed for the duration of the Order Term as provided in Section 4 below.

**4. ORDER TERM.** An Order shall be effective for the Order Term and shall expire at the end of such Order Term, unless the Order is otherwise terminated in accordance with the Agreement. Each Order shall renew only by the mutual written agreement of the Parties.

**5. OTHER TERMS.**

5.1. **Intellectual Property.** Nuance retains all rights, title and interest, including all Intellectual Property Rights, in and to DAX Copilot and other Nuance Products, including but not limited to the DAX Copilot Applications and any statistics, process output, data, or metadata, which are created by Nuance, including all ambient transcriptions and draft medical notes but excluding any PHI contained therein. Nuance shall exclusively own all modifications and improvements to its technology including but not limited to DAX Copilot. County retains all rights, title and interest, including all pre-existing data, including data (if any) pulled from the County EHR and County's patients' medical records, and the Encounter Documentation once it is edited and/or approved by the Authorized User and uploaded to County's EHR. The Parties agree that information related to the functionality of DAX Copilot is Confidential Information protected under the terms of the Agreement. This Section 5.1 shall survive termination of the Agreement.

5.2. **Affiliates; Subcontractors.** Nuance shall have the right to perform its obligations and exercise its rights under this Schedule directly or through its Affiliates or subcontractors, provided that Nuance shall be fully responsible for any and all obligations performed or to be performed by any such Affiliate or subcontractor to the same extent as if such obligations were performed or to be performed directly by Nuance.

5.3. **Location of Services.** County data will be stored in data centers located in the United States of America ("U.S."). Notwithstanding the foregoing, County acknowledges that Nuance has operations as well as support and product improvement teams located outside of the U.S. (collectively, the "Offshore Locations") and that such resources may require access to and use of the County data for purposes of providing, monitoring, support and maintenance, and further development of the products. All access by Nuance that is outside the U.S. shall be performed by Nuance employees, agents and subcontractors. Nuance will ensure that the permitted uses conducted from an Offshore Location by Nuance employees, agents and subcontractors, if any, will only be conducted in accordance with the terms of the Agreement.

5.4. **Information Security Addendum.** The Parties agree to the Information Security Addendum linked at the following url which is hereby incorporated into and made a part of this Schedule [https://www.nuance.com/content/dam/nuance/en\\_us/terms-and-conditions/healthcare/isa.pdf](https://www.nuance.com/content/dam/nuance/en_us/terms-and-conditions/healthcare/isa.pdf)



**ATTACHMENT C to Product Schedule #1**  
**SERVICE LEVEL AGREEMENTS**

**Service Level Agreement (SLA) for DAX Copilot**

This SLA forms part of the Schedule which incorporates this SLA by reference and which in turn forms part of the Agreement.

**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 applicable Schedule or Order.

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

**“Excluded Events”** means the time in minutes that DAX Copilot 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 including without limitation, County’s EHR system, (e) County’s failure to operate/maintain the DAX Copilot in accordance with its current service specifications, Documentation, and intended use, or if County contributed to the performance issue, (f) the performance of regularly-scheduled upgrades to the DAX Copilot application software and the interfaces for DAX Copilot; (g) downtime caused by operation of DAX Copilot in excess of the operating environment specified in the Documentation; (h) factors outside Nuance’s reasonable control (i.e., force majeure events, or network/device failure external to Nuance data center); (i) use of services/hardware/software not provided, specified or recommended by Nuance; (j) County’s failure to follow prior Nuance instructions regarding use of DAX Copilot; (k) use of pre-release, beta or trial versions of the DAX Copilot or feature thereof; (l) 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 (m) suspension of County’s access to DAX Copilot by Nuance in accordance with the Agreement.

**“Hosted Services”** means DAX Copilot.

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

**“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 DAX Copilot.

**“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 the Hosted Services during each Base Time period less Excluded Events (**“Uptime Commitment”**).

Uptime Commitment	SLA Credit
99% to 100%	0%
98% to less than 99%	5%
Less than 98%	10%

**3. SLA CREDITS.**

3.1. **Calculation.** If the Uptime Commitment is not met, Nuance will issue a credit to County’s account in accordance with the table above (**“SLA Credit”**). The SLA Credits shall be calculated based on the applicable monthly Service (Subscription) Fee as applicable, or on the applicable Order.

3.2. **Process and Terms.**

3.2.1. 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. If Nuance issues an SLA Credit, the Credit will appear on the next 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 Nuance-provided app for DAX Copilot 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 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).

**Product Schedule #2**  
**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 San Bernardino County (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.

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

.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.

.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.

.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.

.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.

.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.

.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 eScription (any platform), PowerPack for Dragon Medical One and any of the Embedded Hosted Services.

.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.

.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).

.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 Addendum) excluding Outpatient Locations.

.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.

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

.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.

.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.

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

♦ **GRANT OF RIGHTS.**

.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. **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.

.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.

.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.

.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.

♦ **PRODUCT SPECIFIC TERMS.**

.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).

.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. **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).

.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.

.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)

♦ **NUANCE RESPONSIBILITIES.**

.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.

.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.

**.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.

**.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.

**.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.

**.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).

**.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.

**.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. 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.

**.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.

• **COUNTY RESPONSIBILITIES.**

**.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.

**.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.

**.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.

.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. **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.

.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.

♦ **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.

♦ **FEES.**

.1. **Fees and Payments.**

.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 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.

.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.

.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.

.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.

♦ **ORDER TERM AND TERMINATION.**

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

the Contract.

.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.



**Exhibit A to Product Schedule #2****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.

## **Exhibit B to Product Schedule #2**

### **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.

Exhibit C to Product Schedule #2

Service Level Agreement (SLA) for Dragon Medical One

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

4. 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.

5. UPTIME COMMITMENT

5.1. 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%

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

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

5.1.1.2. 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.

5.2. **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%

**6. SLA CREDITS.**

6.1. **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.

6.2. **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.

6.3. **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.

6.4. **Process and Terms.**

6.4.1. 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.

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 services(s).

Product Schedule #3

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 Affiliate's 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.

## Exhibit D to Product Schedule #3

### Service Level Agreement (SLA) for PowerScribe One and mPower Hosted

This SLA forms part of the Schedule for Nuance Diagnostic Solutions Platform between Nuance and County which incorporates this SLA by reference and which in turn forms part of County's Healthcare Master Agreement (the "Agreement") with Nuance.

#### 7. DEFINITIONS

**"Base Time"** means the total number of minutes in a three-month period beginning on the first day of the first month and ending on the last day of the third month.

**"CLU"** means the Clinical Language Understanding hosted component of PowerScribe One.

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

**"Dragon Medical One SpeechKit"** means a speech related hosted component of PowerScribe One.

**"Excluded Events"** means the time in minutes that PowerScribe 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 the PowerScribe One, including the Client Component, in accordance with its current service specifications, Documentation, and intended use, or if County contributed to the performance issue, (f) the performance of regularly-scheduled Upgrades to the PowerScribe One application software and the interfaces for PowerScribe One if the time for such Upgrades are mutually agreed upon; (g) downtime caused by operation of PowerScribe One in excess of the operating environment specified in the Documentation; (h) factors outside Nuance's reasonable control (i.e., force majeure events, or network/device failure external to Nuance data center); (i) use of services/hardware/software not provided, specified or recommended by Nuance; (j) County's failure to follow prior Nuance instructions regarding use of PowerScribe One; (k) use of pre-release, beta or trial versions of the PowerScribe One or feature thereof; (l) 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 (m) suspension of County's access to PowerScribe One by Nuance in accordance with the Agreement.

**"Hosted Component(s)"** means CLU and/or Dragon Medical One SpeechKit.

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

**"mPower Hosted"** means Nuance's proprietary mPower Clinical Analytics for radiology Hosted Solution.

**"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 PowerScribe One and/or mPower Hosted.

**"SLA Credits"** are defined below in Section 3.

#### 8. UPTIME COMMITMENT

8.1. **General.** Nuance will meet the Uptime Commitment set forth in the table below for mPower Hosted and the Hosted Component(s) of PowerScribe One during each Base Time period less Excluded Events ("**Uptime Commitment**").

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

#### 9. SLA CREDITS.

9.1. **Calculation.** If the Uptime Commitment is not met for mPower Hosted or for the Hosted Component(s) of PowerScribe One, Nuance will issue a credit to County's account in accordance with the table above ("**SLA Credit**"). The SLA Credits shall be calculated based on the PowerScribe One Fee or the mPower Hosted Fee, depending on the affected Hosted Service.

9.2. **Process and Terms.**

9.2.1. 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. If Nuance issues an SLA Credit, the Credit will appear on the next scheduled invoice following the Base Time period for which SLA Credit applies.

9.2.2. To be eligible for SLA Credit, County must be running the current or the most recent prior version of the Client Component for PowerScribe One 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 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 D****DAX Copilot Order #1**

This Order is effective as of the Addendum Effective Date ("Order Effective Date") and is governed by the terms and conditions of the Healthcare Master Agreement, as amended, including the Schedule for Dragon Ambient eXperience Copilot ("DAX Copilot") ("Schedule") (collectively, the "Agreement") by and between Nuance Communications, Inc. ("Nuance") and San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC) ("County" or "Customer"). All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement. No other terms and conditions (e.g. standard terms and conditions of purchase pre-printed on or referenced in a purchase order if County places a purchase order in response to this quote) shall apply.

**Quote Expires:** June 30, 2025

**BILLING & SHIPPING INFORMATION**

County Name: San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC)  
 Contact Name & Title: Andrew Goldfrach, CEO  
 Address: 400 N Pepper Ave  
 City: Colton  
 State: California  
 Zip: 92324  
 Contact email: [goldfracha@armc.sbcounty.gov](mailto:goldfracha@armc.sbcounty.gov)  
 email for Invoices:  
 Nuance Account Executive: Kyle Wolff  
 Nuance Customer Success Executive: William Fuchs

**HOSTED SERVICES AND OTHER FEES**

Pricing Model: (1) Fixed Subscription Fees  
 Invoicing Basis: Monthly, beginning on July 1, 2025  
 Order Term: 60 months, beginning on July 1, 2025

**SUMMARY – PURCHASE ORDER AND INVOICE DESCRIPTION**

150 DAX Copilot for Epic user licenses

**Subscription Fees & Invoicing Schedule**

Summary of fees by time period and Order Term total.

Summary of Fees	Year 1	Year 2	Year 3	Year 4	Year 5	Term Total
Total Fixed Subscription Fees	\$718,200.00	\$739,746.00	\$761,938.38	\$784,796.53	\$808,340.43	\$3,813,021.34

**Monthly Fee Schedule**

Contract Month	Total Monthly Subscription Fee
Months 1-12	\$59,850.00
Months 13-24	\$61,645.50
Months 25-36	\$63,494.87
Months 37-48	\$65,399.71
Months 49-60	\$67,361.70

The Subscription Fee is inclusive of the following Hosted Services.

Part Number	Customer Quote/Invoice Description	QTY	Net Price Per Unit
DAX-EXP-H-TERM	DAX Copilot, Hosted Service, User, Limited Term	150	\$399.00
DAX-EXP-EP-TERM	DAX Copilot for Epic, Hosted Service, Limited Term	1	\$0.00

**OTHER TERMS**

This Order is not subject to auto-renewal. This Order may be renewed by mutual written agreement of the parties.

**Annual Pricing Adjustment.** All recurring fees set forth on this Order are inclusive of a three percent (3%) annual fee increase.

**ATTACHMENT E**

**DAX Copilot Order #2**

This Order is effective as of the Addendum Effective Date ("Order Effective Date") and is governed by the terms and conditions of the Healthcare Master Agreement , as amended, including the Schedule for Dragon Ambient eXperience Copilot ("DAX Copilot") ("Schedule") (collectively, the "Agreement") by and between Nuance Communications, Inc. ("Nuance") and San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC) ("County" or "Customer"). All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement. No other terms and conditions (e.g. standard terms and conditions of purchase pre-printed on or referenced in a purchase order if County places a purchase order in response to this quote) shall apply.

**Quote Expires:** June 30, 2025

**BILLING & SHIPPING INFORMATION**

County Name:	San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC)
Contact Name & Title	Andrew Goldfrach, CEO
Address:	400 N Pepper Ave
City:	Colton
State:	California
Zip:	92324
Contact email:	<a href="mailto:goldfracha@armc.sbcounty.gov">goldfracha@armc.sbcounty.gov</a>
email for Invoices:	
Nuance Account Executive:	Kyle Wolff
Nuance Customer Success Executive:	William Fuchs

**HOSTED SERVICES AND OTHER FEES**

<b>Pricing Model</b>	(2) Fixed Subscription Fees
<b>Invoicing Basis</b>	Subscription Fee: No-Charge, beginning on July 1, 2025
<b>Order Term</b>	18 months, beginning on July 1, 2025

**SUMMARY – PURCHASE ORDER AND INVOICE DESCRIPTION**

150 DAX Copilot for Epic user licenses

**Subscription Fees & Invoicing Schedule**

Summary of fees by time period and Order Term total.

Time Period	Total
Months 1-18	\$0.00

**Subscription Fees**

Part Number	Customer Quote/Invoice Description	QTY	Net Price Per User
DAX-EXP-H-TERM	DAX Copilot, Hosted Service, User, Limited Term	150	\$0.00
DAX-EXP-EP-TERM	DAX Copilot for Epic, Hosted Service, Limited Term	1	\$0.00

OTHER TERMS

- This Order shall not renew.
- At the conclusion of the Order Term, County agrees to enter into an add-on Order for any licensed users that exceed the number of paid DAX Copilot licenses County has purchased to date including Professional Services. Pricing for additional DAX Copilot users is as set forth below:

Part Number	Customer Quote/Invoice Description	Net Price Per Unit
DAX-EXP-H-TERM	DAX Copilot, Hosted Service, User, Limited Term	\$399.00

- At the conclusion of this Order Term, for any DAX Copilot licenses not purchased by County, as outlined above, Nuance shall deactivate all remaining licenses.

Attachment F  
Professional Services

This Order is effective as of the Addendum Effective Date ("Order Effective Date") and is governed by the terms and conditions of the Healthcare Master Agreement, as amended, including the Schedule for Dragon Ambient eXperience Copilot ("DAX Copilot") ("Schedule") (collectively, the "Agreement") by and between Nuance Communications, Inc. ("Nuance") and San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC) ("County" or "Customer"). All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement. No other terms and conditions (e.g. standard terms and conditions of purchase pre-printed on or referenced in a purchase order if County places a purchase order in response to this quote) shall apply.

Quote Expires: June 30, 2025

BILLING & SHIPPING INFORMATION

County Name:	San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC)
Contact Name & Title	Andrew Goldfrach, CEO
Address:	400 N Pepper Ave
City:	Colton
State:	California
Zip:	92324
Contact email:	<a href="mailto:goldfracha@armc.sbcounty.gov">goldfracha@armc.sbcounty.gov</a>
email for Invoices:	
Nuance Account Executive:	Kyle Wolff
Nuance Customer Success Executive:	William Fuchs

SUMMARY – PURCHASE ORDER AND INVOICE DESCRIPTION

Professional Services

PROFESSIONAL SERVICES

Pricing Model	Fixed Fee
Billing Basis	One-Time Professional Services Fees: First installment due on July 1, 2025 and the remainder 60 days following that date

PROFESSIONAL SERVICES & TRAINING SCOPE OF SERVICES

Professional Services and Training Fees (One-Time Fees)	Total (\$)
Professional Services and Training (PROSVC-BNDL)	\$32,400.00
Professional Services and Training Fees - Initial Invoice	\$16,200.00
Professional Services and Training Fees - Final Invoice	\$16,200.00

See Attachment 1 for Professional Services Statement of Work.



**Attachment G – Statement of Work**

# Statement of Work

Nuance Healthcare Professional Services

**San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC)**

## ♦ HEALTHCARE PROFESSIONAL SERVICES

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### Overview

#### ARMC Expected Outcomes / Objectives

- Enable physicians and care teams to return to face-to-face interactions with their patients
- Enable EMR adoption/utilization by providing clinicians solutions organization-wide that fit within their workflow
- Reduced clinician burnout by improving the first-time accuracy of documentation, increasing clinician efficiency, and reducing re-work.
- Achieve complete and accurate documentation to achieve improved clinical quality, improved patient care outcomes and appropriate reimbursement.

#### Scope

- Support of DAX Copilot technology for all Authorized Users
- Customer acknowledges and agrees that implementation activity for all components of the hosted services must be completed within twelve (12) months from the Order Effective Date or additional fees may be incurred.

#### Assumptions

- Total Committed Authorized Users 150
- Total No Charge Authorized Users (Initial no charge Order Term Only): 150

### General Nuance Bundled Professional Services

Nuance Professional Services team leverages digital strategies across the service delivery experience which allows ARMC visibility to status of project, tasks, and access to at scale approaches and support for clinician onboarding. Professional Services as directed in the SOW may be delivered 100% remotely.

Engagement planning activities will produce a tailored strategy and artifact ('engagement plan') that will include the Professional Services Deployment Activities and potentially a combination of Additional Activities based upon consultation with ARMC.

### Professional Services Deployment Activities

- ♦ Project management - Drives timely achievement of project goals and speed to value realization
- ♦ Integration Engineering - Supports seamless integration of technology into the customer environment
- ♦ Engagement planning - Delivers a clinician engagement strategy aligned to the customer's organizational culture and practices with focus on speed to value
- ♦ Multi-channel clinician support including digital self-paced pathways and remote learning mediums
- ♦ User access to ambient AI clinical experts and multi-channel, scalable support
- ♦ Persona-based Educational Programs
  - ♦ Train the Trainer Program: self-paced content, shadowing, teach-back sessions
  - ♦ Practice Manager Program: Education on available resources for clinician support
  - NMC/NCC Administrator Training - Education on system administration and analytics

### Additional Activities

- ♦ Onsite At the Elbow rounding support at targeted locations
- ♦ Co-Staffed Office Hours (Microsoft & Customer)
- ♦ Customer "Influencer" Videos
- ♦ Hosted Live Q&A Sessions
- ♦ Marketing campaign content to drive awareness and engagement

### Ongoing Services (Post Deployment Project)

- ♦ Awareness & Recruitment Townhalls
- ♦ Remote Drop-in Room – available 8am-7pm EST
- ♦ Scheduled 1:1 remote sessions – available 8am-6pm EST
- ♦ Adoption Support through continuous monitoring and analytics insights
- ♦ Digital Assets Hub with updated content

## Curriculum

- ♦ Digital Assets Hub with updated content per current software release
  - ♦ Town hall content, videos, email templates, posters
  - ♦ Content updates to training program materials, e.g., train the trainer, practice manager, NMC Administrator
  - ♦ Access to Nuance Command Center (NCC). The NCC is a portal that can be used to monitor Copilot usage and adoption for all clinician users
  - ♦ Content for NMC administrator self-paced learning

## Account Management:

As part of the Hosted Services, Microsoft Account Management will be engaged with ARMC to support clinical use and adoption as listed below.

- ♦ Dedicated Customer Success Manager (CSM) focused on your success with DAX Copilot and DMO
- ♦ CSM is the single point of contact to drive coordination across a broad team of experts, ensuring seamless support and addressing any issues or questions. They will establish regular touchpoints to monitor adoption and outcomes, guiding a customized success plan for your team.
- ♦ CSM will support usage and outcomes tracking for DAX Copilot users across your enterprise, providing insight and analytics reporting by utilizing a full suite of data analytics

## Customer Provided Services

Services to be provided by ARMC include the standard activities listed below.

Onboarding activities to be provided by ARMC for education includes:

- ♦ Engage Physician Champions and other leadership as requested/needed for project scope
- ♦ Identification of user population
- ♦ Schedule onboarding sessions resources as needed
- ♦ Drive full engagement for all learning pathways
- ♦ Participation in learning sessions as required
- ♦ If the training scope outlined includes train the trainer session(s), ensure all trainers attending the sessions are employees
- ♦ Drive clinician onboarding and adoption

## Technical Activities

Technical Activities to be provided by County for technical project elements are as follows:

- ♦ Timely and complete responses for the Technical Assessment
- ♦ Technical Services resources assigned at time of project initiation including Epic analyst
- ♦ Ownership of the technical tasks
- ♦ Participation in all necessary technical training
- ♦ Minimum required Epic Hyperdrive version installed

## 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:

Name	Phone	Email	Title
Toni McManus	321-412-7349	ToniMcManus@microsoft.com	GM Customer Success, Account Management

## ARMC Executive Sponsors

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

Name	Phone	Email	Title
			Project Manager
			License Key Recipient
			DAX Copilot Executive Sponsor
			DAX Copilot Executive Sponsor

## DAX Copilot

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, DAX Copilot will be enabled for your clinicians.

In addition to the items listed in the General Nuance Provided Services section, services for DAX Copilot include (as appropriate based on current adoption levels) the items below. Learning pathways may be digital, onsite, or remote.

- ♦ Digital pathways for foundational education for DAX Copilot clinicians, including complimentary live Question & Answer Session (on request) for all clinicians
  - ♦ DAX Copilot training and workflow support for up to 30 clinicians
- ♦ Each location where Nuance delivers on-site clinician training, a minimum of eight clinicians should be available for training, unless otherwise agreed to by the parties
- ♦ For locations with less than the minimum number of clinicians, training services will be delivered remotely including digital learning pathways, provided the total clinicians trained remains within the scope outlined above unless otherwise agreed to by the parties

### ARMC Resources (suggested):

Role	Role Description
Physician Champion	Participate in Workflow discussions. Provide insight into how clinicians 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
Project Manager	The project manager is responsible for facilitating a successful DAX Copilot deployment on the customer side. Primary point of contact and escalation point throughout the product deployment. 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.
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). 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.
Nuance Management Console (NMC) Administrator	Attend training session(s) to gain knowledge and understanding of NMC and DAX Copilot. Setup initial clinician 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 customer's environment. Responsible for engaging technical resources as needed. May be combined with other roles as needed.
Desktop Technical Support	Responsible for installing DAX Copilot on physical and virtual desktops. Participate in testing and hardware validation sessions as needed. Ensure clinician workstations meet DAX Copilot requirements.
Help Desk	Attend training to gain knowledge of how the product works, participate in issues resolution during any testing to get experience in troubleshooting the product and understand the use of the products in your environment.

## ATTACHMENT H

### Hosted Services – Dragon Order #1

This Order is effective as of the Addendum Effective Date ("Order Effective Date") and is governed by the terms and conditions of the Healthcare Master Agreement, as amended, including the Schedule for Choice for Clinical Documentation – Encounter Based Model ("Schedule") (collectively, the "Agreement") by and between Nuance Communications, Inc. ("Nuance") and San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC) ("County"). All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement. No other terms and conditions (e.g. standard terms and conditions of purchase pre-printed on or referenced in a purchase order if County places a purchase order in response to this quote) shall apply.

The purpose of this order is to provide a manual renewal of Nuance Contract #11337742, consisting of Site Licensing for Dragon Medical One, PMMobile, Dragon Medical embedded in Epic Haiku (2018+) with Virtual Assistant capabilities, and Dragon Medical Embedded in Epic Rover with Virtual Assistant, for a 5-year term.

**Quote Expires:** June 30, 2025

#### **BILLING & SHIPPING INFORMATION**

County Name:	San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC)
Contact Name & Title	Andrew Goldfrach, CEO
Address:	400 N Pepper Ave
City:	Colton
State:	California
Zip:	92324
Contact email:	<a href="mailto:goldfracha@armc.sbcounty.gov">goldfracha@armc.sbcounty.gov</a>
email for Invoices:	
Nuance Account Executive:	Kyle Wolff
Nuance Customer Success Executive:	William Fuchs

#### **SUMMARY – PURCHASE ORDER AND INVOICE DESCRIPTION**

Site Licensing for Dragon Medical One, PMMobile, Dragon Medical embedded in Epic Haiku (2018+) with Virtual Assistant capabilities, and Dragon Medical Embedded in Epic Rover with Virtual Assistant

#### **APPLICABLE SOFTWARE SUITE AND ASSOCIATED PROFESSIONAL SERVICES**

<b>Pricing Model</b>	Fixed Fee
<b>Billing Basis</b>	Monthly, beginning on July 1, 2025
<b>Order Term</b>	60 Months, commencing on July 1, 2025

#### **Monthly Program Subscription Fees**

Summary of fees by time period and Order Term total.

	Year 1	Year 2	Year 3	Year 4	Year 5	Term Total
Hosted Services Fee	\$155,820.00	\$155,820.00	\$155,820.00	\$155,820.00	\$155,820.00	\$799,100.00

#### **Monthly Fee Schedule**

	Year 1	Year 2	Year 3	Year 4	Year 5
Monthly Hosted Services Fee	\$12,985.00	\$12,985.00	\$12,985.00	\$12,985.00	\$12,985.00

The Subscription Fee is inclusive of the following Hosted Services for Named Locations.

PROD	DESCRIPTION	QTY	PART #
DMO	Dragon Medical One , HS, Term, IP Admissions License	18,051	DMOIP-TERM
DMO	Dragon Medical One , HS, Term, Emergency Visits License	112,279	DMOED-TERM

DMO	Dragon Medical One , HS, Term, Outpatient Visits License	349,341	DMOOP-TERM
DMO	Dragon Medical One, In-Product Live Chat Support	1	DMOLC-SUPPORT
H/C	Dragon Medical embedded in Epic Haiku (2018+) with Virtual Assistant capabilities, Hosted Service, IP Encounters	18,051	EHVA-IP-TERM
H/C	Dragon Medical embedded in Epic Haiku (2018+) with Virtual Assistant capabilities, Hosted Service, ED Encounters	112,279	EHVA-ED-TERM
H/C	Dragon Medical embedded in Epic Haiku (2018+) with Virtual Assistant capabilities, Hosted Service, OP Encounters	349,341	EHVA-OP-TERM
PMM	PMMobile, Hosted Service, IP Adm Encs, Unlimited User	18,051	PMOBILE-IP-TERM
PMM	PMMobile, Hosted Service, ED Adm Encs, Unlimited User	112,279	PMOBILE-ED-TERM
PMM	PMMobile, Hosted Service, OP Adm Encs, Unlimited User	349,341	PMOBILE-OP-TERM
Rover	Dragon Medical Embedded in Epic Rover with Virtual Assistant, Hosted Service, Term, Inpatient Admissions License	18,051	DMERVA-IP-TERM
Rover	Dragon Medical Embedded in Epic Rover with Virtual Assistant, Hosted Service, Term, Emergency Department License	112,279	DMERVA-ED-TERM
Rover	Dragon Medical Embedded in Epic Rover with Virtual Assistant, Hosted Service, Term, Outpatient Visits License	349,341	DMERVA-OP-TERM
<b>PROD</b>	<b>License Fulfillment*</b>	<b>QTY</b>	<b>Part #</b>
DMO	Dragon Med One, Term, Site License - Fulfillment	1	DMO-N-STE-FUL
PMM	PM Mobile for Encounters, Site License, Fulfillment	1	PMOBILE-ENC-FUL
H/C	Dragon Medical embedded in Haiku (2018+) with Virtual Assistant capabilities, Hosted Service, Site License - Fulfillment	1	EPHVA-STE-FUL
Rover	Dragon Medical Embedded in Epic Rover with Virtual Assistant, Site License-Fulfillment	1	DMERVA-STE-FUL

\*Please note that County is Live today with these Dragon Products, and this serves as a Manual Renewal, Do Not Ship

#### NAMED LOCATION INFORMATION

Named Location	Street Address	City	State	Zip
Arrowhead Regional Medical Center	400 N Pepper Ave	Colton	California	92324

#### OTHER TERMS

- The parties hereby agree to terminate for convenience the affected Order(s), all amendments, addenda, and statements of work thereto, if any, effective as of the end of the day prior to the Order Effective Date of this new Order ("Termination Effective Date").
- The parties hereby acknowledge and agree that the affected Order(s) include the following:

Nuance Identifier	Action Taken	Products Purchased Under the affected Order	End Date of affected Order
11337742	Termination	<ul style="list-style-type: none"> <li>Dragon Medical Embedded in Epic Rover with Virtual Assistant, Hosted Service</li> <li>Dragon Medical embedded in EPIC Haiku &amp; Canto (2018+) with Virtual Assistant capabilities for Haiku</li> <li>Dragon Medical One, Hosted Service</li> <li>PowerMic Mobile, Hosted Service</li> <li>Dragon Medical Advisor with Core &amp; HCC Specificity Content</li> </ul>	08/10/2025

- Notwithstanding the foregoing, such termination of the affected Order(s) shall not affect County's payment obligations incurred under the affected Order(s), and all amendments, addenda, and statements of work thereto, if any, up to and including the Termination Effective Date.

# ATTACHMENT I

## Hosted Services - PowerScribe One Order #1

This Order is effective as of the Addendum Effective Date ("Order Effective Date") and is governed by the terms and conditions of the Healthcare Master Agreement, as amended, including the Nuance Diagnostic Solutions Platform Schedule ("Schedule") (collectively, the "Agreement") by and between Nuance Communications, Inc. ("Nuance") and San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC) ("County" or "Customer"). All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement. No other terms and conditions (e.g. standard terms and conditions of purchase pre-printed on or referenced in a purchase order if County places a purchase order in response to this quote) shall apply.

The purpose of this order is to provide a retroactive, manual renewal of Nuance Contract #11337742 PowerScribe One for a 5-year term.

**Quote Expires:** June 30, 2025

### BILLING & SHIPPING INFORMATION

County Name: San Bernardino County on behalf of Arrowhead Regional Medical Center (ARMC)  
 Contact Name & Title: Andrew Goldfrach, CEO  
 Address: 400 N Pepper Ave  
 City: Colton  
 State: California  
 Zip: 92324  
 Contact email: [goldfracha@armc.sbcounty.gov](mailto:goldfracha@armc.sbcounty.gov)  
 email for Invoices:

### SUMMARY – PURCHASE ORDER AND INVOICE DESCRIPTION

PowerScribe One, Core Reporting, Hosted Service, Term License

### APPLICABLE SOFTWARE SUITE AND ASSOCIATED PROFESSIONAL SERVICES

**Pricing Model** Fixed Fee  
**Billing Basis** Monthly, with Per Report Overage Fee as outlined below, assessed Annually if exceeding Committed Volume buffer  
**Order Term** 60 Months, commencing upon July 1, 2025  
**Committed Annual Report Volume** 168,000  
**Per Report Overage Fee** \$0.94

### Monthly Program Subscription Fees

Summary of fees by time period and Order Term total.

	Year 1	Year 2	Year 3	Year 4	Year 5	Term Total
Hosted Services Fee	\$157,920.00	\$157,920.00	\$157,920.00	\$157,920.00	\$157,920.00	\$789,600.00

### Monthly Fee Schedule

	Year 1	Year 2	Year 3	Year 4	Year 5
Monthly Hosted Services Fees	\$13,160.00	\$13,160.00	\$13,160.00	\$13,160.00	\$13,160.00

The Subscription Fee is inclusive of the following Hosted Services for Named Locations.

Part Number	Description	Quantity
PSONE-TERM	PowerScribe One, Core Reporting, Hosted Service, Term License*	14,000

\*Do not ship. This is a renewal for PowerScribe One that is currently in production for ARMC

### OTHER TERMS



- The parties hereby agree to terminate for convenience the affected Order(s), all amendments, addenda, and statements of work thereto, if any, effective as of the end of the day prior to the Order Effective Date of this new Order ("Termination Effective Date").
- The parties hereby acknowledge and agree that the affected Order(s) include the following:

Nuance Identifier	Action Taken	Products Purchased Under the affected Order	End Date of affected Order
11337742	Termination	PowerScribe One	08/10/2025

- Notwithstanding the foregoing, such termination of the affected Order(s) shall not affect County's payment obligations incurred under the affected Order(s), and all amendments, addenda, and statements of work thereto, if any, up to and including the Termination Effective Date.