

## HEALTHCARE MASTER AGREEMENT

THIS HEALTHCARE MASTER AGREEMENT ("the Agreement") is effective as of June 1, 2016 hereto (the "Effective Date") by and between Nuance Communications, Inc., having a place of business at 1 Wayside Road, Burlington, MA, 01803, USA ("Nuance") and San Mateo Medical Center, having a place of business at 222 W. 39<sup>th</sup> Avenue, San Mateo, CA 94403 ("Company"). This Agreement consists of the General Terms and Conditions, and all Schedules and Exhibits hereto. Nuance and Company are sometimes referred to individually as a "Party" and collectively as the "Parties."

### General Terms and Conditions

In consideration of the mutual covenants stated below, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

#### 1. DEFINITIONS.

In addition to the terms defined elsewhere in this Agreement, the following terms used in this Agreement shall have the meanings set forth below:

1.1. "Affiliates" means any entity that is directly or indirectly controlled by, under common control with, or in control of a Party. For these purposes, an entity shall be treated as being controlled by another if that other entity (i) has fifty percent (50%) or more of the votes in such entity, or (ii) is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

1.2. "Authorized User(s)" are those individuals who are authorized, subject to the terms and conditions of this Agreement, to access and use the Software and/or Hosted Services, which individuals are limited to those authorized under the applicable Schedule or Order.

1.3. "Company PO" means a Company-generated purchase order for Software, Equipment and/or Services, that (i) references the quote number and date of the applicable Nuance Quote against which the purchase order is issued, or (ii) sets forth, in detail, the Software licenses, Equipment, and/or Services that Company seeks to purchase (including number of license units and license type), the price associated with each item, and includes a cross-reference to this Agreement.

1.4. "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 Company under any Order under this Agreement, or any other clinical information received by Nuance from Company under this Agreement.

1.5. "Documentation" means the administrative guide and user's guide provided by Nuance to Company to facilitate the use of the Nuance Products and Hosted Services.

1.6. "Equipment" means Nuance Equipment and Third Party Equipment, collectively.

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

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

1.9. "Nuance Equipment" means Nuance manufactured hardware specified in an Order.

1.10. "Nuance Products" means the Nuance Software and Nuance Equipment, collectively.

1.11. "Nuance Quote" means a Nuance-generated quotation for Software, Equipment and/or Services, that lists the Software licenses, Equipment and/or Services that Company seeks to purchase (including number of license units and license type), and the price associated with each item.

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

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

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

**1.15. "Schedule"** means each of the schedules set forth in **Exhibit B** of this Agreement or as added to Exhibit B by amendment. Schedules are a part of this Agreement and define the specific terms that apply to the applicable Nuance Products and Services.

**1.16. "Services"** means Maintenance Services, Training Services, Professional Services, Hosted Services and/or Transcription Services, as applicable.

**1.17. "Software"** means Nuance Software and Third Party Software, collectively.

**1.18. "Statement of Work" or "SOW"** means the supplement to an Order, setting forth, in more detail, the Professional Services and/or Training Services purchased under the Order.

**1.19. "Term"** is defined in Section 7.1 of these General Terms and Conditions.

**1.20. "Third Party Equipment"** means any third party manufactured hardware specified in an Order.

**1.21. "Third Party Software"** means any third party proprietary software specified in an Order.

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

**1.23. "Transcription Services"** means any transcribing services and/or editing services provided by Nuance pursuant to an Order, as specified in an Order and more fully described in the applicable Schedule for Transcription Services.

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

**1.25. "Upgrade"** means a release of Nuance Software, issued as part of Maintenance Services, that may include some feature enhancements and/or additional capabilities (functionality) over versions of the Nuance Software previously supplied to Company, 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.

**2. SCOPE OF AGREEMENT.** Company agrees to purchase from Nuance, and Nuance agrees, subject to the terms and conditions of this Agreement, to supply to Company the Software licenses, Equipment and Services, as specified in each Order. Nuance may accept an Order by fulfilling it.

### **3. GRANT OF RIGHTS.**

#### **3.1. Software.**

**3.1.1. License Grant.** Subject to the terms and conditions of this Agreement, Nuance grants to Company, and Company accepts, a limited, non-exclusive, non-transferable, non-sub-licensable license to permit its Authorized Users to use the Software and / or Hosted Services and associated Documentation listed in the applicable Order, in accordance with the license grant specified in the applicable Schedule, provided such use is (i) commensurate with the intended use of the Software (as prescribed in this Agreement and the applicable Documentation), and (ii) solely for Company's internal business purposes. Any open source software which may be included in the Software is licensed under the applicable public license.

**3.1.2. Third Party Software.** Third Party Software supplied by Nuance is subject to the terms and conditions of this Agreement and the applicable third party terms as may be specified in an applicable Schedule or Order.

**3.1.3. Updates and Upgrades.** Upon installing any Update or Upgrade to Nuance Software, Company shall discontinue use of the previous version of such Nuance Software and Company 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.

**3.2. Equipment.** Equipment supplied by Nuance is subject to the terms and conditions of this Agreement and, if Third Party Equipment, the applicable third party terms as may be specified in an applicable Schedule or Order.

**3.3. Proprietary Rights; Restrictions.** Notwithstanding any use of the term "sale," "purchase" or other similar terms in this Agreement, Nuance and its licensors retain all right, title and interest in and to the 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, Company 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 Agreement, (ii) submit any automated or recorded requests to the Hosted Services except as otherwise provided in this Agreement, (iii) modify, port, translate, or create derivative works of the 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 Software or Services by any means, (v) sell, lease, license,

sublicense, copy, assign, transfer, share, market, or distribute the Software, Services or Documentation, except as expressly permitted in this Agreement, (vi) grant any access to, or use of, the Software or Services on a service bureau, timesharing or application service provider basis, (vii) remove any proprietary notices, labels or marks from the Software, Services or Documentation, (viii) release to a third party the results of any benchmark testing of the 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 Agreement 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 Company under this Agreement are reserved by Nuance and/or its licensors.

**3.4. Authorized Users.** Company is responsible for each Authorized User's compliance with the terms of this Agreement and guarantees each Authorized User's compliance with the terms of this Agreement. Company will be liable for any act or omission by an Authorized User that, if performed or omitted by Company, would be a breach of this Agreement. Company will, at its expense, defend any and all claims, actions, suits, or proceedings made or brought against Nuance by any Authorized User with respect to this Agreement (each, a "User Claim"), and pay any losses, claims, costs, expenses, damages, or liabilities (including reasonable attorneys' fees) sustained or incurred by Nuance arising from a User Claim. Company shall promptly notify Nuance upon learning of any actual or suspected unauthorized possession or use of any Software or Hosted Services supplied under this Agreement.

**4. SERVICES.** Subject to the terms and conditions of this Agreement, Nuance will provide the Services as may be specified in an Order.

**4.1. Fixed Term Licenses.** Unless otherwise provided in an applicable Schedule or Order, Maintenance Services are provided for the duration of each fixed term license to Software.

**4.2. All Other Licenses.** Unless otherwise agreed by Nuance, Company is required to purchase first year Maintenance Services for all other licenses of Software. Nuance will provide the first year Maintenance Services indicated in the Order. If Nuance offers Maintenance Services for the applicable Software and/or Equipment for renewal periods, Nuance will, at least thirty (30) days prior to the end of the then-current Maintenance Service term, invoice Company for a subsequent one-year renewal term of Maintenance Services at the rates in effect on the renewal date. Company shall, if it wishes to renew annual Maintenance Services for the applicable Software and/or Equipment, pay the invoice for renewal Maintenance Services in full within thirty (30) days of the date of such invoice.

**4.3. Maintenance Services Terms.**

- (a) Company acknowledges that failure to pay its invoice for Maintenance Services within the required 30 day period will result in Maintenance Services expiring with respect to such Software and/or Equipment. If permitted by Nuance, Company may reinstate Maintenance Services that have expired, provided that Company first pays all Maintenance Services fees that would have been due for the period following the expiration of the previous Maintenance Service period, and orders all Professional Services (at Nuance's then-current rates) necessary to implement the then-current version of the applicable Software.
- (b) The annual Maintenance Services Term shall commence as described in the applicable Schedule and Order, and each subsequent annual Maintenance Services Service Term will commence on the anniversary thereof. Company must purchase the same Maintenance Service level for all Software licenses and Equipment units for a given Nuance Product.
- (c) Unless otherwise agreed, Nuance shall not be obligated to provide Maintenance Services for, or required as result of, (i) any Software or Equipment modified by any party other than Nuance, (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 in the Documentation, (v) any Software or Equipment (or any associated equipment, software or firmware) which Company failed to properly install or maintain, (vi) any willful misconduct or negligent action or omission of Company, (vii) any computer malfunction not attributable to the Software or Equipment, or (viii) damage to Software or Equipment from any external source, including computer viruses not attributable to Nuance, computer hackers, or force majeure events.

**4.4. Training Services.** Unless otherwise agreed by the Parties, Training Services will be held at a designated Nuance location during Nuance's standard business hours, excluding Nuance recognized holidays. If the Parties agree to hold any Training Services at Company'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 Company site time, Monday through Friday, excluding Nuance recognized holidays. Company 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.

**4.5. Professional Services.** Professional Services will be provided by Nuance in accordance with the terms in the applicable Schedule. Unless otherwise agreed by the Parties, all Professional Services (including associated travel) will be conducted between the hours of 8:00 a.m. to 5:00 p.m. local Company site time, Monday through Friday, excluding Nuance recognized

holidays. Nuance grants Company a non-exclusive, non-transferable license to use the tangible results (if any) of Professional Services in conjunction with Nuance Products for Company's internal use as designated under the Agreement.

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

**4.7. Transcription Services.** Transcription Services will be as further described in, and will be provided by Nuance in accordance with, the applicable Schedule.

**4.8. On-Location.** If Nuance will perform Services at a location other than a Nuance facility, Company shall provide or arrange for the necessary equipment, information, and facilities required by Nuance to perform such Services, as reasonably specified by Nuance.

**5. MEDICAL CARE RESPONSIBILITY.** COMPANY 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. COMPANY AGREES THAT IT IS THE SOLE RESPONSIBILITY OF COMPANY 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 AGREEMENT, FOR ANY MEDICAL-PRACTICE-RELATED PURPOSES. COMPANY AGREES THAT NUANCE IS NOT PROVIDING MEDICAL PRACTICE ADVICE, AND THAT COMPANY 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, AND COMPANY SHALL INDEMNIFY AND HOLD HARMLESS NUANCE AND ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS AND AGENTS (EACH, AN "INDEMNIFIED PARTY"), FROM AND AGAINST ANY DAMAGES, CLAIMS OR OTHER LIABILITIES FOR THE WRONGFUL DEATH OR PERSONAL INJURY OF A THIRD PARTY DIRECTLY OR INDIRECTLY CAUSED OR ARISING OUT OF (I) COMPANY'S USE OR NON-USE OF ANY SOFTWARE OR SERVICE, (II) ANY CONTENT, RESULTS OR OUTPUT FROM ANY SOFTWARE OR SERVICE, (III) ANY MEDICAL-PRACTICE-RELATED RECOMMENDATIONS PROVIDED BY NUANCE, AND (IV) COMPANY'S FAILURE TO IDENTIFY AND CORRECT ANY INACCURACIES AND/OR ERRORS IN THE CONTENT, RESULTS OR OUTPUT OF ANY SOFTWARE AND/OR SERVICES PROVIDED UNDER THIS AGREEMENT.

**6. FEES, PAYMENT, TAXES & SHIPMENT.**

**6.1. Fees.** Company shall pay to Nuance all fees and other charges specified in each Order. All fees due under the Agreement are non-cancelable.

**6.2. Expenses.**

1. Estimated travel expenses must be submitted to the County's contract contact person for advanced written authorization before such expenses are incurred. No travel expenses are reimbursable under this Agreement unless such written pre-authorization is obtained.
2. The maximum reimbursement amount for the actual cost of lodging, meals, and incidental expenses ("LM&I Expenses") is limited to the then-current Continental United States ("CONUS") rate for the location of the work being done (i.e., Redwood City for work done in Redwood City, San Mateo for work done at San Mateo Medical Center) as set forth in the Code of Federal Regulations and as listed by the website of the U.S. General Services Administration (available online at <http://www.gsa.gov/portal/content/104877> or by searching [www.gsa.gov](http://www.gsa.gov) for the term 'CONUS'). CONUS rates are set by fiscal year and are effective October 1st through September 30th.
3. The maximum reimbursement amount for the actual cost of airline and car rental travel expenses ("Air & Car Expenses") shall be a reasonable rate obtained through a cost-competitive travel service (e.g., a travel or car-rental website). Reimbursable air travel is restricted to economy or coach fares (not first class, business class, "economy-plus," or other non-standard classes) and reimbursable car rental rates are restricted to the mid-level size range or below (i.e., full size, standard size, intermediate, compact, or subcompact). No specialty, luxury, premium, SUV, or similar category vehicles may be submitted for reimbursement. Other reasonable travel expenses ("Other Expenses") such as taxi fares, parking costs, train or subway costs, etc. shall be reimbursable on an actual-cost basis.
4. If in doubt about the propriety of LM&I Expenses, Air & Car Expenses, or Other Expenses, Contractor should err on the side of caution and not incur an expense at that level or obtain authorization from the County's contract contact person.

**6.3. Taxes.** Company shall pay all taxes, duties, import and export fees, and any other charges or assessments, except the withholding of income taxes, which are applicable to the performance of this Agreement, and shall reimburse Nuance for any encumbrance, fine, penalty, or other expense which Nuance may incur as a result of Company's failure to pay any such taxes, duties, fees, charges, or assessments. For purposes of this Agreement, the term "taxes" shall include, but is not limited to any and

all assessments and other governmental charges, impositions and liabilities, including taxes based upon or measured by gross receipts, income, profits, sales, use, value added, ad valorem, consumption, transfer, franchise and withholding taxes, except taxes imposed on the net income of Nuance, together with all interest, penalties and additions imposed with respect to such amounts. If any applicable law requires Company to withhold an amount from any payment to Nuance hereunder, Company shall effect such withholding, remit such amount to the appropriate taxing authority, and supply Nuance with the tax receipt evidencing the payment of such amount to the government within sixty (60) days of its receipt by Company. To the extent that an income tax convention between the country of Nuance and the country of Company permits, upon the filing of a proper application, for a reduction or elimination of such withholding tax, the Parties shall cooperate in the completion and filing of such application. Company shall provide to Nuance, and Nuance shall complete and return to Company, all applicable forms required by the governing tax authority in order to secure the reduction or elimination of withholding tax as authorized by the convention.

**6.4. Payment.** Except as otherwise set forth in the applicable Order or Schedule, Company shall pay all invoices issued in U.S. dollars, either by mail or wire transfer, within thirty (30) days of the date of invoice in accordance with the remittance information contained on the invoice. Interest shall accrue at the rate of one and one half percent (1.5%) per month on any amounts past due. Company shall reimburse Nuance for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts from Company. If Company fails to pay for any Equipment, Nuance reserves the right to repossess such Equipment. Nuance reserves the right to suspend Services to Company in the event any invoice is past due. Company must notify Nuance within thirty (30) days of the date of invoice if it disputes any amount contained in an invoice. Notwithstanding the foregoing, if Company elects not to renew annually-contracted auto-renewing Maintenance Services, Company shall not be required to pay the invoice for subsequent annual renewals, provided any requirements in the applicable Schedule or Order for prior written notice of non-renewal are met.

**6.5. Company Purchase Orders.** Company agrees to pay Nuance's invoices without a purchase order reference. Company acknowledges and agrees that if it is Company'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 Company, or any Company policies, regulations, rules, or the like, including those set forth in any Company-sponsored registration system, regardless if such requires affirmative acknowledgement from a Nuance representative.

**6.6. Leasing Arrangements.** If Company has entered into a lease arrangement with a third-party financing/leasing company ("Lessor") to finance an applicable Order, then subject to prior mutual written agreement between Nuance and Company, which shall not be unreasonably withheld by Nuance, and subject to the existence of a suitable arrangement between Nuance and the Lessor, Nuance shall, at Company's request, submit the invoice(s) for the Order to, and accept payment for the Order from, the Lessor. Notwithstanding the foregoing, Company remains fully liable to Nuance for all amounts due and owing under the Order. If Lessor fails to pay Nuance any amount due under the Order, when due, Company shall pay such amounts to Nuance immediately upon receipt of Nuance's invoice.

**6.7. Audit.** Company shall keep full, true and accurate records and accounts to support its use of the Software and Hosted Services, as applicable, under this Agreement. Nuance, or a third party appointed by Nuance, will have the right, not more than once a year and upon reasonable notice, to conduct an audit of Company's systems and records, to confirm compliance with the terms of this Agreement. Any audit will be performed during Company's normal business hours. If an audit reveals that Company's Software or Hosted Services usage exceeds its usage rights, as granted by Nuance, Company shall pay Nuance for all such excess usage, based on Nuance's standard pricing in effect at the time of the audit. If such excess usage exceeds five percent (5%) of the authorized usage, Company shall also pay Nuance's reasonable costs of conducting the audit. Nothing in this Section 6.7 will limit any other remedy available to Nuance.

**6.8 Shipment.** For Orders with Software and/or Equipment requiring delivery within the United States, such Software and/or Equipment will be shipped "FOB Shipping Point." For Orders with Software and/or Equipment requiring delivery outside the United States, unless otherwise specified in the applicable Schedule or Order, such Software and/or Equipment will be shipped "CPT Destination," or, at Nuance's option, "EX WORKS" with carrier arranged by Company. Company shall bear all shipping, freight and transportation charges from Nuance's warehouse facility.

## **7. TERM; TERMINATION.**

**7.1. Term.** This Agreement commences on the Effective Date and, unless terminated earlier in accordance with the terms hereof, will continue in effect, unless the Parties otherwise agree in writing ("Term"). Each Party's rights and obligations related to Software licenses and/or Services delivered pursuant to an Order shall be limited to the duration or term of such Software license or Service as specified in the applicable Schedule or Order.

### **7.2. Termination for Cause.**

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding. Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement.

**7.3.** Either Party may terminate this Agreement or any Order upon written notice if the other Party commits a material breach of this Agreement or such Order and fails to cure such breach within thirty (30) days of receipt of written notice describing such

breach. Notwithstanding the foregoing, Nuance may terminate this Agreement and/or any Order immediately upon written notice to Company if Company (a) infringes Nuance's intellectual property rights, (b) commits, or permits any third party to commit, any breach of confidentiality obligations under Section 9 ("Confidentiality"), or (c) Company 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.

**7.4. Effect of Termination.** Upon termination of this Agreement, all Orders issued under this Agreement will immediately terminate. Upon the termination of an Order, all Software licenses and Services under such Order shall immediately terminate, and Company shall immediately (a) cease use of the applicable 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 Software and certify in writing to Nuance that no copies have been retained by Company within ten (10) days of any expiration or termination, and (c) pay any outstanding amounts due to Nuance.

**7.5. Survival.** Notwithstanding anything to the contrary in this Section 7, the provisions of Sections 1, 3.3, 3.4, 5, 6, 7.3, 7.4, 8, 9, 10, 11, 12, and 14 of these General Terms and Conditions shall survive expiration or termination of this Agreement.

**8. HIPAA.** The Parties agree to the Business Associate Terms and Conditions attached hereto as **Exhibit A** and made a part of this Agreement, wherein Nuance may be referred to as "Business Associate" and Company may be referred to as "Covered Entity."

## **9. CONFIDENTIALITY.**

**9.1. Definition.** Subject to the exceptions contained in this Section 9.1, "Confidential Information" shall mean (a) all information disclosed by a Party or its Affiliates (the "Disclosing Party"), in whatever tangible form or otherwise, to the other Party or its Affiliates (the "Receiving Party") that is clearly marked "confidential" or with some other proprietary notice, (b) all information disclosed orally or otherwise in intangible form by the Disclosing Party and designated as confidential or proprietary at the time of the disclosure, and (c) the Software, Documentation, and information provided as part of any Services. Notwithstanding the above, information shall not be deemed Confidential Information to the extent that it (i) was generally known and available in the public domain at the time it was disclosed or subsequently becomes generally known and available in the public domain through no fault of the Receiving Party, (ii) was rightfully known to the Receiving Party at the time of disclosure without any obligation of confidentiality as evidenced by the Receiving Party's written records, (iii) is disclosed with the prior written approval of the Disclosing Party, (iv) was independently developed by the Receiving Party by persons without any access to the Confidential Information of the Disclosing Party, or (v) is protected health information or any other personally identifiable information, the protection of which is governed by the Business Associate Terms and Conditions identified in Exhibit A. The obligation not to use or disclose Confidential Information will remain in effect until one of these exceptions occurs.

**9.2. Permitted Disclosure.** Notwithstanding any other provision of this Agreement, disclosure of Confidential Information shall be permitted if such disclosure (a) is in response to an order of a court or other governmental body, provided, however, that the responding Party shall first have given notice to the other Party hereto and shall have made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued, or (b) is otherwise required by law.

**9.3. Use and Obligations.** The Receiving Party will not use the Disclosing Party's Confidential Information for purposes other than as provided in this Agreement. The Receiving Party shall protect the Disclosing Party's Confidential Information, to prevent its unauthorized use, disclosure, or publication to third parties, by using the same degree of care, but no less than a reasonable degree of care, as the Receiving Party uses to protect its own Confidential Information of a like nature. Confidential Information received by a Receiving Party hereto may be disclosed to and used by such Receiving Party's employees, agents and contractors in accordance with the terms and conditions of this Agreement, and each Party shall be liable for any act or omission by its Affiliates, and its and their respective employees, agents and contractors, which, if performed or omitted by such Party, would be a breach of this Agreement. Each Party agrees that its Affiliates, and its and their respective employees, agents and contractors, shall be bound by the terms of an agreement protecting against unauthorized use or disclosure of Confidential Information that is at least as protective of the Disclosing Party's rights as this Agreement. No Confidential Information shall be disclosed to any person who does not have a need for such information.

**9.4. Return of Confidential Information.** 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 Agreement, whichever comes first. In both cases, the Receiving Party shall, upon request, promptly certify in writing that it has complied with the obligations of this Section 9.4. 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.

**10. DATA.** Company 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 10. Company gives Nuance the right, and Nuance has permission to use, the Data in accordance with this Section 10, and to de-identify the Data in accordance with 45 C.F.R. §164.514. Nuance and third parties acting under the direction of Nuance may use, compile (including creating statistical and other models), annotate and otherwise analyze the Data to develop, train, tune, enhance and improve the speech recognition, natural language

understanding and other components of its software and services. Nuance shall own all intellectual property rights in all enhancements and improvements to its software and services that result from such use of the Data. Any and all information that Company 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 Company or its contractors. Accordingly, the foregoing Data shall not be deemed an official medical record or health record for any patient.

## **11. LIMITED WARRANTIES.**

**11.1. 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 Company (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. Company's sole and exclusive remedy and Nuance's sole obligation for any breach of the warranty set forth in this Section 11.1 will be for Nuance, at Nuance's option, to undertake reasonable efforts to correct or replace the nonconforming Nuance Software reported by Company during the Software Warranty Period, or to accept a return of the Nuance Software and refund to Company the fees paid by Company to Nuance for such non-conforming Nuance Software, and terminate the license to any such non-conforming Nuance Software.

**11.2. Nuance Equipment Warranty.** Nuance warrants that upon initial installation of the Nuance Equipment (in the case of Nuance Equipment that, pursuant to the applicable Order, is to be installed by Nuance) or initial delivery of the Nuance Equipment to Company (in all other cases), and for a period of ninety (90) days thereafter (the "Equipment Warranty Period"), the Nuance Equipment will operate in all material respects in conformity with its Documentation. Company's sole and exclusive remedy and Nuance's sole obligation for any breach of the warranties set forth in this Section 11.2 will be for Nuance, at Nuance's option, to undertake reasonable efforts to correct or replace the nonconforming Nuance Equipment reported by Company during the Equipment Warranty Period, or to accept a return of and refund to Company, the fees paid by Company to Nuance for such non-conforming Nuance Equipment.

**11.3. Services Warranty.** Nuance warrants that the Maintenance Services, Training Services and Professional Services provided by Nuance pursuant to this Agreement shall be performed in a professional manner by trained and skilled personnel. Company 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. Company's sole and exclusive remedy and Nuance's entire liability for any breach of the warranty set forth in this Section 11.3 will be for Nuance to re-perform such non-conforming Services that Company notified Nuance of in accordance herewith. The only warranty rights, if any, for Hosted Services and Transcription Services shall be those set forth in the relevant Schedule.

**11.4. Limitation of Warranties.** The warranties set forth in this Section 11 ("Limited Warranties") shall not apply, and Nuance shall have no warranty obligation or liability with respect to, (a) any Nuance Product that (i) is damaged through no fault of Nuance, (ii) is modified by anyone other than Nuance, (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 the Nuance Product in such Nuance Product's Documentation, (v) is used with software not specified as compatible with said Nuance Product in the Nuance Product's Documentation, (vi) Company fails to properly install or maintain, (b) any computer malfunction not attributable to the Nuance Products or Nuance, (c) any incorrect use of the Nuance Products, or (d) any willful misconduct or negligent action or omission of Company.

**11.5. Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION 11 ("LIMITED WARRANTIES") 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 AND TITLE. 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.

**11.6.** Company acknowledges its responsibility to regularly back-up data and to adequately test, prior to deployment of each production version of the Software in a configuration that reasonably simulates Company's planned production environment.

## **12. LIMITATION OF LIABILITY.**

**12.1.** The following provisions set out the exclusions and limitations of liability of Nuance and its Affiliates, and their respective officers, agents, contractors and employees, to Company and its Affiliates, and their respective officers, agents, customers, contractors and employees, under or in connection with this Agreement, 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 Agreement.

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

**12.3.** Subject to the foregoing provisions of this Section, Nuance shall not 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 Agreement or the Services.

**12.4** Except for Nuance's liability under the second subsection of this Section 12 ("Limitation of Liability"), which shall not be excluded or limited under this Agreement, the Parties, having assessed the risks, agree that Nuance's total liability shall not exceed for each consecutive 12 months period ("Annual Period") of this Agreement (the first period commencing on the Effective Date) an aggregate amount equal to 100% of the amount paid by the Company during the corresponding Annual Period.

**12.5.** Under no circumstances shall Nuance's third party suppliers of any component of the Software, Hosted Services or Equipment be responsible or liable directly to Company or its affiliates for any damages, direct or otherwise, arising under this Agreement or otherwise arising from the transactions contemplated herein. Such third party suppliers are third party beneficiaries of the foregoing sentence.

**13. INDEMNIFICATION.** Nuance shall, at its own expense, defend or, at its option, settle, any action brought against Company 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 Company against any damages and losses that are attributable to such claim or action and are assessed against Company in a final judgment. Nuance shall have the foregoing obligations only if Company provides Nuance with (a) a prompt written request to undertake the defense in such claim or action, (b) sole control and authority over the defense and settlement thereof, and (c) all available information and assistance necessary to settle and/or defend any such claim or action. 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 Company, 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 Company's right to use such Nuance Software and/or Hosted Services and (i) with respect to perpetual Nuance Software licenses, refunding the license fees Company 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 Company 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 Company'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 by a party other than 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 Company that were used for the configuration of the Nuance Software and/or Hosted Services, or (iv) where Company 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 Company, for any third-party claims or actions of infringement of any intellectual property or other proprietary right.

#### **14. MISCELLANEOUS.**

**14.1. Assignment.** Company shall not assign or otherwise transfer its rights and/or obligations under this Agreement, in whole or in part, to a third party unless such assignment is approved in writing by Nuance. Notwithstanding the foregoing, either Party may assign its rights and obligations hereunder to a third party in connection with (i) a merger with, (ii) the sale of substantially all of its assets to, (iii) a consolidation with, or (iv) the sale or intercompany assignment of a substantial part or all of its business utilizing this Agreement, provided (a) the assigning Party provides the other Party with prompt written notice of such sale, merger or consolidation, and (b) the assignee agrees to be bound by all terms and conditions set forth by this Agreement. Any such assignment by Company shall not increase the scope of any license or Service without the prior written consent of Nuance.

**14.2. Force Majeure.** Except for the obligation to make payments, nonperformance of either Party shall be excluded to the extent that performance is rendered impossible by strike, fire, flood, acts of God, governmental acts or orders or restrictions, acts of terrorism, war, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing Party and not due to its fault or negligence.

**14.3. Notices.** All notices hereunder shall be sent by the notifying Party, in writing, to the other Party (Attention: General Counsel) at its address set forth above (or such other address as it may communicate to the notifying Party in writing). Notice shall be deemed delivered and effective (i) when delivered personally, (ii) five (5) days after posting when sent by certified United States mail (return receipt requested), or (iii) one (1) day after posting when sent by reputable private overnight courier (e.g., DHL, Federal Express, etc.).



**14.4. Relationship between the Parties.** In all matters relating to this Agreement, Company and Nuance shall act as independent contractors. Except as may be otherwise expressly permitted hereunder, neither Party will represent that it has any authority to assume or create any obligation, expressed or implied, on behalf of the other Party, or to represent the other Party as agent, employee, or in any other capacity. Nuance shall at all times have the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all work to be performed by Nuance hereunder unless otherwise provided herein. Nuance shall, at all times, be responsible for the compliance of its third parties involved in the delivery of the Services in accordance with the terms and conditions of this Agreement. Nothing in this Agreement shall be construed to create any contractual relationship between Company and any such third parties, nor any obligation on the part of Company, to pay or to ensure the payment of any money due any such third party.

**14.5. Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Massachusetts, USA, without regard to choice of law rules, and Company hereby submits to the jurisdiction of the federal and state courts located in said Commonwealth and the applicable service of process. The official text of the Agreement and any Addendum or any notices given on accounts or statements required hereby shall be in English. In Canada, Province of Quebec for all contracts drafted in English, both Parties agree to write this document in English. Les Parties ont convenu de rédiger le présent document en langue anglaise.

**14.6. Injunctive Relief.** Each Party acknowledges that any use or disclosure of Confidential Information by a Receiving Party in breach of this Agreement or any violation of Nuance's, its Affiliates' or their respective licensors' intellectual property rights may cause irreparable damage to the non-breaching Party, for which remedies other than injunctive relief may be inadequate, and the breaching Party agrees that it shall not object to the non-breaching Party seeking injunctive or other equitable relief to restrain the alleged breach or violation. The Parties further agree that in the event such equitable relief is granted in the United States, they will not object to courts in other jurisdictions granting provisional remedies enforcing such United States judgments.

**14.7. Partial Invalidity; Waiver.** If any provision of this Agreement or the application thereof to any Party or circumstances shall be declared void, illegal or unenforceable, the remainder of this Agreement shall be valid and enforceable to the extent permitted by applicable law. In such event the Parties shall use reasonable efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by applicable law, achieves the purposes intended under the invalid or unenforceable provision. Any deviation by a Party from the terms and conditions required under applicable laws, rules and regulations shall not be considered a breach of this Agreement. Neither a failure of a Party to exercise any power or right given to such Party hereunder or to insist upon strict compliance by the other Party with its obligations hereunder, nor any custom or practice of the other Party at variance with the terms hereof, shall constitute a waiver of a Party's right to demand exact compliance with the terms of this Agreement.

**14.8. Publicity.** Each Party is authorized to use the name and logo of the other Party on its website solely to identify such Party's relationship. In addition, either Party may refer to the existence of the Agreement or the relationship of the Parties in connection with a press release related to regulatory filings. Nuance may include Company's name in Nuance's customer list, and may identify Company as its customer in its sales presentations, marketing materials, advertising, promotion and similar public disclosures. Any additional statements regarding the relationship of the Parties hereunder shall require mutual written consent.

**14.9. Entire Agreement; Headings; Counterparts.** This Agreement, its Schedules, Exhibits, Amendments, and all Orders issued hereunder constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof, and supersede all prior agreements, arrangements and undertakings between the Parties. No addition to or modification of any provision of this Agreement shall be binding upon the Parties unless made by a written instrument signed by a duly authorized representative of each of the Parties. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement. This Agreement may be executed in counterparts and via electronic transmission, each of which shall be deemed to be an original and all of which shall be deemed to be an original instrument.

**14.10. Order of Precedence.** In the event of a conflict between or among the provisions in this Agreement, the order of precedence shall be as follows: (i) Schedules, (ii) General Terms and Conditions, (iii) Business Associate Terms and Conditions, (iv) Maintenance Services terms, and (v) each Order (except any invoicing or delivery terms explicitly stated on an applicable Order, or as explicitly otherwise provided in an applicable Order, or where the applicable Schedule states that Orders under such Schedule shall be superseding).

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

**14.12. Export Controls; Government Use.** Company 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 Agreement 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.

**14.13. Foreign Corrupt Practices Act.** Company shall comply with all applicable laws or regulations in all countries in which Company conducts business. The fact that in some countries certain laws prohibiting particular conduct are not enforced in practice or that violation is not subject to public criticism or censure, will not excuse noncompliance with those laws. Furthermore, Company confirms by way of signature of this Agreement that Company has knowledge and understanding of the Foreign Corrupt Practices Act of the United States of America ("FCPA") and shall comply with the FCPA at all times.

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

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

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

**15. Contract Dollar Amount.** In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth herein and in Exhibit A, B, and C, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B and C. In no event shall total payment for services under this Agreement exceed ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000).

**16. Availability Of Funds.** County may immediately terminate this Agreement based upon unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of funding.

**17. EQUAL BENEFITS. (check one or more boxes)**

- a. Contractor complies with the County's Equal Benefits Ordinance by:
  - ☒ Offering equal benefits to employees with spouses and employees with domestic partners.
  - ☐ Offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- b. ☐ Contractor does not comply with the County's Equal Benefits Ordinance.
- c. Contractor is exempt from this requirement because:
  - ☐ Contractor has no employees, does not provide benefits to employees' spouses, or the contract is for \$5,000 or less.
  - ☐ Contractor is a party to a collective bargaining agreement that began on \_\_\_\_\_ and expires on \_\_\_\_\_, and intends to offer equal benefits when said agreement expires.

**18. EMPLOYEE JURY SERVICE. (check one or more boxes)**

Contractors with original or amended contracts in excess of \$100,000 must have and adhere to a written policy that provides its employees living in San Mateo County up to five days regular pay for actual jury service in the County.

- a. ☒ Contractor complies with the County's Employee Jury Service Ordinance.
- b. ☐ Contractor does not comply with the County's Employee Jury Service Ordinance.
- c. ☐ Contractor is exempt from this requirement because (check all that apply):
  - ☐ The contract is for \$100,000 or less.

- ☐ Contractor is a party to a collective bargaining agreement that began on \_\_\_\_\_ and expires on \_\_\_\_\_, and intends to comply when the bargaining agreement expires.
- ☐ Contractor has no employees.
- ☐ Contractor has no employees who live in San Mateo County.

**19. NON-DISCRIMINATION (check appropriate boxes)**

- a. ☐ Finding(s) of discrimination have been issued against Contractor within the past year by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. Please see attached sheet of paper explaining the outcome(s) or remedy for the discrimination.
- b. ☒ No finding of discrimination has been issued in the past year against the Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other entity.

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

COUNTY OF SAN MATEO

By: \_\_\_\_\_  
President, Board of Supervisors, San Mateo County

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Clerk of Said Board

NUANCE COMMUNICATIONS, INC.

Simon J. Senior  
Simon J Senior (May 17, 2016)  
Contractor's Signature \_\_\_\_\_  
Senior Director, Global Sales Operations

Date: May 17, 2016

## Exhibit A

### HIPAA BUSINESS ASSOCIATE ADDENDUM

#### Business Associate Terms and Conditions

WHEREAS, Nuance (or "Business Associate") may, pursuant to the agreement to which this **HIPAA Business Associate Addendum** is attached (the "Agreement"), perform certain services on behalf of or for Company (or "Covered Entity") that require Nuance to access, create and use health information that is subject to the Health Insurance Portability and Accountability Act of 1996, Subtitle D of the Health Information Technology for Economic and Clinical Health Act, and their implementing regulations, as amended (collectively, "HIPAA"); and

WHEREAS, this Exhibit A, which is attached to and made part of the Agreement, serves to establish the responsibilities of both Parties regarding Protected Health Information ("PHI"), and to bring this Agreement into compliance with HIPAA.

NOW, THEREFORE, the Parties agree to the following additional terms and conditions to those otherwise in the Agreement:

#### AGREEMENT

1. Definitions. Capitalized terms used in this Exhibit A, but not otherwise defined, shall have the same meanings ascribed to them in HIPAA.
2. No Third Party Beneficiary. Nothing in this Exhibit A is intended, nor shall be deemed, to confer any benefits on any third party.
3. Permitted Uses and Disclosures. Except as otherwise specified herein, Business Associate may use and/or disclose PHI to perform the functions, activities, or services for or on behalf of Covered Entity as specified in this Agreement, provided that such use and/or disclosure would not violate HIPAA if done by Covered Entity. Except as otherwise limited in this Agreement, Business Associate may:
  - a. use PHI 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 Exhibit A or the Agreement, as permitted by HIPAA.
  - b. disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate, provided that the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom PHI is disclosed that the PHI will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of PHI has been breached.
  - c. use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. §164.504(e)(2)(i)(B).
  - d. use PHI 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.
4. Responsibilities of Business Associate. Business Associate agrees:
  - a. to use appropriate safeguards, and to comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement.
  - b. not to use or further disclose PHI other than as permitted or required by this Agreement or by law.
  - c. to report to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which Business Associate 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 4.c. constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence or attempts of Unsuccessful Security Incidents for which no additional notice to Covered Entity shall be required. "Unsuccessful Security Incidents" means, without limitation, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, use, or disclosure of PHI.
  - d. to make PHI about an Individual contained in any Designated Record Set of Covered Entity maintained by Business Associate available to Covered Entity for Covered Entity to comply with an Individual's right of access to their PHI in compliance with 45 C.F.R. §164.524.
  - e. to make PHI about an Individual contained in any Designated Record Set of Covered Entity maintained by Business Associate available to Covered Entity for amendment and incorporate any amendment(s) to PHI that Covered Entity directs, in accordance with 45 C.F.R. §164.526.

- f. to make the information required to provide an accounting of disclosures of PHI with respect to the Individual available to Covered Entity in response to a request from an Individual in accordance with 45 C.F.R. §164.528.
- g. to the extent this Agreement requires Business Associate to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, to comply with the requirements of Subpart E that apply to Covered entity in the performance of such obligation(s).
- h. to make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary of the Department of Health and Human Services or his/her designee (the "Secretary"), in a time and manner designated by the Secretary, for purposes of determining Covered Entity's compliance with the HIPAA.
- i. to ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to substantially the same restrictions and conditions that apply to Business Associate with respect to such information in accordance with 45 C.F.R. § 164.502(e)(1)(ii).
- j. if Business Associate knows of a pattern of activity or practice of a Subcontractor that constitutes a material breach or violation of HIPAA, to take reasonable steps to cure the breach or end the violation, as applicable, and if such steps are unsuccessful, terminate the contract or arrangement with such entity, if feasible.
- k. to the extent required by the "minimum necessary" requirements of HIPAA, Business Associate shall only request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure.
- l. to refrain from receiving any remuneration in exchange for any Individual's PHI unless such exchange (i) is pursuant to a valid authorization that includes a specification of whether the PHI can be further exchanged for remuneration by the entity receiving PHI of that Individual, or (ii) satisfies one of the exceptions enumerated in the HIPAA regulations and specifically Section 13405(d)(2) of the HITECH Act.
- m. to refrain from marketing activities that would violate HIPAA and specifically Section 13406 of the HITECH Act.

5. Responsibilities of Covered Entity. Covered Entity shall:

- a. provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. §164.520, as well as any changes to such notice.
- b. provide Business Associate, in writing, with any changes in, or revocation of, permission by Individual to the use or disclosure of PHI, if such changes affect Business Associate's permitted or required uses or disclosures. 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. notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522.

6. Termination.

- a. Termination for Cause. Either Party may immediately terminate this Agreement if such Party (the "Non-Breaching Party") determines that the other Party (the "Breaching Party") has breached a material term of this Exhibit A. Alternatively, the Non-Breaching Party may choose to provide the Breaching Party with written notice of the existence of an alleged material breach and afford the Breaching Party an opportunity to cure the alleged breach. Failure to cure the material breach within thirty (30) days of the written notice constitutes grounds for immediate termination of this Agreement.
- b. Effect of Termination.
  - (1) Except as provided in paragraph (2) of this Section 5(b), upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This Section 5(b)(1) shall apply to PHI that is in the possession of Business Associate and its subcontractors or agents. Business Associate shall retain no copies of the PHI.
  - (2) In the event that Business Associate reasonably determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity, in writing, notification of the conditions that make return or destruction infeasible, and Business Associate shall extend the protections of this Exhibit A to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

7. Indemnification.

Business Associate shall reimburse, indemnify and hold harmless Covered Entity for all costs, expenses (including reasonable attorneys' fees), damages and other losses resulting directly from any negligent breach of this Business Associate Addendum, Security Incident or Breach of PHI maintained by Business Associate or Business Associate's agent or subcontractor, subject to the provisions of the Agreement. The foregoing includes, without limitation: 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; or other mitigation steps taken by Covered Entity to comply with HIPAA or state law.

**Exhibit B**  
**Powershare Schedule**

This Schedule for *PowerShare* ("Schedule") forms part of and is subject to the Nuance Healthcare Master Agreement dated June 01, 2016 ("Agreement") between **San Mateo Medical Center** ("Company") and Nuance Communications, Inc. ("Nuance") and applies to the Hosted Services defined below and as specified in the attached or any subsequent Order for PowerShare Service ("Applicable Order"). In the event of a conflict between the Agreement and the terms of this Schedule, the terms of this Schedule will prevail.

1. DEFINITIONS: for purposes of this Schedule, the following terms shall have the following meanings:
  - a. "Accelerator" means a Nuance software tool that Company, its Affiliates, and Spokes may download to access and use the Hosted Services.
  - b. "Annual Baseline Volume" means the aggregate number of Uploaded Studies uploaded to Company's Image Repository by Authorized Users during each Annual Period. "Uploaded Studies" include shared exams and images copied or otherwise uploaded to Company's Image Repository by Authorized Users.
  - c. "Annual Period" means each successive one year period during the term of an Applicable Order commencing on the Go-Live Date as defined in Section 5. b. (1) below.
  - d. "Archiving Service" is the long-term cloud storage of Clinical Images/Shared Studies.
  - e. "Authorized User" is as defined below in Section 2.a. of this Schedule.
  - f. "Hosted Services" means Nuance PowerShare service for medical image exchange including an Image Repository, Accelerator and related services subject to the terms of this Schedule and the Applicable Order.
  - g. "Image Repository" is the cloud storage location for Company's Studies. The Image Repository retains a Study for a period of 45 days.
  - h. "Required Consents" means all consents, licenses or approvals that give Nuance the right and/or license to access, use, copy, distribute, grant access, adapt, display, and perform the Hosted Services with Company's or a third party's products, data, services and other materials without infringing on the rights of providers, licensors, or owners of such products, data, services or materials.
  - i. "Spoke" means an entity that Company authorizes to access and use its Image Repository to send or receive a Clinical Image/Shared Study. A Spoke must create its own Hosted Services account with Nuance subject to the terms of use for the account. A Study uploaded to the Image Repository by a Spoke may contribute to Company's Annual Baseline Volume.
  - j. "Study" or "Clinical Image/Shared Study" means a medical study performed on a patient as defined in the Digital Imaging and Communications in Medicine (DICOM) Standard section PS3.3-2011. A Study may also be a non-DICOM image wrapped in a DICOM header. A Study consists of a collection of one or more series of medical images, presentation states, and/or structure reporting documents that are logically related for the purpose of diagnosing a patient. Each Study is associated with a single patient. A Study may include composite instances that are created by a single modality, multiple modalities or by multiple devices of the same modality. A Study will pertain to a single study instance Unique Identifier ("UID") and "Studies" means one or more Study.
2. GRANT OF RIGHTS
  - a. Hosted Services. Subject to the terms and conditions of this Schedule, Nuance hereby grants Company a revocable, non-exclusive, non-transferable, limited right to allow its employees, contractors and Spokes (each such employee, contractor and Spoke, an "Authorized User") to (i) access and use the Hosted Services during the Service Term provided that such access and use is in a manner commensurate with the



intended use of the Hosted Services as set forth in the Documentation and (ii) download the Accelerator and applicable connectivity software for use solely with the Hosted Services. Company, on behalf of itself and its Authorized Users, acknowledges and agrees that under no circumstances shall Nuance's Hosted Services be used as an Image Repository for the original version of a Study or any of the contents of a Study.

- b. Restrictions. Company will not allow any Authorized User to access or use the Hosted Services for personal use or for the benefit of any unauthorized third party. Company shall not (i) allow anyone other than an Authorized User to access or use the Hosted Services, or any component thereof, or (ii) interfere with or disrupt the integrity or performance of the Hosted Services. Company shall not permit anyone to subject the Hosted Services 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 written approval of Nuance's VP for Hosted Infrastructure Services.

3. NUANCE RESPONSIBILITIES

Nuance agrees to host the Image Repository in the United States and retain each Study for a period of 45 days. Communications and network interoperability requirements for the Hosted Services are described in the PowerShare Specifications available at [www.Nuance.com](http://www.Nuance.com). Hosted Services and PowerShare Specifications are subject to change at Nuance's discretion but such changes will not result in a material reduction in the level of performance or service availability during the Service Term. Nuance reserves the right to establish a maximum amount of network bandwidth, memory, or other functionality and a maximum amount of Clinical Images/Shared Studies that Company may store, post or transmit on or through the Hosted Services.

4. COMPANY RESPONSIBILITIES

- a. Infrastructure and Services. Company is responsible for all computer hardware, software and communications equipment required to access and use the Hosted Services including paying all ISP, telecommunications, etc. access charges incurred, and agrees to: (i) supply Nuance reasonable information, data, access to premises, management decisions, approvals and acceptances necessary to facilitate Nuance's obligations hereunder; (ii) provide Nuance secure, remote access to its networks and/or computing technology as necessary; and (iii) provide telecommunications including Internet connectivity, firewall, and all equipment and operating system software necessary for Authorized Users to access and use Hosted Services. Nuance has no responsibility for any modification/enhancement costs incurred to implement Company's or an Authorized User's interface or connection to the Hosted Services.
- b. Onsite Assistance. If Company orders Nuance's on-site implementation and/or training services, Company agrees to provide a point of contact for such services and provide a safe and reasonable workspace to accommodate the performance of the services. Nuance may require Company's technical assistance and cooperation with its vendors in connection with the performance of its obligations. Company agrees to provide, at no charge to Nuance, such technical assistance and cooperation as Nuance may from time to time reasonably request during the Service Term.
- c. Required Consents. Company and its Authorized Users, as appropriate, shall promptly obtain and supply Nuance all Required Consents reasonably necessary to provide the Hosted Services. Company, on behalf of itself and its Authorized Users grants Nuance a non-exclusive, worldwide right and license to use, copy, distribute, grant access, adapt, display, and perform related services with its Studies so that Nuance may fully perform the Hosted Services.
- d. Authorized Users. Company represents it has the authority to compel each Authorized User to comply with the terms and conditions of this Schedule and guarantees each Authorized User's full and faithful compliance with the terms of the Schedule. Company will be liable for any act or omission by any Authorized User to the same extent as if Company itself had taken such action or made such omission. Company will, at its expense, defend and indemnify Nuance, and hold Nuance harmless, from any (i) claims, actions, suits, or proceedings made or brought against Nuance by any Authorized User (each such

claim, action, suit or proceeding, a "Wrongful Claim"), and (ii) losses, claims, costs, expenses, damages, or liabilities sustained by Nuance arising from a Wrongful Claim.

5. PAYMENTS AND RELATED TERMS

a. Invoices. Professional Services fees for implementation and training services, if any, shall be invoiced upon the Effective Date of the Applicable Order. Any travel and out-of-pocket expenses are invoiced separately. Invoices for the Hosted Services subscription fees commence on the Go Live Date and are issued monthly in arrears. Any additional or conflicting Company purchase order terms and related forms shall have no effect.

b. Payment. Company agrees to pay all invoiced Fees and expenses as they become due within thirty (30) days of Nuance's invoice date. The following additional payment terms apply:

(1) Service Commencement. Hosted Services are deemed accepted and Hosted Services Monthly Fees commence on the earlier of: (i) the date Company uses the Hosted Services in a live capacity, ; (ii) three months from the Effective Date of the Applicable Order or (iii) another date agreed upon in writing by the parties ("Go-Live Date").

(2) Annual True Up. If Company does not exceed its Annual Baseline Volume of Studies by five percent (5%) during an Annual Period there is no additional charge for the excess Studies and no change in the Annual Baseline Volume for the subsequent Annual Period. If Company's (including its Authorized Users) actual number of Uploaded Studies during an Annual Period exceeds its Annual Baseline Volume by five percent (5.00%) , or, if Company indicates in writing its desire to increase the Annual Baseline Volume for the subsequent Annual Period (in each case, "Add-on Studies"), Company agrees to promptly sign and accept a Nuance Order for the revised Annual Baseline Volume and Monthly Fees ("Revised Order") and Nuance will add the Add-on Studies to the previous year's Annual Baseline Volume to establish a revised Annual Baseline Volume and Hosted Services Monthly Fees for the subsequent and succeeding Annual Periods. If Company does not sign and accept the Revised Order Nuance may restrict Company's usage of the Application Services to the preexisting Annual Baseline Volume during the subsequent and succeeding Annual Periods. If Company accrues Add-on Studies during the final year of the Hosted Services, Nuance will promptly calculate and invoice Company for the excess usage and Company agrees to pay the invoice within thirty days of Nuance's invoice date.

6. WARRANTY

Nuance warrants that the Hosted Services shall be made available in substantial conformity with its Documentation. Company's sole remedy and Nuance's sole liability for any breach of this warranty shall be for Nuance to repair or replace any reported nonconformity in the Hosted Services, or, alternatively, to return the pro-rata fees paid for such nonconformity.

7. TERM AND TERMINATION

a. Service Term. This Schedule shall remain in full force and effect for the period set forth in the Applicable Order ("Service Term"). The Service Term shall be from June 1, 2016, through May 31, 2021, unless either Party provides the other Party with notice of non-renewal at least thirty (30) days prior to the end of the then-current Service Term.

b. Termination. Upon expiration or termination of the Applicable Order by either party ("Termination Date") all rights granted to Company under the Applicable Order shall terminate, and Company its Authorized Users shall immediately cease using the Hosted Services. In the event Company terminates the Applicable Order prior to the expiration of the Service Term for any reason, other than for cause, Company agrees to pay Nuance a fee equal to the total amount of all unpaid Professional Service and Hosted Services Monthly Fees that otherwise would have come due over the remainder of the Service Term but for the early termination ("Early Termination Fee"). Nuance shall invoice Company, in full, for the Early Termination

Fee on or about the Termination Date of the Applicable Order, and Company shall pay such invoice within thirty (30) days of the invoice date.

- c. Data Migration for Archiving Service. For up to ninety (90) days from the Termination Date ("Migration Period"), if Company that has purchased Archiving Service will be entitled to receive a reasonable amount of Nuance support to enable Company to migrate its Clinical Images/Shared Studies from the Archiving Services to itself or another vendor at Nuance's then current service rates. Except for such Migration Period support service, Nuance shall have no further obligation or responsibility for Company's Clinical Images/Shared Studies after the Termination Date.

## 8. MEDICAL CARE RESPONSIBILITY

Company and its Authorized Users have all responsibility to identify and correct any inaccuracies and errors in the Studies before using and/or relying on the content, results or other Hosted Services output. Company acknowledges Nuance does not provide medical practice advice. Company will consult with and rely exclusively on its own physicians or other medical direction to review and conduct necessary revisions and approval of any and all medical practice-related content, results or output provided by the Hosted Services. Nuance assumes no responsibility for any of the foregoing, and Company agrees to indemnify and hold Nuance harmless from and against any damages, claims or other liabilities for the wrongful death or personal injury of a third party directly or indirectly caused or arising out of (i) Company's use or nonuse of the Hosted Services, (ii) any content, results or output from the Hosted Services, (iii) all medical practice-related recommendations provided by Nuance, and (iv) Company's failure to identify and correct any inaccuracies and errors in the content, results or output of the Hosted Services.

## 9. SUPPORT SERVICES

Nuance shall provide Support Services, as defined in this Section 9, to Company's designated PowerShare administrator via telephone with Nuance's help desk. Hosted Services for PowerShare are configured to handle most support issues on a remote basis. Support services are not intended for catastrophic failure conditions that are typically the result of hardware, telecommunications or third party equipment failure and Company acknowledges that Nuance is not obligated to provide onsite services under such conditions to support hardware or software not manufactured by Nuance. Nuance provides second and third level telephone support services, i.e. these services are provided to Company's designated administrator who is responsible to take all first calls from Company's Authorized Users. Nuance's help desk is available 24x7x365 to report critical support issues and is available during normal business hours (8:00 a.m. to 5 p.m. Eastern Standard Time, Monday through Friday excluding holidays) for all other support issues.

Critical issues: Production problems have occurred where one or more processes or programs have experienced abnormal termination and these problems must be resolved before Company can continue with normal business operations. Nuance will use commercially reasonable efforts to respond to critical issues within thirty (30) minutes on business days.

Serious issues: Production problems have occurred that (1) do not inhibit operations but impede its regular flow; or (2) have temporary solutions available while permanent solutions are found and implemented. Nuance will use commercially reasonable efforts to respond to serious issues within two (2) business hours on business days.

Moderate issues: Production problems have occurred where: (1) specific functions do not conform to Documentation; (2) specific transaction scenarios give invalid or unexpected results; or (3) configuration does not conform to the defined environment. Nuance will use commercially reasonable efforts to respond to moderate issues within six (6) business hours on business days.

Minor issues: Cosmetic production system problems. Nuance will use commercially reasonable efforts to respond to minor issues within two (2) business days.

THE PARTIES HAVE EXECUTED THIS SCHEDULE THROUGH THEIR DULY AUTHORIZED REPRESENTATIVES ON THE DATES INDICATED BELOW.



# ORDER

Page: 1/3

This Order is entered into on 25 day of May , 2016  
and is governed by the terms and conditions of Master Agreement and applicable PowerShare Schedule/Addendum  
between the parties. Until executed by the Customer, this Order shall be considered a confidential quotation for the items set  
forth below.

## CONFIDENTIAL\*\*

### Customer Information

Customer Acct: D90133025  
Name: SAN MATEO MEDICAL CENTER  
Address: 222 W 39TH AVENUE  
CENTRAL RECEIVING/LAB  
City: SAN MATEO, CA94403  
Attn:  
Contact Phone:

### Nuance Contact Information

Quoted: 25-MAY-2016  
Contact: Tellevik, Cory  
Contact Phone: 781-565-5000  
Fax Number: 781-565-5001

Billing Contact:  
Contact Phone:  
Contact Email:

Nuance Quote Number: 256701.2  
Nuance Internal Use: 90611.403175

### Nuance Pricing Program Summary

Committed Annual Baseline Volume: 5,000 Annual Studies

#### Fee Payment Schedule:

Subscription Term:	60 Months
Minimum Usage Fee:	\$1,042.00/month
Subscription Fee:	\$0.00/month
Subscription Total	\$1,042.00/month

#### One Time Payment Schedule

Professional Services:	\$16,000.00
One Time Total:	\$16,000.00

**\*\*Due Upon Commencement of the Service Term\*\***

Usage Volume	Qty	Model	Monthly Charge (USD)
PowerShare IS - BLITE Package - In and Out-bound sharing of Images & Report & HUB integration to PS360	417	PWRSH-ELTE-TRM	\$1,042.00
<b>Total</b>			<b>\$1,042.00</b>

Subscription	Qty	Model	Monthly Charge (USD)
<b>Total</b>			<b>\$0.00</b>

Services	Qty	Model	Total (USD)
PowerShare, Per Location Deployment package for IS Elite	1	PSIS-ELTB-PROS	\$16,000.00
<b>Total</b>			<b>\$16,000.00</b>

**Ship-To Information**

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Name: SAN MATEO MEDICAL CENTER  
Address: 222 W 39TH AVENUE  
CENTRAL RECEIVING/LAB  
City: SAN MATEO, SAN MATEO, CA 94403

**Project Information**

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Name SAN MATEO MEDICAL CENTER  
Strategic

**The pricing and product configuration contained herein are Confidential Information and may not be disclosed to any other party without Nuance's prior written consent. In addition to Nuance pursuing any other remedies available to it in law or equity, in the event Customer violates the terms of this provision, this quote shall immediately terminate and the foregoing pricing shall be null and void.**

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COUNTY OF SAN MATEO

By: \_\_\_\_\_  
President, Board of Supervisors, San Mateo County

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Clerk of Said Board



## Healthcare Professional Services Services Descriptions

May 16, 2016

\*All Project Management (PM) Services are remote unless otherwise noted

Qty	SKU/PN
1	<p><b>PWRSH-ELTE-TRM   PowerShare IS - ELITE Package</b></p> <p>PowerShare IS - Elite Package - In and Out-bound sharing of Image and Reports with Automated and Grouped Sharing/Routing, including Mobile and API Integration. Ideal for maximized productivity in engaging the Facility, Patients and Referring Providers. Includes 45 day of data retention and hub integrations for PowerScribe reporting.</p> <ul style="list-style-type: none"> <li>* Image Ingest - Upload Images from CDs/Desktop etc. into PowerShare</li> <li>* Non-DICOM - JPG, PDF, TIF, GIF file types for ingest and DICOM conversion</li> <li>* On-llne QA - Edit DICOM image header to better match/reconcile to local PACS</li> <li>* Basic &amp; Advanced Viewers to see images according to user's role &amp; preference</li> <li>* Push-to-PACS - Request pushing outside images (from CD, etc.) into PACS</li> <li>* Cache - 45 days Retained in the Cloud as Short-Term Storage for easy Access</li> <li>* System Alerts - User configurable e-Mail Indications of Sharing</li> <li>* Inbound-Facility Sharing - within the Facility(s) not Referring or Patient</li> <li>* Basic Analytics/Dashboard - Dashboard of system usages and sharing</li> <li>* PowerScribe Report interface (at Purchasing site) - Report access with Images</li> <li>* Cardiac - Larger data CV image routing (Visage option can be added)</li> <li>* Mobile - Easy upload, retrieve, view &amp; sharing on iOS device</li> <li>* Outbound Network Sharing - Send to Referring, Patients &amp; Other External</li> <li>* Rules Based Auto-Sharing - Configure routing/sharing/PACS pushing rules</li> <li>* Grouping of Users in Manual &amp; Auto-sharing for Department Automation</li> <li>* Cross-Site Query - Multiple Locations Queries for broader Sharing Experience</li> <li>* Non-Powerscribe HL7 Report Interface (at Purchasing site)</li> </ul>





## Healthcare Professional Services Services Descriptions

May 16, 2016

\*All Project Management (PM) Services are remote unless otherwise noted

Qty	SKU/PN
1	<p><b>PSIS-ELTE-PROS   PowerShare, Per Location Deployment package for IS Elite</b>  Per Location Deployment package for IS Elite. Includes establishing an administrative account, installing and testing accelerators, baseline workflow analysis and a one-time physician upload. One of each: system administrator course, end-user training course, train-the-trainer physician course, and a physician course. Community outreach and connections to aid in connecting and onboarding local networks, increase utilization. HL7 Powerscribe Report interface configuration and testing for up to 10 spokes and a hub. Workflow Configuration for accelerator with auto-sharing rules established &amp; configured.</p> <p><b>Setup</b>  * Includes establishing an administrative account, installing and testing Accelerators, baseline Workflow Analysis and One-Time Physician Upload</p> <p><b>Training</b>  * One of Each: System Administrator Course, End User Training Course, Train-the-Trainer Physician Course, Physician Course</p> <p><b>Community Outreach/Connections for high volume connections</b>  * Aid in connecting and onboarding local networks, increase utilization</p> <p><b>HL7 PowerScribe Reports for Hub</b>  * Configuration and testing for report from Powerscribe</p> <p><b>Workflow Configuration</b>  * Accelerator and Contact auto-sharing rules established &amp; configured</p> <p><b>EHR/API - 1 integration</b>  * Configuration and testing for report from 3rd Party</p>

**EXHIBIT C**  
**SCHEDULE for**

***PowerScribe 360 | Reporting: Exam Volume License***

The terms of this Schedule for PowerScribe 360 | Reporting: Exam Volume License ("Schedule") apply to the Exam Volume Program and any Hosted Services, Optional Modules or Packages purchased in an Order (the "Applicable Order") and are made part of the Healthcare Master Agreement or, if applicable, the Terms of Sale Agreement between the parties ("Agreement"). In the event of a conflict between the Agreement and the terms of this Schedule, the terms of this Schedule will prevail.

**1. Definitions.** For purposes of this Schedule, the following terms shall have the following meanings:

- "**Affiliate**" means a business entity that is controlled by Company. "Control" as used herein means control through ownership of a majority of shares of stock eligible to vote for members of the Board of Directors, or control by contract.
- "**Annual Exam Period**" means each successive one (1) year period following First Productive Use.
- "**Actual Exam Volume**" means the aggregate number of Exams Company and its Licensed Affiliates performed during the prior Annual Exam Period using the Exam Volume Program to generate a Report.
- "**Annual Exam Volume Report**" means a report in the form set forth in Appendix A that includes Company's and its Licensed Affiliates' Actual Exam Volume for the prior Annual Exam Period.
- "**Baseline Exam Volume**" means the number of Exams Company and its Licensed Affiliates expect to perform using the Exam Volume Program to generate a Report during an Annual Exam Period. The initial Baseline Exam Volume is set forth in the Applicable Order. The Volume may increase pursuant to Section 4.
- "**Client Component**" means the software that allows a Device to access and utilize PowerScribe 360 functionality in the Server Component.
- "**Contract Month**" means for Critical Results, Hosted Services and certain Optional Modules each full and partial calendar month within the License Term.
- "**Core**" means a processing unit contained within a physical Processor. Processors may have two or more Cores.
- "**Core Limit**" means (a) when running the SQL Server component of the Exam Volume Program in a Physical Operating System Environment, the maximum number of Cores that a Physical Server running the SQL Server component can have, and (b) when running the SQL Server component of the Exam Volume Program in a Virtual Operating System Environment, the maximum number of Cores that can be allocated to the Virtual Operating System Environment running an instance of SQL Server.
- "**Device**" means a personal computing device as specified in the accompanying Documentation.
- "**Exam**" means each individual radiological imaging study (e.g. CT of Abdomen, CT of Chest, MRI of the Brain, Fetal ultrasound).
- "**Exam Volume License Fee**" means the license fee (including any Add-on Exam Volume Fees) for the right to use the Exam Volume Program, which fee is based upon the Baseline Exam Volume.
- "**Exam Volume Program**" means the *PowerScribe 360 | Reporting* Software specified in an Applicable Order consisting of a Server Component and Client Component licensed to Company pursuant to this Exam Volume License.
- "**First Productive Use**" or "**Go-Live Date**" means the earlier of (i) the date Nuance has completed the Professional Services related to the installation of the Exam Volume Program including Hosted Services, Optional Modules and Package items in an Applicable Order, and the Exam Volume Program is therefore capable of processing data in Company's commercial environment or, (ii) the date occurring one hundred eighty (180) days after the date of the Applicable Order.
- "**Hosted Service**" means a Nuance term-based subscription service such as Critical Results, Assure, Quality Guidance, and Registry Reporting Service purchased in the Applicable Order. Certain Optional Modules and Package services are Hosted Services.
- "**Instance**" An Instance of the Server Component of the Exam Volume Program is created by installing the Server Component, or by duplicating an existing Instance. References to the Server Component are intended to include all Instances of the Server Component.
- "**License Term**" means the duration of the license grant for Hosted Services, certain Optional Modules and Package services in the Applicable Order.
- "**Licensed Affiliate**" means each Affiliate listed below that Company authorizes to use pursuant to the Agreement and this Schedule the Exam Volume Program, Hosted Services, Optional Modules and Packages in an Applicable Order.

Licensed Affiliate

Address


- “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.
- “Optional Modules” means Nuance proprietary software and/or Hosted Services that are separately purchased and licensed to supplement the Exam Volume Program. Although certain Optional Modules ship with an Exam Volume Program, Company has no right to access and use an Optional Module unless such right is purchased in an Applicable Order. Optional Modules include *PS360 Workflow Orchestrator*, *PS360 Peer Review*, *PS360 Assisted Diagnosis*, *PS360 Mobile Bridge/Mobile Radiologist*, *PS360 Quality Guidance (for v.3.0 and 3.5)*, *PS 360 Assure (for versions prior to v.3.0)*, *PS360 Registry Reporting Service* and any *PS360 Interfaces* (including Data Integration and Advanced Data Integration).
- “Package” means a combination of Nuance and/or Third Party Software and Services purchased in an Applicable Order.
- “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.
- “Processor” is generally a physical chip that resides in a physical socket of the hardware partition and contains one or more Cores.
- “Processor Limit” means (a) when running the SQL Server component of the Exam Volume Program in a Physical Operating System Environment, the maximum number of Processors that a Physical Server running the SQL Server component can have, and (b) when running the SQL Server component of the Exam Volume Program in a Virtual Operating System Environment, the maximum number of Processors that can be allocated to the Virtual Operating System Environment running an instance of SQL Server.
- “Server Component” means the software component of the Exam Volume Program that runs on a Company server and provides services/functionality to the Client Component of PowerScribe 360 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.
- “SQL Server” means Microsoft SQL Server software.
- “Targeted Registry” means a registry that Company has contracted for registry reporting services and to which Nuance transmits data on behalf of Company pursuant to Nuance’s Registry Report Service. Targeted Registries include the American College of Radiology Physician Quality Reporting System (PQRS) and General Radiology Improvement Database (GRID).
- “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.** Subject to the terms and conditions of the Agreement and this Schedule, Nuance hereby grants Company a limited, non-exclusive, non-transferable, non-sublicensable license to:

(a) install and run, at any one time, one Instance of the Server Component on one compatible Physical Operating System Environment or one Virtual Operating System Environment, whereby, 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.

(b) allow authorized Company and Licensed Affiliate employees and contractors (each such authorized employee or contractor, an “Authorized User”) to use the Exam Volume Program provided such use is in a manner commensurate with the Exam Volume Program’s intended use and solely for Company’s and/or a Licensed Affiliate’s internal business purpose. Company shall not allow anyone other than an Authorized User to use the Exam Volume Program. Company shall not allow any Authorized User to use the Exam Volume Program for personal use or for the benefit of any third party not licensed hereunder.

(c) allow Authorized Users to access and use Hosted Services, Optional Modules and Package items purchased in an Applicable Order in conjunction with the Exam Volume Program, provided such use is in a manner commensurate with the Hosted Service’s, Optional Module’s or Package item’s intended use and solely for Company’s and/or a Licensed Affiliate’s internal business purpose. Company shall not allow anyone other than an Authorized User to use a Hosted Service, Optional Module or Package item. Company shall not allow an Authorized User to use a Hosted Service, Optional Module or Package item for personal use or for the benefit of any third party not licensed hereunder. If purchased in the Applicable Order, the preceding rights allow Company to download and use a communication tool (an “Accelerator”) to access and use Registry Reporting Service solely to access, configure, monitor and transmit data to a Targeted Registry pursuant to a registry reporting agreement between Company and such Targeted Registry, and as otherwise authorized by Nuance, provided that such rights are subject to Company’s agreement to grant Nuance access to, and use of, Company’s PowerScribe360 database via the Accelerator (including access to specific ports for proper connectivity) to extract and transmit data to a Targeted Registry and to configure/address technical issues associated with the proper extraction and transmission of the data.

(d) License rights to Third Party Software such as Montage Software and ModLink Software are further subject to each product’s End User License Agreement.

(e) All rights not expressly granted to Company under this Schedule are reserved by Nuance and its licensors.

3. **Licensed Affiliates.** Company is responsible for the performance of each Licensed Affiliate and Authorized User in connection with its access and use of the Exam Volume Program including Hosted Services, Optional Modules and Packages, and guarantees each Licensed Affiliate’s and Authorized User’s full and faithful compliance with the terms of the Agreement and this Schedule. Company will be liable for any breach under the terms of the Agreement and this Schedule, and for any act or omission by a Licensed Affiliate or Authorized User to the same extent as if Company itself had taken such action or made such omission. Company will, at its expense, defend, indemnify and hold Nuance harmless from and against any (i) claims, actions, suits, or proceedings made or brought against Nuance by any Licensed Affiliate or

Authorized User (each such claim, action, suit or proceeding, a "Wrongful Claim"), and (ii) losses, claims, costs, expenses, damages, or liabilities sustained by Nuance arising from a Wrongful Claim. If Company purchases Localization Service for Quality Guidance, Company agrees to defend, indemnify and hold Nuance harmless from and against all liability including all acts or omissions by Company, a Licensed Affiliate or an Authorized User made in reliance upon its modifications made to Quality Guidance materials.

#### 4. Payments.

4.1 Initial Payment. In consideration for the Exam Volume Program including Optional Modules, Packages, related Equipment, Third Party Software, and Services provided by Nuance in an Applicable Order, Company shall pay, as applicable, all of the fees and other charges including, but not limited to, all taxes, shipping, freight, handling and similar costs specified in the Applicable Order (collectively, the "Fees") as follows:

(a) Subject to Section 4.5 if the value of the Applicable Order is less than \$50,000, or if Nuance is not providing Professional Services related to the delivery of the Exam Volume Program at Company's location, then Company will pay all Fees for the Exam Volume Program, Optional Modules, Packages, and associated first-year annual Maintenance Services, and any related Professional Services, Training Services, Equipment and Third Party Software as indicated in the Applicable Order, in full, within thirty (30) days of the date of Nuance's invoice.

(b) Subject to Section 4.5, if the value of the Applicable Order is \$50,000 or greater, and Nuance is performing Professional Services related to the installation of the Exam Volume Program at Company's location, then Company will pay all Fees for the Exam Volume Program, Optional Modules, Packages, and associated first-year annual Maintenance Services, and any associated Professional Services, Training Services, Equipment and Third Party Software as indicated in the Applicable Order, as follows:

(1) Nuance shall invoice Company thirty-three percent (33%) of the Fees for the Exam Volume Program, Optional Modules, Packages, and associated first-year annual Maintenance Services, and any associated Professional Services, Training Services, Equipment, and Third Party Software as indicated in the Applicable Order, upon Nuance's acceptance of the Applicable Order, and Company shall pay said invoice within thirty (30) days of the date thereof.

(2) Nuance shall invoice Company thirty three percent (33%) of the Fees for the Exam Volume Program, Optional Modules, Packages, and associated first-year annual Maintenance Services, and any associated Professional Services, Training Services, Equipment, and Third Party Software as indicated in the Applicable Order, upon shipment of the Exam Volume Program and Company shall pay said invoice within thirty (30) days of the date thereof.

(3) Nuance shall invoice Company the remaining Fees for the Exam Volume Program, Optional Modules, Packages, and associated first-year annual Maintenance Services and any associated Professional Services, Training Services, Equipment, and Third Party Software as indicated in the Applicable Order, upon First Productive Use or one hundred and eighty (180) days after the date of the Applicable Order if the Professional Services related to installation was delayed through no fault of Nuance (whichever shall first occur), and Company shall pay said invoice within thirty (30) days of the date thereof.

(4) If Nuance performs Professional Services to install the Exam Volume Program, Company will have a period of fourteen (14) days ("Review Period") commencing on the date of First Productive Use to provide Nuance a written request ("Corrections Request") reasonably detailing how the Exam Volume Program failed to materially comply with the specifications, tests and other criteria set forth in the Implementation Plan ("Completion Criteria") unless Company waives in writing its right to review. A Corrections Request should be sent to the Nuance project manager, with a copy e-mailed to [corrections.request@nuance.com](mailto:corrections.request@nuance.com). Nuance will use commercially reasonable efforts to correct a Corrections Request that identifies a material failure of the Exam Volume Program to conform to the Completion Criteria and deliver a revised Exam Volume Program to Company within fifteen (15) business days of receiving such Corrections Request. Company shall have an additional period of fourteen (14) days from the date of its receipt of such revised Exam Volume Program (such 14 day period, also a "Review Period") in which it may provide Nuance another Corrections Request pursuant to the above. The foregoing review/correction process shall be repeated until such time a Review Period concludes without Nuance receiving a Corrections Request provided that, if Nuance is unable to correct material failure(s) in the Exam Volume Program to satisfy the Completion Criteria after three (3) attempts, Nuance may terminate the Applicable Order and refund (i) Fees received for the Exam Volume Program, and (ii) Fees received for Training Services and Maintenance Services unperformed by Nuance due to the termination. Upon such termination, Company shall return the Exam Volume Program, including all copies thereof and related Documentation to Nuance. Upon conclusion of any Review Period in which Nuance does not receive a Corrections Request, or upon Nuance's receipt of Company's waiver of review (whichever shall first occur), the Exam Volume Program will be deemed accepted by Company.

4.2 Add-on Exam Volume; License Fees. If the Actual Exam Volume exceeds the Baseline Exam Volume by five percent (5.00%) or more in an Annual Exam Period, then Company shall pay Nuance additional fees ("Add-on Exam Volume Fees") for the Actual Exam Volume that exceeded the Baseline Exam Volume, based on Nuance's then-current pricing. The Actual Exam Volume (or Company forecast, if Company indicates its desire to increase its Baseline Exam Volume in the Annual Exam Volume Report) will be added to the prior year's Baseline Exam Volume to establish a revised Baseline Exam Volume for each successive Annual Exam Period (subject to further increase as provided in this Section 4.2) and the annual Maintenance Services fee for subsequent renewal Maintenance Services terms shall be updated based on such revised Baseline Exam Volume. Payment will be due and payable to Nuance within thirty (30) days of the date of each invoice.

4.3 Add-on Exam Volume; Back Maintenance Fees. If the Annual Exam Volume exceeds the Baseline Exam Volume by five percent (5.00%) or more in an Annual Exam Period, and the Exam Volume Program, Optional Module or Package item was under Maintenance Services during the reported Annual Exam Period, then Company shall pay Nuance the applicable Maintenance Services fee for such additional Exam volume for the reported Annual Exam Period. Payment will be due and payable to Nuance within thirty (30) days of the date of each invoice.

4.4 Maintenance Services Fees. If Nuance installs the Exam Volume Program including any Optional Module or Package item, Maintenance and Support Service will commence upon First Productive Use or the anniversary thereof for Maintenance and Support Service renewals. Maintenance and Support Service coverage is invoiced separately and in addition to Exam Volume License Fees.

4.5 Hosted Service Fees. If an Applicable Order includes periodic payment terms for Hosted Services, certain Optional Modules or Package services, Company agrees to pay for the services during the Licensed Term in the Applicable Order ("Hosted Service Fees"). Nuance will invoice Company for the Hosted Service Fees on or about the first day of each Contract Month (except for the Go-Live month), and Company shall pay each such invoice within thirty (30) days of the invoice date. Maintenance and Support for Hosted Services are provided at no additional charge during the License Term.

5. Reporting. Within thirty (30) days following each Annual Exam Period, Company shall provide Nuance with an Annual Exam Volume Report for such Annual Exam Period, in which, Company shall indicate the Actual Exam Volume and the Annual Exam Period's Baseline Exam Volume, and the disparity between them. Company agrees to include the percentage of the Actual Exam Volume performed by Company and each Licensed Affiliate. Each Annual Exam Volume Report must be sent by mail, and via email, to the respective mailing and email addresses set forth in the Annual Exam Volume Report form set forth in Appendix A, attached hereto, or such other address as Nuance may designate by written notice. This reporting requirement is a material element of the Agreement.

6. Termination. Within thirty (30) days following the expiration or termination of Company's rights to the Exam Volume Program, Optional Module or Package item, Company will provide an Annual Exam Volume Report in accordance with Section 5 above, pay Nuance any applicable fees in accordance with Sections 4.2, 4.3 and/or 4.5 above, immediately cease using the applicable Exam Volume Program, Optional Module or Package item, and return the same to Nuance. The termination of the Agreement or the Applicable Order shall not affect Company's obligations under Sections 3, 4, and 8 of this Schedule.

7. Hosted Service. The following additional terms apply for Hosted Services purchased in an Applicable Order:

7.1 Nuance Responsibilities

(a) Maintenance and Support Services. Nuance shall provide Option III Maintenance and Support Services for the Transactional Report Program, Hosted Services, Optional Modules, Package services and Rental Equipment during the License Term at no additional charge. All such Maintenance and Support Services shall terminate upon expiration or termination of the License Term.

(b) Delivery and Installation. Nuance agrees to provide Company the products and services pursuant to a mutually-agreed upon Project Plan, and thereafter, to host, operate and/or maintain any Hosted Services during the License Term. All Hosted Services infrastructure and databases are located and maintained within the United States.

(c) Clinical Results Active Clinician Directory. Company may request an annual update to the Active Clinician Directory (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 Company's diagnostic departments via Critical Results. "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).

7.2 Company Responsibilities

(a) Installation and Operation. During installation and operation of a Hosted Service, Company agrees to provide a qualified individual to monitor and manage the installation and assist with any issues that may arise. Company shall not permit anyone to subject a Nuance Hosted Services 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.

(b) Access and Report. Company hereby authorizes Nuance to establish a virtual private network (VPN) or other high-speed, robust, two-way electronic connection between Nuance and Company servers on which the Transactional Report Program are installed to provide maintenance and support services and calculate Report Fees due hereunder. Company also authorizes Nuance to enter Company premises during normal business hours to access servers on which the Transactional Report Program is installed to confirm Report Fees calculations due hereunder. Any disruption of Nuance's ability to access the Transactional Report Program to calculate Report Fees due hereunder shall constitute a material breach by Company of this Schedule.

(c) Service Infrastructure. Nuance Hosted Services have components that are hosted by Nuance in its data center. If Company orders such Hosted Services Company agrees to provide, at its own expense, telecommunications (including Internet connectivity), firewall, and all equipment and operating system software necessary for Authorized Users to access and use the services as recommended in the applicable Documentation. Nuance shall have no responsibility for any costs incurred for modifications or enhancements to Company's system or infrastructure necessary to implement Company's interface with the Hosted Services or in connection with Company's access and use of the Hosted Services. The communications and network interoperability requirements for the Hosted Services are described in the applicable service's Documentation.

8. SQL Server. Company acknowledges that SQL Server is required for the Exam Volume Program to run properly, and, as such, Nuance makes available a version of the Exam Volume Program with a licensed SQL Server component embedded therein. Company may opt for a version of the Exam Volume Program without the licensed SQL Server component if Company already has, or intends to acquire, the rights to SQL Server that provide Company the requisite right to use such SQL Server with the Exam Volume Program. Nuance will only provide SQL Server if Company orders the version of the Exam Volume Program with the licensed SQL Server component included.

8.1 Limitations. If SQL Server is provided as a licensed component of the Exam Volume Program, as indicated in an Applicable Order, Company shall not exceed (a) the Core Limit with respect to such SQL Server if the SQL Server is version 2012 or beyond, and (b) the Processor Limit with respect to such SQL Server if the SQL Server is version 2008 R2 or earlier. The Core Limit and the Processor Limit are as indicated in the Applicable Order.

8.2 Restrictions. If SQL Server is provided as a licensed component of the Exam Volume Program, as indicated in an Applicable Order, Company shall not unbundle the SQL Server from the Exam Volume Program and use it with any other product or service.

**Appendix A**  
(to Schedule for *PowerScribe 360* | Reporting: *Exam Volume License*)

**Annual Exam Volume Report**

**Company Name:**

**Installation Location:**

**First Productive Use Date:**

**Licensed Nuance Software: PowerScribe 360 | Reporting**

**Total Exam Volume:** Indicate Actual Exam Volume, Baseline Exam Volume, and the amount the Actual Exam Volume is over or under the Baseline Exam Volume:

Actual Exam Volume	Baseline Exam Volume	Over (Under)

**Exam Volume Breakdown:** Allocate to Company and each Licensed Affiliate their respective percentage of the Actual Exam Volume:

Company/Licensed Affiliates	Address	Percentage of Actual Exam Volume
<b>Total</b>		

**Based on the report above, please check the applicable box below:**

- ☐ Actual Exam Volume exceeded the Baseline Exam Volume by 5.00% or more. Company needs to increase the Baseline Exam Volume and Maintenance Services in accordance with the Agreement.
- ☐ Actual Exam Volume did not exceed the Baseline Exam Volume by 5.00% or more. Nevertheless, Company wants to increase the Baseline Exam Volume and Maintenance Services based on Company's forecast of Annual Exam Volume for the upcoming Annual Exam Period.
- ☐ Annual Exam Volume did not exceed the Baseline Exam Volume by 5.00% or more. Company does not want to increase the Baseline Exam Volume at this time.

**Note:**

This form must be used for all Annual Exam Volume Reports.

All Annual Exam Volume Reports must be submitted no later than thirty (30) days following each Annual Exam Period.

Annual Exam Volume Reports should be sent via e-mail to [aevreports@nuance.com](mailto:aevreports@nuance.com) and by physical mail to:

**Site License Administrator**  
**Nuance Communications Inc.**  
**3984 Pepsi Cola Drive**  
**Melbourne, FL 32934**



# ORDER

Page: 1/3

This Order is entered into on 25 day of May , 2016  
and is governed by the terms and conditions of the Healthcare Master Agreement,  
dated as of \_\_\_\_\_ 2016 by and between Customer and Nuance. Until executed by the Customer, this Order shall be  
considered a quote for the items set forth below.

**CONFIDENTIAL\*\***

## Quote To

Customer Acct: D90133025  
Name: **SAN MATEO MEDICAL CENTER**  
Address: 222 W 39TH AVENUE  
CENTRAL RECEIVING/LAB  
City: SAN MATEO, CA94403  
Attn:  
Contact Phone:

## Nuance Contact Information

Quoted: 25-MAY-2016  
Contact: Tellevik, Cory  
Contact Phone: 781-565-5000  
Fax Number: 781-565-5001

Nuance Quote Number: 256700.2

Nuance Internal Use: 90611.370877

Qty	Model	Product	Promo	Total (USD)
<b>License/Exams</b>				
50000	PS360QG-SVC-001	PS360 Reporting Quality Guidance - Term		37,500.00
<b>ProfessionalServices</b>				
1	PS360PM-QG-0100	PS360 Reporting Add-on Project Management Services - Quality Guidance		2,500.00
3	PS360TRA-QG-0100	PS360 Reporting - Quality Guidance On-Line Training for Administrators		750.00
1	PS360TRA-QG-0200	PS360 Reporting - Quality Guidance On-Line Training for Providers		250.00

## Fee Payment Schedule:

### Subscription Payment Schedule

Subscription Term	60 Months
License/Exams	\$625.00
ProfessionalServices	\$58.33
Subscription Total	\$683.33/Month

**Ship-To Information**

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Name: SAN MATEO MEDICAL CENTER  
Address: 222 W 39TH AVENUE  
CENTRAL RECEIVING/LAB  
City: SAN MATEO, CA 94403

**Project Information**

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Name: SAN MATEO MEDICAL CENTER  
Strategic:

**Bill-To Information**

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Name: SAN MATEO MEDICAL CENTER  
Address: 222 W 39TH AVENUE  
CENTRAL RECEIVING/LAB  
City: SAN MATEO, CA 94403

**Shipping Priority**

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Regular/Ground  
Second Day Air  
Priority Air / Next Day



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**Additional Terms:**

**\*\*By its receipt of this quote, Customer acknowledges and agrees that the pricing and product configuration contained herein are Confidential in nature, and, as such cannot be shared with any other party, including, but not limited to, any affiliate of Customer, without Nuance's prior written consent.**

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COUNTY OF SAN MATEO

By: \_\_\_\_\_  
President, Board of Supervisors, San Mateo County

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Clerk of Said Board