

# General Terms and Conditions

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This document states the general terms and conditions under which the Company will deliver to Client the Products and/or Services outlined in any Order Form executed by Client and/or Company. Unless otherwise specified in an Addendum, the order of precedence shall be as follows: (i) Addendum, if any; (ii) Order Form; (iii) Applicable Schedule and any Exhibit or Attachment thereto, if any; (iv) Statement of Work, if any; and (v) General Terms and Conditions. Capitalized terms shall have the meaning outlined in the Order Form, Schedule, or as defined in the [Definition Exhibit](#) below.)

## 1. CLIENT RESPONSIBILITIES

**1.1 General.** Client will comply, and Client will require all Affiliated Organizations, End Users, Personnel, and other persons to whom Client provides any access to Products, Services, or other Company Confidential Information to comply with the applicable provisions of this Master Agreement; and Client shall be responsible for the non-compliance of any such Affiliated Organizations, End Users, Personnel and/or other person.

**1.2 Required Resources.** Except for Products and Services accessed and used by Client under a Managed Cloud Service model, Client: (A) must provide, at its own expense, the Personnel, Facilities & Equipment required for use of the Products and Services; (B) must also obtain any consents, authorizations, and approvals necessary to enable the Company to access such Facilities and Equipment to perform its obligations for the Client under this Master Agreement; and (C) is responsible to obtain, and keep updated, any third-party materials that may be required to operate and/or use the features and functionality of any Company Software and/or Service, including but not limited to CPT and ICD code files.

**1.3 Special Programs.** Company has no responsibility to identify, evaluate, or assist the Client in the Client's decision to participate in any Special Program. The Client is solely responsible for determining whether to participate in such opportunities.

**1.4 Professional Diagnosis and Treatment.** Company Software and Services do not make clinical, medical, or other professional decisions, and are not substitutes for Client's Personnel applying professional judgment and analysis. The Client is solely responsible for (A) verifying the accuracy of all information and reports produced by the Products and Services, including as further outlined by Company's [Data Use](#) Policy, as may be amended from time to time; (B) obtaining necessary consents for use and disclosure of patient information; (C) determining data necessary for decision-making by Client and its Personnel; (D) making all diagnoses and treatments and determining compliance, and complying, with all Laws and licensing requirements for the operation of Client's business; (E) assuring its Providers have the necessary professional licenses and, unless Client has purchased Company's Credentialing Service, are properly credentialed according to applicable Law to perform their services.

**1.5 Limitations on Use.** Except to the limited extent expressly permitted in this Master Agreement, Client will not: (A) sell, transfer, lease, assign, or sublicense any Product or Services; (B) use any Product or Services as a service bureau, for outsourcing, for sharing access to any Services with any Third Party (except for authorized End Users), or for otherwise offering or making available the functionality of the Products or Services to any Third Party; (C) permit any End User or other person to access or use Products or Services using another End User's ID, login, password, or otherwise make an End User's ID, login or password available to any Third Party; (D) use any Product or Service to process anything other than Client's, Affiliated Organizations', or an End Users' data; (E) bypass any privacy and/or security measures Company may use to prevent or restrict access to the Products and/or Services (or other accounts, computer systems or networks connected to the Company's Products or Services); (F) knowingly use the Products and/or Services in a manner that violates any applicable local, state, national and foreign Laws, treaties or regulations (including those related to data privacy, international communications, export Laws and the transmission of technical or personal data Laws); or (G) remove any intellectual property, confidentiality or proprietary notices of Company and/or any Third-Party which appear in any form on the Products and/or Services or otherwise in any Company collateral or materials however reproduced.

## 2. PAYMENT OF FEES

**2.1 Payment.** Unless otherwise outlined in an Addendum, payment terms are as outlined in the applicable Order Form. If not explicitly stated on the applicable Order Form, Client agrees to pay all invoices at Net 30. Client agrees to pay all fees for the entire Service Term set forth on an applicable Order Form. Client's payment obligations for the entire Service Term, as set forth on each applicable Order Form, are binding, non-cancelable, and irrevocable. Payment obligations commence as stated on the Order Form, regardless of the Client's actual start of use of the Products or Services, and continue through the entire Service Term. Client understands that any payment terms offered by Company are an extension of credit by Company and may require that the Client provide credit information to Company. Should the Company be unable to obtain through commercially reasonable means, using reasonable commercial underwriting principles, a favorable creditworthiness approval of the Client (as determined by the Company in its sole discretion), the Company may require alternate payment terms or, at its option, immediately terminate the Master Agreement (or any applicable Order Form) upon written notice to Client. Any billing requirements needed by the Client on Company invoices must be submitted to the Company (via opening a support case through Company's [Success Community](#) within 10 days from the Effective Date; and, any agreed to invoice changes will only be effective for invoices prospectively issued. Any undisputed fees that are owed as of the date of termination or

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expiration of this Master Agreement will be immediately due and payable. All fees and subscriptions (including but not limited to Maintenance Services) may be increased each calendar year during the initial Service Term or any Renewal Period by the lesser of 7% or the change in the Consumer Price Index, for all Urban Consumers (CPI-U) – US City Average, All Items. Additionally, Company reserves the right to modify its fees and subscriptions, effective as of the beginning of the next applicable Service Term with sixty (60) days prior notice to Client. If paying by credit card or eCheck, Client expressly authorizes Company to charge Client's credit card or bank account information each month for an amount equal to Client's current balance. If either: (A) Client's credit card or bank account information changes, (B) Client's credit card or bank account information becomes expired, or (C) Client is notified by Company of an unsuccessful attempt by Company to charge Client's credit card or bank account for Client's invoice total, then Client agrees to update its account with valid credit card or bank account information as soon as possible but, in no event, later than five (5) days. If, at any time, Client revokes its credit card or bank account authorization, then such revocation shall be considered a material breach of this Agreement. To the extent permitted by applicable Law, payments made by credit card are subject to a processing fee equal to the fee charged to Company by the credit card processor or the amount permitted by applicable law. Payments made by eCheck transfer shall not be subject to a processing fee.

**2.2 Subscription Fee.** Unless otherwise set forth in an applicable Order Form, Managed Cloud Service subscription fees commence 30 days from the Effective Date of the applicable Order Form in which the Product or Service that will be under a Managed Cloud Service subscription is obtained. The need for an extended period thereafter to complete any setup, installation, maintenance work, consultation, Updates, programming, or training services required hereunder shall not delay or extend the time for payment as set forth herein. The Managed Cloud Service subscription fee may increase during any Service Term if (i) Company's third-party costs to provide such service materially increase beyond Company's reasonable control; which, in such cases, Company will provide Client with 30 days advance written notice of such increase; (ii) if during a current Managed Cloud Service subscription additional Products, acquired by Client under supplemental orders, are added to the overall portfolio of Managed Cloud Service subscription or if additional Metrics and/or Third Party Materials are used in the prior month, in which case, Company will invoice Client for the additional, actual usage; and/or (iii) if Client exceeds the storage limits described in the "Storage" Section below, in which case, Client will be charged 75c per gigabyte per month over the storage limit each month.

**2.3 Billing Disputes.** If Client believes in good faith that Company has incorrectly billed Client, Client must notify Company in writing, in reasonable detail, of the dispute through Company's [Success Community](#) prior to the date payment is due. Invoices for which no such timely notification is received shall be deemed accepted by Client as true and correct, and Client shall pay all amounts due under such invoices within the applicable due date. The Parties shall seek to resolve all such disputes expeditiously and in good faith. Notwithstanding anything to the contrary, each Party shall continue to fulfill its obligations under this Master Agreement during any such dispute, including, without limitation, payment by Client of all undisputed amounts/fees due and payable. Late fees will apply to any disputed amounts found due to Company.

**2.4 Failure to Pay.** If Client fails to make any payment when due then, in addition to all other remedies that may be available, Company may charge interest on the past due amount at the rate of 1.5% per month or, if lower, the highest rate permitted under applicable Law, beginning from the payment due date until paid in full. If any charge owing by Client under this or any other agreement is thirty (30) days or more overdue, Company may, without limiting its other rights and remedies, (A) accelerate Client's unpaid fee obligations under such agreements for the remainder of the applicable Service Term so that all such amounts become immediately due and payable, (B) suspend or restrict Services until such amounts are paid in full, provided that, Company will give Client at least 10 days' prior notice that its account is overdue, before suspending or restricting Services to Client, (C) prospectively discontinue any currently provided discount for the affected Company Products and Services, and (D) discontinue any future right to purchase Products and Services, whether at a discount price or otherwise and/or withdraw any previously granted, non-standard payment terms. For items (C) and (D), the Company will provide an adjusted invoice that reflects the applicable list price and revise the associated payment schedule as applicable to reflect the new remaining balance and/or payment terms. Unless otherwise agreed to by the Parties in writing, the Company's failure to invoice for any item outlined in the Order Form shall not relieve the Client's obligation to pay for the item once the Company subsequently invoices the Client for the same. However, the Company will not exercise its rights under items (A) through (D) above or apply any interest charge if the Client is disputing the applicable charges in good faith in accordance with the Billing Disputes Section above and is cooperating diligently to resolve the dispute.

**2.5 Taxes.** Prices do not include applicable taxes. Company will invoice Client for any applicable taxes, and Client agrees to pay these taxes. Where applicable, Client must provide any tax-exemption claim to Company before, or contemporaneously, when, placing an order.

### 3. CONFIDENTIALITY

**3.1. Protection of Confidential Information.** As between the Parties, each Party retains all ownership rights in and to its Confidential Information. The Recipient will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Discloser for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Discloser in writing, limit access to Confidential Information of the Discloser to those of its employees and contractors who need that access for purposes consistent with the Master

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Agreement and who have signed confidentiality agreements with the Recipient containing protections not materially less protective of the Confidential Information than those herein. Neither Party will disclose the terms of the Master Agreement or any Order Form to any Third Party other than its affiliates without the other Party's prior written consent, provided that a Party that makes any such disclosure to its affiliate will remain responsible for such affiliate's compliance with this "Confidentiality" Section. Notwithstanding the foregoing, Company may disclose the terms of this Agreement and any applicable Order Form to a contractor of Company to the extent necessary to perform Company's obligations under this Agreement, under terms of confidentiality materially as protective as set forth herein.

**3.2 Compelled Disclosure.** The Recipient may disclose Confidential Information of the Discloser, excluding Protected Health Information, which shall be governed by the terms of a Business Associate Agreement between the Parties, if any, to the extent compelled by Law to do so, provided the Recipient gives the Discloser prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Discloser's cost, if the Discloser wishes to contest the disclosure. If the Recipient is compelled by Law to disclose the Discloser's Confidential Information as part of a civil proceeding to which the Discloser is a party, and the Discloser is not contesting the disclosure, the Discloser will reimburse the Recipient for its reasonable cost of compiling and providing secure access to that Confidential Information.

## 4. PRIVACY

**4.1 Protected Health Information.** If Client orders Services that require Client to provide to Company Protected Health Information ("PHI") that is protected under any Laws, the Parties will enter into, and maintain throughout the Service Term, a mutually agreed upon Business Associate Agreement. Company does not own the PHI provided by Client, and Client will provide Company with, only the minimum PHI required to perform the Services hereunder. The Parties each will comply with their respective obligations set forth in the Business Associate Agreement.

### 4.2 Personal Data.

- A.** If Client orders Services that require Client to provide to Company any Personal Data that is protected under any Data Protection Laws, the Parties agree to enter into a mutually agreed upon Data Processing Agreement. To the extent that any Data Protection Laws are not applicable to Client Data, this Section shall not apply.
- B.** To the extent Company, in its role as a Service Provider under CCPA (including as it may be amended by the California Privacy Rights Act, "CPRA"), receives Personal Data that constitutes "personal information" under CCPA, Company will not (i) sell (as defined in CCPA) such Personal Data; (ii) shall not retain, use, or disclose such Personal Data for any purpose other than performing the Services under the Master Agreement or as otherwise permitted under CCPA; (iii) retain, use, or disclose the Personal Data for a commercial purpose other than providing the Services unless otherwise permitted under the Agreement; or (iv) retain, use, or disclose such Personal Data outside of the direct business relationship between Client and Company.
- C.** Client acknowledges that in the course of providing the Services, Company may collect Personal Data about the Client and its End Users. The collection, use, and disclosure of such Personal Data by the Company shall be conducted in accordance with the Company's [Privacy Policy](#), as may be amended from time to time, which outlines these practices in detail. By engaging with the Services, Client and its End Users signify their understanding of, and agreement to, the data practices as described in the Company's Privacy Policy.

**5. CONSULTING SERVICES, IMPLEMENTATION SERVICES AND ONLINE TRAINING** Company will provide the Implementation and/or Consulting Services specified in any Order Form. If an Order Form includes a subscription to the Company's online training program, it will be used as part of the Implementation Services. Each Provider and End Users must have individual accounts and credentials to access the online training materials, which are for the Client's internal use only and are designed to help the Client learn how to use the Company Software and Services. Each online training SaaS subscription lasts for one year from the Effective Date of the relevant Order Form and automatically renews for another year at the then current rate unless a Party gives written notice of non-renewal at least 60 days before the end of the current online training subscription term.

## 6. SAAS MODEL.

**6.1. General.** Many of the Company's offerings are made available under a software-as-a-service ("SaaS") subscription model. Each such subscription, and its associated subscription fee, includes (i) the access and use of such Products and/or Services, (ii) non-administrative, remote access to the Environment, (iii) Software Maintenance Services on such Products and/or Services, and (iv) updated versions of the Third-Party Software listed in applicable Order Form. No license to the Product(s) is granted to the Client under a SaaS model. Certain SaaS offerings may require the Client to install on its equipment Plug-In software to access and use the SaaS offering.

**6.2 SaaS End Users; Plug-in License.** During the SaaS Service Term, and provided Client is compliant with the terms of this Agreement, Client will have a non-transferable and non-exclusive license to permit its SaaS End Users to install, use, and implement

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Plug-In Software solely to access the SaaS offerings for Client's internal operations as permitted under the Master Agreement. A SaaS subscription to the NextGen® Enterprise EHR/PM solution that is based solely on a Provider Metric, will include the ability to have that Provider and four (4) additional non-Provider SaaS End Users utilize the SaaS Subscription. Client will identify, in writing, all End Users and provide periodic updates as necessary. Client shall ensure that all End Users will comply with all the terms and conditions hereof. Client agrees to notify Company, in writing, within 7 days following the termination of employment or employment of any additional End User.

### 7. LICENSE MODEL.

**7.1 Company Software.** When licenses to Company Software are purchased by Client in an Order Form, Company grants Client, a perpetual personal, non-exclusive and non-transferable license to:

- (A) install and implement the Company Software on Authorized Server(s) and Authorized Workstation(s) solely for use by End Users for internal operations in quantities as set forth in the Order Form
- (B) and in accordance with applicable Metrics and User Materials; and
- (C) use, copy and distribute internally User Materials as reasonably required for permitted use of the Company Software. Any such copies of the User Materials must contain the same copyright and other proprietary notices that appear in the original User Materials.

**7.2 Third Party Software.** Except as otherwise set forth in an Order Form, Third Party Software is licensed solely for use with Company Software, and Client will not access Third Party Software except through the Company Software with which it operates. Client will purchase updates to Third Party Software as needed to comply with the requirements of Client's then current version of the applicable Company Software.

**7.3 Non-Production Use.** Unless otherwise agreed to by the parties in an Order Form or Addendum, Client may only operate one Production instance of the Software. Client may operate a reasonable number of non-Production instances (e.g. backup, training, disaster recovery, etc.) of the Software not to exceed any limit set forth in the Order Form and/or applicable Schedule. A backup instance of Software may be installed in a Designated Location separate from the location where the Production instance is installed.

**7.4 License Keys.** Certain Software may require a License Key to operate; and, in such case, the License Key is provided at the time of delivery. Any additional License Keys would be provided as needed.

**7.5 No Title Transfer.** All of the Company Technology shall remain personal property and the title thereto shall remain with the Company at all times. Client shall have no right, title or interest therein or thereto except as to the use thereof subject to the terms and conditions of this Master Agreement. Client shall keep the Company Technology free from any and all judgments, liens and encumbrances. Client shall give Company immediate notice of the attachment or other judicial process, lien, or encumbrance affecting the Company Technology and shall indemnify and save Company harmless of and from any loss or damage caused thereby.

**7.6 License Compliance.** During each Service Term and for 3 years thereafter, Client shall keep complete and accurate records relating to use of Products and Services and any fees payable under this Master Agreement. Company may, at its expense and no more than once every calendar year, inspect such records and access related systems to verify that use of the Products and Services by Client complies with the terms of this Master Agreement. If a verification shows that Client is using the Products and Services beyond the quantity that was legitimately licensed or in any way not permitted under this Master Agreement, Client must pay, unless disputed in good faith, any additional license fees and any related maintenance and support fees based on Company's then-current list price, within 30 days of invoice date.

**7.7 Effect of Termination.** Upon termination of a license or this Master Agreement, Client must cease to use the Software and Third Party Software, uninstall all copies of the Software and Third Party Software from all Authorized Servers and Authorized Workstations, and destroy any media containing the Software and Third Party Software.

**7.8 Delivery.** Software is deemed to be delivered and accepted by Client on the earlier of the date the Software is made available by Company for electronic download or, if applicable, the date that Company ships (FOB origin) the tangible product and/or media containing the Software.

**7.9 Hosting.** Software is deemed to be delivered and accepted by Client on the earlier of the date the Software is made available by Company for electronic download or, if applicable, the date that Company ships (FOB origin) the tangible product and/or media containing the Software

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- (A) Under the hosting model, Client has purchased Software licenses under an Order Form and such Software is installed in a Company owned or Company-controlled Environment and made available to Client for access and use through the internet. At the expiration of the hosting Service Term, the previously purchased Software licenses are available to Client to self-host or use a third party to host such Software. During the hosting Service Term, the Hosting subscription allows Client to access the Environment and use thereon the Products set forth in the applicable Order Form(s). The subscription fees under a hosting model do not include: (A) licenses and/or rental fees associated with Products set forth in any Order Form(s), (B) Implementation and/or Consulting Services fees required for use of any such Products and/or (C) Software Maintenance Services fees on such Products.
- (B) If the fees for the Software licenses are based on End User pricing, then: (A) Client will use the hosting Services and will require all Hosted End Users that use the hosting Services to comply with the terms of the Master Agreement. Each Hosted End User is limited to a single active session in the Environment; and accordingly, a Hosted End User may not be logged into the Environment from more than one computer (or have more than one session on a single computer) at any one time and (B) Client will designate at least one Certified Professional or System Administrator who is authorized to assign and delete authorized Hosted End Users, and who will timely notify Company of each authorization and termination of a Hosted End User.

### 8. MANAGED CLOUD SERVICES MODEL

#### 8.1 ENVIRONMENT. The Environment utilized to provide the Managed Cloud Services consists of the following:

- A. **Installation.** Company will load and/or configure the Products outlined in the applicable Order Form in the Environment. However, work associated with migrating from an existing non-Company environment is not a part of the applicable Managed Cloud Services subscription and is not included in the monthly Managed Cloud Services subscription fee. Before the Company performs any data conversion services, the Client must (i) procure the necessary resources to unload the data from Client's existing system; (ii) provide the record layouts, data, and other information requested by Company; and (iii) provide Company with the flat file extracts from Client's existing system in Company defined format.
- B. **Practice Setup.** Company will set the Environment to allow for one Production environment. Client understands that one Production environment is tied to one tax identification number, or one separate Group of Charts kept by the Client within the Software. If Client desires, or the Software requires to achieve the functional goal of Client, to have any additional, distinct and separate production environments to accommodate additional: (1) tax identification number associated with Client and/or (2) separate Group of Charts kept by Client within the Software, then Client would need to purchase a subscription to same, which fee would be in addition to the monthly Managed Cloud Services subscription fee already being charged.
- C. **Third Party Licenses for Infrastructure.** Company is responsible for obtaining the license and/or access and use rights for the third-party operating system, database software, tools, and utilities Company requires to operate the Environment. Client obtains no rights or licenses to these items. Client understands that the items Company obtains to create and maintain the Environment are separate and distinct from the Company Software and third-party materials that Client must purchase to use the features and functionality of the Company Software and/or Service.
- D. **Operation.** Company will maintain the Environment so that the Products thereon perform per the applicable Product's User Material(s).

#### 8.2 STORAGE. Client is limited to a maximum of fifteen (15) gigabytes of storage for Client Data generated or loaded through the Managed Cloud Service offering multiplied by the number of End Users included in the Managed Cloud Subscriptions that Client has purchased. Managed Cloud Service Fees are based on the volume of Client Data on the last day of each month. Extra storage used beyond the average of fifteen (15) gigabytes per End User accessing the Managed Cloud Service in any month will be billed at the rate of 75¢ per gigabyte per month.

#### 8.3 MISUSE OF CREDENTIALS. If the Company reasonably verifies that the Client is misusing or sharing Managed Cloud Service End User's ID, login, or password in a manner that: (A) exceeds the quantity specified in an applicable Order Form, or (B) is not permitted under this Master Agreement, resulting in additional fees, the Client must, unless disputed in good faith, pay the additional Service fees for the period identified by the Company as inaccurate. These fees will be calculated based on the Company's then-current list price and must be paid within 30 days of the invoice date. Subsequent invoices will reflect the Service fees for the confirmed number of End Users accessing the offering.

### 9. MAINTENANCE SERVICES. Company offers support services to help End Users maintain the Software, Hardware, and online services that it makes available to its clients, which can be found in Company's [Maintenance Services](#) policy, as may be amended from

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time to time. For those Products and Services that the Company makes available to clients under a SaaS model, the fee for Maintenance Services is included in the monthly SaaS Service fee. For all other Products and Services, the fees to obtain Maintenance Services are separately charged and invoiced. The Software Maintenance Service Term for Products shall be set forth in an applicable Order Form and shall continue as outlined in the Order Form, unless: (A) solely for Third Party Materials included within the Software Maintenance Service, the Third Party vendor provides written notice of nonrenewal to a Party; or, (B) the Third Party vendor or Company ceases to make available Software Maintenance Services on such Third Party Materials.

**10. DATA USE POLICY.** Client Data may be used by Company in accordance with the Company's [Data Use Policy](#), as may be amended from time to time.

## 11. TERM AND TERMINATION

**11.1 Term.** This Master Agreement, itself, becomes effective on the Effective Date of the first Order Form entered between the Parties. Every Product and Service purchased by Client directly from the Company will be subject to the terms of this Master Agreement, unless otherwise mutually agreed to in writing by the Parties. Each subsequently purchased Product or Service will be bound to the Master Agreement commencing on the Effective Date of the applicable Order Form and remain so bound until the expiration of the applicable Service Term for such Product or Service unless terminated earlier under this Master Agreement. Termination or expiration of a license or subscription to a Product and/or Service does not, in and of itself, terminate the Master Agreement; but the Master Agreement shall remain in effect if other licenses or subscriptions to other Products and/or Services remain in effect.

### 11.2 Termination for Cause.

**A. Material Breach by Either Party.** If either Party commits a material breach of this Master Agreement, including but not limited to non-payment, the non-breaching Party must give written notice describing, in reasonable detail, the nature and basis of the breach to the breaching Party. Except as otherwise allowed under this Master Agreement, if the breach is not cured within 30 days of the notice date or such other mutually agreed, in writing, extension thereof, the non-breaching Party may immediately terminate this Master Agreement. All notices by Client pursuant to this Section must be submitted in the Company's [Success Community](#) with a copy sent to the Company's legal department via [legal@nextgen.com](mailto:legal@nextgen.com). In the event this Master Agreement is terminated by Company in accordance with this Section, or in the event of Client's improper termination of this Master Agreement, all fees that would have become payable had the Master Agreement remained in effect until expiration of the remainder of the term of all Order Forms will become immediately due and payable, and Client shall pay such fees, together with all previously accrued but not yet paid fees, on receipt of Company's invoice therefor. The Parties agree that this amount is a reasonable estimate of NextGen's damages and is not a penalty. Client shall pay such fees, together with all previously accrued but not yet paid fees, on receipt of Company's invoice therefor.

**B. Bankruptcy.** Each Party may terminate this Master Agreement immediately upon written notice if the other Party ceases to conduct its business, makes a general assignment for the benefit of its creditors, admits publicly its inability to meet its obligations as they come due, voluntarily files for bankruptcy or insolvency, or is the subject of a filing by a Third Party for bankruptcy, insolvency, receivership or similar protection that is not dismissed within 45 days.

**11.3. Survival.** The termination or expiration of this Master Agreement will not affect any provisions of this Master Agreement which by their nature survive termination or expiration, including the provisions that deal with the following subject matters: Client Responsibilities, Confidentiality, Privacy, Term and Termination, Proprietary Rights, Warranty Disclaimers, Limitation of Liability and General Provisions.

**11.4 Effect of Managed Cloud Service Subscription Expiration/Termination; Transition; Return of Client Data.** Upon termination or expiration of Managed Cloud Service subscription(s): (A) Client's right to access and use the Managed Cloud offering(s) and all related functionality therein, through the Environment immediately terminates and (B) Client must, at its expense, remove and delete all copies of User Materials and any Plug-In Software, if any. Upon termination or expiration of the Managed Cloud Service subscription, Client's right to use the Environment immediately terminates. Upon termination of Managed Cloud Service subscription for a NextGen® Enterprise EHR/PM offering, Client will promptly obtain AWS' s3 cloud storage (or such other Company-approved cloud storage) and provide Company with credentials to access same. Once Company has obtained the necessary access, Company will copy the PHI into that storage site, in the following mutually agreed to content and manner and to the extent such data exists: (i) Prod.bak- Test, Dev; (ii) ICS images- on the file server; (iii) NGRoot – on the file server and (iv) Client share on the desktop- on the file server. Upon confirmation of receipt of the Client Data, Company will render unreadable, unusable, and unrecoverable all Client Data residing on Hardware controlled by the Company to the extent allowed by Law. Client may procure additional transition services at Company's then-current hourly rates and standard terms and conditions.

## 12. PROPRIETARY RIGHTS

**12.1 Ownership.** Company and/or its licensors retain all right, title, and interest in and to the Company Technology. No Company Technology is ever sold to Client but rather Client is either purchasing a license thereto or obtaining access and use of the

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Company Technology under a SaaS subscription model. Unless specifically stated, in writing, by the Company to the contrary, Client has no right to use the Company's or any Third Party's name, trademarks or logo, or any goodwill now or hereafter associated therewith, all of which is the sole property of and will inure exclusively to the benefit of Company or such Third Party. Client will not use the Products and/or Services in a manner that violates any third-party intellectual property, contractual or other proprietary rights.

**12.2 No Modifications.** Unless specifically stated, in writing, by Company to the contrary, Client agrees not to modify, create derivative works of, adapt, translate, reverse engineer the Products and/or Services or otherwise decompile, disassemble, or attempt to discover the source code or any other non-user facing aspects in any Product and/or Service. Breach of this Section will be deemed a material breach of the Master Agreement and entitle Company to immediately terminate the Master Agreement.

**12.3 Feedback.** The purpose of this Section is to avoid potential misunderstandings or disputes when Company's products and/or marketing strategies might seem like ideas submitted or feedback given to Company. Feedback means any comments, submissions or other feedback Client may provide to Company, at its sole discretion, concerning the functionality and performance of the Company Technology, including identification of potential errors and improvements. By submitting any Feedback, (1) Company will be free to use, disclose, reproduce, license, or otherwise distribute, and exploit such Feedback as Company sees fit, without any obligation or restriction of any kind to Client; (2) there is no obligation for Company to review Feedback; and (3) there is no obligation to keep any Feedback confidential.

### 13. LIMITED WARRANTIES

**13.1 General.** Each Party represents and warrants that to the best of their knowledge: (A) it is duly organized and in good standing under the Laws of the state of its organization; (B) it has full authority to execute and perform under this Master Agreement, and such performance is not prohibited by any agreement to which the Party is bound or any applicable Law, and (C) it will comply with all Laws applicable to its business and operations.

**13.2 Compliance.** Each Party represents and warrants that to the best of its knowledge: (A) it, its affiliates and its Personnel are not under or subject to a "Corporate Integrity Agreement" or any other restriction or investigation by any payer, government agency or industry self-regulating organization; (B) neither it nor any of its affiliates, directors or Personnel are (i) listed on the General Services Administration's Excluded Parties List System or (ii) suspended or excluded from participation in any Government Payer Programs; and (C) there are no pending or threatened governmental investigations against such Party or any of its affiliates, directors or Personnel that may lead to suspension or exclusion from Government Payer Programs or may be cause for listing on the General Services Administration's Excluded Parties List System. Breach of this Section will be a material breach of the Master Agreement and entitle the non-breaching Party to immediately terminate the Master Agreement.

**13.3 Limited License Warranty.** When applicable to Company Software licensed by Client under a License Model, Company warrants to Client that the Company Software - as delivered and at the time of delivery by Company or its authorized Partners - will perform substantially in accordance with the User Materials for that specific version of the Company Software for 1 year following Delivery. Client must notify Company, in writing, and in reasonable detail, within thirty days of any breach of this warranty. To the extent permitted by Law, Client's sole and exclusive remedy and Company's sole liability under or about this warranty will be, at Company's option, to (A) correct the Company Software or provide a reasonable workaround or (B) if reasonable efforts to achieve (A) fail, refund fees paid by Client for that non-conforming portion of the Company Software. This warranty does not cover any failure that (i) cannot be reproduced by Company; (ii) arises from use not permitted by this Master Agreement, including but not limited to, the Limitations on Use Section of the General Terms and Conditions; (iii) arises from any modification to the Company Software except by Company or by a current Company-certified partner authorized to make such modifications; (iv) would be avoided by implementing the then-current release of the applicable Company Software; or (v) is caused by use of any unauthorized Third Party operating system, database software, or other Third Party Material.

### 14. WARRANTY DISCLAIMERS

**14.1 Content; Third Party Materials.** Company does not make, and hereby expressly disclaims, any warranties in connection with Content and Third-Party Materials. All Content and Third-Party Materials are provided "As-Is" without any warranty or indemnification from Company whatsoever.

**14.2 Limited General Release Testing.** From time-to-time Client may be offered the opportunity to participate in the limited general release ("LGR") testing of Software or Services. All LGR versions of Software or Services are provided on an "As-Is" basis. Client's use of any LGR versions of Software or Services is at Client's own risk and expense, and without any change in the provisions of, or fees set forth in, this Master Agreement. Participation in any LGR program is optional.

**14.3 Implied Warranties.** To the maximum extent permitted by Law and except for the express warranties in this Master Agreement, Company and its licensors provide the Products and Services on an "As-Is" and "As Available" basis. Company and Third Party suppliers disclaim and make no, and Client is not reliant upon any, other representations, warranties and conditions of any kind, express, implied or statutory, including representations, guarantees, conditions or warranties of merchantability, title,

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non-infringement, fitness for a particular purpose, accuracy, or implied by the provisions of any Laws that by their terms can be disclaimed (such as the Uniform Commercial Code or the Uniform Computer Information Transactions Act). If such provisions cannot be excluded and disclaimed, then the provisions of this Master Agreement will control to the maximum extent permitted. Without any limitation, neither Company nor its licensors (A) warrant that any Content, Product or Services will be complete, accurate, uninterrupted, free of Viruses, error free, or that any error can be corrected, or (B) guarantees or agrees to ensure that any Products or Services comply with applicable Laws.

### 15. LIMITATION OF LIABILITY

EXCEPT FOR EXCLUDED CLAIMS, NEITHER PARTY SHALL BE LIABLE, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE OR PRODUCT LIABILITY), FOR ANY OF THE FOLLOWING ARISING OUT OF OR CONCERNING THIS MASTER AGREEMENT, HOWEVER CAUSED: CONSEQUENTIAL, SPECIAL, MORAL, INCIDENTAL, INDIRECT, RELIANCE, PUNITIVE OR EXEMPLARY DAMAGES; LOSS OF GOODWILL, PROFITS, USE, OPPORTUNITIES, REVENUE OR SAVINGS; BUSINESS INTERRUPTION; OR LOSS ARISING FROM THEFT OR CORRUPTION OF DATA, VIRUSES, OR SPYWARE. IN NO EVENT ARE ANY OTHER THIRD PARTIES (INCLUDING COMPANY LICENSORS) LIABLE TO CLIENT UNDER THE TERMS OF THIS AGREEMENT ON ANY BASIS WHATSOEVER. EXCEPT FOR THE EXCLUDED CLAIMS, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY FOR EACH AND ALL CLAIMS (INDIVIDUALLY AND TOGETHER) ARISING OUT OF OR CONCERNING THIS AGREEMENT, OR ITS SUBJECT MATTER, IS LIMITED TO AN AMOUNT EQUAL TO THE AGGREGATE OF FEES PAID OR OWED BY CLIENT WITHIN THE 12 MONTHS PRECEDING THE FILING OF ANY DEMAND UNDER THIS AGREEMENT.

### 16. INDEMNIFICATION

**16.1 Duty to Indemnify.** Company will defend any Third-Party Claim against Client during the Service Term for the applicable Company-developed Product or Service for any Infringement Claim. Company will pay Client the Losses (including reasonable legal fees) that are directly attributable to an Infringement Claim and are either finally awarded by a court of competent jurisdiction against Client or agreed to in a written settlement agreement signed by Company. The remedies in this Section are Client's sole and exclusive remedies and Company's sole liability regarding the subject matter giving rise to any Claim that the Products and Services infringe or misappropriate any Third Party's intellectual property rights.

**16.2 Company's Options.** In the defense or settlement of any Infringement Claim, Company may, at its sole option and expense: (A) procure for Client a license or, if applicable, subscription to continue using the Indemnified Technology under the terms of this Master Agreement; (B) replace or modify the alleged infringing Indemnified Technology to avoid the infringement; or (C) terminate this Master Agreement concerning the infringing part of the Indemnified Technology if neither of the foregoing is commercially reasonable and, solely as it relates to the affected license purchased) a pro-rata portion of the applicable fees equal to five (5) years paid by Client for the infringing technology.

**16.3 Exclusions.** Company will have no liability for any Infringement Claim to the extent that it arises from: (A) use of the Indemnified Technology in violation of this Master Agreement; (B) modification of the Indemnified Technology by anyone other than Company or a party authorized in writing by Company to modify the Indemnified Technology; (C) failure by Client to install the latest updated version of the Indemnified Technology as requested by Company to avoid infringement; (D) installation or use of Indemnified Technology contrary to the specifications and directions contained in the User Materials or other reasonable instructions of Company; (E) Third Party products, services, Hardware, software, or other materials, or combination of these with Indemnified Technology if the Indemnified Technology would not be infringing without this combination.

**16.4 Conditions to Indemnification.** Company will have no liability for any Infringement Claim if Client fails to: (A) notify Company in writing of the Infringement Claim promptly upon the earlier of learning of or receiving a notice of the infringement claim, to the extent that Company is prejudiced by this failure; (B) provide Company with reasonable assistance requested by Company for the defense or settlement (as applicable) of the Infringement Claim; or (C) provide Company with the exclusive right to control and the authority to settle the Infringement Claim (Client may participate in the matter at its own expense) provided that Company shall not settle any Infringement Claim that requires Client to admit fault without Client's prior written consent.

### 17. GENERAL PROVISIONS

**17.1 Equitable Relief.** Actual or threatened breach of certain sections of this Master Agreement (including, without limitation, provisions on intellectual property, license, privacy, data protection, and confidentiality) may cause immediate, irreparable harm that is difficult to calculate and cannot be remedied by the payment of damages alone. Either Party will be entitled to seek preliminary and permanent injunctive relief and other equitable relief for any such breach.

**17.2 Notices.** Any notice given under this Master Agreement must be in writing and, other than service of process, may be delivered: (A) if to Company, to both [www.community.nextgen.com/SuccessCommunityLogin](http://www.community.nextgen.com/SuccessCommunityLogin) and [legal@nextgen.com](mailto:legal@nextgen.com) and (B) if to Client, to the: (i) "sold to" email address set forth on the Order Form, or (ii) such other address as identified by Client from time to time. Notices delivered personally or via overnight courier will be effective upon delivery, and notices delivered by U.S. mail will be deemed effective

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five (5) Business Days after being deposited in an official U.S. Postal Service mailbox. A notice is deemed to be received by email the first Business Day after sending by email, unless the sender receives an automated message that the email has not been delivered.

**17.3 Viruses and Other Malware.** Each Party will use and maintain updated commercial Virus scanning software and/or use reasonable efforts to ensure that its electronic communications (and, as it relates to Company, the Company Software) do not contain any Virus.

**17.4 Choice of Law.** This Master Agreement will be governed by the laws of the State of Delaware, without regard to its conflicts of laws principles.

**17.5 Waiver; Modification; Relationship of Parties.** Neither Party's waiver of the breach of any provision constitutes a waiver of that provision in any other instance. This Master Agreement may not be modified nor any rights under it waived, in whole or in part, except in writing signed by the Parties. Company is an independent contractor, and nothing in this Master Agreement is intended to constitute an employment, partnership, joint venture, fiduciary, trust or agency relationship between the Parties, or authorize Client or Company to enter into any commitment or agreement with any Third Party that is binding on the other Party; provided that a Services Schedule may appoint Company to serve as Client's limited agent to perform the Services set forth therein. Subject to the other terms of this Master Agreement, each Party solely determines which of its Personnel will perform its obligations.

**17.6 Assignment & Successors; Subcontractors.** This Master Agreement is personal to Client, and Client may not delegate and/or assign this Master Agreement, including but not limited to any and all Products and/or Services thereunder, or any of Client's rights or duties hereunder without the advance, written consent of Company, which shall not be unreasonably withheld. Any attempted delegation, assignment, or transfer by Client in violation of the provisions of this Section will be deemed void and of no force and effect. Company may assign this Master Agreement or its rights and/or duties to its affiliates or to its successor in the event of a sale of all or most of its assets, voting securities, or the assets or business related to the Products or Services provided under this Master Agreement. Subject to the foregoing, this Master Agreement will be binding upon and inure to the benefit of the Parties' respective permitted transferees, successors and assigns. Company may subcontract the performance of its obligations to Third Parties as it determines appropriate, but in such cases, Company shall remain responsible for the performance of its subcontractors.

**17.7 Force Majeure.** A Party's failure to perform its obligations under this Master Agreement, other than the payment of money, is excused to the extent that the failure is caused by an event outside its reasonable control, including an act of God, act or threat of terrorism, shortage of materials, strike or labor action, war or threat of military or significant police action, natural disaster, failure of Third Party suppliers, denial of service attacks and other malicious conduct, utility failures, power outages, governmental acts, orders, or restrictions, or other cause beyond its reasonable control.

**17.8 Severability.** If any terms or provisions of this Master Agreement are for any reason held invalid, unenforceable, or deemed contrary to any applicable Law or policy, the Parties' preference is that such terms or provisions be effective to the extent permitted by Law and the same will not affect any other term or provision of this Master Agreement, which will otherwise remain in full force and effect.

**17.9 Client Cooperation.** Company may publicly identify Client as a customer of Company.

**17.10. Covenant not to Solicit.** Each Party recognizes the expense and time associated with recruiting, hiring, training, and maintaining employees. Each Party agrees that as it relates to any Employee, it will not during the Term of the Master Agreement nor for one year after the termination or expiration of the Master Agreement directly or indirectly solicit to reduce the relationship of the other Party's Employee(s) for itself or on behalf of any Third Party. For purposes of this Section "Employee" shall mean any current employee of a Party or any former employee who worked for the Party in the prior 6 months and was involved in any respect with the Services or performance of this Master Agreement. Each Party agrees that the damages to be incurred by the other Party for a violation of this Section are difficult to estimate; and accordingly, for any violation of this Section by a Party or its Personnel damages may include costs to recruit and replace such solicited employee.

**17.11. Third Party Materials/Third Party Beneficiaries/Additional Modules.** Certain Third-Party Materials listed on an Order Form and/or incorporated into NextGen products are sublicensed to Client and may be subject to terms and conditions that are separate from the terms and conditions set forth under this Master Agreement. (Those affected Third-Party Materials and related Third-Party pass-through terms and conditions ("Third Party Terms") are found at: [www.nextgen.com/thirdpartyagreements](http://www.nextgen.com/thirdpartyagreements), as may be amended from time to time, and incorporated by reference herein.) Although the Third-Party Materials may be required to utilize the full features and functionality of the Company Software and/or Service, Client is not required to obtain such Third-Party Materials directly through Company. In addition, Company may offer from within the Products and Services new modules/capabilities and/or additional Third-Party offerings that may present additional terms and conditions that are separate from those set forth under the Master Agreement. By signing the Order Form, Client is agreeing to comply with those separate terms and conditions. Except as set forth above or in any Schedule, the Parties agree and acknowledge that this Master Agreement is not made for the benefit of any Third Party and nothing in this Master Agreement, whether expressed or implied, is intended to confer upon any Third Party any rights or remedies under or because of this

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Master Agreement, nor is anything in this Master Agreement intended to relieve or discharge the liability of either Party hereto nor shall any provision hereof give any entity any right of subrogation against or action over or against either Party.

**17.12 U.S. Government Licensing.** For US Government End Users: Client acknowledges that Products and Services are either "Commercial Products," "Commercial Services," or "Commercial (COTS) Item(s)," as those terms are defined at 48 C.F.R. section 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as the terms are used in 48 C.F.R. section 12.212 or 48 C.F.R. section 227.7202, as applicable and has been developed exclusively at private expense. Client agrees, consistent with 48 C.F.R. section 12.212 or 48 C.F.R. sections 227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (A) only as Commercial Items; and (B) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished rights are reserved under the copyright Laws of the United States.

**17.13 Export Rules.** Client acknowledges that Company Technology may be subject to the U.S. Export Administration Regulations and other export Laws and regulations, and Client will comply with all applicable export and import control Laws and regulations of the United States and the foreign jurisdiction in which the Company Technology is used and, in particular, Client will not export or re-export the Company Technology without all required United States and foreign government licenses.

**17.14 Entire Agreement (Merger Clause).** This Master Agreement is the entire agreement between Company and Client regarding Client's purchase and use of Products and Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the parties prior to this Master Agreement except as expressly stated in this Master Agreement. The parties acknowledge and agree that they have not relied upon any representations, warranties, or statements not expressly set forth in this Master Agreement or incorporated documents.

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## DEFINITION EXHIBIT

### 18. DEFINITIONS. Capitalized terms shall have the meaning set forth in the Order Form or as defined below.

- 18.1 **"Affiliated Organization"** means a company, practice, group and/or other legal entity (including those having separate tax identification numbers) of a Client located within the United States (and pre-identified, in writing, by Client to Company prior to their use of any Products or Services) that has entered into a written agreement with Client that binds it and its End Users to comply with the applicable terms of this Master Agreement and are either: (i) owned by Client; or (ii) in which Client has a majority controlling interest in such company, practice, group and/or other legal entity; or (iii) in which Client has entered into a management agreement with such company, practice and/or other legal entity that creates a bona fide business relationship with Client to perform one or more management service functions.
- 18.2 **"Analytics Database"** means Company's collection of De-Identified Client Data from various customers of Company.
- 18.3 **"Business Day/Business Hour"** means time during which Company is actively staffed and most Company resources (including its Maintenance Services staff) are available, but excludes nights, weekends and holidays observed by Company.
- 18.4 **"CCPA"** means the California Consumer Privacy Act, Cal. Civ. Code § 1798.100 et seq.
- 18.5 **"Certified Professional"** means any Client Personnel who: (A) is actively involved in the day-to-day operation and support of the Products and Services within Client's organization, (B) has suitable education and experience to understand the Products and Services, (C) has passed the applicable Company certification tests (if any), and (D) if a contractor and not an employee of Client, has entered into a separate agreement with Company to become a Third Party Certified Professional.
- 18.6 **"Claim"** means a claim, action, proceeding, or demand made against a person or entity, however arising and whether present or future, fixed or unascertained, actual, threatened or contingent.
- 18.7 **"Client Data"** means the compilation of Client's, its Affiliated Organizations', subsidiaries', and/or parent entity's data from all Data Sources.
- 18.8 **"Company Appliance"** means a platform required to run certain Company Software.
- 18.9 **"Company Hardware"** means equipment and other hardware distributed under Company's brand that is purchased or rented by Client from Company and identified as Company Hardware in an Order Form. Hardware that is not identified as Company Hardware in the Order Form is Third Party Hardware.
- 18.10 **"Company Software"** means software in object code form licensed under an Order Form, or as may be made available for access and/or use under a SaaS offering and identified as Company Software, including any Interfaces, templates, and any and all updates, modifications, improvements, extensions, and derivative works made thereto by or for Company, Client, or any Third Party. "Company Software" specifically excludes Content.
- 18.11 **"Company Technology"** means the Company Software, Services and User Materials made available by Company, including all Interfaces, templates, forms, software tools, algorithms, software (in source code and object code forms), user interface designs, architecture, toolkits, plug-ins, objects, documentation, network designs, ideas, processes, know-how, methodologies, formulas, systems, data, heuristics, designs, inventions, techniques, trade secrets, and any related intellectual property rights throughout the world included therein, as well as any derivatives, modifications, improvements, enhancements, or extensions of the above, whenever developed.
- 18.12 **"Confidential Information"** means all information disclosed by a Party ("Discloser") to the other Party ("Recipient"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Client includes Client Data; Confidential Information of Company includes the Services, and the terms and conditions of this Agreement and all Order Forms (including pricing). Confidential Information of each Party includes business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. Notwithstanding the foregoing, Confidential Information does not include PHI which shall be governed by the BAA, or any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a Third Party without knowledge of any breach of any obligation owed to the Discloser, or (iv) was independently developed by the Recipient without use of Confidential Information of the other Party.
- 18.13 **"Consulting Services"** means services provided or to be provided by Company under one or more Order Forms to create reports and forms, customize certain aspects of Client's system and provide other technical and provisional services, as more specifically set forth in the Consulting Services Section above.
- 18.14 **"Content"** means any clinical content, in any form, included within Company Software and/or Services.
- 18.15 **"Data Protection Laws"** means the CCPA together with the European Data Protection Laws, or any other applicable data protection Laws and regulations which may be promulgated in the future.
- 18.16 **"Data Source"** means a single feed of aggregated personal, medical, financial and/or other data that is imported into any Company Technology.
- 18.17 **"De-Identified"** means data which is not personally identifiable, as defined in 45 C.F.R. § 165.514.

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- 18.18 **"Effective Date"** means the date signed on the applicable Order Form by Client; or, if multiple parties will be signing, then the date last signed on the applicable Order Form by the authorized representative of all parties.
- 18.19 **"End User(s)"** means Personnel who are: (A) based in the United States and (B) authorized by Client or an Affiliated Organization to use any portion of the Products or Services or (C) an authorized member of a community using the Software for purposes of health information exchange or care coordination. Unless specifically stated otherwise in the applicable User Material, each End User will be assigned a unique ID and password.
- 18.20 **"Environment"** means the Facilities & Equipment that Company deems necessary for operating the SaaS or Hosting Services and making it available for the Client's use through the Client's internet connection, all as specified in the applicable Statement of Work and/or Order Form.
- 18.21 **"European Data Protection Laws"** means the Data Protection Act 1998 (the "1998 DP Act"), the General Data Protection Regulation (EU 2016/679) as it applies in all EU member states and the UK (the "GDPR", and together with the 1998 DP Act).
- 18.22 **"Excluded Claims"** means Claims arising from Client's breach of the Payment (including any claims for accelerated or unpaid fees due for the remainder of any Service Term), Limitations on Use, Confidentiality, Term, Proprietary Rights and No Modifications sections herein.
- 18.23 **"Facilities & Equipment"** means a data center with all infrastructures, security controls, connectivity, systems, including back-up and recovery capabilities to avoid loss of data in the event of any failure, as well as all computers, background technology and equipment (including appropriate chipsets, processing speeds, RAM, storage, operating systems, connectivity, services, data, subscriptions, software, configurations other components necessary to operate the Products and/or Services.
- 18.24 **"Group of Charts"** means the aggregation of all patient charts within a practice or within separate disciplines within a practice.
- 18.25 **"Hardware"** means Company Hardware and Third Party Hardware.
- 18.26 **"Help Desk Support"** means the support services provided by Company help desk under its then current Maintenance Program.
- 18.27 **"Implementation Services"** means services provided, or to be provided, by Company under one or more Order Forms to configure, install and implement Software and Hardware for Client's use as more specifically set forth in the Consulting Services Section above.
- 18.28 **"Indemnified Technology"** means Company Software and Services paid for by Client but excludes any Third-Party Software, Content, Hardware, sample code, SDK, open source, trial or LGR versions of the Company Software and/or Services.
- 18.29 **"Infringement Claim"** means any Claim that alleges that the Indemnified Technology directly infringes a Third Party's United States patent, copyright, or trademark.
- 18.30 **"Instances"** means a single installation of Company Software running on a Company Appliance or such other physical or virtual server Client may provide.
- 18.31 **"Interface"** means the part of any Company Software designed to exchange data between or among Company Software components and other software or between Company Software and Hardware.
- 18.32 **"Law"** means those applicable federal and state statutes, regulations, codes, ordinances, agency directives, binding court orders and other binding government requirements.
- 18.33 **"Lives"** means the net number of individuals whose data is stored in the database of Company Software, regardless of Data Source, as measured by the master patient index.
- 18.34 **"LGR" or "Limited General Release"** means versions of the Software and/or Services made available by Company on a limited general release basis.
- 18.35 **"Loss"** means any damage, loss, cost, expense, or liability incurred by a person or entity.
- 18.36 **"Master Agreement"** means, collectively, all Order Forms, General Terms and Conditions Schedule, Business Associate Schedule and all other Schedules, Exhibits, Attachments, Statement of Work(s), and Addenda, if any, entered between the Parties and as delineated in any Order Form(s).
- 18.37 **"Managed Cloud Service"** means a Product or Service that Client is accessing through the Environment under either a SaaS model or a Hosting model.
- 18.38 **"Metric"** means each standard specified by Company in the Order Form or applicable Schedule that describes either: (i) the scope of Client's rights to use the Software and/or Services, as applicable or (ii) the measure by which Client's use of the applicable SaaS offering will be calculated and charged as reported to Client in periodic reports.
- 18.39 **"Non-Production Instance"** means an additional installation of Company Software used to directly support one or more Production Instances – Including, but not limited to, system used to test or stage software configurations or interfaces before deployment in a Production Instance, development environment, passive standby or failover system, or a demo/training system.
- 18.40 **"Order Form"** means each executed sales order form for Client's procurement of Products and Services.
- 18.41 **"Party"** means Company or Client, as applicable.
- 18.42 **"Personal Data"** shall have the combined meaning of (a) Personal Data as defined in the "European Data Protection Laws", and (b) "Personal Information" as defined in the "CCPA."
- 18.43 **"Personnel"** means, with respect to each Party, such Party's officers, employees, and contractors.

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- 18.44 **"Plug-in Software"** means certain, if any, locally installed software on Client's equipment necessary for SaaS End Users to access and use the SaaS offering. "Plug-in Software" is Company Software.
- 18.45 **"Population Limit"** means the Metric based on the maximum number of Lives allowed under the Company Software.
- 18.46 **"Practice License"** means each distinct and separate server license required by the NextGen® Enterprise software for: (1) each tax identification number associated with Client and its Affiliated Organizations and/or (2) each separate Group of Charts kept by Client and its Affiliated Organizations within the Software.
- 18.47 **"Products"** means one or more of the following procured from Company by Client as set out in an Order Form: Company Technology, Third Party Software, Content, Company Hardware, and Third-Party Hardware.
- 18.48 **"Production Instance"** means is an Instance that is used to serve the primary purpose for which Client has purchased a license to use Company Software - including but not limited to, primary system housing or handling live production data, secondary system used for reporting purposes, additional active system used to distribute or segregate load.
- 18.49 **"Provider"** means any licensed provider of healthcare services, including physicians, osteopathic physicians, dentists, optometrists, physical therapists, nurse practitioners, physician assistants and all other licensed providers.
- 18.50 **"SaaS"** means Company services that (A) make Software functionality accessible to Client on a subscription basis via the Internet and a browser as more specifically set forth in the applicable User Materials and (B) are identified as "SaaS" on an Order Form.
- 18.51 **"SaaS End User"** means any End User that needs to have log-in authority to the SaaS Environment for a particular Product(s).
- 18.52 **"Schedule"** means a written document executed by both Parties or incorporated by reference into an Order Form, which describes additional terms, related to Products and Services.
- 18.53 **"Service(s)"** means each service procured from the Company under one or more Order Forms, including Implementation Services, Software Maintenance Services, Hardware Maintenance Services, Consulting Services, online training services, SaaS and Hosting Service as such terms are defined in the applicable Schedule.
- 18.54 **"Service Hour(s)"** means all such time and materials service hours included within an Order Form, including but not limited to for, implementation, training, consulting and/or conversions.
- 18.55 **"Service Term"** means the Initial Term and any Renewal Term set forth in an Order Form or applicable Schedule for which Client has purchased the applicable Service.
- 18.56 **"Software"** means Company Software and Third-Party Software.
- 18.57 **"Special Program"** means any governmental or non-governmental program, project, grant, incentive-based opportunity, plug-in, extension use case or other program relating to Client's business.
- 18.58 **"Statement of Work"** means a written document executed by the Parties or incorporated by reference into an Order Form that describes specific Implementation Services or Consulting Services to be provided by Company as well as any deliverable(s) or milestone(s).
- 18.59 **"System"** means collectively, the Company Software, appropriate Third-Party database software, operating system software, Third Party Materials and other hardware, software and items described in an applicable Statement of Work functioning together as a single system.
- 18.60 **"Third Party"** means any person or entity other than Company or Client.
- 18.61 **"Third Party Hardware"** means equipment and other hardware distributed under a Third Party's brand that is purchased or rented by Client from Company under an Order Form.
- 18.62 **"Third Party Materials"** means Third Party Software, Third Party Services and Third Party Hardware.
- 18.63 **"Third Party Services"** means Third Party services identified in an Order Form that are offered and/or made available by and/or through Company, under a Third Party's brand and are accessed and/or used by Client.
- 18.64 **"Third Party Software"** means Third Party software and/or content (A) identified as Third Party Software in an Order Form or otherwise identified and provided to Client in connection with Client's permitted use of Company Software, including related data, graphics, subscriptions, libraries, diagnosis and procedure code sets, and patient education and drug interaction databases and (B) in the case of Hardware, Third Party software pre-installed on such Hardware including BIOS, firmware, operating systems and similar technology.
- 18.65 **"Update(s)"** means any patch, fix, improvement, enhancement or change to Company Software that Company makes commercially available at no additional charge to customers in connection with Software Maintenance. Updates do not include additional modules and/or capabilities for which Company or any Third-Party provider charges a separate license fee.
- 18.66 **"User Materials"** means the documentation provided by Company relating to the general released versions of Products and Services, including user guides, technical manuals, release notes, installation instructions, information pertaining to maintenance services and online help files regarding use of Software, and all updates thereto.
- 18.67 **"Virus"** means viruses, worms, and other malware or malicious code intended to cause or that cause computers or systems to fail to act properly or to function in an unintended manner or permit unintended access to such computers or systems by any Third Party. License keys and other functionality intentionally inserted in Software by the licensor are not Viruses.