

NEXTGEN® OFFICE END USER AGREEMENT **(Reseller End User)**

IMPORTANT--READ CAREFULLY: This End-User Agreement ("Agreement") is a legal contract between you ("End User") and NextGen Healthcare, Inc. ("Company"), the owners of the NextGen® Office software that will be accessed and used by you as part of the SaaS Service through a Reseller that has a Master Agreement in place with Company that allows your use and access of the SaaS Service ("Reseller"). This Agreement is subject to the Master Agreement, and any Order Form, Schedules, Addenda, Appendices, Exhibits and/or Attachments thereto, in place with Reseller.

BY CLICKING THE [ENTER] OR [ACCEPTED] ICON BELOW, OR BY COPYING, OR OTHERWISE USING THE SAAS SERVICES AND ANY CLEARINGHOUSE SERVICES, PRACTICE MANAGEMENT SERVICES OR OTHER SERVICES SPECIFICALLY IDENTIFIED IN AN ORDER FORM AS IT RELATES TO THE NEXTGEN® OFFERINGS, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT ACCESS OR USE THE SAAS SERVICES AND ANY CLEARINGHOUSE SERVICES, PRACTICE MANAGEMENT SERVICES OR OTHER SERVICES SPECIFICALLY IDENTIFIED IN AN ORDER FORM AS IT RELATES TO THE MEDITOUCH® OFFERINGS OR INSTALL ANY PLUG-IN SOFTWARE (IF ANY) ASSOCIATED THEREWITH, AND EXIT NOW.

PLEASE REVIEW THIS AGREEMENT EVERY TIME YOU USE THE SAAS SERVICE AS THERE MAY BE CHANGES AND UPDATES FROM TIME TO TIME. DO NOT USE THIS WEBSITE OR ANY COMPANY SERVICE OR PRODUCT FOR A MEDICAL EMERGENCY. IF YOU ARE A CONSUMER AND YOU HAVE AN URGENT, IMMEDIATE OR EMERGENCY, CONTACT YOUR HEALTHCARE PROVIDER OR CALL 911 OR THE LOCAL EMERGENCY NUMBER IMMEDIATELY. IF YOU ARE A PROVIDER AND NEED TO CONTACT A PAYOR IN AN EMERGENCY, DO SO DIRECTLY BY TELEPHONE OR OTHER MEANS.

1. **Authorized User.** You affirm that you are: (i) authorized by Reseller, or an Affiliated Organization of such Reseller, to use and access the SaaS Service (ii) are based in the United States, or (iii) are an authorized member of a community using the SaaS Service for purposes of health information exchange or care coordination. Unless specifically stated otherwise in the applicable User Material, you will be assigned a unique ID and password by Reseller.
2. **User Account/Access.** To use the SaaS Services and any Clearinghouse Services, Practice Management Services or other services specifically made available to you by Reseller, and for each such Service to operate properly, End User may be required to supply Reseller with certain enrollment and registration data ("Registration Data"), all of which must be accurate and updated as appropriate. Failure to properly maintain the Registration Data shall be a breach of the Agreement. End User should ensure that it can receive e-mail from Company and Reseller, which may require End User to add Company to a "trusted" sender list to avoid delays or having Company's correspondences blocked from End User's inbox. End User acknowledges that Reseller, not Company, is responsible for providing End User with the requisite IDs and passwords to access any of the Services. End User acknowledges that any termination of this Agreement or the Master Agreement or the relationship between End User and Reseller, regardless of cause, will halt End Users' access and use of the Products and Services (including any data that may be accessible only through Product and Services) and Company shall not be liable for any damages to End User and/or any patient caused by the inaccessibility.
3. **No License.** End User acknowledges that no license to any Company Technology is being provided to it; but rather, End User is solely being provided through Reseller the use and access of Company Technology through the SaaS Service. However, certain SaaS offerings may require End User to install on its equipment Plug-In software to access and use the SaaS Service. Subject to End User's compliance with the terms of this Agreement and the applicable portions of the Master Agreement and solely as it relates to such Plug-In Software, Company has granted Reseller, during the Service Term, a non-transferable and non-exclusive license to (A) permit End User to access the SaaS Service through the applicable interfaces solely for their internal operations and (B) install, use and implement Plug-In Software solely for use by End User to access and use the SaaS as permitted under this Agreement and the Master Agreement. End User must take steps to prevent unauthorized access to its login IDs and passwords.
4. **No Required Services.** End User acknowledges that Reseller, not Company, will be providing End User any needed, set up, training or maintenance Services under this Agreement.
5. **End User's Responsibilities.** End User agrees to comply with the applicable provisions of the Master Agreement as well as those terms set forth below. End User hereby grants Company all consents, authorization and approvals necessary to enable Company to perform its obligations under this Agreement as well as the Master Agreement. Company has no responsibility to identify, evaluate or assist End User in End User's decision to participate in any Special Program. End User is solely responsible for determining whether to participate in such opportunities. Company is not required to take or refrain from taking any action relating to or arising from such Special Program, except as otherwise set forth in an Order Form, Statement of Work, or Schedule entered between Company and Reseller.

- 6. Professional Diagnosis and Treatment.** Products and Services made available through the SaaS Service do not make clinical, medical or other professional decisions, and are not substitutes for End User applying professional judgment and analysis. End User is solely responsible for (A) verifying the accuracy of all information and reports produced by or through the SaaS Service; (B) obtaining necessary consents for use and disclosure of patient information; (C) determining data necessary for decision-making by End User and its Personnel; and (D) making all diagnoses and treatments and determining compliance, and complying, with all Laws and licensing requirements for the operation of End User's business. Company is not responsible for: (A) ensuring that any Providers (i) have active professional licenses and any other credentials required for the provision of services by them, (ii) are not suspended from providing services and (B) performing reasonable credentialing activities to ensure that Providers are authorized and suitable for providing services pursuant to applicable Law or otherwise.
- 7. Limitations on Use.** Except to the limited extent expressly permitted in this Master Agreement, End User will not: (A) sell, transfer, lease, assign, or sublicense any Software or Services; (B) use any Software 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 or password or otherwise make an End User's ID, login or password available to any Third Party; (D) use any Software or Service to process anything other than End User's 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.
- 8. No Use or Disclosure of Confidential Information.** End User will only use Confidential Information for the purposes of the Master Agreement and will not reproduce, disseminate, or disclose Confidential Information to any Third Party, except to its employees and authorized representatives (i.e., temporary employees, consultants, and contractors) who need to know the Confidential Information for the purposes of this Master Agreement and are bound by confidentiality obligations at least as restrictive as those in this section. End User will treat all Confidential Information with at least the same degree of care as it treats its own information of similar sensitivity, but never with less than reasonable care. End User shall immediately notify Company of any breaches of security that result in or are likely to result in disclosure of Company's Confidential Information. However, End User may disclose Confidential Information: (A) as approved in a writing signed by Company (B) as is required by law, (C) is about adverse events, hazards and other unsafe conditions made to governmental agencies, health care accreditation organizations and/or patient safety organizations; (D) is about cybersecurity threats and incidents made to government agencies; (E) is about information blocking and other unlawful practices to a government agency; (F) communicating information about Company's failure to comply with a Condition of Certification or Other Program Requirements.
- 9. Personal Information.** Notwithstanding anything in the Agreement to the contrary, End User will not submit any Personally Identifiable Information ("PII"), Individually Identifiable Information ("IHI") and/or Protected Health Information ("PHI") directly to Company under this Agreement. All End User data is to be provided to Reseller for Reseller's use with the Services, on behalf of End User, under the terms of the Master Agreement. End User acknowledges that any obligations under a Business Associate Agreement for any Services access and used by End User through Reseller is between Company and Reseller only and Company has no obligations thereunder directly to End User.
- 10. Patient Data/De-Identified Data.** End User acknowledges that as among Company, Reseller and End User, Reseller controls the terms and conditions associated with End User's rights and access to any data residing within the SaaS Service, including but not limited to any Protected Health Information and/or Individually Identifiable Health Information. Company may De-Identify Client Data before such data is incorporated into any Analytics Database. De-Identified Data will be aggregated with de-identified data from a sufficient number of other customers in a manner reasonably designed to prevent Company or others from using the Analytics Databases to analyze the particular characteristics of End User's business. End-User grants Company a non-exclusive, worldwide, paid-in-full, perpetual and irrevocable right and license to: (A) extract, copy, aggregate, process and create derivative works of Client Data to derive, or add to, Analytics Databases; (B) employ data analytics on the Analytics Databases for purposes of developing Data Analytics solutions; and (C) prepare derivative works of the Analytics Databases, and use, execute, reproduce, display, perform, transfer, distribute, and sublicense the Analytics Databases and such derivative works. Company will not individually identify End-User as a source of the De-Identified Data for the Analytics Databases, although Company may disclose that certain of its customers allow the use of Client Data for such purposes.
- 11. Compliance.** End User represents and warrants that:

 - (A) it, 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 (a) listed on the General Services Administration's Excluded Parties List System or (b) suspended or excluded from participation in any Government Payer Programs; and
 - (C) there are no pending or threatened governmental investigations against End User 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.
- 12. eLearning Materials Subscription/Training Materials.** For certain Company Software and/or Services used and/or accessed through the SaaS Service, as part of certain required Company training thereon: (A) a subscription for access by End User to Company's "eLearning" online training materials (the "eLearning Materials") may be included in the SaaS Service fee paid for by Reseller on behalf of End User. Company provides eLearning Materials only for online access by End User for the sole purpose of learning how to access and use the SaaS

Service. End User may not make any copies or download any of the eLearning Materials unless such materials expressly state otherwise. Except as may be set forth in the Master Agreement with the Reseller, End User must have his or her own subscription and use his or her own ID and password to access eLearning Materials; and/or (B) use of printed materials (as may be provided during onsite training sessions) and/or electronic materials (available for download for remote training sessions) may be required. All such materials are licensed to End User for their own use. End User may not make any copies of these materials unless such materials expressly state otherwise.

13. **Proprietary Rights.** Company and its licensors own the Company Technology that is used in the SaaS Service. End User understands that no Software and/or Content is being licensed and/or sold under this Agreement but rather End User is solely being provided with use and access to certain Software and/or Content as made available within the SaaS Service by Company under the terms of the Master Agreement. End User obtains no individual right to access and use the SaaS Service nor to any Company Technology used therein. End User has no right to use 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.
14. **No Modifications.** No Modifications. Unless specifically stated, in writing, by Company to the contrary, End User 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 or Reseller to immediately terminate the Master Agreement.
15. **Feedback.** The purpose of this section is to avoid potential misunderstandings or disputes when Company's products and/or marketing strategies might seem similar to ideas submitted or feedback given to Company whether directly by End User or indirectly through Reseller on End User's behalf. Feedback means any comments, submissions or other feedback End User may provide to Company directly or through the Partner, 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 End User; (2) there is no obligation for Company to review Feedback; and (3) there is no obligation to keep any Feedback confidential.
16. **Disclaimer of Warranty and Limitation of Liability.** THE SAAS SERVICE, AS WELL AS ANY COMPANY TECHNOLOGY RESIDING THEREIN, IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTY (WHETHER EXPRESS OR IMPLIED - INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT) OR ANY OTHER LIABILITY TO COMPANY, INCLUDING WITHOUT LIMITATION, NO LIABILITY FOR CONSEQUENTIAL, INDIRECT, CONTINGENT, OR SPECIAL DAMAGES, LOST PROFITS FOR SEQUENCE, ACCURACY OR COMPLETENESS OF DATA OR THAT IT WILL MEET THE END USER'S REQUIREMENTS, EVEN IF COMPANY OR ANY OF ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. END USER ASSUMES THE ENTIRE RISK OF USING THE SAAS SERVICE AND ANY COMPANY TECHNOLOGY THEREIN. IN NO EVENT, SHALL COMPANY BE LIABLE TO END USER OR TO ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR CONTINGENT DAMAGES INCLUDING LOSS OF PROFITS, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS SHALL APPLY WHETHER IN AN ACTION BASED ON CONTRACT, TORT OR ANY OTHER THEORY.
17. **Entire Agreement.** The Agreement is a companion to the Master Agreement in place with Reseller and collectively : (i) contains the entire understanding between the parties with respect to the subject matter set forth herein, and neither party is relying on any representations or warranties other than those found in the Agreement, (ii) supersedes all prior and contemporaneous negotiations, agreements, contracts, commitments and understandings, both verbal and written, between the parties, and (iii) does not operate as an acceptance of any conflicting terms or conditions and shall prevail over any conflicting provisions of any purchase order, request for proposal, request for information or any other instrument. Any agreement entered between End User and Reseller speaking to the access and use of any Company-provided Service is between Reseller and End User only; Company is not a party thereto. End User understands that the headings used in the Agreement are solely for convenience of reference and are not intended to have any substantive significance in interpreting the Agreement. **Company may modify the terms of this Agreement at any time by posting new terms to its web site. End User may notify Company in writing within 30-days of such change that End User does not wish to accept the new terms. In the absence of such written non-acceptance notification within the 30-day period, End User confirms acceptance of the new terms by continuing to use the SaaS Services and any Clearinghouse Services, Practice Management Services or other services specifically made available to you by Reseller.** If End User does not accept the new terms by notifying Company within the 30-day period, then End User may continue to use the SaaS Services and any Clearinghouse Services, Practice Management Services or other services specifically made available to you by Reseller under End User's existing terms until the end of the then current month.
18. **DEFINITIONS.** Capitalized terms shall have the meaning set forth in the Master Agreement or as defined below.
 - 18.1. **"Analytics Database"** means a data collection derived from De-Identified Data.
 - 18.2. **"Company Technology"** means the Products, Services and User Materials, 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.
 - 18.3. **"Confidential Information"** means a Discloser's non-public information (including copies, summaries, and extracts): (A) that is identified in writing as confidential at the time of disclosure, whether in printed, textual, graphic, or electronic form; or (B) that is disclosed in non-tangible form, identified as confidential at the time of disclosure, summarized in a writing labeled as "confidential", and delivered to Recipient within 15 days after disclosure. Confidential Information of Company includes the terms of this Master

Agreement, Company Technology, customer and/or partner lists, and employee lists whether marked or identified as confidential. The Party disclosing Confidential Information is referred to as “**Discloser**” and the Party receiving Confidential Information is referred to as “**Recipient**”. Confidential Information does not include information that:

- a. is or becomes generally publicly available at or after the time of disclosure through no fault of either Recipient;
 - b. was known to Recipient free of any confidentiality obligations, before its disclosure by Discloser;
 - c. becomes known to Recipient free of any confidentiality obligations from a source other than Discloser; or
 - d. is independently developed by either Recipient without use of Confidential Information.
- 18.4. “**De-Identify**” or “**De-Identified**” means to de-identify personal data in accordance with the “safe harbor” requirements of section 164.514(b)(2) of the HIPAA regulations, or in a manner that otherwise meets the requirements of section 164.514.
- 18.5. “**De-Identified Data**” means personal data that has been De-Identified.
- 18.6. “**Government Payer Programs**” means, collectively, any federal health care or insurance program or any form of state Medicaid or other health care or insurance program.
- 18.7. “**Law**” means those applicable federal and state statutes, regulations, codes, ordinances, agency directives, binding court orders and other binding government requirements.
- 18.8. “**Personnel**” means, with respect to each Party, such Party’s officers, employees and contractors.
- 18.9. “**Plug-in Software**” means certain, if any, locally installed software necessary for End User to access and use the SaaS environment. “Plug-in Software” is Company Software.
- 18.10. “**Products**” means one or more of the following procured by Reseller from Company for End User’s use and access as set out in an Order Form: Company Software, Third Party Software, Content, Company Hardware, and Third Party Hardware.
- 18.11. “**SaaS**” means Company services that (A) make Software functionality accessible to Reseller 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.
- 18.12. “**Service(s)**” means each service procured by Reseller from Company for End User under one or more Order Forms.
- 18.13. “**Software**” means Company Software and Third Party Software.
- 18.14. “**Special Program**” means any governmental or non-governmental program, project, grant, incentive-based opportunity, plug-in, extension use case or other program relating to End User’s or Reseller’s business.
- 18.15. “**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.
- 18.16. “**User Materials**” means generally available 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.
- 18.17. “**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.