

Sub-Business Associate Schedule

IMPORTANT--READ CAREFULLY: The parties agree that the following terms and conditions shall be deemed incorporated into the Master Agreement being entered into between the parties; and, this Schedule and each and every Order Form, Addenda, Exhibit and/or Attachment thereto are collectively intended to be a complete integration and comprise the "Master Agreement" between the parties. **IF CLIENT DOES NOT AGREE TO THE TERMS OF THIS SCHEDULE, DO NOT SHARE ANY PROTECTED HEALTH INFORMATION OR ELECTRONIC PROTECTED HEALTH INFORMATION WITH COMPANY, WHETHER INDIRECTLY OR DIRECTLY.** To the extent there is a conflict between other sections of the Master Agreement and this Schedule, then, solely as it relates to the parties' privacy and security obligations of Protected Health Information and/or Electronic Protected Health Information, this Schedule shall prevail.

Recitals:

WHEREAS the Parties have entered into a certain Master Agreement associated with the use and access of a NextGen® solution by Client (hereinafter referred to as "Business Associate"), which is part of a package of products and services Business Associate makes available to its customers or other entities that are Covered Entities under HIPAA, that may involve the use or disclosure of individually identifiable health information - including PHI (hereinafter the "Underlying Agreement"). For purposes of this document Business Associate's customers and/or other entities that are Covered Entities under HIPAA shall collectively be referred to as a "Covered Entity".

WHEREAS Company (hereinafter referred to as "Subcontractor BA") may provide or assist Business Associate with a function or activity required of Business Associate under the Underlying Agreement that may involve the use or disclosure to Subcontractor BA of individually identifiable health information, including PHI.

WHEREAS, Business Associate must ensure that Subcontractor BA in its provision of services to or on behalf of Business Associate in connection with PHI of a Covered Entity comply with HIPAA, and agree to protect the privacy and provide for the security of the PHI in accordance with the HIPAA Regulations; and,

WHEREAS, in addition, Subcontractor BA and Business Associate acknowledge that some Covered Entities may be bound by federal laws governing the confidentiality of substance use disorder treatment patient records, specifically 42 U.S.C. § 290dd-2, and implementing regulations found at 42 C.F.R. Part 2 (collectively, the "Part 2 Regulations") And, under the Part 2 Regulations, Business Associate and Subcontractor BA is or may be deemed a Qualified Service Organization ("QSO"), as such term is defined herein and under the Part 2 Regulations, and is otherwise required to protect the confidentiality of Patient Identifying Information received by Business Associate and Subcontractor BA, in accordance with the Part 2 Regulations.

THEREFORE, in consideration of the Parties' continuing obligations to each other, compliance with the HIPAA Security and Privacy Rules and the HITECH Act, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement.

1. Definitions

(a) "HIPAA" is defined as the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology Economic and Clinical Health Act, and the regulations promulgated thereunder, including, but not limited to the Privacy Rule (45 C.F.R. Parts 160 and 164 (Subparts A and E)), the Security Rule (45 C.F.R. Parts 160 and 164 (Subparts A and C)), and the Breach Notification Rule (45 C.F.R. Parts 160 and 164 (subparts A and D)), all as may be amended from time to time. Any capitalized terms used but not otherwise defined in this Agreement shall have the same meaning as those terms have under HIPAA and the HIPAA Regulations.

(b) Definitions Under the Part 2 Regulations.

(i) Interpretation. The terms defined below are included for ease of reference and are intended to have the same meaning as provided under the Part 2 Regulations.

(ii) Disclose. Although not capitalized throughout this Agreement, the term "disclose" or "disclosure," in addition to meanings ascribed to such terms under HIPAA, mean to communicate any information identifying a patient as being or

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having been diagnosed with a substance use disorder, having or having had a substance use disorder, or being or having been referred for treatment of a substance use disorder either directly, by reference to publicly available information, or through verification of such identification by another person.

(iii) Patient Identifying Information. The term “Patient Identifying Information” means the name, address, Social Security number, fingerprints, photograph, or similar information by which the identity of a patient (whether current or former) who has applied for or been given diagnosis, treatment, or referral for treatment for a substance use disorder can be determined with reasonable accuracy either directly or by reference to other information.

(iv) Qualified Service Organization. The term “Qualified Service Organization” means an individual or entity who: (A) provides services to a Part 2 program, such as data processing, bill collecting, dosage preparation, laboratory analyses, or legal, accounting, population health management, medical staffing, or other professional services, or services to prevent or treat child abuse or neglect, including training on nutrition and child care and individual and group therapy, and (B) has entered into a written agreement with a Part 2 program under which that individual or entity: (1) acknowledges that in receiving, storing, processing, or otherwise dealing with any patient records from the Part 2 program, it is fully bound by the Part 2 Regulations; and (2) if necessary, will resist in judicial proceedings any efforts to obtain access to Patient Identifying Information related to substance use disorder diagnosis, treatment, or referral for treatment except as permitted by the Part 2 Regulations.

2. Obligations and Activities of Subcontractor BA

(a) Use or Disclosure of Information. Subcontractor BA will not use or further disclose PHI other than as expressly permitted or required by this Agreement, the Underlying Agreement(s), or as required by law. In accordance with the Part 2 Regulations, Subcontractor BA (A) acknowledges that in receiving, storing, processing, or otherwise dealing with any patient records and Patient Identifying Information from Covered Entity and/or Business Associate, it is fully bound by the Part 2 Regulations; and (B) if necessary, will resist in judicial proceedings any efforts to obtain access to Patient Identifying Information related to substance use disorder diagnosis, treatment, or referral for treatment except as permitted by the Part 2 Regulations.

(b) Administrative Safeguards and Data Security. Subcontractor BA will implement and maintain appropriate safeguards and comply, where applicable, with Subpart C of Part 164 of the HIPAA Regulations and the Part 2 Regulations with respect to electronic protected health information, to prevent any use or disclosure of PHI other than uses and disclosures expressly provided for by this Agreement. Further, Subcontractor BA shall ensure its policies, procedures and safeguards include the requirements set forth in the Part 2 Regulations at 42 C.F.R. § 2.16.

(c) Reporting.

(i) Subcontractor BA will, without unreasonable delay, report to Business Associate (i) any unauthorized use or disclosure of Covered Entity’s PHI of which Subcontractor BA becomes aware (including, without limitation, any “Security Incident” within the meaning of 45 C.F.R. § 164.304, and any “Breach” of Covered Entity’s unsecured protected health information, as required by 45 C.F.R. § 164.410), and (ii) any material failure of the administrative, physical or technical safeguards adopted under Section 2(b) of this Agreement. A Breach is deemed discovered as of the first day on which it is reasonably known to Business Associate or to any person, other than the person committing the Breach, who is an employee, officer or other agent of Business Associate, or, by exercising reasonable diligence, would have been known to Business Associate or such person.

(ii) In the event of any such impermissible or improper use, disclosure, Security Incident, Breach, or action as described above, Subcontractor BA will provide a written report to Business Associate describing the surrounding circumstances and, in the case of any Breach, any available information needed by Business Associate to enable it to comply with its notification obligations under the HIPAA Regulations.

(d) Subcontractors and Agents. Subcontractor BA will ensure that any agent or subcontractor to whom it provides PHI agrees in writing to substantially the same restrictions and conditions that apply to the Subcontractor BA under this Agreement with respect to such information in its possession. Additionally, Subcontractor BA will require such agents and subcontractors to notify Subcontractor BA promptly of any instances of which they are aware in which the accessibility, confidentiality, or integrity of the Covered Entity’s PHI has been compromised. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), as applicable, prospectively, Subcontractor BA shall enter into a written agreement with any agent or subcontractor that creates,

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receives, maintains or transmits PHI on behalf of Subcontractor BA for services provided to Business Associate and/or Covered Entity, providing that the agent agrees to the same restrictions, conditions and requirements that apply to Subcontractor BA with respect to such PHI and under 42 CFR Part 2.

(e) Access. If Subcontractor BA maintains PHI in a Designated Record Set, Subcontractor BA agrees to provide access to Business Associate to PHI in such Designated Record Set when requested by Business Associate in order for Business Associate to comply with the requirements under 45 C.F.R. § 164.524 and all other applicable laws and regulations. Such access shall be provided by Subcontractor BA in the time and manner reasonably designated by Business Associate. Subcontractor BA may comply with the foregoing provisions by providing electronic access to its data, so long as such access permits Business Associate to comply with such requirements. In accordance with the Part 2 Regulations, Subcontractor BA (A) acknowledges that in receiving, storing, processing, or otherwise dealing with any patient records and Patient Identifying Information from Covered Entity and/or Business Associate, it is fully bound by the Part 2 Regulations; and (B) if necessary, will resist in judicial proceedings any efforts to obtain access to Patient Identifying Information related to substance use disorder diagnosis, treatment, or referral for treatment except as permitted by the Part 2 Regulations.

(f) Amendment. If Subcontractor BA maintains PHI in a Designated Record Set, when requested by Business Associate, Subcontractor BA agrees to make any amendment(s) to PHI in such Designated Record Set that Business Associate directs or agrees to pursuant to 45 C.F.R. § 164.526 and under 42 CFR Part 2 and all other laws and regulations applicable to Business Associate. Such amendments shall be made by Subcontractor BA in the time and manner reasonably designated by Business Associate. Subcontractor BA may comply with the foregoing provisions by providing Business Associate electronic access to its data, so long as such access permits Business Associate to comply with such requirements. In the event Subcontractor BA receives an amendment request directly from an Individual, Subcontractor BA will forward the request to Business Associate within seven days of receipt. Subcontractor BA will, as directed by Business Associate, incorporate any amendments or corrections or deletions to PHI into copies of such PHI maintained by Subcontractor BA within fifteen days of receipt of such request from Business Associate.

(g) Accounting of Disclosures. Subcontractor BA will document disclosures of PHI and any information related to such disclosures as would be required for Business Associate to respond to a request by an Individual or Covered Entity for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528, the Part 2 Regulations at 42 C.F.R. § 2.13(d), if applicable, and all other laws and regulations, applicable to Business Associate. The accounting shall include, at a minimum: (i) the date of the disclosure, (ii) the name and address of the entity or person who received the PHI, when available (iii) a brief description of PHI disclosed, and (iv) a brief statement of the basis for the disclosure or, in lieu of such a statement, a copy of a written request for the disclosure from the Secretary pursuant to 45 C.F.R. § 164.502(a)(2)(ii) or from an authorized official for public policy disclosures pursuant to 45 C.F.R. § 164.512. Such information shall be provided in the time and manner reasonably designated by Business Associate, but in no event shall such submission occur later than at a time and date which shall reasonably allow Business Associate to respond within the time limit set forth in the applicable regulations; provided that Business Associate shall promptly notify Subcontractor BA upon receipt of any such request.

(h) Privacy of Individually Identifiable Health Information. To the extent Subcontractor BA is to carry out Business Associate's obligation under Subpart E of Part 164 of the HIPAA Regulations, Subcontractor BA will comply with the requirements of Subpart E that apply to Business Associate in the performance of such obligations.

(i) Audit and Inspection. Subcontractor BA will make internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI, available to the Secretary or his or her designee for the purposes of the Secretary determining Business Associate's compliance with HIPAA and HIPAA Regulations. In an instance of such a request by the Secretary, such information shall be made available in a time and manner reasonably designated by Business Associate which shall comply with the request by the Secretary.

(i) Obligations Upon Termination.

(i) Upon termination of this Agreement or the Underlying Agreement(s) for any reason, Subcontractor BA will return or destroy all PHI received from Business Associate. This provision shall also apply to PHI that is in the possession of subcontractors or agents of Subcontractor BA. Upon the written request of Business Associate, Subcontractor BA will promptly provide written confirmation of such destruction to Business Associate.

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(ii) Notwithstanding the foregoing, in the event that Subcontractor BA, in its sole discretion, determines that returning or destroying the PHI is infeasible, Subcontractor BA will extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Subcontractor BA maintains such PHI.

(k) Compliance with Transaction Standards. In performing services for Business Associate pursuant to the Underlying Agreement and this Agreement, Subcontractor BA will comply, and will cause its subcontractors and agents to comply, with each applicable requirement of the HIPAA Transaction Rule and any similar or related regulations promulgated under HIPAA (including, without limitation, security standards), as such may be amended, extended or replaced from time to time.

3. Permitted Uses and Disclosures by Subcontractor BA

(a) Uses and Disclosures of PHI Pursuant to Master Agreement. Except as otherwise limited in this Sub-Business Associate Schedule, Subcontractor BA may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Business Associate and/or Covered Entity as specified in the Master Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity. To the extent Subcontractor BA is carrying out one or more of Business Associates and/or Covered Entity's obligations under the Privacy Rule pursuant to the terms of the Master Agreement or this Sub-Business Associate Schedule, Subcontractor BA shall comply with the requirements of the Privacy Rule that apply to Business Associate in the performance of such obligation(s).

(b) Permitted Uses of PHI by Subcontractor BA. Except as otherwise limited in this Sub-Business Associate Schedule, Subcontractor BA may use PHI for the proper management and administration of Subcontractor BA and Business Associate, or to carry out the legal responsibilities of Subcontractor BA.

(c) Permitted Disclosures of PHI by Subcontractor BA. Except as otherwise limited in this SUB-BUSINESS ASSOCIATE SCHEDULE, Subcontractor BA may disclose PHI for: (i) the proper management and administration of Subcontractor BA, provided that the disclosures are Required by Law, and Subcontractor BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law, and/or (ii) to perform the services under the Master Agreement or the Underlying Agreement. Subcontractor BA may use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1).

(d) Data Use Policy. Except as otherwise limited in this SUB-BUSINESS ASSOCIATE SCHEDULE, Subcontractor BA may de-identify PHI for any lawful purpose, including but not limited to de-identifying PHI for incorporation into any Analytics Database as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B). Any such use will be performed in accordance with Subcontractor BA's Data Use Policy found within its Maintenance Services - Data Use Policy.

4. Obligations of Business Associate

Restrictions. To the extent known and to the extent that such limitations may affect Subcontractor BA's use or disclosure of PHI, Business Associate shall notify Subcontractor BA of (i) any limitations in Covered Entity's notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. 164.520, as well as any changes to that notice, (ii) any changes in, or revocation of, permission by an Individual to use or disclose PHI, and (iii) any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522. In addition, Business Associate shall request from and/or release to Subcontractor BA only the minimum necessary PHI that would be required by Subcontractor BA to perform, on behalf of Business Associate, those services under the Master Agreement or Underlying Agreement.

5. Term and Termination

(a) Term. This Sub-Business Associate Schedule shall be effective as of the Effective Date and shall continue unless or until the Master Agreement is terminated in accordance with the provisions of Section 5(b), or the Underlying Agreement between the parties terminates.

(b) Termination for Cause. Upon one party's knowledge of a material breach by the other party of the Master Agreement and/or this Sub-Business Associate Schedule, the non-breaching party shall either (i) provide an opportunity for the

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breaching party to cure the breach or end the violation; and, if the breaching party does not cure the breach or end the violation within the cure period specified in the Master Agreement or this Sub-Business Associate Schedule or if none is specified, then within 30 day of such notice of material breach, terminate the Master Agreement; (ii) immediately terminate the Master Agreement if cure is not possible; or (iii) if neither termination nor cure are feasible, the non-breaching party shall report the violation to the Secretary.

6. Miscellaneous

(a) This Sub-Business Associate Schedule is governed by, and shall be construed in accordance with, the laws of the State that govern the Master Agreement. Any action relating to this Sub-Business Associate Schedule must be commenced within (1) one year after the date upon which the cause of action accrued. Client shall not assign this Sub-Business Associate Schedule without the prior written consent of Subcontractor BA, which shall not be unreasonably withheld. If any part of a provision of this Sub-Business Associate Schedule is found illegal or unenforceable, it shall be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this Sub-Business Associate Schedule shall not be affected. All notices relating to the Parties' legal rights and remedies under this Sub-Business Associate Schedule shall be provided in writing to a Party, as outlined in the Underlying Agreement. This Sub-Business Associate Schedule may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both Parties. Nothing in this Sub-Business Associate Schedule shall confer any right, remedy, or obligation upon anyone other than Covered Entity and Business Associate. This Sub-Business Associate Schedule is the complete and exclusive agreement between the Parties with respect to the subject matter hereof, superseding and replacing all prior agreements, communications, and understandings (written and oral) regarding its subject matter.