

# MAINTENANCE SERVICES & DATA USE POLICY

(Capitalized terms shall have the meaning set forth in the Order Form, Schedule, General Terms and Conditions or as defined below.)

## I. SOFTWARE MAINTENANCE SERVICES.

**1 Support Issues.** Company offers Software Maintenance Services to help End Users maintain the Software it accesses and uses under the Master Agreement. Client is not required to purchase or maintain Software Maintenance Services, but Client will only receive such services while Client has a current Software Maintenance subscription. Company’s response times and the actions it takes to resolve Software Maintenance issues are based on an assessment of the impact of the reported technical issue on Client’s business. The more serious the business impact, the higher the assigned priority as initially set by Client. Company’s support consultant may raise or lower priority in its reasonable discretion based on Client’s information and/or subsequent diagnosis or remediation efforts, including the availability of a work-around pending final resolution. A workaround may include requiring Client to operate on the most current version of the applicable Company Software (including any Updates thereto) if doing so will resolve the incident. Company’s Help Desk will follow the following response timeframe objectives that are based on case priority:

<u>Targeted response times*</u>	<u>Hours of Availability</u>
Priority 1: One-hour	24x7 support, 365 days a year
Priority 2: Two <a href="#">Business Hours</a>	8:30am-8:30pm Eastern each <a href="#">Business Days</a>
Priority 3: One <a href="#">Business Days</a>	8:30am-8:30pm Eastern each <a href="#">Business Days</a>
Priority 4: Two <a href="#">Business Days</a>	8:30am-8:30pm Eastern each <a href="#">Business Days</a>

(\*Response times commence from the time Client has properly logged a case within Company’s on-line support center.)

**2 Case Priority.** Client is required to provide, through their Certified Professional(s) and prior to contacting the Help Desk Support, End User assistance, which includes, but is not limited to: (A) receiving and logging initial contacts by End Users, (B), reviewing and isolating likely root causes for support cases and ruling out obvious causes such as End User error or failure in items not supplied by Company, and C) using reasonable efforts to resolve problems, including accessing and reviewing web-based support tools and databases such as Company’s Q&A Knowledge Exchange.

Company’s support consultants will provide technical assistance to Client’s Certified Professional(s) to assist in remedying failures of Products and/or Services, which are being used in a production environment, to perform in accordance with their respective User Materials. Client will utilize Company’s on-line support center to enter and document all problems, questions or issues. Each specific and discrete problem, question or issue with the Products or Services reported by Client’s Certified Professional to Company’s Help Desk Support shall be issued a case, which will include a record of the support incident, a unique tracking number and the identity of the initial Company personnel assigned to the matter. In addition, each case will be assigned one of following priority levels:

- **CRITICAL (Priority 1):** the problem results in extremely serious interruptions to a production system. It has affected, or could affect, the entire user community. Tasks that should be executed immediately cannot be executed because of a complete crash of the system or interruptions in core functions of the production system. Data integrity is compromised, and the service request requires immediate processing as the issue can result in financial losses.

## MAINTENANCE SERVICES & DATA USE POLICY

---

- **URGENT (Priority 2):** the problem results in serious interruptions to normal operations, will negatively impact an enterprise-wide installation, or urgent deadlines are at risk. In a production system, important tasks cannot be performed, but the error does not impair essential operations. Processing can still continue in a restricted manner, and data integrity may be at risk. In a pre-production environment, the problem hinders deployment of an enterprise installation. The service request requires timely processing, because the malfunction could cause serious interruptions to critical processes or negatively impact business.
- **IMPORTANT (Priority 3):** the problem causes interruptions in normal operations. It does not prevent operation of a production system, or there could be minor degradation in performance. The error is attributed to malfunctioning or incorrect behavior of the Software.
- **MINOR (Priority 4):** the problem results in minimal or no interruptions to normal operations (no business impact). The issue consists of "how to" questions including issues related to APIs and integration, installation and configuration inquiries, enhancement requests, or documentation questions.

**3 Exclusions.** Software Maintenance Services do not include support for: (A) issues that cannot be reproduced by Company or for which Client cannot provide sufficient documentation, (B) issues caused by a modification of Software by any party other than: (i) Company or (ii) a third party that is currently certified by Company on that particular Product or Service to provide Software maintenance support, (C) issues that arise because of any cause external to Company Software, or (D) changes in, or additions to, hardware, other software, configurations, data, or any other items other than the Software.

**4 Third Party Maintenance Services.** Company's Third-Party Maintenance Services consist of providing reasonable assistance to: (A) determine whether Third Party Software or other Third-Party Materials causes a support case and (B) the applicable Third-Party vendor in its efforts to resolve the support case. Company does not provide any other support or maintenance services to address defects in Third Party Software or other Third-Party Materials. Client will receive Third Party maintenance services directly from the Third-Party vendor under such vendor's terms.

**5 Client Responsibility.** Client will utilize Company's online support center to enter and document all issues. For each case opened, Client is responsible for: (i) collecting error messages, logs and other information required by Company to work a case; (ii) determining procedure, data, and conditions necessary to reproduce a problem; and, (iii) determining if the issue has been documented and fixed in a newer version of the Company Software; and, if so, to apply the Update if Client is self-hosted. Unless installation of Updates is specifically included in the Company Services purchased by Client, Client is solely responsible for proper installation of all Updates, including any changes to operating systems, database software and other Third-Party Materials required in connection with the Update. Additionally, before installing any Update in a Production environment, Client must test the Update in a non-Production environment and, if self-hosted, perform a backup of Client's Production environment configurations and data before applying any Update.

**6 Version Control Policy.** Company may not make Updates available for all versions of Company Software and each Update will function with the most recent, general-released, commercial version of the applicable Company Software. Throughout each Company Software's lifecycle, Company may choose to sunset Software product, feature, functionality, or compatibility and cease to provide Updates to that Product or Service. For older versions of Company's Software, Company will, through its Software Maintenance Services, assist with issues relating to the use and configuration of older versions of Company Software, including providing possible workarounds. However, Company is under no obligation to provide Updates to such older versions and Client's

## MAINTENANCE SERVICES & DATA USE POLICY

---

sole remedy for an issue associated with an older version may be to upgrade to a newer version of the Company Software. Older versions that have been sunsetted may no longer be eligible for any form of support.

### II. HARDWARE MAINTENANCE SERVICES

#### 1 DELIVERY; ACCEPTANCE.

- 1.1 **Shipment and Delivery.** Upon Shipment, title passes to Client for purchased Hardware and Client bears all risk of loss, damage or destruction to the Hardware.
- 1.2 **Acceptance.** Upon receipt, Client must unpack and test Hardware within 10 days to identify damage or operation failure. Hardware not rejected in writing within such 10-day period is deemed accepted. All returns are subject to the Company's return policy. Once delivered, Client is responsible for operating and maintaining Hardware.

#### 2. **Additional Charges.** Client will be invoiced separately for shipping, handling and insurance charges.

#### 3. CUSTOMER OBLIGATIONS.

- 3.1 **Condition; Return of Leased Hardware.** In cases where Client has leased Hardware from Company, Client will maintain all Collateral and leased Hardware (A) at the applicable Designated Location, (B) properly and in good working order, and (C) in a physically secure and operationally appropriate environment. If Client does not buy leased Hardware at the end of the lease, Client will return that leased Hardware in the same condition as initially delivered (normal wear and tear excepted), in its original packing materials, and with all original disks and documentation.
- 3.2 **Insurance.** As long as Client has any Collateral or leased Hardware, Client will insure each item for its full replacement value against damage and loss with Company designated as loss payee. Upon request from Company, Client will provide certificates of insurance demonstrating such insurance.

#### 4. TITLE; SECURITY INTERESTS.

- 4.1 **No Transfer.** Client will not sell, transfer, or grant any security or other interest in Collateral or leased Hardware, and any attempt by Client to do so is a breach of this Master Agreement.
- 4.2 **Company Security Interests.**
  - (A) Client hereby grants to Company: (1) a purchase money security interest in all Collateral and (2) all rights available to a secured creditor under the Uniform Commercial Code and applicable Law to secure its rights, protect the value of the Collateral, and to foreclose and seize the Collateral for sale to pay off amounts owing to Company.
  - (B) Company may make UCC-1 filings to document this security interest as well as its ownership interest in any leased Hardware. Upon payment of all amounts due for Collateral, or the return or purchase of leased Hardware, Company will execute and file an appropriate form terminating any applicable UCC-1.
  - (C) Client will reimburse Company for all expenses to document, maintain, protect and exercise its rights under this section.

#### 5. LIMITED WARRANTY.

## MAINTENANCE SERVICES & DATA USE POLICY

---

**5.1 Defects.** Commencing upon Shipment, Company Hardware will be free of material defects for a period of 90 days (the “**Warranty Period**”). To make a warranty claim, (A) Client must provide written notification to the Help Desk detailing such defect prior to expiration of the Warranty Period and (B) Company may require that Client return the Company Hardware in accordance with Company’s then current return policy. To the extent permitted by law, Client’s sole and exclusive remedy and Company’s sole liability under or in connection with this warranty will be, at Company’s option, to (1) correct any such defect within a commercially reasonable period of time; (2) provide an equivalent replacement, or (3) refund the amount paid by Client for the defective Company Hardware, including shipping and insurance. This warranty does not cover any defect that: (A) can be resolved by installation of the then current update for any software on the Hardware, including BIOS (B) cannot be reproduced by Company, (C) caused by a modification of any portion of the Hardware by any party other than Company, (D) arise from changes in, or additions to, hardware, such as additional RAM, improved components or other additional components, software, configurations, data, or any other items other than the Hardware, or (E) results from damage due to a force majeure event, an act or omission by Client or Client Personnel, an accident, failure to properly maintain or operate the Hardware according to the Third Party vendor’s documentation, or any other similar circumstance.

**5.2 Extended Warranty.** Company may make available, at the time of the initial sale of such Hardware, an Extended Warranty for certain purchased Hardware. Client may purchase such Extended Warranty at its option. Each Extended Warranty extends the applicable Warranty Period for the time period set forth in the Order Form or applicable Schedule. If Client purchases an Extended Warranty for certain Hardware, Client must purchase an Extended Warranty for all units in use Client must purchase an Extended Warranty for all Hardware leased from Company until Client purchases such leased Hardware or returns such leased Hardware to Company.

For Hardware covered by an Extended Warranty: (i) Client will be able to utilize Company’s Help Desk to report problems associated with the Hardware’s failure to operate with the Company Technology; (ii) Company will act on behalf of Client to obtain the necessary parts and labor available under the manufacturer’s or Third Party vendor’s warranty to resolve the issues associated with such Hardware and (iii) Company will assist Client in the installation and/or configuration of the replaced or fixed Hardware so that it operates with the Company Technology.

**5.3 Replacement of Defective Components Available During Warranty Period.** Unless Client purchases, in the Order Form, on-site assistance for any repair and/or replacement work for the Hardware, Company will ship Client’s replacement components, and Client is responsible for the applicable repair and/or replacement of the Hardware. Notwithstanding the foregoing, on-site assistance is not available for all Hardware. If required by Company, Client must return the defective components pursuant to Company’s then current return policy. Pending resolution of a warranty claim, Company may provide temporary Hardware for Client’s use, and Client’s use of such temporary Hardware will be subject to termination and return to Company according to Company’s replacement policy.

**6. DEFINITIONS.** Capitalized terms shall have the meaning set forth in the Order Form, Schedule, General Terms and Conditions or as defined below.

**6.1 “Collateral”** means all Hardware (A) purchased by Client from Company and (B) for which Client has not yet fully paid Company in accordance with the applicable payment terms.

**6.2 “Shipment”** means FOB Origin from Company’s or Third Party’s shipping location as determined by Company.

## MAINTENANCE SERVICES & DATA USE POLICY

---

### III. DATA USE POLICY

- 1. De-Identified Data/Client Data Use.** Company may De-Identify Client Data for any lawful purpose, including incorporation of such data into any Analytics Database. De-Identified Data will not be personally identifiable (as defined in 45 C.F.R. § 165.514) and will be aggregated with de-identified data from enough other customers in a manner reasonably designed to prevent Company or others from using the Analytics Databases to analyze the characteristics of Client's business. Client 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, (collectively A, B and C shall be referred to as "Use Rights"). Company will not individually identify Client 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.

Notwithstanding anything above to the contrary: (i) Company will neither de-identify Client Data nor engage its Use Rights against Clients Data beyond those Services authorized by Client under the Master Agreement, Business Associate Agreement ("BAA") or herein; and (ii) Client will not authorize Company to perform any Service and/or employ its Use Rights beyond that which Client is permitted to use under HIPAA (45 C.F.R. § 164.502) or as otherwise authorized by the Client's patient(s). Moreover, termination or expiration of a Service, will prospectively halt Company's extraction of Client Data through such Service.

- 2. Assistive Technology Integration and Safeguards:** Company may leverage a diverse collection of computer systems and software, collectively referred to as "Assistive Technology." This technology is designed in part to: (i) analyze Client Data and/or Client's workflow and/or interaction with the Products and Services, (ii) identify intricate patterns, (iii) make autonomous decisions, and (iv) adapt the behavior of those Products and Services to enhance functionality based on these patterns over time. This process minimizes the need for direct human intervention, and includes, but is not limited to, machine learning, neural networks, natural language processing, and other innovative methods. Company retains and reserves the right, in its sole discretion, to modify, suspend, or discontinue the integration and/or use of Assistive Technology in or with its Products and Services at any time. Company commits to promptly informing and updating its clients of any material changes that may impact any affected Products and Services. Company acknowledges the dynamic nature of Assistive Technology, which may occasionally result in unforeseen discrepancies or errors. With this in mind, Company is dedicated to upholding elevated standards of quality and reliability to adequately safeguard Client Data and the integrity of those applicable Products and Services. Further, Company strives to implement any Assistive Technology in a manner that is in strict accordance with applicable legal and ethical standards. Client acknowledges that these Assistive Technologies are provided on an "As Is" and "As Available" basis. By engaging with NextGen® Products and Services, Client consents to Assistive Technology integration and the use of Client Data therewith. This includes the concurrent utilization of Client Data to facilitate these advanced functionalities.