

## MASTER AGREEMENT

**IMPORTANT--READ CAREFULLY:** This Master Agreement ("Master Agreement") is a legal contract between the entity that is entering this Master Agreement ("Client") to allow its End Users access and use of the NextGen® Office solution and **NextGen Healthcare, Inc.** ("Company").

**BY ENTERING INTO AN ORDER FORM TO PURCHASE SUBSCRIPTIONS TO THE NEXTGEN® OFFICE SOLUTION AND/OR CLICKING THE [ENTER] OR [ACCEPTED] ICON BELOW, OR OTHERWISE USING THE SAAS SERVICE, CLIENT AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF CLIENT DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT SIGN THE APPLICABLE ORDER FORM OR ACCESS OR USE THE SAAS SERVICE OR INSTALL ANY PLUG-IN SOFTWARE (IF ANY) TO OBTAIN USE OR ACCESS, AND EXIT NOW.**

**PLEASE REVIEW THIS MASTER AGREEMENT, AND ANY END USER AGREEMENT ASSOCIATED WITH THIS MASTER AGREEMENT, EVERY TIME CLIENT USES THE NEXTGEN® OFFICE SOLUTION AS THERE MAY BE CHANGES AND UPDATES FROM TIME TO TIME.**

**DO NOT USE, AND HALT YOUR END USERS FROM USING, THIS WEBSITE OR ANY COMPANY SERVICE OR PRODUCT FOR A MEDICAL EMERGENCY.**

This document states the general terms and conditions under which Company will deliver to Client the Products and/or Services set forth in any Order Form.

**In addition to the General Terms and Conditions attached, the following Schedules 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. Capitalized terms shall have the meaning set forth in the Order Form, Schedule, or as defined in the [Definition Exhibit](#) below.)**

SCHEDULE:	APPLICABLE TO:	Version #:
NextGen® Office	SaaS subscription to Company's NextGen® Office offering	Attached
Business Associate	All dealings with Company that involve PHI and/or ePHI.	<a href="#">Current BAA</a>

Unless specifically set forth in an Addendum to the contrary, the order of precedence shall be as follows:

1. Addendum; if any;
2. Order Form;
3. Applicable Schedule and any Exhibit or Attachment thereto, if any;
4. Statement of Work, if any; and,
5. General Terms and Conditions

### GENERAL TERMS AND CONDITIONS

#### 1. PAYMENT OF FEES

**1.1 Payment.** Unless otherwise set forth in an Addendum, payment terms are as set forth in the applicable Order Form. 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 5% or the change in the Consumer Price Index, for all Urban Consumers (CPI-U) – US City Average, All Items. Client understands that any payment terms offered by Company are an extension of credit by Company and may require that Client provide credit information to Company. Should Company be unable to obtain through commercially reasonable means, using reasonable commercial underwriting principles, a favorable creditworthiness approval of Client (as determined by Company in its sole discretion), 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 Client on Company invoices must be submitted to Company (via opening a support case through [www.community.nextgen.com/SuccessCommunityLogin](http://www.community.nextgen.com/SuccessCommunityLogin)) 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 expiration of this Master Agreement will be immediately due and payable.

**1.2 Billing Disputes.** If Client believes in good faith that Company has incorrectly billed Client, Client may withhold from payment the disputed amount, not to exceed the estimated fair value of the disputed item, provided Client timely pays all undisputed portions of the invoice and notifies Company, in reasonable detail, of the dispute through [www.community.nextgen.com/SuccessCommunityLogin](http://www.community.nextgen.com/SuccessCommunityLogin) prior to the date payment is due. If Company does not agree with Client's notice, the parties will resolve the dispute in accordance with Section 13.4.

**1.3 Failure to Pay.** If Client fails to pay any *undisputed* amount due under this Master Agreement within 30 days of the date of Company's notice of Client's failure to pay, Company may, in its sole discretion, (A) terminate this Master Agreement or the applicable Order Form, (B) suspend or restrict provision of the Company Software and Services, (C) prospectively discontinue any currently provided discount for the affected Company Software and Services, (D) discontinue any future right to purchase Products and Services, whether at a discount price or otherwise and/or (E) withdraw any previously granted, non-standard payment terms. (For items (C) (D) and (E), 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, Company's failure to invoice for any item set forth in the Order Form shall not relieve Client's obligation to pay for the item. Company may charge interest at a monthly rate equal to the lesser of 1½% per month or the maximum rate permitted by applicable Law on any *overdue, undisputed* fees, from the due date until the date the overdue amount (plus applicable interest) is paid in full. However, Company will not exercise its rights under items (A) through (E) above or apply any interest charge if Client is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

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

## 2. CLIENT RESPONSIBILITIES

**2.1 General.** Client will comply, and Client will cause 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.

**2.2 Required Resources.** Except for a Company provided SaaS offering, Client must provide, at its own expense, the Personnel and Facilities & Equipment required for use of the Products and Services. Client must, also obtain any consents, authorizations, and approvals necessary to enable Company to access such Facilities and Equipment to perform its obligations for Client under this Master Agreement. Moreover, Client is responsible for obtaining, and keeping updated, any applicable third-party materials that may be required to operate and/or use the features and functionality of any Company Software and/or Service.

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

**2.4 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. Client is solely responsible for: (A) verifying the accuracy of all information and reports produced by Company Software and Services; (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 are properly credentialed pursuant to applicable Law to perform their services.

**2.5 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 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 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.

### **3. CONFIDENTIALITY**

**3.1. No Use or Disclosure.** Recipient will **only use Confidential Information for the purposes of this 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 Master Agreement. Recipient 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. Recipient shall notify Discloser of any breaches of security that result in or are likely to result in disclosure of Discloser's Confidential Information.

**3.2 Required Disclosure.** Recipient may disclose Confidential Information: (A) as approved in a writing signed by Discloser (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.

### **4. PRIVACY**

**4.1 Personal Information.** If Client orders Services that require Client to provide to Company personal health information that is protected under any Laws, the Parties will enter a mutually agreed to Business Associate Agreement or similar agreement if Client itself is a Business Associate rather than a Covered Entity. Company does not own the personal health information. Company will request, and Client will provide Company with, only the minimum personal health information required to perform the Services hereunder.

**5. CONSULTING SERVICES, IMPLEMENTATION SERVICES AND ELEARNING.** Company will perform the Implementation and/or Consulting Services set forth in any Order Form. Each Provider must have his/her own subscription. All End Users must have their own account to any eLearning materials and use his/her own ID and password to access such materials. All training materials are for Client's own internal use and are provided solely to assist Client in learning how to use the Company Software and Services.

**6. MAINTENANCE SERVICES/DATA USE POLICY** Company offers support services to help End Users maintain the Software, Hardware and online-Services that it makes available to its clients. For those Products and Services that Company makes available to clients under a Software as a Service model, the fee for Maintenance Services are included in the monthly SaaS Service fee. For all other Products and Services, the fees to obtain Maintenance Services as separately charged and invoiced. In addition, for those Products and Services that are made available through our Managed Cloud Services, Client Data may be used by Company in accordance with the Company Data Use policy.

### **7. TERM AND TERMINATION**

**7.1 Term.** This Master Agreement, itself, becomes effective on the Effective Date of the first Order Form entered into between the parties. Every Product and Service purchased by Client directly from Company will be subject to the terms of this Master Agreement, unless mutually agreed to by the parties, in writing, otherwise. 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 License/Rental/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.

## 7.2 Termination with Cause.

**(A) Material Breach by Either Party.** If either Party commits a material breach of this Master Agreement, the non-breaching Party may 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, the non-breaching Party may immediately terminate this Master Agreement, in whole or in part.

**(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.

All notices of Company's breach and/or Client's desire to terminate must be made by Client at [www.community.nextgen.com/SuccessCommunityLogin](http://www.community.nextgen.com/SuccessCommunityLogin)

**7.3. 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.

## 8. PROPRIETARY RIGHTS

**8.1 Ownership.** Company and its licensors own the Company Technology. To the extent Software and Content are obtained by Client, the Software and Content are always licensed, not sold. Unless specifically stated, in writing, by Company to the contrary, Client 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. Client will not knowingly use the Products and/or Services in a manner that violates any third-party intellectual property, contractual or other proprietary rights.

**8.2 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 8.2 will be deemed a material breach of the Master Agreement and entitle Company to immediately terminate the Master Agreement.

**8.3 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.

## 9. LIMITED WARRANTIES

**9.1 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.

**9.2 Compliance.** Client 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 Client 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 9.2 will be a material breach of the Master Agreement and entitle Company to immediately terminate the Master Agreement.

**9.3 Implementation & Consulting Services.** Company warrants for 90 days from completion of the Implementation Services and/or Consulting Services, as applicable, that each such Service is performed in a professional and workmanlike manner. Client must notify Company during such 90-day period, in writing, and in reasonable detail 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 in connection with this warranty will be re-performance of the relevant Service.

## **10. WARRANTY DISCLAIMERS**

**10.1 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.

**10.2 Limited General Release Testing.** From time-to-time Client may be offered the opportunity to participate in the 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.

**10.3 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 other representations, warranties, and conditions of any kind, express, implied, or statutory, including representations, guarantees, conditions or warranties of merchantability, title, 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.

**11. 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. (C) 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 FOR ARBITRATION UNDER THIS AGREEMENT.

## **12. INDEMNIFICATION**

**12.1 Duty to Indemnify.** Company will defend any Third-Party Claim against Client during the License Term or Rental Term 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 12 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.

**12.2 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 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 with respect to the infringing part of the Indemnified Technology if neither of the foregoing is commercially reasonable and refund a pro rata portion of the applicable fees (based on the applicable License Term or Rental Term or in the case of a perpetual license, a useful life equal to five (5) years) paid by Client for the infringing technology.

**12.3 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.

**12.4 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.

### **13. GENERAL PROVISIONS**

**13.1 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.

**13.2 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 mail will be effective upon delivery, and notices delivered by U.S. mail will be deemed effective 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, provided email shall not be sufficient for notices of termination, default or an indemnifiable claim.

**13.3 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.

**13.4 Dispute Resolution and Arbitration.** Any dispute, claim, or controversy arising out of or relating to this Master Agreement, including the determination of the scope or applicability of this clause, will be determined exclusively in the State of Delaware by binding arbitration before a single arbitrator mutually agreed to by the parties. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. There shall be no right to arbitrate on a class action basis or on behalf of the public or other group of persons similarly situated. Each party will be responsible for its own attorneys' fees and shall split the costs of arbitration. The arbitrator shall have authority to apportion costs (other than attorneys' fees) at the end of any such proceeding. Judgment on any award may be entered in any court having jurisdiction. Nothing in this clause shall preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

**13.5 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.

**13.6 Assignment; Binding Effect; Subcontractors.** This Master Agreement is personal to Client, and Client may not delegate and/or assign this Master Agreement, including but not limited to 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 substantially all 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 legal representatives, and 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.

**13.7 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.

**13.8 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.

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

**13.10. Covenant not to Solicit or Hire.** 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 12 months. 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.

**13.11. Third Party Materials/Third Party Beneficiaries/Additional Modules.** Certain Third-Party Materials listed on an Order Form 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 are found at: [www.nextgen.com/thirdpartyagreements](http://www.nextgen.com/thirdpartyagreements) and are agreements solely between the Third-Party vendor and Client.) 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 and/or clicking "I ACCEPT" or equivalent language, 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 by reason of this 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.

**13.12 U.S. Government Licensing.** For US Government End Users: Client acknowledges that Products and Services are "Commercial Item(s)," as that term is 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 reserved under the copyright laws of the United States.

**13.13 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 Client will not export or re-export the Company Technology without all required United States and foreign government licenses.

## **DEFINITION EXHIBIT**

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

- 14.1 “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.
- 14.2 “Analytics Database”** means Company’s collection of Client Data from various customers of Company.
- 14.3 “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.
- 14.4 “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.
- 14.5 “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.
- 14.6 “Client Data”** means the compilation of Client’s, its Affiliated Organizations’, End Users’, subsidiaries’, and/or parent entity’s data from all Data Sources.
- 14.7 “Company Appliance”** means a platform required to run certain Company Software.
- 14.8 “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.
- 14.9 “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 all updates, modifications, improvements, extensions, and derivative works made thereto by or for Company, Client, or any Third Party. “Company Software” specifically excludes Content.
- 14.10 “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.
- 14.11 “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, Client 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:

- is or becomes generally publicly available at or after the time of disclosure through no fault of either Recipient
- was known to Recipient free of any confidentiality obligations, before its disclosure by Discloser;
- becomes known to Recipient free of any confidentiality obligations from a source other than Discloser; or
- is independently developed by either Recipient without use of Confidential Information.

- 14.12 “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 Section 5 above.
- 14.13 “Content”** means any clinical content, in any form, included within Company Software and/or Services.
- 14.14 “Data Source”** means a single feed of aggregated personal, medical, financial and/or other data that is imported into any Company Technology.
- 14.15 “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.
- 14.16 “De-Identified Data”** means Client Data that has been De-Identified.
- 14.17 “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.
- 14.18 “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.
- 14.19 “Excluded Claims”** means Claims arising from Client’s breach of Sections 1.1, 2.5, 3.1,8.1,8.2 and 9.2.
- 14.20 “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.
- 14.21 “Fulfillment Date”** means the earlier of the: (i) date of Fulfillment set forth in the Order Form, Exhibit, or (ii) stated number of days (as specifically stated in the Order Form, Addendum or Exhibit) after the Effective Date, which if no stated number of days is specifically identified, than 60 days.
- 14.22. “Group of Charts”** means the aggregation of all patient charts within a practice or within separate disciplines within a practice.
- 14.23 “Hardware”** means Company Hardware and Third Party Hardware.
- 14.24 “Help Desk Support”** means the support services provided by Company help desk under its then current Maintenance Program.
- 14.25 “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 section 5 above.
- 14.26 “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.
- 14.27 “Infringement Claim”** means any Claim that alleges that the Indemnified Technology directly infringes a Third Party’s United States patent, copyright, or trademark.
- 14.28 “Instances”** means a single installation of Company Software running on a Company Appliance or such other physical or virtual server Client may provide.
- 14.29 “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.
- 14.30 “Law”** means those applicable federal and state statutes, regulations, codes, ordinances, agency directives, binding court orders and other binding government requirements.
- 14.31 “License Term”** means the period set forth in an Order Form for which Client has purchased the applicable Software license.
- 14.32 “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.

- 14.33** “**LGR**” or “**Limited General Release**” means versions of the Software and/or Services made available by Company on a limited general release basis.
- 14.34** “**Loss**” means any damage, loss, cost, expense, or liability incurred by a person or entity.
- 14.35** “**Master Agreement**” means, collectively, all Order Forms, General Terms and Conditions Schedule, Business Associate Schedule and all other Schedules, Exhibits, Attachments, Statement of Works, and Addenda, if any, entered between the parties and as delineated in any Order Form(s).
- 14.36** “**Maintenance Services/Data Use Policy**” means those support services made available by Company on the Products and Services as well as Company’s Data use policy - both as more fully delineated here: [Maintenance Services - Data Use Policy](#).
- 14.37** “**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.
- 14.38** “**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 prior to deployment in a Production Instance, development environment, passive standby or failover system, or a demo/training system.
- 14.39** “**Order Form**” means each sales order form that is executed between Client and Company for Client’s procurement of Products and Services.
- 14.40** “**Party**” means Company or Client, as applicable.
- 14.41** “**Personnel**” means, with respect to each Party, such Party’s officers, employees, and contractors.
- 14.42** “**Population Limit**” means the Metric based on the maximum number of Lives allowed under the Company Software.
- 14.43** “**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.
- 14.44** “**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.
- 14.45** “**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
- 14.46** “**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.
- 14.47** “**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.
- 14.48** “**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.
- 14.49** “**Service(s)**” means each service procured from Company under one or more Order Forms, including but not limited to, Implementation Services, Software Maintenance Services, Hardware Maintenance Services, Consulting Services, eLearning services and Hosting Services and SaaS, as such terms are defined in the applicable Schedule.
- 14.50** “**Service Term**” means the period set forth in an Order Form or applicable Schedule for which Client has purchased the applicable Service.
- 14.51** “**Software**” means Company Software and Third-Party Software.
- 14.52** “**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.
- 14.53** “**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).
- 14.54** “**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.
- 14.55** “**Third Party**” means any person or entity other than Company or Client.
- 14.56** “**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.

- 14.57 “Third Party Materials”** means Third Party Software, Third Party Services and Third-Party Hardware.
- 14.58 “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.
- 14.59 “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.
- 14.60 “Transaction Allowance”**, means the number of monthly transactions that a Client and/or End User can perform for no charge and subject to the other limitations for the applicable subscription plan as set forth in the Order Form(s). Additional transactions beyond the Transaction Allowance or for transactions not included in the Client’s subscription shall be invoiced at the rates set forth in the Order Form or, if not set forth in the Order Form then at Company’s then current published rate
- 14.61 “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.
- 14.62 “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.
- 14.63 “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.

<b>NEXTGEN® OFFICE SCHEDULE</b>
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1. **Access.** Client is responsible for establishing End User IDs and passwords . Upon Company’s request, Client will provide Company with accurate and complete registration information of End Users associated with Client who have access to the NextGen® Office solution. All End Users are subject to the terms of the [NextGen® Office End User Agreement](#).
2. **Client as a Service Bureau.** If Company has approved, in writing, Client’s right to allow its End Users access and use of those Products and/or Services associated with the NextGen® Office solution set forth in the Order, then Client may do so, notwithstanding anything in section 2.5 of the General Terms and Conditions stating otherwise, **provided** all access and use is done in accordance with the terms of the Master Agreement and as follows:
  - A. All access and use of the Product and Service by any End Users shall be solely for Client’s own internal business operations.
  - B. Client does not grant any access and/or use of such Product or Services to any other party.
  - C. Client shall not make any representations or warranties regarding the Product and/or Services or with respect in any way to any agreement between Company and Client, without Company’s prior written authorization by a Company SVP or higher. Notwithstanding the foregoing, for any and all representations and/or warranties offered by Client to its End Users, even if about the Products and/or Services or its arrangement with Company, Client shall be solely responsible for those warranties; and; Client agrees to indemnify, defend, and hold Company, its officers, shareholder, employees and agents harmless from and against any claims, damages, demands, costs, and expenses arising from a breach of the foregoing obligation.
  - D. Client shall include express language in each of its agreements with the End Users advising each End User that use of the Products and/or Services shall be subject to Company’s online, click-through End User license agreement: [NextGen® Office End User Agreement](#).
  - E. Any termination of this Agreement, regardless of cause, will immediately halt Client’s, its Affiliated Organizations and all End Users’ access and use of the Products and/or Services (including any Client Data that may be accessible only through the Product and/or Service) and Company shall

not be liable for any damages to Client, the End Users and/or any patient caused by the inaccessibility.

3. **Clearinghouse Services.** Company provides certain Clearinghouse Services to End User, as set forth in the applicable Order Form(s), through its primary EDI service vendor, Waystar in accordance with the terms set forth in this Master Agreement and Attachment 1, or with one or more clearinghouse partners, and Client waives all liability and claims that Client may have against Company, Waystar or other clearinghouse partners in connection with the provisions of the Clearinghouse Services, Practice Management Services or other services specifically identified in an Order Form, except to the extent directly caused by the willful misconduct or gross negligence of Company. Postage for claims submitted to our clearinghouse for *print and mail* will be billed separately. Clearinghouse Services are subject to availability via Company's Clearinghouse Partners Approval for electronic submission to and remittance from most non-commercial payors can take 4-8 weeks from the date Client returns completed forms. If elected by Client, Company will provide electronic clearinghouse services through Company's Clearinghouse Partners subject to the applicable terms and fees as set forth herein.
  - A. **Electronic Claims Submission.** Electronic claims submission service includes sending electronic claims in the ANSI 837 format to Waystar or other Clearinghouse Partners. Company shall charge Client a fee for each electronic claim transaction by all End Users based upon the subscription plan to which Client is subscribed.
  - B. **Electronic Remittance Advice.** Electronic remittance advice service includes receiving electronic remittance advice messages from Waystar or other Clearinghouse Partners in the ANSI 835 format. Company shall charge a fee for each electronic remittance transaction for all End Users based upon the subscription plan to which Client is subscribed.
    - i. If an End User of Client or Client itself desires to discontinue electronic remittance services, then Client or the applicable End User must contact insurance companies directly to request termination.
  - C. **Electronic Real-Time Insurance Eligibility Services.** Electronic real-time insurance eligibility services include performing electronic verification of insurance benefits from Clearinghouse Partners in the ANSI 270/271 format.
4. **User Account.** To use the SaaS Services and any Clearinghouse Services, Practice Management Services or other services specifically identified in an Order Form, and for each such Service to operate properly, Client must supply Company with certain "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. Client and each End User should ensure that it can receive e-mail from Company, which may require Client and each End User to add Company to a "trusted" sender list to avoid delays or having Company's correspondences blocked from Client or End User's inbox.
5. **Evaluation and Management Coding Tool.** NextGen® Office provides a suggestive Evaluation and Management Procedure Coding Tool. Company assumes no liability regarding the selection and billing of provider procedure codes.
6. **Suspension of NextGen® Office Services/Denied Access.** In addition to any other rights granted to Company herein, Company reserves the right to suspend or terminate this Agreement and Client and each End User's access to all SaaS Services and any other services specifically identified in an Order Form if Company does not receive full payment by Client and/or the End User within ten (10) days of the invoice date. Delinquent accounts are subject to an administrative late charge of \$35.00 per invoice per month for any invoice not paid by the due date and that remains unpaid each 30-day period, thereafter, including any electronic transaction that is declined and any returned checks. Additionally, any amounts payable by Client and/or an End User hereunder which remain unpaid after the due date shall be subject to a finance charge equal to 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is less, and such interest shall begin to accrue after fifteen (15) days from the invoice date. Client will be charged for any Subscription Fees during any period of suspension. If Company does not receive full payment by Client or its End User(s) within thirty (30) days of the date a payment is due, such nonpayment shall constitute a material breach of this Agreement. Notwithstanding any expiration of this Agreement and/or if either party initiates termination of this Agreement, Client will be obligated to pay, on behalf of itself and its End Users, the balance due on its account computed in accordance with the terms of this Agreement.

7. **Billing Information.** Client agrees to provide, on behalf of itself and its End Users, Company with complete and accurate billing and contact information. This information includes Client's legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact. Client agrees to promptly update this information but, in no event, later than five (5) days, of any change to it. If Client has a good faith belief that any charges are in error, then Client must contact Company in writing within thirty (30) days of the disputed invoice' date to be eligible to receive an adjustment or credit. Client agrees not to withhold payment on any invoice while Company reviews Client's request for an adjustment or credit. If Company issues an adjustment or credit that exceeds the current balance on Client's account, then Company agrees to refund the difference to Client within thirty (30) days.
8. **Term; Fees.** Each Order Form will set forth the applicable Service Term for the subscriptions set forth in that Order Form; and such subscriptions commence on the Effective Date of that Order Form and continue for 1 year from the Fulfillment Date of that subscription set forth in that Order Form. Subscription Service Terms from multiple Order Forms are not coterminous. Except as may be allowed in section 7.2 (Termination with Cause) in the General Terms and Conditions, each Subscription is non-cancellable during its current Service Term and Client will not receive any refunds or credits in the event of termination of this Agreement. Client will pay Company, monthly, the Fees set forth in the Order Form.
9. **Effect of Termination; Transition; Return of Client Data.** Upon termination or expiration of this Agreement: (A) Client's right to access and use the NextGen® Office solution and all related functionality therein, immediately terminates. (Company does not offer a post-termination, "read-only" access arrangement); and (B) Client must, at its expense, remove and delete all copies of any Plug-In Software, if any. **Client acknowledges that it is their regulatory responsibility to obtain and store Client Data prior to the termination of this Agreement.** Company offers an assortment of methodologies for Client to extract their data, at any time during the Term of the Agreement either: (A) on its own at no additional charge or (B) with the assistance of Company at an additional charge - both as more specifically outlined here: [Data Extraction](#). Client agrees that as between the Client, Company, the Affiliated Organization and any End User, the Affiliated Organization owns the Client Data residing within the NextGen Office offering.
10. **Electronic Payments.** Client agrees to provide Company with updated credit card information and expressly authorizes Company to charge Client's credit card information each month for an amount equal to Client's current balance. If either: (A) Client's credit card information changes, (B) Client's credit card information becomes expired, or (C) Client is notified by Company of an unsuccessful attempt by Company to charge Client's credit card information for Client's invoice total, then Client agrees to update its account with valid credit card information as soon as possible but, in no event, later than five (5) days. If, any time, Client revokes its credit card authorization, then such revocation shall be considered a material breach of this Agreement
11. **Meaningful Use and MIPS End Users.** Client is required to register, set up and use NextGen® Office in a manner that will allow Company to create the QRDA file needed by Client to download. Client will provide accurate and necessary information (including but not limited to the identity of all the practices, locations, tax identification numbers, physician authorizations, physician information, National Provider Identifier (NPI) information, encounter diagnosis coding, encounter HCPCS/CPT coding, etc.) required for the QRDA creation. Client will keep such information up to date. To the extent required, Client is required to store and maintain, on file, written consent from each Provider for whom Client will be using NextGen Office for creating the QRDA file and authorizing submissions on Provider's behalf to the applicable entities. Client, on behalf of itself and each End User, authorizes Company to send and or generate a quality file to send to CMS should Company offer this service.

Notwithstanding anything in the Master Agreement to the contrary, **Company's assistance, the QDRA generation and submission services from the NextGen Office offering are provided "AS IS" and "AS AVAILABLE". Without limiting the generality of the foregoing, Company does not warrant that the QDRA and/or the applicable services there on will perform in the manner expected, without interruption, or at all, that information can or will be reported by the Company accurately, completely, or at all, or that Customer's use of NextGen Office to generate and submit a QDRA will result in any benefit to Client. Notwithstanding any applicable statute of limitation, Client will not be permitted to institute any action relating to the creation and submission of any QDRA more than 2 years after the cause of action has arisen. Except for a breach by Company of Company's obligations to Client under the BAA, or gross**

negligence or willful misconduct, in no event will Company's liability in the aggregate for any damages for any matter arising out of the QDRA generation and/or submission service ever exceed the sum of \$10,000 regardless of the form of action, whether based on contract, tort, negligence, strict liability, products liability or otherwise. This provision will survive termination or expiration of this Schedule.

12. Definitions:

A. .

**Attachment 1**

**Waystar End User Customer Terms and Conditions for Company's Core EDI offering**

Client is aware that Company utilizes Waystar, a third-party vendor, to provide the **EDI, Waystar Clearinghouse Core Service ("Core EDI")**, which is used by Company to perform Claims and Electronic Remittance Advice EDI services on behalf of Client. Accordingly, access and use of Core EDI is subject to the additional terms and conditions set forth below, which are solely between Client and Waystar.

To the extent there is any conflict between the Master Agreement and these terms and conditions, then solely as it relates to the Core EDI Service, the terms of this Attachment shall prevail.

1. **License Grant.** Waystar grants to Client, through Company, a limited and nonexclusive license to use the Core EDI subject to Company's Master Agreement and these additional terms and conditions, for Client's internal business purposes.

2. **HIPAA.** Client acknowledges that the intrinsic value of the Core EDI is dependent upon the use of patient information that has been de-identified in accordance with HIPAA standards such that the information no longer constitutes Protected Health Information. Client authorizes Waystar to use de-identified data regarding Client derived from the use of Core EDI under this Agreement, for the purpose of rendering the Core EDI, consideration, or other purposes consistent with applicable law.

3. **Warranties and Exclusive Remedies.** Unless otherwise stated in this Agreement, Waystar makes no warranty or representation concerning the adequacy, completeness, usefulness, or sufficiency of the Core EDI or information or results thereof provided hereunder. Unless otherwise stated in this Agreement or any Core EDI specification documents, Waystar does not warrant that the functions contained in the Core EDI and the applications thereof will meet Company's or Clients of Company's requirements or that the Core EDI will operate without interruption or be error free. The Core EDI and any information provided hereunder, and the results thereof are provided on an AS IS, AS AVAILABLE basis without any warranty of any type except that Waystar will use reasonable efforts to correct any errors which are due solely to malfunction of Waystar's computers, operating systems or programs, or errors by Waystar's employees or agents, or as otherwise specified herein. Correction shall be limited to re-running of the job or jobs and/or recreating of data or program files. Waystar shall not be responsible in any manner for (i) errors or failures of proprietary systems or programs other than those of Waystar; (ii) errors or failures of Company's software or operational systems; (iii) Company's use of the Core EDI on a computer system that does not conform to Waystar's specifications; (iv) computer viruses imported into the Services from or through Company's internal computer systems; (v) misuse of or damage to Company or Waystar software; or (vi) Company's failure to report to Waystar the existence and nature of any non-conformity or defect of the Core EDI promptly upon discovery thereof. THE WARRANTY SET FORTH IN THIS SECTION IS EXCLUSIVE, AND THERE ARE NO OTHER WARRANTIES OF ANY TYPE WITH RESPECT TO THE CORE EDI, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR USE FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

4. **Exclusions and Limitations of Liability.**

i. IN NO EVENT SHALL WAYSTAR BE LIABLE TO CLIENT, USER, OR ANY THIRD PARTY (INCLUDING WITHOUT LIMITATION CLIENT'S OR USER'S USERS) FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES, INCLUDING CLAIMS FOR LOST PROFITS, ARISING FROM THE PROVISION OF OR FAILURE TO PROVIDE CORE EDI HEREUNDER, EVEN IF WAYSTAR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. DUE TO

THE NATURE OF THE CORE EDI BEING PERFORMED BY WAYSTAR, IT IS AGREED THAT IN NO EVENT WILL WAYSTAR BE LIABLE FOR ANY CLAIM, LOSS, LIABILITY, CORRECTION, COST, DAMAGE, OR EXPENSE CAUSED BY WAYSTAR'S PERFORMANCE OR FAILURE TO PERFORM HEREUNDER WHICH IS NOT REPORTED BY CLIENT TO COMPANY WITHIN SIXTY (60) DAYS OF CLIENT'S ACTUAL KNOWLEDGE OF SUCH FAILURE TO PERFORM.

ii. CLIENT ACKNOWLEDGES THAT, IN CONNECTION WITH THE CORE EDI PROVIDED UNDER THE MASTER AGREEMENT AND THE TERMS OF THIS ATTACHMENT, INFORMATION SHALL BE TRANSMITTED OVER LOCAL EXCHANGE, INTEREXCHANGE AND INTERNET BACKBONE CARRIER LINES AND THROUGH ROUTERS, SWITCHES AND OTHER DEVICES OWNED, MAINTAINED AND SERVICED BY THIRD PARTY LOCAL EXCHANGE AND LONG DISTANCE CARRIERS, UTILITIES, INTERNET SERVICE PROVIDERS, AND OTHERS, ALL OF WHICH ARE BEYOND THE CONTROL AND JURISDICTION OF WAYSTAR. ACCORDINGLY, WAYSTAR ASSUMES NO LIABILITY FOR OR RELATION TO THE DELAY, FAILURE, INTERRUPTION OR CORRUPTION OF ANY DATA OR OTHER INFORMATION TRANSMITTED IN CONNECTION WITH THE CORE EDI PROVIDED UNDER THIS AGREEMENT.