

**END USER LICENSE AND SERVICE USE AGREEMENT  
with BUSINESS ASSOCIATE AGREEMENT**

**End User License and Service Use Agreement**

This End User License and Service Use Agreement ("EULA") is deemed dated as of the date accepted by the licensee including its employees, officers or agents ("Licensee") and is made between NextGen Management LLC, d/b/a DxWeb Management LLC as licensor ("Licensor" or "DxWeb") and Licensee.

Below this EULA is a Business Associate Agreement ("B.A. Agreement") which Licensee enters into as a Covered Entity (defined below) with DxWeb as a Business Associate (defined below) upon Licensee's accepting the terms of this EULA and the B.A. Agreement. The agreed form of acceptance of this EULA and the B.A. Agreement is by Licensee/Covered Entity's clicking the acceptance box associated with the EULA and B.A. Agreement. Licensee has the option to have these documents made available on paper.

BY ACCEPTING THIS EULA FOR THE DXWEB SYSTEM (DEFINED BELOW) WHICH INCLUDES SOFTWARE DOWNLOADED BY LICENSEE AND SOFTWARE AS A SERVICE ACCESSED ONLINE, LICENSEE AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF LICENSEE DOES NOT WISH TO BE BOUND BY THIS AGREEMENT, LICENSEE MUST IMMEDIATELY NOTIFY DXWEB AND CANCEL LICENSEE'S ORDER PRIOR TO ANY USAGE OF THE DXWEB SYSTEM. IMPORTANT: THIS EULA IS A LEGAL AGREEMENT BETWEEN THE PERSON, COMPANY, OR ORGANIZATION THAT HAS LICENSED THIS SOFTWARE AND DxWEB. BY INSTALLING AND USING THE DxWEB SYSTEM, LICENSEE ACCEPTS THE DxWEB SYSTEM AND AGREES TO THE TERMS OF THIS AGREEMENT ON BEHALF OF THE PERSON, COMPANY, OR ORGANIZATION THAT HAS LICENSED THE DxWEB SYSTEM. READ IT CAREFULLY BEFORE COMPLETING THE INSTALLATION PROCESS AND USING THE DxWEB SYSTEM. BY INSTALLING AND/OR USING THE DxWEB SYSTEM, LICENSEE IS CONFIRMING LICENSEE'S ACCEPTANCE OF THE DxWEB SYSTEM AND AGREEING TO BECOME BOUND BY THE TERMS OF THIS AGREEMENT. IF LICENSEE DOES NOT AGREE TO BE BOUND BY THESE TERMS, OR DO NOT HAVE AUTHORITY TO BIND ITSELF TO THESE TERMS, THEN DO NOT INSTALL AND/OR USE THE DxWEB SYSTEM AND RETURN THE SOFTWARE TO LICENSEE'S PLACE OF PURCHASE FOR A FULL REFUND IN ACCORDANCE WITH ITS REFUND POLICIES.

**1. Grant of License and Use of Software as a Service**

1.1 Grant of license and permission for use from DxWeb. Subject to the terms and conditions set forth in this EULA, DxWeb hereby grants to Licensee during the term of this EULA, and Licensee hereby accepts, a limited, non-exclusive, non-transferable license to use as permitted by applicable law the services and products provided by DxWeb and selected and fully paid for by Licensee including, without limitation, the following or any combination thereof: DxWeb's software as a service ("SaaS"), application product interfaces ("API"), and third party products provided by DxWeb and selected and fully paid for by Licensee (the "Third Party Products")(collectively, the "DxWeb System"). The purpose of this grant is to facilitate Licensee's use of the DxWeb System including the transmittal of information about patient's medical care and treatment as well as text messaging to patients via SMS/MMS to provide, among other things, refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed, financial savings offers relating thereto, and other informational services such as for meaning full use compliance. Some of the aforementioned may concern controlled substances. The DxWeb System is for use solely within the United States and its territories and the rights granted herein may not be sublicensed or otherwise subcontracted to others by Licensee. Licensee represents and warrants that usage of the DxWeb System shall be in compliance with the terms and conditions of this EULA and with all applicable

state and federal laws. Licensee acknowledges that the Third Party Products and all data contained therein may only be used in connection with the Licensee's use of the DxWeb System and that the Third Party Products may not be used independently or separately from the DxWeb System. Licensee may not make any copies of the DxWeb System or the Third Party Products, except for printing copies of information and documentation provided as part of the DxWeb System for use by Licensee for use in patient care and treatment or for back-up or archival purposes. All rights not expressly granted herein are retained by DxWeb. The DxWeb System (excluding any Third Party Products) is copyrighted by DxWeb. All Third Party Products are copyrighted by the respective authors of said products.

1.2 Upgrades. DxWeb may, at its option, update, enhance, revise or improve the DxWeb System during the term of this EULA or replace or delete any or all of the Third Party Products. Licensee understands and agrees that DxWeb's license of the Third Party Products to Licensee is subject to DxWeb's continuing license of the Third Party Products. In the event that DxWeb's rights to any of the Third Party Products terminates, DxWeb has the right to terminate the license granted herein to the DxWeb System in whole or in part.

1.3 Improper Access or Use. By using the DxWeb System, Licensee agrees that it is accessing a computer system that is the property of DxWeb. Licensee hereby acknowledges that the DxWeb System is actively monitored. Licensee acknowledges that unauthorized access and improper use including, without limitation, introduction of any computer contaminant, tampering, interference, or disruption of any kind with our computer system, computer network, programs or data, are prohibited and may be prosecuted to the fullest extent of the law including for civil damages and criminal penalties.

#### 1.4 Grant from Licensee.

Subject to the terms and conditions herein, Licensee grants to DxWeb the non-exclusive, nontransferable worldwide right to copy, store, record, transmit, display, view, print or otherwise use (a) Licensee data to the extent necessary to provide the DxWeb System to Licensee and for any purpose lawful under applicable laws and regulations, and (b) any trademarks that Licensee provides DxWeb for the purpose of including them in Licensee's user interface of the DxWeb System. Licensee acknowledges and agrees that Licensee data and information regarding Licensee and Licensee's users that is provided to DxWeb in connection herewith may be (a) processed by DxWeb and its third party vendors to the extent necessary to provide the DxWeb System. Licensee agrees that the license to the Licensee data shall survive termination of this EULA solely for the purpose of storing backup Licensee data in accordance with the terms of this agreement.

## 2. Ownership, Intellectual Property Rights, and Non-Disclosure/Confidential Information.

2.1 Ownership/Intellectual Property Rights. Licensee and DxWeb agree that DxWeb and its third party providers own all right, title and interest, including patent, copyright, trade secret, trademark and other proprietary rights, in and to the DxWeb System and Third Party Products, including, without limitation, the trademarks DxWeb™, DxScript™, DxPortal™, DxConnect™, DxImage™, Guidelink™, CareWave™ and/or Coglitix™ including the software, documentation, any corrections, bug fixes, enhancements, derivatives, updates or other modifications, any data or information (other than patient information) developed or provided by DxWeb or its suppliers, and any know-how, methodologies, equipment, or processes used by DxWeb to provide the DxWeb System. Licensee acknowledges that Licensee shall be granted only a limited right of use of the DxWeb System, which right of use is not coupled with an interest and remains revocable in accordance with the terms of this EULA. Licensee warrants and agrees, that he or she shall not assert any ownership interest in the DxWeb System, the Third Party Products or any

components thereof. Licensee acknowledges that the DxWeb System embodies valuable confidential and trade secret information of DxWeb, the development of which required the expenditure of considerable time and money by DxWeb. All statutory rights in the DxWeb System, the Third Party Products, including but not limited to, rights in intellectual property therein, are confidential and trade secret material, source code, object code, related trademarks, service marks, patents, copyrights and logos, shall be and will remain the sole and exclusive property of DxWeb and/or its third party providers. All notices of proprietary rights including, without limitation, the trademark and copyright notices in the DxWeb System and the Third Party Products must appear on all copies of the DxWeb System, the Third Party Products and related documentation. Licensee agrees that it may use the DxWeb System solely as a SaaS or in the case of API, in object code form and will not, and will not permit or encourage others to: (a) modify, publish, translate, reverse engineer, reverse compile, disassemble, create derivative or collective works from the DxWeb System or any portion thereof; (b) copy the DxSystem or any part thereof, except for purposes authorized by this EULA; (c) resell, lease, sublicense, or otherwise distribute or grant access to the DxWeb System; (d) create malicious software products, tools, designs, instructions or the like that negatively impact the DxWeb System's performance, functionality, or interoperability with other applications; (e) circumvent any technological measure that controls access to the DxWeb System or any part thereof; or (f) remove or obfuscate any proprietary notices or labels on the DxWeb System. If Licensee communicates any ideas for modifications, enhancements, or improvements or any other suggestions to DxWeb relating to the DxWeb System or the user documentation (collectively, "Suggestions"), Licensee shall grant DxWeb a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid up license to make, use, copy, modify, distribute any Suggestions (including derivative rights thereto) as part of any product, technology, or service offered by DxWeb.

2.2 Passwords. Licensee shall be provided with a password and a user identification to access the DxWeb System. Licensee shall use all reasonable efforts to keep such password and user identification confidential. Licensee shall indemnify and hold DxWeb harmless for all liabilities, damages, costs and expenses incurred in connection with the use of the DxWeb System including, without limitation, any breach of this EULA by Licensee.

### 3. Messaging and/or Informational Communications

3.1. The DxWeb System may involve delivering health care information and/or drug or biologic financial savings offers via SMS/MMS to a patient's telephone or cellular enabled device, delivering paper to a patient, electronic mailings or information deposited into a patient's patient portal account with Licensee ("Communications"). These Communications may be targeted to the content of information stored, queries made or other information in the DxWeb System. Any Communications with Licensee's patients performed with the DxWeb System is directed at the sole discretion of Licensee, except that Licensee agrees that DxWeb may make Communications through SMS/MMS and through Licensee's patient portal allowing Licensee's patients the ability to: (1) sign up for the SMS/MMS and or patient portal; (2) communicate with their providers via secure messaging; (3) view their (a) current medications, (b) past medications, (c) imaging studies with the ability to allow other providers to access such imaging studies to provide treatment; (4) have access to or receive (a) prescription and over-the-counter medication financial savings offers, (b) clinically relevant literature concerning their provider's diagnosis or suggested reading, (c) newly approved medication alerts issued by the FDA including those relating to their diagnosed condition or disease; (5) request a refill of an existing prescription; (6) receive appointment information, and (7) receive other health related Communications for which they may consent to from time to time. Licensee further agrees that DxWeb may send SMS/MMS and/or email communications to Licensee and its officers and employees, if their respective telephone numbers and email addresses are

made available to DxWeb and if further consents, if required, are obtained by DxWeb for such communications.

3.2. The API which DxWeb System uses may automatically download and install updates from time to time from DxWeb. These updates are designed to improve, enhance and further develop the DxWeb System and may take the form of bug fixes, enhanced functions, new software modules and completely new versions. Licensee agrees to receive such updates (and permit DxWeb to deliver these to Licensee) as part of Licensee's use of the services.

#### 4. Limitations and Disclaimers

4.1. Limitations of Warranties. DXWEB DISCLAIMS ALL EXPRESSED AND IMPLIED WARRANTIES, ORAL OR WRITTEN, WITH RESPECT TO THE PRODUCTS, INCLUDING BUT NOT LIMITED TO: ANY IMPLIED WARRANTIES CONCERNING THE PERFORMANCE, MERCHANTABILITY, SUITABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OF ANY OF THE PRODUCTS; ANY WARRANTY OTHERWISE ARISING BY STATUTE, IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE; AND ANY WARRANTY THAT THE PRODUCTS WILL MEET LICENSEE'S REQUIREMENTS OR CONCERNING THE RESULTS TO BE OBTAINED FROM THE PRODUCTS, OR THE RESULTS OF ANY RECOMMENDATION DXWEB MAY MAKE.

4.2. Liability and DxWeb System Limitations. NO WRITTEN OR ORAL INFORMATION OR ADVICE GIVEN BY DXWEB, ITS AFFILIATES, AGENTS, REPRESENTATIVES OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY OTHER WAY CHANGE DXWEB'S OBLIGATIONS UNDER THIS EULA OR IN THE UNDERLYING AGREEMENT(S).

UNLESS IN THE EVENT OF WILFUL MISCONDUCT OR GROSS NEGLIGENCE, IN NO EVENT SHALL DXWEB, ITS AFFILIATES, AGENTS, REPRESENTATIVES OR EMPLOYEES BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR INDIRECT DAMAGE, INCLUDING LOSS OF DATA OR ANY OTHER DAMAGE OR LOSS, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE DXWEB SYSTEM.

IN NO EVENT SHALL DXWEB, ITS AFFILIATES, AGENTS, REPRESENTATIVES OR EMPLOYEES BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DECISION MADE OR ACTION TAKEN BY YOU IN RELIANCE ON THE DXWEB SYSTEM OR FOR ANY CONSEQUENTIAL, SPECIAL OR SIMILAR DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

TO THE MAXIMUM EXTENT ALLOWED BY LAW, DXWEB SHALL BE LIABLE TO LICENSEE, IN THE EVENT OF A JUDGMENT OR OTHER DISPUTE DISPOSITION AGAINST DXWEB, ONLY UP TO THE AMOUNT OF DAMAGES ACTUALLY PAID BY LICENSEE FOR THE LICENSE AND USE OF THE DXWEB SYSTEM, EXCEPT THAT DXWEB SHALL HAVE NO LIABILITY FOR (a) LOSS OF INCOME OR PROFIT, OR FAILURE TO RECOGNIZE EXPECTED SAVINGS, WHETHER DIRECT OR INDIRECT, (b) LOSS OF OR DAMAGE TO ANY DATA OR SOFTWARE, OR (c) LOSS OF USE OF, OR NON-AVAILABILITY OF ANY COMPUTER OR NETWORK SYSTEMS.

4.3-4.7 Combined Miscellaneous. 4.3. Not For Resale or Export. Licensee agrees to comply with all applicable laws and regulations of the various states and of the United States. Licensee agrees and represents that Licensee is buying only for Licensee's own internal use only, and not for resale or export.

4.4. General Terms. Waiver of any term or condition may only be made through in writing by the party granting such waiver, and a party's failure to enforce any term or condition shall not be construed as a

waiver of future performance of such term or condition. 4.5. This EULA shall be governed by, interpreted and construed in accordance with the laws of the State of Florida, excluding its choice of law provisions and any controversy or claim arising out of or relating to the terms of this EULA, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association sitting in Palm Beach County or Broward County, FL, in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Licensee understands that by agreeing to these terms, it is giving up the right to bring a claim in court or in front of a jury, and that it is giving up the right to proceed with any class action or other representative action on behalf of itself, its officers and/or employees. 4.6. The parties are independent contractors of one another; nothing herein shall be deemed to create any relationship of agency, partnership or joint venture between the parties. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, supersedes all prior discussions, representations, understandings or agreements, whether oral or in writing, between the parties with respect to the same. 4.7. Suspension. DxWeb may, in its sole discretion and to the maximum extent permitted within Licensee's jurisdiction, modify or discontinue or suspend Licensee's ability to use any version of the DxWeb Software, and/or disable any DxWeb Software Licensee may already have accessed or installed without any notice to Licensee, for the repair, improvement, and/or upgrade of the underlying technology or for any other justifiable reason, including but not limited to, circumstances where Licensee, at DxWeb's discretion, are in breach of the Terms, creating problems, possible legal liabilities, or engaging in fraudulent, immoral or illegal activities, or for other similar reasons.

The parties agree that (1) that each has accepted this EULA and the attached B.A. Agreement; (2) said documents are deemed as signed in electronic signature form and on each party's behalf with authority; and (3) each party is bound as if said documents were signed in ink on paper and that neither party shall raise as a defense to enforceability the lack of an ink-signed original.

LICENSEE / COVERED ENTITY (as listed on associated service agreement) DxWeb as LICENSOR/BUSINESS ASSOCIATE

### **Business Associate Agreement**

This Business Associate Agreement (this "B.A. Agreement"), is dated as of the date of acceptance of the associated End User License Agreement ("EULA") to which this agreement is attached, and is entered into by and between NextGen Management, LLC d/b/a DxWeb Management LLC ("Business Associate" as defined below or "DxWeb") with an address at 5355 Town Center Road, Suite 203, Boca Raton, FL 33486 and health care provider ("Covered Entity" as defined below) (each a "Party" and collectively the "Parties" to the EULA and to this B.A. Agreement) pursuant to 45 C.F.R. §§ 164.503 and 164.502(e)(2).

Business Associate is providing its proprietary software as a service ("SaaS"), application product interfaces ("API") and third party products selected and fully paid for by Licensee (the "Third Party Products")(collectively, the "DxWeb System") which is the subject of a services agreement. The EULA (wherein Covered Entity is referred to as "Licensee") and any other agreement(s) between Business Associate and Covered entity for Business Associate's services including any Terms & Conditions of Use and Privacy Policy are sometimes collectively referred to herein as the "Underlying Agreement").

Performance of the Underlying Agreement may involve Protected Health Information (as defined in 45 C.F.R. § 164.501) that is subject to the federal privacy regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 and codified at 45 C.F.R. parts 160 and 164 as amended from

time to time (the "Privacy, Security, Breach Notification and Enforcement Rules" or collectively, the "HIPAA Rules and/or HITECH Act") and the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"). The purpose of this B.A. Agreement is to amend the Underlying Agreement to the extent and only to the extent necessary to allow for Covered Entity's compliance with the HIPAA Rules and/or HITECH Act with respect to this Underlying Agreement.

Provision of such services by the Business Associate may involve Protected Health Information ("PHI") (defined below) that is subject to the federal privacy regulations issued pursuant the HIPAA Rules and/or HITECH Act. The purpose of this B.A. Agreement is to set forth the obligations of the Parties with respect to such Protected Health Information.

In consideration of the foregoing, the Parties hereby agree as follows:

## 1. DEFINITIONS

1.1 Catch-all definition: Unless otherwise specified in this B.A. Agreement, all capitalized terms used in this B.A. Agreement not otherwise defined have the meaning established for purposes of Title 45 parts 160 and 164 of the United States Code of Federal Regulations, as amended from time to time. 1.2 Specific Definitions: (a) "PHI" shall mean Protected Health Information, as defined in 45 C.F.R. § 164.501, limited to the information received from or created by or maintained for Covered Entity. (b) "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR § 160.103, and in reference to the party to this agreement, shall mean DxWeb. (c) "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR § 160.103, and in reference to the party to this agreement, shall mean the health care provider who accepted the attached EULA and who has other associated agreements with Business Associate, if any.

## 2. RESPONSIBILITIES OF BUSINESS ASSOCIATE

2.1 Except as otherwise specified herein, Business Associate may make any and all uses and disclosures of PHI necessary to perform its obligations under the Underlying Agreement. With regard to its use and/or disclosure of PHI, Business Associate agrees to: (a) use and/or disclose PHI only as permitted or required by this B.A. Agreement or required by law; (b) use appropriate safeguards to prevent use or disclosure of PHI other than as permitted or required by this B.A. Agreement; (c) report to Covered Entity any use or disclosure of PHI of which it becomes aware that is not permitted or required by this B.A. Agreement; (d) require all its subcontractors and agents that create, receive, use, disclose or have access to PHI to agree, in writing, to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate; (e) make available its internal practices, books, and records relating to the use and disclosure of PHI to the Secretary of the Department of Health and Human Services ("HHS") for purposes of determining Covered Entity's compliance with the Privacy Rule; (f) within 45 days of receiving a written request from Covered Entity, make available information necessary for Covered Entity to make an accounting of disclosures of PHI about an individual; and (g) mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this B.A. Agreement.

2.2 The Parties agree that the PHI in Business Associate's possession constitutes a Designated Record Set. With regard to PHI maintained in a Designated Record Set, Business Associate agrees to: (a) within 25 days of receiving a written request from Covered Entity, make available PHI necessary for Covered Entity to respond to individuals' requests for access to PHI about them; and (b) within 45 days of receiving a written

request from Covered Entity, incorporate any amendments or corrections to the PHI in accordance with the Privacy Regulation.

### 3. PERMITTED USES AND DISCLOSURES OF PHI

3.1 Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or required by this B.A. Agreement or required by law, Business Associate may: (a) use the PHI in its possession for its proper management and administration and to fulfill any legal responsibilities of Business Associate; (b) disclose the PHI in its possession to a third party for the purpose of Business Associate's proper management and administration including in connection with the transmittal of information about patient's medical care and treatment as well as text messaging to patients via SMS/MMS to provide, among other things, refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed, financial savings offers relating thereto, and other informational services such as for meaning full use compliance or to fulfill any legal responsibilities of Business Associate; provided, however, that the disclosures are required by law or Business Associate has received from the third party written assurances that (i) the information will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) the third party will notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached; (c) perform Data Aggregation for the Health Care Operations of Covered Entity; and (d) de-identify any and all PHI created or received by Business Associate under this B.A. Agreement in conformity with the requirements of the HIPAA Rules and/or HITECH Act. Such resulting de-identified information is not subject to the terms of this B.A. Agreement.

3.2 It is understood that Business Associate has created the software architecture where the data including PHI created by Covered Entity is held and maintained by Business Associate. It is further understood that Business Associate does not use PHI in connection with any of Business Associate's activities outside of the business conducted with Covered Entity.

3.3 DxWeb is authorized by Covered Entity, to engage on its behalf in the transmittal of information about patient's medical care and treatment including text messaging to patients via SMS/MMS to provide, among other things, refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed, financial savings offers relating thereto, and other informational services such as for meaning full use compliance. Some of the aforementioned may concern controlled substances. Covered Entity further agrees that DxWeb may send SMS/MMS and/or email communications to Covered Entity and it's officers and employees, if their respective telephone numbers and email addresses are made available to DxWeb and if further consents, if required, are obtained by DxWeb for such communications.

### 4. RESPONSIBILITIES OF COVERED ENTITY

4.1 With regard to the use and/or disclosure of PHI by Business Associate, Covered Entity agrees: (a) to obtain any consent, authorization or permission that may be required by the HIPAA Rules and/or HITECH Act or applicable state laws and/or regulations prior to furnishing Business Associate the PHI pertaining to an individual; and (b) that it will inform Business Associate of any PHI that is subject to any arrangements permitted or required of Covered Entity under the HIPAA Rules and/or HITECH Act that may materially impact in any manner the use and/or disclosure of PHI by Business Associate under this B.A. Agreement, including, but not limited to, restrictions on the use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 (right of an individual to request restriction of uses and disclosures) and agreed to by Covered Entity. (c) that as to all of its existing and future patients, Covered Entity is in complete

compliance with all applicable state and federal regulations concerning the obtaining of consent(s) for the use of PHI for messaging and informational communication purposes.

#### 4.2 Covered Entity consents

### 5. B.A. AGREEMENT EFFECTIVE DATE

5.1 This B.A. Agreement shall be effective on the date of acceptance of the EULA and B.A. Agreement by Covered Entity ("B.A. Effective Date").

### 6. TERM AND TERMINATION

6.1 Termination by the Covered Entity. Upon Covered Entity's determination of a breach of a material term of this B.A. Agreement by Business Associate, Covered Entity shall provide Business Associate written notice of that breach in sufficient detail to enable Business Associate to understand the specific nature of that breach and afford Business Associate reasonable opportunity to cure the breach; provided, however, that if Business Associate fails to cure the breach within a reasonable time specified by Covered Entity, Covered Entity may terminate this B.A. Agreement and the Underlying Agreement to the extent that the Underlying Agreement requires Business Associate to maintain or receive PHI.

6.2 Effect of Termination or Expiration. Within 120 days of the termination or expiration of this B.A. Agreement, Business Associate agrees to return or destroy all PHI, including such information in possession of Business Associate's subcontractors, if feasible to do so. If return or destruction of said PHI is not feasible, Business Associate agrees to extend any and all protections, limitations and restrictions contained in this B.A. Agreement to Business Associate's use and/or disclosure of any PHI retained after the termination or expiration of this B.A. Agreement, and to limit any further uses and/or disclosures to the purposes that make return or destruction of the PHI infeasible. This Section 6.2 shall survive any termination or expiration of this B.A. Agreement.

### 7. MISCELLANEOUS

7.1 Change in Law. The Parties agree to negotiate to amend this B.A. Agreement as necessary to comply with any amendment to any provision of HIPAA or its implementing regulations set forth at 45 C.F.R. parts 160 and 164, including, but not limited to, the HIPAA Rules and/or HITECH Act relating to privacy, which materially alters either Party or both Parties' obligations under this B.A. Agreement.

7.2 Construction of Terms. The terms of this B.A. Agreement shall be construed in light of any applicable interpretation or guidance on HIPAA and/or the Privacy Regulation issued by HHS, the Office of Civil Rights ("OCR") and/or the applicable state or federal judiciary which may be issued from time to time. 7.3 No Third Party Beneficiaries. Nothing in this B.A. Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

7.4 Contradictory Terms. Any provision of the Underlying Agreement that is directly contradictory to one or more terms of this B.A. Agreement ("Contradictory Term") shall be considered as having been superseded by the terms of this B.A. Agreement to the extent and only to the extent of the contradiction, only for the purpose of Covered Entity's compliance with the HIPAA Rules and/or HITECH Act and only to

the extent that it is reasonably impossible to comply with both the Contradictory Term and the terms of this B.A. Agreement.

7.5 This B.A. Agreement shall be governed by, interpreted and construed in accordance with the laws of the State of Florida, excluding its choice of law provisions and any controversy or claim arising out of or relating to the terms of this B.A. Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association sitting in Palm Beach County or Broward County, FL, in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The parties understand that by agreeing to these terms, they are giving up the right to bring a claim in court or in front of a jury, and that Covered Entity is giving up the right to proceed with any class action or other representative action on behalf of itself, its officers and/or employees.

IN WITNESS WHEREOF, the parties agree that (1) each has accepted this B.A. Agreement and aforesaid EULA; (2) said documents are deemed as signed in electronic signature form and on each party's behalf with authority; and (3) each party is bound as if said documents were signed in ink on paper and that neither party shall raise as a defense to enforceability the lack of an ink-signed original.

LICENSEE / COVERED ENTITY (AS IDENTITY IS INDICATED IN DXWEB'S DIGITAL LOG)

DxWeb as LICENSOR and BUSINESS ASSOCIATE