

## NEXTECH API TERMS OF USE

These Nextech API Terms of Use form an agreement (the “Agreement”) between NEXTECH SYSTEMS LLC, a Florida limited liability company (“Nextech”), and you (the “Developer”). By accessing or using any Nextech API, you are agreeing to be bound by the terms of this Agreement.

**BACKGROUND.** Nextech provides technology solutions to certain specialty medical and healthcare providers and practices, including an electronic medical record platform and practice management software package (collectively, the “Nextech Solutions”). Developer provides products and services (the “Developer Applications”) to its customers, some of which are also Nextech customers. Developer desires to obtain access and make calls to Nextech APIs and to access certain data within the Nextech Solutions to enable the Developer Applications to interface and interoperate with the Nextech Solutions. Nextech is willing to provide such access subject to the terms and conditions herein.

**AGREEMENT.** In consideration of the foregoing and the mutual promises made herein, the parties agree as follows.

1. **Acceptance of Terms.** You are deemed to be entering into this Agreement and accept all of its terms if you access or use any Nextech API. If you are using the Nextech APIs on behalf of an entity, you represent and warrant that you have authority to bind that party to this Agreement, and you are doing so on behalf of both you and that entity. Notwithstanding the foregoing, the terms of this Agreement shall be superseded by any conflicting or additional terms set forth in a separate written agreement that you or that entity specifically enter into with Nextech regarding the use of Nextech APIs.

2. **Certain Defined Terms.**

A. “Developer Data” means all data created by Developer or a Developer Application.

B. “Nextech API” means any form of machine accessible application programming interface provided by Nextech that provides access to or enables interaction with a Nextech service, and includes all associated documentation, tools, and sample code, and executables of any of the foregoing.

C. “Nextech Data” means all data created by Nextech or the Nextech Solution, whether or not derived from Provider Data.

D. “Providers” means the providers of medical services for whom Developer will provide Developer Applications that interoperate with a Nextech Solution through a Nextech API hereunder.

E. “Provider Data” means, as to a particular Provider, data created by that Provider that is stored in or accessible from a Nextech Solution, as well as data written to a Nextech Solution by a Developer Application in respect of such Provider as described in Section 4.B below.

3. **Grant of License.** Subject to the terms in this Agreement, Nextech hereby grants Developer a limited, non-exclusive, non-assignable, non-transferable, revocable license to (A) install, use and make calls to certain Nextech APIs provided for general access to the developer community for the sole purpose of developing, testing, and supporting elements of the Developer Application that interface with and interoperate with a Nextech Solution, and (B) use, host, store, reproduce, communicate and publish portions of the Nextech Data through the Developer Application solely for the benefit of the Provider to which such Nextech Data relates.

4. **Provider Relationship; Data Access.**

A. Developer will enter into one or more separate written agreements for use of the Developer Applications by each Provider. Developer shall be responsible for ensuring that each such agreement grants Developer the valid right to access the applicable Provider Data from the Nextech Solution and use it in the Developer Application. Developer acknowledges that Nextech will have no obligation to permit Developer to access any Provider Data until Nextech verifies proper authorization from such Provider.

B. Developer acknowledges and agrees that if any data created by a Developer Application is written to a Nextech Solution, it shall automatically become Provider Data, and Nextech shall thereafter be permitted (subject to its own agreement with the Provider) to use, host, store, reproduce, communicate and publish such data through any Nextech Solution for the benefit of the applicable Provider notwithstanding any termination of this Agreement or the Developer's agreement with the Provider. Developer acknowledges that each Provider retains all right, title and interest in and to its Provider Data, and agrees that Developer's use of the Nextech Data is also subject to such Provider rights as well as privacy and other laws.

C. Developer agrees to enter into one or more business associate agreements with each Provider upon its request, and with Nextech in the event Nextech reasonably determines that doing so is required to comply with law or with the requirements of one or more Providers. As used herein, business associate agreement has the meaning set out in the Health Insurance Portability and Accountability Act of 1996 and the rules and regulations issued thereunder.

5. **Restrictions on Use.** In addition to any other limitations set forth in this Agreement or imposed by law, Developer will not:

A. Use any Nextech API in a way that could impair, harm or damage Nextech, any Nextech service or application, or any other person's use of a Nextech API, service or application, or that exceeds the API use restrictions set forth in any documentation, if applicable;

B. Use any Nextech API to disrupt, interfere with, or attempt to gain unauthorized access to services, servers, or networks connected to, or accessible through, any Nextech API, including those of Nextech or any Provider;

C. Reverse engineer, decompile, or disassemble any Nextech API or software product, or redistribute, resell or sublicense access to any portion of a Nextech Solution;

D. Use any Nextech API in a way that threatens the integrity, performance or reliability of any Nextech API or any portion of a Nextech Solution, including performance or stress testing, or in any manner that works around any technical limitations incorporated into a Nextech API;

E. Request from a Nextech Solution any Provider Data that is not required for the Developer Application to operate in accordance with its documentation and the direction of the applicable Provider, or for which it does not have a valid grant of access from the applicable Provider;

F. Import or write any personally identifiable information or protected health information (as such terms are defined by any applicable law) or production data of any sort into a testing or non-production environment established by Nextech for integration testing or similar use by developers;

G. Resell, sublicense or, except as expressly contemplated in this Agreement, distribute any Provider Data or Nextech Data;

H. Share any access credentials provided by Nextech with any third party, or use any such credentials for a Provider or practice other than the one identified by Nextech for such purpose;

I. Falsify or alter any identifier assigned to a Developer Application, or otherwise obscure or alter the source of queries coming from a Developer Application; or

J. Use any Nextech API or any Nextech Data in a manner that violates any applicable law or third party right, including federal and state laws pertaining to the privacy and protection of personal health information and personally identifiable information.

6. **Promotion.** Developer and Nextech shall each be permitted to disclose to Providers the existence of this Agreement and that Developer has received Nextech's limited authorization for the Developer Application to interface and interoperate with the Nextech Solutions. Neither party shall make any misleading statements regarding the other's products or services, including any inaccurate description or unauthorized warranty

relating to the other's offerings, nor any statement which suggests a partnership, sponsorship, or endorsement of the other party. Each party hereby grants to the other a limited, non-exclusive, non-assignable, non-transferable, revocable right to use its name and logo and the name and logo of the interfacing Nextech Solution and Developer Application, as applicable (collectively, the "Marks") during the Term and solely as described in the immediately preceding sentence. All such use of the Marks shall inure only to the benefit of the owner thereof and, except as expressly provided herein, neither party is granting the other any right, title or interest in its or its affiliates' Marks.

7. **Support and Maintenance.** Nextech will use commercially reasonable efforts to provide Developer with access to current documentation for the Nextech APIs. Nextech shall not be required to provide training or other support relating to Developer's use of any Nextech API or Nextech Data, and Nextech has no obligation to update or modify the Nextech APIs.

8. **Modifications; Deprecation.** Developer acknowledges and agrees that Nextech may, in its sole discretion, update or modify all or any portion of the Nextech APIs and that such updates or modifications may remove or restrict previously existing functionality or require Developer to update or modify its Developer Applications. Nextech will endeavor to provide at least six (6) months' advance notice if it intends to discontinue or make non-backwards compatible changes to a Nextech API, unless it determines, in its reasonable judgment, (A) that doing so would violate or conflict with any then-current law or third party relationship, or (B) doing so could create a security risk or substantial economic or material technical burden to any Person.

9. **Confidentiality.** During the Term, Developer may obtain access to information of Nextech that is of a confidential or proprietary nature. Such information is collectively referred to as "Nextech Information." Developer agrees to not use such Nextech Information except as expressly contemplated by this Agreement, and to not disclose it to any third party without Nextech's prior written consent. Notwithstanding the foregoing, disclosure is permitted to the extent required by law or court order, provided Developer first gives reasonable notice to Nextech (unless prohibited by law or court order) and, if requested, provides reasonable assistance in obtaining a protective order. Nextech Information does not include information that Developer independently develops (without use of any other Nextech Information), that was rightfully given to Developer by a third party without any conflicting obligation of confidentiality, or that becomes public through no fault of Developer.

10. **Ownership Rights.** Except as expressly provided for in this Agreement, Nextech retains all right, title and interest in the Nextech APIs, the Nextech Solution, the Nextech Data, the Nextech Information, and all of Nextech's other intellectual property, data and technology, and Developer retains all right, title and interest in the Developer Application, the Developer Data and all of its other intellectual property, data and technology. Notwithstanding anything to the contrary herein, Nextech shall have the right, without limitation or obligation to Developer, to use and commercialize any feedback provided by Developer to Nextech about the Nextech APIs or Nextech Solutions.

11. **Non-exclusive.** This Agreement is non-exclusive, and nothing herein shall prohibit Nextech from developing any product or service, including those that may be similar to or competitive with the Developer Application.

12. **Audit Right.** Developer agrees that Nextech may monitor use of the Nextech APIs to ensure compliance with the terms of this Agreement, and Developer will not take any action to interfere with such monitoring. In addition, Nextech shall be permitted, upon reasonable advance notice and during regular business hours, to inspect and audit the files and records of Developer as necessary to verify compliance with this Agreement, and Developer shall cooperate with all reasonable requests in conducting any such audit.

13. **Term and Termination; Suspension.** The term of this Agreement shall commence on the Effective Date and will continue until terminated in one of the following manners. Developer may terminate this Agreement upon written notice at any time. Nextech may terminate this Agreement and Developer's use of all Nextech API's (A) for any reason, upon ninety (90) days' prior written notice, (B) on thirty (30) days' prior written notice in the event of a breach by Developer of any term of this Agreement that is capable of cure, unless such breach has

been cured (as determined by Nextech) within such thirty (30) day period; or (C) immediately in the event of a material breach by Developer that is not capable of cure, including any breach of Section 5. In addition, if Nextech determines, in its sole discretion, that Developer's use of the Nextech API is causing an interruption or degradation in the performance of any Nextech Solution, Nextech may, without liability to Developer or any other party, temporarily suspend Developer's access to the Nextech APIs until such time as Nextech is reasonably assured that such interruption or degradation shall no longer occur.

14. **Effect of Termination; Survival.** Immediately upon the termination of this Agreement for any reason, (A) Nextech shall cease all use of Developer's Marks, (B) Developer shall cease all use of the Nextech APIs, the Nextech Data, the Nextech Information, and Nextech's Marks, and (C) all licenses granted in this Agreement shall terminate. Notwithstanding the foregoing, each provision of this Agreement that by its nature is intended to apply beyond its term will survive its termination, including this Section 14 and each of Sections 9, 10, and 15 through 18, inclusive.

FOLLOWING ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT, DEVELOPER SHALL NOT USE OR RETAIN ANY PROVIDER DATA OBTAINED THROUGH A NEXTECH API WITHOUT THE EXPRESS PERMISSION, UNDER SEPARATE AGREEMENT, FROM EACH APPLICABLE PROVIDER. UPON REQUEST BY NEXTECH, DEVELOPER SHALL CERTIFY IN WRITING ITS COMPLIANCE WITH SUCH RESTRICTION.

15. **Indemnification.** Developer shall indemnify and hold Nextech, its affiliates, and each of their respective directors, officers, employees and agents, together with each of their respective successors and assigns, harmless against any and all claims, demands, liabilities, damages, losses, costs, fees (including legal fees) and expenses, of any type whatsoever relating to a third party claim arising out of (A) Developer's use of a Nextech API or breach of this Agreement, (B) any data or content routed by Developer or its customers through the Developer Application, or (C) any claim that the Developer Application infringes the patent, copyright, trademark or other intellectual property right of a third party (except to the extent such claim is based on the Nextech API). Any claim for indemnification hereunder shall be made promptly following the event giving rise thereto, provided that any failure or delay in providing such notice shall not relieve Developer of its obligations except to the extent actually prejudiced thereby. In the event of any claim for indemnity hereunder, Developer shall, if requested by Nextech in writing, promptly assume the defense thereof, at its own expense, with counsel reasonably acceptable to Nextech. Regardless of which party is defending, each party shall cooperate with the other as reasonably requested in connection the indemnified matter, shall keep the other reasonably apprised of the status thereof, and shall not enter into any settlement or compromise that creates any obligation or liability or admits any wrongdoing on behalf of the other party without the consent of such other party, not to be unreasonably withheld, conditioned or delayed.

16. **Disclaimer and Limitation of Liability.**

A. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEXTECH MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. SPECIFICALLY, NEXTECH MAKES NO WARRANTY THAT THE NEXTECH APIS WILL FUNCTION AS INTENDED OR THAT THEY WILL BE AVAILABLE OR FREE FROM BUGS OR OTHERWISE MEET DEVELOPER'S NEEDS. THE NEXTECH APIS ARE PROVIDED "AS-IS."

B. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE, THE TOTAL LIABILITY OF NEXTECH AND ITS AFFILIATES UNDER THIS AGREEMENT SHALL BE LIMITED TO FIFTY DOLLARS (\$50). IN NO EVENT WILL NEXTECH OR ITS AFFILIATES BE LIABLE TO DEVELOPER OR ITS AFFILIATES UNDER THIS AGREEMENT FOR ANY OTHER DAMAGES, UNDER ANY LEGAL THEORY, WHETHER DIRECT OR INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE, INCLUDING LOST PROFITS, DATA OR BUSINESS OPPORTUNITY. THE FOREGOING SHALL APPLY EVEN IF NEXTECH OR SUCH AFFILIATE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A LIMITED REMEDY SET FORTH IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

17. **Dispute Resolution.** Any controversy or claim arising out of or relating to this Agreement shall be settled solely by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Claims shall be heard by a single arbitrator. The place of arbitration shall be Hillsborough County, Florida. The arbitration shall be governed by the laws of the State of Florida (other than choice of law principles thereof). The prevailing party shall be entitled to an award of reasonable attorney fees. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties. Notwithstanding the foregoing, each party agrees that the other shall be entitled to specific performance of the other's obligations under Sections 5 or 9 and without any requirement to post a bond or prove damages.

18. **General Provisions.**

A. **Subsidiaries and affiliates.** Developer agrees that certain Nextech APIs or portions thereof may be provided by subsidiaries or affiliates of Nextech and, to the extent so provided, this Agreement also governs the provision thereof and the relationship between Developer and such entities.

B. **Assignment.** Developer may not assign or delegate this Agreement, in whole or in part, without the prior written consent of Nextech. Nextech may assign this Agreement without restriction in the event of any sale of all or substantially all of its assets or any merger, sale of stock, or similar transaction. Subject to this Section 18.B, this Agreement shall inure to the benefit of and shall be binding upon the parties hereto and any permitted successor or assign.

C. **Severability.** If any provision of this Agreement is determined to be unenforceable, the enforceability of the remaining provisions will not in any way be affected or impaired, and the parties shall substitute an enforceable provision for the affected provision which approximates the intent and economic effect of the affected provision as closely as possible.

D. **Relationship of the Parties.** The parties hereto are each independent contractors of the other, and nothing contained herein shall be construed as creating any partnership, joint venture, or other form of joint enterprise between the parties. Except for the indemnitees described in Section 15, there are no third-party beneficiaries to this Agreement.

E. **Construction; Certain Definitions.** The parties agree that (i) "including" and other words or phrases of inclusion shall be regarded as nonexclusive and equivalent to the terms "including, but not limited to," (ii) "person" means, as applicable, an individual person, corporation, limited liability company, joint venture, or unincorporated organization, as well as any governmental authority, and (iii) "affiliate" means, with respect to any person, any other person that controls, is controlled by, or is under common control with, such person. Whenever appropriate, singular forms used herein shall be deemed to include the plural and plural forms used herein shall be deemed to include the singular. The captions and other headings contained in this Agreement are inserted for convenience of reference only and shall not affect the interpretation or meaning of this Agreement. Each party has had the chance to consult with counsel regarding this Agreement and accordingly agrees that in the event any provision hereof is deemed to be ambiguous, no presumption shall arise for or against either party because it or its representatives were the drafters thereof.

F. **Amendment and Waiver.** In order to be binding, any amendment or modification of any of the provisions of this Agreement must be in writing and signed by a duly authorized representative of each party. In the event of a conflict between the terms hereof and any such written modification, the document later in time shall prevail. Any waiver of a right set forth in this Agreement shall only be effective if made in writing by the party against whom it is to be enforced. The waiver of any breach or delay in enforcing any provision of this Agreement shall not operate as a waiver of any subsequent breach or right to enforce the same.

G. **Notices.** Any notice required or permitted under this Agreement shall be in writing and shall be deemed to have been delivered: (i) upon personal delivery; (ii) three (3) business days after registered or

certified mailing, postage prepaid and return receipt requested; (iii) one (1) business day after being sent by nationally recognized express courier for next business day delivery, costs prepaid, or (iv) on the date sent by PDF attached to an electronic mail message if sent before 5pm on a business day at the recipient's location and, if not, on the next business day. Notices sent to Nextech shall be addressed to its primary business address. Notices sent to Developer may be addressed to any address, including email address, that has been provided by Developer for registration or use of a Nextech API and has not been rescinded.

H. Counterparts; Signatures. This Agreement may be executed in one or more counterparts, all of which together constitute the same agreement. Signatures delivered by facsimile, email or other electronic means shall have the same effect as original signatures.

I. Entire Agreement. This Agreement (including all exhibits, addendums, and schedules hereto, which are hereby incorporated by reference) comprises the entire understanding and agreement of the parties concerning the subject matter hereof, and supersedes all prior writings, discussions, representations and understandings with respect thereto.

**NO SIGNATURE REQUIRED.**

**DEVELOPER ACCEPTS THIS AGREEMENT BY ACCESSING OR USING ANY NEXTECH API.**