

This Marketplace Partner Program Agreement (including any appendices attached hereto, this "**Agreement**"), effective as of the Effective Date (as defined below), is between the party identified as Marketplace Partner below ("**Marketplace Partner**") and PointClickCare Technologies Inc. ("**PointClickCare**").

1. **Defined Terms.** Capitalized terms used but not defined herein will have the meanings ascribed to them in the Marketplace Partner Terms and Conditions (as defined below). In addition, as used in this Agreement, the following capitalized terms will have the following meanings:

**"Activated Customers"** means any Customer that has agreed to the Marketplace Partner App TOS, has issued a Letter of Authorization and for which the Interface has been enabled pursuant to Section 2.2 below.

**"Active Facility"** means an Activated Customer facility that is subject to a Letter of Authorization issued by such Activated Customer.

**"App Validation"** means PointClickCare's process to evaluate and certify the Marketplace Partner App, as more particularly described in the App Validation Guidelines.

**"App Validation Guidelines"** means the PointClickCare App Validation Guidelines which are available on the Website, and which are incorporated by reference into this Agreement and are subject to change from time to time.

**"Brand Features"** means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of PointClickCare.

**"Customer"** means any person or entity who subscribes to any product or services from PointClickCare.

**"Marketplace Partner App"** means the software application developed by Marketplace Partner under the Marketplace Partner Terms and Conditions and identified on Appendix A.

**"Marketplace Partner App TOS"** means an agreement between Marketplace Partner and each Customer that purchases access to the Marketplace Partner App, and which governs such Customer's use of the Marketplace Partner App.

**"Marketplace Partner Content"** means the documentation and promotional content relating to the Marketplace Partner App submitted by Marketplace Partner to PointClickCare.

**"Marketplace Partner Trademarks"** means the trade names, trademarks, service marks and logos of Marketplace Partner and the Marketplace Partner App.

**"Marketplace Partner Terms and Conditions"** means the Terms of Use of Marketplace Partner Portal located on the Website, which govern Marketplace Partner's creation of the Marketplace Partner App.

**"HIPAA"** means the Health Insurance Portability and Accountability Act (1996) and any amendments or implementing regulations.

**"Interface"** means an electronic interface and associated technology to permit data exchange between Associated PointClickCare Software and the Marketplace Partner App to enable efficient use of the Marketplace Partner App by Activated Customers.

**"Letter of Authorization"** means a letter from Customer authorizing Marketplace Partner and PointClickCare to access the electronic health records of such Customer's Active Facilities and to transmit certain records among the parties.

**"Personal Information"** means any information pertaining to a directly or indirectly identifiable individual.

**"PIPEDA"** means the *Personal Information Protection and Electronic Documents Act* (2000) and any amendments or implementing regulations.

**"PHI"** means protected health information in the United States, as such term is defined in any applicable laws and regulations, specifically, but not limited to, HIPAA. PHI means personal health information in the majority of Canadian provinces, as such term is defined in any applicable laws and regulations (the other provinces' applicable laws and regulations use alternative terms such as "health information" or "personal information" in lieu of "personal health information" and, in this Agreement, PHI also shall refer to any applicable alternative term).

**"PointClickCare IP"** means the PointClickCare Marketplace, the Associated PointClickCare Software (including any incorporated proprietary data), and the Brand Features.

"**PointClickCare Marketplace**" means any marketplace, website, or app directory or gallery established by PointClickCare, to display and market PointClickCare's products and services and/or any products or services developed by Marketplace Partners pursuant to the Marketplace Partner Terms and Conditions.

"**Use Case**" means the categorization of Marketplace Partner App authorized by PointClickCare, including permitted and prohibited functionality and applicable PointClickCare APIs, as more particularly described in Appendix A of this Agreement (subject to change from time to time with written notice to Marketplace Partner).

"**Website**" means PointClickCare's Marketplace Partner Program website located at <https://amplify.pointclickcare.com/>

## 2. Marketplace Partner App Commercialization

2.1. **Interface.** PointClickCare will exercise commercially reasonable efforts to develop and make available the Interface, which will function substantially in accordance with the Materials. PointClickCare may update the Interface from time to time in its sole discretion.

2.2. **App Validation.** Marketplace Partner will comply with the App Validation Guidelines with respect to App Validation of the Marketplace Partner App. If Marketplace Partner materially alters or updates the Marketplace Partner App, PointClickCare may in its sole discretion require Marketplace Partner to undergo App Validation again and, in such case, reserves the right to negotiate amendments to the terms of this Agreement or require Marketplace Partner to enter into a new agreement. Upon successful completion of App Validation and receipt of a Letter of Authorization from a Customer, PointClickCare will enable the Interface in respect of the Marketplace Partner App for such Customer.

2.3. **Integration Resource.** The Marketplace Partner may engage a third-party Integration Resource to assist the Marketplace Partner with the completion of any development work required to complete their integration with PointClickCare platforms, using the APIs provided by PointClickCare, provided that: i) the Marketplace Partner and their Integration Resource are only using the specific APIs, for the specific Authorized Use Case, that the Marketplace Partner has been approved for in Appendix A of this Agreement as the basis of their integration with the PointClickCare platform; ii) the Marketplace Partner shall be solely responsible to ensure the Integration Resource has the skills and experience necessary to provide the integration services; (iii) the Integration Resource may not be providing services from countries subject to sanctions and/or trade embargoes, in particular but not limited to pursuant to the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") or Canadian sanctions imposed under the Special Economic Measures Act (SEMA) or the Justice for Victims of Corrupt Foreign Officials Act (JVCFOA); and (iv) the Marketplace Partner complies with all terms and conditions of this Agreement. Notwithstanding the foregoing and for the avoidance of doubt, to the extent to which an act or omission was caused or contributed to by any failure by any such Integration Resource or any other person appointed by the Marketplace Partner, the Marketplace Partner shall be responsible for all liability and assumes all risk associated with the use of the Integration Resource. PointClickCare shall not be liable, responsible or accountable in damages or otherwise to the Integration Resource or any of the other persons for any act or omission performed or omitted on behalf of the Marketplace Partner.

2.4. **Coordination.** PointClickCare and Marketplace Partner will use best efforts to cooperate with respect to technical, marketing, and support functions in connection with the Interface. Marketplace Partner will provide a training and support (including demonstrations) to PointClickCare staff to enable PointClickCare staff to promote the Marketplace Partner App to Customers, as reasonably requested by PointClickCare. Each of PointClickCare and Marketplace Partner will promptly advise the other of complaints or claims from Customers that come to its attention regarding the other's services or solutions and will timely address such issues.

2.5. **Annual Business Review.** At PointClickCare sole discretion and upon *advance* written notice to Marketplace Partner, Marketplace Partner may be required to conduct business review (at a frequency and interval determined by PointClickCare), which will include (but not limited to) the following key metrics: active and prospective customers, forecasting, strategy, and other business opportunities for review with PointClickCare. Marketplace Partner agrees that inactivity with respect to Customer enablement may be grounds for termination of this Agreement at PointClickCare's discretion.

2.6. **Maintenance of Interface.** Each of PointClickCare and Marketplace Partner will exercise commercially reasonable efforts to build and maintain developments, or, to the extent applicable and within its authority, cause its third-party *vendors* to exercise commercially reasonable efforts to build and maintain its software and systems designed to function with the Interface. If PointClickCare or Marketplace Partner, or a respective third-party *vendor*, releases a new version of such software or systems, such party will use commercially reasonable efforts to prevent those new versions from interfering with the functionality of the Interface or, to the extent within its authority, cause its third-party vendor to do so. If PointClickCare receives notice that the Interface is unavailable or not working properly, then PointClickCare will exercise commercially reasonable efforts to restore the availability and operation of the Interface. Each of PointClickCare and Marketplace Partner will exercise



commercially reasonable efforts to resolve any issues that arise with respect to the interoperation of the Interface and the Marketplace Partner App in an expeditious and prioritized manner.

### 3. **Marketplace Partner Obligations**

3.1. Responsibility for Marketplace Partner App. Marketplace Partner is solely responsible, and PointClickCare has no responsibility or liability of any kind, for the content, development, installation, operation, hosting, sale, support or maintenance of the Marketplace Partner App, including, but not limited to, the interoperation of the Marketplace Partner App with the Interface or any other third party's technology. Marketplace Partner and the Marketplace Partner App are and will remain in compliance with the Marketplace Partner Terms and Conditions.

3.2. Marketplace Partner App TOS. Marketplace Partner will (a) provide a Marketplace Partner App TOS with terms and conditions consistent with software/technology industry standards and (b) ensure that each Customer affirmatively agrees to such Marketplace Partner App TOS prior to accessing the Marketplace Partner App. The Marketplace Partner App TOS will contain at least the following provisions:

- (a) the Marketplace Partner App TOS are between Marketplace Partner and Customer, and not PointClickCare and Customer;
- (b) PointClickCare is not responsible for providing the Marketplace Partner App, content contained within the Marketplace Partner App, any related support or maintenance, or any changes the Marketplace Partner App makes to the Customer's database; and
- (c) Marketplace Partner, not PointClickCare, is solely responsible for complying with Customer's audit requests, including with respect to logging, reporting of statistics, and third-party security assessments.

3.3. Support. Marketplace Partner will prominently display in the Marketplace Partner App support line contact information (including but not limited to email address and phone number) for Customers to contact Marketplace Partner and respond to such inquiries in a timely manner. All customer support for the Marketplace Partner App will be solely provided by Marketplace Partner. Marketplace Partner will provide PointClickCare with at least five (5) business days' notice of any planned Marketplace Partner App downtime. Marketplace Partner agrees PointClickCare may display the status and uptime metrics of the Marketplace Partner App to Customers.

3.4. Security and Privacy Laws. Neither PointClickCare nor Marketplace Partner is a business associate of the other party. Marketplace Partner will comply with federally mandated information security and privacy standards, specifically, if Marketplace Partner is located in the United States, HIPAA, or, if Marketplace Partner is located in Canada, the laws and regulations of the applicable jurisdiction(s) regarding the protection and security of PHI and PIPEDA regarding the protection and security of other Personal Information. Marketplace Partner is solely responsible for complying with relevant privacy legislation that applies to it and may have its own legal obligations which are separate and distinct from this Agreement to secure and protect PHI and other Personal Information created, received, maintained, or transmitted to Marketplace Partner by or through the Marketplace Partner App. If the operation of the Marketplace Partner App involves the use or disclosure of any PHI via the Interface, Marketplace Partner will enter into a valid business associate (or equivalent) agreement with each Activated Customer as required by applicable laws, rules and regulations.

3.5. Audit Capabilities. Marketplace Partner is solely responsible for complying with audit requests, including with respect to logging, reporting of statistics, and third-party security assessments.

3.6. Data Transmissions. In connection with any transfer of Personal Information or PHI between the Marketplace Partner App and the Interface, Marketplace Partner will: (i) transfer such Personal Information or PHI only through use of a dedicated connection to which it is the only authorized party or such other method of communication, such as encrypted communication, as offers an equivalent level of security and authentication of the recipient; (ii) not permit any third party to use any such connection to the extent that such use is within Marketplace Partner's control; and (iii) take adequate and reasonable steps to ensure that access to that Personal Information and PHI at each Marketplace Partner location is limited to its authorized personnel only. Marketplace Partner will take reasonable care to ensure that data transmissions between the Marketplace Partner App and the Interface that contain any Personal Information or PHI are timely, complete, and accurate, and will take reasonable steps to retransmit any such data transmission to the Interface upon discovery that the original transmission was lost in transmission or corrupted. If Marketplace Partner receives data from the Interface and is informed or believes that such data was not intended for it, Marketplace Partner will notify PointClickCare and promptly take effective steps to return such data, or at the direction of PointClickCare, immediately and permanently delete such data from its systems.

3.7. Data Write-Back. Marketplace Partner will ensure that any data received from the Associated PointClickCare Software

and changed within the Marketplace Partner App will be written back into the Associated PointClickCare Software using such methods as PointClickCare may specify in its sole discretion.

3.8. Database Migrations. In the event of a transfer of ownership or assets of an Activated Customer that results in a change in Active Facilities, upon receipt of appropriate authorization, Marketplace Partner will use best efforts to support such change.

3.9. Privacy Policy. Marketplace Partner will establish and publicly post a privacy policy that meets applicable legal standards and accurately describes the collection, use, storage and sharing of Personal information and PHI by Marketplace Partner. Marketplace Partner will promptly notify PointClickCare in writing of any breaches of the Marketplace Partner App TOS or privacy policy that may impact Customers.

3.10. Prohibitions. Marketplace Partner will ensure that the Marketplace Partner App does not: (a) perform except in accordance with the applicable Use Case set forth in Appendix A; (b) include content which is in PointClickCare's judgment, harassing, defamatory, abusive, lewd, obscene or is otherwise objectionable; (c) perform an action with the intent of introducing to Associated PointClickCare Software any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature; (d) store any plain text PointClickCare authorization credentials; (e) send spam emails; or (f) access or support the Interface from outside of Canada or the United States of America.

3.11. Non-Interference. During the Term and for twelve (12) months thereafter, Marketplace Partner will not, solely or jointly with others, induce or attempt to induce any Customer to cease doing business with PointClickCare or in any way interfere with the relationship between PointClickCare and any Customer.

#### 4. Licenses

4.1. By PointClickCare to Marketplace Partner.

4.1.1. Marketing and Interface. Subject to the terms and conditions set forth in this Agreement and upon completion of App Validation, PointClickCare grants to Marketplace Partner during the Term a limited, non-exclusive, non-sublicensable, non-transferable, revocable right to display and market the Marketplace Partner App directly to Customers through the PointClickCare Marketplace and use the Interface solely to enable interoperation between the Marketplace Partner App and Associated PointClickCare Software.

4.1.2. Branding and Marketing Guidelines. Subject to the terms and conditions set forth in this Agreement, PointClickCare grants to Marketplace Partner a limited, non-exclusive, non-sublicensable, non-transferable, revocable right and license to use the Brand Features for the sole purpose of promoting the Marketplace Partner App in accordance with the PointClickCare Brand Guidelines located in PointClickCare's Marketplace Partner Program website (the "**Brand Guidelines**"), which are hereby incorporated by reference and are subject to change from time to time. This license may be revoked by PointClickCare at any time.

4.2. By Marketplace Partner to PointClickCare.

4.2.1. Marketing. Marketplace Partner grants to PointClickCare a non-exclusive, worldwide, fully paid-up, royalty-free right and license to:

- (a) link to and direct Customers to the Marketplace Partner App;
- (b) use, distribute, create excerpts from, advertise, transmit, and publicly display and perform Marketplace Partner Trademarks and Marketplace Partner Content in all digital and other formats for promotional purposes in connection with marketing the Marketplace Partner App to Customers, including in the PointClickCare Marketplace; and
- (c) use the Marketplace Partner Trademarks to refer to Marketplace Partner as a participant in the PointClickCare Marketplace Partner Program, including on PointClickCare's website, in press releases, and in other marketing materials.

4.2.2. Feedback. Marketplace Partner will provide ongoing feedback, comments, ideas and suggestions related to the PointClickCare Marketplace Partner Program and the PointClickCare IP ("**Feedback**") as PointClickCare may reasonably request from time to time. Marketplace Partner grants to PointClickCare a worldwide, fully paid-up, royalty-free, transferable, sub-licensable (through multiple tiers), irrevocable, perpetual right and license to copy, distribute, publicly display, modify, use and otherwise fully commercially exploit the



Feedback and the subject matter thereof.

## 5. Fees; Payment Terms

- 5.1. Fees. Marketplace Partner will pay PointClickCare the fees set forth in Appendix A for each Active Facility in accordance with the terms of this Agreement. Such fees are PointClickCare's Confidential Information and may not be disclosed to any third party, including any Customer or prospective customer of the Marketplace Partner App or PointClickCare. Marketplace Partner will completely and accurately report to PointClickCare such details as it may reasonably request regarding each Activated Customer of the Marketplace Partner App and any associated fees.
- 5.2. Notwithstanding the obligations set forth in section 5.1., Marketplace Partner shall annually meet or exceed the Minimum Integration Commitment requirements set forth in Appendix A, if the Marketplace Partner is unable to meet the Annual Requirement, the Marketplace Partner shall be required to make payment to PointClickCare for the total difference (Minimum Integration Requirement minus the number of Active Facilities) payable to PointClickCare. Payment shall be due to PointClickCare within thirty (30) days after the commencement of each Renewal Term, for avoidance of doubt, such payment shall be the greater of: 1) the Minimum Integrations Commitment (the difference between Active Facilities and the Minimum Integrations Commitment); or 2) the total number of Active Facilities integrated by the Marketplace Partner, if greater than the Minimum Integrations Commitment. Failure to meet such Minimum Integration Commitment requirements in any calendar year ("Annual Requirement") shall constitute a material breach of this Agreement and PointClickCare may terminate this Agreement at PointClickCare's sole discretion.
- 5.3. Fees collected from the sale of the Marketplace Partner App ("Purchase Fees") will be processed directly between the Activated Customer and Marketplace Partner. Marketplace Partner agrees that PointClickCare will not be responsible for, and will not issue any refunds to, Marketplace Partner or any Activated Customer with respect to the Marketplace Partner App for any reason, including Marketplace Partner's failure to support the Marketplace Partner App. For avoidance of doubt, PointClickCare will not be liable for any damages that result from the Marketplace Partner App for any reason or Marketplace Partner's breach of the Marketplace Partner App TOS.
- 5.4. PointClickCare will issue to Marketplace Partner a monthly invoice, in arrears, and Marketplace Partner will pay the fees within thirty (30) days of the invoice date. Failure to remit payment within agreed timeframes may result in the deactivation of Active Facilities and/or Activated Customers and/or the removal from the PointClickCare Marketplace Partner Program at PointClickCare's sole discretion. PointClickCare may notify any Activated Customer of its intention to amend, suspend, or terminate access to the Marketplace Partner Apps.
- 5.5. If an Activated Customer wishes to be deactivated, such Activated Customer must provide written notification to PointClickCare. PointClickCare will use commercially reasonable efforts to deactivate any such Activated Customer in a timely manner. Marketplace Partner will be responsible for the current month's fees for those Activated Customers that provide such notice after the 1st day of the month, after which billing will cease (based on the date notification is received by PointClickCare from the Activated Customer).
- 5.6. For any conflict between PointClickCare's and Marketplace Partner's records related to the Active Facilities, PointClickCare will review records from all parties for a resolution in good faith. Notwithstanding the foregoing, PointClickCare's records will prevail and will be deemed accurate. Marketplace Partner will continue to pay all invoices in accordance with the payment terms during the records review period. If PointClickCare's review of records reveals errors or discrepancies in a party's records, the parties will promptly correct the error or discrepancy, including refunding any over-payments or making up any underpayments to PointClickCare.

## 6. Term and Termination

- 6.1. Term. The initial term of this Agreement will begin on the Effective Date and will continue for a period of **fourteen (14) months {"Initial Term"}** unless terminated earlier pursuant to this Agreement. This Agreement will automatically renew for successive **one (1) year** terms thereafter {each a "**Renewal Term**", and together with the Initial Term, the "**Term**"} until and unless either party provides the other party with written notice of non-renewal at least sixty (60) days' prior to the end of the then current term or otherwise terminates this Agreement pursuant to terms set forth herein.
- 6.2. Termination for Convenience. Either PointClickCare or Marketplace Partner may terminate this Agreement upon ninety (90) days' written notice to the other, except as such right may be qualified by any other written agreement between Marketplace Partner and PointClickCare.
- 6.3. Termination for Cause. PointClickCare may terminate this Agreement and/or suspend the Marketplace Partner App at any time upon notice if Marketplace Partner breaches this Agreement or if PointClickCare determines, in its sole discretion,

that the Marketplace Partner App may negatively affect PointClickCare, the Interface, or Customers.

6.4. Effect of Termination. Upon termination of this Agreement:

- (a) the Marketplace Partner App will be disabled and removed from the PointClickCare Marketplace.
- (b) if any Activated Customers desire to continue to use the Marketplace Partner App, Marketplace Partner will continue to provide and support the Marketplace Partner App in accordance with this Agreement and the Marketplace Partner App TOS for a period of six (6) months from the effective date of termination, and Marketplace Partner will continue to pay any applicable fees to PointClickCare;
- (c) all rights and obligations of the parties hereto will automatically terminate except for those set forth in this Section, and PointClickCare will not have any liability for the cessation of Marketplace Partner's access to the Interface or PointClickCare Marketplace;
- (d) Marketplace Partner will permanently delete all data and any other information that Marketplace Partner stored in the Marketplace Partner App, except when doing so would cause Marketplace Partner to violate any law or obligation imposed by a governmental authority or by a contract with an Activated Customer;
- (e) PointClickCare will make commercially reasonable efforts to remove all references and links to the Marketplace Partner App from the PointClickCare Marketplace and Associated PointClickCare Software; and
- (f) Marketplace Partner will cooperate with PointClickCare to design and provide termination assistance services to PointClickCare for a period not to exceed three (3) months following termination of the Agreement, on terms that are fair and commercially reasonable and generally commensurate and consistent with leading industry practices.

6.5 Provisions Surviving Termination. Those sections of this Agreement which impose rights, privileges or obligations which by their nature extend beyond the termination of this Agreement will survive the termination of this Agreement.

### **7. Intellectual Property Rights**

As between the parties hereto, PointClickCare is the sole owner of all right, title and interest in and to the PointClickCare IP, including all Intellectual Property Rights therein and thereto. No rights or licenses are granted by PointClickCare other than those rights expressly granted in this Agreement, and PointClickCare expressly reserves all rights not expressly granted.

### **8. Data Ownership and Use**

- 8.1. Ownership. As between the parties hereto: (i) data stored in Associated PointClickCare Software and any reports or data derived by processing such data, will be owned by PointClickCare; (ii) data stored in Marketplace Partner's systems (excluding any data provided by PointClickCare to which Marketplace Partner would not otherwise have any ownership rights) will be owned by Marketplace Partner; and (iii) data received from a third party that is provided by that third party pursuant to a written agreement between it and either or both of the parties hereto will be owned as provided under that written agreement and/or under applicable law. To the extent that data is stored in both PointClickCare's and Marketplace Partner's systems, Associated PointClickCare Software will be the system of record which stores the definitive master copy.
- 8.2. Use. Each of PointClickCare and Marketplace Partner may use data that it does not own but that it receives under this Agreement solely: (i) as necessary to perform its obligations under this Agreement; (ii) as expressly permitted under this Agreement; (iii) as permitted under each applicable agreement between that party and any third party that owns such data; and (iv) for that party's internal administrative purposes related to treatment, payment, and healthcare operations (as defined in and allowed by HIPAA and other applicable law).

### **9. Non-Exclusivity**

PointClickCare may currently or in the future develop, or partner with persons which develop, applications and services that may be similar to or competitive with the Marketplace Partner App. Nothing in this Agreement will in any way limit, restrict or preclude PointClickCare from pursuing any of these, or any other, present or future business activities, opportunities or interests or from entering into any agreement or transaction with any person.

### **10. Marketplace Partner Personal Information and Usage Data**



10.1. Marketplace Partner Personal Information. PointClickCare may reveal information about Marketplace Partner for attribution purposes, handling inquiries from Customers or potential Customers, and other purposes PointClickCare reasonably deems necessary.

10.2. Usage Data. PointClickCare may collect, use, process and store diagnostic and usage-related content from computers, mobile phones, and other devices with respect to the use of and access to the PointClickCare Marketplace, Website, or any materials licensed hereunder in order to: (a) maintain and improve the performance and integrity of same, (b) understand which portions of same are most commonly used and preferred by users and how users interact with same, (c) identify the types of services that may require additional maintenance or support, and (d) comply with all regulatory, legislative and/or contractual requirements.

## 11. Confidentiality Obligations

11.1. *Confidential Information*. "*Confidential Information*" shall mean non-public information disclosed to the recipient whether in writing, orally, electronically, by or on behalf of the disclosing party whether furnished before or after the date of this Agreement, which the disclosing party designates as being confidential information, or which under the circumstances of disclosure, ought to be treated as confidential. Confidential Information shall include, but is not limited to any and all of the following types of information which the recipient will have access to: all Technical Information, non-technical data, know-how, inventions, research or experimental work, design details and specifications, formulae, patterns, compilations, programs, devices, methods, techniques, processes, equipment and apparatus, drawings, financial data or information, price lists and pricing and sales policies, customer lists and customer information including prospective clients, investors, business and supplier relationships, business forecasts, sales and merchandising information, training and other manuals, procurement requirements, and data, marketing plans, business opportunities and the existence or status of negotiations in connection with this Agreement and any other information in any form which is not public and which gives the disclosing party an advantage over its competitors who do not know or use it. "*Technical Information*" includes PointClickCare User Interface, product information and product plans, technical designs and specifications, software, algorithms, know-how, techniques, reports, methods, strategies, plans, documents, drawings, designs, tools, models, inventions and patent disclosures. Confidential and Technical Information may be disclosed in written, oral, electronic, website-based or other form and whether or not specifically identified as confidential at the time of disclosure. Where the Confidential Information combines information within the public domain or information already in the possession of the recipient, but the combination is not in the public domain, the combination shall constitute Confidential Information. Confidential Information expressly excludes information which: (a) is or becomes generally known or available through no act or failure to act on the part of the recipient; (b) is known by the recipient without any obligation to keep such information confidential at the time of receiving such information as evidenced by its written records; (c) is furnished to the recipient by a third party as a matter of right and without restriction on disclosure; (d) is independently developed by the recipient without any breach of this Agreement, as evidenced by its written records; or (e) is disclosed in response to a valid order of a court or other governmental body (provided that the recipient shall first have given notice to the disclosing party hereto and shall have made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued) or is otherwise required bylaw.

11.2. Non-Disclosure. The recipient shall take measures to maintain the Confidential Information in trust and confidence at least as protective as the measures it takes to maintain the confidentiality of the recipient's own Confidential Information, and in no event less than reasonable measures, and shall not disclose to any third party nor use any Confidential Information except to the extent required to accomplish the obligations of this Agreement. Confidential Information shall not be used for any purpose or in any manner that would constitute a violation of any laws or regulations, including without limitation control laws. The recipient shall be entitled to disclose Confidential Information only to its employees, officers, directors, consultants and representatives who have a need to know such information in order to carry out the obligations of this Agreement. The recipient shall remain fully liable and responsible for the use of the Confidential information by such persons, including the obligation to ensure that each is bound by a legal agreement containing obligations of confidence at least as comprehensive as those set out in this Agreement. The recipient will advise its employees, consultants and representatives who may have access to Confidential Information of its confidential nature and of their duty to protect such Confidential Information from improper disclosure. Recipient will not copy any Confidential Information of the disclosing party, except as authorized in writing by the disclosing party, and shall protect any such authorized copies in accordance with this Agreement. No rights or licenses to trademarks, inventions, copyrights or patents are implied or granted under this Agreement. All Confidential Information (including copies) shall remain the property of the disclosing party.

11.3. Duration of Obligations. The obligations of confidence and non-disclosure governing Technical Information provided to a recipient shall remain in effect in perpetuity or until such Technical Information is no longer confidential or a trade secret of the discloser. For Confidential Information that does not include, contain or comprise Technical Information, the obligations of confidence and non-disclosure shall remain in effect for three (3) years from the date of termination of this Agreement.

- 11.4. Consequences of Breach. In the event of any breach of these confidentially obligations by the recipient, including the actual or threatened disclosure or unauthorized use of Confidential Information, the disclosing party may suffer an irreparable injury, such that no remedy at law will afford it adequate protection against, or appropriate compensation for, such injury. The recipient agrees that the disclosing party may be entitled to specific performance of the recipient's obligations, as well as such further relief as may be granted by a court of competent jurisdiction.

12. Disclaimers and Limitations of Liability

12.1. DISCLAIMERS. THE POINTCLICKCARE IP IS PROVIDED "AS IS" AND "AS AVAILABLE" AND WITHOUT ANY WARRANTY WHATSOEVER. TO THE MAXIMUM EXTENT PERMITTED BY LAW, POINTCLICKCARE DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY THAT THE SERVICES ARE FIT FOR A PARTICULAR PURPOSE AND ANY WARRANTIES RELATED TO TITLE, MERCHANTABILITY, DATA LOSS, NON-INTERFERENCE WITH OR NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, OR THE ACCURACY, RELIABILITY, QUALITY OR CONTENT IN OR LINKED TO THE POINTCLICKCARE IP. POINTCLICKCARE DOES NOT WARRANT THAT THE POINTCLICKCARE IP WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE OR VIRUS-FREE, NOR DOES POINTCLICKCARE MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE POINTCLICKCARE IP, AND NO INFORMATION, ADVICE OR SERVICES OBTAINED FROM POINTCLICKCARE OR THROUGH THE POINTCLICKCARE IP WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

12.2. LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, OR OTHERWISE) WILL POINTCLICKCARE BE LIABLE TO MARKETPLACE PARTNER OR ANY THIRD PARTY FOR (A) ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA, OR (B) FOR ANY AMOUNT IN THE AGGREGATE IN EXCESS OF THE FEES ACTUALLY PAID BY MARKETPLACE PARTNER TO POINTCLICKCARE UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO MARKETPLACE PARTNER'S CLAIM OR, IF NO FEES APPLY, \$1,000, OR (C) ANY MATTER BEYOND POINTCLICKCARE'S REASONABLE CONTROL. THE PROVISIONS OF THIS SECTION ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES, AND THE PARTIES HAVE RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO ENTER INTO THIS AGREEMENT. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHICH MEANS THAT SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IN THESE JURISDICTIONS, POINTCLICKCARE'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

13. Indemnification

13.1. Indemnification by Marketplace Partner. Marketplace Partner will indemnify, defend, and hold harmless PointClickCare and its affiliates, officers, agents, employees, and suppliers from and against any claims and all losses, costs, liabilities, damages, expenses, demands, suits, actions, proceedings, or judgments (including attorney's fees) (collectively, "**Claims**") made or brought against PointClickCare arising out of or in connection with: (a) any use by Marketplace Partner of the PointClickCare IP; (b) any breach by Marketplace Partner of the terms of this Agreement; (c) any damage caused by Marketplace Partner to any PointClickCare IT environment; (d) an allegation that the Marketplace Partner App infringes or misappropriates the Intellectual Property Rights of a third party; or (e) any Customer's use of the Marketplace Partner App. Marketplace Partner will control the defense and settlement of any Claim that is subject to this indemnification, provided that PointClickCare may at any time elect to take over control of the defense and settlement of any such Claim. In any event, Marketplace Partner may not settle any such Claim without PointClickCare's prior written consent.

13.2. Indemnification by PointClickCare. PointClickCare will defend Marketplace Partner against any Claims, made or brought against Marketplace Partner by a third party alleging that Marketplace Partner's use of the PointClickCare IP as permitted under this Agreement infringes or misappropriates the Intellectual Property Rights of a third party (a "Claim Against Marketplace Partner"). PointClickCare will indemnify Marketplace Partner against the resulting direct damages and attorneys' fees finally awarded against Marketplace Partner by a court of competent jurisdiction as a result of a court-approved settlement of a Claim Against Marketplace Partner, provided that Marketplace Partner will: (a) promptly give PointClickCare written notice of the Claim Against Marketplace Partner; (b) give PointClickCare sole control of the defense and settlement of the Claim Against Marketplace Partner (provided that PointClickCare may not settle any Claim Against Marketplace Partner unless the settlement unconditionally releases Marketplace Partner of all liability); and (c) provide PointClickCare all reasonable assistance, at PointClickCare's expense. In the event of a Claim Against Marketplace Partner, or if PointClickCare reasonably believes the PointClickCare IP may infringe or misappropriate the rights of any third party, PointClickCare may in its discretion and at no cost to Marketplace Partner: (i) modify the PointClickCare IP so that they no longer infringe or misappropriate, without breaching PointClickCare's warranties; (ii) obtain a license for Marketplace Partner's continued use of the PointClickCare IP in accordance with this Agreement; or (iii) terminate this Agreement in accordance with its termination provisions.

14. Software Applications Competitive with Associated PointClickCare Software



During the Term, Marketplace Partner will not develop, make available or otherwise commercialize products or services that are, in PointClickCare's sole discretion, directly competitive with PointClickCare's products or services.

## 15. Inspection and Audit of Books

- 15.1. Records; Reporting. During the Term and for a period of three (3) years thereafter, Marketplace Partner will maintain books and records with respect to its activities under this Agreement in a manner reasonably consistent with industry standards. The Marketplace Partner will provide PointClickCare commercially reasonable reports on a monthly basis on all Marketplace Partner App sales.
- 15.2. Inspection and Audit. During the Term and for a period of three (3) years after the termination of this agreement, on reasonable notice from PointClickCare, Marketplace Partner will provide PointClickCare and PointClickCare's representatives, reasonable access to its books and records related to this Agreement (and allow the PointClickCare to make photocopies), during normal business hours. If PointClickCare's finds an error or discrepancy in such books and records or in any monthly report provided to PointClickCare hereunder, Marketplace Partner will promptly correct the error or discrepancy, including refunding any overpayments or making up any underpayments to PointClickCare. PointClickCare will bear all costs and expenses incurred in connection with any such audit; provided, however, that if any such audit correctly identifies any underpayments by Marketplace Partner in excess of 5% of the amount actually payable by Marketplace Partner to PointClickCare, then, in addition to paying the full amount of such underpayment, the Marketplace Partner will reimburse PointClickCare for all reasonable costs and expenses incurred by PointClickCare in connection with that audit.

## 16. Governing Law

16.1. Governing Law and Jurisdiction [For Marketplace Partners Located in the United States Only]. This Agreement will be governed by the laws of the State of Delaware and the federal laws of the United States of America without regard to its conflicts of laws provisions. To resolve any legal dispute arising from these Terms, Marketplace Partner agrees to the exclusive jurisdiction of the State of Delaware.

16.2. Governing Law and Jurisdiction [For Marketplace Partners Located in Canada Only]. This Agreement will be governed by the laws of the Province of Ontario and the federal laws of Canada without regard to its conflicts of laws provisions. To resolve any legal dispute arising from these Terms, Marketplace Partner agrees to the exclusive jurisdiction of the Province of Ontario.

## 17. General Provisions

This Agreement supersedes and replaces any and all prior agreements (whether written or oral) between PointClickCare and Marketplace Partner with respect to a technical integration or connectivity between the parties' respective software systems or applications. The parties are independent contractors, and nothing contained in this Agreement or in the relationship between PointClickCare and Marketplace Partner will be deemed to constitute a partnership, joint venture, or any other similar relationship among them. Neither party has the authority to bind the other to any contract or representation. Marketplace Partner may not assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of PointClickCare. PointClickCare may freely assign this Agreement and its rights and obligations hereunder. This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and supersedes all prior and contemporaneous communications, representations, discussions, and agreements between the parties with respect to such subject matter. If any provision of this Agreement is held to be unenforceable for any reason, such provision will be reformed only to the extent necessary to make it enforceable. The failure of PointClickCare to act with respect to a breach of this Agreement by Marketplace Partner or others does not constitute a waiver and will not limit PointClickCare's rights with respect to such breach or any subsequent breaches.

Marketplace Partner's signatory below represents that s/he is entering into this Agreement, as of the Effective Date, on behalf of Marketplace Partner and that s/he has the authority to bind Marketplace Partner to this Agreement.

**PointClickCare Technologies Inc.**

**Marketplace Partner** {Legal Name}:

MyApps Corp

Signature: \_\_\_\_\_

Name: **Marino Cherubin**

Title: **VP, Partnerships & Strategic Alliances**

Date: Jul2,2020

Signature: \_\_\_\_\_

Name: **Adnan Malik**

Title: **CEO**

Date: Jul 2, 2020

**APPENDIX A: Authorized Use Case(s) and Fees****Authorized Use Case(s)**

Marketplace Partner acknowledges and accepts the following limited use case(s) authorized under this Agreement for the integration of a software application between the Marketplace Partner and PointClickCare:

Physician EMR/Telehealth

Are software applications which connect to and exchange data with devices and/or systems in long-term post-acute care ("LTPAC") settings to support remote and bedside physician encounters and associated workflows.

Are software applications used by physicians in order to communicate, collaborate, and deliver medical services - leveraging technology and integration to consult on senior care delivery.

Utilize observation APIs, including blood pressure, heart rate, oxygen saturation, additional weights and vitals clinical data.

Utilize resident demographic APIs, as well as subscription to communications which provide patient status updates, including patient admission, discharge and transfer notifications.

Must utilize the ability to push progress notes and physician recommendations into the PointClickCare EHR.

Are not software applications which facilitate communication or coordinate care between software applications or providers' systems in the LTPAC setting and third parties' applications or systems in acute care or ambulatory care settings, healthcare plans, payers, or intermediary vendors.



**APPENDIX A: Marketplace Partner App, Authorized Use Case(s) and Fees**

**Fees**

Marketplace Partner shall pay PointClickCare the following Fee in accordance with the Payments terms for the integration of a software application between the Marketplace Partner and PointClickCare for each facility that has a live API integration with PointClickCare:

Developer shall pay PointClickCare fees in the amount of \$[redacted] plus applicable taxes during the Term of this Agreement and any subsequent Renewal Terms for each active facility as of the 1st of each month.

**Minimum Integrations Commitment.** During the Initial Term of this Agreement, Marketplace Partner hereby agrees to successfully integrate [redacted] Active Facilities for the Authorized Use Cases (the "Minimum Integrations Commitment"). Within sixty (60) days of each Renewal Term, the parties shall agree upon a Minimum Integration Commitment for such Renewal Term, provided, however, that unless the parties otherwise agree, the Minimum Integrations Commitment shall be the previous year's Minimum Integrations Commitment for the Renewal Term.

Marketplace Partner (Legal Name): MyApp\_s\_C\_o\_r\_p

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Name: Adnan Malik  
Title: CEO  
Date: Jul 2, 2020

PointClickCare Initials:- ---