

DIRECT SERVICE AGREEMENT

This Direct Service Agreement (hereinafter “the Agreement”) is entered into and effective as of _____, 2020 by and between MyTelemedicine, Inc., a Delaware Corporation with offices located at 214 E. Louisiana St., Suite 300, McKinney, Texas 75069 (“MTM”) and

CLIENT LEGAL NAME: _____ (“Client”)

ADDRESS: _____

I. RECITALS

WHEREAS, MTM has developed, owns, markets, licenses, and services a telemedicine technology platform whereby physicians who independently contract to participate in a physicians’ network (managed by MTM) provide telephone or video consultations to patients pursuant to the service descriptions attached hereto as Exhibit A.

WHEREAS, Client desires to offer MTM telemedicine services to its members, employees, and/or independent contractors;

NOW THEREFORE, in consideration of the mutual promises and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties, intending to be legally bound, agree as follows:

II. ELIGIBILITY FILES

Client agrees to upload on MTM’s secure SFTP server, API or client portal on the first business day of each month, or agreed upon schedule a listing all active members for which MTM may provide telemedicine services under this Agreement.

III. BILLING AND PAYMENT

MTM will invoice Client no later than the 10th of each month for all active Client’s members registered on the last business day of the previous month. Client agrees all invoices will be paid within thirty (30) days of receipt. All unpaid fees shall accrue simple interest at a rate of six percent (6%) per month until the principal and accrued interest is paid in full. In the event any invoice is not paid by within the thirty (30) days of receiving an invoice, MTM may suspend services, even though fees shall still accrue during suspension, or may immediately terminate the contract.

IV. MARKETING COLLATERAL

MTM agrees to provide Client with marketing verbiage accurately describing the telemedicine services and terms of the physician consultations for use in Client’s marketing and Participant materials. All marketing materials must be submitted to MTM for approval prior to use, such approval not to be unreasonably withheld.

Neither MTM nor the Client shall directly or indirectly use any of the other party's trademarks, trade names or any part thereof, or any mark or name confusingly similar thereto, as part of its corporate or business name or in any other manner, except that (a) the Client may identify itself as an affiliate of the Service, and

(b) on MTM's written consent the Client may use MTM's trademarks relating to the Service for display purposes in connection with solicitation of orders for the Service. All resulting use of such trademarks shall inure solely to the benefit of the party that owns such trademarks. In addition, neither party shall register any of the other party's trademarks or any mark or name closely resembling them, unless requested to do so by the other party in writing. MTM shall refrain from identifying the Client either as an affiliate or a white labeled client using its platform to any third party. MTM agrees not to directly solicit any client of the Client for the duration of this contract and for a period of twelve (12) months from the date of termination of this agreement. During the duration of this contract, MTM agrees not to directly accept clients of the Client.

V. TERM AND TERMINATION

MTM and the Client hereby agree that this Agreement shall continue to be in full force and effect for a period of one (1) year, renewable automatically for like periods of twelve (12) months unless written notice of termination for the next term is delivered to the other party no less than 30 days before the end of that then existing term.

During any term of this Agreement, either party may terminate as follows:

- (i) in the event that the other party is in material breach of this Agreement and has failed within thirty days after receipt of such written notice thereof from the non-breaching party to cure such breach;
- (ii) if either party becomes the subject of any voluntary or involuntary bankruptcy, receivership or any other insolvency proceedings or makes an assignment or other arrangement for the benefit of its creditors;

Upon termination of the agreement, MTM, at the request of the Client, should promptly return to Client any and all records of the Client's clients and members.

VI. INDEMNIFICATION

Each Party shall indemnify and hold the other Party and its affiliates, subsidiaries, officers, directors and employees harmless from any and all claims, demands, losses, actions, causes of action, damages, judgments, fines, fees (including reasonable attorney's fees), penalties, and settlements, (collectively, "Losses") arising out of the negligence or willful misconduct of the Indemnifying Party or breach by the Indemnifying Party of this Agreement, except to the extent such Losses arise out of the gross negligence or willful misconduct or breach of this Agreement by the other Party.

VII. GENERAL

7.01 Successors and Assigns; No Joint Venture. The Parties agree that this Agreement shall be binding upon each of its successors and assigns and that this Agreement may not be assigned to any other third party, without the written consent of MTM and the Client, which shall not be unreasonably withheld. Nothing in this Agreement shall be construed to place the Parties hereto in an agency, employment, franchise, joint venture, or partnership relationship. Except as expressly set forth in this Agreement, neither Party will have the authority to obligate or bind the other Party in any manner without their express written consent.

7.02 Amendments. No modification, supplement, termination, extension, waiver or amendment to or of this Agreement (or any attachments or exhibits) or any of its provisions may be made, including any attempts, shall be binding unless agreed to by The Parties in writing by duly authorized representatives of the Parties. There shall be no oral agreements.

7.03 Notices. Any notice required, permitted to be given, or otherwise given hereunder may be effectively given by letter delivered either by personal delivery, registered mail certified return receipt requested, postage prepaid, or delivered by overnight delivery Service, or by facsimile machine upon receipt from the sender of a confirmation of receipt, or by other electronic means so long as the recipient has acknowledged receipt (for purposes of this section an automatically generated receipt confirmation does *not* qualify as acknowledgement of receipt), addressed to the recipient as follows:

In the case of MTM:
MyTelemedicine, Inc.
Attn: Rey Colon, CEO
214 East Louisiana St., Suite 300
McKinney, Texas 75069

In the case of Client:

7.04 No Waiver by Estoppel. A waiver by either party of any provision of this agreement in any instance shall not be deemed to waive it for the future. A Party's failure to insist on strict compliance with any of the terms of this agreement on one or more occasions is not a waiver of any rights or obligations under this Agreement.

7.05 Governing Law. This Agreement shall be governed by and construed in all respects in accordance with the laws of the Texas as they apply to agreements entered into and to be performed by the Parties herein.

7.06 Venue. The Parties further agree that venue of any legal action or claim hereunder shall be exclusively in Collin County, Texas. The Parties further agree and hereby consent to, and waive all defenses of lack of personal jurisdiction and forum *non conveniens* with respect to, venue and jurisdiction in the State of Texas. Notwithstanding the foregoing either party may seek equitable, preliminary, or permanent injunctive relief from any court of competent jurisdiction, which rights and remedies shall be cumulative and in addition to any other rights or remedies at law or in equity to which either party may be entitled.

7.07 Dispute Resolution. The Parties shall endeavor to resolve any differences of opinion which may arise between them with respect to the provisions of this Agreement by negotiation between themselves personally or with the assistance of their attorneys and unless in the opinion of any party, acting reasonably, the matter in dispute is of such a significant nature to warrant it being addressed otherwise, no party shall commence any public proceedings until the negotiations have failed to produce a resolution. If there is no resolution then the Parties agree that any dispute, claim, or action hereunder shall be resolved exclusively in and with a court of law or equity having jurisdiction over the Parties and subject matter.

7.08 Attorneys' Fees. In the event of litigation or arbitration relating to the subject matter of this Agreement, the prevailing party shall have the right to collect from the other party its reasonable costs and necessary disbursements and attorneys' fees incurred in enforcing this Agreement.

7.09 Force Majeure. Any delay or failure in the performance by either Party hereunder shall be excused if and to the extent caused by the occurrence of a Force Majeure. For purposes of this Agreement, Force Majeure shall mean a cause or event that is not reasonably foreseeable or otherwise caused by or under the control of the Party claiming Force Majeure, including acts of God, fires, floods, explosions, riots, wars, hurricane, sabotage terrorism, vandalism, accident, restraint of government, governmental acts, injunctions, labor strikes, other than those of Seller or its suppliers, that prevent Seller from furnishing the materials or equipment, and other like events that are beyond the reasonable anticipation and control of the Party affected thereby, despite such Party's reasonable efforts to prevent, avoid, delay, or mitigate the effect of such acts, events or occurrences, and which events or the effects thereof are not attributable to a Party's failure to perform its obligations under this Agreement.

7.10 Entire Agreement. This Agreement shall constitute the entire agreement between the Parties and will supersede all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof.

VIII. PRICING AND SERVICE

8.01 MONTHLY SERVICE FEES. Client may purchase the MYTELEMEDICINE Services described below for a monthly service fee per member per month (“pm/pm”) of _____

8.02 THE MYTELEMEDICINE SERVICES. Includes for the paid member, his/her spouse and legally dependent, the following:

1. MyTelemedicine provides access to licensed physicians, providing Cross-Coverage Consultations. The physicians are recruited and credentialed by the Provider to provide patient and physician interaction, whereby the physician diagnoses the patient’s ailment, makes recommendations, and if necessary and appropriate, writes a Non DEA controlled prescription; and operates within the state regulations. Each physician shall be licensed to practice medicine, technologically proficient and covered by medical malpractice insurance.
2. Solely with respect to Telephone and Video Consultations, the Program includes the following services:
 - A. Unlimited access to Telephone and Video Consultations and health information services provided by a physician licensed in the state where member is located. This access shall be available 24 hours per day, 365 days per year.
 - B. Once a member has scheduled a Telephone Consultation, a licensed physician licensed in the respective state will contact member within two hours.
 - C. If a Member requests a Video Consultation, it will be scheduled and an appointment reminder notification will be sent prior to the initiation of the Video Consultation. To begin the Video Consultation, the Member will access the consultation within the MyTelemedicine member health portal using their secure member login. The licensed physician shall:
 - a. Conduct a medical consult to evaluate the Member’s medical needs; and
 - b. Based upon the medical consult, respond to the call as follows:
 - i. Determine that the call is a life-threatening emergency, and direct the Member to the nearest emergency facility;
 - ii. Determine that the call is urgent but not a life-threatening emergency, and advise the Member how to treat the condition, prescribe medication as necessary that is electronically sent to pharmacy of member’s choice, and make a determination whether the Member should contact or page his/her primary care physician; or
 - iii. Determine that the call is not urgent and not a life-threatening emergency, advise the Member how to treat the condition, prescribe medication as necessary that is electronically sent to pharmacy of member’s choice, and advise the Member to follow up with his/her primary care physician or a specialist focused on the specific medical problem.
3. It is understood by the Parties that the licensed physicians will not prescribe any DEA controlled substances, narcotics, psychotropic medications or lifestyle drugs.
4. Members will be required to complete the necessary steps to create a doctor/patient relationship to receive the medical consultations, via Telephone or Video. Those steps include:

- a. Completing a Medical History Disclosure, within the members Health Portal or by telephone with a designated Care Coordinator.
- b. Agree to Informed Patient Consent and Release Form confirming an understanding that the Provider is not obligated to accept the Member as a patient, and that the Member's participation in the Program may be cancelled at any time without recourse by the Member; and
- c. The Member also understands and acknowledges that the Program provides Cross-Coverage Consultations when the Members primary care physician is not available.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, as of the day and year first written above.

MyTelemedicine, Inc.

Wayne Orchard, EVP

Name:
Title: