

This QuickMAR Facility Agreement is effective as of this \_\_\_\_\_ day of \_\_\_\_\_ (“**Effective Date**”) by and between PointClickCare Technologies Inc. (“**PointClickCare**”) and \_\_\_\_\_ on behalf of itself and the facilities listed in Schedule 1 Attached to this Agreement (and any facilities listed on any signed Quote/Order Form) (collectively “**Customer**”).

**BACKGROUND:**

1. PointClickCare licenses the QuickMAR software (“**QuickMAR**”) together with any technical specifications, documentation, web-based platform, database and related services (“**Services**”) that enable long term care facilities and other care providers to manage the medications and the care of their residents and, if applicable, communicate with a pharmacy provider if the Customer is integrated with a Pharmacy (as defined below);
2. PointClickCare licenses the QuickMAR Rx software together with any technical specifications, documentation, web-based platform, database and related services to approved PointClickCare pharmacy partners (“**Pharmacy**”) that enables Pharmacy to configure and manage the interaction of QuickMAR accounts used by their facility customers;
3. Customer may choose to be integrated with a Pharmacy or may utilize QuickMAR and the Services independently without integration with Pharmacy;
4. In order for Customer to download, install and use the QuickMAR Software, Customer must click to accept a click-wrap end user license agreement embedded in QuickMAR (the “**EULA**”) which is incorporated herein by reference and forms part of this Agreement;
5. As a prerequisite for Customer to utilize the license granted by the EULA (“**License**”) and get access to the Services, Customer must have an active account (“**Active Account**”) established in the Services database.
6. Customer shall notify PointClickCare in writing of any additional Customer facility it wishes to integrate to the Services by providing an updated Schedule 1 (the “**Customer’s Facilities**”).

NOW THEREFORE, the parties agree as follows:

**1 FEES AND PAYMENT TERMS.**

- 1.1 Monthly Fees.** In the event Customer or any of Customer’s Facilities choose to integrate with a Pharmacy in order for QuickMAR to interface with Pharmacy (an “**Integrated Pharmacy**”), PointClickCare shall bill the Integrated Pharmacy for the Monthly Fee. The Integrated Pharmacy may be responsible for all or a portion of the Monthly Fee (as defined below) as specified in a Quote/Order Form. In the event Customer or any of Customer’s Facilities are not integrated with an Integrated Pharmacy, Customer and the applicable Customer Entity shall be responsible for all fees specified in Quotes/Order Forms and associated invoices. The monthly fees shall be calculated by multiplying the number of active residents (defined as any individual/resident listed in the QuickMAR database for whom QuickMAR was utilized to manage their care, including but not limited to medication administration) in the Active Account during the billing period times the fee per resident as established by PointClickCare and specified in a Quote/Order Form (“**Monthly Fee**”). . The Monthly Fee includes the license granted by the EULA, software usage, upgrades, updates, telephone and e-mail support. PointClickCare may increase fees no more frequently than once annually upon thirty (30) days’ notice to Customer.
  - 1.2 Professional Services.** Customer may elect to purchase additional professional services, as needed, including but not limited to on-site training, maintenance and support, at the rates agreed to between PointClickCare and the Customer.
  - 1.3 Payment Terms.** All fees will be due within thirty (30) days following the month in which the fee was incurred, or if invoiced by PointClickCare, within thirty (30) days of the date of PointClickCare’s invoice. Any fee or other amount that is not paid when due will accrue interest at the maximum rate permitted by applicable law, from the due date until paid. All payments must be made in Canadian dollars.
  - 1.4 Taxes.** Fees exclude federal and state or provincial sales, excise, use, goods and services and value added or similar taxes (“**Taxes**”). Customer acknowledges that it shall be responsible for the payment of any such Taxes as may be applicable and as invoiced.
- 2. Data.** The ongoing use of Services by the Customer and Integrated Pharmacy (if applicable) will create records in the Services database that supports the operation of the Services. The access to these records by Customer and Integrated Pharmacy (if applicable) is permitted for all active residents that are under the control of the Customer or Integrated Pharmacy (if

applicable). PointClickCare is permitted access and use of all records contained in the Services database hosted by it. All access and use of these records by any party must be in compliance with the *Health Insurance Portability and Accountability Act of 1996*. Customer is the owner of the content of its data in the Services and records even if the content was contributed or created by Integrated Pharmacy through the Services (if applicable). Any Customer data that is transferred through the Services by Integrated Pharmacy (if applicable) or Customer, becomes part of Customer's data once such data is transferred to PointClickCare's system. Customer acknowledges and agrees that PointClickCare is not responsible for any errors, omissions, inaccuracies that are a result of the data that is provided to PointClickCare through the Interface by the Integrated Pharmacy's dispensing software and/or Integrated Pharmacy's records. Upon termination of License and/or this Agreement with a Customer, Customer may access its data through archived records as retained by Customer outside of QuickMAR systems using reports or data exported from within QuickMAR or, pursuant to an applicable Quote/Order Form, subscribe for read-only access to QuickMAR following termination of this Agreement.

3. **Customer Responsibilities.** Customer is responsible for (i) providing PointClickCare with reasonable access to and use of all resident and Customer's Facilities' information determined by PointClickCare to be necessary to support the Services; (ii) providing a trained primary and alternate contact person responsible for the integrity of the system. If there are multiple facilities then at least one contact should be provided for each community; (iii) acquiring equipment capable of meeting the hardware and software requirements for QuickMAR as outlined on the QuickMAR/PointClickCare website; (iv) Acquiring and installing updates and new versions of QuickMAR it being understood that PointClickCare shall have no obligation to support, maintain, or fix any version of the QuickMAR other than PointClickCare's then current version and the next earlier release; (v) using the Services only in accordance with any documentation provided by PointClickCare and all applicable local, state or provincial, federal and/or international laws, rules and government relations relating to Customer's and user's use of the Services and Customer's and user's provision of health care and medical services to Customer's residents.
4. **Commencement and Termination of License**
  - 4.1. **Term.** The term of this Agreement shall begin on the Effective Date and continue for one (1) year and shall automatically renew thereafter for successive one-year periods (the "**Term**") unless terminated in accordance with this Agreement.
  - 4.2. **Termination for Cause.** Either party may terminate this Agreement for cause: (i) upon 30 days' prior written notice to other party of a material breach, if such breach remains uncured at the expiration of such notice period; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.
  - 4.3. **Termination for Convenience by PointClickCare.** PointClickCare shall have the right to terminate this Agreement at any time by giving ninety (90) days' prior written notice to Customer.
  - 4.4. **Termination by Convenience by Customer.** Customer may terminate this Agreement upon thirty (30) days written notice to PointClickCare. The full monthly fee will apply for the final calendar month during which Customer used the Services.
  - 4.5. **Termination By/With Pharmacy.** In the event (i) Integrated Pharmacy terminates its relationship with PointClickCare; (ii) Integrated Pharmacy terminates its use of the License for Customer; or (iii) Customer terminates its relationship with Integrated Pharmacy, PointClickCare will not terminate the terminated Customer's License and will permit Customer to either (a) continue to independently utilize the Services provided that Customer completes all requisite documentation and assumes payment for the Monthly Fee and any professional services fees (if any) which shall be specified in a new Quote/Order Form; or (b) integrate with a new Pharmacy whereby such new pharmacy shall be responsible for the Monthly Fee subject to completion of all requisite documentation.
  - 4.6. **Provisions Surviving Termination.** Section 1 (Fees and Payment Terms), 2 (Data), 4.5 (Termination By/With Pharmacy), 5 (Limitation of Liability), 6 (Indemnification), 7 (Confidentiality), 8 (General Provisions), shall survive termination or expiration of this Agreement. For the avoidance of doubt, the provisions in this section shall survive expiration or termination whether such termination is: (i) a termination of the relationship between Customer and Integrated Pharmacy in accordance with section 4.5 above; or (ii) a termination of this Agreement.
5. **Limitation of Liability.** NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, POINTCLICKCARE SHALL NOT BE LIABLE FOR, NOR SHALL THE MEASURE OF DAMAGES UNDER THIS AGREEMENT INCLUDE, ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES OR DAMAGES ARISING OUT OF OR RELATING TO CUSTOMER'S OR POINTCLICKCARE'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT OR CUSTOMER'S USE OF THE SERVICES. THE MAXIMUM LIABILITY OF POINTCLICKCARE TO ANY PERSON, FIRM OR CORPORATION WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES SHALL BE THE AMOUNT PAID BY CUSTOMER (IF ANY) FOR THE SERVICES IN THE TWELVE-MONTH PERIOD PRIOR TO

THE DATE OF THE APPLICABLE CLAIM. THIS LIMITATION OF LIABILITY APPLIES TO ALL CAUSES OF ACTION INCLUDING TO A BREACH OF CONTRACT, TORT LIABILITY AND NEGLIGENCE. THE LIMITATION OF LIABILITY IN THIS SECTION DOES NOT APPLY TO THE INDEMNIFICATION OBLIGATIONS IN SECTION 8 OR THE FAILURE OF CUSTOMER TO PAY ANY AMOUNTS OWING TO POINTCLICKCARE.

## 6. Indemnification.

**6.1 Indemnification by PointClickCare.** PointClickCare agrees to defend Customer from and against any claims, suits, losses, damages, costs, and expenses (including reasonable attorneys' fees) brought by third parties alleging that Customer's use of the Services as permitted under this Agreement infringes or misappropriates the intellectual property rights of a third party. PointClickCare will indemnify the Customer against the resulting direct damages and attorneys' fees finally awarded against Customer by a court of competent jurisdiction as a result of a court-approved settlement of an Infringement Claim, provided that Customer must: (a) promptly give PointClickCare written notice of the infringement claim; (b) give PointClickCare sole control of the defense and settlement of the infringement claim (provided that PointClickCare may not settle any infringement claim unless the settlement unconditionally releases Customer of all liability); and (c) provide PointClickCare all reasonable assistance, at PointClickCare's expense. In the event of an infringement claim, or if PointClickCare reasonably believes the Services may infringe or misappropriate the rights of any third party, PointClickCare may in its discretion and at no cost to Customer: (i) modify the Services so that they no longer infringe or misappropriate, without breaching PointClickCare's warranties; (ii) obtain a license for Customer's continued use of the Services in accordance with this Agreement; or (iii) terminate this Agreement in accordance with its termination provisions.

**6.2 Indemnification by Customer.** Customer agrees to defend, indemnify and hold harmless PointClickCare, its officers, directors, employees, agents and affiliates ("**Indemnitees**") from and against any claims, suits, losses, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) brought by third parties (including any end user) ("**Claim Against PointClickCare**") resulting from or relating to: (a) any personal injury, tort, medical malpractice, or other acts, errors, or omissions in the accuracy of any medical orders and prescriptions, data, delivery of medical care or medical information or which otherwise arise out of, or are in any way connected with Customer or end-users', data, access to or use of the Services, negligent or wrongful act(s), or violation of applicable laws; and (b) any actions or omissions or violation of applicable laws on the part of Customer in using QuickMAR or in relation to the Services thereto including but not limited to any agreements, understandings and/or arrangements between Customer and Pharmacy (if any) that PointClickCare is not a party to. Customer will indemnify the Indemnitees from and against the resulting direct damage and attorneys' fees, whether or not such Claims Against PointClickCare were foreseeable, provided that PointClickCare must: (a) promptly give Customer written notice of the Claim Against PointClickCare; (b) give Customer sole control of the defense and settlement of the Claim Against PointClickCare (provided that Customer may not settle any Claim Against PointClickCare unless the settlement unconditionally release PointClickCare of all liability); and (c) provide Customer all reasonable assistance, at Customer's expense.

**6.3 Indemnity Exclusions.** The indemnification obligation set forth in Section 6.1 do not apply to claims to the extent that they arise from: (a) Customer's use of the Services in violation of this Agreement or applicable law; (b) Customer's negligent acts or omissions; (c) Customer's use of the Services after PointClickCare notifies Customer to discontinue use because of an infringement claim; or (d) modifications to the Services or use of the Services in combination with any software, application or service not made or provided by PointClickCare.

## 7. Confidentiality

**7.1 Confidentiality.** PointClickCare desires to protect the confidentiality of, maintain its rights in, and prevent the unauthorized use and disclosure of its confidential information and trade secrets. PointClickCare is willing to grant a license to Customer on the condition that Customer performs its obligations to protect PointClickCare's confidential information and trade secrets. Customer will not disclose any Confidential Information to anyone other than individual employees of Customer who have a need to know such Confidential Information for the purposes set forth in this Agreement.

**7.2 Confidential Information.** As used in this Agreement, "**Confidential Information**" means any information disclosed by PointClickCare that is not generally known, including, without limitation, trade secrets, know-how, and information pertaining to any technology, technical information, products, services, business plans, marketing activities and finances of PointClickCare. Confidential Information of PointClickCare includes, without limitation, (a) information disclosed in documents or other tangible media; (b) information disclosed orally; (c) information that Customer observes during visits to PointClickCare's facilities; (d) information that Customer learns from attending, viewing, hearing (or otherwise experiencing) any presentation by PointClickCare; (e) information that Customer may derive from Confidential Information disclosed to Customer; (f) analyses, compilations, studies or other information or documents that are prepared by Customer that contain or reflect or are generated from information disclosed by PointClickCare; (g) information pertaining to any of PointClickCare's

suppliers; (h) all information pertaining to QuickMAR; and (i) all information that PointClickCare marks or designates as confidential or proprietary.

**7.3 Use of Confidential Information.** Customer will keep all Confidential Information in confidence and will not disclose any Confidential Information to anyone without PointClickCare's prior written consent. Customer will not use Confidential Information for any purpose other than as expressly set forth in this Agreement.

**7.4 Scope.** The provisions of this section 7 are intended to cover Confidential Information disclosed by PointClickCare both prior and subsequent to the Effective Date of this Agreement.

## **8. General Provisions**

**8.1 Remedies.** Except as provided elsewhere herein, the parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that QuickMAR and the technical specification and documentations contain valuable trade secrets and proprietary information of PointClickCare, that any actual or threatened breach of the provisions of this Agreement relating to QuickMAR or other PointClickCare intellectual property rights will constitute immediate, irreparable harm to PointClickCare for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If Customer continues to use the Services after its right to do so has terminated or expired, PointClickCare will be entitled to immediate injunctive relief. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

**8.2 Independent Contractors.** The parties hereto are independent contractors with respect to each other, and nothing in this Agreement will be construed to place the parties in the relationship of partners, joint ventures, fiduciaries or agents. Neither party is granted any right or any authority to assume or to create an obligation or to bind the other party.

### **8.3 Notice**

a) **Notice to PointClickCare.** Customer is contracting with PointClickCare Technologies Inc., having a business address of 5570 Explorer Drive, Mississauga, ON L4W 0C4.

b) **Notice to Customer.** Notice to Customer shall be addressed to the relevant contact designated by Customer on the signature page of this Agreement, on any Quote/Order Form, or as provided via the Services.

c) **Manner of Giving Notices.** Except as otherwise set forth herein, all notices under this Agreement will be deemed to have been duly given (a) when received, if personally delivered; (b) when sent, if by email if sent during the addressee's normal business hours, and on the next business day, if sent after the addressee's normal business hours (with confirmation of transmission and provided email shall not be sufficient for notices of an indemnifiable claim); (c) and upon receipt, if sent by certified or registered mail or a nationally recognized courier service, with written proof of delivery.

**8.4 Amendment.** PointClickCare reserves the right to modify the Services or the terms of this Agreement for any reason related to legal, regulatory, technical, or operational necessities, upon no less than ninety (90) days prior written notice to Customer, provided that Customer may terminate this Agreement without liability or obligation in the event Customer does not consent to such modified Services or terms, it being understood that Customer shall remain liable for all unpaid fees prior to the effective date of the amendment. Customer's continued access to, or use of, the Services after such notice period constitutes acceptance of such changes.

**8.5 Governing Law.** 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 conflict of laws provision. To resolve any legal dispute arising from this Agreement, Customer agrees to the exclusive jurisdiction of the State of Delaware.

**8.6 Entire Agreement.** This Agreement, along with the End User License Agreement (EULA), and the applicable Online Order Form which are hereby incorporated herein and made a part hereof, constitutes the entire agreement between PointClickCare and Customer with respect to its subject matter and supersedes all prior writings, proposals or understandings of the parties. In the event of a conflict between the terms of this Agreement and the click-wrap End User License Agreement (EULA), the terms & conditions contained herein shall prevail.

**8.7 Assignment.** Customer shall not assign its rights or obligations under this Agreement, voluntarily, involuntarily, by operation of law or otherwise, without PointClickCare's prior written consent, not to be unreasonably withheld. Any attempt by Customer to assign its rights or obligations under this Agreement in breach of this section is void and of no effect. PointClickCare may assign this Agreement or any of its rights or obligations hereunder. This Agreement is binding upon and enures to the benefit of the parties hereto and their respective permitted successors and assigns.

- 8.8 **Waiver.** The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenants or conditions or the future exercise of such right, but the obligation of the other party with respect to such future performance shall continue in full force and effect.
- 8.9 **Severability.** If any provision of this Agreement is found by a court to be illegal, invalid, or unenforceable, such provision shall be enforced to the maximum extent permissible so as to give effect to the intent of the parties and the remaining provisions of this Agreement will remain in full force and effect.
- 8.10 **Force Majeure.** Except for Customer’s obligation to pay fees (if applicable), neither party shall be liable for, and is excused from, any failure to perform or delay in the performance of its obligations under this Agreement due to causes beyond its control, including without limitation, interruptions of power or telecommunication services, failure of its suppliers or subcontractors, acts of nature, governmental actions, fire, flood, pandemics, natural disaster or labor disputes.
- 8.11 **Entire Agreement.** This Agreement, together with any exhibits attached hereto, and the EULA, constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede, as of the Effective Date, any and all prior or contemporaneous agreements, arrangements or understandings, oral or written, between the parties with respect thereto, including, without limitation, any user license imbedded in QuickMAR.
- 8.12 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement.

Customer’s signatory below represents that s/he is entering into this QuickMAR Facility Agreement on behalf of Customer and that s/he has the authority to bind Customer to this Agreement, including all Quotes/Order Forms, schedules, exhibits, and addenda annexed or incorporated by references into this Agreement.

POINTCLICKCARE TECHNOLOGIES INC.

LEGAL NAME OF CUSTOMER:

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

I have authority to bind the company.

I have authority to bind the company.

**SCHEDULE 1  
LIST OF CUSTOMER'S FACILITIES**

| <b>Facility Name</b> | <b>Facility Address</b> |
|----------------------|-------------------------|
|                      |                         |