



'Together We Can Achieve'

Franchise Contractual Agreement

Franchise Contractual Agreement

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133929.2/25.10.2021/TF

Franchise Agreement/Version FINAL

Franchise Contractual Agreement

FRANCHISE AGREEMENT

CONTRACT DETAILS

DATE: 20.....

Franchisor:	ESSENTIAL CANINE LIFE SKILLS LTD (No 13537440)
Franchisor's registered office:	1434 London Road, Leigh on Sea, Essex SS9 2UL
Franchisee:	
Franchisee's address:	
Commencement Date:	
Initial Fee	Plus
Management Fee	8% of monthly receipts plus vat (or minimum £300)
Territory:	
Initial term:	1 year from the Commencement Date, as specified in clause 3.1.
[Special terms:]	

1. This agreement is made up of the following:

- (a) The Contract Details.
- (b) The Conditions.
- (c) The Manual.

2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

This agreement has been made on the date stated at the beginning of it.

Franchise Contractual Agreement

SIGNED by EMMA JANE FROST)
duly authorised to sign for and)
on behalf of)
ESSENTIAL CANINE LIFE SKILLS LTD)
(Franchisor)

SIGNED by)
duly authorised to sign for and)
on behalf of)
(Franchisee)

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CONDITIONS

1. Interpretation

1.1 Definitions:

"Branded Business"	the business of dog training and walking, carried on by the Franchisor and its franchisees using the Trade Marks.
"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business. Business Hours: the period from [9.00 am to 5.00 pm] on any Business Day.
"Commencement Date"	has the meaning given in the Contract Details.
"Communication Addresses"	has the meaning given in clause 13.1.
"Confidential Information"	Conditions: these terms and conditions from clause 1 to clause 21 (inclusive). any information which is disclosed by one party to the other pursuant to, or in connection with, this agreement (whether orally or in writing and whether or not such information is expressly stated to be confidential), or which otherwise comes into the hands of one of the parties in relation to the Branded Business, the Franchisee's Business, the System, the Services or the Products, other than information which is already in the public domain (otherwise than as a result of a breach of any obligation of confidentiality). The Confidential Information of the Franchisor includes the Manual and any other details of the System supplied by the Franchisor to the Franchisee.
"Contract Year"	any 12-month period starting on the Commencement Date and on each anniversary of the Commencement Date.
"Franchise Documents"	Disclosure the materials describing the nature of the Branded Business made available to the Franchisee before the signature of this agreement.
"Franchise Materials"	all letterheads, invoices, order forms, digital templates, website formats and other documents and materials in the form set out in the Manual or otherwise approved in advance of use by the Franchisor in writing to be used by the Franchisee for the purpose of the Franchisee's Business, whether bearing the distinctive format of the Branded Business or otherwise.

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"Franchise Premises"	such premises within the Territory as the Franchisor may approve.
"Franchisee's Business"	the Branded Business as carried on by the Franchisee under this agreement within the Territory.
"Gross Monthly Receipts"	the gross takings of the Franchisee's Business in respect of the Products and Services supplied by the Franchisee in each month of the Term starting on the Commencement Date, excluding all VAT and without deducting any sales rebates or discounts and determined in accordance with clause 4.5.
"Initial Fee"	the sum specified in the Contract Details, payable in accordance with clause 4.1.
"Initial Term"	the term referred to in clause 3.1 and specified in the Contract Details sheet.
"Intellectual Property"	copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in software, database rights, rights in confidential information (including know-how), patents, rights to inventions, and all other intellectual property and similar rights which subsist or will subsist now or in the future in any part of the world relating to the Products, Services, Branded Business and the System, owned by the Franchisor or acquired by the Franchisor from time to time.
"Management Fee"	the amount as calculated in accordance with the Contract Details and payable by the Franchisee to the Franchisor in accordance with Clause 4.2
"Manual"	the confidential manual accessible at https://www.essexdogtraining.co.uk setting out the operations and procedures for running the Branded Business and related terms and conditions forming part of this agreement, as updated from time to time by the Franchisor.
"Renewed Term"	any term of this agreement following a renewal under clause 3.2.
"Restricted Business"	any business of the Franchisor or any other franchisee of the Franchisor that is similar to the Franchisee's Business, whether inside or outside the Territory.
"Restricted Customer"	any firm, company or person who, during the 6 months prior to the date of termination of this agreement, was a customer of the Franchisee.

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"Services"	the specialised services developed by the Franchisor to be used in, or supplied by, the Franchisee's Business as further described in the Manual.
"Start-up Package"	the items listed in the Manual supplied to the Franchisee under clause 5.1.3.
"System"	the distinctive business format and methods developed and implemented by the Franchisor in connection with the Branded Business using the Intellectual Property, Confidential Information, operational procedures, specifications, and management, marketing and advertising techniques, as set out or referred to in the Manual.
"Term"	the Initial Term of this agreement and any Renewed Term under clause 3.
"Territory"	the area specified in the Contract Details.
"Trade Marks"	the trade marks and service marks listed in the Manual and any other trade marks registered by the Franchisor in relation to the Branded Business from time to time.
"Trade Mark Licence"	the trade mark licence to be entered into by the parties in the form set out in the Manual.
"VAT"	value added tax chargeable in the UK.

1.2 Interpretation

1.2.1 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted. A reference to a statute or statutory provision shall include any subordinate legislation made under that statute or statutory provision.

1.2.2 A reference to legislation or a legislative provision:

- (a) is a reference to it as amended, extended or re-enacted from time to time;
- (b) shall include all subordinate legislation made from time to time under that legislation or legislative provision.

1.2.3 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.4 A reference to writing or written includes email.

2. Appointment

2.1 Licence to operate the Branded Business. In consideration of the payments agreed to be made in clause 4, the Franchisor grants the Franchisee licence to:

2.1.1 carry on the Branded Business via the Franchisee's Business; and

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2.1.2 use the Intellectual Property in respect of the Franchisee's Business.

The Franchisee shall carry out the activities listed in this clause 2.1 only in accordance with the System, within the Territory, during the Term and in accordance with the provisions of this agreement, the Manual and the Trade Mark Licence.

2.2 Risk acknowledgement. The Franchisee acknowledges that:

2.2.1 The Franchisor does not guarantee the financial performance of the Franchisee's Business.

2.2.2 The Franchisor has made no representations about the Branded Business other than those set out in the Franchise Disclosure Documents.

2.2.3 The Franchisee has received independent advice before entering into this agreement.

3. Commencement Date and Term

3.1 Initial Term. The Initial Term of the agreement is 1 year from the Commencement Date (subject to earlier termination in accordance with clause 17).

3.2 Renewed Term. The Franchisee may, by notice in writing to the Franchisor, given not less than six months before the end of the Initial Term or any Renewed Term, request the term of this agreement to be renewed for a period of either:

3.2.1 one year; or

3.2.2 three years

3.3 After the end of the Initial Term or any Renewed Term. The Franchisor shall, by notice in writing to the Franchisee, given not less than three months before the end of the Initial Term or any Renewed Term, accept a renewal of the term of this agreement, if:

3.3.1 the Franchisee has paid (in accordance with clause 4.2) a renewal fee of:

(a) £250, for a one year period pursuant to clause 3.2.1; or

(b) £500, for a three year period pursuant to clause 3.2.2; and

3.3.2 the Franchisee has at all times performed their obligations under this agreement to the reasonable satisfaction of the Franchisor and the Franchisee's Business meets the Franchisor's requirements as set out in the Franchisor's then current form of franchise agreement and Manual.

3.4 Agreement for Renewed Term. Any renewal of this agreement shall be effected either by confirmation in writing signed by or on behalf of the parties or, if required by the Franchisor, by the parties entering into a new agreement, which shall be in the Franchisor's then current form of franchise agreement, provided that, on such renewal:

3.4.1 the Franchisee will not be liable to pay the Initial Fee (or the equivalent of it under the new agreement);

3.4.2 the Franchisor will not be under any obligation to perform the obligations under clause 5 or any equivalent obligations under the new agreement; and

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3.4.3 the provisions of clause 3.2 to clause 3.4 (inclusive), or any equivalent provisions under the new agreement, shall apply in the Renewed Term.

3.5 No waiver. Unless the parties agree otherwise in writing, any renewal under this shall be without prejudice to any rights or obligations of the parties outstanding at the end of the Initial Term or any Renewed Term.

3.6 Termination on expiration of Term. Unless it is terminated earlier under clause 17, this agreement shall terminate at the end of the Term.

3.7 Trading without agreement after end of Term. If the Franchisee continues to carry on the Franchisee's Business after the end of the Term, but without having agreed a Renewed Term with the Franchisor, then they will be deemed to do so on the terms and conditions of this agreement (or any agreement entered into by the parties under clause 3.4), save that the Franchisor will be entitled to terminate this agreement on giving the Franchisee three months' written notice of termination.

4. Fees

4.1 Initial Fee. On the date of this agreement, the Franchisee shall pay the Initial Fee. The Initial Fee shall cover all the Franchisor's obligations under clause 5.

4.2 Management Fee. The Franchisee shall pay the Management Fee monthly in arrears, with effect from the Commencement Date. The Franchisee shall pay the Management Fee on the 10th day of each month. All other fees under this agreement (including any renewal fee) shall be paid within 30 days of receipt by the Franchisee of the Franchisor's invoice for such payment. Any payment under this agreement which is due to be made on a day which is not a Business Day shall be made on the immediately preceding Business Day.

4.3 Payment method. Unless the Franchisor otherwise notifies the Franchisee in writing, the Franchisee shall make all payments electronically to the following bank account:

Bank: TSB Bank PLC

Address: The Broadway, Pitsea, Basildon SS13 3AR

Account name: Essential Canine Life Skills Ltd

Sort code: 30 96 67

Account number: 00052358

4.4 VAT. Currently Essential Canine Life Skills Ltd is not VAT registered so no VAT due.

4.5 Gross Monthly Receipts. The Gross Monthly Receipts shall be determined as follows:

4.5.1 within three days of the end of each month, the Franchisor shall prepare, and deliver to the Franchisee, a statement of the Gross Monthly Receipts for the month;

4.5.2 within three days after the Franchisor has delivered the statement of Gross Monthly Receipts, the Franchisee shall either confirm in writing that it agrees such statement or give notice that it does not;

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- 4.5.3 if the Franchisee does not agree the statement, the Franchisee shall pay to the Franchisor the amount that is not in dispute, and the parties shall take practical steps to resolve all matters in dispute as soon as practicable, by disclosing to each other all relevant accounts and records; and
- 4.5.4 any payment, additional payment or refund to be made as a result of the procedure set out above shall be made within 7 days of the parties reaching agreement,
- 4.5.5 if the parties are unable to reach agreement as set out in clause 4.5.3 within 20 days of the month end that is in dispute the parties shall be free to begin legal proceedings in accordance with clause 21.10.

- 4.6 Third party suppliers. The Franchisee shall be responsible for the payment of all invoices due to third party suppliers.
- 4.7 No set-off or counterclaim. All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 4.8 Interest.

Each party shall pay interest on any sum due under this agreement, calculated as follows:

- 4.8.1 Rate. 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 4.8.2 Period. From when the overdue sum became due, until it is paid.

5. Franchisor's initial obligations

- 5.1 The Franchisor shall at least 10 Business Days before the Commencement Date provide:
 - 5.1.1 advice on finding and acquiring the Franchise Premises;
 - 5.1.2 general advice on how to set up the Franchisee's Business;
 - 5.1.3 the Start-up Package, Franchise Materials, fixtures and fittings as are listed in the Manual, at the times specified in the Manual;
 - 5.1.4 access to the Manual; and
 - 5.1.5 such local advertising for the Franchisee's Business before the Commencement Date in such manner as it may, in its absolute discretion, think fit.

6. Franchisor's continuing obligations

- 6.1 The Franchisor shall at all times during the Term:
 - 6.1.1 provide the Franchisee with know-how, advice and guidance relating to the Branded Business;
 - 6.1.2 update the Manual and System from time to time and inform the Franchisee in writing of all such updates; and
 - 6.1.3 assist the Franchisee in procuring such goods and services (other than the Products) as are necessary for the purposes of the Franchisee's Business.

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7. Franchisee's obligations

7.1 Trading. The Franchisee shall:

- 7.1.1 start operating the Franchisee's Business within 21 days of the Commencement Date;
- 7.1.2 operate the Franchisee's Business strictly in accordance with the Manual and generally to the highest standards, during the hours specified in the Manual; and
- 7.1.3 introduce any improvements or modifications into the Franchisee's Business when requested by the Franchisor.

7.2 Brand promotion and protection. The Franchisee shall:

- 7.2.1 use their best endeavours to promote and extend the Franchisee's Business;
- 7.2.2 use their best endeavours to protect and promote goodwill in the Branded Business;
- 7.2.3 not do anything that could or might in the sole opinion of the Franchisor bring the Branded Business into disrepute or damage the reputation of the Branded Business; and
- 7.2.4 not provide any information to the media about the Branded Business or the Franchisee's Business without the prior written consent of the Franchisor.

7.3 Purchases. The Franchisee shall:

- 7.3.1 pay all suppliers of goods and services sold or provided to the Franchisee in accordance with their terms of payment.

7.4 Supplies to customers. The Franchisee shall:

- 7.4.1 sell only to consumers;
- 7.4.2 supply products and services to consumers, only on the franchisee supply standard terms set out in the Manual, as amended from time to time;
- 7.4.3 maintain sufficient stocks and maintain staffing levels to meet reasonably anticipated demand from customers of the Franchisee's Business;
- 7.4.4 promptly refund the price of any Services supplied by or on behalf of the Franchisee which do not conform with the high standards required by the System; and
- 7.4.5 sell or provide only the Products and Services and ensure that the range of Products and Services specified by the Franchisor are available for sale by the Franchisee.

7.5 Procedures, finance and accounting. The Franchisee shall:

- 7.5.1 comply with ordering, invoicing and accounting procedures as set out in the Manual;
- 7.5.2 not offer credit to customers without the prior written consent of the Franchisor;
- 7.5.3 pay all third-party suppliers promptly in accordance with the terms of supply agreed with them and not enter into any arrangement or agreement to factor, charge or otherwise deal with the debts of the Franchisee's Business without the prior written consent of the Franchisor;

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- 7.5.4 ensure that adequate finance is available to the Franchisee to enable the Franchisee fully to develop the Franchisee's Business in accordance with this agreement;
- 7.5.5 use such forms, documents and contracts in relation to the Franchisee's Business as are from time to time designated by the Franchisor and no other similar items; and
- 7.5.6 accept such charge and credit cards as are set out in the Manual.
- 7.6 Pricing. The Franchisee shall:
 - 7.6.1 consult with the Franchisor as to the prices to be charged in the Franchisee's Business and refrain from charging in excess of any maximum charges specified by the Franchisor; and
 - 7.6.2 not enter into any arrangement with any other franchisee concerning the prices to be charged.
- 7.7 Disclosure of information. The Franchisee shall:
 - 7.7.1 without delay, inform the Franchisor of any possible or actual improvement or modification to the Branded Business or System or business opportunity which comes to their attention;
 - 7.7.2 promptly give the Franchisor any information that the Franchisee may obtain in relation to potential sales outside the Territory or any matter that could affect sales favourably or unfavourably inside or outside the Territory;
 - 7.7.3 supply the Franchisor with such information relating to the Franchisee's Business in such form and at such times as the Franchisor may from time to time reasonably require;
 - 7.7.4 keep details of actual and potential customers as specified by the Franchisor on terms that permit the supply of the same to the Franchisor, at the Franchisor's option, electronically or in hard copy format or allow the Franchisor to access a copy of the same electronically immediately on request;
 - 7.7.5 at the request of the Franchisor, provide potential franchisees with information as reasonably requested; and
 - 7.7.6 allow the Franchisor to institute programmes for auditing customer satisfaction and/or measuring quality control issues and provide all such assistance in relation thereto as the Franchisor shall reasonably require.
- 7.8 Branding and franchise relationship. The Franchisee shall:
 - 7.8.1 use only signs, formats and packaging in connection with the Franchisee's Business as have been approved by the Franchisor.
- 7.9 Information technology. The Franchisee shall:
 - 7.9.1 acquire, update, replace and/or make use of any software and hardware which the Franchisor shall reasonably require to be used for the Franchisee's Business; and
 - 7.9.2 immediately enter into or comply with such software licences and other agreements concerning the software required to enable the Franchisee to carry on business in accordance with the Manual, and comply strictly with their terms.
- 7.10 Internet. The Franchisee shall:

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7.10.1 not promote the Franchisee's Business or sell or make available the Products or the Services whether for the purposes of advertising, promotion, sales or otherwise through or on the world wide web, internet or any other electronic means without the Franchisor's prior written consent which shall be given subject to such conditions as the Franchisor shall consider necessary to protect the goodwill and reputation of the Branded Business;

7.10.2 make use of the Franchisor's website as stipulated by the Franchisor; and

7.10.3 not open an account or profile on a social networking site in relation to the Franchisee's Business or the Branded Business without the Franchisor's prior written consent (which may be given subject to conditions, which may include the grant to the Franchisor of administrator rights) and the Franchisee will comply with the provisions of the Manual in respect of such social networking sites.

7.11 Miscellaneous. The Franchisee shall:

7.11.1 obtain, maintain and comply with all necessary licences and consents and comply with all relevant legislation in relation to the Franchise Premises and their use; and

7.11.2 not license any other person to operate the Branded Business.

8. Employees

8.1 Employees. In relation to the Franchisee's employees who are engaged in the Franchisee's Business, the Franchisee shall, at all times during the Term:

8.1.1 not employ any person who has not completed the Franchisor's training course provided under clause 9 and been approved by the Franchisor; and

8.1.2 ensure that all employees are dressed in the manner specified in the Manual and are clean and polite.

9. Training

9.1 Franchisor training obligations. The Franchisor shall:

9.1.1 provide, free of charge, an initial training programme for the Franchisee's employees as specified in the Manual, and shall give the Franchisee notice of which of the Franchisee's employees have, in its reasonable opinion, successfully completed such training; and

9.1.2 provide one further training programme for the Franchisee and their employees on the terms set out in the Manual, free of charge per Contract Year.

9.2 Franchisee training obligations. The Franchisee shall:

9.2.1 not start the Franchisee's Business until they have, in the reasonable opinion of the Franchisor, successfully completed the initial training as set out in the Manual;

9.2.2 not allow any employee to work in the Franchisee's Business until they have, in the reasonable opinion of the Franchisor, successfully completed training as set out in the Manual; and

9.2.3 ensure that they and all employees attend such further training as the Franchisor may reasonably require. Such training shall be charged for by the Franchisor free of charge.

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10. Compliance

- 10.1 Compliance generally. Each party shall at its own expense comply with all laws and regulations relating to its activities under this agreement, as they may change from time to time, and with any conditions binding on it in any applicable licences, registrations, permits and approvals.
- 10.2 Changes in applicable laws and regulations. The Franchisee shall give the Franchisor as much advance notice as possible of any prospective or actual changes in laws and regulations applicable to the operation of the Franchisee's Business in the Territory.

11. Accounting records

- 11.1 Records. The Franchisee shall:
 - 11.1.1 maintain records of all sales and Gross Monthly Receipts and submit to the Franchisor a statement of them on the 25 day of each month. Such records and statement shall be in the form specified in the Manual;
 - 11.1.2 keep and maintain complete and accurate accounts and records relating to the Franchisee's Business in a form specified in the Manual;
 - 11.1.3 deliver to the Franchisor a copy of the accounts of the Franchisee's Business;
 - 11.1.4 retain their accounting and financial records for at least six years after the end of any accounting year to which those records relate; and
 - 11.1.5 supply to the Franchisor copies of all VAT returns and any other financial and fiscal information which the Franchisor may reasonably request.

12. Advertising

- 12.1 Franchisor advertising obligations. The Franchisor shall:
 - 12.1.1 promote the Branded Business in such manner and at such times as it shall in its absolute discretion think fit;
 - 12.1.2 provide the Franchisee with such promotional display literature and other point-of-sale material as it, in its absolute discretion, thinks fit.
- 12.2 Franchisee advertising obligations. The Franchisee shall promote and advertise the Franchisee's Business in the Territory in accordance with the Manual and co-operate with the Franchisor in relation to any special promotion or advertising campaign as the Franchisor may reasonably require.

13. Telephone numbers, email addresses and domain names

- 13.1 Communication Addresses. In the course of the Franchisee's Business, the Franchisee shall use only email addresses and domain names specified or approved by the Franchisor (Communication Addresses) and shall not use the Communication Addresses for any purpose other than the Franchisee's Business.
- 13.2 Restrictions on communications. The Franchisee shall use the Communication Addresses and no other email addresses or domain names in marketing, advertising and promotional material relating to the Franchisee's Business.

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14. Insurance

- 14.1 Compulsory insurance cover. The Franchisee shall take out and maintain such business all risk insurance policies with reputable insurance companies and with levels of cover as the Franchisor may, in its absolute discretion, specify in the Manual and any other cover which the Franchisor may, in its absolute discretion, specify.
- 14.2 Compliance with insurance policies. The Franchisee shall not breach, or allow any breach of, such insurance policies.

15. Franchise Premises

- 15.1 The Franchisee shall:
- 15.1.1 operate the Franchisee's Business only from the Franchise Premises;
 - 15.1.2 at their own expense equip and keep the Franchise Premises in accordance with the Manual;
 - 15.1.3 provide access to the Franchise Premises at all reasonable times, on reasonable notice and during Business Hours during the Term to allow the Franchisor to inspect the Franchise Premises, and the inventory and accounts of, the Franchisee's Business and check that the Franchisee is complying with its obligations under this agreement;
 - 15.1.4 keep the Franchise Premises clean and maintain hygiene and safety standards as required by the Franchisor;
 - 15.1.5 ensure that all signs required to be displayed by the Franchisor at the Franchise Premises are clearly displayed;
 - 15.1.6 use only insignia, symbols, brand names, trade names or trade marks at the Franchise Premises that are specified in the Manual or approved in advance of use in writing by the Franchisor; and
 - 15.1.7 not move from the Franchise Premises without the Franchisor's prior written consent such consent not to be unreasonably withheld.

16. Intellectual property

- 16.1 Franchisor's warranty. The Franchisor warrants that it is not aware of any reason why:
- 16.1.1 it might not be entitled to license the Franchisee to use the Intellectual Property; or
 - 16.1.2 the use of the Intellectual Property by the Franchisee in accordance with the terms of this agreement might constitute an infringement of any third party's intellectual property.
- 16.2 Trade Mark Licence. On execution of this agreement, the Franchisee shall execute the Trade Mark Licence.
- 16.3 Limited rights granted. The Franchisee agrees that any goodwill (and any other rights) in the Trade Marks which result from the use by the Franchisee of the Trade Marks shall automatically vest in the Franchisor.
- 16.4 Franchisee's obligation to report. If the Franchisee learns of any threatened or actual infringement of the Intellectual Property, or of any circumstance which suggests that the use of the Intellectual Property may infringe the intellectual property of a third party, they shall immediately inform the Franchisor, giving all such details as the Franchisor requests.

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- 16.5 Conduct of IP proceedings. The Franchisor shall have conduct of any proceedings by third parties against the Franchisee relating to the Intellectual Property and may take whatever action it, in its sole discretion, decides in respect of any infringement or alleged infringement of it, or arising from its use. The Franchisee shall co-operate with the Franchisor in taking such action and the Franchisor shall meet any reasonable expenses of the Franchisee in doing so.
- 16.6 Intellectual property obligations of Franchisee. The Franchisee shall:
- 16.6.1 not apply for registration of any of the Intellectual Property (or any intellectual property that is confusingly similar to the Intellectual Property) in its own name, in any part of the world, and shall at the Franchisor's request assign to it all intellectual property rights subsisting in all know-how and materials created by the Franchisee for the purpose of conducting the Branded Business;
 - 16.6.2 comply with the Manual and all requests by the Franchisor as to the use of the Intellectual Property and the ™, © and ® symbols in relation to the Intellectual Property;
 - 16.6.3 give assistance to enable the Franchisor to register its Trade Marks, at the Franchisor's request;
 - 16.6.4 not license (or purport to license) any other person to use any of the Intellectual Property;
 - 16.6.5 not do anything that may adversely affect the Intellectual Property or the Franchisor's right or title to it; and
 - 16.6.6 immediately stop using specific advertising or promotional material or packaging on receipt of a request by the Franchisor to do so.

17. Termination

- 17.1 Termination by either party. Without limiting its other rights or remedies, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
- 17.1.1 the other party commits a material breach of any term of this agreement and (if such a breach is remediable) fails to remedy that breach within 20 Business Days of that party being notified in writing to do so;
 - 17.1.2 the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986, or takes any other step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
 - 17.1.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 17.1.4 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the agreement has been placed in jeopardy.
- 17.2 Termination by Franchisor. Without limiting its other rights or remedies, the Franchisor may terminate this agreement with immediate effect (or following such notice period as it sees fit) by giving written notice to the Franchisee if:

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- 17.2.1 the Franchisee fails to pay any amount due under this agreement on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment;
- 17.2.2 the Franchisee's employees fail to successfully complete any of the training requirements set out in this agreement including the Manual;
- 17.2.3 the Franchisee does not start trading within 40 Business Days of the Commencement Date;
- 17.2.4 the Franchisee repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that their conduct is inconsistent with having the intention or ability to give effect to the terms of this agreement;
- 17.2.5 persistent, valid complaints continue to be made to the Franchisor about the quality of the service provided by the Franchisee, and the Franchisee, having received notice of such complaints, fails to improve such service to the reasonable satisfaction of the Franchisor;
- 17.2.6 the Trade Mark Licence is terminated;
- 17.2.7 the Franchisee in the reasonable opinion of the Franchisor, does, or permits to be done, any act which might jeopardise or invalidate the registration of the Trade Marks or does any act which might assist, or give rise to, an application to remove the Trade Marks, or which might prejudice the right or title of the Franchisor to the Trade Marks;
- 17.2.8 the Franchisee purports to assign any of the rights or licences granted under this agreement;
- 17.2.9 the Franchisee fails to obtain any written approval or consent of the Franchisor as expressly required by this agreement;
- 17.2.10 the Franchisee (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation;
- 17.2.11 the Franchisee (being an individual) is convicted of a serious criminal offence; or
- 17.2.12 the Franchisee is in breach of any of their compliance obligations under clause 10.

17.3 Accrued rights. Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

17.4 Survival. Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.

18. Consequences of termination

18.1 Cessation of business. On termination or expiry of this agreement for any reason, the Franchisee shall:

- 18.1.1 immediately pay the Franchisor the full amount of all sums due from the Franchisee to the Franchisor together with any interest payable in accordance with clause 4.8;

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- 18.1.2 immediately cease to operate the Franchisee's Business and System and cease to trade under any of the Trade Marks, and not hold the Franchisee out as a franchisee of the Franchisor or do anything that may indicate any relationship between them and the Franchisor, other than selling Products for which the Franchisee has already paid and which, at the date of termination, the Franchisee had contracted to provide to a third party;
- 18.1.3 immediately stop using the Intellectual Property, including the Trade Marks;
- 18.1.4 pass all enquiries made after termination, and full details of potential customers, to the Franchisor;
- 18.1.5 transfer all customer lists and full details of contracts with customers to the Franchisor, and if required by the Franchisor transfer all uncompleted contracts or unfulfilled orders to the Franchisor or its nominee for £1;
- 18.1.6 cease to use any software supplied to the Franchisee by the Franchisor, and return or at the Franchisor's option, destroy, (without copying) all elements of it, including all software, data, hardware and documents relating to it;
- 18.1.7 return or at the option of the Franchisor, destroy, all copies of the Manual, Franchise Materials, and other Products or materials bearing any of the Trade Marks;
- 18.1.8 pay all debts owing to creditors of the Franchisee's Business, and irrevocably permit the Franchisor to deduct from all sums payable by the Franchisor to the Franchisee all sums which the Franchisor pays (whether legally obliged to or not) pursuant to this clause;
- 18.1.9 stop using the Communications Addresses, and shall assist the Franchisor in making any changes to contractual arrangements with service providers or registrations with regulatory authorities as the Franchisor may require, including at the Franchisor's discretion terminating the arrangements or transferring the right to use the Communication Addresses to the Franchisor.
- 18.1.10 assign to the Franchisor all domain name registrations and rights in website content owned or used by the Franchisee in the Franchisee's Business;
- 18.1.11 take all other steps and in particular execute and deliver to the Franchisor all documents necessary to comply with its obligations under this clause 18; and
- 18.1.12 enable the Franchisor to enter the Franchisee's premises and gain access to the Franchisee's systems and data to verify compliance with this clause 18.

- 18.2 Obligation on Franchisee to return equipment on termination. On termination or expiry of this agreement for any reason, the Franchisee must return (at its expense and in good working order and condition) all items of equipment held on loan or hire from the Franchisor under the terms of this agreement. Until they have been returned or repossessed, the Franchisee shall be solely responsible for the safe keeping, supervision, custody and insurance of them.

19. Restrictions

- 19.1 Restrictions on Franchisee. In order to protect the Confidential Information, trade secrets and business connections of the Franchisor and the Franchisor's other franchisees, the Franchisee covenants with the Franchisor as follows:

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- 19.1.1 No soliciting of Restricted Customers. The Franchisee shall not during the Term or for 6 months after termination or expiry of this agreement, solicit or endeavour to entice away from the Franchisor or any other franchisee of the Franchisor the business or custom of a Restricted Customer with a view to providing goods or services to that Restricted Customer in competition with any Restricted Business.
- 19.1.2 No involvement with competitive businesses. The Franchisee shall not during the Term, or for 6 months after termination or expiry of this agreement, be involved as agent, consultant, director, employee, owner, partner or shareholder with any business concern which is (or intends to be) in competition with any Restricted Business.
- 19.1.3 No business with Restricted Customers. The Franchisee shall not during the Term, or for 6 months after termination or expiry of this agreement, be involved with the provision of goods or services to (or otherwise have any business dealings with) any Restricted Customer in the course of any business concern which is in competition with any Restricted Business.
- 19.1.4 No representations about connections with Franchisor after termination. The Franchisee shall not at any time after termination or expiry of this agreement, represent themselves as connected, in any way, with the Franchisor.

19.2 Exclusions from restrictions. None of the restrictions in this clause 19 shall prevent the Franchisee from:

19.2.1 being engaged or concerned in any business concern insofar as their duties or work relate solely to geographical areas where the business concern is not in competition with any Restricted Business; or

19.2.2 being engaged or concerned in any business concern, provided that their duties or work relate solely to services or activities of a kind with which they were not concerned to a material extent in the 6 months before termination of this agreement.

19.3 Restrictions apply to indirect as well as direct activities. The restrictions imposed on the Franchisee by this clause 19 apply to the Franchisee when acting:

19.3.1 directly or indirectly; and

19.3.2 on their own behalf or on behalf of, or in conjunction with, any firm, company or person.

19.4 Restrictions are severable. Each of the restrictions in this clause 19 is intended to be separate and severable. If any of the restrictions are held to be void, but would be valid if part of their wording were deleted, such restriction shall apply with such deletion as may be necessary to make it valid or effective.

20. Assignment and other dealings

20.1 Freedom of Franchisor to assign. The Franchisor may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement.

20.2 No assignment by Franchisee. The Franchisee shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

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21. General

- 21.1 Force majeure. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 8 weeks, the party not affected may terminate this agreement by giving 14 days' written notice to the affected party.
- 21.2 Confidentiality
- 21.2.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party except as permitted by clause 21.2.2.
- 21.2.2 Each party may disclose the other party's Confidential Information:
- (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of exercising the party's right's or carrying out its obligations under this agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 21.2.3 No party shall use any other party's Confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.
- 21.2.4 If the Franchisor is contemplating an assignment pursuant to clause 20.2:
- (a) notwithstanding its obligations of confidentiality set out in clause 21.2, the Franchisor may disclose to a proposed assignee any information in its possession that relates to this agreement or its subject matter and the Franchisee which is reasonably necessary to disclose for the purposes of the proposed assignment; and
 - (b) any disclosure pursuant to clause (a) shall only be made after notice of the identity of the proposed assignee has been given to the Franchisee.
- 21.3 Entire agreement.
- 21.3.1 This agreement and the Manual, constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 21.3.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 21.4 Variation. No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

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- 21.5 Waiver. No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 21.6 Severance
- 21.6.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
- 21.6.2 If any provision or part-provision of this agreement is deemed deleted under clause 21.6.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 21.7 Notices.
- 21.7.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (b) sent by email to, in the case of:
 - the Franchisor -
 - the Franchisee -
- 21.7.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address;
 - (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 36.2(c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 21.7.3 This clause shall not apply to the service of any proceedings or other documents in any legal action, arbitration or other method of dispute resolution.
- 21.8 No partnership, joint venture or agency
- 21.8.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 21.8.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

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- 21.8.3 The Franchisee will incorporate into their business terms with their customers and shall display on their premises so as to be visible to its customers before they do business with the Franchisee a disclaimer making clear to its customers and visitors the fact that the Franchisor and Franchisee are separate legal entities and that neither is the partner or agent of the other.
- 21.9 Governing law. This agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 21.10 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.