

CHOICES

Franchise Agreement

THIS AGREEMENT is dated the _____ and made **BETWEEN** You the Franchisee and the Franchisor and sets out the terms relating to the operation of Your Choices Franchise Business

IN THIS AGREEMENT:

- 1 National Marketing Levy 2% of Gross Monthly Receipts means:
- 2 Business Development the establishment of the franchise Schedule
- 3 Choices means: the business of selling the Products and providing the Services using the Intellectual Property
- 4 Commencement Period means: 30 days from the date of this agreement
- 5 Franchisor means: Choices Acquisitions Ltd whose registered office is 2d Carshalton Road, Sutton, Surrey, SM1 4RA
- 8 Management Service Fee 9% of Gross Monthly Receipts excluding means: Acquisitions
- 9 Franchise Year means: The period of 12 calendar months running from the to
- 10 Initial Franchise Fee means: £15,000 (plus VAT)
- 12 Premises means: premises as may be approved by the Franchisor
- 13 Start-up Package means: Such items as are specified in the First Schedule

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- 14 Term means: 6 Years from the date of this agreement
- 15 Territory means: 100,000 to 200,000 population
- 16 Trade Marks means: all those unregistered and or registered marks and or such other marks in addition to or in substitution of any of them as may be specified by the Franchisor from time to time
- 17 Trade Name means: Choices and or such other name or names in addition to or in substitution of any of them as may be specified by the Franchisor from time to time
- 18 Trading Period means: 1 calendar month
- 19 Venue means: such premises as have previously been approved by the Franchisor at which You provide the Services
- 20 You, Your, Yours and Yourself and, where relevant, Your personal representatives means:

We agree to abide by the attached Terms, Conditions and Obligations



Franchise Agreement

Signed by the Franchisee

Signed by the **Witness**

.....

.....

Name

Name

.....

.....

Address

Address

.....

.....

Signed for and on behalf of the Franchisor

.....

- (A) The Franchisor has expended time money and effort in developing and in obtaining and acquiring knowledge about the conduct of the Choices and has established a demand and goodwill, for the said business under, and a reputation and goodwill in the Trade Name
- (B) The System is the exclusive property of the Franchisor and with the exception of the methods of advertising marketing and promoting the Choices is secret and confidential
- (C) The Trade Name is associated with a uniformly high standard of service and quality of products
- (D) You desire to obtain the benefit of the Franchisor’s knowledge skill and experience and the right to sell the Products and provide the Services using the Intellectual Property at the Venues

1. DEFINITIONS AND INTERPRETATION

1.1 IN this agreement the following words and or expressions shall have the following meaning:

“Accounting Date”:	Reference	31 st March in each year of the Term or such other date as may be specified by the Franchisor
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- “Affiliate” : persons and or entities which directly or indirectly control are controlled by or are under the common control of the Franchisor and in this regard “control” means the power to direct or cause the direction of the management and policies of an entity
- “Approved Suppliers” : such supplier or suppliers of the Products as the Franchisor may nominate from time to time and all franchisees of the Franchisor
- “Assets” : all equipment employed in the Business and the Residual Goodwill
- “Business” : the business carried on by You pursuant to and in accordance with this agreement
- “Confidential Information”: all information, in any form or medium obtained or received by You including that relating to the business or affairs of the Franchisor, any franchisee of the Franchisor, You and the Intellectual Property
- “Confidentiality” : an undertaking in the form set by the Franchisor or in such other form as may be supplied by the Franchisor
- “Connected Person” : any social partner, former social partner, spouse, or former spouse of Yours or any children or siblings of Yours or of such spouse, former spouse, social partner or former social partner
- “Default Notice” : a written notice served by the Franchisor setting out the nature of the default and giving You 7 days, in the case of a default relating to a failure to promptly make payment of any sums owing by You to the Franchisor, and such period as the Franchisor may specify in any other case **PROVIDED** that in the case of a Persistent Default You will not be entitled to any period of grace

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within which to remedy any such default neglect or failure

“Direct or Local Advertising” : all advertising outside the Territory solely for the benefit of the business

Business affected by means of such media as the Franchisor in its discretion thinks fit

“Your Notice” : notice served by You pursuant to clause 15.2.1

“Franchisor’s Notice” : notice served by the Franchisor pursuant to paragraph (B) of the Purchase Terms

“Gross Revenues” : all gross sums receivable (whether or not payment is received) by You in or about the conduct of the Business (including Membership Fees) arising directly or indirectly from whatever source including the assumed Gross Revenues for the purposes of any loss of profits insurance claims but excluding VAT

“Initial Training” : the training provided by the Franchisor to You in the operation of the System

“Intellectual Property” : all or any of the following:

- (a) the Trade Marks;
- (b) the Trade Name;
- (c) copyright and design copyright held by the Franchisor in any material printed in writing or in computer code form (including but not limited to the Operations Manual and Software) designs or other work relating to the System;
- (d) Designs (whether or not protected by copyright or registered) devised or acquired by the Franchisor and used in the provision of the Products, Services or in the System; and
- (e) the System and the know-how relating to it

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- “Internet” : interactive multimedia, global communications network including all linking and framing and internet connections approved by the Franchisor
- “Offending Provision” : any term or provision referred to in clause 20.1
- “Operations Manual” : a manual or manuals which contain details of the Intellectual Property (including but not limited to the Products and the Services) as may be updated by the Franchisor from time to time
- “Participant” : any firm person or Franchisor who would be deemed to be a Participant under the provisions of Section 118 of the Fair Trading Act 1973 (as amended by the Trading Schemes Act 1996) and the regulations made under the said Acts
- “Persistent Default” : a default neglect or failure by You of the agreement obligation or condition which has occurred more than twice in any period of 1 year as communicated to You
- “Products” : literature, training material, and such other products in addition to, or in substitution of, them as may be specified in the Operations Manual from time to time
- “Purchase Terms” : the terms set out in the Agreement
- “Purchase Notice” : a notice served by the Franchisor pursuant to the provisions of paragraph (D) of the Purchase Terms
- “Range of Products” : such Products as are specified by the Franchisor from time to time
- “Range of Services” : such Services as are specified by the Franchisor from time to time

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- “Residual Goodwill” : the goodwill of the Business as a going concern but excluding the value of the goodwill derived from the use by You of the Intellectual Property
- “Software” : the computer software which the Franchisor intends to introduce as a part of the System and which You will be required to use in the operation of the Business
- “System” : all of the following which are more particularly described in the Operations Manual
- (a) the know-how and methods used in or in connection with the provision of the Services and the sale of the Products under the Trade Name
 - (b) the format, and standards of quality and uniformity of products and services offered by a Choices; and
 - (c) the procedures for accounting administration and management used in the Choices
- “Termination” : the expiry determination or termination of this agreement
- “VAT.” : value added tax or its substitute
- “Venue” : the locations outside the Territory previously approved by the Franchisor at which You provide the Services

1.2 In this agreement where the context so requires or admits the singular includes the plural and the masculine includes the feminine and neuter and vice versa

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- 1.3 The term "You" describes you as the natural person the term "You" will where the context so admits include Your personal representatives as the case may be
- 1.4 If You compromise two or more persons as parties to this agreement all covenants and agreements on Your part shall be deemed to be joint and several covenants
- 1.5 References in this agreement to "set off" shall include legal and equitable set off

NOW IT IS HEREBY AGREED as follows:-

2. RIGHTS AND RESERVATIONS

- 2.1 IN consideration of Your paying the Initial Franchise Fee and the Management Service Fee promptly and subject to clause 2.3, You have the right and obligation to conduct the Business and to use the Intellectual Property but only in connection with the Business and subject to and in accordance with the terms of this agreement
- 2.2 For the avoidance of doubt it is hereby agreed and declared that:
 - 2.2.1 You have no right to and will not sub-licence sub-franchise or delegate any of the rights granted by this agreement
 - 2.2.2 except for the rights granted to You in this agreement and except for any rights granted by the Franchisor to others, the Franchisor reserves for itself all rights to all other territories.
- 2.3 The Franchisor reserves the right to establish and grant licences to third parties to establish businesses using the Intellectual Property

3. TERM OF AGREEMENT

- 3.1 THIS agreement shall subject to the provisions for termination set out in this agreement subsist for the Term

4. RIGHT FOR A NEW FRANCHISE AGREEMENT

- 4.1 AT the end of the Term You will have the right to enter into a New Franchise Agreement with the Franchisor **PROVIDED THAT ALL** of the following conditions are fulfilled

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- 4.1.1** such option may only be exercised by You by written notice to the Franchisor which may only be given not more than 6 months nor less than 3 months before the expiry of the Term
- 4.1.2** there must be no outstanding breach by You of any of the terms and conditions of this agreement or any other agreement with the Franchisor
- 4.1.3** You must have substantially observed and performed the terms and conditions of this agreement and any other agreement with the Franchisor
- 4.1.4** You must agree to do (at Your own expense) within a period of 60 days (or such longer period as may be specified by the Franchisor) from the date You are notified by the Franchisor, whatever the Franchisor considers to be necessary to bring the Premises and the Business up to the latest standards of the Choices and to comply with any relevant statutory or other requirements or regulations which apply to You the Premises and or the Business
- 4.1.5** You must sign a New Franchise Agreement with the Franchisor save that:-
 - 4.1.5.1** You will not be required to pay any sum expressed to be by way of initial franchise fee;
 - 4.1.5.2** the Franchisor will not be required to provide any of the initial or other obligations contained in such agreement which are appropriate to the establishment in business of a new franchisee;
 - 4.1.5.3** any option in the New Franchise Agreement for You to enter into another franchise agreement or to renew any rights will not apply to You; and
 - 4.1.5.4** You will pay all reasonable legal costs and expenses of the Franchisor in connection with the New Franchise Agreement
- 4.1.6** if You shall neglect or fail to execute and deliver to the Franchisor the New Franchise Agreement within 21 days of being requested in writing by the Franchisor to do so (such request not to be made earlier than 14 days following the receipt by You of the New Franchise Agreement) or if after the service of the notice

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referred to in clause 4.1.1 and before entering into the New Franchise Agreement You have failed to comply with any notice referred to in clause 4.1.4 or have committed a breach of this agreement such as to justify its termination or which may result in its termination Your right to enter into the New Franchise Agreement will at the option of the Franchisor cease and be of no effect

- 4.2** Upon signing the New Franchise Agreement You will be deemed to have released the Franchisor from all claims demands or liability under this agreement

5. FRANCHISOR'S INITIAL OBLIGATIONS

5.1 THE Franchisor will provide or make available the following to You:

- 5.1.1** consultation and advice as to the location and suitability of premises
- 5.1.2** Consultation with the general management of the Franchisor with regard to the purchase of materials necessary for the day to day operation of the Business
- 5.1.3** Advice on the initial advertising campaign to launch the Business
- 5.1.4** Initial Training at the Franchisor's head office or such other location as the Franchisor may specify for You any Guarantor and or any proposed manager or such other member of Your staff as the Franchisor may specify as soon as practicable after the date of this agreement

6. FRANCHISOR'S CONTINUING OBLIGATIONS

6.1 SUBJECT to You complying fully and promptly with all your respective obligations in this agreement, the Franchisor shall during the subsistence of this agreement

- 6.1.1** lend to You a copy of the Operations Manual which shall at all times remain the property of the Franchisor
- 6.1.2** provide You with updates to the Operations Manual containing details of any alterations and or improvements in or to the System or the Products and or the Services
- 6.1.3** provide You with reasonable access to the general management of the Franchisor for consultation about the conduct of the

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Business with a view to enabling You to operate the System properly

6.1.4 provide You with advice know-how and guidance in such areas as management promotion and methods of operating the Business

6.1.5 use its reasonable endeavours to supply You with the Products upon its standard terms and conditions of trade from time to time

7. YOUR OBLIGATIONS

7.1 You will:-

7.1.1 acquire such other equipment books of account and any other items which are necessary for the performance by You of Your obligations under this agreement

7.1.2 ensure that You are creditworthy at all times and that adequate finance is available to You to enable You to perform Your obligations under this agreement and by way of working capital

7.1.3 **7.1.3.1** operate the System properly and strictly in accordance with the provisions of the Operations Manual as amended from time to time

7.1.3.2 not make use of or disclose the Operations Manual for any purpose other than for the conduct of the Business

7.1.3.3 not part with possession nor make any copies of the Operations Manual or any part of it

7.1.3.4 ensure that the Operations Manual with which You are provided is kept up to date at all times

7.1.4 use Your best endeavours to maintain the highest standards in all matters connected with the Business

7.1.5 sell only the Products and provide only the Services and not sell anything or provide any service which does not conform with the standards associated with the Trade Name or of which You have not obtained the Franchisor's prior written approval

7.1.6 comply with all instructions given to You by the Franchisor with regard to the standard or quality of the Services and of the Products provided in or about the conduct of the Business

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- 7.1.7** **7.1.7.1** comply with the requirements of the Business Names Act 1985 and with the provisions of any statute which may repeal re-enact or amend such Act

7.1.7.3 at Your own expense obtain any consents which may be necessary from the landlord superior landlord local planning and or building bye-law authority (as the case may be) for the display on the Premises of any signs specified by the Franchisor, hoardings, parking facilities, access ways and the like and obtain the approval of police fire and any other relevant authorities and all licences required to carry on the Business in a lawful manner
- 7.1.8** **7.1.8.1** not pledge the credit of the Franchisor, or represent Yourself as being the Franchisor or a partner or agent of the Franchisor

7.1.8.2 not permit any person connected in any way with You to represent himself or You in such a way that others dealing with him or You might regard him or You as a director officer employee agent or otherwise authorised to act on behalf of the Franchisor
- 7.1.9** if You are a corporate entity ensure that no part of the Trade Name or the Trade Marks form any part of Your corporate name
- 7.1.10** **7.1.10.1** use only such signs and packaging materials for or in connection with the display or sale of the Products and or the provision of the Services as contain the Trade Name, the Trade Marks or such other name and or trade mark and or symbol as may be designated by the Franchisor from time to time

7.1.10.2 operate the Business only in accordance with the System and only under the Trade Name without any words or symbols of any nature (save as required by the provisions of this agreement) unless first approved in writing by the Franchisor

7.1.10.3 not do anything which may bring the Trade Name or any of the Trade Marks into disrepute

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- 7.1.10.4** without prejudice to any other rights or remedies of the Franchisor, compensate the Franchisor for any use by You of the Intellectual Property otherwise than in accordance with this agreement
- 7.1.10.5** indemnify the Franchisor for any liability incurred to third parties for any use of the Intellectual Property by any Connected Person or You (or by others with Your consent) otherwise than in accordance with this agreement
- 7.1.11**
 - 7.1.11.1** use only such equipment fixtures and fittings in the conduct of the Business as has been previously approved in writing by the Franchisor
 - 7.1.11.2** acquire and install for use within such reasonable period of time as may be specified by the Franchisor such additional or different equipment as may be specified by the Franchisor as being necessary as a result of any change in or variation to the System or any part of it
- 7.1.12**
 - 7.1.12.1** continuously operate the Business at least upon such days and during such hours as the Franchisor reasonably determines
 - 7.1.12.2** devote the whole of Your time and attention to the Business during the hours of operation of the Business and during such other hours as are necessary to perform the administrative marketing promotional and accounting functions required in or about the conduct of the Business and in operating the System
 - 7.1.12.3** diligently carry on the Business at the Premises and use Your best endeavours to promote the Business in your territory
 - 7.1.12.4** not in any way actively solicit or tout for business to provide any Services and or sell any of the Products to or for anyone at any address which is within the Territory
 - 7.1.12.5** ensure that there are employed in the Business such number of staff as in the opinion of the Franchisor are sufficient to enable the Business to operate

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efficiently and to meet the demand for the Products and or the Services

- 7.1.12.6** **7.1.12.6.1** establish maintain and increase the turnover of the Business
- 7.1.12.6.2** comply with the Business Development Schedule
- 7.1.12.7** obtain supplies of the Products only from the Franchisor and or Approved Suppliers upon their respective terms of trade current from time to time
- 7.1.12.8** promptly and within the due time allowed make payment to all suppliers for goods and services sold or provided to You for the purposes of the Business
- 7.1.12.9** follow the procedure specified in the Operations Manual in the event of any customer complaint
- 7.1.13** **7.1.13.1** comply with the requirements of the Franchisor with regard to Your cleanliness, clothing, appearance or demeanour and that of Your staff which in the opinion of the Franchisor are necessary in order to maintain the uniformly high standards associated with the Trade Name
- 7.1.13.2** procure or ensure that any employee or prospective employee who performs or is to perform work which in the opinion of the Franchisor requires special skill or knowledge receives such special training and or takes part in such training course as may be notified to You by the Franchisor
- 7.1.13.3** attend and if and as required by the Franchisor procure that such of Your staff as may be specified by the Franchisor shall attend for such further training as the Franchisor may prescribe
- 7.1.13.4** not employ as the manager of the Business any person who:
 - 7.1.13.4.1** has not successfully passed the Franchisor's training course and
 - 7.1.13.4.2** has not been previously approved in writing by the Franchisor

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for Your own benefit or for the benefit of any Connected Person or any person firm or Franchisor other than the Franchisor any Confidential Information or knowledge concerning the System which may be communicated to You or which You may acquire in carrying out Your obligations under this agreement

- 7.1.18.2** not use any Confidential Information for any purposes other than running the Business but this obligation shall cease after Termination if any such Confidential Information becomes generally known or easily accessible otherwise than by Your breach
- 7.1.18.3** keep this agreement confidential and not disclose nor permit disclosure of any of its contents to anyone other than Your professional advisors and then only if You ensure that such disclosure is made to them in confidence and that no copies of the whole or any part of it are made
- 7.1.17** on entering into this or any other agreement or transaction with Us, during the Term or any continuation of it, promptly make full disclosure of all material circumstances and of everything known to You (including the behaviour or business of any Connected Person), all other agencies, licences or franchises in which You or any Connected Person are or become or are to become, directly or indirectly interested whether or not it concerns or touches upon this or any other agreement or transaction between us which would be likely to influence Our conduct or attitude towards You, the Business or any factor which may adversely affect Us, Our business or that of any of Our franchisees
- 7.1.18** if You are a corporate entity, ensure that there is no change in the beneficial ownership of Your issued share capital, or of Your de facto control, without the prior written consent of the Franchisor
- 7.1.19** if You are a partnership, ensure that there is no change in the constitution of Your partnership, or in the terms of Your

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partnership agreement, without the prior written consent of the Franchisor

- 7.1.20** ensure that there is no change in the beneficial ownership or of the de facto control of the Business without the prior written consent of the Franchisor
- 7.1.21 procure that during the Franchise Period and for a period of 1 year after Termination no Connected Person is directly or indirectly engaged, involved, concerned or interested in any business which provides any products or services which are the same as or similar to the Services or the Products

8. TRAINING

- 8.1** THE Franchisor shall have the right to require You any of your staff to attend training courses (in addition to the Initial Training) at any time during the subsistence of this agreement if
 - 8.1.1** it considers attendance at such courses to be advisable or
 - 8.1.2** it wishes to train You in new and improved techniques which have been devised and which You will be required to put into effect in operating the System
- 8.2** Such additional training will be provided at Your expense
- 8.3** You must establish and maintain an initial and continuing training programmes for Your staff in accordance with the requirements contained in the Operations Manual

9. IMPROVEMENTS

- 9.1** THE Franchisor shall use reasonable endeavours to conceive and develop new and improved methods of conducting a business in accordance with the System and other additions or modifications to the System which it may consider desirable
- 9.2** The Franchisor agrees to make such improvements additions or modifications available to You at the earliest possible opportunity after it has in its opinion been fully developed and tested
- 9.3** You, for Your part, must notify the Franchisor of any improvements in the method of operation of the System and or the Business which You may consider would assist in the development of the System which the Franchisor will evaluate

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- 9.4 You must not introduce any improvement addition modification or innovation into the conduct of the Business or of the System without the prior written consent of the Franchisor
- 9.5 You must when required by the Franchisor in writing, introduce any improvement addition modification or innovation to the System and the conduct of the Business at the time or times and in the manner specified in such written requirement and the System will thenceforth be deemed to have been varied as so specified
- 9.6 In order that You, the Franchisor and its other franchisees may all benefit from the free interchange of ideas

10. FEES PAYABLE

In consideration of the grant of the right and licence to operate the Services, the Franchisee shall:

- 10.1 Pay to the Franchisor upon execution of this Agreement the Initial Fee together with the VAT at the prevailing rate which shall include the cost of initial training and any other equipment (if any) which the Franchisor has agreed to supply free of charge but shall not include any other matter not so specified as included which shall be invoiced separately to the Franchisee and paid by the Franchisee with the Franchisor's standard Terms and Conditions of Supply. In all cases the Franchisee shall be deemed to be on notice of those Terms and Conditions;
- 10.2 Pay to the Franchisor a management charge 9% of Gross Monthly Receipts plus VAT, excluding Acquisitions in respect to income derived from lettings and homesales. The Management Charge is to reach the Franchisor by the 10th day of each month in respect of the previous month's Gross Monthly Receipts. In the event of late payment the Franchisee will pay a surcharge of 2% over the Bank of England's base rate if the management charge, has not been paid by the 10th day of each month.
- 10.3 In respect to property investment all money received will be banked directly into Choices accounts and Choices will pay to you 50% of the gross receipts on a monthly basis. Property investment business shall include subscriptions and commissions from buyers, sellers and any other income directly related to transactions such as conveyancing fees
- 10.4 Pay to the Franchisor a National Marketing Levy of 2% of Gross Monthly

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Receipts plus VAT. The National Marketing Levy is to reach the Franchisor by the 10th day of each month in respect of the previous month's Gross Monthly Receipts. In the event of late payment the Franchisee will pay a surcharge of 2% over the Bank of England's base rate if the National Marketing Levy, has not been paid by the 10th day of each month.

- 10.5 All monies paid by the Franchisee to the Franchisor must be paid via the Franchisees Choices bank account.

11. ACCOUNTING AND REPORTING

11.1 You must:

- 11.1.1** **11.1.1.1** adopt the Accounting Reference Date as the end of Your financial year
- 11.1.1.2** keep all accounts and financial records of the Business separate from all other accounts and records
- 11.1.2** maintain an accurate account and record of all Gross Revenues and prepare a statement of the Gross Revenues for each Trading Period in the form and manner specified in the Operations Manual and send it to the Franchisor by fax followed by a hard copy by prepaid first class mail postmarked not later than the third working day of the next following Trading Period
- 11.1.3** **11.1.3.1** maintain on the Premises in a form approved by the Franchisor (and preserve them for at least 6 years after the end of the financial year to which they relate and thereafter for so long as any dispute shall remain outstanding between the parties) full and accurate books of account and all underlying or supporting records and vouchers relating to the Business and permit the Franchisor (or any person firm or Franchisor nominated by the Franchisor) during business hours to inspect the said books of account and records and to take copies of them
- 11.1.3.2** without prejudice to any other rights which the Franchisor may have (including but not limited to termination of this agreement) reimburse the Franchisor for all reasonable costs incurred in

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conducting any inspection pursuant to clause 11.1.3.1 including (but without limiting the generality of the foregoing) travel, hotel, subsistence, salaries and fees incurred by the Franchisor if during such inspection a discrepancy is found between the reported Gross Revenues and actual Gross Revenues for any Trading Period

- 11.1.4** instruct a Chartered or Certified accountant to provide the Franchisor within 3 months from the end of each Accounting Reference Date a copy of Your annual accounts certified each year by such accountant
- 11.1.5** deliver to the Franchisor on the due date for their submission to HM Customs and Excise a copy of Your return relating to Value Added Tax and deliver to the Franchisor a copy of any assessment to Value Added Tax which may be raised by HM Customs and Excise in relation to the Business within 7 days of its receipt by You
- 11.1.6** provide such further information relating to the Business as the Franchisor may in its discretion think necessary to assist the Franchisor in the discharge of its duties or the enforcement of its rights under the provisions of this agreement including copies of personal bank statements
- 11.1.7** in the event of any default in the payment of any sum which may be due from You to the Franchisor pay to the Franchisor interest at the rate of 2% per month calculated on a day to day basis on the amount of any sums due but not paid after judgement as before judgement.

12. ADVERTISING MARKETING AND PROMOTIONS

- 12.1** the Franchisor agrees to conduct direct and indirect advertising marketing and promotion of the Trade Name
- 12.2** You must not conduct or carry on any advertising marketing or promotions whatsoever without the prior written consent of the Franchisor
- 12.3** You must expend the Advertising Spend in each Franchise Year in accordance with the Marketing Plan specified by the Franchisor for each Franchise Year

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- 12.4** You must co-operate with the Franchisor in any advertising campaign sales promotion or other special activity which the Franchisor may initiate except that You will not be obliged to participate in any marketing advertising research or promotional schemes involving the offer of reductions in Membership Fees to Members
- 12.5** The Franchisor reserves the right to advertise recommended Membership Fees and or selling prices for the Products and/or the Services in response to general and specific commercial considerations but You will not be obliged to participate in any scheme advertising recommended selling prices and are free to determine Your own pricing structure
- 12.6** You must not:-
- 12.6.1** without the prior written consent of the Franchisor set up any web-site in relation to the Business the Products the Services or to the Choices but must contribute such information and details as the Franchisor may require from time to time for the purposes of any web-site set up by the Franchisor;
 - 12.6.2** register, maintain, develop or operate any domain name or web site which makes any use of or contains any reference to any of the Trade Marks or the Trade Name or any part of any of them or anything confusingly similar to any of them;
 - 12.6.3** create or permit any linking to or framing of any other web site from any web site developed or maintained by the Franchisor without the express written consent of the Franchisor and then subject only to any terms and conditions which the Franchisor may impose;
 - 12.6.5** If the Franchisor provides consent under the provisions of this clause it will, nevertheless, be the absolute owner of any such domain name.
 - 12.6.6** You must not cause or allow the Trade Name or the Trade Marks or any of them, to be used or displayed, in whole or in part, as an Internet domain name, electronic mail or address, or in connection with any Internet home page, web-site or other Internet related activity without the prior written approval of the Franchisor and then only in such manner and in accordance with such procedures, standards and specifications as the Franchisor may establish.

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- 12.6.7** You must contract with an Internet service provider acceptable to the Franchisor to provide and maintain access for You to the Internet
- 12.6.8** You must advertise through methods as prescribed by the Franchisor in a form and content prescribed by the Franchisor from time to time as a pro rata participant in a common and/or group advertisement with such other franchisees.
- 12.6.9** You must comply with all Internet policies established from time to time by the Franchisor including the payment to the Franchisor of a monthly Internet maintenance fee in an amount which will be determined by the Franchisor from time to time, acting reasonably and representing a reasonable share of the costs of such service.

13. INSURANCE

- 13.1** You must take out and maintain, at Your expense and with an insurance Company approved by the Franchisor, keyman and other insurance cover against loss (including loss of profits) damage and other risks and in such minimum sums as would be prudent under the circumstances from time to time against all liability (including product liability) of the Franchisor and or You and or any supplier to You, to Your employees, customers and or to members of the public
- 13.2** The Franchisor will not incur any liability to You for recommending or not recommending any risks to be covered or minimum sums for which to be insured
- 13.3** You will use Your best endeavours to procure that the Franchisor's interest is noted on such policies and will furnish the Franchisor from time to time, on demand with copies of the policies and evidence that the then current premiums therefore have been paid
- 13.4** You will use Your best endeavours to arrange with its insurers that no policy will be terminated or cancelled for whatever reason unless 14 days notice of the insurer's intention has been given to the Franchisor
- 13.5** You must not do nor permit to be done anything whereby any insurance policy is rendered invalid void or unenforceable

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13.6 You must display an appropriate certificate of insurance in a public place at the Premises

14. TRADE MARKS

14.1 You must, when requested render to the Franchisor, at the Franchisor's expense, all reasonable assistance in obtaining registrations of the Trade Marks including the execution of any documentation which may be necessary to establish the Franchisor as the owner of the Trade Marks

14.2 You must take any action or refuse or decline to take any action which may result in harm to the Trade Marks or put their registrations or any applications for their registration at risk

14.3 You must immediately notify the Franchisor of all infringements or imitations of the Trade Marks the Trade Name or of any business which appears to or to be attempting to pass itself off as a Choices Franchisee which come to Your attention or any attempts to challenge Your right to use any of the Trade Marks or the Trade Name or to carry on the business as a Choices so long as this agreement subsists

14.4 The Franchisor will, upon receiving advice from specialist Counsel that it is likely to succeed, take such action against such infringement challenge and or imitation as it, in its sole discretion, considers appropriate and any rights which You may have under Section 30 of the Trade Marks Act 1994 are expressly excluded

14.5 You agree to provide such co-operation as the Franchisor may request in the prosecution of any such action including the provision of evidence and being named as a party to any legal proceedings

14.6 The Franchisor shall have the conduct of any such action and pay all legal expenses and costs which may arise from the joining of You as a party except such legal expenses and costs as You may incur by taking separate professional advice **PROVIDED THAT** the Franchisor will not be liable to pay Your legal expenses and costs as set out above if it becomes necessary for such action to be taken to protect the Trade Marks as a direct or indirect result of any default or act or omission on Your part in relation to the Intellectual Property

14.7 Without prejudice to any right You may have to challenge the validity of the Trade Marks or the Franchisor's ownership of any of them, You will not, without the prior written consent of the Franchisor, take any action of whatever nature based upon the Trade Marks the Trade Name

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or any common law rights which You are licensed to use or exercise pursuant to this agreement or any trade mark licence entered into between the parties

14.8 No warranty express or implied is hereby given by the Franchisor with respect to the validity of any of the Trade Marks

15. SALE OF BUSINESS

15.1 You do not have the right to assign this agreement nor to sell the whole or any part of the Business

15.2 The conditions which You are required to satisfy are as follows:-

15.2.1 You must as soon as possible submit by notice in writing to the Franchisor

15.2.1.1 a copy of each written offer received from any proposed purchaser to purchase the business from You which You proposes to accept and any variation of the terms offered

15.2.1.2 a financial statement of affairs and the business history of the proposed purchaser

15.2.1.3 details of any other terms which may have been agreed between You and the proposed purchaser and

15.2.1.4 a warranty to the effect that to the best of Your knowledge and belief, the information provided pursuant to this sub-clause is complete and accurate in all respects and that no information has been withheld, such warranty is to be effective not only on the date upon which it is given but must also be repeated at the time of any sale of the Assets by You

15.2.2 any proposed purchaser must be bona fide at arms-length and shall submit its offer in writing and in good faith together with a properly completed application form and must meet the Franchisor's standards with respect to business experience, probity, financial status, character, ability and compatibility with the Franchisor and its staff and must successfully complete a programme of initial training by the Franchisor

15.2.3 **15.2.3.1** the proposed purchaser may be required by the Franchisor execute a confidentiality undertaking or

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the New Franchise Agreement prior to entering into any training

- 15.2.3.2** You must not disclose any of the System or contents of the Operations Manual to any prospective purchaser and must ensure that no such prospective purchaser uses any of the Intellectual Property nor operates the whole or any part of the System without the express prior written consent of the Franchisor and You will ensure that if requested by the Franchisor any prospective purchaser shall sign a written confidentiality agreement in a form approved by the Franchisor
- 15.2.4** You shall pay to the Franchisor the Franchise Transfer Fee at the time of applying for consent and the Franchisor's legal costs in connection with Your application for consent and the grant of a New Franchise Agreement to the proposed purchaser
- 15.2.5** You must not, at the time of its application for consent, be in breach of any of your respective obligations to the Franchisor under the terms of this agreement or any other agreement with the Franchisor
- 15.2.6** the proposed purchaser and any individuals referred to in clause 15.2.8.1 must not be engaged or concerned or interested in any way in any business which is the same as or similar to or which carries on a business which competes with the Franchisor's Business
- 15.2.7** the Franchisor will need to be reasonably satisfied that the proposed purchaser has adequate financial resources, bearing in mind (amongst other things), the purchase price, to enable it to trade profitably and in so satisfying itself the Franchisor must not be taken to be making any representations or giving any warranties to such proposed purchaser or to You
- 15.2.8** if the proposed purchaser is a Franchisor the Franchisor will require to be satisfied that the individual or individuals who will have effective voting or de facto control of such Franchisor meets the criteria set out in clauses 15.2.2 and 15.2.6;

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- 15.2.9** the proposed purchaser must procure that its directors any individuals having de facto control of it and all shareholders shall join it (in the capacity of guarantors and or such other capacity as the Franchisor may require) in entering into the New Franchise Agreement and must execute a Guarantee and Indemnity in favour of the Franchisor
 - 15.2.10** payment must be made by You of all costs (including but not limited to the Franchise Transfer Fee) without any right of deduction or set-off and all Your obligations to the Franchisor and any nominated suppliers must be discharged in full
 - 15.2.11** You and the prospective purchaser must both be registered with H M Customs and Excise for VAT at the time of the sale of the Assets
- 15.5** Upon completion of these factors You shall each be deemed to have released the other from the terms of this agreement except for those provisions which by their nature or effect survive termination

16. DEATH OR INCAPACITY

- 16.1** IF You (being a natural person) die during the subsistence of this agreement:
- 16.1.1** Your Personal Representatives and any surviving Partner must together decide within a period of 3 months from the date of death of the deceased You whether they wish the Business to be carried on by a relative or beneficiary of the deceased You and any surviving You
 - 16.1.2** if it is so decided, then the said Personal Representatives must together with any surviving Partner give written notice of their intention, within the said period of 3 months, to the Franchisor giving the name or names (if that is the case) of such of Your relatives or beneficiaries and upon the Franchisor being satisfied that such individual or individuals would be acceptable by applying the criteria set out in clause 15, the Franchisor will not exercise its option contained in clause 15, but will consent to an assignment of this agreement to such individual or individuals and any surviving Partner, subject to their entering into direct covenants with the Franchisor to

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observe and perform the terms and conditions contained in this agreement

- 16.1.3** if the said Personal Representatives and any surviving Partner shall wish to sell the Assets, then the provisions of clause 15 will apply and if the Franchisor decides not to exercise its option referred to in clause 15 and a prospective purchaser acceptable to the Franchisor by the criteria set out in clause 15 is found the Assets may be sold to such purchaser within the period of 6 months from the date of Your death in accordance with the provisions contained in clause 15
- 16.1.4** if requested in writing by the said Personal Representatives and any surviving Partner, the Franchisor may (as soon as is reasonably practicable) provide a manager to manage the Business during the period of 3 months specified in clause 16.1.1
- 16.1.5** the Franchisor will be entitled to a fee for the provision of any such manager equal to:-
 - 16.1.5.1** the normal salary of the manager;
 - 16.1.5.2** the travelling accommodation and subsistence expenses of the manager; and
 - 16.1.5.3** 50% of the total of 16.1.5.1 and 16.1.5.2 plus Value Added Tax such fee to be paid at weekly intervals on the Tuesday of each week
- 16.1.6** the Franchisor may also (as soon as is reasonably practicable) if requested by the said Personal Representatives and any serving Partner provide such a manager for an additional period of up to 3 months upon the same terms and conditions so as to enable the Personal Representatives and any surviving Partner to arrange for the sale of the business
- 16.1.7** if there is any failure promptly to pay to the Franchisor any fee for the provision of the services of any manager, the Franchisor will be released from any obligation to continue to provide a manager but without prejudice to its claim for payment of any sum due but not paid
- 16.1.8** if the said Personal Representatives and any surviving Partner have not arranged to deal with the Business or to dispose of the Assets as provided in clause 16.1 within the relevant period

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referred to in clause 16.1 or intimate to the Franchisor that neither course will be adopted, the Franchisor will be entitled to withdraw the services of any manager and to terminate this agreement forthwith by notice in writing

16.2 If You are a corporate entity and any Guarantor dies during the subsistence of this agreement:-

16.2.1 You must decide, within a period of 3 months from the date of death of such Guarantor, whether a relative or beneficiary of such Guarantor should sign an agreement with the Franchisor substituting him/her for the deceased in the capacity of Guarantor under the terms of this agreement

16.2.1.1 if it is so decided, You must give written notice of it, within the said period of 3 months, to the Franchisor giving the name and address of such relative or beneficiary together with such other information as the Franchisor may require

16.2.1.2 on the Franchisor being satisfied that such individual would be acceptable as a Guarantor by the criteria set out in clause 15 which apply to a proposed purchaser of the Business, and provided that the Franchisor is satisfied as to the suitability of the other persons who will be Your shareholders, and with Your shareholding structure, and that such individual will have effective voting of or be in fact control of You, the Franchisor will not exercise its option referred to in clause 15 and will enter into an agreement with You any surviving Guarantor and such individual substituting him or her in the place of the deceased Guarantor as Guarantor under the terms of this agreement subject to such individual signing such agreement and executing a Guarantee and Indemnity in favour of the Franchisor

16.2.2 if You do not, within the said period of 3 months, produce an individual as Guarantor in accordance with and subject to the provisions of clause 16.2.1, then the provisions of clause 15 will apply and if the Franchisor decides not to exercise its option referred to in clause 15 and a Purchaser acceptable to

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the Franchisor by the criteria set out in clause 15 is found, the Assets may be sold to such purchaser within the period of 6 months from the date of the death of the deceased Guarantor in accordance with the provisions of clause 15

- 16.2.3** if requested in writing by You the Franchisor may (as soon as is reasonably practicable) provide a manager to manage the Business during the period of 3 months specified in clause 16.2.1
- 16.2.4** the Franchisor will be entitled to a fee for the provision of any such manager equal to:
- 16.2.4.1** the normal salary of the manager;
 - 16.2.4.2** the travelling accommodation and subsistence expenses of the manager; and
 - 16.2.4.3** 50% of the total of 16.2.4.1 and 16.2.4.2 plus Value Added Tax such to be paid at weekly intervals on the Tuesday of each week
- 16.2.5** the Franchisor may also (as soon as is reasonably practicable), if requested by You, provide such a manager for an additional period of up to 3 months upon the same terms and conditions so as to enable You to arrange a sale of the Assets
- 16.2.6** if there is any failure promptly to pay to the Franchisor any fee for the provision of the services of any manager, the Franchisor will be released from its obligations to continue to provide a manager but without prejudice to its claim for payment of any due sum but not paid
- 16.2.7** if You have not arranged a substitution for the deceased Guarantor within the said period of 3 months as provided in clause 16.2.1, or a sale of the Assets within the said period of 6 months as provided in clause 16.2.2 or intimate to the Franchisor that neither course will be adopted, the Franchisor will be entitled to withdraw the services of any manager and to terminate this agreement forthwith by notice in writing
- 16.2.8** You must, if requested by the Franchisor, do all such acts and things and shall execute all such deeds and documents as may be necessary to give effect to the provisions contained in this clause

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- 16.3** Any action taken by the Franchisor under the provisions of clauses 16.1 or 16.2 on the instructions or with the approval of any person or persons claiming to be Your Personal Representatives or deceased Guarantor within the meaning of this agreement, will be binding on and not under any circumstances be open to challenge by Your Executor(s) or that of the Guarantor, even if he or they were not a party or parties to it and by their signing this agreement You and the Guarantor (as may be appropriate) expressly bind your Executor(s) to ratify and confirm all actions by such person or persons under this agreement, and to indemnify and free and relieve the Franchisor of and from all liability and responsibility whatever in respect of such action as is referred to above
- 16.4** Any manager of the Business who is appointed pursuant to the provisions of clause 16.1 or 16.2 will act as the agent of the said Personal Representatives and any surviving Partner in the case of an appointment under sub-clause 16.1, or Your agent in the case of an appointment under clause 16.2
- 16.5** In the event of Your or any Guarantor's incapacity or unauthorised absence or that of any of Your directors, at any time, the Franchisor has the right to appoint personnel (at the cost of You) to supervise the conduct of the Business to ensure that the Business is operated in a satisfactory manner to preserve the goodwill associated with the Business and the System
- 16.6** If any such incapacity lasts for a continuous period of 60 days or a total period of 90 days in any period of 365 days, the Franchisor may require You to dispose of the Business whereupon the provisions of clause 15 of this agreement will apply

17. TERMINATION

- 17.1** IF at any time during the Initial Training it becomes apparent to the Franchisor that You do not meet the Franchisor's standards and requirements the Franchisor has the right upon, notice in writing, to terminate this agreement forthwith
- 17.2** Upon such termination the Franchisor will return to You any Initial Franchise Fee paid to the Franchisor less a deduction of such sum as is equal to 20% of the Initial Franchise Fee which sum will be deemed to be fully earned by the Franchisor

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- 17.3** It is a condition precedent for the return of the Initial Franchise Fee or any part of it that You or any Guarantor comply, so far as the same may be applicable, with the provisions of clause 18
- 17.4** The Franchisor may, without prejudice to any other rights or remedies available to it, terminate this agreement forthwith by notice in writing to You, upon a material breach of this agreement and the following shall be deemed to be a material breach but the list shall not be deemed to be exhaustive, and upon such termination all Your rights under this agreement will cease:
- 17.5.1** if You fail to commence the Business within the Commencement Period; or
 - 17.5.2** if You (being a natural person) has in its franchise application or supporting details provided the Franchisor with information which contains any false or misleading statements or omits any material fact which may make any statement misleading; or
 - 17.5.3** if notwithstanding the provisions of clause 14.10 You or any Connected Person challenge the Franchisor's ownership or the validity of any of the Intellectual Property or any other industrial or intellectual property rights of the Franchisor; or
 - 17.5.4** if You (being a natural person) become insolvent make any arrangement or composition with Your or his creditors or have a bankruptcy petition presented against You or him or have a receiver appointed of all or any part of Your or his assets or take any similar action in consequence of debt; or
 - 17.5.5** if there is an assignment or a purported assignment of this agreement otherwise than in accordance with the provisions of clause 16; or
 - 17.5.6** if there is a breach of any of the provisions of clauses 10.2 or 10.6.1; or
 - 17.5.7** if You (being a corporate entity) become insolvent enter into liquidation whether compulsorily or voluntarily or if You make any arrangement or composition with Your creditors or have a Receiver (including an Administrative Receiver) appointed of all or any part of Your assets or take any similar action in consequence of debt; or
 - 17.5.8** if You fail to comply with any Default Notice or are in Persistent Default; or

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17.6 Without prejudice to the generality of the provisions of clause 17.5 if the Franchisor, on reasonable grounds, suspects that any information concerning the Franchisor's business any of its franchisees, the System, this agreement or any part of it or particulars of any communication from the Franchisor to You and or to any Guarantor is being or has been communicated in any way to any third party or to any competitor of the Franchisor or any of its franchisees, by You or any of Your employees or any Guarantor or any of Your shareholders (if any) or any other person associated with You, or such employee, Guarantor or shareholder, then the Franchisor may forthwith without prejudice to any other rights or remedies available to it terminate this agreement and all Your rights under this agreement will thereupon cease

17.7 17.7.1 This agreement will without prejudice to any rights or remedies of the Franchisor automatically terminate immediately upon You taking any steps to cease or ceasing to be registered for VAT for whatsoever reason or if You fail to take any steps to prevent such event occurring; or

17.7.2 If this agreement is terminated pursuant to this sub-clause, the Franchisor will be entitled to claim damages as if termination has occurred by virtue of Your breach of the agreement

18. CONSEQUENCES OF TERMINATION

18.1 UPON Termination You must

18.1.1 immediately discontinue conducting the Business, using the Intellectual Property, advertising matter indicative of the Franchisor or of any association with the Franchisor or of the Business, or the Products or the Services

18.1.2 make or cause to be made such changes as the Franchisor shall reasonably direct, so as effectively to distinguish the Business from its former public and marketing image, and if within 30 days of such direction You fail or omit to make or cause to be made any change, then the Franchisor will have power (without incurring any liability to You), without the consent of You, except for the consent which You hereby irrevocably give for the purpose of making and to make or cause to be made any such change at Your expense, which expense You must pay on demand

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- 18.1.3** when demanded by the Franchisor, deliver up to the Franchisor at Your expense all stationery, literature and advertising matter and any other article bearing the name of the Franchisor or any Intellectual Property
- 18.1.4** return to the Franchisor, at Your expense, all items which may have been loaned to You by the Franchisor including the Operations Manual
- 18.1.5** forthwith pay to the Franchisor (without any deduction or right of set-off except where the Franchisor itself is in breach or where there exists an indisputable or acknowledged debt or credit owing to You by the Franchisor) all sums of money which may be due or owing from You to the Franchisor
- 18.1.6** forthwith prepare audited accounts of the Business for the period from the date when such accounts were last prepared up to and inclusive of the date of termination of this agreement and submit them to the Franchisor within 30 days from the date of Termination
- 18.1.7** cease using any e-mail address Internet domain name listing or registration relating to the Business the telephone lines and any other lines the numbers of which have been publicly associated with the Business and the Trade Name, and do all such acts and things including the signature of any document which may be necessary to ensure that the future use by the Franchisor is assured and if You shall fail to do so, the Franchisor is hereby irrevocably appointed Your agent, with full authority to give such notice to the relevant supplier of such communication services on Your behalf
- 18.1.8** cease the use of all material of whatever nature the copyright of which is vested in the Franchisor or where its continued use would in any way infringe the Franchisor's copyright
- 18.1.9** pay the Franchisor's legal costs incurred in obtaining legal advice and in the preparation and service of the termination notice and all disbursements reasonably and properly incurred in relation to it
- 18.1.10** **18.1.10.1** cease using any domain name incorporating any of the Trade Marks or the Trade Name or any part of any of them or anything confusingly similar to any of them and You must,

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at Your expense, do every act or thing necessary to ensure the full and unrestricted use and ownership of any such domain name by the Franchisor

18.1.10.2 cease using any or all of the Trade Marks, colour combinations, designs, symbols, or slogans, any and all domain names, electronic mail addresses and Internet websites that display or use the Trade Marks or any such specific colour, combinations, designs, symbols or slogans and acknowledge that You have no further rights in any of them.

18.1.10.3 immediately cease to represent Yourself as a franchisee of the Franchisor and discontinue the use of the Trade Marks and specific colour combinations, designs, symbols, or slogans of the Trade Marks, any and all domain names, electronic mail addresses and Internet websites that display or use the Trade Marks or any such specific colour combinations, designs, symbols or slogans, in any form or imitation.;

18.1.10.4 immediately make available to the Franchisor copies of all Your past and current sales leads and records and all documents related to Your past and future operations that may exist including mail receiving agreements and all data and information relating to the foregoing stored in or retrieved or generated from computer or electronic system

18.2 The Franchisor agrees to pay to You all sums properly due to You under clause 10.3 within 30 days from the date of Termination subject to Your having fully complied with all Your obligations under this agreement and any other agreement You may have with the Franchisor

18.3 Upon Termination other than by reason of the sale of the Assets as permitted by this agreement or the effluxion of time and the grant of a New Franchise Agreement to You by the Franchisor pursuant to clause 4, the Franchisor will have the option to purchase the Assets upon the Purchase Terms

18.4 Upon Termination neither You nor any Guarantor must

18.4.1.1 for a period of 1 year after Termination be directly or indirectly engaged concerned or interested in any

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capacity whatsoever (except as the holder of not more than 5% of the shares in any Franchisor whose shares are listed or dealt in on The Stock Exchange) in any business which provides any products or services which are the same as or similar to any of the Products or Services anywhere in the Territory; or

18.4.2 for a period of 5 years after Termination be directly or indirectly engaged concerned or interested in any business which is conducted within any area in the United Kingdom

18.4.2.1 if it would compete with any Choices conducted or intended to be conducted by:-

- (a) any other franchisee or prospective franchisee of the Franchisor; or
- (b) the Franchisor itself; or

18.4.2.2 where a Choices is conducted or intended to be conducted by:-

- (a) any franchisee or prospective franchisee of the Franchisor; or
- (b) by the Franchisor itself

if in any such case (referred to in clause 18.3.2.2 (a) or 18.3.2.2(b)) You shall have sold the Products and or provided the Services to customers whose place of business or residence is within such area

18.4.3 for the period of 1 year after Termination for the purpose of selling any products or services which are the same as or similar to any of the Products or the Services directly or indirectly solicit or tout for business from any person who was during the period of 1 year prior to Termination a customer of or in the habit of dealing with the Business

18.4.4 without prejudice to the foregoing provisions at any time after Termination be directly or indirectly engaged concerned or interested in a business which utilises the System or any significant part of it whilst the same remains confidential nor use the Trade Name or the Trade Marks or any name or mark likely to be confused with it

18.5 The parties agree that each of the covenants set out in clause 18.4 is separate and severable and enforceable accordingly, and, whilst the

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restrictions contained in such covenants are considered by the parties to be reasonable in all the circumstances at present, it is acknowledged that restrictions of this nature may be invalid because of changing circumstances or other unforeseen reasons, and accordingly if any of the restrictions shall be adjudged to be void or ineffective for whatever reason, but would be adjudged to be valid and effective if part of its wording were deleted, or its period reduced, or its area reduced in scope, it shall then apply with such modifications as may be necessary to make it valid and effective

- 18.6** Termination shall be without prejudice to the accrued rights of the parties and any provision of this agreement which relates to or governs the acts of the parties to this agreement subject to Termination shall remain in full force and effect and shall be enforceable notwithstanding Termination
- 18.7** If you continue to operate the Business after Termination without previously having entered into another franchise agreement with the Franchisor as envisaged in clause 4, You shall be deemed to be operating as a franchisee and will be subject to the terms of this agreement except that the Franchisor may terminate the franchise at will by giving You 1 months written notice.

19. WAIVER

- 19.1** You agree that except for any agreements entered into in writing between the parties to this agreement; this agreement contains the entire agreement between the parties
- 19.2 19.2.1** You acknowledge that You have been told that if there are any representations warranties inducements or promises which You consider have been made to You which have induced You to enter into this agreement, You are obliged to submit a written statement of them to the Franchisor so that an agreed form of such statement may be annexed to and form part of this agreement.
- 19.2.2** In the absence of such written annexure, You shall be deemed not to have relied upon any representation warranty inducement or promise made or given or purportedly made or given by the Franchisor

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- 19.3** No failure of the Franchisor to exercise any power given to it under this agreement, or to insist upon strict compliance by You with any obligation under this agreement and no custom or practice of the parties at variance with the terms of this agreement, will constitute any waiver of any of the Franchisor's rights under this agreement
- 19.4** All rights and remedies of the Franchisor under this agreement are cumulative and may be exercised successively or concurrently and a waiver by the Franchisor of any particular default by You, will not affect or impair the Franchisor's rights in respect of any subsequent default of any kind by You, nor will any delay or omission of the Franchisor to exercise any rights arising from any default by You, affect or impair the Franchisor's rights in respect of such default or any other default of any kind

20. SEVERABILITY

- 20.1** IF any term or provision or any part of any of it contained in this agreement shall be declared or become unenforceable invalid or illegal for any reason whatsoever, including but without derogating from the generality of the foregoing, a decision by any competent domestic court, the European Court of Justice the Commission of the European Union, an Act of Parliament, European Union legislation or any statutory or other bye-laws or regulations or any other requirements having the force of law, the other terms and provisions of this agreement shall remain in full force and effect as if this agreement had been executed without the Offending Provision appearing in this agreement
- 20.2** If the exclusion of any Offending Provision adversely affects the Franchisor's right to receive payment of fees or remuneration by whatever means payable to the Franchisor (including but without prejudice to the generality of the foregoing the Franchisor's right exclusively to supply You with the Products and/or services) or materially adversely affects any of the Intellectual Property then the Franchisor will have the right to terminate this agreement upon 30 days' notice in writing to You **PROVIDED** however that:
- 20.2.1** before the service of such notice the Franchisor and You will use their best efforts, by good faith discussions, to agree within a period of 60 days from the date when the Franchisor initiates such discussion process (time shall be of the essence for this

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purpose) upon alternative enforceable provisions which will have the same practical effect for the Franchisor as the Offending Provision and

20.2.2 upon any agreement having been reached, the new provisions will be incorporated into this agreement and the Franchisor will not be entitled to terminate this agreement under the provisions of this clause by reason of that particular event

20.3 If this agreement is subject to notification under the Competition Act, 1998 by reason of any provision of this agreement or by reason of any agreement or

arrangement of which this agreement forms a part, then, unless it's a non-notifiable agreement as defined in that Act the following will apply:

20.3.1 any provision of this agreement by virtue of which it is subject to notification under the said Act will not take effect until the day after that on which this agreement and other relevant particulars of such agreement or arrangement will have been delivered by either party to the appropriate authorities in accordance with the provisions of that Act

20.3.2 the parties will use their respective best efforts to comply with the requirements of such Act relating to the delivery of such particulars

20.4 Notwithstanding any other provisions of this agreement, if it appears to the Franchisor that this agreement or any part of it infringes or may infringe Article 81 of the EC Treaty or if the Franchisor wishes any European Commission's Category Exemption regulation to apply to this agreement (including, but not limited to Regulation 2790/1999 of 22 December 1999) and deems it necessary or desirable to amend the terms and conditions of this agreement, so as to make it conform with provisions the of the said Article 81 and or the requirements of such regulation it shall notify such amendments in writing to You whereupon within 28 days following such notification such amendments shall be incorporated into this agreement as if they had been expressly agreed between the Franchisor and You

21. ACKNOWLEDGEMENTS AND WARRANTY

21.1 You acknowledge that the Franchisor in giving advice to and assisting You in establishing the Business (including, but without prejudice to the

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generality of the foregoing, advising on venue selection and financial and or profit projections and the assessment of Your suitability is not making or giving any representations guarantees or warranties

- 21.2** You acknowledge You have been advised by the Franchisor to discuss Your intention to enter into this agreement with other franchisees (if any) of the Franchisor and that You must decide on the basis of Your own judgement of what You have been told by the Franchisor or such other franchisees whether or not to enter into this agreement
- 21.3** You further acknowledge that the business venture contemplated by this agreement involves business risks and that Your success will be affected by Your business ability and commitment
- 21.4** You acknowledge that you have been advised by the Franchisor to obtain independent legal advice before signing this agreement and that you are fully aware of all of the provisions of it and accept that the provisions of this agreement are fair and reasonable in all the circumstances known to or in the contemplation of each of you as at the date of this agreement
- 21.5** You hereby warrant that, prior to the signing of this agreement or any other Choices franchise agreement, you had no knowledge of the Choices method/knowhow or how to operate a business which is the same as or similar to the Choices or how to conduct the Choices or of the Franchisor's trade secrets know-how methods or the System other than any knowledge gained by virtue of its association with the Franchisor prior to the date of this agreement

22. NO WARRANTIES WITHOUT AUTHORITY AND INDEMNITY

- 22.1** You must not make any statement, representation, or claims and must give no warranties to any customer or prospective customer in respect of the Products sold by You or the Services or the System or any of them except such as are implied by law, or may have been specifically authorised by the Franchisor, such authority to be given either in writing or in the Operations Manual in its form current at the time of the making by You of such statement representation claim or the giving by You of such warranty
- 22.2** You hereby undertake with the Franchisor to keep it fully and effectually indemnified against all claims demands losses expenses and

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Franchise Agreement

costs which the Franchisor may incur as a result of any breach by You of this provision or of any other provision contained in this agreement

23. DATA PROTECTION

- 23.1** The Franchisee agrees that it will in relation to personal data processed in connection with this Agreement (“Franchise Data”) process the Franchise Data in accordance with the Data Protection Act 1998 (“1998 Act”) and any other applicable data protection legislation.
- 23.2** The Franchisor grants the Franchisee an exclusive revocable royalty free licence for the Term to process the Franchise Data and maintain it in a database. Such licence will automatically terminate on termination of this Agreement unless the licence is transferred subject to prior written consent of the Franchisor to a new Franchisee approved by the Franchisor.
- 23.3** The Franchisee shall indemnify the Franchisor against all claims and proceedings and all liability, loss, cost, and expenses incurred in connection therewith incurred by the Franchisor as a result of any loss, damage, or distress caused to that individual or other legal person as a result of the Franchisee’s unauthorised processing, unlawful processing, destruction of and/or damage to any Franchise Data processed by the Franchisee, its agents, or employees.

24. ASSIGNMENT BY FRANCHISOR

- 24.1** **THE** Franchisor may assign or otherwise deal with the benefit and burden of the whole or any part of this agreement, without any consent from You, and in the case of an assignment, if it procures that the assignee enters into a direct covenant with You to observe and perform all the Franchisor’s obligations contained in this agreement after such assignment, the Franchisor will be released and discharged from all its obligations under this agreement

25. OTHER PROVISIONS

- 25.1** For the avoidance of doubt You hereby acknowledge that You have no claim to any copyright in the Operations Manual and that all goodwill associated with or arising from the use of the and Intellectual Property will at all times inure to the benefit of, belong to, and be vested in, the Franchisor and that You only have the right to benefit from such goodwill to the extent and upon the terms provided by this agreement
- 25.2** In the event of any dispute the authentic text of the Operations Manual shall be the copy kept as such by the Franchisor at its Head Office
- 25.3** The Operations Manual shall at all times remain the property of the Franchisor
- 25.4** **25.4.1** where in this agreement there is reference to any matter to be specified by the Franchisor, notice of such specified requirements may be communicated by way of amendment or addition to the Operations Manual
- 25.4.2** the Franchisor has the right to amend the Operations Manual from time to time and You must accept and incorporate such amendments into the copy of the Operations Manual in Your possession with effect from the Franchisor's notification of such amendments to You
- 25.4.3** The Franchisor may transmit the Operations Manual and any amendments by electronic mail, internet or other electronic means. The Operations Manual, including all new pages and all superseded pages, all electronic copies (including disks, CD-ROM's or other copies stored by electronic means), and all information stored in or retrieved or generated from electronic or computer systems will be and remain the property of The Franchisor.
- 25.5** Where in this agreement there is a duty imposed on You to send money reports or information to the Franchisor by a certain day which for any reason (including but not limited to strikes or non-collection of post) You cannot perform, You are under an obligation to ensure that such money reports or information are received by the Franchisor not later than during the second day after the day upon which such dispatch, remittance, transmission etc. could have taken place

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Franchise Agreement

- 25.6** All sums payable to the Franchisor under or in connection with this agreement are quoted exclusive of VAT. and You must in addition to any such sums pay to the Franchisor VAT where applicable at the appropriate rate
- 25.7** The Operations Manuals forms a part of this agreement and if there is any conflict between the provisions of the Operations Manual and this agreement, the provisions of this agreement will prevail
- 25.8 25.8.1** any notice required to be given under the agreement by the Franchisor may be delivered personally or by sending it by first class prepaid post, if to You, at the Premises
- 25.8.2** any notice required to be given by You may be given by leaving the same with the Franchisor's Franchisor secretary at or by posting it by first class prepaid post to the Franchisor's then registered office.
- 25.8.3** Where a notice is sent by post under the provisions of this clause, service will be deemed to have been effected at the expiration of 72 hours (excluding bank holidays) after the same was posted whether or not it has been received
- 25.9** The parties to this agreement hereby warrant to each other that they have the power and authority to sign this agreement and any other document relating to any transaction contemplated by this agreement in the capacity in which they have signed this agreement
- 25.10** The clause headings to this agreement are solely for ease of reference and this agreement must not be construed by reference to them
- 25.11 25.11.1** It is hereby expressly agreed amongst the parties to this agreement that having regard to the recitals and other provisions of this agreement, each of the restrictive covenants contained in this agreement and in each clause and sub-clause of it, is reasonably necessary for the protection of the Franchisor, the Intellectual Property, and the other franchisees of the Franchisor and does not unreasonably interfere with your freedom of action
- 25.11.2** The parties agree that any such provisions shall be deemed to be altered and amended to the extent necessary to effect such validity and enforceability.
- 25.12 25.12.1** You acknowledge that the provisions in this agreement relating to the limits on Your right to make deductions or set offs (to

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Franchise Agreement

which it may claim to be entitled) against payment of any sums fees or contributions due from You to the Franchisor are fair and reasonable

- 25.13** This agreement must not be construed against the party preparing it, and must be construed without regard to the identity of the person who drafted it or the party who caused it to be drafted and must be construed as if all parties had jointly prepared the agreement and it must be deemed their joint work product, (except that copyright in it will remain vested in the Franchisor or its solicitors as the case may be), and each and every provision of this agreement must be construed as though all the parties to it participated equal in its drafting; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party will not apply
- 25.14** This agreement shall remain in full force and effect notwithstanding the adoption by the United Kingdom of the euro
- 25.15** The parties to this agreement agree that any of the obligations of the Franchisor may be performed by an Affiliate
- 25.16** If any exclusion of liability for negligent misrepresentation in this agreement fails the test of reasonableness applicable to such an exclusion, then liability for negligent misrepresentation will not be excluded
- 25.17** The parties do not intend any of the terms of this agreement to be enforceable by any third party pursuant to the provisions of the Contracts (Rights of Third Parties) Act 1999

AS WITNESS the hands of the parties hereto the day and year first before written



Franchise Agreement

THE FIRST SCHEDULE

START-UP PACKAGE

1. Use of the name/brand
2. Dedicated internet based IT (AN ADDITIONAL LICENSE FEE OF £30 PER MONTH PER USER APPLIES this charge is subject to change with 30 days notice)
3. Training
4. Support
5. Website
6. Access to proven knowhow