

**EXHIBIT B TO THE  
AUSSIE PET MOBILE, INC.  
OFFERING CIRCULAR**

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**FRANCHISE AGREEMENT WITH SCHEDULES**

**AUSSIE PET MOBILE, INC.**

**FRANCHISE AGREEMENT**

\_\_\_\_\_  
Franchisee

\_\_\_\_\_

\_\_\_\_\_  
Location

\_\_\_\_\_  
Date of Agreement

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**AUSSIE PET MOBILE®  
FRANCHISE AGREEMENT**

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

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

**PARTIES:** Aussie Pet Mobile, Inc., a California corporation  
("Franchisor", "we," "us" or "our"); and

\_\_\_\_\_  
("Franchisee," "you" or "your")

doing business as Aussie Pet Mobile® \_\_\_\_\_; and

\_\_\_\_\_  
("Guarantor").

**THE PARTIES AGREE** as follows:

**1. BUSINESS BACKGROUND AND PRELIMINARY AGREEMENTS**

**1.1 The Aussie Pet Mobile® System.** We have developed methods of marketing and operating mobile businesses providing pet grooming services, including a distinctive system for promoting, advertising, managing and selling such businesses, as well as for marketing and supporting franchisees operating such businesses. We have made a strategic decision to use franchising to create brand identity, maximize market penetration and achieve and maintain a competitive edge for our brand. Aussie Pet Mobile® Franchise Businesses use certain proprietary knowledge, procedures, formats, systems, printed materials, applications, specifications, standards and techniques authorized or developed by us and feature distinctive signs, brochures, contracts and related forms, formats, procedures and advertising (the Aussie Pet Mobile® "System"). We identify Aussie Pet Mobile® Franchise Businesses and various components of the System by certain trademarks, service marks, designs, trade dress and other commercial symbols, including "Aussie Pet Mobile®". We may, in the future, develop or modify various aspects of the Aussie Pet Mobile® System and/or discontinue the Marks as well as add new trademarks and/or trade dress.

**1.2 Acknowledgments.** We are presenting this Agreement to you because you expressed the desire to operate one or more Aussie Pet Mobile® Franchise Businesses. You understand and agree that the terms of this Agreement are reasonable and necessary to maintain our high quality and uniform service standards at each Aussie Pet Mobile® Franchise Business, thereby, preserving the goodwill of the Marks and the Aussie Pet Mobile® System. By signing this Agreement, you acknowledge: (a) the importance of operating each of your Aussie Pet Mobile® Franchise Businesses in strict conformity with our standards; (b) that you recognize that the Aussie Pet Mobile® System may change over time as we specify and that you will be required to conform with such changes; and (c) that the purchase of one or more Aussie Pet Mobile® Franchise Businesses involves business risks, and that the success of each of your Aussie Pet Mobile® Franchise Businesses is not guaranteed, is dependent on your business abilities

and efforts, including your, diligent and thorough knowledge and application of the Aussie Pet Mobile® System.

**1.3 No Representations or Guarantees.** You specifically acknowledge that you have not received or relied on (nor have we or anyone else provided) any statements, promises or representations that you will succeed in any of your Aussie Pet Mobile Franchise Businesses; achieve any particular sales, income or other levels of performance; earn any particular amount, including any amount in excess of your initial Franchise Fee or other payments to us; or receive any rights, goods, or services not expressly set forth in this Agreement. Any statements regarding actual, potential or probable revenues or profits of any Aussie Pet Mobile® Franchise Business not contained in our Franchise Offering Circular is unauthorized, unwarranted and unreliable, we will not be responsible for it and it should be reported to us immediately. If there are any exceptions to any of your acknowledgments in Sections 1.2 and/or 1.3, you will: (a) immediately notify our Chief Executive Officer; and (b) note such exceptions by attaching a statement of exceptions to this Agreement prior to signing it. Any such statement which is signed by you and us will become a part of this Agreement.

## **2. DEFINITIONS**

To simplify this Agreement and make it easier to read and understand, we have defined certain terms used in this Agreement. When you see a capitalized word, or if you do not understand the meaning of a particular pronoun reference, look below at this Section to see whether the term has been defined. Capitalized words that are not defined in this Section are defined in the section where they first appear.

**"Affiliate"** - Any person or entity which controls, is controlled by or is under common control with another person or entity; as to the Franchisee, any owner of any interest in the Franchisee, any employee or agent of the Franchisee, and/or independent contractor performing functions for or on behalf of the Franchisee, and any entity controlled by any of the foregoing.

**"Agreement"** - This Franchise Agreement.

**"Approved Name"** - The name under which the Franchisee shall conduct the Franchise Business as consented to by us under this Agreement.

**"Business Day"** - A day on which banks are open to the public for transacting business.

**"Business Entity"** - Includes a corporation, partnership, joint venture, limited liability company, limited partnership, or other form of business recognized in any jurisdiction. If you are a Business Entity, then we can require each of your owners in our Business Judgment to guaranty your performance. Our current form of Owners Guaranty is attached as the Eighth Schedule to this Franchise Agreement.

**"Business Judgment"** - Means that we are allowed to exercise our judgment however we consider appropriate in our sole and absolute discretion, except that we will not do so arbitrarily. You and we agree that provisions in this Agreement where we describe instances in which we may exercise our Business Judgment, we must and do have the unrestricted right to make decisions and/or take (or refrain from taking) actions, except that we will not do so arbitrarily. We have this right even if a particular decision/action may have negative consequences for you, a particular individual or group. You



understand and agree that the exercise of Business Judgment is critical to our role as Franchisor and to our goals for its continuing improvement. This is a defined term for purposes of ease and clarity in this Agreement and is not intended and should not be construed to incorporate principles related to the application of the business judgment rule in a corporate law context.

**"Commencement Date"** - The date specified on Page 1 of this Agreement as the first day of the Term.

**"Confidential Information"** - All information used or useable (current or future) in connection with the operation of each Aussie Pet Mobile® Franchise Business or which relates to the System, including, among other things, all: (1) techniques, policies, procedures, information, systems, and knowledge regarding the development, marketing, operation and franchising of Aussie Pet Mobile® Franchise Businesses (2) information regarding, and suppliers of, items used and/or offered by Aussie Pet Mobile® Franchise Businesses, including the Products and Services and (3) all information regarding customers and/or Franchisees, including any statistical and/or financial information and all lists and (4) any trade secrets, including the Customized Vehicle and Designated Equipment, and the Hydrobath, which constitute and/or contain trade secrets of Aussie Pet Mobile, Inc. Of course, the Confidential Information includes all Manuals and their contents, as well as all materials, information, and advice provided by us during training or thereafter. Confidential Information does not include: information that (a) is or becomes generally available to the public, except as a result of a breach of this Agreement; (b) becomes available to you from a source other than us, except where such source has breached a legal obligation of confidentiality; (c) is developed by you without reliance on any Confidential Information, except that where such developed information is applicable to the operation or otherwise of an Aussie Pet Mobile® Franchise Business, it will become part of the Confidential Information.

**"Customized Vehicle"** - A Sprinter Van, or such other vehicle as we shall designate in writing from time to time, customized by the installation of the Designated Equipment Package and decorated with our trade dress.

**"Designated Equipment"** - Equipment that meets our requirements and which must be obtained and used in the operation of each Aussie Pet Mobile® Franchise Business. Designated Equipment includes (among other things) the Aussie Pet Mobile® Customized Vehicle, Hydrobath and related items. (See the Fourth Schedule attached to this Agreement).

**"Designated Equipment Package"** - The Designated Equipment that you will acquire prior to the opening of any Franchise as described in Schedule 4 attached hereto.

**"Face-to-Face Meeting"** - A meeting in which all of the disputants are physically present at the same time and place, and does not include teleconferencing or any other electronic form of communication.

**"Franchise"** - The right or license to operate one, 2, 3 or 6 Aussie Pet Mobile® Franchise Businesses as specified in and under the terms of this Agreement.

**"Franchise Business"** - The Aussie Pet Mobile® business operations conducted by, at or in connection with each Designated Equipment Package in your Bronze, Silver, Gold or Platinum Protected Area(s) as described on the appropriate Schedule attached to this Agreement.

**"Franchise Fee"** - A single amount paid for the award of a Franchise.

**"Franchisor-Related Persons/Entities"** - Aussie Pet Mobile, Inc., Aussie Pet Mobile International, Inc., each Aussie Pet Mobile® marketing and/or advertising fund, each Franchisee Advisory Council ("FAC"), Franchisee Marketing Group ("FMG"), (and their members) and each and all of the following, whether past, current and/or future: Each and all company(ies) and/or person(s) acting through, in concert, affiliated and/or associated in any way with, any of the foregoing, each and all of the partners, shareholders, officers, directors, agents, attorneys, accountants, and/or employees of any of the foregoing (including, but not limited to, Ian W. Moses and/or Vivienne McIntosh), as well as each and all of the successors and/or assigns of any of the foregoing.

**"General Release"** - A General Release, in form prescribed by us, of any and all claims, liabilities and/or obligations, of any nature whatsoever, including those arising between the date of this Agreement and the date of any such release, however arising, known or unknown, whether against us and/or any or all of the Franchisor-Related Persons/Entities. A copy of our general releasing language as currently used by us is attached as the Third Schedule and is approved by you.

**"Good Standing"** - You are in "Good Standing" if you (and each of your owners and Affiliates) are not in default of any obligation to us and/or any of the Franchisor-Related Persons/Entities, whether arising under this Agreement or any other agreement between you (and each of your owners and Affiliates) and us (and/or any of the Franchisor-Related Persons/Entities), the Manuals or other System requirements (collectively, the "Obligations"); provided that you are not in Good Standing if you have been in default of any Obligations and such defaults are incurable by nature and/or part of a series of Repeated or Cross Defaults as defined in this Agreement.

**"Gross Volume"** - Gross Volume includes all charges and/or revenues which are, or could be, received or earned by you (and/or any Affiliate):

- A) by, at or in connection with your Aussie Pet Mobile Franchise Businesses;
- B) relating to the kinds of goods or services available now or in the future through a Aussie Pet Mobile Franchise Business and/or distributed in association with the Marks or the Aussie Pet Mobile Franchise Business;
- C) relating to the operation of any Similar Business; and/or
- D) with respect to any co-branding activities.

All sales and/or billings, whether collected or not, will be included in Gross Volume, with no deduction for credit card or other charges. Gross Volume does not include customer refunds.

**"Guarantor"** - The person or persons named on page 1 of this Agreement.

**"Hydrobath"** - Our proprietary heated Hydrobath and bathing system.

**"Intellectual Property"** - All registered and unregistered copyrights, Marks, Trade Dress and/or Trade Secrets, patents (including, without limitation, patents, patent applications and/or items which may be the subject of patent applications), the design and operation of the Designated Equipment, processes and corporate names, developed by the Company, as well as any secret process or Confidential Information, which is designated by us, from time-to-time and in our reasonable discretion, for use with the System.

**"Image"** - A specific style and appearance created by us to identify the System and includes names, Marks, color schemes and designs as well as identification badges, uniforms and stationery.

**"Input"** - When we refer to input (or use a similar word or phrase) from Franchisee bodies or otherwise (for example, FAC or FMG input), that means that the designated Franchisee body will provide advice and suggestions regarding specified matters, but we will retain the ultimate decision-making authority and responsibility for all such matters and such Franchisee body input will not be binding on us nor will Franchisee body approval or consent be required.

**"Manuals"** - Written, video, audio and/or software media (including materials distributed electronically), regardless of title, containing specifications, standards, policies and procedures prescribed by us from time-to-time, and subject to changes in our Business Judgment, and to be followed by you in the operation of each of your Aussie Pet Mobile® Franchise Businesses and your performance under this Agreement, including (but not limited to) all goods and services to be sold and/or provided at or from an Aussie Pet Mobile® Franchise Business and/or in association with the Marks.

**"Marks"** - The trademarks, service marks and other commercial symbols and designs now and/or in the future owned by (or licensed to) us to identify the services and/or products offered by Aussie Pet Mobile® Franchise Businesses, including (but not limited to) "Aussie Pet Mobile®", the Trade Dress and other logos, slogans and identifiers designated by us from time to time.

**"Month"** - A calendar month.

**"Products" and "Services"** - Goods, products and services, including without limitation the Customized Vehicle and Hydrobath, designated by us from time to time for use, sale or otherwise provided and/or used at and/or from each of your Aussie Pet Mobile® Franchise Businesses and/or in association with the Marks.

**"Protected Area"** - The geographic area typically representing approximately 40,000 to 50,000 in population that is defined on the attached Protected Area Schedule or Development Schedule by a zip code or group of zip codes wherein you are authorized to operate a single Aussie Pet Mobile® Franchise Business. The Protected Area population may vary depending upon the characteristics related to the particular Protected Area in our Business Judgment. Should boundaries of any zip code designated on the Protected Area Schedule change due to political re-districting, or other such action, your Protected Area will be deemed the same geographic boundaries as those designated for that zip code on the Commencement Date of this Agreement.

**"Royalty"** - The periodic fee(s) payable by you to us for each of your Franchise Businesses pursuant to the terms of this Agreement.

**"Similar Business"** - Any enterprise or entity that offers or is otherwise involved in or deals with any goods, products and/or services which are substantially similar to those goods, products and/or services now or in the future authorized by us for sale at or from each of your Aussie Pet Mobile® Franchise Businesses, including any such enterprise or entity awarding franchises or licenses to operate or be involved with any such business. Our receipt of any royalties with respect to any Similar Business is not an approval of your involvement with any Similar Business.

**"Sprinter Van"** - A Mercedes Sprinter Cargo Van including the following features: 2500 Cargo Van, 140 inch wheelbase (HIGH ROOF), powered by a Mercedes-Benz 2.7L Turbo Diesel Engine, five-speed transmission, headliner heating and air conditioning system, compressor mounting kit, 150 amp alternator, high idle sensor, parabolic side mirrors, cargo partition with window, windows all around, Mercedes upgrade logo package, 12 volt ceiling vent, insulated and finished ceiling, paneled and insulated walls and finished floor.

**"System"** - The distinctive format and method of marketing and operating mobile pet grooming services developed and/or used in the operation of each Aussie Pet Mobile Franchise Business and subject to change by us in our Business Judgment.

**"Term"** - The period set out in Section 3.

**"Trade Dress"** - The Aussie Pet Mobile® design and Image authorized and owned by us for Aussie Pet Mobile® Franchise Businesses subject to change by us in our Business Judgment.

### **3. AWARD OF FRANCHISE; TERM**

A. We are pleased to award you a Franchise to operate an Aussie Pet Mobile® Franchise Business within each of the Protected Areas as per the attached Protected Area or Development Schedule and to use the Marks and System, in the operation of each of your Aussie Pet Mobile Franchise Business(es). If you are a **Silver, Gold or Platinum Program** participant, you agree to purchase and open (and maintain as fully open for business for the duration of this Agreement) the number of Aussie Pet Mobile Franchise Businesses, in the Protected Area designated for each and no later than the dates as per the Development Schedule.

B. If this Agreement is with a new Franchise, the Franchise is awarded for an initial term of ten (10) years from the Commencement Date on page 1. If you are acquiring an existing Aussie Pet Mobile® Franchise Business, the initial term shall be no longer than the then remaining term of the Aussie Pet Mobile® Franchise Agreement which relates to the Franchise Business you acquired. This Agreement is subject to the award of two successor Franchises as set forth elsewhere in this Agreement, however, after the award of two successor Franchises, additional successor Franchises will be awarded in our Business Judgment. The term of any successor Franchise awarded to you will be governed by the successor provisions of the franchise agreement under which you operated during your initial term even though then-expired.

C. **Full Performance.** You will perform your obligations under this Agreement honestly and continuously exert your best efforts to promote and enhance each of your Aussie Pet Mobile® Franchise Businesses, and maximize business volume. You will not engage in any other business or activity that may conflict with your obligations under this Agreement or reduce the Gross Volume of any of your Aussie Pet Mobile® Franchise Businesses. The Franchise awarded to you by this Agreement is to operate each of your Aussie Pet Mobile® Franchise Businesses and to use the Marks and the System only for purposes of conducting such business in accordance with the provisions of this Agreement, the Manuals or as otherwise communicated to you from time to time. You will not (without our prior written consent) operate an Aussie Pet Mobile® Franchise Business or any Similar Business at any location, or servicing customers, outside the Protected Areas designated on your Protected Area Schedule. You must not, without our prior consent: (a) use the System, Marks or Designated Equipment at any other

location or for any purpose other than to conduct each of your Aussie Pet Mobile® Franchise Businesses; or (b) conduct any activities in connection with the Designated Equipment other than the operation of each of your Aussie Pet Mobile® Franchise Businesses.

D. **Importance of Uniformity.** You acknowledge that every detail of each of your Aussie Pet Mobile® Franchise Businesses is important—not only to you, but to us and to all Aussie Pet Mobile® Franchisees and associates—in order to: (a) develop and maintain the value of the Marks and quality and uniform operating standards; (b) increase the demand for the Products and Services; and (c) establish and maintain a reputation for operating uniform and high quality mobile pet grooming businesses exemplifying high client servicing standards and ethical business practices. You agree to operate each of your Aussie Pet Mobile® Franchise Businesses in accordance with Aussie Pet Mobile® System Standards as modified by us from time to time, in our Business Judgment. Without this commitment by you, we would be unwilling to award you this Franchise.

#### 4. **PROTECTED AREA**

4.1 **Protected Area.** You and we understand and agree that under this Agreement we are awarding you a Franchise to operate within one or more certain Protected Areas defined in advance, but are *not* awarding you rights to operate more than one Franchise Business in each such Protected Area. Subject to our rights as set forth in this Agreement and as long as you remain in Good Standing, we will not award an Aussie Pet Mobile® Franchise or open a Franchisor-owned Franchise Business within the Protected Area(s) (as defined on your Protected Area or Development Schedule). Your rights in the Protected Area(s) are exactly (and only) as expressly set forth in this Agreement. The Franchise does not include a grant to you of any rights with respect to other and/or related businesses, products and/or services, in which we or any Franchisor Related Persons/Entities may be involved, now or in the future.

We and any Franchisor Related Persons/Entities expressly reserve all other rights, including among them the rights to:

(1) sell or otherwise distribute any products or services anywhere, whether at wholesale, retail or otherwise and whether or not using the Marks or System, without restriction of any kind, in any alternative or other channel of distribution other than mobile facilities providing pet grooming services under the Marks and System, whether or not located in the Protected Area(s) designated on your Protected Area or Development Schedule, and to customers located anywhere,

(2) retain all rights to distribution of branded Products and Services through any outlet (including sales through general retail stores, pet stores or otherwise and/or by electronic means, including but not limited to the internet) located anywhere,

(3) own and/or operate ourselves or authorize others to own and/or operate (a) any business located outside the Protected Areas designated on your Protected Area or Development Schedule, whether or not using the Marks and/or System, (b) any business anywhere, whether using the Marks and/or System or not, which is not substantially similar to the business franchised to you under this Agreement and/or (c) any business anywhere which does not use the Marks, and

(4) acquire, merge, affiliate with or engage in any transaction with other businesses (whether competitive or not), with units located anywhere, including arrangements in which we (and/or any of the

Franchisor-Related Entities) are acquired, and/or company-owned, franchised or other businesses (including your Aussie Pet Mobile® Franchise Businesses) are converted to another format, maintained under the Aussie Pet Mobile® System or otherwise. Each Aussie Pet Mobile® Franchise Business awarded to you will fully participate in any such conversion subject to any person/entity merging with, or acquiring us, reimbursing you for reasonable costs directly related to such conversion.

**4.2 E-Commerce Business and Special Accounts – Current Policies.** You will not market or sell through the Internet, World Wide Web, and other electronic or other means of marketing and distribution of Products and Services. or any channel of distribution other than your Franchise Businesses. We reserve the right, in our Business Judgment, to offer/provide Products and Services through the Internet, World Wide Web and/or other similar venues (no matter where the customer is located).

**4.3 Servicing Other Franchisee Clients - Restrictions.** If you provide grooming or related sales or services to clients located within another Aussie Pet Mobile franchisee's Protected Area, whether intentionally or in error, you will be charged an "encroachment" fee of \$100.00 payable to us and must reimburse such franchisee in an amount equal to the charge for the goods and services sold. You will also be considered in default (with an opportunity to cure) under this Agreement as provided in Section 21.2 B. This provision does not constitute and shall not be deemed to constitute a limitation on the private remedies and/or relief to which any franchisee may be entitled under the law.

## **5. PAYMENTS BY FRANCHISEE**

**5.1. Franchise Fee.** On signing this Agreement you will pay us a Franchise Fee in the amount set forth below, which is fully earned by us on signing this Agreement and is entirely nonrefundable (as are all amounts paid to us and/or any Affiliate). The Franchise Fee (and other amounts charged) may not be the same for all franchisees, depending on prior relationship, number of Franchises awarded and other factors. We currently offer four programs in connection with your purchase of Franchise rights under this Agreement: *(please initial the Program that applies)*

(1) \_\_\_\_\_ **Bronze Program:** Under our Bronze Program you will receive one Franchise Business and pay us a Franchise Fee equal to \$35,000.

(2) \_\_\_\_\_ **Silver Program:** Under our Silver Program you will receive two Franchise Businesses and pay us a Franchise Fee equal to \$30,000 times 2 for a Total Franchise Fee of \$60,000, representing a discount of \$10,000.

(3) \_\_\_\_\_ **Gold Program:** Under our Gold Program, you will receive three Franchise Businesses and pay us a Franchise Fee equal to \$25,000 times 3 for a total Franchise Fee of \$75,000, representing a discount of \$30,000.

(4) \_\_\_\_\_ **Platinum Program:** Under our Platinum Program, you will receive six Franchise Businesses, one of which will be free of any Franchise Fee, and pay us a total Franchise Fee of \$125,000,000 (\$25,000 times 5), representing a discount of \$85,000.

**5.2. Purchase of Additional Franchise Businesses.** *(please initial the purchase that applies)*

(1) \_\_\_\_\_ If, after signing this Agreement and paying the Franchise Fee, you are in Good Standing and wish to purchase one or more additional Franchise Businesses within a Protected Area (or portion of a Protected Area) **already designated** to you by us in connection with a prior written agreement, (as long as such Franchise Businesses are available in our Business Judgment) you may do so upon satisfying all of the following requirements:

- (a) signing our then-current form of franchise agreement,
- (b) signing our then-current form of General Release excepting only (where so required by applicable law) those claims solely related to the offer and sale of the new Franchise Business itself, and
- (c) paying all amounts due for the Designated Equipment Package in accordance with our then-current franchise agreement.

(2) \_\_\_\_\_ If, after signing this Agreement and paying the Franchise Fee, you are in Good Standing and wish to purchase one or more additional Franchise Businesses in Protected Areas (or portion of a Protected Area) **not already designated** to you by us in connection with a prior written agreement, (as long as such Franchise Businesses are available in our Business Judgment) you may do so only and upon satisfying all of the following requirements:

- (a) signing our then-current form of franchise agreement,
- (b) paying our then-current franchise fee for your program,
- (c) signing our then-current form of General Release excepting only (where so required by applicable law) those claims solely related to the offer and sale of the new Franchise Business itself, and
- (d) paying all amounts due for the Designated Equipment Package in accordance with our then-current franchise agreement.

An initial franchise fee of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) is fully earned and payable to us on signing of this Agreement. The fee is entirely nonrefundable.

**5.3 Designated Equipment Package.** The Aussie Pet Mobile® Designated Equipment Package is described on the Fourth Schedule attached to this Agreement and is currently priced at \$25,000 per Designated Equipment Package (plus applicable sales tax and shipping) ("the Designated Equipment Package Fee"). We reserve the right to offer used and/or refurbished Designated Equipment (if available) at a reduced cost. You must purchase a Sprinter Van according to our specifications and only from our authorized supplier(s). We will install the Designated Equipment Package in your Sprinter Van ("Customized Vehicle").

**5.4 Designated Equipment Package Fee.** Each Designated Equipment Package Fee of \$25,000 is fully earned by us on signing this Agreement and is **entirely non-refundable** (as are all amounts paid to us and/or any Affiliate) and is due and payable prior to attending training.

Under the **Bronze Program**, you must pay a Designated Equipment Package Fee to cover the cost of the Aussie Pet Mobile® Designated Equipment Package for your Franchise Businesses, before attending training.

Under the **Silver Program**, you must pay two Designated Equipment Package Fees to cover the cost of the Aussie Pet Mobile® Designated Equipment Packages for both Franchise Businesses, before attending training.

Under the **Gold and Platinum Programs** you must pay a Designated Equipment Package Fee to cover the cost of the Aussie Pet Mobile® Designated Equipment Packages for Franchise Businesses 1, 2 and 3 on your Development Schedule before attending training.

Under the **Platinum Program**, you must pay a Designated Equipment Package Fee for the cost of the Aussie Pet Mobile® Designated Equipment Package for the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Franchise Businesses as follows:

**4<sup>th</sup> Franchise Business** – at least 60 days before the date set on your Development Schedule for delivery and opening of the 4<sup>th</sup> Franchise Business.

**5<sup>th</sup> Franchise Business** - at least 60 days before the date set on your Development Schedule for delivery and opening of the 5<sup>th</sup> Franchise Business.

**6<sup>th</sup> Franchise Business** - at least 60 days before the date set on your Development Schedule for delivery and opening of the 6<sup>th</sup> Franchise Business.

Each Designated Equipment Package Fee for Franchise Businesses 4, 5 and 6, is fully earned by us on payment and is entirely non-refundable.

**5.5 Delivery of the Sprinter Van to Us for Installation of Designated Equipment Package.** **Bronze Program** participants must deliver the Sprinter Van to us for installation of the Designated Equipment Package before attending training. **Bronze** participants must place the Customized Vehicle for the Franchise Business into operation within **15 Business Days** from taking delivery.

If you are purchasing an additional Franchise Business, you must deliver the Sprinter Van to us for installation of the Designated Equipment Package at least 60 days before the expected opening date of the Franchise Business.

**Silver Program participants** must deliver the first Sprinter Van to us for installation of the Designated Equipment Package before attending training. You must deliver the second Sprinter Van to us for installation of the Designated Equipment Package at least 60 days before the date set on your Development Schedule for opening the second Franchise Business (4 months after taking possession of the Designated Equipment for first Franchise Business). You must place the Customized Vehicle into operation within 15 Business Days from taking delivery.

**Gold and Platinum Program participants** must deliver the first Sprinter Van to us for installation of the Designated Equipment Package before attending training. You must deliver the second Sprinter Van to us for installation of the Designated Equipment Package at least 60 days before the date set on your Development Schedule for opening the second Franchise Business (4 months after taking possession of the Designated Equipment for first Franchise Business). You must deliver the third Sprinter van to us for installation of the Designated Equipment Package at least 60 days before the date set on your Development Schedule for opening the third Franchise Business (10 months after taking



possession of the Designated Equipment for first Franchise Business). You must place the Customized Vehicle into operation within 15 Business Days from taking delivery.

Under the **Platinum Program** you must deliver the fourth Sprinter Van to us for installation of the Designated Equipment Package at least 60 days before the date set on your Development Schedule for opening the fourth Franchise Business (16 months after taking possession of the Designated Equipment for first Franchise Business). You must deliver the fifth Sprinter Van to us for installation of the Designated Equipment Package at least 60 days before the date set on your Development Schedule for opening the fifth Franchise Business (22 months after taking possession of the Designated Equipment for first Franchise Business). You must deliver the fifth Sprinter Van to us for installation of the Designated Equipment Package at least 60 days before the date set on your Development Schedule for opening the sixth Franchise Business (28 months after taking possession of the Designated Equipment for first Franchise Business). You must place the Customized Vehicle into operation within 15 Business Days from taking delivery.

**5.6 Royalty - Percentage, Minimum and Payment Dates.** Every month (or otherwise as we require from time-to-time in our Business Judgment with appropriate pro rata adjustments if the period is not monthly), for each of the Aussie Pet Mobile® Franchise Businesses awarded to you under this Agreement, you will pay us the greater of (a) eight percent (8%) of the "Gross Volume" received or earned during the preceding month or (b) a minimum royalty of Five Hundred Forty-Six Seven-Six Dollars (\$547566), subject to inflation adjustment.

Percentage and minimum royalties are to be paid on the third (3rd) business day of each month for the preceding month (or otherwise as we require from time-to-time in our Business Judgment). Percentage and minimum royalty payments are due for the earlier of the first month in which your Aussie Pet Mobile® Franchise Business (a) begins operations or (b) is required to begin operations under the terms of this Agreement.

In order to reward your success, we currently offer a royalty incentive program. For any month in which you achieve a Gross Volume in excess of \$15,000, we will reduce your monthly percentage royalty fee from the standard eight percent (8%) down to five percent (5%) of Gross Volume, with no minimum royalty requirement, for any and all of the months in which you achieve this level. If your Gross Volume falls to \$15,000.00 or below during any subsequent month, you will no longer be eligible for this incentive and the standard percentage and minimum royalty fees will apply during such months. We reserve the right to cancel or modify this program at any time in our Business Judgment and without advance notice to you.

**5.7 Releases.** The execution of this Agreement, any addendum and/or amendment will constitute [and you (and each Affiliate of yours), as a condition to the granting of this and any future or other franchise (or any addendum or amendment) will execute, in a form prescribed by us] a General Release (waiving the benefits of any statutory or decisional law limiting a release in any way) of any and all claims, liabilities and/or obligations, from the beginning of time to the date of such release, of any nature whatsoever, however arising, whether known or unknown, against any of the "Franchisor-Related Persons/Entities," excluding only (where so required by applicable law) those claims solely related to the offer and sale of the new Franchise Business, you agreeing that it would be inappropriate and improper from a business standpoint for you to enter into further franchise relationships with us, and have the right to use the Marks and System, while there might be a possibility of claims based on a prior relationship or

otherwise. We can make no assurance as to whether additional or future franchises or any addenda or amendments may be granted to you or the prices, terms or conditions relating thereto. If we should, through inadvertence or otherwise, fail to require such separate releases at any time, the execution of this Agreement, any addendum and/or amendment, and each Franchise Agreement, addendum and/or amendment after this one, will be regarded as the equivalent of the granting of such release(s).

**5.8 Electronic Funds Transfer.** You must participate in our then-current electronic funds transfer program and pay all royalties, marketing fund contributions and other amounts through that program on a monthly basis (or otherwise as we specify from time-to-time in our Business Judgment). All payments must be received by us or credited to our account by pre-authorized bank debit before 5:00 p.m. Pacific Time, on the third (3rd) business day of each month or other point in time specified by us. In any event, you will pay us all amounts due us at the times, and in the manner, specified in the Manuals from time to time.

**5.9 Interest on Late Payments.** All amounts you owe us and/or our affiliates bear interest at the highest applicable legal rate for open account business credit, but not to exceed one and one-half percent (1.5%) per month.

**5.10 Application of Payments, Set-Offs etc.** We can apply any payments received from you (and/or any affiliate of yours) to any past due or other indebtedness of yours for royalties, marketing contributions, purchases, interest or otherwise as we choose in our Business Judgment, but we will apply your Marketing Fund Contributions only to the Marketing Fund, unless authorized to do otherwise by the FMG. We can set off, from any amounts that may be owed to you, any amount that you owe to us or any marketing fund. We can retain any amounts we have received for your account (whether rebates from suppliers or otherwise), as a credit and payment against any amounts that you owe or will owe to us or with respect to any marketing contribution, without notice and at any time.

**5.11 Inflation Adjustments.** Amounts specified as subject to inflation adjustment will be adjusted each year in proportion to the changes in the Consumer Price Index (U.S. Average, all items) maintained by the U.S. Department of Labor (or any successor index) as compared to the previous year and the amount rounded to the nearest dollar. We will notify you of the percentage adjustment each year.

**5.12 No Offset or Retention of Funds.** You cannot offset or withhold payments owed to us (and/or any of the Franchisor-Related Persons/Entities) for amounts purportedly due you (or any Affiliate of yours) as a result of any dispute of any nature or otherwise, but will pay such amounts to us (or our Affiliate) and only thereafter seek reimbursement. If you believe that we or any other person/entity has violated any legal duty to you, you will, notwithstanding such dispute, pay all sums specified under this Agreement or otherwise and will not withhold any payments until and unless such dispute has been finally determined in your favor. Any payment to be made to us and/or any of the Franchisor-Related Persons/Entities shall be made by cash, check, direct deduction to us or by electronic funds transfer as we direct from time-to-time.

## **6. YOUR AUSSIE PET MOBILE® FRANCHISE BUSINESS — IMAGE AND OPERATION**

**6.1 System Compliance, Regular Upgrading.** You will always operate each of your Aussie Pet Mobile® Franchise Businesses in full compliance with the then-current Aussie Pet Mobile® System and the Manuals, as each is modified by us from time-to-time in our Business Judgment.

In particular, you will promptly comply with all ongoing requirements, standards and operating procedures relating to the operation, appearance, function, cleanliness, products, services, days and hours of operation, and otherwise of each of your Aussie Pet Mobile® Franchise Businesses (including use of specified equipment, products, services, programs and computer hardware and software), and with our other requirements for an Aussie Pet Mobile® Franchise Business. Mandatory specifications, standards and operating procedures prescribed from time-to-time in the Manuals, or otherwise communicated to you in writing, electronically or otherwise, will constitute provisions of this Agreement as if fully set forth herein. All references to this Agreement include all such mandatory specifications, standards and operating procedures.

Your Aussie Pet Mobile® Franchise Businesses will always be maintained by you in the same first-class condition, and presented to the public with the same features, programs, equipment, decor and otherwise, and offering the same products and services, as new Aussie Pet Mobile® Franchise Businesses and you will, at your sole expense, promptly undertake all changes as are required by us from time-to-time, in our reasonable discretion, including new equipment, signage, compliance with all then-current standards for design, trade dress, software, changing any products and/or services offered, methods of operation and otherwise as we may require to reflect then-current Aussie Pet Mobile® System requirements. If you fail to do so, we may do so on your behalf and for your account, and require that you reimburse us within 10 days of our submission to you of any invoice.

Each of your Aussie Pet Mobile® Franchise Businesses will not be used for any purposes other than the operation of an Aussie Pet Mobile® Franchise Business in full compliance with this Agreement and the Manuals, you will not make any alterations to your Aussie Pet Mobile® Franchise Businesses, any equipment (including the exterior and interior of the Customized Vehicle and all Designated Equipment and related equipment), products or other items, or to the appearance of your Aussie Pet Mobile® Franchise Businesses as originally approved by us, or the products and/or services offered by you, without our prior written approval; and you will place or display at your Aussie Pet Mobile® Franchise Businesses, products and otherwise, only (and all of) such signs, logos and advertising materials as are from time-to-time specified by us.

We (and/or any of the Franchisor-Related Persons/Entities) may, from time-to-time, develop new businesses concepts and services, whether in connection with (and/or using) the Marks, System or otherwise, and which may be offered through any channels of distribution, located anywhere and offering products and services to customers located anywhere. Such concepts and/or services are not included in the System and you do not have any rights in or related to them. In our Business Judgment, we may incorporate such concepts, products and/or services in the System (which you will use and offer) and they will be subject to this Agreement or we may use, franchise and/or offer such concepts, products and/or services through alternative or other channels of distribution, located anywhere and offering products and services to customers located anywhere.

**6.2 Designated Equipment, Products, Services and/or Suppliers.** Each of your Aussie Pet Mobile® Franchise Businesses must purchase, use and offer such types, brands and/or quality of Designated Equipment, Products and Services and/or suppliers as we designate so long as competitive in price and quality to other products and/or suppliers. Such suppliers may include or be limited to us and/or our Affiliates. We can designate a single supplier or limited number of suppliers, may designate a supplier only as to certain items and may concentrate purchases with one or more suppliers in our

reasonable discretion. Specification of a supplier may be conditioned on requirements relating to frequency of delivery, standards of service, including prompt attention to complaints, as well as payments, contributions or other consideration to us, our affiliates, any marketing fund and/or otherwise, and may be temporary, in each case in our reasonable discretion. We can, from time-to-time, withhold, condition and/or revoke our approval of particular items or suppliers in our reasonable discretion. We may receive rebates and other benefits from suppliers in relation to items purchased by you and/or other franchisees. You will notify us in writing (and submit to us such information and samples as we request) if you propose to purchase, use or offer any type, brand and/or quality of items that have not been previously specified by us, or if you propose to use any supplier who has not been previously specified by us for the proposed item and will pre-pay reasonable charges connected with our review and evaluation of any proposal. We will notify you within a reasonable time whether or not you're authorized to purchase or use the proposed item or to deal with the proposed supplier. Our consent to an alternative supplier will not be unreasonably withheld nor based on any economic benefit that we may gain from your using our designated suppliers.

**6.3 Compliance with Laws and Ethical Business Practices.** You will operate each of your Aussie Pet Mobile® Franchise Businesses in full compliance with all applicable laws, ordinances and regulations, including all licensing requirements. You will not engage in any illegal discriminatory practices. We make no representations as to what (if any) licenses, permits, authorizations or otherwise will be required in connection with your establishment or operation of your Aussie Pet Mobile® Franchise Businesses and it is your sole responsibility to determine what licenses, permits, authorizations or otherwise are required and to obtain them, all at your sole cost. All advertising by you will be completely factual, in good taste, and will conform to high standards of ethical advertising. You will, in all dealings with your customers, suppliers and public officials, adhere to high standards of honesty, integrity, fair dealing and ethical conduct. You will refrain from any practice which may injure the goodwill associated with the Marks. You will notify us in writing within five (5) days of the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, which relates to, or which may affect the operation or financial condition of, you and/or your Aussie Pet Mobile® Franchise Businesses.

You agree to comply and/or assist us in our compliance efforts, as applicable, with any and all laws, regulations, Executive Orders or otherwise relating to antiterrorist activities, including without limitation the U.S. Patriot Act, Executive Order 13224, and related U.S. Treasury and/or other regulations. In connection with such compliance efforts, you agree not to enter into any prohibited transactions and to properly perform any currency reporting and other activities relating to your Franchised Business as may be required by us or by law. You are solely responsible for ascertaining what actions must be taken by you to comply with all such laws, orders and/or regulations, and specifically acknowledge and agree that your indemnification responsibilities as provided in Section 15 pertain to your obligations hereunder. You agree to sign and deliver to us, along with a signed copy of this Agreement, the attached Schedule 6, "Executive Order 13224 and Related Certifications".

**6.4 Management and Personnel of Your Aussie Pet Mobile® Franchise Businesses, Training.** We will allow you to operate your Aussie Pet Mobile® Franchise Businesses along with employees who meet all of our then-current training and other requirements. Absentee ownership exposes you to a greater risk of failure than if you are personally involved, on a full time basis, in the daily management of your Aussie Pet Mobile® Franchise Businesses.

Under the **Bronze Program**, the training fee for you is \$1,000 payable prior to commencement of training and you will be responsible for all travel, meals, lodging and similar costs while attending training. Under the **Silver, Gold and Platinum Programs** training for you is included in the Franchise Fee. The training fee is \$1,000 for each employee of each Franchise Business you purchase and you will be responsible for all compensation, travel, meals, lodging and similar costs for all persons while attending training.

If you have a qualified Level 1 trainer (as described in the Manual) on staff, your Level 1 trainer may train your employees. You are encouraged to obtain and maintain a Level 1 Trainer on your staff to carry out groomer training. You will not be required to pay groomer training fees for training carried out by your Level 1 trainer.

If you have a qualified Level 2 trainer (as described in the Manual) on staff, your Level 2 trainer may train your employees to be Level 1 Trainers and may also provide services to us and to other franchisees in accordance with and subject to the execution of a Trainer Services agreement substantially in the form attached hereto as the Fifth Schedule to this Agreement.

You must keep us advised of the identities of each of your employees and other supervisors of your Aussie Pet Mobile® Franchise Businesses, and we will have the right to deal with such personnel on matters pertaining to day-to-day operations of, and reporting requirements for, your Aussie Pet Mobile® Franchise Businesses.

**6.5 Employment Agreements.** You and we understand and agree that under the **Bronze Program** it may be necessary, and mandatory under the **Silver, Gold and Platinum Programs**, for you to hire employees to operate your Franchise Businesses. You agree that each such employee will sign our then-current version of Employment Agreement approved by us. We strongly recommend that you retain local counsel in your state to review and conform the language of the Employment Agreement to ensure that it complies with local laws applicable to your Aussie Pet Mobile® Franchise Businesses. You will be solely responsible for any and all legal and other fees incurred by you to do so. You, or anyone you designate, will hire all employees of your Aussie Pet Mobile® Franchise Businesses and will be solely responsible for their supervision, termination, terms of employment and compensation and proper training.

**6.6 Insurance.** You will maintain in force policies of insurance issued by carriers approved by us covering various risks, as specified by us from time-to-time. We can specify the types and amounts of coverage required under such policies and require different and/or additional kinds of insurance at any time, including excess liability insurance. Each insurance policy must name us and the Franchisor-Related Persons/Entities as additional named insureds, will contain a waiver of all subrogation rights against us, our affiliates, the Franchisor-Related Persons/Entities and any successors and assigns, and will provide for thirty (30) days' prior written notice to us of any material modifications, cancellation, or expiration of such policies. Your obligations to maintain insurance coverage will not be affected by reason of any separate insurance maintained by us, nor will the maintenance of such insurance relieve you of any obligations under this Agreement or otherwise.

On our written request, you will provide us with (1) a copy of each renewal or replacement insurance policy to be maintained by you for the immediately following term and (2) evidence of prepayment of the premium. If you fail to maintain required insurance coverage, or fail to furnish satisfactory

evidence thereof and fail to pay premiums, we can obtain such insurance coverage on your behalf and you will fully cooperate with us in our efforts to obtain such insurance policies, promptly execute all forms or instruments required, allow any required inspections of your Aussie Pet Mobile® Franchise Businesses, and pay to us, on demand, any costs and premiums incurred by us.

**6.7 Program Participation.** We can condition your participation in any program, whether with suppliers, referral sources or otherwise as we determine in our reasonable discretion, including our requiring that you be in Good Standing.

**6.8 Toll-Free Number, Secret Shoppers, etc.** We can institute various programs for verifying customer satisfaction and/or your compliance with all operational and other aspects of the Aussie Pet Mobile® System, including (but not limited to) a toll-free number, customer comment cards, secret shoppers, "phone phantom" or otherwise. We will share the results of such programs, as they pertain to each of your Aussie Pet Mobile® Franchise Businesses, with you and you will reimburse us for all costs associated with any and all such programs provided that you will not receive any reports, or other benefits of the program, if you are not in Good Standing.

**6.9 Beginning Operations, Grand Opening Advertising.** You will open your Franchise Business to the general public within 4 weeks after successfully completing training and, in any event, within 12 weeks after the date of this Agreement. Under the **Bronze Program**, or if you are purchasing an additional Franchise Business under the **Silver, Gold or Platinum Programs**, you will spend at least Two Thousand Dollars (\$2,000) on a grand opening marketing program during the first three (3) months of operation of your Franchise Business. Under the **Silver Program**, you will spend at least Four Thousand Dollars (\$4,000) on a grand opening marketing program during the first three (3) months of operation of your first Franchise Business. Under the **Gold or Platinum Programs**, you will spend at least Six Thousand Dollars (\$6,000) on a grand opening marketing program during the first three (3) months of operation of your first Franchise Business.

You will only use marketing, advertising and public relations programs, media and materials consented to by us. We will furnish advice and guidance to you with respect to your grand opening advertising, which you will follow.

**6.10 Mandatory Conference Attendance.** Attendance by you at Aussie Pet Mobile® conferences (and/or any other meeting where attendance is designated by us as required) is especially important for you to stay up-to-date on competitive challenges and opportunities, new programs and techniques, to learn about best practices as developed by us and other Aussie Pet Mobile® Franchisees and to establish beneficial relationships with approved suppliers, among other things, and is, therefore, mandatory. We may excuse you from attendance on a meeting-by-meeting basis in our reasonable discretion and we will excuse you in the following cases: You or a member of your immediate family is in the hospital or gravely ill, a death in your family, cancelled airline flights with no reasonable alternative transportation arrangements being available or a natural disaster making your attendance impossible. You must be in Good Standing in order to attend conferences.

You must attend on behalf of your Franchise Businesses. Failure to attend such mandatory meetings will be deemed a breach of this Agreement. We will not charge any attendance fee for you, but we may charge for materials, meals, entertainment, special programs and otherwise and you will bear all

other costs of attendance.

## 7. CUSTOMERS

You acknowledge that the System is dependent on (among other things) the establishment and maintenance of good relationships with your customers. You therefore agree:

(a) to adopt and adhere to all aspects of the System, including (among others) systems whereby any inquiries by customers or potential customers are responded to within twenty four (24) hours;

(b) to immediately report all customer complaints to us and to participate in any procedures specified by us for the resolution of such complaints. In addition, you will fully cooperate with all means of quality control as we specify from time-to-time, including (among others) pro-active quality control systems, such as "secret shoppers," "phone phantoms," customer response cards, etc.

## 8. MARKETING

### 8.1 Marketing Fund

A. We have instituted an advertising, publicity and marketing fund (the "Marketing Fund") to promote Aussie Pet Mobile® Franchise Businesses and our Marks. Every month (or otherwise as we require from time-to-time in our Business Judgment) you must contribute to the Marketing Fund the greater of either (i) four percent (4%) of Gross Volume for the preceding month for your each of your Aussie Pet Mobile Franchise Businesses or (ii) a minimum contribution of \$274283, subject to inflation adjustment.

In order to reward your success, we currently offer a Marketing Fund contribution incentive program. For any month in which you achieve a Gross Volume in excess of \$15,000, we will reduce your monthly percentage Marketing Fund Contribution rates from the standard four percent (4%) down to three percent (3%) of Gross Volume, with no minimum royalty requirement, for any and all of the months in which you achieve this level. If your Gross Volume falls to \$15,000.00 or below during any subsequent month, you will no longer be eligible for this incentive and the standard percentage and minimum Marketing Fund Contribution rates will apply during such months. We reserve the right to cancel or modify this program at any time in our Business Judgment and without advance notice to you.

Percentage and minimum marketing contributions will be calculated and payable at the same time and in the same manner as percentage and minimum royalties. Funds in the Marketing Fund must be expended, prior to termination of the Marketing Fund, only for the purposes authorized by the relevant franchise agreement(s). No profit, gain or other benefit will directly accrue to us from the Marketing Fund.

B. We will have sole and absolute discretion over all matters relating to the Marketing Fund operational, marketing or other matter (consistent with its purposes and the provisions of this Agreement.) The Marketing Fund may be used for (among other things) creation, production and distribution of marketing, advertising, public relations and other materials in any medium, including the Internet; administration expenses; brand/image campaigns; media; national, regional and other marketing programs; activities to promote current and/or future Aussie Pet Mobile® Franchise Businesses and the Marks, agency and consulting services; research, any expenses approved by us and associated with, FAC (defined in this Section) or other such advisory groups. A brief statement regarding the availability of information regarding the purchase of Aussie Pet Mobile® franchises may be included in advertising and

other items produced using the Marketing Fund. The FAC is the advisory group selected (or which may be selected) by us in our Business Judgment, which shall provide Input as provided in this Agreement and as we may request from time to time. The FAC will consist of Franchisees in Good Standing and/or our representatives. We have the right to add or remove members of the FAC in our Business Judgment. The FAC may adopt its own bylaws, rules, regulations and procedures, subject to our consent in our Business Judgment.

C. If approval is granted by a majority of the FAC, we and/or any Franchisor-Related Person/Entities can provide goods, services, materials, etc. (including administrative services and/or "in-house advertising agency" services) and be compensated and/or reimbursed for the same by the Marketing Fund provided that any such compensation must be reasonable in amount. Without FAC approval, we can arrange for goods, services, materials, etc. (including administrative services to be provided by independent persons/companies and all related costs, fees, etc. will be paid by the Marketing Fund. While we are not required to do so, if we submit any matters for approval to the FAC and approval is granted by a majority of the members, approval will be binding on you.

D. The Marketing Fund will be accounted for separately and may be used to pay all administrative and other costs of the Marketing Fund related to its activities and purposes and/or as authorized by the relevant franchise agreements. All taxes of any kind incurred in connection with or related to the Marketing Fund, its activities, contributions to the Marketing Fund and/or any other Fund aspect, whether imposed on us, the Marketing Fund or any other related party, will be the sole responsibility of the Marketing Fund. We will prepare financial statements for the Marketing Fund annually, which will be furnished to you upon written request. Such statements may be audited and any related accounting/auditing costs will be paid by the Marketing Fund. All interest earned on monies contributed to, or held in, the Marketing Fund will be remitted to the Marketing Fund and will be subject to the restrictions of the relevant Franchise Agreement(s). In making expenditures, the Marketing Fund will first spend any contributions made by any supplier; second, any earnings on assets held by the Marketing Fund; third, any contributions made by us; and finally any contributions made by Franchisees.

E. Financial management of the Marketing Fund will be our sole responsibility. We can in our Business Judgment, do any of the following:

1) compensate ourselves and/or any Franchisor Related Person/Entity for salaries, administrative costs, overhead and other expenses incurred in Marketing Fund related programs/activities, including but not limited to production, research, insurance, and collection expenses, as well as any legal expense related to the activities and purposes of the Marketing Fund (consistent with the provisions of this Agreement);

2) charge the Marketing Fund for attorney's fees and other costs related in any way to claims against us and/or any of the Franchisor-Related Persons/Entities regarding the Marketing Fund. However, we shall be required to reimburse the Marketing Fund for any attorneys' fees and/or costs paid by the Marketing Fund in connection with any action in which we are finally found to have acted unlawfully or to be guilty of wrongdoing with respect to the Marketing Fund;

3) spend in any fiscal year an amount greater or less than the aggregate contributions to the Marketing Fund in that year, and the Marketing Fund may borrow from us or other lenders to cover deficits of the Marketing Fund or cause the Marketing Fund to invest any surplus;



4) collect for remission to the Marketing Fund any advertising or promotional amounts offered by any supplier based upon franchisee purchases. Any such contributions, whether or not made with respect to purchases by you, will not count toward your required Marketing Fund contributions;

5) pay the advertising, marketing, public relations and related costs involved in any co-branding, dual franchising or other such multi-sponsor programs;

6) revise marketing and other programs, and/or make separate expenditures from the Marketing Fund, to take account of cultural or other differences (and/or we can delegate management of a portion of the Marketing Fund in connection therewith);

7) defer, waive and/or compromise claims for current/future contributions to, and/or claims against or with respect to, the Marketing Fund and fund the same with the Marketing Fund;

8) take legal or other action against any franchisee in default of their obligations to the Marketing Fund;

9) merge the Marketing Fund with any marketing fund otherwise established for Aussie Pet Mobile Franchise Businesses for use as described in this Section 8.1, so long as the restrictions of the relevant Franchise Agreement(s) continue to apply to contributions made by Franchisees under such agreements;

10) maintain Marketing Fund assets in one or more accounts designated as "trust accounts" for purposes of protecting such assets from claims of third-party creditors, (but such action shall not be deemed to create any "trust," "fiduciary relationship" or similar special arrangement);

11) incorporate the Marketing Fund or operate it through an entity separate from us, which is subject to all rights and duties of ours relating to the Marketing Fund;

12) take such other actions in connection with the Marketing Fund as we consider to be appropriate and as are consistent with the provisions of this Section 8.1.

F. You acknowledge and agree that we have no obligation to ensure that expenditures by the Marketing Fund are or will be proportionate or equivalent to contributions to the Marketing Fund by Aussie Pet Mobile Franchise Businesses operating in any geographic area, or that any Aussie Pet Mobile Franchise Businesses will benefit directly, indirectly or in proportion to its contribution to the Marketing Fund. All Aussie Pet Mobile Franchise Businesses owned by us will make contributions to the Marketing Fund as if they were subject to the then-current form of Franchise Agreement.

G. Neither we nor any of the Franchisor-Related Persons/Entities, including the FAC will be liable for any act or omission in connection with the Marketing Fund which is consistent with this Agreement. You and we expressly agree that none of the relationships with you in connection with the Marketing Fund are in the nature of a "trust," "fiduciary" or similar special arrangement.

H. Subject to the express requirements of this Agreement that your contributions will only be spent as authorized herein, if you are in default of any of your obligations to us, the Franchisor-Related

Persons/Entities and/or the Marketing Fund, or your Franchise Agreement is otherwise subject to termination, you will have no rights with respect to the Marketing Fund. We can deny access to any and all programs and/or materials created by, and benefits of, the Marketing Fund to Franchisees who are in default in any obligations to the Marketing Fund.

**8.2 Your Participation in the Marketing Fund.** You agree to participate in all Marketing Fund programs. You have the right to set your own prices, except that we can specify maximum prices for goods or services to the greatest degree permitted by law. You must fully honor all coupons, price reduction and other promotions/programs as directed by us. The Marketing Fund may furnish you with marketing, advertising and promotional materials; however, we can require that you pay the cost of producing, shipping and handling for such materials.

**8.3 Your Local Marketing Activities.**

A. You must locally advertise and promote each of your Aussie Pet Mobile Franchise Businesses. Appropriate local advertising expenditures may include, but are not limited to, direct mail coupons, fliers, door hangers, postcards, cable television commercials, radio commercials, yellow pages, and newspaper advertising.

B. Your advertising must be in good taste and conform to ethical and legal standards. We require that samples of all advertising and promotional materials for any media, be submitted to us for our review and approval prior to use. You agree not to use any materials or programs disapproved by us at any time in our Business Judgment. We can require that a brief statement regarding the availability of Aussie Pet Mobile® franchises be included in advertising used by you and/or that brochures regarding purchase of Aussie Pet Mobile® franchises be displayed in each of your Aussie Pet Mobile® Franchise Businesses.

C. Your right to use the Internet and/or World Wide Web in the marketing and operation of your Aussie Pet Mobile® Franchise Businesses is limited to your limited participation in the Aussie Pet Mobile Website, and we require that you use e-mail addresses for your Aussie Pet Mobile® Franchise Businesses that we provide under our domain name. You cannot establish any independent website, domain name, e-mail address or other presence for use with your Aussie Pet Mobile® Franchise Businesses. You must comply with the Manuals and any other specifications we give to you regarding your use of the Internet, World Wide Web or other electronic media in connection with your Aussie Pet Mobile® Franchise Businesses.

**8.4 Franchise Marketing Group(s) ("FMG").** We can, in our Business Judgment, elect to form one or more associations and/or sub-associations of Aussie Pet Mobile® franchisees to conduct various marketing related activities on a cooperative basis (an "FMG"). If an FMG (local, regional or national) is formed covering your area, then you must join and actively participate. You may be required to contribute such amounts as are determined from time-to-time by the FMG. The FMG may adopt its own governing rules, regulations and procedures, subject to our consent in our Business Judgment. Any failure to timely pay amounts due to, or to comply with the bylaws, rules, regulations and procedures of the FMG, shall be a breach of this Agreement. We may offset against amounts we owe to you the amount of your unpaid FMG obligations. While we're not required to do so, if we submit any matters for approval to the FMG and approval is granted, the approval will be binding on you.

**9. OUR OBLIGATIONS TO YOU**

**9.1 Manuals.** We will provide the Manuals to you.

**9.2 Initial Training.** Under the **Bronze Program**, we will provide an 80-hour training program for you, at a time and place, and for such period, as we designate in our Business Judgment. You must attend and complete our training program to our satisfaction (in our reasonable discretion) before beginning operation of your Aussie Pet Mobile® Franchise Business. The fee for this training is One Thousand Dollars (\$1,000), and you will be responsible for all travel, living, incidental and other expenses and compensation of you attending any training program.

Under the **Silver, Gold and Platinum Programs**, the Franchise Fee covers a 3-day training program for you, at a time and place, and for such period, as we designate in our Business Judgment. We will also provide an 80-hour training program for one employee for each of the Franchise Businesses you purchase. The fee for this training is One Thousand Dollars (\$1,000) per employee and you will be responsible for all travel, living, incidental and other expenses and compensation of you and your authorized personnel attending any training program. If you have a qualified Level 1 trainer on staff, your Level 1 trainer may train your employees. You will not be required to pay us training fees for training carried out by your Level 1 trainer. You and your employee(s) must attend and complete our training program to our satisfaction (in our reasonable discretion) before beginning operation of each of your Aussie Pet Mobile® Franchise Businesses. You will be responsible for ensuring that each of your employees is adequately trained and assuring that they meet all of our then-current standards and requirements.

If you are purchasing an additional Franchise Business, you must pay a training fee of One Thousand Dollars (\$1,000) for an 80-hour training program for one employee at a time and place, and for such period, as we designate in our Business Judgment. If you have a qualified Level 1 trainer on staff, your Level 1 trainer may train your employees. You will not be required to pay us training fees for training carried out by your Level 1 trainer.

Your employee(s) must attend and complete our training program to our satisfaction (in our reasonable discretion) before beginning operation of each of your Aussie Pet Mobile® Franchise Businesses. You will be responsible for all travel, living, incidental and other expenses and compensation of you and your authorized personnel attending any training program.

**9.3 Identification with System and Image.** We will authorize you to identify each of your Aussie Pet Mobile® Franchise Businesses as a Franchisee of the System and to conduct such business using the System and Image, subject to the requirements of this Agreement and the Manuals.

**9.4 Advice.** We will promptly provide such advice and information as we consider reasonably appropriate to assist you with: all methods and procedures associated with the System; marketing and advertising; management and administration; the use of the Image or any changes to it; the use and application of Products and Services. You understand and agree that such advice and information may be rendered by phone, electronically, through the Manuals, training and/or by such other means as we deem appropriate in our Business Judgment.

**9.5 Consent to The Use of the Business Name.** We will give approval to any proposed name or description under or by which you propose to carry on each of your Aussie Pet Mobile®

Franchise Businesses in our Business Judgment. You will not use any Mark as part of any corporate name or with any prefix, suffix, or other modifying words, terms, designs, or symbols, or in any modified form. The use of any geographic or other designation in connection with the Marks will be only as permitted by us, you will have no rights with regard to any geographic or other designation and you will not take any action inhibiting or otherwise affecting the use of the Marks by any Aussie Pet Mobile® franchisee or anyone else. You acknowledge that we have reserved sole rights to the use of the Marks on the Internet and other forms of electronic media.

**9.6 Ongoing and/or Optional Training.** We will provide ongoing training to you and your employees at your cost after any written request or, if in our reasonable opinion, such additional training is considered necessary. We will not charge for this ongoing training, although you will be responsible for all travel, living, incidental and other expenses and compensation of you and your authorized personnel attending any training program. We may effect ongoing training through electronic media or otherwise as we consider appropriate in our reasonable discretion. Such training will take place at our then-current headquarters.

**9.7 Franchisee Meetings.** We will convene meetings of Franchisees as we consider appropriate in our reasonable discretion.

**9.8 Product Availability.** We will give our best efforts to ensure that authorized suppliers maintain a reasonable supply of Product and Designated Equipment for purchase by you. Equipment and other items provided by us will be competitively priced, taking into account equivalent quality and other considerations.

**9.9 Toll Free Number, Web Sites.** We will operate a toll-free number (1-800-PET MOBILE or other number) and/or web site directing inquiries from prospective retail customers to qualified Aussie Pet Mobile® Franchisees. You will participate in the Aussie Pet Mobile® toll-free number/URL system and you acknowledge that (i) such system, and all numbers/URLs and other locators/designators are and will be exclusively owned by us and (ii) such system may, among other things, provide you with inquiries from existing and potential retail customers; provided that you will not receive any inquiries or referrals, or other benefits of the system, if you are not in Good Standing. You will pay an appropriate share of all charges and expenses associated with the establishment and operation of such system, and (in any case) all charges and expenses associated with your participation in such system, including the cost of inquiries relayed to you. We may (but are not required to) support such system with monies from the Marketing Fund. Unless otherwise expressly permitted in writing by us, you will not use, in marketing, operations or otherwise, any telephone number, URL or otherwise, or engage in any similar advertising, other than as approved by us, including the Aussie Pet Mobile® toll-free number/URL.

**9.10 No Warranties Other Than in Writing.** With respect to any goods and/or services provided by us, the Franchisor-Related Persons/Entities and/or any person/company referred/approved by us or them, other than specific written warranties expressly provided in connection with such items, such items are provided without any warranties, express or implied, the warranties of merchantability and fitness for a particular purpose being expressly disclaimed.

**9.11 Installation of Designated Equipment Package. DISCLAIMER OF LIABILITY.** Except for any specific written warranties expressly provided in connection with such items we shall not be liable to any person or entity for any aspect of the labor or installation of the Designated Equipment

Package(s) in the Sprinter Van(s), other than intentional acts, or gross negligence and, **IN NO EVENT SHALL WE NOR ANY OF THE FRANCHISOR RELATED ENTITIES BE LIABLE TO YOU OR ANY THIRD PARTY FOR LOST PROFITS OR OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATORY PROFITS, EVEN IF SAID PARTY HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES.**

**9.12 Limited Services for Additional and Successor Franchises.** In our Business Judgment, we may decide to not provide services in connection with the start-up of each of your Aussie Pet Mobile® Franchise Businesses if you are awarded or are being awarded a successor or additional franchise or we otherwise reasonably determine such services are not needed.

**10. COMPUTER HARDWARE AND SOFTWARE SYSTEMS.**

A. You must purchase, use, maintain and update at your expense the software, computer and other systems meeting our specifications, as we may modify them. If required by us, you agree to maintain your systems on-line to allow us access to system data and information. You agree to comply with our then-current Terms of Use and Privacy Policies and any other requirements regarding all computer and other systems, including Internet usage. Supplier and/or licensor charges for use, maintenance, support and/or updates of and to the required systems are payable by you upon receipt.

B. Neither we nor any of the Franchisor-Related Persons/Entities will have any liability and/or obligation (and neither you, nor any Affiliate of yours, will make any claims) about any failures, errors or any other occurrences relating to any computer or system hardware or software without an express written warranty from us, even if recommended or specified by us.

**11. OWNERSHIP OF CUSTOMER LISTS, PHONE LISTINGS, ETC.**

You agree that (1) we have the sole rights to, and complete ownership of, all telephone or other service (including yellow and white page listings, cellular and fax), numbers, directory listings, Internet or similar connections and/or advertising with respect to, and/or used in connection with, each of your Aussie Pet Mobile® Franchise Businesses and/or associated with the Marks; (2) any direction by us is conclusive evidence of our rights in and to any such service, numbers, directory listings and/or advertising; and (3) we have the sole and exclusive right and authority to direct their amendments, transfers, call-forwarding, terminations or any matters with respect thereto. On request by us, you will execute such documents, and do all other acts, as may be required by us and/or any service provider to evidence our ownership and/or effect a transfer, call-forwarding or otherwise to us [or such person(s) as we designate] of all such items. You will pay all amounts, whether due and payable or not, that any service provider may require in connection with such transfer or otherwise and will sign all releases and other documents required by any service provider and/or us in connection therewith (including those providing that you indemnify and hold harmless any service provider and us). You authorize us, and hereby appoint us and any officer of ours, as your attorney in fact, to direct the telephone company, other service providers and all listing agencies to transfer the same to us or as we direct, should you fail or refuse to do so, and such companies may accept this Agreement as conclusive evidence of our exclusive rights in such telephone numbers, directory listings, phone and/or Internet service and otherwise and its authority to direct their transfer.

From and after the inception of this Agreement, we own the current and future list of your clients/customers and employees, including addresses and telephone numbers, and may use such list in any way we wish, both before and after, and irrespective of, any transfer, termination, expiration, repurchase, or otherwise.

## **12. FRANCHISEE'S OBLIGATIONS**

**12.1 Payments and Reports to Us.** You will pay on the due dates specified by us for payment all amounts due, and timely submit all required reports (via electronic reporting or otherwise), to us.

**12.2 Best Efforts.** You will use your best efforts to carry on, promote and conduct each of your Aussie Pet Mobile® Franchise Businesses, including faithful compliance with the System and the Manuals in every detail, and implementation of a, proactive local marketing program using your personal efforts.

**12.3 Responsibility for Employees.** You will be responsible for the training, compensation and management of your employees and to ensure that such employees are of respectable and good character and to also ensure that such employees enter into appropriate confidentiality, non-use, non-competition and other agreements.

**12.4 Franchisee's Improvements.** You will fully and promptly disclose to us all ideas, techniques and otherwise relating to an Aussie Pet Mobile Franchise Business which are conceived or developed by you and/or your employees and we will have the perpetual right to use, and to authorize others to use, such ideas, etc., without compensation or other obligation.

**12.5 Uniforms.** You and we agree that the uniforms are an important part of the System. You and each of your employees will, when conducting business, wear the uniforms as specified in the Manuals.

**12.6 Customized Vehicle.** We have spent a considerable amount of time designing the Designated Equipment and the decoration and outfitting of the Customized Vehicle. It is part of our trade dress. You acknowledge and agree that the design, layout and other characteristics of the Customized Vehicle and Hydrobath constitute and/or contain Confidential Information and/or Trade Secrets of ours. You agree that the Customized Vehicles shall be maintained and operated as follows:

1) You will maintain the Customized Vehicle and every component of the Designated Equipment in good order and repair at all times as specified in the Manuals.

2) You will keep the Customized Vehicle fully registered and roadworthy in accordance with applicable laws.

3) You will keep the Customized Vehicle fully insured as specified in the Manuals.

4) You will keep the Customized Vehicle at all times in a clean and tidy condition and free of any advertising or promotional material other than that required by law or the Manuals and will exhibit such

signage, colors and logos on the Customized Vehicles and to upgrade or review the same as is specified under the Manuals from time to time.

5) You will not alter or in any way amend the appearance of the Customized Vehicle (inside or outside), or any fittings and equipment contained within and without the Customized Vehicle as specified in the Manuals.

6) You will maintain and upgrade the Customized Vehicle and all other equipment as specified from time-to-time in the Manuals so as to always use our then-current Customized Vehicle and other equipment as used in new Aussie Pet Mobile® Franchise Businesses.

7) You will only use an approved service center for repairs and maintenance of the Customized Vehicle, the Hydrobath and all other equipment.

**12.7 Operations Manual.** You will immediately return to us all copies of the Operations Manual for possible replacement/revision as requested by us from time to time.

### **13. CONFIDENTIAL INFORMATION**

You agree that you will forever: (1) not use the Confidential Information in any way other than the operation of an Aussie Pet Mobile® Franchise Business under an agreement in good standing with us; (2) maintain the absolute secrecy and confidentiality of the Confidential Information; (3) not make unauthorized copies of any portion of the Confidential Information; and (4) adopt and implement all procedures prescribed by the Manuals or otherwise to prevent unauthorized use or disclosure of, or access to, the Confidential Information. We have all rights to the Confidential Information and you agree that we own all information regarding customers, and franchisees, including any statistical and/or financial information and all lists. Your only interest in the Confidential Information is the right to use it pursuant to this Agreement.

### **14. RECORDKEEPING AND REPORTS**

**14.1 Record-keeping.** You will establish and maintain at your own expense a bookkeeping, accounting, recordkeeping and records retention system conforming to requirements prescribed by us from time-to-time (including, without limitation, requirements for timely entering of information into data bases of a computer program designated by us and periodic printouts of reports generated by such computer program).

You will participate in our electronic reporting system, with direct interconnection to (and full, on-line access by) our computer hardware and software systems. You will continuously use, maintain and update computer and other systems and software programs which meet such specifications as we designate, from time-to-time and in our reasonable discretion, and which, in some cases, may include components only available from us, our affiliates and/or suppliers approved by us.

We may require you to obtain specified computer hardware and/or software, including, without limitation, a license to use proprietary software developed by us or others. You agree to pay all costs in connection with obtaining, maintaining, upgrading, etc. the computer hardware and software and other systems (and additions, modifications, maintenance or support). Within sixty (60) days after you receive

notice from us, you will obtain, install and thereafter use the components of the computer and other systems that we designate from time-to-time. We have the right to charge a reasonable fee for the license, modification, maintenance or support of proprietary software that we may license to you and other goods and services that we or any affiliates furnish to you related to the computer and other systems.

You will adopt the chart of accounts, accounting procedures and policies and fiscal year designated by us.

**14.2 In-Person Review.** At a time designated by us, and in our Business Judgment, you will, at your expense, meet with our representatives at our headquarters or other location designated by us, for the purpose of discussing and reviewing your operations, status, financial performance and other matters.

**14.3 Inspection and/or Audit By Us.** We and/or our agents will have the right, at any time during business hours, and without prior notice to you, to inspect and/or audit your Franchise Businesses.

If any inspection or audit discloses an understatement of Gross Volume, you will pay to us, within five (5) days after receipt of the inspection or audit report, all amounts due on the amount of such understatement, plus interest (at the rate and on the terms provided herein) from the date originally due until the date of payment. Our or your failure to exercise any rights to conduct an audit will not act as a waiver of any rights or constitute a lack of diligence for purposes of the delayed discovery doctrine or otherwise.

You will present to your customers such evaluation forms as are periodically prescribed by us and will participate in any surveys performed by or on behalf of us. We have the right to have confidential and undisclosed "shoppers" and/or other individuals patronize and/or inspect each of your Franchise Businesses and you will reimburse us for the reasonable fees and costs incurred in connection with those activities and we will share their reports with you.

**14.4 Reports.** You will provide to us such information regarding the operation of each of your Franchise Businesses, and in such form and format, as we specify from time-to-time, including by faxed or mailed copies of reports or documents, through full, direct, on-line access to computer and other systems, or otherwise as we reasonably designate.

Our information requirements for EACH of your Franchise Businesses are as follows:

(1) at the end of each business day (or otherwise as we require from time-to-time in our reasonable discretion) a business activity report and such other information as we request for the day, together with copies of such other information and supporting records as we designate;

(2) within one (1) business day after the end of each month (or otherwise as we require from time-to-time in our reasonable discretion) a report of Gross Volume and such other information as we request for the preceding month, together with copies of such other information and supporting records as we designate;

(3) within forty-five (45) days after the end of each fiscal year, an unaudited fiscal year-



end balance sheet, income statement reflecting all year-end adjustments and statement of changes in financial position, and verified and signed by you;

(4) within thirty (30) days after such returns are filed, exact copies of your Franchise Business' state tax returns and those portions of your tax returns relating to your Franchise Business; and

(5) on request by us, such other data, information and supporting records for such periods as we from time-to-time require. Each report and financial statement submitted by you to us will be verified as correct and signed by you personally if a sole proprietorship, by a partner if a partnership, or by an executive officer if a corporation.

**15. INDEMNITY, RELATIONSHIP OF THE PARTIES**

**Indemnity.** You will indemnify and hold harmless us and each of the Franchisor-Related Persons/Entities from all fines, suits, proceedings, claims, demands, actions, loss, damages, costs, fees (including attorney's fees and related expenses) and/or any other expense, obligation and/or liability of any kind or nature, however arising, growing out of or otherwise connected with and/or related to any act, error and/or omission of yours (including, but not limited to, any breach of this Agreement by you, your ownership and/or operation of each of your Franchise Businesses, any act or omission of your employees and/or agents, and/or any transfer of any interest in this Agreement, your Franchise Businesses, any claims by any third parties or otherwise). We will have the right to control all litigation, and defend and/or settle any claim, against and/or including us and/or the Franchisor-Related Persons/Entities or affecting our and/or their interests, in such manner as we deem appropriate in our Business Judgment, in each case without affecting our rights under this indemnity. Our rights and your obligations will not be affected in any way by the fact that we (and/or any of the Franchisor-Related Persons/Entities) may be jointly named in a claim against you and/or that it may be alleged that we and/or any of the Franchisor-Related Persons/Entities (along with you) have committed any error and/or omission.

**16. OUR LIABILITY TO YOU**

We shall not be liable to you for any loss incurred by you, which is caused by our failure to observe the terms and conditions of this Agreement or otherwise, or with respect to any other obligation of us to you, where such failure is occasioned by any cause beyond our reasonable control.

**17. PROTECTION OF INTELLECTUAL PROPERTY**

**17.1 Exclusive Relationship, Restrictions on Similar Businesses During Terms and After Transfer, Termination, Expiration, Repurchase, etc.** You and we share a mutual interest in avoiding situations where persons or companies who are, or have been, Aussie Pet Mobile® Franchisees operate or otherwise become involved with, a Similar Business, anywhere, either during or after the Term of this Agreement.

You acknowledge that you've considered, as reasonable business alternatives, other franchise opportunities, as well as the possibility of your entering our industry as a non-franchised participant (in each instance not being subject to the restrictions of this Agreement) and that any adverse effect on you resulting from your violation of these restrictions will be entirely self-inflicted. You agree that the restrictions contained in this Agreement are reasonable and necessary for the protection of us and your

fellow Aussie Pet Mobile® franchisees (and our and their respective investments), represent a reasonable balancing of legitimate long-term interests, and will not impose any undue hardship on you, since you have other valuable opportunities, skills, experience, education and abilities unrelated to the ownership and/or operation of each your Aussie Pet Mobile® Franchise Businesses and which will provide you with the opportunity to derive significant income from other endeavors.

Therefore, you agree as follows: During the Term of this Agreement and any successor franchise, and for three (3) years after any transfer, termination, expiration or repurchase of this Agreement, the termination of your rights, and/or the date on which you cease to operate your last Aussie Pet Mobile® Franchise Business, whichever is later, neither you, any Affiliate of yours, nor any shareholder, member or partner of yours (in the event you are or become a business entity), nor any member of the immediate family of you or any of the foregoing, will: (a) have any direct or indirect interest as a disclosed or beneficial owner in any Similar Business located anywhere; (b) have any direct or indirect interest as a disclosed or beneficial owner in any entity which is awarding franchises or licenses or establishing joint ventures or other business enterprises for the operation of Similar Businesses located anywhere; (c) perform services for any Similar Business located anywhere; or (d) directly or indirectly employ, or seek to employ, any person who is employed by us, any of the Franchisor-Related Persons/Entities or by any other Aussie Pet Mobile® franchisee, without the prior written consent of us and that person's employer. In any case, you will first notify us and the employer before taking any action with respect to any such employment or offer of employment or (e) use or transfer the ownership of Sprinter Van to any person or entity for any Similar Business located anywhere. On our request, you will obtain written non-competition commitments from the persons subject to the non-competition provisions of this Agreement, in such form as we direct. You shall, if operating as a business entity, cause each of your owners, partners, directors and officers, or if there is a trust, procure each of the beneficiaries who are of adult age, to enter into agreements with us in terms approved by us in order to give effect to this clause.

If you violate any obligations under this Agreement (or otherwise) with respect to a Similar Business, our remedies will include the right to obtain equitable relief, notwithstanding any provisions of this Agreement to the contrary.

The requirements of this section have been expressly bargained for and are an express condition of our award of this Franchise to you.

**17.2 Ownership of Intellectual Property.** You acknowledge that we are the exclusive owner of the Intellectual Property, the Marks, all employee and customer lists and all phone listings/URLs held by you. You acknowledge that one or more of the Marks, may not be currently registered on the Principal Register of the United States Patent and Trademark Office. By not having a Principal Register federal registration with respect to one or more of the Intellectual Property, the Marks or otherwise, we do not have certain presumptive legal rights granted by a registration. The use of any or all of the Intellectual Property shall not create in you or in any person or entity any right, title or interest in or to any of it except as expressly provided in this Agreement. You shall not directly or indirectly assert any right, title or interest in or to any of the Marks or any other part of the Intellectual Property other than as provided for in this Agreement.

**17.3 Conditions on Use of Marks.** You shall, in using the Marks:

(a) in the case of such Marks as are registered, indicate that such Marks and Designs are

- registered and where relevant, that you are an authorized user of the Marks;
- (b) supply us with samples of all proposed uses of the Marks and obtain our prior written approval of such use;
  - (c) not at any time directly or indirectly use or cause to be used any other design, service mark, trade mark, business name or any other mark or thing or any other means of designation or commercial identification which is likely to be confused with any one or more of the Marks; and
  - (d) not use, or permit to be used, any of the Marks except as authorized by us.

**17.4 Infringements.** You will immediately notify us of any apparent or actual infringement of, or challenge to, your use of the Marks, or any claim by any person of any rights in the Marks, and you will not communicate with anyone other than us, and our counsel, in connection with any such matter. We will have reasonable discretion to take such action as we deem appropriate in connection with such (or related) matters, and the right to control exclusively any settlement, litigation or proceeding arising out of or related to any such matters. You will execute any and all instruments and documents, render such assistance, and do such acts and things as may, in our reasonable opinion, be advisable to protect and maintain our interests in the Marks.

**17.5 Conditions on Use of Intellectual Property.** You will not do or permit to be done in connection with any of your Franchise Businesses, anything which may detract from the goodwill and reputation attaching to the Intellectual Property or which is likely to deceive or cause confusion. For example, you will not:

- (a) use or display any marks, names, color schemes, designs or otherwise, including those on or in connection with the Customized Vehicle or the Designated Equipment and/or Hydrobath, except as permitted by the Manuals and this Agreement;
- (b) use or display any of the Intellectual Property, including the Customized Vehicle or the Designated Equipment and/or Hydrobath, in any way not permitted by the Manuals or this Agreement; or
- (c) use or display any of the Intellectual Property, including the Customized Vehicle or the Designated Equipment and/or Hydrobath, in connection with any products, services, programs or otherwise not permitted by the Manuals or this Agreement.

You will not do anything, or aid or assist any person to do anything, which would infringe upon, disparage, devalue or otherwise harm or contest the Intellectual Property and/or our rights therein.

**17.6 Change of Marks/Designs.** If it becomes advisable at any time, in our Business Judgment, for you to modify or discontinue the use of any of the Marks or use one or more additional or substitute trademarks or service marks, you will promptly comply (at your and our joint expense) with our directions in such regard, including (but not limited to) replacement of all signage, etc. We will not have any liability or obligation (whether of defense, indemnity, expense reimbursement or otherwise) to you or anyone else, and you agree to make no claim, for, or in connection with, any modification, discontinuance or otherwise, and/or any dispute regarding the Marks and/or your and/or our rights in or to them. We make no guaranty that a modification, discontinuance or otherwise will not be required, whether as a result of expiration, termination or limitation of our rights to the Marks or otherwise. You understand that there is always a possibility that there might be one or more businesses operating in or near the area(s) where you may do business or otherwise, using a name and/or marks similar to ours and with superior rights to such name and/or marks as a result of prior use or otherwise. We strongly urge you to research

this possibility, using telephone directories, local filings and other means, prior to your signing any documents, expending or paying any sums or making any commitments and you understand that if you fail to do so, you are at risk.

**18. ASSIGNMENT BY US**

This Agreement, and any and/or all of our rights and/or obligations under it, are fully transferable by us in our Business Judgment and will inure to the benefit of any person or entity to whom we transfer it, or to any other legal successor to our interest in this Agreement. If we transfer this Agreement, or any and/or all of our rights and/or obligations under it, all past, current and future obligations of ours (and of any of the Franchisor-Related Persons/Entities) to you will cease and be forever extinguished. We may be sold and/or we may sell any or all of our assets to a competitive or other entity, we may participate in an initial, or other, public offering or private placement of our stock, may merge, acquire other entities and/or assets (competitive or not), be acquired by a competitive or other entity, and/or may undertake any refinancing, leveraged buy-out and/or other transaction. You waive any and all claims, demands and/or damages with respect to any transaction or otherwise allowed under this section or otherwise.

**19. ASSIGNMENT BY FRANCHISEE**

**19.1 Rights Personal.** The rights and duties created by this Agreement are personal to you (or your owners if a business entity) and we have awarded the Franchise to you relying on the individual or collective character, skill, aptitude, attitude, business ability and financial capacity of you or such owners. Accordingly, neither this Agreement nor the Franchise (nor any interest therein), nor any part or all of the ownership of the Franchisee or any of your Franchise Businesses (or any interest in it or assets associated with any of the foregoing), may be transferred without our prior written approval which approval will not be unreasonably withheld. If we withhold our consent to a proposed transfer based upon your failure to comply with the requirements set out in Sections 19.2 and 19.3 (as applicable) and/or elect to exercise our right-of-first-refusal in accordance with this Agreement, such consent shall not be deemed unreasonably withheld. Any transfer (or attempted transfer) without such approval will constitute a breach hereof and convey no rights to, or interests in, this Agreement, the Franchise Businesses, such assets or otherwise.

The term "transfer" includes any voluntary, involuntary, direct or indirect assignment, sale, gift, pledge, mortgage of, or any granting of any security or other interest (whether or not controlling) in: (1) this Agreement; (2) your Franchise Businesses; (3) ownership of the Franchisee; or (4) any assets associated with any of the foregoing. A transfer also includes (but is not limited to) the following events: (1) any transfer of ownership of capital stock or any partnership or similar interest; (2) any merger or consolidation or issuance of securities representing an ownership interest in the Franchisee; (3) any sale of voting stock of the Franchisee or any security convertible to voting stock of the Franchisee; (4) any transfer in a divorce, insolvency, corporate or partnership dissolution proceeding or otherwise by operation of law; (5) any transfer of any interest in any revenues, profits, rights or assets of your Franchise Businesses; (6) any transfer to a business entity and/or a trust or similar entity; or (7) the creation or otherwise of any security or similar interest affecting any of the foregoing. Any transfer by the Franchisee (or any of your owners) to a corporation and/or of any interest in the event of your death or the death of an owner of the Franchisee, by will, declaration of or transfer in or to a trust, under the laws of intestate succession, or otherwise will be governed by all of the provisions on transfer of this Agreement. We may, in our Business Judgment, deny or condition approval to any transfer involving a

portion of your Franchise Business (for example, but not limited to, a portion of any protected area) or a portion of any of the foregoing items. We may, in our reasonable discretion, limit the number of Protected Areas controlled by any Franchisee and/or its Affiliates and/or deny or condition approval to any transfer which would result in any Franchisee (or any Affiliate) owning more than one group of Protected Areas, or holding rights under more than one Franchise Agreement or which would concentrate ownership of franchise rights to a degree we disapprove.

In any event, and notwithstanding anything to the contrary in this Agreement or otherwise, you may not transfer any of the Designated Equipment to anyone other than an Aussie Pet Mobile® new or existing Franchisee in Good Standing. Any Designated Equipment which is transferred must first be fully refurbished and brought into full compliance with all Designated Equipment offered by us to new Franchisees. These requirements are agreed to be reasonable and appropriate since the Designated Equipment includes elements of valuable intellectual property owned by us and possession and/or use of the Designated Equipment by unauthorized persons could damage your and our shared interests, the integrity of the Aussie Pet Mobile® System and cause significant economic loss.

**19.2 Conditions For Approval of ANY Transfer By Franchisee.** Any transfer by or on behalf of you and/or any Affiliate will be subject to all of the conditions in this Agreement (each of which you and we agree are reasonable), together with such other terms and conditions as are reasonable in the specific circumstances of the proposed transfer. In any event, we may refuse consent to any transfer if, in our reasonable discretion, the proposed transferee is, has been or will be associated with a Similar Business or if they do not meet our then-current financial, experience and other standards for award of a franchise directly by us.

All of the following conditions must be met prior to, or concurrently with, the effective date of any transfer unless we require you to meet them earlier. We can waive any condition in our reasonable discretion:

(1) You must be in full compliance with this Agreement and all other agreements and/or obligations between you (including any Affiliate) and us (including any Affiliate), as well as all agreements with, and other obligations to, any third parties;

(2) The transferee and its owners must have sufficient business experience, aptitude and financial resources to operate the Franchise Businesses, must be individuals of good moral character and must meet all financial and other standards then-applied by us in evaluating prospects to whom we might award a Franchise in the then-current business and competitive environment;

(3) All of your obligations (including all obligations of any entity affiliated with and/or related to you) to us (including any entity affiliated with and/or related to us) must be expressly assumed by the transferee;

(4) You must pay all royalties, marketing contributions, and other amounts owed by you (including any Affiliate) to us (including any Affiliate) which are then unpaid (the balances of all promissory notes and other unpaid amounts owed to us and/or any Affiliates of ours shall be accelerated and paid in full), all obligations to third parties arising out of the operation of your Franchise Business must be satisfied or assumed by the transferee and your Franchise Businesses and operations thereof must have been brought into full compliance with the specifications and standards then-applicable for new Franchise

Businesses:

(5) You must submit all required reports, financial statements and other documents due to us up to the effective date of the transfer;

(6) You must have complied with all of the provisions of this Agreement, any amendment or successor hereto, and all other agreements between you and us, our subsidiaries, affiliates or divisions, and, at the time of transfer, shall not be in default thereof;

(7) The transferee and its personnel must (at our option) complete or agree to complete our training program to our satisfaction;

(8) The transferee must obtain, within the time limits set by us, and maintain thereafter, all permits, franchise registrations, licenses and insurance required for the operation of the Franchise Business(es);

(9) You (in addition to the transferee[s] separate liability to us) must remain liable for all obligations to us, our subsidiaries, Affiliates, and divisions, in connection with the Franchise Business(es) prior to, through and up to six (6) months after the effective date of the transfer and shall execute any and all instruments reasonably required by us to evidence such liability including our then-current form of Consent to Transfer;

(10) To the extent required by the terms of any leases or other agreements, the lessors or other parties must have consented to the proposed transfer, but no consent of any Franchisee shall be required;

(11) The transferee must assume all of your duties and obligations to us (and any Affiliate of ours) and agree to be bound by all terms and conditions of this Agreement for the remainder of its term, and ancillary documents (including guarantees);

(12) You or the transferee must pay us a non-refundable transfer fee of Ten Percent (10%) (with a cap of \$15,000 per protected area subject to inflation adjustment) of the consideration to be received by you (or any Affiliate) in connection with such transfer if the transfer is approved by us. Such fee must be deposited with us on a non-refundable basis on your notification to us of the proposed transfer and prior to our undertaking any review, drafting of documents, training or other activities. If we do not approve the transfer your transfer fee will be returned to you minus our expenses incurred (including legal fees) for review and consideration of the transfer;

(13) If you utilize the services of any of our sales consultants (including outside agencies and brokers) in completing the transfer then, prior to transfer, you or the transferee must reimburse us an amount equal to any commission or other sales compensation which we must pay to such persons by virtue of this Agreement or any other contract with such party;

(14) You and each of your owners and/or Affiliates [and the transferee (and each owner and/or Affiliate of the transferee) if the transferee or such owner and/or Affiliate is or has been a franchisee of, or had any other relationship with, us or any of the Franchisor-Related Persons/Entities] must execute a General Release;

(15) Notwithstanding any transfer, your non-competition, indemnity and confidentiality obligations, and the provisions relating to dispute resolution (which include, but are not limited to, all of those of Article 23), as well as those of Articles 24 and 25, of this Agreement will survive any transfer;

(16) We or the transferee must obtain from you an agreement that, to the maximum extent permitted by law, you will not, for a period of at least three (3) years following the transfer, either directly or indirectly, or as owner, partner, director, officer, employee, consultant, agent, manager or stockholder, disclosed or undisclosed owner, officer, agent, employee or in any other capacity whatsoever, participate or engage, actively or inactively, in any Similar Business or any other business substantially similar to any business then engaged in by us, and we shall be named as a third-party beneficiary of such agreement; and

(17) The transfer must be made in compliance with any laws that apply to the transfer, including state and federal laws governing the offer and sale of franchises.

(18) Except as provided in section 22 below, a transfer of ownership, possession or control of your Customized Vehicle, the Sprinter Van or the Designated Equipment or any of the assets of the Franchised Business can only be made with a transfer of the Franchise.

**19.3 Additional Conditions for Transfer to a Wholly-Owned Corporation.** Subject to compliance with all other requirements of this Agreement relating to transfer (including, but not limited to, execution of a General Release and satisfying all payment and transfer fee requirements), if you're in full compliance with this Agreement, we will not withhold our consent to a transfer of this Agreement, the Franchise and your Franchise Business(es) to a corporation, limited liability company or other entity which conducts no business other than your Franchise Business(es). Such a transfer will not relieve you of your obligations hereunder, and you will remain jointly and severally liable to us for all of your, and such entity's, past, current and/or future obligations, under any other agreement(s) (whether past, current and/or future) with us or any Affiliate of ours and/or any franchise, lease/sublease and/or other agreement(s) to be executed by such entity.

In addition, any such transfer will be subject to reasonable restrictions, including but not limited to the following (each of which are agreed to be reasonable):

(a) The transferee entity must be newly organized, the articles of incorporation, bylaws and other organizational documents of such entity must recite that the issuance and transfer of any ownership interest in the entity are restricted by the terms of this Agreement and must provide that its activities are confined solely to acting as an Aussie Pet Mobile® Franchisee operating in Good Standing under this Agreement;

(b) You must maintain (and continue to maintain) management control of the entity and ownership of at least fifty-one percent (51%) of the equity and voting power of all issued and outstanding capital stock in the transferee entity and to personally manage the affairs of such entity;

(c) The individual Franchisee (or, if the Franchisee is a partnership, at least one of the partners) must be and remain the chief executive officer of the entity;

(d) The transferee entity must enter into a written assignment (in form satisfactory to us) in which such entity assumes all of your past, current and/or future obligations under this Agreement and ancillary documents and any other past, current and/or future agreement(s) with us and/or any Affiliate of ours;

(e) All current and future shareholders of the transferee entity must enter into a written agreement (in a form provided or approved by us) agreeing to comply with this Agreement and any other past, current and/or future agreement(s) with us and/or any affiliate of ours and jointly and severally guaranteeing all of the transferee entity's past, current and/or future obligations under this Agreement, any agreements and/or other obligations and any other past, current and/or future agreement(s) with us and/or any affiliate of ours. The current approved form of Owner's Guaranty is attached as the Seventh Schedule to this Agreement;

(f) Each stock certificate of the transferee entity must bear a legend reciting or referring to the restrictions of this Agreement, including those on the issuance and transfer of stock in the transferee entity;

(g) No shares of securities of any type in the transferee entity may be issued without obtaining our prior written consent, which will not be unreasonably withheld;

(h) All obligations of the Franchisee under this Agreement and/or any other agreement(s) with us and/or any affiliate of ours (including all financial and operational compliance matters) must be satisfied prior to the transfer; and

(i) None of the Owners will, directly or indirectly, engage in, or have any interest in, any Similar Business, except that any Owner may own up to three percent (3%) of the stock of a publicly-traded Similar Business.

Throughout the Term of this Agreement, the transferee entity will not do any act (including any transfer of assets or otherwise) which would reduce its net worth to a level not reasonably acceptable to us and no transfer will take place unless the Franchisee is current in all payments to us, the Marketing Fund and each of the Franchisor-Related Persons/Entities.

The provisions of this Agreement (including this Section) shall apply to any transfer to an LLC, partnership or other business entity. If the Franchisee is or becomes a corporation, LLC, partnership or other business entity, the chief executive officer of such entity must always meet all of our then-current training and other standards.

**19.4 Effect of Consent, No Waiver.** Our consent to a transfer, or failure to exercise any right-of-first-refusal, will not constitute a waiver of any claims we may have against you (or your owners), nor will it be deemed a waiver of our right to demand exact compliance with any of the terms or conditions of this Agreement or any other agreement by any transferor or transferee. Any transfer (including any transfer consented to by us and even if the transferee executes a new Franchise Agreement) will not act as a termination of your confidentiality, indemnity, non-competition or other obligations under this Agreement, or affect your and our obligations and rights under the dispute avoidance and resolution provisions of this Agreement, including all of Articles 23, 24 and 25.

**19.5 Right of First Refusal.** If you or any of your owners wish to engage in any transfer



subject to this Agreement, (a) you or your owners will obtain a bona fide, executed written offer and (b) a true and complete copy of the offer (and any proposed ancillary agreements) will immediately be submitted to us by you, your owners or both, together with a non-refundable deposit of the transfer fee. If we do not approve the transfer your transfer fee will be returned minus our expenses incurred (including legal fees) for review and consideration of the transfer. The offer must apply only to an interest in this Agreement, the Franchise, your Franchise Business(es) or the Franchisee and must not include the purchase of any other property or rights of yours (or your owners); but if the offeror proposes to buy any other property or rights from you (or your owners) under a related offer, the price and terms of purchase offered will reflect the bona fide price offered therefor and will not reflect any value for any other property or rights.

We will have the right, exercisable by written notice delivered to you or your owners within thirty (30) days from the date of delivery of an exact copy of such offer to us, together with your deposit of any transfer fee and satisfaction of all other requirements for our consent to such transfer, to notify you that we have elected to purchase such interest for the price and on the terms and conditions contained in such offer, provided that our credit will be deemed equal to the credit of any proposed purchaser, and we will have not less than sixty (60) days from the date you receive our notice of intention to exercise such right-of-first-refusal to prepare for closing. We will be entitled to purchase any interest subject to all customary representations, warranties and agreements given by the seller of the assets of a business or voting stock of an incorporated business, as applicable including, without limitation, representations and warranties as to ownership, condition and title to stock and/or assets, liens and encumbrances relating to the stock and/or assets, validity of contracts, and liabilities, contingent or otherwise, of the corporation whose stock is purchased and including typical non-competition covenants by the seller and each owner of the Franchisee. In connection with such purchase, you will sign a General Release. If, for any reason, such transaction is not consummated within one hundred and twenty (120) days after the date of delivery of an exact copy of such offer to us then the proposed transaction shall be deemed withdrawn, and all of the provisions of this Section shall again become fully applicable, as if such transaction had not been proposed.

If we do not exercise our right-of-first-refusal, you or your owner may complete the sale to such purchaser pursuant to and on the exact terms of such offer, subject to the conditions provided in this Agreement, provided that if there is a material change in the terms of the sale, we will have an additional right-of-first-refusal for thirty (30) days on the same terms and conditions as are applicable to the initial right-of-first-refusal.

## 20. SUCCESSOR FRANCHISES

The initial term of this Agreement terminates on the expiration date specified on page 1. At that time, subject to the conditions and requirements set out in this Section, you may be awarded a successor Franchise, with the possibility of a single further successor Franchise (total of two successor Franchises). Each successor term will be for a ten (10) year period, and may materially differ, from this Franchise Agreement and its requirements. After the award of two successor Franchises, an additional successor Franchise will be awarded in our Business Judgment.

**20.1 Requirements and Procedures.** Any award of the first successor Franchise must meet all of the following conditions, each of which are agreed to be reasonable, together with such other conditions as are reasonable at the time:

(1) You (and each Affiliate of yours) are not in default in any obligation to us (and/or any of the Franchisor-Related Persons/Entities), whether arising under this Agreement, any other Agreement or otherwise, which default remains uncured at the time of the award of the successor franchise (including all of the conditions set out below);

(2) You maintain possession of your Designated Equipment and by the expiration date of this Agreement each of your Franchise Businesses and operations must have been brought into full compliance with the specifications and standards then-applicable for new Franchise Businesses, including a full upgrade to the same first-class condition as a new Franchise Business, which may include (but is not limited to) refurbishing your Customized Vehicle, which may include the upgrading of the Designated Equipment, new equipment, decor package, signage, compliance with all then-current standards for design, software, provision of goods and services, methods of operation and other requirements of the System, plus such modernization of each of your Franchise Businesses as we may reasonably require to reflect the then-current standards and image of the System, all at your sole expense so as to bring your Franchise Businesses into full compliance with our then-current requirements by the expiration date of this Agreement;

(3) You have given us written notice of election to obtain the successor Franchise not less than three (3) months, but not more than twelve (12) months, prior to the expiration of the term of this Agreement;

(4) You (and each Affiliate of yours) have satisfied all monetary and/or other obligations owed to us and any of the Franchisor-Related Persons/Entities;

(5) You have executed our then-current form of franchise agreement and related documents, as are then customarily used by us to award Aussie Pet Mobile® Franchises (with modifications to reflect the fact that the successor franchise agreement may have limited successor Franchise rights as contemplated by this Agreement); provided that, 1) the economic terms of the successor franchise agreement shall not materially differ from the terms of this Agreement, 2) we will not be required to provide you any training or other "start-up" services in connection with the award of any successor franchise, 3) you will not be required to purchase another Designated Equipment Package but will need to comply with 20.1 (2) above, and 4) you will not have to pay another initial franchise fee but will need to pay a successor franchise fee according to 20.1 (8) below.

(6) You are and have been in compliance with our then-current qualification and training requirements;

(7) You (and each Affiliate of yours) have executed a General Release. If you fail to execute such a release, the awarding of a successor franchise will be the equivalent of the granting of such release, since you and we agree that it would be inappropriate and improper for you to continue in a franchise (or other) relationship with us, and have the right to use the Marks and System, if you had any claims, liabilities and/or obligations, of any nature whatsoever, however arising, known or unknown, against us (or other persons/entities covered by such a release) or otherwise failed to execute such a release;

(8) You have paid us a non-refundable successor franchise fee equal to one third (1/3) of the