



FRANCHISE AGREEMENT

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FRANCHISE AGREEMENT

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FRANCHISE AGREEMENT

This Agreement is entered into as of _____, 2006, between AVALAR NETWORK, INC., a Nevada corporation, whose address is 6430 Medical Center Street, Suite 100, Las Vegas, NV 89148, referred to in this Agreement by words such as "we", "us", and "our", and _____, referred to in the Agreement by words such as "you" and "your".

The parties enter into this Agreement based on the following facts, representations, and purposes:

A. We award to our franchisees for **AVALAR** real estate brokerage offices and, in states where permitted, **AVALAR** mortgage brokerage offices. Our *Path to Success* program allows you and others affiliated with your office to share in our royalty receipts, as further described in Exhibit A to this Agreement.

B. While our franchisees have the right to operate their businesses under or in association with the **AVALAR** name, they are not required to do so. Nevertheless, in this Agreement we will refer to our franchised offices as **AVALAR** offices. While this Agreement may give you the right to open more than one **AVALAR** office, we often refer to all the offices you own in the singular but that reference will include all of the offices you open under this Agreement.

C. We have agreed to award you an **AVALAR** franchise based solely on the representations and commitments you make to us and those we make to you in this Agreement. By signing this Agreement, you agree to follow our reasonable requirements, specifications, and standards and to observe the conduct, policies, and procedures we specify.

D. In this Agreement the words "the licensed assets" refer to all of the trademarks, trade names, service marks, logotypes, other commercial symbols, processes, operating procedures, standards, designs, office formats, fixtures, decorations, trade dress, equipment specifications, trade secrets, trade practices, copyrights, patents, customer lists, manuals, forms, formats, advertising and promotional material and practices, bulletins, notices, communications, training material, goodwill, and all other proprietary items and particulars, both tangible and intangible, used in connection with **AVALAR** offices, including those we now use as well as those that we may use in the future.

E. You warrant that you have revealed to us in writing all of those who will have an ownership interest in your **AVALAR** office and in any business entity that will own this franchise. You agree to advise us promptly of any material changes in the information that you provided to us in your application and financial disclosure forms.

F. You warrant to us that you have used reasonable efforts to investigate the region in which you want to open your **AVALAR** office and have found no use of the name "**AVALAR**" or any similar trade name or other commercial identification in that area that may conflict with your use of the name "**AVALAR**".

G. An essential assurance that you make to us is that neither we nor anyone else has made any representation, statement, or commitment to you concerning **AVALAR** offices, other than those contained in this Agreement, including those regarding the sales volumes that you are likely to achieve in your office, the profits you are likely to make in your office or by participation in our revenue sharing program, or your likelihood of success.

H. As used in this Agreement, the word "days" means calendar days unless the term "business days" is used. "Business days" means all days except Saturday, Sunday, and legal holidays in the state where the **AVALAR** office covered by this Agreement is located.

I. As used in this Agreement the words "associates", "employees", "staff", "sales associates", "agents", "personnel", and similar terms include all direct and indirect employees, independent contractors performing real estate sales and administrative functions, and any others performing services for clients and customers of your **AVALAR** office.

In exchange for the commitments of the parties contained in this Agreement, and based on the above warranties, recitals, facts, representations, and purposes, as well as for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement, intending to be legally bound, agree as follows:

1. Incorporation of Recitals.

1.1 The representations, facts, promises, warranties, recitals, and statements set forth above are true and are incorporated into this Agreement by reference.

2. Award of Franchise

2.1 We hereby award you a nonexclusive license to use the licensed assets for the term set forth in this Agreement, but only as long as you comply with its terms and conditions.

2.2 The franchise we award you is for the operation of one or more **AVALAR** offices at the location(s) appearing in Section 5.4(b) below and for those additional offices otherwise allowed by this Agreement. The award of this franchise does not give you the right to use the licensed assets at any other location or locations, for any other purpose or in any manner not otherwise permitted by this Agreement.

2.3 You agree to use the licensed assets only as specified in this Agreement. You further agree that we have the sole right to use and to permit others to use the licensed assets. You do have any rights in any of the licensed assets other than as granted to you by this Agreement. You will not acquire any ownership or rights in the licensed assets because of the operation of your **AVALAR** office or otherwise, including any goodwill connected with the licensed assets even if your operation enhances that goodwill. Nothing in the foregoing is

intended to reduce any payment for goodwill you may obtain should you sell your **AVALAR** office or offices as allowed by this Agreement except as may be limited by other provisions of this Agreement.

2.4 From time to time, we may make changes to our franchise program in order to benefit the **AVALAR** system. You agree that any such change, limitation, or alteration will not give you any rights against us for any alleged losses or damage resulting from such changes. We agree that any such changes will not require a substantial expenditure on your part and will not unreasonably increase the cost of operation your **AVALAR** office.

3. Franchise Fee.

3.1 In partial consideration for our awarding you an **AVALAR** franchise, you agree to pay to us a franchise fee when you sign this Agreement in the amount of \$15,000.00 for your first **AVALAR** office plus \$2,500.00 for each additional office you own on the date of this Agreement. During the term of this Agreement, you can open additional **AVALAR** offices subject to our approval and the payment of a fee of \$2,500.00 for each additional office. Except as provided in Section 4 below, the franchise fee is not refundable even if the number of offices you own is reduced during the term of this Agreement.

4. Term of the Franchise, Refund Guarantee, and Renewal Options.

4.1 This Agreement is effective upon signing and has an initial term of 5 years beginning on the date of this Agreement.

4.2 You have the right to terminate this Agreement for any reason during the first 12 months of its term. If you wish to terminate this Agreement for this reason, you must give us written notice of your election to terminate and the date during that period on which you wish this Agreement to end. If you elect to terminate this Agreement during the first 12 months, we will refund to you 90% of the initial franchise fee you paid us minus the cost of any third party software we may have purchased on your behalf. We will make this refund within 30 days of when we have confirmed that you have complied with all of the post-termination duties listed in Section 17.10 below. The foregoing right to terminate will not apply to any renewals or extensions of this Agreement or to any other Franchise Agreement or similar agreement between us while this Agreement or any renewals or extensions of this Agreement is in effect.

4.3 You have the right to your **AVALAR** franchise after the expiration of the initial term for an unlimited number of five-year periods. If you want to renew your **AVALAR** franchise, you must give us written notice that you want to renew not less than 6 months before the scheduled expiration date of the term then in effect. To renew, you must not be in default under this Agreement or any other agreement between us or between you and any of our affiliates at the time you give us that notice and also at the time your renewal term is to take effect.

4.4 If we have given you 2 or more notices of valid defaults under material provisions of this Agreement during the term that is expiring, even if you corrected the conditions giving rise to the default notices within the time periods allowed, we have the right not to renew your franchise.

4.5 As a condition of our approving the renewal, you must sign the most current form of Franchise Agreement that we are using at the time of the renewal. When your new Franchise Agreement is signed, it will supersede the terms of this Agreement except for your right to renew your franchise for unlimited period of 5 years each. The form of Franchise Agreement that will be used for your renewal term will be given to you at least 90 days before the renewal term is to begin so that you may review it. You agree to sign your new Franchise Agreement at least 60 days before your current franchise term expires. If you do not, you will be deemed to have withdrawn your request to renew your **AVALAR** franchise. If that should happen, your franchise will expire at the end of its current term.

4.6 Even though you are signing a new Franchise Agreement on renewal, you do not have to pay any franchise or renewal fees as a result of the renewal.

4.7 As a further condition of our approving the renewal of your franchise, you agree to sign a general release of all claims against us and against our directors, officers, employees, agents, and our affiliates and their directors, officers, employees, and agents. This is so that we do not enter into the renewal term with any problems unresolved between us.

4.8 If your franchise expires without being renewed, we will have the rights and you will have the duties upon the expiration of this Agreement described in Section 17 below.

5. Office Location

5.1 It is your responsibility to find a location for your **AVALAR** office and to negotiate a lease for the space. We must approve the location and design of your office before you can sign a lease for your office location or undertake modification of the space. You may not locate your **AVALAR** office within a home. With our approval, you can temporarily locate your **AVALAR** office in an executive suite or similar facility while you are attempting to locate a permanent location for your office but not for longer than 6 months. An executive suite may be used as the location of one of your branch offices with our prior approval. If we do assist you in any way in connection with your location or lease, you agree that we are not responsible for any mistakes or oversights we make in providing that assistance.

5.2 Except as otherwise prohibited by this Agreement, we can approve other **AVALAR** offices in the general area in which you intend to open your **AVALAR** office, or, if you have an existing office, in the area in which your office is located. Neither you nor our other franchisees in that area have any priority as to when you or they can open an **AVALAR** office.

5.3 If your **AVALAR** office is not open for business within 6 months from the date of this Agreement, we have the right to terminate this Agreement. In the event this franchise is terminated for that reason, we will refund 90% of the initial franchise fee you have paid to us minus the cost of any third party software we may have purchased on your behalf. We will make this refund within 30 days of when you have complied all of your post-termination duties described in Section 17.10 of this Agreement.

5.4 We must mutually agree upon any protected territory to be granted in connection with your office, reduce it to writing, and both sign it before that protected territory is effective.

Except in unusual cases, your protected territory will be a one-mile radius around your office. By granting you a protected territory, we agree not to locate a company-owned or franchised **AVALAR** office within that territory during the term, and any extensions or renewals, of this Agreement

5.5 If you relocate your office, the protected territory granted in connection with your original office location will be cancelled and a new protected territory will have to be agreed upon in connection with your new office location.

5.6 Once your initial office location(s) and protected territory(ies) are agreed upon, it/they will be described below. If this Agreement covers more than one **AVALAR** office, the following list will be revised or additional exhibits will be attached to this Agreement as each new location is added. We mutually agree that the location(s) for your initial **AVALAR** office and their protected territory(ies) is/are:

5.7 If you are opening a new **AVALAR** office and we do not agree on a protected territory prior to your signing your lease or other occupancy document, no protected territory will be granted in connection with your office location. If this Agreement covers one or more existing offices that are being converted to **AVALAR** offices, if we do not agree on a protected territory for each of those offices when this Agreement is signed, no protected territory will be granted in connection with those offices.

5.8 To the extent not expressly prohibited by the foregoing provision, we and our affiliates reserve the right to own, operate, franchise, or otherwise conduct or license any other type of business at any location, including within your protected territory. However, we agree that no such business will use the **AVALAR** name or engage in a business sufficiently similar to that of your **AVALAR** office so as to be a direct competitor of your office.

5.9 Also excluded from the foregoing restrictions are any competing units owned, operated, and/or franchised by any person or entity with whom or which we merge, by whom or which we are acquired, or which we acquire or otherwise become affiliated after the date of this Agreement. However, we agree that no such affiliate will own, operate, or franchise any real estate or mortgage brokerage offices using the **AVALAR** names or marks.

5.10 The granting of a protected territory does not grant or imply any marketing or clientele exclusivity within the territory. Neither you, our other franchisees, our affiliates, nor we are prohibited from listing properties, soliciting clients, making sales, brokering mortgages, or engaging in any other real estate-related activity in any area, including within your protected territory, and you are not prohibited from engaging in similar activities within the protected territories of us, our affiliates, or other **AVALAR** franchisees.

5.11 Nothing in this Agreement, including granting you a protected territory, prevents us or our affiliates from opening, operating, franchising, and/or licensing any business, including **AVALAR** offices at any location outside of your protected territory even if you believe such offices will have an adverse impact on your **AVALAR** office.

5.12 You do not have the right to open any additional **AVALAR** offices at any location without our prior written approval. We have no obligation to allow you to open any additional **AVALAR** offices whether you propose to open them in proximity to your existing office or offices or elsewhere. You have been granted no rights of first refusal or other preferential rights to open additional **AVALAR** offices unless those rights are set forth in this Agreement.

5.13 If you want to relocate your **AVALAR** office, we must approve the new location before you lease it. You must provide us the information we request to help us decide whether to approve the location. Your relocated office will continue to be subject to the terms of this Agreement including the franchise term then in effect. Upon the relocation of your office, you must pay us a relocation fee in the amount of \$500.00 to cover our administrative costs in connection with your relocation.

5.14 No business other than the business franchised by this Agreement can be located in your office without our prior written consent. You cannot operate your **AVALAR** office inside the business premises of someone else without our prior written consent.

6. Design and Construction of the Office; Maintenance and Repair.

6.1 All costs incurred in connection with the design, construct, or remodeling of your office are your responsibility.

6.2 If you use the **AVALAR** name in connection with your office or offices, you agree to comply with our graphic standards requirements, including our requirements for signs, business cards, stationery, forms, and so forth.

6.3 We will be available to consult with you on the telephone during our normal business hours regarding the design and construction of your **AVALAR** office. However, it is your responsibility to see that your office is designed, built, equipped, decorated, stocked, and opened without delay and in accordance with our requirements. We assume no responsibility for the work of independent contractors that you employ.

6.4 You agree to maintain your office in a high condition of appearance and repair throughout the term of this Agreement.

7. Orientation and Preopening Assistance.

7.1 We will provide an initial orientation for you and your administrative staff at a location we specify. You will not be charged an extra fee for attending this orientation but you must bear your own costs of travel, lodging, and related expenses and those of your employees, as well as any salaries and benefits of your employees.

7.2 Even though we provide an orientation program, the training of your employees and salespeople is your responsibility.

7.3 We may offer courses, seminars, skill sessions, conferences, conventions, meetings, and similar programs for our franchisees or for their employees. Unless we specify otherwise, you are not required to attend or to have your employees attend these meetings. If we schedule and hold these meetings, we can charge a fee to those attending. In addition, you must pay your own travel, lodging, and similar expenses in connection with attending these meetings and those of your employees.

8. Office Operations, Continuing Assistance, and Duties.

8.1 We will provide you with manuals, systems, procedures, forms, and various other materials in connection with the operation of your **AVALAR** office. You agree to follow the requirements contained in that material to the extent we indicate that compliance is mandatory. Our manuals and other materials contain our trade secrets. You agree not to reveal the contents of the confidential portions of our manuals and other proprietary material to anyone we do not approve in advance in writing. You agree to use your best efforts to prevent any unauthorized disclosure of our trade secret material by your employees, sales associates, contractors, agents, and others over whom you have control. In this regard, you agree to follow the security procedures and employ the security practices that we specify. You agree to return all manuals and other material that we have provided to you upon the expiration or termination of this Agreement or as we otherwise require.

8.2 You must obtain and maintain at your expense all licenses and permits necessary for the operation of your office. If required by law, your office must be under the supervision of a licensed real estate or mortgage broker. Regardless of who oversees the operation of your office, you agree to see that your office is conducted in a businesslike manner using sound business practices and in accordance with our mandatory requirements.

8.3 You agree to use your best efforts to produce the maximum volume of sales from your **AVALAR** office as long as those efforts are consistent with the terms of this Agreement and with our manuals and directives. You agree to operate your **AVALAR** office in the highest quality manner and in accordance with the requirements of this Agreement, our manuals, our other directives, in compliance with the National Association of Realtors® Code of Ethics and Standards of Practice, and applicable law.

8.4 In order to maintain and enhance the high standards and public image of **AVALAR** offices, you agree to provide only the services that we specify or approve. You agree to provide all of the services we specify in the manner we direct. However, we agree that any or all additional services we require that you provide in connection with your **AVALAR** office will be related to the real estate brokerage and/or mortgage loan business.

8.5 You can use in connection with your **AVALAR** office only signs we specify in our Corporate Style Guide or that we have otherwise approved in advance for display in, on, or outside your **AVALAR** office. You agree not to use any hand-made signs in or on your office.

8.6 You agree to advise us in writing of any limitations on the authority of your supervisory personnel. In the absence of that advice, we can rely on the obligations and commitments undertaken on your behalf by your supervisory personnel and those commitments will be binding on you.

8.7 We agree to have a representative available by telephone during our normal weekday business hours to consult with you on the operation of your office.

8.8 We have no obligation to send any of our representatives to visit your **AVALAR** office during the term of this franchise. However, if we elect to do so and so request, you agree to be present or to appoint in writing someone to act as your agent during our visit. We will give you at least three days prior notice of our visit if we want you or your agent to be present during the visit. You and your agent must cooperate fully with our representative during his or her visit. You agree to use your best efforts to have any other people attend that we request to be present during the visit. You must make available to our representative during our visit, and at such other times as we reasonably request, all information, reports, accounts, books, records, listings, contracts, statements, and any other information that we request. We agree that our visits will be during your normal business hours and will take place at your **AVALAR** office unless both of us agree otherwise. You agree that our representative will have access to and can inspect your entire office premises including your office rooms, locked areas, back rooms, and all other areas of your office. If we notify you at any time of deficiencies or unsatisfactory conditions in the appearance, operation, or any other condition of your office, you agree to correct those deficiencies or conditions immediately in the way we direct.

8.9 If you request a special visit to your office by one of our representatives, we will do our best to arrange time for the visit that is convenient for you. If we require, you must pay us an additional fee for a special visit. Typically the cost for such a consultation will not exceed \$400.00 per day plus travel and lodging expenses.

8.10 You agree to operate your **AVALAR** office in compliance with all applicable laws, statutes, ordinances, rules, regulations, and governmental orders, including those that are related to health, safety, employment, the environment, and toxic materials. You agree to insure that all of your personnel have and maintain in good standing all licenses and permits required by applicable law for the conduct of their activities. You agree to notify us promptly if the required licenses or permits of you, any of your sales associates, or any other members of your staff are suspended, revoked, or otherwise impaired, or if you, any of your sales associates, or any of your other personnel become subject to any disciplinary action, or any is threatened against them, related to their professional activities.

8.11 Except as provided in our manuals, we do not require you to use any particular computer equipment or software, other than as necessary to maintain accurate records of your business and to make the reports we require you to make to us. If at a later time we require that you use any particular type of computer or other electronic equipment or any specific software, you agree to comply with our requirements and specifications. The cost of the items we require will be comparable to other items of similar quality that are available on the open market. We may be the sole supplier of proprietary software for use in our offices.

8.12 You agree to obtain and maintain throughout the term of this Agreement access to the Internet or to other such electronic communications system as we may periodically request, including securing and maintaining an e-mail address at which we can communicate with you. You agree to advise us promptly of your e-mail address and any web site, or its equivalent, that you establish, participate in, or maintain.

8.13 You are responsible for all taxes, liens, assessments, costs, expenses, debts, salaries, accounts, liabilities, charges, fines, claims, duties, fees, damages, and all other liabilities, outlays, or obligations, whether they involve the payment of money or performance, resulting in any way from the construction, opening, or operation of your office or otherwise related to it.

8.14 If this franchise is owned by a business entity, a senior executive of that entity must be appointed as the principal representative of the entity in dealing with us. This person, referred to in this Agreement as "your managing agent", must have the authority to supervise the operation of your **AVALAR** office or offices and oversee your compliance with this Agreement. You agree that your managing agent will continue to have the authority to speak for and bind the owner or owners of any entity that owns this franchise in all matters pertaining to this franchise. You agree that we can rely on the authority of your managing agent until we are notified by a majority of the owners of the entity owning this franchise of any change in your managing agent or in your managing agent's authority.

9. Royalty Fees.

9.1 As used in this Agreement, your gross commission income ("GCI") means the total proceeds from all of real estate listings and sales, exchanges, property management, mortgage brokerage, and other real estate and mortgage-related activities, including origination fees, discount fees, lease rebates, rental and leasing fees, referral fees, and receipts from other types of transactions conducted by or through your office or offices. GCI does not include any receipts you receive from home warranty sales, serving as an escrow agent, or for general insurance services including title insurance transactions. Your GCI includes the total amount received from all applicable transactions prior to any deductions for payments to sales associates, salaries, expenses, overhead, or other costs. Your GCI includes amounts from all transactions no matter where the concerned properties are located, where the parties to the transactions are located, where the closing of the transaction takes place, or whether payments from transactions are made first to your sales associates or others and a portion of the proceeds are then paid to you. Your GCI is considered received when you or any sales associate or anyone else affiliated with you or your office receives payment.

9.2 As partial consideration for us granting you this franchise, you agree to pay us a monthly royalty fee equal to 5% of your GCI. At the time you or one of your sales associates generates \$100,000.00 in GCI in any year and royalties of \$5,000.00 have been paid on that amount, the royalty fee will be reduced to 2% of GCI for the person who exceeded the \$100,000.00 GCI threshold for the balance of that year. As such, during any period you or one or more of your sales associates can be generating GCI that is subject to the 5% royalty rate while others can be generating GCI that is subject to the 2% royalty rate. Each of your **AVALAR**

offices must pay a minimum monthly royalty of \$250.00 whether or not that office has produced any GCI during that period.

9.3 If a sales associate has been affiliated with you on the date of this Agreement, for purposes of the foregoing “year” means each 12 month period beginning on the date of this Agreement. Otherwise, “year” means each 12 month period beginning on the date that the sales associate’s became affiliated with your office.

9.4 You agree to pay us the required royalty fee by the 10th day of each month based upon your GCI for the prior month. At that time you agree to send us a statement of your GCI for the month for which the fees are paid using the reporting form that we specify. You must certify that each statement is correct. If the payments and reports have not been received by the 10th day of the month, a \$150.00 late fee shall be due to compensate us for our additional administrative costs.

9.5 Your royalty payments are not refundable even if you elect to terminate this Agreement as provided in Section 4.2 above.

10. Signage, Advertising, and Promotion.

10.1 We do not require you to operate under the **AVALAR** name. You can use a new or an existing business name without reference to **AVALAR®**. However, if you use the **AVALAR** name in connection with your franchised business, all of your advertising, promotion, and public relations activities must be consistent with our image and must reflect favorably on **AVALAR** offices, services, and system. Therefore, you must discontinue any advertising, promotion, and public relations activities to which we object.

10.2 If you use the **AVALAR** name in connection with your business, you agree to note on all signage, supplies, stationery, business cards, and advertising in the manner we specify that you are a licensed affiliate of **AVALAR**. Whether or not you use the **AVALAR** name, if we so request you must indicate on all printed material and signs that your office is independently owned and operated. If you elect to use the **AVALAR** name as your main business identity, we will provide you with initial graphic layouts for business cards, office stationery, yard signs, open house signs, and other materials. We will provide this material to you on a CD, similar storage device, over the Internet, or by other means that your printer or sign maker can use to provide you with finished products. The cost of all changes, fabrication, delivery, installation, and so forth, is your responsibility. All changes to this material must comply with our Corporate Style Guide or be approved by us before its use.

10.3 If we develop any signs, point of purchase material, advertising Photostats, brochures, handouts, or other advertising or promotional material for use by our franchisees, we can charge you a reasonable amount for any of these items you choose to purchase. We can mark up the cost of these items in a reasonable amount to pay for our development, administrative, and handling costs.

10.4 You agree that we have the exclusive right to use the names “**AVALAR®**”, “**Path to Success®**”, and any names similar to those names, and our logotype, and any similar

logotypes, on the Internet or in other electronic media, including as a part of an Internet domain name. If we license you to employ any of those names or marks for Internet or similar use, we must approve how you use those names and marks and any additional content related to that use. You agree not to use any of our names or marks on the Internet or in any other electronic medium without our prior written consent and then only in the manner we approve. We can alter or withdraw any of the approvals given at any time and for any reason.

11. *Path to Success*®

11.1 **AVALAR** franchisees and their qualifying shareholders, officers, directors, partners, members, owners, sales associates, and full- and part-time employees are entitled to participate in *Path to Success*, our unique revenue sharing program. The details of *Path to Success* are set forth in Exhibit A to this Agreement.

11.2 At this time you sign this Agreement you must submit to us a list of your sales associates and other full- and part-time employees. You must advise us promptly if you add any sales associates or staff or if eligible members of our *Path to Success* program leave your office. You must submit to us promptly a completed *Path to Success* participation form for each eligible participant affiliated with your office along with a completed IRS Form W-9 for that person.

12. Accounting, Audits, Trade Accounts, and Late Charges.

12.1 You agree to keep all of the books and records customarily kept by real estate and mortgage brokerage offices, including those that we list in our manuals and other materials. If at any time we specify a particular accounting system that you must use or a particular chart of accounts for you to employ as a part of your accounting system, you agree to use the system and the chart of accounts in the manner and at the time we direct.

12.2 You agree to maintain current and accurate records showing the results of the operations of your **AVALAR** office and your GCI. These records shall include copies of all of your property listings, copies of all sales contracts in which your office was involved, all escrow closing statements for transactions in which your office participated, your books, financial statements, tax returns, and all related back-up material for the period required by law but at least for 3 years from the end of the year to which those materials pertain.

12.3 You agree at your expense to provide us with reports on your operations, including the gross sales price of each of the properties sold during each month in which your office participated in any capacity, the gross commissions paid by the parties to the transaction, the gross commissions received by your office on account of each of those transactions, the GCI received by your sales associates on account of each transaction, and the other data we specify in our manuals and as we otherwise direct. We can require these reports and data to be transmitted to us by telephone or other electronic means.

12.4 If we request, you agree to send us copies of your federal and state income tax returns promptly upon their filing to the extent those returns pertain to your **AVALAR** business.

12.5 We have the right to examine or audit your books and records at any reasonable time at your office. If the audit reveals an understatement of GCI for any reporting period in an amount of 3% or more or if the audit is necessary because you have not complied with the financial reporting or record keeping requirements of this Agreement, our manual or manuals, or our other directives, you agree to pay the costs of the audit as soon as we advise you of those costs. The audit costs can include the costs and expenses we incurred for our employees, accountants, attorneys, or any others with whom we have incurred costs in connection with the audit. We agree that the audit costs will be reasonable and commensurate with the amount of work required to conduct the audit. Regardless of whether you have to pay the costs of the audit, you agree to pay all sums that are shown to be due because of any understatement of GCI or any other underpayment.

12.6 We can terminate this Agreement if you underreport your GCI in the amount of 5% or more in any calendar quarter even if the underreporting is unintentional or if you have intentionally underreported your GCI in any amount. In addition, whether or not we terminate this Agreement for the foregoing reasons we will have all of our other rights and remedies under this Agreement and those available to us under applicable law.

12.7 It is very important to the **AVALAR** organization that **AVALAR** offices keep their trade accounts current. Therefore, you agree to keep your trade accounts current both with us, our affiliates, your contractors, suppliers, and other vendors.

12.8 We can charge you a late charge on all amounts that are past due. The late charge is a flat fee of \$150.00. If applicable law does not allow a charge in that amount, the late charge will be equal to the highest lawful rate of interest on loans between businesses in the state whose law governs this Agreement. If a late charge is assessed and you pay it, we do not waive any of the rights we may have because of your not paying us on time.

13. Insurance.

13.1 You agree to keep in force public liability, including professional errors and omissions liability, and property damage insurance in the minimum amount of \$1,000,000.00 combined single limit. These policies must be with insurance companies that we find reasonably acceptable. Your insurance policies must cover liability resulting from your business activities, the operation of your **AVALAR** office, anything that happens on or near your office premises for which you can be held liable. Your policies must also cover liability in connection with owned, hired, and non-owned vehicles in a minimum amount of \$300,000.00 combined single limit. Your policies also must have broad form contractual and fire legal liability coverage. To be acceptable, your insurance carrier must have and maintain a Best rating of at least "A-7" or its equivalent.

13.2 You also agree to maintain real and personal property insurance, including fire and extended coverage insurance on a replacement cost basis, in amounts adequate to repair and re-supply your office in the event of a covered loss. These insurance policies must be carried on an all risk basis subject to standard insurance industry exclusions.

13.3 In addition to the insurance requirements described above, you agree to carry any other insurance required by your office's lease that required by any of your lenders or equipment leasing companies, and any other insurance required by applicable law, such as workers' compensation insurance.

13.4 Your insurance policies must not contain a coinsurance clause. The deductible portion of any claim or loss under any of your insurance policies cannot exceed \$10,000.00 without our prior written consent.

13.5 You agree to require your sales associates and others performing functions for your office who travel by automobiles that do not belong to you to carry automobile personal injury and property damage liability insurance in the minimum amount of \$300,000.00 combined single limit naming you and us as additional insureds.

13.6 All of your insurance policies must cover losses and liabilities on an "occurrence" basis and not on a "claims made" basis except for claims under your professional errors and omissions insurance policies.

13.7 We have the right to require you to carry different limits, different types of insurance coverage, and to get different or additional riders or endorsements on your policies from those discussed in this section.

13.8 You agree at your expense to name us and our officers, directors, shareholders, agents, employees, successors, and assigns as additional insureds on all of your policies of liability insurance. We have the right to designate other entities and people to be named as additional insureds on your insurance policies. You agree to have your insurance companies send us certificates of insurance showing the required coverage. All of your insurance policies must state that the insurance carrier will give 30 days prior written notice to each additional insured if the policy on which they are named is to be canceled or not renewed.

14. Relationship of the Parties; Indemnification.

14.1 As used in this section, "we", "us", and "our" also mean our affiliates and our and their officers, directors, shareholders, employees, agents, or others for whose conduct they or we are responsible.

14.2 Even though you will operate your office under the **AVALAR** name, in all matters you are an independent contractor. Nothing in this Agreement or in our franchise relationship makes you our agent, partner, or joint venturer. Similarly, we are not your agent, partner, or joint venturer for any purpose. None of your employees are to be considered our employees and none of our employees are to be considered your employees. Neither of us is liable for the debts, liabilities, taxes, duties, obligations, defaults, compliance, intentional acts, negligence, errors, or omissions of the other.

14.3 Each of the parties to this Agreement guarantees that they will not do anything that will give anyone the impression that they are other than franchisor and franchisee. If you do anything, or if you fail to act in any way, that causes us to be exposed to any liability or to incur

any expense solely because of our relationship, you must indemnify and hold us harmless against any liability, cost, or expense, including attorneys' fees, resulting from that act or failure.

14.4 You agree to defend, indemnify, and hold us harmless against all losses, liabilities, damages, fines, suits, proceedings, claims, costs, and expenses, including reasonable attorneys' fees, resulting directly or indirectly from or in any way pertaining to the design, construction, fixturing, decorating, use, occupancy, maintenance, repair, operation, sales policies, employment policies and practices, procedures, practices, actions, or any other activities of your office and business including your intentional acts and negligence and those of your agents, officers, directors, partners, shareholders, members, contractors, employees, owners, and any others for whose conduct you are responsible. If we learn about a matter against which you have indemnified us, we will notify you about it and you agree to defend us against it. However, if the claim is one that can have an effect on more than one **AVALAR** office, other than the ones that you own, we can take over the defense of the matter with counsel of our choosing. In that case, you will still be responsible for your pro rata share of the costs and expenses involved in defending the matter. If you are defending us in any action, you have the right to settle the matter on terms you decide. However, you cannot commit us to spend any money or to take or withhold any action or inaction as a part of the settlement without our prior written consent.

15. Use and Protection of the Licensed Commercial Symbols, and Other Proprietary Property.

15.1 In this Agreement the term "our intellectual property" refers to the trademarks, trade names, service marks, logotypes, symbols, office formats, designs, patents, copyrighted material, trade secrets, and other proprietary property that we license to you under this Agreement including those we license to you in the future.

15.2 This Agreement gives you a nonexclusive license to use only those portions of our intellectual property that we specify. Except as otherwise specified in this Agreement, we can use and can permit others to use our intellectual property in any way or at any place that we wish.

15.3 You agree not to use the name "**AVALAR**" or any name similar to it in the name of any corporation, partnership, limited liability company, or other entity that you own or form for any purpose, including the ownership of this franchise and/or your **AVALAR** office or offices, whether such entity exists or is formed in connection with any other activity in which you engage. You agree to inform us of any corporate, business, or fictitious name you propose to use in connection with the ownership of your **AVALAR** office. If we object to that name, you agree to change it and use a name that has our approval.

15.4 If you are ever subject to any claim of infringement or challenge resulting from your use of any of our intellectual property, you agree to immediately notify us of the facts concerning the claim or challenge. We have sole discretion as to what action to take, if any, regarding the claim or challenge. We will have exclusive control over any legal or administrative action of any type concerning our intellectual property. We agree to pay for all fees and costs in connection with this type of action so long as you have followed our directions concerning the use of our intellectual property and provided that you cooperate with us, as we

may require in the defense of any such action. We also agree to pay any damages for which you are held liable in any proceeding involving your right to use our intellectual property but only on the condition that you have used our intellectual property in strict accordance with this Agreement, our manual or manuals, and our other directives, have promptly notified us of the claim or the challenge to your use of our intellectual property, and fully cooperate with us in the handling of any legal and administrative proceedings concerning our intellectual property. You agree to comply with our directives in the event your right to use our intellectual property or any of it is challenged, including discontinuing the use of any names, symbols, or marks licensed to you under this Agreement.

15.5 If you learn of anyone else using any names or marks that sound or look like those we have licensed to you, you agree to inform us at once. If we decide to take any legal or administrative action concerning that use, you agree to join as a party to the action or to allow the action to be brought in your name but only as and if we direct. If we bring any such action, we will pay the legal fees and court costs involved. You agree to cooperate fully with us in the handling of any such legal or administrative proceeding involving our intellectual property.

15.6 You must use our intellectual property strictly in compliance with all of the terms of this Agreement, our manuals, and in accordance with all of our other directives. You can use our intellectual property only in connection with the operation of your **AVALAR** office and only in the manner we specify. You agree not to make any application for registration or other protection of any of our intellectual property or anything similar to it or to take any action that may tend to interfere with the use or ownership of our intellectual property. You agree not to contest the validity or ownership of any of our intellectual property or to assist anyone else in doing so. If we request, you agree to give the notices, file the forms, and take any other action we reasonably require in connection with your use of our intellectual property. In connection with your use of our intellectual property, you agree to show all of the symbols we specify indicating that the marks, names, logotypes, or symbols are a trademark, service mark, copyright, or otherwise are subject to protection under the law and are owned by us.

16. Transfer of the Franchise.

16.1 When we refer to a "transfer" we mean any assignment, sale, or other disposition of this Agreement, the franchised business, or a substantial portion of the assets of the franchised business, whether it occurs voluntarily or involuntarily. "Transfer" also means the transfer, issuance, reacquisition, or other change in the ownership interest in any entity that owns any interest in this franchise, as well as the merger, acquisition, consolidation, or other restructuring of any entity that owns any interest in this franchise, in the franchised business, or in any material portion of the property used in your **AVALAR** office. When we refer to "this franchise", we mean any interest in this Agreement, the franchise and license granted by this Agreement, the franchised business, and any ownership interest in any entity that owns any interest in this franchise or in any significant part of the tangible property that is used in the operation of your **AVALAR** office.

16.2 You can only transfer this franchise with our prior written consent, which consent we will not unreasonably withhold. You agree that you will finalize the proposed transfer only when you receive our written approval of the prospective transferee and the transfer transaction.

Any transfer we do not approve, in writing, is not binding on us and that it is grounds for the termination of this Agreement. Any attempt to transfer this Agreement, the franchised business, any interest in any entity that owns any interest in this franchise, or a substantial portion of the property used in connection with the franchised business without our consent will be grounds for the immediate termination of this Agreement.

16.3 You must provide us with the information we reasonably request about your proposed transferee so that we can make the necessary investigation and determination of the acceptability of the proposed transferee. Until all of the information we reasonably request is provided, we are not obligated to take any action on the proposed transfer.

16.4 You agree to follow the transfer procedures, provide us with the documents, and to perform the other duties, required by our policies and procedures at the time of transfer, including, including signing a general release of all claims against us. You agree that we can require that the closing date of the transfer be delayed for a reasonable time in order to allow us to perform our duties concerning the transfer.

16.5 If any transfer transaction results in the cumulative transfer of over 50% of the ownership from the original owner or owners of this franchise or the original ownership in any entity owning this franchise, as a condition of our approving the proposed transfer, we can require the transferee to sign the current form of Franchise Agreement we are using for new **AVALAR** franchisees at the time of the transfer. Even though a new Franchise Agreement may be signed, the franchise term under that agreement will be the term remaining on the original Agreement. However, no new franchise fee will be payable. We can charge you a one-time set-up transfer fee to make appropriate changes to our records and accounting resulting from the transfer. This fee will be based on our actual costs in performing these functions and will not exceed \$1,500.00 per office. If for any reason the transfer is not completed after you have paid the transfer fee, we will return the transfer fee to you.

16.6 You can transfer this franchise to a corporation, limited liability company, or other business entity wholly-owned by those who owned the franchise before the transfer. This type of transfer will not require our approval, the payment of the transfer fee, or the signing of a new Franchise Agreement. Those transferring this franchise to the new business entity must own the entity in the same proportion as they currently own the franchise and, if there we so before the transfer, they remain personally responsible for the entity's performance of the terms of this Agreement and any other agreements between us. The share or ownership certificates of the entity must show the restrictions required by this section. You must notify us before the transfer so that we can send you the applicable forms we require you to sign. You agree that prior to the completion of the transfer you and the other owners of the new entity will sign the documents we require concerning the transfer, including personal continuing guarantees of the obligations of the new entity. If for any reason you do not notify us before you transfer the franchise to a new business entity, your failure to sign the documents we require will not affect your personal liability for the obligations of the corporation or other entity to which this franchise is transferred.

16.7 If any transfer of this franchise results in a change in the person who is principally responsible for the operation and supervision of the franchised office and for compliance with

this Agreement, the provisions of Section 8 of this Agreement concerning the appointment of a successor managing agent will apply.

16.8 If a proposed transfer of this franchise is only between the original shareholders of a corporation, the original partners of a partnership that owns this franchise, the original members of a limited liability company, or the original owners of any other entity which owns this franchise, we agree not to charge the transfer fee in connection with the transfer or require a new Franchise Agreement to be signed in connection with the transfer. However, if the transferee owned less than 50% of this franchise prior to the transfer but will own 50% or more thereafter, we have to approve the transfer as set forth above.

16.9 You may not to use this franchise as security for a loan or otherwise encumber this franchise. You do not have the right to grant a subfranchise under this Agreement or to franchise, license, or permit anyone else to use any of the licensed assets that you are allowed to use under this franchise. You can make no partial transfers of this franchise except as permitted by this Agreement concerning the transfer of interests in any entity that owns any interest in this franchise.

16.10 We can transfer any of our rights in this franchise in whole or in part without your consent. However, we agree that any such transfer will not interfere in a significant way with your receipt of the benefits granted to you by this Agreement.

16.11 Subject to our rights in the event of a proposed transfer, your interest in this franchise is transferable by will or by intestate succession upon your death. If you are determined by a court of competent jurisdiction to be legally incompetent, your court-appointed guardian can transfer this franchise on your behalf. If there is any transfer of this franchise because of your death or legal incompetence, that transfer is subject to all of the conditions and requirements concerning transfers described in this Section 16, including our right to approve the potential transferee and the payment of the transfer fee described above. If we approve the transfer, the transferee must sign the form of Franchise Agreement that we are using at the time for new **AVALAR** franchisees at the time of the transfer. During any period following your death or declaration of incapacity, your estate must comply with the terms of this Agreement and must run your office in accordance with this Agreement. This compliance is not excused or reduced because of your death or incapacity.

16.12 If we do not approve a potential transferee who proposes to take this franchise as a beneficiary under your will, or by intestate succession if you die without leaving a will, or if you do not leave this franchise to an heir under your will, your estate can sell this franchise to a transferee acceptable to us within 6 months after the appointment of your executor, administrator, or other personal representative. If an approved transfer of this franchise is not completed within the 6 month period, we have the right to terminate this franchise.

16.13 If a court of competent jurisdiction orders you to transfer to your spouse all or any part of your interest in this franchise, that order will constitute a proposed transfer of this franchise and will cause the transfer to be subject to all of the terms and conditions concerning transfers described in this Section 16.

17. Defaults, Cures, Termination, and Remedies.

17.1 Except as otherwise provided in this Section 17, we can terminate this Agreement without giving you an opportunity to correct a default under any of the following circumstances:

17.1.1 If you are declared bankrupt or judicially determined to be insolvent, if all or a substantial part of the property you are using in your **AVALAR** office is assigned for the benefit of any creditors, or if you admit your inability to pay your debts as they become due;

17.1.2 If you abandon the franchised business or if your **AVALAR** office has been closed for any period during which you are required by this Agreement to operate it unless that failure is caused by fire, flood, earthquake, or other similar cause beyond your control not including your inability to operate the business, whether financial or otherwise;

17.1.3 If we mutually agree in writing to terminate this Agreement;

17.1.4 If you have made any material misrepresentation in your acquisition of this franchise;

17.1.5 If you fail to comply with any material federal, state, or local law or regulation applicable to the operation of your business within any time period allowed for the cure of the problem after you get notice of the violation, including any licensing requirements applicable to your **AVALAR** office, to you, or to your sales associates;

17.1.6 If during any 12 month period you receive 3 or more notices of valid material defaults under this Agreement, even if those defaults have been cured within the time limits allowed in the notices;

17.1.7 If this franchise, your **AVALAR** office, your business premises, or any material portion of your business property is seized, taken over, or foreclosed by a government official in the exercise of his or her duties, or is seized, taken over, or foreclosed by any of your creditors, lienholders, lessors, sublessors, or anyone else, or if a final judgment against you remains unsatisfied for 30 days or more unless you have filed an appropriate appeal bond, or if a levy of attachment or execution has been made on this franchise, your **AVALAR** office, or on a substantial portion of the property used in your business and it is not discharged within 5 days of the levy;

17.1.8 If you are convicted of a felony of any type or any criminal misconduct that is relevant to or reflects adversely on your **AVALAR** office or the **AVALAR** system;

17.1.9 If you intentionally underreport your GCI in any amount or if you underreport your GCI in the amount of 5% or more in any calendar quarter even if underreporting is unintentional;

17.1.10 If you attempt to sell, transfer, assign, subfranchise, or otherwise dispose of all or any part of this franchise except as allowed by this Agreement, or if you allow any person or entity not authorized by us to use or participate in any way in the rights, assets, or

property licensed to you under this Agreement or that you use in connection with your **AVALAR** office.

17.1.11 If you solicit and/or attempt to recruit a sales associate or employee of another **AVALAR** franchisee without giving prior written notice to the manager or owner of that franchise;

17.2 In addition to the grounds for immediate termination described in Section 17.1 above, we can terminate this Agreement immediately if you violate any other material term of this Agreement, any other agreement between the parties, or any agreement between you and any of our affiliates, and that violation is not corrected within the time period allowed by the concerned agreement. This means that if you own more than one **AVALAR** franchise, you can lose all of your franchises if you violate any of your Franchise Agreements or any other agreement between us or between you and any of our affiliates.

17.3 In addition to the other grounds for termination described in this Agreement, we can terminate this Agreement if you do not cure the following defaults within the time periods indicated:

17.3.1 If you conduct yourself in any way that reflects upon the operation or reputation of your **AVALAR** office or the **AVALAR** system in a materially negative manner and do not alter that conduct in the manner we specify within 10 days after written notice from us;

17.3.2 If you fail to pay any franchise fee, royalty fee, transfer fee, or any other fees, charges, or other amounts due to us or to any of our affiliates within 10 days after receiving notice that such fees, charges, or other amounts are overdue.

17.3.3 If we make a reasonable determination that your continued operation of the franchised business will result in imminent danger to public health or safety and you do not correct the condition that has led to that determination within 5 days after written notice from us;

17.3.4 If the transfer or sale of this franchise following your death or declaration of incompetence is not accomplished within the time periods and in the manner specified in this Agreement and following 10 days written notice from us;

17.3.5 If you have more than one **AVALAR** office and do not renew the franchise for any of your offices but continue to provide similar services from that location following your receipt of 20 days written notice from us that we intend to terminate the rest of your **AVALAR** franchises for that reason.

17.4 If you have committed any other violation of this Agreement and that violation does not result in the termination of this Agreement as specified in Sections 17.1, 17.2, or 17.3 above, if any of those provisions are not enforceable as written, or if we elect not to enforce them as written, you must correct the concerned default to our reasonable satisfaction within 30 days after we give you notice of the violation and the corrective action that you must take to cure the default, if any corrective action is possible. If the default is of a nature that more than 30 days are reasonably required to cure it, we will give you the additional time we feel is reasonably

necessary to cure the default. However, you agree to start your corrective action within the 30-day period and proceed with the cure diligently to its completion.

17.5 We can also terminate this Agreement if you lose your right to occupy your business premises by virtue of a default you commit under your lease. In that event, the termination of this Agreement will be effective as of the date that your lease is terminated.

17.6 If the term of your lease expires, or if your right to the possession of your business premises is otherwise lost without you being at fault in our reasonable judgment, we will not terminate this Agreement as long as you relocate and reopen your **AVALAR** office at a location acceptable to us and in compliance with our then-current location, leasing, design, construction, and opening requirements. Your relocated business must be open to the public within 90 days from the date on which your prior lease terminated. You must also pay us our relocation fee as described in Section 5.7 of this Agreement at the time we approve your new location and lease in order to compensate us for our efforts in connection with the relocation of your **AVALAR** office.

17.7 If this Agreement is terminated because you are unable to relocate your office as discussed in Section 17.3.5 and in our reasonable judgment you have made a good faith effort to relocate your office within the required time period, the termination of this Agreement will not be deemed to be a termination because of a default and the liquidated damages provisions of Section 17.12 of this Agreement will not apply.

17.8 If you do not correct a default under this Agreement within any time period allowed for the cure of the default, the termination of this Agreement will occur without further notice as of the expiration of the time allowed to cure the default.

17.9 If you think that we have committed a violation of any material term of this Agreement, you agree to give us written notice of the claimed default. We will then have 30 days after our receipt of that notice within which to correct any actual condition of default. If we do not cure the default within the designated time period, plus such additional time as is reasonably necessary to accomplish the required action, you can pursue all rights allowed to you by applicable law.

17.10 On the termination of this Agreement for any reason including its expiration at the end of its term, you agree that at our direction you will:

17.10.1 Immediately bring current all accounts with us and our affiliates;

17.10.2 Immediately stop using our licensed assets including our trade names, trademarks, service marks, logotypes, commercial symbols, designs, formats, patents, copyrighted material, trade secrets, proprietary material, and other intellectual property;

17.10.3 Promptly discontinue the use of any furniture, fixtures, decor, color schemes, interior or exterior decoration, signs, displays, advertising and promotional material, and/or any other indications that in our judgment are distinctive to **AVALAR** offices;

17.10.4 Immediately return to us all manuals and other material that you obtained or by virtue of being an **AVALAR** franchisee and immediately cancel any fictitious

business name or equivalent registrations or listings indicating that you are in any way affiliated with the **AVALAR** system;

17.10.5 Promptly notify all of your suppliers, customers, utilities, landlords, creditors, and concerned others, including those with which you have placed advertisements, that you are no longer affiliated with the **AVALAR** system and in the future not identify yourself, any present or future business in which you may have an interest, or any entity that owned any interest in this franchise as having been associated with the **AVALAR** system. This provision will not prevent you from responding to inquiries about your employment history but, rather, is intended to prevent you from indicating your former affiliation with us to the public.

17.11 Until you have completed all of the foregoing duties, you agree to pay us on a monthly basis an amount equal to the monthly average of the royalty fees you paid us over the 12-month period just prior to the termination or expiration of this Agreement. You agree that this obligation does not permit you to continue to use the licensed assets or our intellectual property.

17.12 If this Agreement is terminated because you default, we will lose your royalty fees, as well as the goodwill we get from the operation of your office before the scheduled expiration of this Agreement. Since the extent of the actual loss to us will be extremely difficult to determine, if this Agreement is terminated because of your default, you agree pay to us in a lump sum an amount equal to 50% of the royalty fees that would have become due following the termination of this Agreement for the period that this Agreement would have remained in effect but for your default. The term "the royalty fees that would have become due" means the amount determined by taking the royalty fees for the 12 months immediately before the date of the termination of this Agreement, whether or not paid, dividing that number by 12 and multiplying the result by the number of months that would have remained on this Agreement had it not been terminated. If your office has been open less than 12 months when you default, the amount of the royalty for the period you had been open shall be annualized and used for this calculation.

17.13 In addition to any liquidated damages you pay under Section 17.12 above, if you default under this Agreement, you agree to pay us immediately all royalties, and other amounts due to us under this Agreement as of the date of termination in addition to all other damages caused to us by virtue of your default.

17.14 In addition to the remedies described above, if you default under this Agreement, we will have all of the other remedies available to us at law or in equity that apply because your default.

17.15 Upon the expiration, termination, or non-renewal of this franchise for any reason, no payment is due to you on account of any goodwill, going business value, equity, or other intangible asset that you may claim because of the operation or ownership of your **AVALAR** office or otherwise.

17.16 If this Agreement is terminated because of your default, you will lose all right to participate in our **Path to Success** revenue sharing program. You will also lose any accrued rights that you may have acquired under that program. In that event, you will be removed from

the revenue sharing hierarchy and those under you will move up as though you were not a member of that hierarchy.

17.17 After this Agreement ends, all of the provisions of this Agreement that concern your duties following the expiration or termination of this Agreement remain in effect and will be enforceable.

18. Dispute Resolution

18.1 If there is ever any dispute or claim between us related to this Agreement, its inducement, or its breach by either of us, except those described in Section 18.2 below, before taking any further action the parties agree to refer the matter to mediation pursuant to the rules of JAMS at its office in or nearest to Las Vegas, Nevada. You agree to attend or to have a member of your senior management attend the mediation on your behalf. You agree that the person who attends the mediation on your behalf will have the authority to settle the dispute on your behalf. The costs of the mediation shall be divided equally between us.

18.2 The foregoing provisions will not apply to the portion of any dispute that involves the claims of more than one **AVALAR** franchisee, claims for which class action certification is possible, or claims involving the validity of our intellectual property. In addition, the provisions of Section 18.1 do not apply to any unlawful detainer action or any other dispute involving any of the provisions of any lease, sublease, or other real property agreement, or any other agreement between the parties.

18.3 We both agree that the venue of any legal action involving this Agreement, your **AVALAR** office, or any transactions related to any of them, including the inducement or execution of this Agreement or any other agreements between us, will be in Las Vegas, Nevada. You agree to submit to the jurisdiction of the courts located in Las Vegas, Nevada. You agree that any process issued by those courts will be effective when delivered to you as though you were present in Las Vegas, Nevada at the time of delivery.

19. Modification of This Agreement.

19.1 This Agreement can be modified only by a written agreement signed by the parties to this Agreement.

19.2 You agree that we can modify our manuals when and how we decide. If we make any changes in our manuals or if we give you any directions or instructions concerning the operation of your **AVALAR** office, you agree to comply with those changes, directives, and instructions as though they were a part of this Agreement.

19.3 We can modify our concept, office format, designs, signage, decor, products, services, or any other aspect of our offices and of the **AVALAR** system at any time if that is necessary in our reasonable business judgment to meet competition, to improve the appearance of **AVALAR** offices, to enhance the business of **AVALAR** offices, or for any other reason. We reserve the right to modify our *Path to Success* revenue sharing program at the times and in the

manner we decide, provided that your participation in the program, and that of your associates, will not be adversely effected in a material manner.

20. Notices.

20.1 In order to be effective, all notices, approvals, and consents required by this Agreement or related to it must be in writing. By providing a facsimile number and or an electronic mail address to the other party, the indicating party consents that notices, approvals, and consents can be transmitted to them electronically as long as the method of electronic communication creates a record that can be retained, retrieved, and reviewed by the recipient and can be directly reproduced in paper form through an automated process.

20.2 Notices, approvals, and consents shall be deemed to have been received by the addressee at the earlier of when personally delivered to the addressee, when an acknowledgment of receipt is signed by the addressee or a duly authorized agent of addressee, when sent to the addressee by facsimile transmission at a telephone number or by electronic mail when sent to an address specified by the addressee, the next weekday after they are deposited with a recognized overnight express delivery service, or 4 days after the deposit in the United States mail, when sent by certified mail, postage prepaid, and properly addressed to the address set forth at the beginning of this Agreement or one duly substituted for it.

20.3 Any party to this Agreement can change his, her, or its address by giving written notice of the change to the other party as provided above.

21. Heirs, Successors, and Assigns.

21.1 This Agreement is binding on and inures to the benefit of the parties and their heirs, successors, representatives, and assigns, except to the extent, and only on the conditions and in the manner, more specifically set forth in this Agreement.

22. Waivers.

22.1 The failure by either party to this Agreement to enforce any right that he, she, or it may have or to declare any default by the other party under this Agreement is not a waiver or abandonment of the concerned right or default unless the right or default is waived in writing and is signed by the party who is waiving it.

22.2 The waiver of any right or default in one instance is not to be considered a continuing waiver of the concerned right or default or a waiver of the concerned right or default in any other instance.

22.3 The acceptance of money or other performance by either party will not be a waiver of any right or default other than the one to which that payment or performance pertains and then only to the extent that the payment or performance is accepted by the other party.

22.4 If we grant any waiver, concession, or allowance to any of our franchisees, you agree that we do not have to grant the same waiver, concession, or allowance to you or to any of our other franchisees.

23. Severability.

23.1 The invalidity or unenforceability of any portion of this Agreement will not affect the validity of any other portion of this Agreement and unless substantial performance of this Agreement taken as a whole is prevented by the invalidity or unenforceability of any portion of this Agreement, this Agreement will remain in full force and effect.

23.2 The invalidity or unenforceability of any portion of this Agreement in any jurisdiction does not invalidate that portion in any other jurisdiction.

23.3 To the extent permitted by the law governing this Agreement, you waive any provisions of law or regulations that render any portion of this Agreement altered, invalid, or unenforceable in any respect.

24. Covenant of Further Assurances.

24.1 Whenever in our sole judgment it is advisable to execute any other documents that we believe are necessary or desirable to carry out the purposes of this Agreement, you agree to sign those documents promptly, provided that they do not materially alter your rights or increase your duties under this Agreement.

24.2 You agree to respond promptly and accurately to all inquiries from our accountants, auditors, lenders, and others we authorize to make inquiries of you, concerning the status of this Agreement, the status and amounts of any accounts between us, and any other matters pertaining to the rights and obligations of the parties to this Agreement.

25. Governing Law.

25.1 This Agreement and its interpretation are to be governed by the laws of the State of Nevada.

25.2 Even though Nevada law has been selected for the interpretation of this Agreement, if your office is not located in Nevada you agree that Nevada's choice of law and conflicts of law rules will not apply. If a court of competent jurisdiction determines that this Agreement must be governed by the laws of a state other Nevada, then the laws of that other state will govern the interpretation of this Agreement.

25.3 If applicable law requires there to be terms other than or in addition to the terms contained in this Agreement, then the required terms will be considered to be a part of this Agreement but only to the extent necessary to prevent the invalidity of this Agreement or any of its provisions or to prevent the imposition of any civil or criminal penalties or liability.

25.4 To the extent the law governing this Agreement permits, we both agree to the following:

(a) Neither party shall be entitled to punitive or exemplary damages against the other;

(b) Any claim either of us may have against the other will expire one year from the date the claim arises, unless through the exercise of reasonable diligence the complaining party could not have learned of the claim, in which case the one year period of limitations will begin when the complaining party learns of the claim or through the use of reasonable diligence could have learned of the claim.

(c) To the extent permitted by the law of the state whose law governs this Agreement, we both waive a trial by jury.

26. Counterparts.

26.1 If more than one copy of this Agreement is signed by the parties, all of the copies taken together make up only one agreement.

27. Headings and Gender.

27.1 The headings used in this Agreement are for convenience only and are not to be used in interpreting the provisions of this Agreement.

27.2 As used in this Agreement, the male or female gender includes the other and the neuter. If the singular case is used in this Agreement, it also includes the plural and the plural case includes the singular, as appropriate.

28. Miscellaneous.

28.1 Time is of the essence in this Agreement. This means that the performance called for in this Agreement must be accomplished within the time periods specified in this Agreement.

28.2 By entering into this Agreement neither party intends to confer a benefit or right on any person or entity not a party to this Agreement. No third party has or will have any right to claim any benefit or right as a third party beneficiary under this Agreement or any of its provision.

28.3 You are not entitled to claim any rights or benefits, including those of a third party beneficiary, under any contract, understanding, or agreement between us and any other person or entity, unless that contract, understanding, or agreement specifically refers to you by name or to a class to which you belong and specifically grants rights or benefits to you or to the concerned class.

28.4 You agree that whoever signs this Agreement has full power and authority to enter into this Agreement. If this franchise will be owned by a partnership, corporation, limited liability company, or other entity, you agree that whoever signs this Agreement for that entity has authority to do so and that the partnership, corporation, limited liability company, or other entity has been duly organized, is validly existing, and is in good standing in the jurisdiction in which it was formed. You also agree that if it is necessary as a condition of doing business in the state where your **AVALAR** office is or will be located, that entity is authorized to do business and is in good standing in that state. At our request, each of the concerned signatories agrees

promptly to provide us with a certified copy of the resolution authorizing the signing of this Agreement on behalf of the entity.

28.5 You agree that no fees, charges, royalties, or other payments of any kind that you make to us, or that are made to us on your behalf, are refundable in whole or in part except as otherwise provided in this Agreement.

28.6 All of the approvals, consents, directives, instructions, and specifications that we can give or withhold under the terms of this Agreement can be given or withheld in our sole and absolute discretion unless this Agreement specifies otherwise.

28.7 All of the approvals, consents, directives, specifications, and the like, that you are required to receive from us before you can take any action must be in writing in order to be effective. All of the requests, notices, advisories, submissions, and the like, that you are required to give us before you take or withhold any action must be given to us in writing in order to be effective.

29. Accord and Satisfaction.

29.1 No payment that you make or that is made by anyone else for your account or our receipt of any amount that is less than that which is required to be paid will be anything except a payment on account regardless of any endorsement to the contrary contained on the payment or in any oral or written communication transmitted in connection with the payment. This applies whether the payment is made under the terms of this Agreement, under any other agreement between the parties, or otherwise or whether the payment is made to us or to any of our affiliates.

29.2 Neither by endorsing any check nor by accepting any amount from you or one given to us on your behalf binds us to any claim that such endorsement or acceptance was an accord and satisfaction for less than the full amount due.

29.3 All payments made to us or to our affiliates by you or on your behalf will be applied first to any late charges or interest owing and then to the earliest of the principal amounts due.

29.4 If we or our affiliates accept any payment from you or one that is made on your behalf, the acceptance of that payment will not be a waiver of any right we or our affiliates have to require the full payment and performance of all of your duties and obligations under this Agreement or any other agreement under which the concerned obligation arose.

30. Joint and Several Liability.

30.1 If two or more individuals, corporations, partnerships, limited liability companies, or other entities, or any combination of them, sign this Agreement, the liability of each is joint and several.

30.2 All of the partners of a general partnership, all of the general and limited partners of a limited partnership, all of the shareholders of a corporation, all of the members of a limited liability company, and all of the members or owners of an association or other unincorporated

entity, that owns any interest in the franchise awarded by this Agreement are jointly and severally liable for the performance of the concerned entity under this Agreement to the extent allowed by applicable law. You agree that we can refuse to approve this franchise, or any transfer of this Agreement, or if previously approved, we can withdraw our approval of this franchise or of a transfer of this Agreement if any of your shareholders, partners, members, or other owners, refuse to sign our guaranty forms reflecting their agreement to be obligated for the performance of their entity under this Agreement.

31. State-Specific Modifications.

The following modifications to this Agreement are applicable only where this Agreement is made with residents of the following states or where the franchise is to be operated within those states. The modifications will not apply except in the states indicated.

31.1 Hawaii:

31.1.1 Nothing in this Agreement will release us from any liability imposed by Title 26, Chapter 482E, of the Hawaii Revised Statutes.

31.2 Illinois:

31.2.1 Section 19.4 is deleted

31.2.2 Section 19.5 is deleted.

31.2.3 Section 26.1 is amended to read in its entirety: "This Agreement and its interpretation are to be governed by the laws of the state of Illinois."

31.2.4 Section 26.2 is deleted.

31.2.5 Section 26.6 is amended to add the following sentence: "However, regardless of anything else contained in this Agreement, any condition, stipulation, or provision that seeks to require you, or anyone else with any interest in this franchise, to waive our compliance with any provision of the Illinois Franchise Disclosure Act of 1987, or any other law of the state of Illinois, is void, except as otherwise permitted by Illinois law."

31.2.6 Section 34.1 is amended to add at the conclusion of that section: "except those contained in the Franchise Offering Circular accompanying this Agreement."

31.2.7 Section 34.2 is amended to add at the conclusion of that section: "except those contained in the Franchise Offering Circular accompanying this Agreement."

31.3 Maryland:

31.3.1 Wherever a release or waiver of rights is specified in the Franchise Agreement, the release or waiver will not release or waive any of your rights under the Maryland Franchise Registration and Disclosure law except when executed pursuant to the negotiated settlement of a bona fide dispute you may

have after the Franchise Agreement has taken effect where the person giving the release is represented by independent legal counsel.

31.3.2 The limitation of claims provisions shall not act to reduce the 3 year statute of limitations afforded a franchisee for bringing a claim arising under the Maryland Franchise Registration and Disclosure Law.

31.3.3 Section 14-226 of the Maryland Franchise Registration and Disclosure Law prohibits a franchisor from requiring a prospective franchisee to assent to any release, estoppel or waiver of liability as a condition of purchasing a franchise. In that our Franchise Agreement requires prospective franchisees to disclaim the occurrence and/or acknowledge the non-occurrence of acts that would constitute a violation of the Franchise Law in order to purchase our franchise, such representations are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

31.3.4 Section 17.11 is deleted.

31.3.5 Section 17.12 is deleted.

31.3.6 Section 25.2 is amended to add at the conclusion of that section: "The Franchisee still can file a civil lawsuit in Maryland alleging a violation of the Maryland Franchise Law."

31.4 Michigan:

31.4.1 See the Notice following the cover page of the Franchise Offering Circular accompanying this Agreement.

31.5 Washington

31.5.1 Wherever a release or waiver of rights is specified in the Franchise Agreement, the release or waiver will not release or waive any of your rights under the Washington Franchise Investment Protection Act except when executed pursuant to the negotiated settlement of a bona fide dispute you may have after the Franchise Agreement has taken effect where the person giving the release is represented by independent legal counsel.

31.5.2 Any fees we may charge in the event of the transfer or assignment of the Franchise Agreement will reflect our reasonable estimated or actual costs and expenses in effecting the transfer.

31.5.3 To the extent required by a valid enforceable statute, any arbitration involving a Washington franchise will be in Washington, unless the parties to the arbitration mutually agree that the arbitration can be held elsewhere or the arbitrator determines at the time of arbitration that the arbitration should be held elsewhere.

31.5.4 Nothing in the Franchise Agreement shall prevent the application of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW where its jurisdictional requirements are met.

32. Entire Agreement.

32.1 This Agreement and the signed exhibits to it contain the entire understanding between us and includes all of the representations on which you have relied in connection with this transaction.

32.2 This Agreement supersedes all negotiations, agreements, representations, promises, commitments, inducements, assurances, conditions, and covenants between you, us, and our representatives whether direct, indirect, or implied, and whether oral or written.

32.3 You agree that we have made no commitments to you that are not contained in this Agreement or the Franchise Offering Circular that accompanies it, including representations concerning your potential for success in or the profitability of your **AVALAR** office or its location.

32.4 You agree we have advised you that there can be no guarantee of any given sales levels, profitability, or success in your **AVALAR** office other than those promises contained in our Franchise Offering Circular, if any. You agree that your business ability and your personal dedication to your **AVALAR** office are crucial to your chances of achieving success.

32.5 We mutually intend this Agreement to be the entire integration of all of our understandings of every kind concerning the matters contained in or related to the subject matter of this Agreement, whether those understandings happened before or at the same time as the execution of this Agreement.

32.6 No other agreements, representations, negotiations, understandings, promises, commitments, inducements, assurances, terms, conditions, or covenants of any kind or nature exist between us except those set forth in this Agreement and the signed exhibits to it, whether they concern this Agreement or any future, further, or additional rights that you may claim to have. To the extent that there may be any agreements, representations, negotiations, understandings, promises, commitments, inducements, assurances, terms, conditions, covenants, or the like, not contained in this Agreement and in the signed exhibits to it, you agree that they are waived.

32.7 YOU AGREE THAT WE HAVE ADVISED YOU THAT YOU MUST INSURE THAT ALL PROMISES AND REPRESENTATIONS FOR PRESENT AND FUTURE RIGHTS AND RESULTS, WHETHER ABSOLUTE OR CONTINGENT, ARE CONTAINED IN THIS FRANCHISE AGREEMENT OR THEY ARE FOREVER LOST.

Signature

AVALAR NETWORK, INC

By _____
Signature

Printed Name

Title

Date

Its _____

Date



PATH TO SUCCESS®

EXHIBIT A to Franchise Agreement

Path to Success[®]

ELIGIBILITY

Path to Success is a revenue sharing program for individuals affiliated with the *AVALAR* system ("the system"). Those eligible to participate in the *Path to Success* revenue sharing pool include shareholders and full and part-time employees of AVALAR NETWORK, INC., *AVALAR* franchisees, and *AVALAR* franchisees' full and part-time employees, *AVALAR* Area Developers, *AVALAR* Area Developers' full and part-time employees, sales associates of *AVALAR* franchisees, and others specifically approved in writing by AVALAR NETWORK, INC. While only natural persons are allowed to participate in *Path to Success*, if an *AVALAR* franchisee or Area Developer is an entity, its partners, shareholders, members, or other owners can participate as individuals.

CHOOSING A SPONSOR

At the time a person becomes eligible for membership in the *Path to Success* program, he or she must designate a sponsor on the form and in the manner specified by AVALAR NETWORK, INC. It is strictly within the discretion of the new member who he or she designates as a sponsor. The member does not have to work for the *AVALAR* office or franchisee with which his or her sponsor is affiliated. Once a member has selected a sponsor, changes in sponsorship are not allowed.

PROVIDING A SPONSORSHIP CHOICE

Upon a member becoming affiliated with a franchisee's *AVALAR* office, it is the responsibility of the franchisee of that office to promptly provide AVALAR NETWORK, INC. with an IRS Form W-9 and a *Path to Success* membership form providing the nature of the affiliation and the sponsor designated by the concerned member. The franchisee must also supply a change form if a member affiliated with a franchised *AVALAR* office resigns, changes his or her address, is terminated, relocates, dies, or whose status as a program member is otherwise altered.

PROHIBITION AGAINST PAYMENT FOR SPONSORSHIP

Members are prohibited from paying fees or giving other consideration of any kind for the privilege of joining the *Path to Success* program. Payment to a *Path to Success* member or potential member by a sponsor for allowing or designating sponsorship is prohibited and will result in removal of the offending sponsor from the *Path to Success* program.

REVENUE SHARING CONTINUES UPON RETIREMENT

Once a sponsor has been a continuous member in *Path to Success* for 3 years, he or she becomes entitled to accrue *Path to Success* benefits for his or her lifetime at the rate of 20% of his or her *Path to Success* benefits per year. At the end of 7 years of continuous membership in the program, the member is eligible to continue receiving his or her full *Path to Success* benefits for life unless they are otherwise lost. The accrued portion of a member's participation can be lost only if he or she is an *AVALAR* franchisee or Area Developer and his or her Franchise Agreement or Area Developer Agreement is not renewed or is terminated due to a default, if the member is convicted of a felony of any type or any criminal misconduct that reflects unfavorably on the *AVALAR* system.

or the *Path to Success* program, if the member engages in any other misconduct reflecting adversely on the *AVALAR* system in a material manner, if the member leaves the *AVALAR* system, if the member goes to work for a competitor where there is an *AVALAR* office within a fifty mile radius of his or her home, or if the member dies. If a member in *Path to Success* retires after accruing *Path to Success* benefits, he or she can continue as a member in the program until death as long as the member does not otherwise lose his or her accrued rights as described above.

FUNDING OF PATH TO SUCCESS

The revenue sharing pool is derived from a portion of the royalty fees received by AVALAR NETWORK, INC. from its franchisees. Each *AVALAR* franchisee pays a monthly royalty fee to AVALAR NETWORK, INC. based upon the GCI, as defined in the Franchise Agreement, generated by each principal and sales associate affiliated with the franchisee. Forty percent of the royalty income that is received by AVALAR NETWORK, INC. is placed in the *Path to Success* revenue sharing pool ("the pool").

EXAMPLE OF REVENUE SHARING

The portion of the pool payable to each sponsor is based on the GCI of each sales person in that sponsor's downline. The appropriate portion is allotted among those designated as sponsors of each sales person in the downline in the manner described below.

Payments from the pool will be sent by AVALAR NETWORK, INC. to each qualifying recipient every other month beginning on January 15th of each calendar year based on the following distribution plan:

Level 1	50%
Level 2	10%
Level 3	8%
Level 4	8%
Level 5	8%
Level 6	8%
Level 7	8%

For example, if you were designated as the sponsor of Agent X, you would receive a Level 1 distribution in an amount equal to 50% of the pool amount generated by Agent X. If Agent X were designated as the sponsor of Agent Y, you would receive a Level 1 distribution equal to 50% of the pool amount generated by Agent X and a Level 2 distribution equal to 10% of the pool amount generated by Agent Y. If Agent X produced \$100,000.00 in GCI during the calendar year, 40% of the amount paid in royalties on account of the activities of Agent X would go into the pool. As such, if \$5,000.00 in royalties had been paid to AVALAR NETWORK, INC. during the calendar year based on the GCI of Agent X, \$2,000.00 of that amount would go into the pool for that period. Since you were designated by Agent X as his or her sponsor, you would receive \$1,000.00 on account of the GCI produced by Agent X. If Agent Y produced \$100,000.00 in GCI during the same calendar year, you would receive another \$200.00 on account of the GCI generated by Agent Y. A sponsor can only participate in up to 7 generations/levels of revenue sharing. If 8 or more

levels are achieved by his or her downline, the sponsor will only participate in revenue sharing from the first 7 levels.

If less than the entire pool is distributed during any distribution period, the undistributed portion ("breakage") is put into a bonus pool and is distributed as follows:

Executive Agents	30%
Senior Agents	60%
AVALAR NETWORK, INC.	10%

"Executive Agents" are sponsors who have at least 8 sales people on their first level and at least 20 sales people in their total downline. "Senior Agents" are sponsors who have at least 3 sales people on their first level and at least 8 sales people in their total downline. Executive Agents will also be Senior Agents and will participate in the distributions due both categories. The share of each Executive Agent and each Senior Agent will be determined by dividing each portion of the bonus pool by the number of Executive Agents and Senior Agents. For example, if there are 10 Executive Agents and 20 Senior Agents eligible to participate in the bonus pool ("breakage") for the year, the bonus pool will be divided into 10 30% shares and 20 60% shares. Each Executive Agent will receive one 30% share and one 60% share and each Senior Agent will receive one 60% share.

AVALAR NETWORK, INC. retains 10% of the bonus pool to help defray the cost of administering the *Path to Success* program. In addition, a nominal transaction fee will be deducted from those members that receive revenue sharing checks

AVALAR NETWORK, INC.'s contractual responsibility to administer the *Path to Success* program runs exclusively to its **AVALAR** franchisees. It is the responsibility of each **AVALAR** franchisee to compensate the *Path to Success* members working with the franchisee's **AVALAR** office or offices, and those otherwise affiliated with the **AVALAR** franchisee. AVALAR NETWORK, INC. has no obligation to or relationship with any *Path to Success* member other than those who have executed a Franchise Agreement with AVALAR NETWORK, INC. By signing below the parties agree to the foregoing.

Signature

Printed Name

Title

Date

AVALAR NETWORK, INC.

By _____
Signature
Its _____