



Just Shutters (Franchise) Limited

Franchisor

and

[name] Ltd

Franchisee

and

[name]

Principal

Just Shutters Franchise Agreement

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This Agreement is dated [date]

Between

- (1) **Just Shutters (Franchise) Limited** (Company Number 07450870) whose registered office is at 59 Southbourne Grove, Bournemouth, Dorset, BH6 3QU (email: jsfranchise@justshutters.co.uk) ("**Franchisor**") and
- (2) **[name] Ltd** (Company Number [number]) whose registered office is at [address](email:) ("**Franchisee**"); and
- (3) **[name]** of [home address] (email:) ("**Principal**" which expression shall where the context so admits include the personal representatives of the Principal)

Background:

- (A) The Franchisor, because of extensive research and practical business experience, has developed a successful business of supplying and fitting plantation shutters (**the Business**) which is carried on under the name "Just Shutters™" (**the Trade Name**).
- (B) The Franchisor has built up a substantial reputation and goodwill in the Business which is associated with the highest standards of service.
- (C) The Franchisor has developed specialised shutter design and consultation, supply, and fitting services (**the Services**, as further defined in Clause 1.1) to be supplied by the Business.
- (D) The Franchisor is the owner of confidential information on the management and operation of the Business and in methods of conducting marketing and promoting the Business (**the System**).
- (E) The Franchisor has registered the Trade Name as trademarks (**the Trademarks**) . The Franchisor has agreed to license the Franchisee to use the Trademarks pursuant to the terms of this Agreement.
- (F) The Franchisee wishes to acquire from the Franchisor the right to provide the Services and to operate the System in accordance with the terms of this Agreement.

It is agreed as follows:

1 Definitions and interpretation

- 1.1 In this Agreement where the context so admits the following expressions shall have the meanings set out below:

Additional Equipment means the items of equipment and other tools that the Franchisee must acquire itself prior to the Opening Date as set out on the Franchisor's current list as supplied to the Franchisee.

Auditor means the auditor or accountant (as applicable) of the Franchisor at the relevant time.

Business as defined in the Background.

Business Days means all days other than a Saturday, Sunday or bank or public holiday in England when banks in London open for business.

Business Plan means a business plan for the Franchisee's Business in a form agreed by the Franchisor and including (without limitation) a marketing plan and turnover and profit targets for the 12 Month period to which it relates.

Change of Control has the meaning given in section 1124 of the Corporation Tax Act 2010.

Confidential Information means any information which is disclosed to the Franchisee by the Franchisor pursuant to, or in connection with, this Agreement (whether orally or in writing and whether or not such information is expressly stated to be confidential, including but not limited to the Manual), or which otherwise comes into the hands of the Franchisee in relation to the Business, the Franchisee's Business, the System, or the Services other than information which is already in the public domain (otherwise than as a result of a breach of any obligation of confidentiality);

Customer means a person who wishes (or may wish) to purchase Services from the Franchisee.

DBS means the Disclosure and Barring Service

DBS Check means a basic DBS check

Effective Date means the date of this agreement or [date] if different

Encumbrance means any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention or any other security agreement or arrangement.

Environmental and Health and Safety Laws means all applicable laws, statutes, regulations, secondary legislation, byelaws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes which are legally binding and in force as at the date of this agreement in so far as they relate to or apply to the Environment or health and safety or any person.

Expert has the meaning given in Clause 38.1;

Fees means the Initial Licence Fee, the Initial Training Fee, the Initial Marketing Fee, the Management Services Fee, the Vehicle Fee (if paid), the Ongoing Marketing Fee and the Ongoing Administration Fee.

Franchisee's Business means a Just Shutters business to be operated by the Franchisee in accordance with the provisions of this Agreement.

Franchise Disclosure Document means the materials describing the nature of the Business made available to the Franchisee on a confidential basis before the signing of this Agreement.

Gross Monthly Income means the Monthly gross income of the Franchisee's Business arising directly or indirectly from the conduct of the Franchisee's Business, including income for which invoices have been issued during each Month that this Agreement is in force whether or not such invoices have been settled (and for any period less than a complete Month) and for this purpose gross income shall include the assumed gross income of the Franchisee's Business in each Month calculated for the purposes of any loss of profits insurance claim. Gross income shall exclude Value Added Tax (VAT). For these purposes it shall be assumed that an invoice will have been issued to the Customer by the Franchisee upon completion of the relevant installation, and that the Franchisee will issue a receipt for all deposits that have been paid by Customers.

Hub means the portal through which the Franchisee can access the Manual once this Agreement has been signed, the details of which will be provided by the Franchisor.

Initial Licence Fee means the licence fee payable pursuant to clause 4.1 and set out in Schedule 1: The Fees.

Initial Marketing Fee means the marketing fee payable in accordance with Clause 4.1 and set out in Schedule 1: The Fees.

Initial Training means the initial training to be provided by the Franchisor pursuant to Clause 5.1.2, brief details of which are set out in Schedule 6:

Initial Training Fee means the training fee payable pursuant to clause 4.1 and set out in Schedule 1.

Intellectual Property means patents, rights to inventions, copyright and related rights, rights in software, trademarks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world relating to the Products, Services, Business and the System, owned by the Franchisor or acquired by the Franchisor from time to time;

Launch Pack means a pack containing the items set out in Schedule 3.

Launch and Promotion Programme means a launch and promotion programme for the Franchisee's Business to be implemented by the Franchisee in accordance with clause 18.1.

Management Services Fee means the management services fee payable by the Franchisee pursuant to Clause 4.2 and set out in Schedule 1.

Manual means the confidential operating manual of the Franchisor as amended from time to time setting out the way in which the Franchisee shall operate the Franchisee's Business and provide the Services.

Minimum Performance Criteria means the Minimum Performance Criteria set out in Schedule 9.

Month means a calendar month.

Multiple Account Customer means any customer with a requirement to receive Services in more than one of the Franchisor's territories.

Ongoing Administration Fee means two (2) per cent of Gross Monthly Income.

Ongoing Marketing Fee means three (3) per cent of Gross Monthly Income.

Opening Date means one Month from the date Effective Date or such earlier date as the Franchisee's Business first commences trading with the written permission of the Franchisor.

Opening Hours means 8.00am to 8.00pm Monday to Friday and 8.00am to 2.00pm on Saturdays in each week during the Term (excluding in each case public holidays in the Territory).

Payment Date means the 7th day of each Month, or if that is not a Business Day the first Business Day thereafter.

Premises means the premises at the location specified in Schedule 7 and/or such other location (or locations) agreed from time to time by the Franchisor in writing in accordance with Clause 16;

Products mean plantation shutters from suppliers approved by the Franchisor (such approval not to be withheld unreasonably) (and such other products as shall, from time to time, be notified in writing by the Franchisor to the Franchisee);

Proprietary Materials means the collection of copyrighted material owned by the Franchisor that facilitates the marketing and delivery of the Services and the administration of the Franchisee's Business (as applicable) in the form notified by the Franchisor to the Franchisee from time to time (including without limitation) the materials displayed on the "Just Shutters Franchise" pages of the Website from time to time).

Proprietary Software means Software that is proprietary to the Franchisor.

Services means such plantation shutter supply and fitting services as are notified in writing from time to time by the Franchisor to the Franchisee as forming part of the Franchisor's range of services for provision by Franchisees (including the provision and/or sale of any goods which are ancillary to the Services).

Software means such software (including but not limited to the software items that are set out in the Manual or otherwise notified to the Franchisee by the Franchisor in writing from time to time) which the Franchisor reasonably requires the Franchisee to use in the Franchisee's Business, including any upgrades to or modifications of such software, to be licensed by the Franchisor or its nominated or approved supplier, to the Franchisee under this Agreement.

Stationery means all stationery, quotations, invoices, documents, and templates as listed in the Manual and/or displayed on the "Just Shutters Franchisee" pages of the Website from time to time, to be used by the Franchisee for the purposes of the Franchisee Business.

System means as defined in the Background.

Telephone Number, Email Address(es) and Domain Name(s) means the telephone number, email address(es) and domain name(s) referred to in Clause 10.1;

Term means the period specified in clause 2.3.

Territory means the territory set out in Schedule 8.

Trademarks as set out in Schedule 2.

Vehicle Fee means the optional fee that the Franchisee may opt to pay pursuant to clause 4.1 and as set out in Schedule 1.

Waste Activities means any activities that may be carried out by the Franchisor and any, some, or all the Franchisor's franchisees that (where such activities are carried out in sufficient magnitude, volume, or frequency) may incur obligations on the Franchisor pursuant to the Waste Regulations.

Waste Regulations means The Producer Responsibility Obligations (Packaging Waste) Regulations 2007.

Website means the Franchisor's website at www.justshutters.co.uk.

- 1.2 The Background (including the terms defined in the Background) form part of the Agreement.
- 1.3 In this Agreement, unless the context otherwise requires:
 - 1.3.1 the singular includes the plural and the opposite applies and references to any gender includes the other genders.
 - 1.3.2 reference to persons include bodies corporate, unincorporated associations and partnerships.
 - 1.3.3 words and phrases defined in the Companies Act 2006 have the same meanings in this Agreement, but the word "company" includes any body corporate.
 - 1.3.4 references to "clauses" are to clauses or sub-clauses of this Agreement, references to "schedules" are to the schedules to this Agreement and references within a schedule to "paragraphs" are to paragraphs or subparagraphs of that schedule; and
 - 1.3.5 references to any rate of interest shall be construed as meaning that rate as from time to time in force, calculated from day to day, and compounded on the last day of March, June, September, and December in each year, both before and after judgement.
- 1.4 In this Agreement:
 - 1.4.1 any reference to any statute or statutory instrument or any section or part thereof includes any enactment replacing or amending it or any instrument, order or regulation made under it and includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and
 - 1.4.2 clause headings are for reference purposes only and shall not affect the construction of anything in this Agreement.
- 1.5 The Schedules shall be treated as an integral part of this Agreement and references to this Agreement shall include the Schedules.
- 1.6 Where there is more than one Principal, the obligations of the Principals under this Agreement shall be joint and several in all respects.
- 1.7 A reference to "writing" includes email.

2 Franchise Rights and Term

- 2.1 In consideration of the payments made and to be made by the Franchisee under this Agreement, the Franchisor grants to the Franchisee the right within the Territory:
 - 2.1.1 to operate the Franchisee's Business.
 - 2.1.2 to use the Trade Name and the Trademarks in the Franchisee's Business.
 - 2.1.3 to operate the System for the purposes of the Franchisee's Business.
 - 2.1.4 to use the Stationery for the purposes of the Franchisee's Business; and
 - 2.1.5 to provide the Services from the Premises or such other premises within the Territory as may be approved in writing by the Franchisor.

- 2.2 Save as expressly stated in this Agreement the Franchisor shall not grant to any other person a licence of any of the rights set out in clause 2.1 above in respect of the Territory and save as expressly stated in this Agreement shall not itself actively market the Services for sale by itself in the Territory.
- 2.3 The Term shall commence on the Effective Date and shall be for a fixed period of 5 (five) years (subject to the provisions of clause 22) continuing thereafter if the renewal option set out in clause 3 below has been exercised.
- 2.4 The Franchisor grants to the Franchisee a non-exclusive licence to use the Proprietary Software and the Proprietary Materials in the operation of the Franchisee's Business during the Term.
- 2.5 For the avoidance of doubt all rights and / or territories that are not expressly or exclusively granted to the Franchisee under this Agreement are reserved to the Franchisor and / or such other parties as the Franchisor may in its discretion determine.

3 **Rights of Renewal**

- 3.1 The Franchisee shall have the right to renew the franchise at the expiration of the Term, subject to the following conditions:
- 3.1.1 The Franchisee shall by notice in writing to the Franchisor, given not more than 9 months nor less than 6 months before the expiration of the Term, request the Term to be renewed.
- 3.1.2 subject to receipt of the Franchisee's notice in accordance with Clause 3.1.1 above, the Franchisor shall, not less than two months before expiry of the Term, give notice to the Franchisee to renew the Term for a further period of 5 years (**Renewed Term**) on the terms of the then current standard franchise agreement provided that prior to the expiry of the Term:
- (a) there have been no material breaches of this Agreement and there are no breaches of this Agreement outstanding at the date that the notice referred to in Clause 3.1.1 is served or at any time thereafter up to and including the expiry of the Term and there are no grounds upon which the Franchisor has the right to terminate this Agreement pursuant to Clause 26;
 - (b) the Franchisee has during the preceding Term performed all its other obligations under this Agreement to the reasonable satisfaction of the Franchisor.
 - (c) the Franchisee shall at its expense ensure that the Premises and any equipment and other items used in the Franchisee's Business, and the practices of the Franchisee's Business, are of a standard then required by the Franchisor of its new Franchisees and as set out in the Manual.
 - (d) the Principal and any other persons (specified by the Franchisor) employed by or concerned with the Franchisee shall have completed at the Franchisee's expense such re-training or refresher training at such time and at such place as the Franchisor may require bringing the Franchisee's Business up to the standard then required of new Franchisees.
 - (e) the Franchisee shall furnish to the Franchisor copies of all its policies of insurance and proof of payment of all premiums in relation to them; and
 - (f) the Franchisees shall pay the Franchisor's legal costs (if any) plus VAT thereon relating to the renewal of the Agreement up to £750 plus VAT.

- 3.2 Notwithstanding the provisions of Clause 3.1.2, if after the service of the notice pursuant to Clause 3.1.1 and prior to the execution of the renewal document referred to in Clause 3.3 the Franchisee shall breach any of the other matters as set out in Clause 3.1.2, the Franchisor shall not be obliged to grant a renewal pursuant to this Clause 3.
- 3.3 Any renewal under this Clause 3 shall be effected by the parties entering into a new agreement, which shall be in the Franchisor's then current form of franchise agreement (which the Franchisee hereby acknowledges and agrees may contain different and/or additional fees and charges payable by and additional obligations and standards applicable to the Franchisees such as are then applicable to the new Franchisees (including, but not limited to, Minimum Performance Criteria), provided that, on such renewal:
- (a) the Franchisee will not be liable to pay the Initial Licence Fee, the Initial Marketing Fee, or the Initial Launch Fee (or the equivalent of them under the new agreement).
 - (b) the Franchisor will not be under any obligation to perform the obligations under Clause 5 or Clause 6.1 (or any equivalent obligations under the new agreement);
- 3.4 Unless the parties agree otherwise in writing, any renewal under this Clause 3 shall be without prejudice to the rights of the Franchisor outstanding at the end of the Term. The Franchisee and the Principal shall waive all claims that they may have against the Franchisor arising in respect of this Agreement.
- 3.5 Unless it is either renewed in accordance with this Clause 3 or terminated earlier under Clause 26, this Agreement shall terminate at the end of the Term.
- 3.6 If the Franchisee continues to carry on the Franchisee's Business after the end of the Term, but without having agreed a Renewed Term with the Franchisor, then it will be deemed to do so on the terms and conditions of this Agreement (or any agreement entered into by the parties under Clause 3.3), save that either the Franchisee or the Franchisor will be entitled to terminate this Agreement on giving to the other parties 3 months' written notice of termination.

4 **Fees**

- 4.1 On the execution of this Agreement the Franchisee shall pay to the Franchisor the Initial Licence Fee, the Initial Training Fee, and the Initial Marketing Fee, (and, if the Franchisee has opted to pay it, the Vehicle Fee.)
- 4.2 Every Month following the Opening Date the Franchisee shall pay by Direct Debit the Management Service Fee, the Ongoing Marketing Fee, and the Ongoing Administration Fee (plus in each case any Value Added Tax), on the Payment Date immediately following the Month to which these Fees relate based (where applicable) on the Gross Monthly Income as agreed or determined in accordance with Clause 4.3, without abatement, set-off or deduction.
- 4.3 The Gross Monthly Income shall be determined as follows:
- (a) within two Business Days of the end of each Month, the Franchisee shall prepare, and deliver to the Franchisor, a statement of the Gross Monthly Income for the Month.
 - (b) within three Business Days after the Franchisee has delivered the statement of Gross Monthly Income, the Franchisor shall either confirm in writing that it agrees such statement or give notice that it does not.

- (c) if the Franchisor does not agree such statement, the parties shall endeavour to resolve all matters in dispute as soon as practicable. If they fail to do so within 14 days of the notice, either party may refer the dispute for resolution to an Expert appointed under Clause 38; and
 - (d) any payment, additional payment, or refund to be made because of any decision of the Expert shall be made within 14 days of receipt by the parties of the decision of the Expert.
- 4.4 If required by the Franchisor the Franchisee shall as soon as reasonably practicable after the date of this Agreement enter a direct debit mandate with its bankers for the time being for the Monthly payment of the Management Service Fee, the Ongoing Marketing Fee, and the Ongoing Administration Fee.
- 4.5 The Franchisee shall procure that all amounts payable by it to the Franchisor from time to time are paid on the due date for payment specified in this Agreement or, where no due date is specified within 10 days of the date of the Franchisor's invoice therefor.
- 4.6 In the event of any default in payment on the due date of any sums due from the Franchisee to the Franchisor, the Franchisor may suspend the provision of goods and/or services and the performance of its obligations under this Agreement without prejudice to any other remedy available to it.
- 4.7 The Franchisee hereby agrees that it has no right to withhold payment of any Fee by reason of its dissatisfaction with the Franchisor's performance of its obligations under this Agreement and that if it is dissatisfied it will pursue other remedies at law which may be available to it..
- 4.8 For the avoidance of doubt, the Fees shall not be reduced because of any taxes, duties or levies that may be payable by the Franchisee in relation to them.

5 **Pre-Opening Obligations**

- 5.1 The Franchisor shall provide the Franchisee before the Opening Date with the following items, the cost of which is covered by the Fees payable by the Franchisee pursuant to clause 4.1 above:
- 5.1.1 Manual - on completion of the training specified in clause 5.1.2 below, one copy on loan of the Franchisor's current Manual setting out the way in which the Franchisee is to operate the Franchisee's Business, for use exclusively by the Principal and to be held strictly to the order of the Franchisor;
 - 5.1.2 the Initial Training.
 - 5.1.3 the Launch Pack.
 - 5.1.4 a copy of the Launch and Promotion Programme.
 - 5.1.5 access to the proprietary stationery (in electronic form).
 - 5.1.6 usage of such Software as is described in the Schedule on licence from the Franchisee's nominated supplier; and
- 5.2 The Franchisee shall before the Opening Date:
- 5.2.1 acquire the items of Additional Equipment set out in Schedule 5.
 - 5.2.2 open a dedicated bank account for the Franchisee's Business and provide details of such bank account to the Franchisor.

- 5.2.3 procure insurance cover for the Franchisee's Business in accordance with Clause 15 below.
- 5.2.4 become registered for VAT.
- 5.2.5 provide evidence of a satisfactory DBS Check on the Principal to the Franchisor.
- 5.2.6 become registered as a "data controller" in accordance with the Data Protection Act 2018.
- 5.2.7 if required by law procure a waste carrying licence to cover the whole of the Territory, and otherwise ensure that the Franchisee is fully compliant with all national and local laws regarding the disposal of commercial waste.
- 5.2.8 either purchase or lease a vehicle meeting the specification as outlined in Schedule 4 from a Franchisor approved supplier.
- 5.2.9 ensure that broadband internet connection (minimum 2GB download speed) is fully operational at the Premises.

6 **Training**

- 6.1 The Franchisor shall, as specified in clause 5.1.2, prior to the Opening Date train the Principal and up to one of the Franchisee's employees (for up to 7 hours) in the operation of the System and in all aspects of the Business.
- 6.2 If the Franchisor reasonably believes that the Principal does not meet the Franchisor's minimum standards on completion of the Initial Training the Franchisor shall have the right upon notice in writing to terminate this Agreement with immediate effect and shall return to the Franchisee the Initial Licence Fee and the Initial Marketing Fee or part thereof paid less such sum representing the direct costs to the Franchisor of the performance of its obligations under this Agreement (in addition to the Initial Training) up to the date of the termination (such costs to include but not be limited to the provision of the items listed in clause 5.1 above). For the avoidance of doubt, if this Agreement is terminated pursuant to this clause 6.2 none of the Initial Training Fee shall be refunded.
- 6.3 Unless otherwise agreed in writing by the Franchisor, the Franchisee shall submit all those of its employees or self-employed persons involved in the provision of Services on behalf of the Franchisee's Business in any customer facing situation for training prior to them becoming actively involved in the Franchisee's Business.
- 6.4 The Franchisor shall have the right to require the Principal and/or the Franchisee's employees or self-employed persons involved in the Franchisee's Business to attend further training courses at any time during the term of this Agreement if it reasonably considers that such further training is necessary or that such additional training would be of benefit to the Franchisee's Business and/or the Business or is otherwise required in order to ensure compliance with the requirements of applicable Environmental and Health and Safety Laws in connection with the provision of the Services.
- 6.5 The Franchisee shall (a) before taking on an employee or self-employed person obtain a clear DBS Check for them and (b) on taking on an employee or self-employed person at a level where training is normally or has previously been provided immediately inform the Franchisor thereof and shall not allow such person to provide the Services until they have been trained to the satisfaction of the Franchisor and the Franchisor has given its consent in writing.
- 6.6 All training referred to in this clause (save for the training referred to in clause 6.1 which shall be provided in consideration for the payment of the Initial Training

Fee, and ongoing training for the Principal the cost of which shall be covered by the Management Service Fee) shall be provided at the Franchisor's standard rate and in all cases the Franchisee shall be liable for travelling, accommodation, salaries and the living expenses of those attending.

- 6.7 The time and place of any such training shall be at the absolute discretion of the Franchisor but the Franchisor shall try to accommodate the Franchisee's reasonable requirements where reasonably practicable.

7 Franchisor's Continuing Obligations

- 7.1 The Franchisor shall subject to compliance by the Franchisee with the terms of this Agreement, always:

7.1.1 provide a central telephone/email enquiry handling centre (from 9.00 a.m to 6.00 p.m. on Business Days ("Business Hours")) together with an online appointments management system for the Franchisee's Business.

7.1.2 permit the Franchisee to carry on the Franchisee's Business in the Territory under the Trade Name followed by a geographical name (as designated by the Franchisor).

7.1.3 subject to the provision by the Franchisee of such information as the Franchisor may require to enable the Franchisor to do so, during Business Hours:

- (a) monitor the performance of the Franchisee.
- (b) provide the Franchisee with advice and guidance on development of the Franchisee's Business and the acquisition of new equipment.
- (c) provide a reasonable level of day-to-day off-site problem-solving facilities to the Franchisee by telephone or in writing to assist the Franchisee to operate the Franchisee's Business in accordance with this Agreement and the Manual; and
- (d) regular on-site visits from the Franchisor's staff or other nominated representatives to work with the Franchisee's to assist in the growth of the Franchisee's Business.

7.1.4 make available to the Franchisee advice regarding the selection of appropriately trained employees for engagement in the Franchisee's Business.

7.1.5 make available to the Principal (free of further charge), and the Franchisee's employees (at the Franchisor's standard rate) such further training as the Franchisor may from time to time reasonably consider necessary, the Franchisee bearing the cost of any travel, accommodation and subsistence involved in such further training and the salaries of any employees and/or self-employed workers involved.

7.1.6 provide the Franchisee with standard contracts for use by the Franchisee in the Franchisee's Business (including but not limited to the Franchisor's approved forms of sub-contract, employment contract and terms and conditions of supply).

7.1.7 provide the Franchisee at the Franchisee's expense with the products, services and equipment described in the Manual on the terms specified in the Manual and if such products, services, and equipment are obtained from third parties to use its reasonable endeavours to obtain favourable rates for furnishing such supplies.

- 7.1.8 organise and convene an annual conference with the Franchisee bearing the cost of any travel, accommodation and subsistence expenses incurred in attending such conferences.
- 7.1.9 update the Manual and continue its research and development with a view to the continual improvement of the System.
- 7.1.10 provide the Franchisee with periodical technical bulletins regarding the Services together with such additions to or amendments of the Franchisor's standard documents for use in the Franchisee's Business as the Franchisor shall from time to time consider appropriate or necessary.
- 7.1.11 provide the Franchisee with such marketing materials and adverts as the Franchisor shall from time to time make available to its other franchisees.
- 7.1.12 make available to the Franchisee at the Franchisee's expense such upgrades of or modifications to the Proprietary Software and the Proprietary Materials as the Franchisor considers appropriate.
- 7.1.13 make available to the Franchisee at the Franchisee's expense all items and services which the Franchisor makes available to its other franchisees.

8 Franchisee's Operating Obligations

In this clause 8 references to the Franchisee shall also include the Principal.

- 8.1 To maintain the highest standard of service to be provided by the Franchisee and the Franchisor's other franchisees, the Franchisee shall during the Term:

8.1.1 Supplies

- (a) use in the Franchisee's Business only the Stationery and no other stationery unless the Franchisor's prior written approval has been obtained.
- (b) ensure that all vehicles used for the provision of the Services are of the brand and model set out in the Manual, and that they are maintained to reasonable mechanical standards (including regular servicing), are kept clean and in good condition as detailed in the Manual, and that such vehicles are branded with the then-current logo of the Franchisor as set out in the Manual.
- (c) obtain its supplies of Stationery, products, and services only from the Franchisor or such other persons as are approved in writing by the Franchisor from time to time (such approval not to be unreasonably withheld); and
- (d) not enter any sub-contract for the provision of the Services.

8.1.2 Financial

- (a) ensure that adequate finance is available to the Franchisee to enable the Franchisee fully to carry on and develop the Franchisee's Business in accordance with this Agreement.
- (b) not grant any Encumbrance over the business or assets of the Franchisee's Business or the Franchisee without the prior written consent of the Franchisor.

8.1.3 Non-compete and time and attention

- (a) not during the term of this Agreement engage in or be directly or indirectly interested or concerned in any business other than the Franchisee's Business without the prior written consent of the Franchisor.
- (b) not during the Term of this Agreement engage in or be involved directly or indirectly or in any way assist any third party to so engage in or be involved in any business which competes with the Business or the Franchisee's Business.
- (c) unless otherwise agreed in writing by the Franchisor, during the Term of this Agreement, devote the whole of its time and attention to the Franchisor's Business.
- (d) During the Term of this Agreement, ensure that the Franchisee's Business is effectively managed by the Principal and by no other person without the Franchisor's prior written consent and that the Principal remains substantially and actively involved in the day-to-day operation of the Franchisee's Business unless the Franchisor has consented in writing otherwise.
- (e) (In the case of the Principal) not during the first 12 Months of the Term be absent from the Franchisee's Business for more than 2 consecutive weeks or 6 weeks in aggregate and always procure that the Franchisee's Business is fully staffed and operational during any period of absence.

8.1.4 **Trading**

- (a) use its best endeavours to promote and extend the Franchisee's Business throughout the Territory.
- (b) not do anything which may bring the Franchisor, the Business or the Franchisee's Business into disrepute or which may have a detrimental effect on the Franchisor, the Business or the Franchisee's Business.
- (c) permit the Franchisor and any person authorised by the Franchisor upon reasonable notice to enter, during normal business hours, upon the Premises or elsewhere to inspect the same and take copies of any items relevant to the Franchisee's Business therein.
- (d) save as expressly permitted in this Agreement not actively (whether directly or indirectly) solicit or tout for business outside the Territory in a territory which is either occupied by another Just Shutters franchisee or reserved to the Franchisor either expressly or pursuant to Clause 2.5 above.
- (e) at all times comply in all respects with the Manual.
- (f) not during the Term enter any transaction or arrangement which causes The Trading Schemes Act 1996 to apply to the Franchisor's Business or the Franchisee's Business.
- (g) notwithstanding that this Agreement is for a fixed term, give the Franchisor at least three Months prior notice of the implementation of any decision to cease or threaten to cease to carry on the Franchisee's Business within the Territory and consult with the Franchisor to enable the Franchisor to make arrangements to maintain trading relationships with its clients and the Franchisee's clients (and for the avoidance of doubt, the parties acknowledge that a failure by the Franchisee to comply with such notice and consultation may result in significant damage to the reputation of the Business and risk the loss of clients to the Business and the Franchisee's

Business giving rise to a claim for damages or additional damages by the Franchisor against the Franchisee);

- (h) prepare and agree with the Franchisor a Business Plan for the next year no later than one Month prior to each anniversary of the commencement of the Term and use all reasonable endeavours to meet the targets set out in that Business Plan.
- (i) set up and always maintain a separate bank account in the name of the Franchisee's Business and which is exclusively dedicated to the Franchisee's Business and not use any other bank account for the Franchisee's Business.
- (j) procure that the Franchisee shall have in place an operational answer phone during all times when calls cannot be answered immediately and that all enquiries from Customers are responded to within 24 hours of receipt.
- (k) provide potential Franchisees, at the request of the Franchisor, with such information concerning the Business and the Franchisee's Business as such prospective Franchisees may reasonably require and be courteous and co-operative to such prospective Franchisees.
- (l) not without the prior written consent of the Franchisor use the Trade Name or Trade Marks nor represent itself as being part of or connected to the Franchisor when acquiring goods or services from suppliers.
- (m) pay all suppliers of goods and services sold or provided to the Franchisee strictly in accordance with their terms of payment.
- (n) employ sufficient staff to meet demand from Customers and potential Customers of the Business and the Franchisee's Business.
- (o) sell or provide only such Services as may be described from time to time in the Manual (or as otherwise notified to the Franchisee in writing).
- (p) accept payment from Customers only in the forms specified in the Manual.
- (q) not use or engage the services of any person in or for as the Franchisee's Business unless and until that person is engaged by the Franchisee on the terms of the Franchisor's applicable standard contract from time to time in force.
- (r) procure that it is made clear to Customers that the Services are provided by the Franchisee directly to such Customers, and not by the Franchisor.
- (s) ensure that Customers sign the Franchisor's order letter and are advised of the standard terms and conditions (as issued by the Franchisor from time to time) on the website or provided, on request, with a copy of such standard terms and conditions prior to the performance of any Services.
- (t) in all aspects of the operation of the Franchisee's Business have all due regard to, and not act in any way that will or may damage the brand image and market position of the Business and the Franchisee's Business.
- (u) Not charge prices for the Services in excess of any maximum prices specified by the Franchisor and not enter into any arrangement with any other franchisee concerning the prices to be charged for Services.

8.1.5 **Health and Safety and standard of Services**

- (a) carry on the Franchisee's Business to the highest standards of care and service.

- (b) submit to the Franchisor full details of any accident or complaint concerning the Franchisee's Business immediately and deal with such accidents/complaints promptly and strictly in accordance with the Manual and the Franchisor's instructions.
- (c) comply with all statutes, by-laws and other legal requirements relating to the Franchisee's Business and obtain (and maintain) all licences, consents and approvals that may be required from time to time.
- (d) not conduct itself in such a way as to place undue pressure on Customers to purchase Services, not "mis-sell" any of the Services and conduct and procure that the Franchisee's Business is at all times conducted in accordance with the Franchisor's Ethical Sales Policy (as set out in the Manual).
- (e) not commence trading of the Franchisee's Business until the Principal has attended and the Franchisee has been notified in writing by the Franchisor that he has passed the Initial Training.
- (f) not endeavour to perform any Services unless it has available to it adequately trained personnel and all necessary equipment to enable such Services to be performed to the highest standard in a safe and timely manner and if it does not have available such personnel and/or equipment comply with the Franchisor's instructions in relation to the provision of the Services in question.
- (g) not permit any person to be involved in any capacity in the provision of Services to customers until such person has been fully trained to the standards set out as stipulated by the Franchisor from time to time and the Franchisee has obtained evidence of a recent satisfactory DBS Check on such person.
- (h) strictly comply and procure compliance by all its employees with all Environmental and Health and Safety Laws.

8.2 **Customer Complaints**

The Franchisee shall deal promptly and courteously with any complaints from customers in accordance with the procedure set out in the Manual and on the basis that if the interests of the Franchisor and the Franchisee should conflict, the interests of the Franchisor are to prevail.

8.3 **Proprietary Software, Proprietary Materials and Website**

The Franchisee shall:

- (a) use the Proprietary Software and Proprietary Materials only for the duration of the Term.
- (b) use the Proprietary Software and Proprietary Materials only for the purposes of the Franchisee's Business and, in the case of the Proprietary Software, on the licence terms provided.
- (c) not copy, alter, modify, or merge the whole or any part of the Proprietary Software or the Proprietary Materials or permit a third party to do such acts.
- (d) comply with any reasonable instructions of the Franchisor relating to the use and or maintenance of the Proprietary Software and Proprietary Materials.

- (e) accept and adopt such upgrades of or modifications to the Proprietary Software and Proprietary Materials as the Franchisor may reasonably require.
- (f) not assert or contest that the ownership of any intellectual property rights in the Proprietary Software, Proprietary Materials, and/or the Website is owned by anyone other than the Franchisor.
- (g) not do or omit to do anything which might result in any of the intellectual property rights in the Proprietary Software or the Proprietary Materials being owned by anyone other than the Franchisor; and
- (h) not sub-license, rent, lease, transfer, sell, charge, or assign the Proprietary Software or the Proprietary Materials for monetary or other consideration or free of charge and, in the event of any loss of physical or administrative control of the system on which the Proprietary Software and the Proprietary Materials is used, ensure that all copies of the Proprietary Software and the Proprietary Materials have previously been deleted.

8.4 The Franchisee acknowledges that:

8.4.1 neither the Proprietary Software, Proprietary Materials, nor the Website has been produced to meet its individual specifications or requirements.

8.4.2 neither the Proprietary Software, Proprietary Materials, nor the Website can be tested in advance in every possible operating combination and environment; and

8.4.3 it is not possible to produce software which is error-free in all circumstances.

Accordingly, the Proprietary Software and the Proprietary Materials are licensed "as is" and the Franchisor makes no warranty that they are free from errors, deficiencies, or faults or that they will operate in conjunction with all versions of the Franchisee's computer systems. All implied conditions, guarantees and warranties, including warranties of satisfactory quality or fitness for a particular purpose are expressly disclaimed by the Franchisor.

8.5 The Franchisee will take all reasonable precautions to safeguard the Proprietary Software and the Proprietary Materials against unauthorised use. The Franchisee agrees to indemnify the Franchisor in respect of any losses incurred by the Franchisor because of the unauthorised use of any of them by the Franchisee or any third party.

8.6 The Franchisee acknowledges and agrees that it is the best judge of the value and importance of the data held on its computer system and will be solely responsible for:

8.6.1 instituting and operating all necessary backup procedures to ensure that data integrity can be maintained in the event of loss of data for any reason.

8.6.2 (At its option) taking out any insurance policy or other financial cover for loss or damage which may arise from loss of data for any reason; and

8.6.3 the Franchisee will indemnify the Franchisor in respect of any third-party claims made against the Franchisor because of loss of data from the Franchisee's computer system for any reason.

8.7 **Minimum Performance Criteria**

8.7.1 The Franchisee shall be required to achieve the Minimum Performance Criteria.

- 8.7.2 If the Franchisee shall fail to comply with the provisions of Clause 8.7.1 in any 2 consecutive Months or in 4 or more Months during any consecutive period of 12 Months, the Franchisee shall within 14 days of a notice to that effect from the Franchisor meet with the Franchisor to discuss ways of improving the Franchisee's performance and the Franchisee shall comply strictly with the reasonable requirements of the Franchisor in that respect following the meeting.
- 8.7.3 If the Franchisee shall in the sole opinion of the Franchisor fail to comply with its requirements arising out of Clause 8.7.2 the Franchisor may, at its discretion and notwithstanding any other provision of this Agreement either:
- (a) require the Franchisee to restrict its activities and/or the scope of operation of the Franchisee's Business under this Agreement to such part or parts of the Territory as the Franchisor in its sole discretion considers will enable the Franchisee better able to promote and extend the market penetration of the Business in the part or parts of the Territory retained by the Franchisee, and/or
 - (b) license third parties to provide Services in the Territory or provide the Services itself in the Territory; and/or
 - (c) terminate this Agreement by notice taking effect immediately.
- 8.7.4 If the Franchisor serves notice on the Franchisee pursuant to Clause 8.7.3(a) above, then the provisions of Clause 27 shall apply to the Franchisee in relation to that part of the Territory in which the Franchisee is no longer entitled to provide the Services. The Franchisee shall promptly and diligently assist and co-operate with the Franchisor and/or its nominee to give effect to such partial transfer of the Territory. This Agreement shall be deemed to have been terminated in respect of such parts of the Territory as have been transferred to the Franchisor (or a new provider of Services).

8.8 **Multiple Account Customers**

If the Franchisor has a Multiple Account Customer, the Franchisor shall agree the terms which shall apply to that Customer on a multi-territory basis. The Franchisee shall be offered the first opportunity to provide Services required by the Multiple Account Customer in the Territory upon those terms. If the Franchisee does not wish to provide the Services on those terms, the Franchisor shall be entitled to provide those Services itself or appoint another party to provide the Services within the Territory for the relevant Multiple Account Customer on the terms previously made known to the Franchisee.

8.9 **Bribery and Corruption**

- 8.9.1 The Franchisee shall:
- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements).
 - (b) comply with the Franchisor's Anti-bribery Policy as specified by the Franchisor (Relevant Policies).
 - (c) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and the Relevant Policies, and will enforce them where appropriate.

- 8.9.2 promptly report to the Franchisor any request or demand for any undue financial or other advantage of any kind received by the Franchisee in connection with the performance of this Agreement.
- 8.9.3 promptly following any request by the Franchisor, certify to the Franchisor in writing signed by an officer of the Franchisee, compliance with this Clause 8.9 by the Franchisee. The Franchisee shall provide such supporting evidence of compliance as the Franchisor may reasonably request.

9 **The Waste Regulations**

- 9.1 The Franchisee shall, at the request of the Franchisor, co-operate with the Franchisor and provide all assistance that may be reasonably required by the Franchisor to enable the Franchisor to meet any obligations that are imposed on the Franchisor pursuant to the Waste Regulations.
- 9.2 Where the Waste Activities carried out by the Franchisee contribute to the aggregate of all Waste Activities and the aggregate of all Waste Activities is sufficient to result in obligations being imposed on the Franchisor pursuant to the Waste Regulations, the Franchisee shall bear the costs of compliance with such obligations pro-rata to the magnitude of the Franchisee's Waste Activities relative to aggregate of all Waste Activities.

10 **Telephone Numbers, Email Addresses and Domain Names**

- 10.1 The Franchisor shall provide the Franchisee with a telephone number, email addresses and domain names (as required in the opinion of the Franchisor) for use by the Franchisee's Business. Such telephone number, email address(es) and domain names shall be owned by the Franchisor but shall operate at the sole expense of the Franchisee.
- 10.2 The Franchisee shall not subscribe or use, whether itself or through a nominee, for any telephone numbers, email addresses and domain names other than those provided by the Franchisor pursuant to this Clause 10 for the purposes of the Franchisee's Business, unless the Franchisor shall have previously given its consent in writing, and the Franchisee or its nominee shall if so requested by the Franchisor execute an undated instruction (for future transfer to the Franchisor or its nominee) relating to such additional telephone numbers, email addresses and/or domain names. For the avoidance of doubt, the Franchisee shall procure that the telephone numbers and email addresses that are provided by the Franchisor shall be re-directed to the mobile phone(s) of the Principal and the employees and workers of the Franchisee (as applicable), such that no such person shall use their own mobile telephone numbers or email addresses for the purposes of Customer communications in the Franchisee's Business.
- 10.3 The Franchisee shall use the Telephone Number, Email Addresses and Domain Names referred to in Clause 10.1 exclusively for the Franchisee's Business and for no other purpose (whether business or private).

11 **Accounting and Management Records**

- 11.1 The Franchisee shall:
 - 11.1.1 maintain and make available to the Franchisor as directed by the Franchisor from time to time), accurate records of the Gross Monthly Income made up to the close of business on the last working day of each Month, and prepare in the form set out in the Manual a Monthly financial statement and submit the same to the Franchisor in accordance with Clause 4.3;

- 11.1.2 at all times make available and/or furnish to the Franchisor all such other accounting and management information as may be set out in the Manual from time to time and any other information as the Franchisor may from time to time reasonably require in each case in the form and manner set out in the Manual.
- 11.1.3 maintain on the Proprietary Software complete and accurate accounting and management information in the form required and ensure such information is kept up to date at all times and procure that such information is always accessible to the Franchisor.
- 11.1.4 maintain at the Premises or (as applicable) electronically accurate books of account and all supporting accounting records including all invoices, credit notes, statements and delivery notes and permit the Franchisor or its duly authorised agents on reasonable notice during business hours to inspect any such accounts and records and to take copies thereof at the expense of the Franchisor.
- 11.1.5 procure that the accounting year end of the Franchisee is 31 March in each year and at the Franchisee's expense in each accounting year have prepared annual accounts certified by a qualified Chartered or Certified Accountant and provide a copy of the same to the Franchisor within six Months after each year end.
- 11.1.6 procure the preservation of all such accounts and records for not less than 6 years notwithstanding the expiry or termination of this Agreement.
- 11.1.7 permit accountants nominated by the Franchisor at the expense of the Franchisor to enter the Premises and/or to access the Franchisee's servers and generally to undertake such audits and checks on the Franchisee's Business as the Franchisor may consider appropriate on reasonable notice during normal business hours and (without prejudice to the Franchisor's other rights under this Agreement) if such audits or checks reveal a discrepancy of more than two per cent in the financial information supplied to the Franchisor in respect of which the Management Service Fee, the Ongoing Marketing Fee, or the Ongoing Administration Fee has been calculated reimburse the Franchisor's costs in relation to such audits and checks (without prejudice to the Franchisor's other rights in respect of such discrepancy);
- 11.1.8 be registered with HM Revenue and Customs for VAT and once so registered deliver to the Franchisor within twenty-one days after the due date for its submission to HM Revenue and Customs a copy of the Franchisee's return relating to VAT and a copy of any assessment to VAT which may be raised by HM Revenue and Customs in relation to the Franchisee's Business. Once registered for VAT, the Franchisee shall not during the Term cease for any reason to be registered for VAT with HM Revenue and Customs without the prior written consent of the Franchisor. If such registration ceases for any reason without the Franchisor's consent as aforesaid this Agreement shall automatically and immediately determine without prejudice to any of the Franchisor's rights contained herein; and
- 11.1.9 submit to the Franchisor copies of all Value Added Tax Returns as and when they are submitted to HMRC.

12 **British Franchise Association Membership and Information requests**

Where the Franchisor is obliged to provide information to the British Franchise Association in response to a request for information, the Franchisee shall at its own cost and at the Franchisor's request provide all assistance that may be reasonably required by the Franchisor to enable the Franchisor to fulfil such requests. Without prejudice to the generality of the foregoing provisions of this Clause 12, the Franchisee and the Principal hereby gives his/its consent to the

Franchisor without further authority to disclose his/its name and contact details to the British Franchise Association if the Franchisor is requested by the British Franchise Association to do so.

13 Data Protection

13.1 Definitions

In this clause the following words and expressions have the meanings given below:

Agreed Purposes: the operation of the Franchisee's Business in accordance with this Agreement.

Controller, data controller, processor, data processor, data subject, personal data, processing, and appropriate technical and organisational measures: as set out in the Data Protection Legislation in force at the time.

Data Protection Legislation:

- (a) the Data Protection Act 2018, until the effective date of its repeal.
- (b) the General Data Protection Regulation 2018 (**GDPR**) and any national implementing laws, regulations, and secondary legislation, for so long as the GDPR is effective in the UK; and
- (c) any successor legislation to the Data Protection Act 2018 and the GDPR.

Permitted Recipients: The parties to this Agreement, the employees of each party, and any third parties engaged to perform obligations in connection with this Agreement.

Shared Personal Data: the personal data to be shared between the parties under this Agreement. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject:

- (a) the names of current and potential Customers and each employee of and supplier to the Franchisee; and
- (b) each of their geographical and email addresses; and
- (c) each of their home (where applicable) and telephone numbers.

Shared Personal Data

- 13.2 The provisions which follow set out the framework for the sharing of personal data between the parties as data controllers. Each party acknowledges that one party (the **Data Discloser**) will regularly disclose to the other party (the **Data Recipient**) Shared Personal Data collected by the Data Discloser for the Agreed Purposes. Each party shall:
- 13.2.1 ensure that it has all necessary consents and notices in place to enable lawful transfer of the Shared Personal Data to the Data Recipient for the Agreed Purposes.
 - 13.2.2 give full information to any data subject whose personal data may be processed under this Agreement of the nature such processing. This includes giving notice that, on the termination of this Agreement, personal data relating to them may be retained by or transferred to one or more of the Data Recipients, their successors, and assigns.
 - 13.2.3 process the Shared Personal Data only for the Agreed Purposes.
 - 13.2.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients.
 - 13.2.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less demanding than those imposed by this Agreement.
 - 13.2.6 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party (if required by the other party), to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data; and
 - 13.2.7 not transfer any personal data received from the Data Discloser outside of the United Kingdom or the European Economic Area unless the following conditions are fulfilled:
 - (a) it complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and
 - (b) it ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR or approved by the UK; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.

Compliance

- 13.3 Each party shall comply with the Data Protection Legislation and agrees that any material breach of the Data Protection Legislation shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this Agreement with immediate effect.

Mutual assistance

- 13.4 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. Each party shall:
- 13.4.1 consult with the other party about any notices given to data subjects in relation to the Shared Personal Data.
 - 13.4.2 promptly inform the other party about the receipt of any data subject access request or any request from a data subject to erase or rectify Shared Personal

Data and provide the other party with reasonable assistance in complying with any such request.

- 13.4.3 not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party.
- 13.4.4 assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.
- 13.4.5 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation.
- 13.4.6 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this Agreement unless required by law to store the Shared Personal Data.
- 13.4.7 use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers.
- 13.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 13 and allow for audits by the other party or the other party's designated auditor; and
- 13.4.9 provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.

Indemnity

- 13.5 Each party shall indemnify the other against all claims and proceedings and all liability, loss, costs and expenses incurred by the other as a result of any claim made or brought by a data subject or other legal person in respect of any loss, damage or distress caused to them as a result of any breach by the other party of the Data Protection Legislation by that party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

14 **Confidentiality**

- 14.1 The Franchisee and the Principal each undertake that they shall not at any time during the Term, and for a period of 3 years after termination of this Agreement, copy, use or disclose to any person any Confidential Information, except as permitted by this Agreement.
- 14.2 The Franchisee and/or the Principal may disclose Confidential Information:
 - 14.2.1 to the employees, officers, representatives, or advisers of the Franchisee who need to know such information for the purposes of carrying out its obligations under this Agreement. The Franchisee and Principal shall ensure that the employees, officers, representatives, or advisers of the Franchisee to whom the Confidential Information is disclosed comply with this clause 14; and
 - 14.2.2 as may be required by law, court order or any governmental or regulatory authority.

14.3 No party shall use the Confidential Information for any purpose other than to perform its obligations under this Agreement.

15 **Insurance**

15.1 The Franchisee shall pay for and maintain with a reputable insurance company approved by the Franchisor in writing insurance policies subject to such minimum sums insured and other conditions as may be set out in the Manual and/or may be required by any relevant authority responsible for the area which includes the Territory.

15.2 The Franchisor's interest shall be noted on such policies and such policies shall stipulate that the Franchisor is to receive not less than 30 days' notice of cancellation. The Franchisee shall forward to the Franchisor a photocopy of such insurance policies and all renewals.

15.3 The Franchisee shall promptly pay all premiums required to be paid under the said insurance policies and shall immediately furnish to the Franchisor proof of such payment.

16 **Premises**

16.1 In relation to any Premises that are not located at the Principal's bona fide main residential address, the Franchisee shall ensure: -

16.1.1 the Premises shall be kept clean and secure and all fixtures and fittings thereon shall be kept in full working order.

16.1.2 only those insignia, symbols, brand names, trade names or Trademarks as are approved by the Franchisor shall be used at the Premises.

16.1.3 the Premises are open to the public for the purposes of the Franchisee's Business during the hours of 9.00am to 5.30pm Monday to Saturday (excluding Christmas Day and New Year's Day).

16.1.4 the Premises comply with the Franchisor's criteria for Premises selection in force from time to time. Prior to acquisition or lease of a prospective Premises, the Franchisee must submit to the Franchisor for its approval the proposed lease and/or a description of the Premises including a floor plan, any modifications which the Franchisee proposes to carry out and such other information as the Franchisor may reasonably require.

16.1.5 the Premises are constructed and fitted out and/or equipped (including fixtures, fittings, and décor) in strict accordance with the Franchisor's directions, plans and specifications provided by the Franchisor at the Franchisee's expense.

16.1.6 a competent contractor approved in writing in advance by the Franchisor is employed to carry out all required construction, modifications and development.

16.1.7 the Premises shall not be opened for business until the Franchisor determines it has been fully constructed, completed, and equipped in accordance with the provisions of this Clause and that the Principal and such other personnel as the Franchisor in its discretion deems requisite have completed the Franchisor's training programme to the Franchisor's satisfaction.

16.1.8 the Premises will not be used for any purpose other than the operation of the Franchisees Business in compliance with this Agreement.

16.1.9 it procures such maintenance of the Premises to such standard as is required by any lease for the Premises and as required by the Franchisor from time to time

to maintain such condition, appearance, cleanliness, and efficient operation, including the replacement of worn out or obsolete fixtures, furnishings, equipment, and signs, as well as periodic painting and decorating.

- 16.1.10 to upgrade and/or refurbish the Premises at reasonable intervals determined by the Franchisor to reflect changes in the image, design, format, or operation of Just Shutters offices as are introduced by the Franchisor from time to time and required of new Just Shutters franchisees.
- 16.2 If the Franchisee does not maintain the condition and appearance of the Premises as herein required, the Franchisor may, in its sole discretion, upon not less than 14 days written notice to the Franchisee, repair, upgrade, paint, decorate or replace the whole or any part of the Premises including any fixtures, equipment or signs therein. The Franchisee shall pay for all the costs of and incidental to the foregoing upon demand by the Franchisor.
- 16.3 The Franchisor makes no representations or warranties in relation to suitability or otherwise of any Premises.
- 16.4 The Franchisee shall display such notices, subject to any necessary planning or by-law consents, in such manner and upon such part or parts of the Premises as the Franchisor may direct and including a sign or signs bearing the following words (or such other similar words as may from time to time be specified by the Franchisor) "a Just Shutters Franchise owned and operated under Licence by" followed by the name of the Franchisee.

17 **Staffing**

- 17.1 The Franchisee shall:
 - 17.1.1 be responsible for ensuring that adequate staff levels are always maintained to enable the Franchisee to comply with its obligations under this Agreement.
 - 17.1.2 ensure that the Principal and all employees and self-employed persons providing services to the Franchisee wear such uniforms or garments as the Franchisor shall reasonably require and that they are maintained, repaired, or replaced and cleaned regularly.
 - 17.1.3 obtain a signed contract of service from all persons employed by the Franchisee and a signed form of sub-contract for all other persons who provide services to the Franchisee, in each case in the Franchisor's standard form, prior to their employment or their engagement and the Franchisee shall disclose confidential information supplied by the Franchisor only to such persons who have previously signed such a contract.
 - 17.1.4 ensure that all personnel employed in or who provide services on behalf of the Franchisee's Business shall always present a neat and clean appearance, render competent, sober, and courteous service to customers and comply with all directions of the Franchisor in this respect relating to dress, appearance, and demeanour.
 - 17.1.5 procure that the persons engaged in the Franchisee's Business shall always be trained to the standards set out in the Manual and that they shall attend such further periods of training as may from time to time be required by the Franchisor and bear any travel, accommodation and subsistence expenses and the salaries of such persons.
 - 17.1.6 not allow any person to provide the Services unless and until the Franchisor has approved that person in writing; and

- 17.1.7 ensure that all persons engaged in a Customer facing role in the Franchisee's Business shall have presented to the Franchisee a clear DBS Check .

18 **Advertising/Promotions**

- 18.1 The Franchisee shall fully implement the Launch and Promotion Programme during the period of 3 Months after the date of this Agreement.
- 18.2 The Franchisee will advertise the Franchisee's Business in the Territory in accordance with the Manual and, notwithstanding the foregoing shall expend such sums on local advertising as the Franchisor may reasonably require if the Franchisee is failing to meet the Minimum Performance Criteria or any of its other obligations under this Agreement in relation to the development of the Franchisee's Business.
- 18.3 The Franchisor shall pay the Marketing Fee and all other marketing fees that it receives from its other Franchisees ("Marketing Fund") into a designated account for this purpose. The Franchisor shall utilise the Marketing Fund exclusively for the general promotion of the Just Shutters franchise network as it may in its reasonable discretion deem appropriate from time to time provided that:
 - 18.3.1 the Franchisor shall upon request provide annual verification from the Franchisee's auditors that the Marketing Fund has been properly used for the benefit of the network.
 - 18.3.2 the Franchisor shall procure that the Marketing Fund is primarily used for the promotion of the network as a whole, but may, in its discretion, use a minority of spend to market individual franchise territories of its choice.
- 18.4 the Franchisor shall be permitted to charge all properly incurred legal, PR, marketing, accounting, banking, and other professional fees incurred in relation to the maintenance and use of the Marketing Fund and the promotion of the Franchise network (as aforesaid) to the Marketing Fund.
- 18.5 The Franchisee shall not publish or distribute any advertising or promotional materials unless it has been approved in writing in advance by the Franchisor. The Franchisee will immediately cease the use of and withdraw any advertising or promotional material upon receipt of a request from the Franchisor so to do.
- 18.6 The Franchisee will be given an email address to use by the Franchisor. The email address will belong to the Franchisor and the Franchisee is only permitted to use the email address in connection with the Franchisee's Business.
- 18.7 Subject to the provisions of clause 10, the Franchisee shall use all reasonable endeavours to ensure that the website in connection with the Franchisee's Business (if any) is always publicly available and shall procure that such website always complies with the specifications set out in the Manual.
- 18.8 The Franchisee shall at its own expense prominently display and distribute point of sale marketing material supplied by the Franchisor.
- 18.9 The Franchisee shall not under any circumstances publish or distribute any marketing material that incorporates any contact details that are not the Telephone Numbers, Email Addresses, or Domain Names, without the prior written consent of the Franchisor.

19 Trademarks

- 19.1 The Franchisee shall only use the Trade Name and the Trademarks in connection with the operation of the Franchisee's Business and only in the form and manner approved by the Franchisor from time to time.
- 19.2 The Franchisee shall not use the Trademarks in any way which may prejudice their distinctiveness or their reputation or the goodwill attaching to them from time to time including not using the Trade Name or the Trademarks or the Future Trademarks (as defined in Clause 19.5) in a generic manner.
- 19.3 The Franchisee shall when requested render to the Franchisor assistance (including but not limited to evidence of user) in obtaining registrations of the Trademarks including the execution of any documentation which may be necessary to establish the Franchisor as the owner of the Trademarks.
- 19.4 In no circumstances shall the Franchisee apply for registration as proprietor of the Trade Name or any of the Trade Marks or any part of them or which would conflict with the Trade Name or the Trade Marks or use or apply for any mark which is identical with or confusingly similar to the Trade Name or the Trade Marks so as to amount to infringement or passing off nor shall the Franchisee take any action which may be detrimental to the reputation of the Trade Marks or put any registrations or applications to register at risk.
- 19.5 If at the time the Franchisor desires to apply for registration of a trade mark ("the Future Trade Marks") and the Franchisee is deemed in law to have rights in the Future Trade Marks so as to make it necessary for an application to be proceeded with (in whole or in part) in the name of the Franchisee, then the Franchisee shall at the request and expense of the Franchisor make and proceed with such application and do all acts and execute documents necessary for obtaining registration in the name of the Franchisee and thereupon the Franchisee shall assign such registration for a consideration of £1.00 to the Franchisor or as the Franchisor may direct.
- 19.6 The Franchisee shall be entitled to the like rights in respect of any Future Trademarks of the Franchisor used in the Business (including the Trademarks) as are granted by this Agreement in respect of the Trademarks.
- 19.7 The Franchisor at its absolute discretion shall be entitled, under the provisions of the Trademarks Act 1994, to apply to register the Franchisee as licensee of the Trademarks or the Future Trademarks which are registered or in respect of which a registration application is pending. During the Term, the Franchisee shall pay to the Franchisor the sum of £10 per annum for the use of the Trademarks and Future Trademarks (if any). The Franchisor shall not be liable in any way whatsoever for late registration or non-registration of the Franchisee for whatever reason.
- 19.8 The Franchisee shall in all representations of the registered Trademarks and the Future Trademarks used by it append in a manner approved by the Franchisor such inscription as is usual or proper for indicating that such Trademarks are registered.
- 19.9 The Franchisee shall immediately notify the Franchisor of all infringements or imitators of the Trade Marks, the Future Trade Marks, the Trade Name or any business which appears to or to be attempting to pass itself off as the Franchisee's Business or a member of the Franchisor's network of franchisees which come to its attention or any attempts to challenge the Franchisee's right to use the Trade Marks, any of the Future Trade Marks or the Trade Name or to carry on the Franchisee's Business so long as this Agreement shall subsist. The Franchisor

shall take such action (if any) as it in its sole discretion considers appropriate and any rights which the Franchisee may have under Sections 30 and 31 of the Trademarks Act 1994 are expressly excluded. The Franchisee agrees to provide such cooperation as the Franchisor shall request in the prosecution of any such action including the provision of evidence and being named as a party to any legal proceedings. The Franchisor shall have the conduct of any such action and pay all legal expenses and costs which may arise from the joining of the Franchisee as a party save such legal expenses and costs which the Franchisee may incur by taking separate legal advice. The Franchisee shall not without the prior written consent of the Franchisor take any action of whatever nature based upon the Trademarks the Future Trade Marks the Trade Name or any common law rights which the Franchisee is licensed to use or exercise pursuant to this Agreement, or any licence entered between the parties.

19.10 No warranty expressed or implied is given by the Franchisor with respect to the validity of the Trademarks or any of the Future Trademarks.

20 **Improvements**

20.1 The Franchisee shall without delay introduce any improvement or modification to the System into the Franchisee's Business at the time and in the manner specified by the Franchisor in writing.

20.2 The Franchisee shall notify the Franchisor of any improvement or modification of the System which may be beneficial to the operation of the Business and the Franchisor may introduce such improvement or modification to the Business without any obligation to make any payment to the Franchisee.

20.3 The Franchisee shall not itself introduce any improvement, or modification of or to the System or the Franchisee's Business without the prior written consent of the Franchisor.

21 **Manual**

21.1 The Franchisor will provide the Franchisee with the Manual to be accessed online through the Hub.

21.2 The Franchisor shall keep the Manual updated and revised from time to time.

21.3 The Franchisee shall conduct the Franchisee's Business strictly in accordance with the Manual, the terms of which shall be deemed to be incorporated into and shall form part of this Agreement. In the event of any conflict between the terms of this Agreement and the terms of the Manual the terms of this Agreement shall prevail.

21.4 The Manual shall be kept strictly confidential and shall always remain the sole and exclusive property of the Franchisor and the Franchisee hereby acknowledges that the copyright in the Manual shall at all times remain vested in the Franchisor and that it will not take and will procure that no other person will take any copies of the Manual without the prior written consent of the Franchisor.

22 **Franchisor's Right to Communicate with Customers**

22.1 In order to protect the reputation of the Franchisor and its franchisees and to maintain satisfactory public relations the Franchisor reserves the right to communicate with any of the Franchisee's Customers at any time during the Term of this Agreement to ascertain the quality of work carried out by or on behalf of the Franchisee and the Franchisee shall upon request furnish the Franchisor with such particulars of its Customers as the Franchisor shall reasonably require and provide such reasonable assistance as may be necessary for this purpose.

22.2 The Franchisee shall take all such steps as are required to ensure that it is able to comply with Clause 22.1 above.

23 **Sale of the Franchisee's Business**

23.1 This Agreement is personal to the Franchisee and the Principal, and neither may assign this Agreement, but the Franchisee may with the prior written consent of the Franchisor sell the Franchisee's Business. For the avoidance of doubt a Change of Control of the Franchisee shall be deemed to be an assignment for the purposes of this clause. Such consent shall not be unreasonably withheld by the Franchisor upon the Franchisee fully complying with the following terms and conditions:

23.1.1 the Franchisee shall always during the currency of this Agreement have complied with all material terms and conditions on its part to be performed (including for this purpose of the Minimum Performance Criteria) and shall be registered for Value Added Tax at the date of sale.

23.1.2 any proposed purchaser or in the case of a limited liability company its shareholders and directors shall meet the Franchisor's standards with respect to prior related business experience and financial standing and satisfy the Franchisor's current recruitment criteria.

23.1.3 the Franchisee shall procure that the proposed purchaser shall if required by the Franchisor enter into a new Agreement in such form as is currently offered by the Franchisor to new franchisees. When entering into the new Agreement the Initial Licence Fee shall not be payable and the Franchisor shall be under no obligation to perform any of its obligations set out in Clauses 5 and 6.

23.1.4 the acquisition agreement between the Franchisee and the transferee shall stipulate to the satisfaction of the Franchisor that the transferee shall assume liability for all pre-completion obligations of the Franchisee in relation to the Franchisee's Business (including but not limited to liability for defective works).

23.1.5 any offer by the proposed purchaser shall be made in good faith on arm's length terms.

23.1.6 the Franchisee shall with every application for consent pay the Franchisor's then current expenses (not to exceed £1,000.00 plus VAT) of investigating such application whether or not the Franchise Business is eventually sold.

23.1.7 the Franchisee shall in relation to each successful application for consent pay the Franchisor's legal expenses (not to exceed £1,000.00 plus VAT) of dealing with the new franchise agreement for the transferee.

23.1.8 the Franchisee shall pay all monies due or payable to the Franchisor without any deduction or set off.

23.1.9 the proposed purchaser (or in the case of a limited liability company such of its shareholders and directors as the Franchisor shall reasonably require) shall undertake such initial training (subject to payment of the then current cost of providing initial training to franchisees) as is required to be undertaken by new franchisees and shall meet the Franchisor's then minimum standards during such training; and

23.1.10 the proposed purchaser shall be registered with HM Revenue and Customs for VAT.

23.2 The Franchisee shall submit to the Franchisor a copy of the proposed purchaser's written offer to purchase the Franchisee's Business together with a detailed

financial statement of affairs and business history of the proposed purchaser, full written details of any other terms agreed between the Franchisee and/or the Principal and the proposed purchaser and all other relevant information. Upon receipt of such information the Franchisor shall have in addition to its other rights an option to purchase the Franchisee's Business for the same amount and upon the same terms as the proposed purchaser has offered. The Franchisor shall have a period of twenty-eight days after the receipt of such information in which to exercise its option to purchase.

- 23.3 The Franchisee shall on completion of the transfer of the Franchisee's Business pay to the Franchisor a commission of five per cent of the purchase price of the Franchisee's Business with a further five per cent of such purchase price if the Franchisor shall have introduced the proposed purchaser to the Franchisee, in each case plus VAT thereon at the prevailing rate. (The purchase price shall include any payment on completion of the sale of the Franchisee's Business and any earn out or deferred consideration paid).

24 **Death or Incapacity of the Principal**

- 24.1 In the event of the death or incapacity for any reason of the Principal (or if there is more than one Principal the last surviving Principal) the Franchisor shall have the right (but not the obligation) to appoint a manager of the Franchisee's Business who shall have full powers to run the Franchisee's Business at the expense of the Franchisee's Business and take all steps necessary to preserve the goodwill associated with the Trade Name, the Trade Marks and the System and operate the Franchisee's Business in a satisfactory manner pending the recovery of a Principal to the satisfaction of the Franchisor or the assignment of this Agreement in accordance with its terms. The Franchisor shall be entitled to a fee for the provision of such manager equal to:

- 24.1.1 150% of the total remuneration package of the manager; and
- 24.1.2 the travelling, accommodation, and subsistence expenses of the manager plus Value Added Tax at the appropriate rate,
- such fee to be paid weekly in arrears on Friday of each week.

- 24.2 If the Principal (or if there is more than one Principal, all of them), are at any time during the continuance hereof incapacitated or in the opinion of the Franchisor unable reasonably to operate manage or arrange for the management of the Franchisee's Business to be undertaken to the Franchisor's satisfaction for a continuous period of six Months or a total period of three Months in any period of two years the Franchisor may by notice to that effect require the Franchisee to dispose of the Franchisee's Business whereupon the provisions of Clause 23 shall apply.

- 24.3 If so requested by the Franchisee or the personal representatives of the Principal the Franchisor may act as non-exclusive agent for the sale of the Franchisee's Business and in such event will be paid a reasonable fee and its expenses for this service.

- 24.4 The Franchisee shall if requested by the Franchisor do all such acts and things and execute all such documents as may be necessary to give effect to the provisions of this Clause 24.

- 24.5 If the Principal or if there shall be more than one the last surviving Principal shall die during the currency of this Agreement, the personal representatives of the Principal shall decide within a period of 3 Months from the date of death of such Principal whether a relative or beneficiary of such Principal should execute an

agreement with the Franchisor substituting him for the deceased in the capacity of Principal under the terms of this Agreement.

- 24.6 If it is so decided, the personal representatives of the Principal shall give written notice thereof within the said period of 3 Months to the Franchisor giving the name and address of such relative or beneficiary together with such other information as the Franchisor may require.
- 24.7 On the Franchisor being satisfied that such individual would be acceptable as a Principal by the criteria set out in Clause 23.1.2 hereof applicable to a prospective purchaser of the Franchisee's Business, the Franchisor will not exercise any right of first refusal and will enter into an agreement with the personal representatives of the Franchisee, and such individual(s) substituting for the deceased as Principal under the terms of this Agreement.
- 24.8 If the personal representatives of the Principal shall not within the said period of 3 Months produce such individual(s) as Principal in accordance with and subject to the provisions of Clauses 24.5 to 24.7 (inclusive), then a purchaser for the Franchisee's Business shall be sought with all possible speed to the intent that, if the Franchisor shall decide not to exercise any right of first refusal and a purchaser acceptable to the Franchisor by the criteria set out in Clause 23.1.2 shall be found, the Business shall be sold to such purchaser within the period of 6 Months from the date of the death of the deceased Principal in accordance with the provisions of Clause 23.
- 24.9 If the personal representatives of the Principal shall not arrange a substitution for the deceased Principal within the said period of 3 Months as provided in Clauses 24.5 to 24.7 (inclusive) or a sale of the Business within the said period of 6 Months as provided in Clause 24.7, the Franchisor shall be entitled to terminate this Agreement by 30 days' notice in writing given within seven days from the end of the said 6 Months period.
- 24.10 Any action taken by the Franchisor under the provisions of this Clause on the instructions or with the approval of any person or persons claiming to be the personal representatives of the deceased Principal within the meaning of this Agreement shall be binding on and not under any circumstances open to challenge by the personal representatives of such Principal, even if he or they were not a party or parties thereto, and by their execution hereof each Principal expressly binds their personal representatives to ratify and confirm all actions by such person or persons under this Agreement and to indemnify and free and relieve the Franchisor of and from all liability and responsibility whatever in respect of such action as aforesaid.

25 **Principal's Covenants**

- 25.1 The Principal hereby covenants and guarantees to the Franchisor as follows:
- 25.1.1 that the Franchisee will duly observe and perform all the obligations contained herein on the Franchisee's part to be observed and performed.
- 25.1.2 that if the Franchisee shall fail to make when due any payment to the Franchisor hereunder, the Principal shall be liable and shall make payment of any sums so due upon demand being made by the Franchisor.
- 25.1.3 to procure that the Franchisee's shareholders, directors, agents, and employees will duly observe and perform all the obligations on the part of the Franchisee to be observed and performed.

- 25.1.4 to devote his full time, attention, and effort to the Business except to the extent and in the manner expressly and previously agreed in writing with the Franchisor; and
- 25.1.5 to observe and perform as Principal all the restrictions and obligations on the part of the Franchisee to be observed and performed under the terms of this Agreement.
- 25.2 The Principal warrants and represents to the Franchisor that the details of the directors, shareholders and issued share capital of the Franchisee and the other information relating thereto which he has provided to the Franchisor are true and accurate in all respects and undertakes that there will be no changes thereto without the prior consent in writing of the Franchisor.
- 25.3 If there are two or more persons as Principal all covenants, undertakings, guarantees and agreements on the part of the Principal in this Agreement shall be deemed to be joint and several.
- 25.4 The Principal's liability under this Clause 25 shall not be reduced, discharged, or adversely affected in any way, by:
 - 25.4.1 any unenforceability, invalidity, irregularity, frustration, or discharge by operation of law of any of the Franchisee's obligations under this Agreement; or
 - 25.4.2 any legal limitation, disability, incapacity, or other circumstances relating to the Franchisee or any other person; or
 - 25.4.3 the Franchisor compromising, varying, extending, dealing with, renewing, releasing, refusing, or neglecting to perfect or enforce any right, remedy or security against the Franchisee or any other person in respect of this Agreement or any other document or security; or
 - 25.4.4 anything which, but for this provision, might discharge, reduce, or extinguish any of the Principal's liabilities under this Clause 25.
- 25.5 The Principal's guarantee is a continuing guarantee and shall continue in effect until the Franchisee has paid and performed all sums and all obligations under this Agreement.
- 25.6 The Principal shall not, until all the Franchisee's obligations under this Agreement have been finally performed and paid in full, exercise any right:
 - 25.6.1 of subrogation and indemnity; or
 - 25.6.2 to take the benefit of, share in or enforce any security or other guarantee or indemnity for any of the Franchisee's obligations; or
 - 25.6.3 to prove in the liquidation of the Franchisee,
other than in accordance with the Franchisor's instructions.
- 25.7 If the Principal exercises any of the rights referred to in Clause 25.6, he shall:
 - 25.7.1 hold any amounts recovered on trust for the Franchisor; and
 - 25.7.2 pay them to the Franchisor on demand.

26 Termination

- 26.1 The Franchisor may terminate this Agreement immediately by giving notice in writing to the Franchisee in any of the following events:

- 26.1.1 if the Franchisee fails to commence the Franchisee's Business within a period of 60 days from the date of this Agreement.
- 26.1.2 if the Franchisee or the Principal shall fail to operate the Franchisee's Business in accordance with the terms of this Agreement, the Manual or the Franchisor's reasonable instructions and, where such failure is capable of remedy, shall have failed to remedy such failure within 14 days' notice from the Franchisor to do so.
- 26.1.3 if the Franchisee or the Principal shall fail to pay any amounts due to the Franchisor under the terms of this Agreement and shall have failed to remedy such failure within 7 days of notice from the Franchisor to do so.
- 26.1.4 if the Franchisee or the Principal shall, in the reasonable opinion of the Franchisor, have a detrimental effect on the goodwill of the Franchisee's Business or the Business or shall otherwise in the reasonable opinion of the Franchisor being the Business or the Franchisee's Business into disrepute.
- 26.1.5 if the Franchisee shall transfer any of the rights, licences or obligations contained in this Agreement other than in accordance with the terms of this Agreement (and for the avoidance of doubt any Change of Control of the Franchisee shall be deemed to be a transfer of rights for the purposes of this clause).
- 26.1.6 if the Franchisee shall fail to submit to the Franchisor any of the accounting or management information required to be submitted and shall have failed to remedy such failure within 7 days of notice from the Franchisor to do so.
- 26.1.7 if the Franchisee or the Principal discloses or allows the disclosure of any part of the Manual or other Confidential Information relating to the Business or the Franchisee's Business otherwise than in accordance with the terms of this Agreement.
- 26.1.8 if the Franchisee fails to obtain any prior written approval or consent of the Franchisor expressly required by this Agreement.
- 26.1.9 subject to the provisions of the Rehabilitation of Offenders Act 1974 if the Principal gives to the Franchisor false or misleading information or fails to make a full declaration of previous criminal offences or makes any misrepresentations in connection with obtaining this Agreement or at any time during the continuance of this Agreement in connection with the Franchisee's Business.
- 26.1.10 if the provision of the Services by the Franchisee's Business has in the reasonable opinion of the Franchisor in any instance endangered the health or wellbeing of a Customer.
- 26.1.11 if the Principal or any of the Franchisee's employees or agents shall pledge the credit of the Franchisor without the prior written consent of the Franchisor.
- 26.1.12 if the Franchisee becomes insolvent or unable to pay its debts as they fall due or has a receiver or manager appointed in respect of all or any part of its property or assets or has an administration order made in respect of it or if it shall enter liquidation or make any arrangement or composition with its creditors.
- 26.1.13 in the event that the Principal (or any of them) shall have a bankruptcy order made against him or if a person who is qualified to act as an insolvency practitioner shall be appointed in relation to him pursuant to s.273 of the Insolvency Act 1986 or if a receiver or manager (including for the avoidance of doubt an interim receiver within the meaning of Part IX of the Insolvency Act 1986) shall be appointed in respect of him or the whole or any part of its property or estate or if an interim order shall be made in relation to him pursuant to s.252 of the Insolvency Act 1986 or if he shall enter into any arrangement or

- composition with its creditors (including for the avoidance of doubt any voluntary arrangement within the meaning of Part VIII of the Insolvency Act 1986);
- 26.1.14 if the Principal becomes a patient as defined by the Mental Health Act 1983 or commits any criminal offence (other than a road offence not involving a custodial sentence).
- 26.1.15 in the event of persistent complaints from Customers being at least three complaints within any six-month period during the term of this Agreement to the Franchisor as to the quality of the Services given by the Franchisee.
- 26.1.16 if there is a breach of the warranty or the undertaking contained in clause 25.2.
- 26.1.17 if the Principal shall be the subject of a DBS Check with an adverse result.
- 26.1.18 in the event of any repeated breach of any of the Franchisee's or the Principal's obligations under this Agreement. For the purpose of this clause a repeated breach will be interpreted as three or more breaches of any of the Franchisee's or Principal's obligations during any calendar year and the Franchisor shall be entitled to terminate this Agreement by written notice to the Franchisee taking effect immediately who shall not be entitled to any period of grace within which to remedy such default neglect or failure.
- 26.1.19 in the event of the Franchisee's failure to comply with the Minimum Performance Criteria.
- 26.2 Where the Franchisor is entitled to terminate this Agreement pursuant to this Clause 26 the Franchisor shall in its discretion have the right either:
- 26.2.1 to require the Franchisee by notice in writing to restrict its activities and the scope of operation of the Franchisee's Business under this Agreement to such part or parts of the Territory as the Franchisor in its sole discretion considers appropriate. In such event, this Agreement shall terminate as regards the part of the Territory removed and Clause 27 shall apply in respect of all parts of the Franchisee's Business that were previously carried on in the part or parts of the Territory which are no longer to be serviced by the Franchisee; or
- 26.3 to operate the Franchisee's Business to the exclusion of the Principal as if and to the same effect as if the Principal was incapacitated for a period of up to 3 Months or (if sooner) until the breach is remedied to the satisfaction of the Franchisor, and during such period Clauses 24.1, 24.3, 24.4 and 24.10 shall apply.
- 26.4 Any termination under this clause shall be without prejudice to the rights of either party against the other in respect of any antecedent breach of any of the terms and conditions of this Agreement.
- 26.5 In the event of any termination by the Franchisor other than in accordance with clause 6.2 the Franchisee shall not be entitled to recover any part of the Fees.
- 26.6 All rights of the Franchisee under this Agreement shall cease if the Franchisor shall terminate this Agreement under the provisions of this clause.
- 26.7 If the Franchisor has reasonable grounds for believing that the Franchisee has ceased to operate the Franchisee's Business without the Franchisor's consent the Franchisor may operate the Franchisee's Business as the Franchisee's agent with full powers to bind the Franchisee and the Franchisee shall be responsible for the Franchisor's costs.

26.8 This Agreement shall automatically and forthwith determine pursuant to clause 11.1.8 if the Franchisee shall cease for any reason to be registered for VAT with HM Revenue and Customs.

27 **Conditions Following Termination**

27.1 Immediately upon expiration or termination of this Agreement for any reason the Franchisee and the Principal shall:

27.1.1 pass to the Franchisor full details of all Customers of the Franchisee's Business and full details of all Customers during the 24 Months immediately preceding expiry or termination of this Agreement.

27.1.2 cease forthwith to trade under the Trade Name or use the Trademarks and the Future Trademarks.

27.1.3 not hold itself out as an operator of the Business or the Franchisee's Business.

27.1.4 refer all telephone calls and/or emails and/or website enquiries received by it in connection with the Franchisee's Business to the Franchisor and, subject to this, not make any telephone calls or send any emails or other correspondence in connection with the Franchisee's Business and disable the Franchisee's website.

27.1.5 cease to use by marketing on any website, vehicle, stationery, sign, uniform or otherwise the Trade Name or the Trademarks or any imitation or approximation thereof.

27.1.6 join with the Franchisor in cancelling any licence of the Trademarks. If the Franchisee shall fail so to do the Franchisor is hereby irrevocably appointed the agent of the Franchisee with full authority to give such notice to the Registrar of Trademarks on behalf of the Franchisee.

27.1.7 pass to the Franchisor the names and contact details of all persons enquiring about and/or requesting the Services of the Business or the Franchisee's Business.

27.1.8 not divulge or use any Confidential Information relating to the Business or the Franchisee's Business or the Franchisor.

27.1.9 do all such things as may be required by the Franchisor to transfer to such person as the Franchisor shall nominate all contracts with third parties who at the date of termination are contracted to provide services for the purposes of the Franchisee's Business.

27.1.10 pay to the Franchisor all sums of money which may be payable or owing (whether then due for payment) from the Franchisee to the Franchisor.

27.1.11 return to the Franchisor in good condition the Manual and any copies and shall not copy the Manual or any part of the Manual before returning the same to the Franchisor.

27.1.12 cease to use and return to the Franchisor the Proprietary Software and the Proprietary Materials.

27.1.13 pay all debts owing to the creditors of the Franchisee's Business.

27.1.14 Return or deliver up to the Franchisor all Stationery and staff uniforms; and

27.1.15 execute and deliver to the Franchisor all documents necessary to complete the termination or which would facilitate the termination of this Agreement and the arrangements hereby contemplated.

- 27.2 On termination or expiration of this Agreement neither the Franchisee nor the Principal (or any of them) shall, without the prior written consent of the Franchisor (to be given or withheld entirely in the Franchisor's discretion):
- 27.2.1 for a period of 12 Months thereafter engage in be employed by or be concerned or interested directly or indirectly in any business which competes with the Business or the Franchisee's Business or in any business like the Business.
- 27.2.2 for a period of 12 Months thereafter engage in be employed by or be concerned or interested directly or indirectly in any business which competes with the Business or the Franchisee's Business or in any business like the Business in the Territory.
- 27.2.3 for a period of 12 Months thereafter engage in be employed by or be concerned or interested directly or indirectly in any business which competes with the Business or the Franchisee's Business or in any business like the Business from the Premises.
- 27.2.4 for a period of 12 Months thereafter engage in be employed by or be concerned or interested directly or indirectly in any business which competes with the Business or the Franchisee's Business or in any business like the Business within the territory of another Franchisee of the Franchisor and in which a Customer of the Franchisee shall have its address or place of business.
- 27.2.5 for a period of 12 Months thereafter indirectly or directly solicit or tout for business from Customers who were Customers of the Franchisee at any time in the 12 Months period prior to termination or expiry; and
- 27.2.6 for a period of 12 Months thereafter indirectly or directly solicit, interfere with or endeavour to entice away or employ any employee of the Franchisor or any of the Franchisor's Franchisees or any employee which in the period of 6 Months before the said termination was an employee of the Franchisee's Business.
- 27.3 The Franchisee agrees that each of the restrictions contained in Clauses 27.2.1 to 27.2.6 is reasonable.
- 27.4 Each undertaking contained in Clauses 27.2.1 to 27.2.6 shall be construed as a separate undertaking and if any one or more of such undertakings is held to be against the public interest or unlawful or in any way an unreasonable restraint of trade, the remaining undertakings shall continue in full force and effect and shall bind the Franchisee.
- 27.5 The Franchisee undertakes that it will procure that the Principal and all senior employees of the Franchisee specified by the Franchisor shall enter valid and legally enforceable undertakings with the Franchisor to accept the obligations imposed by this Clause and shall submit the same to the Franchisor within 7 days of this Agreement or in the case of any person becoming a Principal or specified senior employee during the term of this Agreement within 7 days of such occurrence.
- 27.6 Immediately upon termination or expiration of this Agreement, the Franchisor and/or its nominees shall have the right to enter upon the Premises (save for so long as the Premises are located at the Principal's bona fide residential address) with such other personnel as it deems reasonably necessary, and (notwithstanding where the Premises are located) to operate the Franchisee's Business in place of the Franchisee provided that written notice of its intent to do so shall be given to the Franchisee within 21 days following the date of expiry or termination. The benefit of the Franchisee's Business shall vest in the Franchisor or its nominee absolutely from the date on which the Franchisee's Business is

operated by (or on behalf of) the Franchisor provided that the Franchisee shall be indemnified against liability for any expense of the Franchisee's Business from such date excepting any expense or liability referred to in Clause 27.8 below.

- 27.7 Upon receipt of written notice from the Franchisor in accordance with Clause 27.6 above the Franchisee shall take such steps as are necessary to allow the Franchisor to exercise its rights under Clause 27.6 and to give up possession of and/or transfer to the Franchisor or its nominees the assets of the Franchisee's Business specified by the Franchisor or, if so required by the Franchisor, the obligation to pay for any outstanding lease, hire purchase, rent or other charges in relation to the Franchisee's Business at the time of the termination, as specified by the Franchisor. The following items shall be excluded from such transfer unless otherwise agreed by the Franchisor:
- 27.7.1 the bank account of the Franchisee and all monies belonging to the Franchisee.
 - 27.7.2 the right to receive the debts of the Franchisee; and
 - 27.7.3 all liabilities of the Franchisee except as otherwise agreed.
- 27.8 The consideration payable to the Franchisee pursuant to any written notice under Clause 27.6 shall be:
- 27.8.1 for all equipment and materials used in the Franchisee's Business, not itemised in the latest statutory accounts of the Franchisee's Business, the current cost price to the Franchisee or the price which was payable by the Franchisee at the date of delivery of the said terms, or the market value as at the date of termination whichever shall be the lower; and
 - 27.8.2 for all other items used in the Franchisee's Business the net written down value in the latest statutory accounts of the Franchisee or the market value as at the date of termination whichever shall be lower, provided that such items are wholly owned by the Franchisee. If not wholly owned but subject to a lease, hire, hire purchase or other form of rental or credit agreement the Franchisor or its nominee at no cost to the Franchisor may but shall not be obliged to take over the obligations and benefits under any such agreement as from the date of termination of this Agreement (excepting any liability financial or otherwise arising from the default of the Franchisee under such agreement prior to the date of termination or expiry of this Agreement) and the Franchisee shall take such steps and execute such documents as are required to complete an assignment or novation as required by the Franchisor.
- 27.9 In relation to any Premises that are not located at the Principal's bona fide main residential address, if the Franchisee owns the Premises, the Franchisee shall if required by the Franchisor grant to the Franchisor or its nominee a standard commercial lease at fair market rental together with a fair market escalation for a term of 5 years with a 5-year renewal option at a fair market rental and a fair market escalation. In the event of any dispute arising between the parties as to a fair market rental and a fair market escalation (which escalation shall be determined in the first year of the initial period or the first year of the option period of the lease as the case may be) and/or the terms and conditions applicable to a standard commercial lease for the Premises in question then and in such event all or any of such issues shall be referred for determination to the President for the time being of the Institute of Chartered Surveyors whose decision, acting as an expert and not as an arbitrator, shall be final and binding upon the parties hereto.
- 27.10 If the exercise of the option in clause 27.6 is a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 or any amendment

thereof apply, the Franchisee hereby irrevocably agrees to indemnify the Franchisor and/or its nominee against any claims for wrongful and/or unfair dismissal and/or redundancy payments or any other claim arising from the exercise of the option by any person employed by the Franchisee immediately prior to the exercise of such option. Such indemnity shall include legal costs and disbursements incurred by the Franchisor and/or its nominee on a full indemnity basis.

28 **Indemnity**

28.1 The Franchisee shall indemnify the Franchisor against all liabilities, costs, expenses, damages, and losses (including but not limited to any direct, indirect, or consequential losses, loss of profit, loss of reputation and all interest, penalties, and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Franchisor arising out of or in connection with:

- (a) the Franchisee's or the Principal's breach or negligent performance or non-performance of this Agreement.
- (b) the enforcement of this Agreement.
- (c) any claim made against the Franchisor by a third party arising out of or in connection with the provision of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Franchisee, its employees, agents, or subcontractors.
- (d) any claim made against the Franchisor by a third party for death, personal injury or damage to property arising out of or in connection with the provision by the Franchisee of the Services, to the extent that the claim is attributable to the acts or omissions of the Franchisee, its employees, agents, or subcontractors.

28.2 This indemnity shall not cover the Franchisor to the extent that a claim under it results from the Franchisor's negligence or wilful misconduct.

28.3 If a payment due from the Franchisee under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the Franchisor shall be entitled to receive from the Franchisee such amounts as shall ensure that the net receipt, after tax, to the Franchisor in respect of the payment is the same as it would have been where the payment not subject to tax.

29 **Acknowledgements by Franchisee and Consent**

29.1 The Franchisee hereby acknowledges the exclusive rights of the Franchisor to own the System and the Software.

29.2 The Franchisee acknowledges that:

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

29.2.2 The Franchisor has made no representations about the Business other than those set out in the Franchise Disclosure Document.

29.2.3 The financial success of the Franchisee's Business is dependent upon the Franchisee's management skills, level of investment, hard work, ability and commitment to the Franchisee's Business.

29.2.4 It has had the opportunity to receive independent advice before entering into this agreement.

29.3 It is hereby expressly agreed between the parties that each of the restrictions contained in this Agreement and in each clause and each paragraph is reasonably necessary for the protection of the Franchisor and its other franchisees, the System, the Software, the Trade Name and the Trade Marks and does not unreasonably interfere with the freedom of action of the Franchisee who enters into this Agreement with the benefit of legal advice in full knowledge of all the provisions hereof and the Franchisee acknowledges that all such provisions are fair and reasonable.

29.4 The Franchisee hereby warrants that prior to the execution of this Agreement or any similar or prior agreement with the Franchisor it had no knowledge of the Franchisor's System, Software, the Manual, methods, trade secrets and Confidential Information or know how relating to the operation of a business like the Business or on how to conduct the Business.

30 **No Warranties Without Authority**

30.1 The Franchisee shall make no statement, representation or claim and shall give no warranty to any person in respect of the Franchisee's Business, the Services or the System save such as are specifically authorised in the Manual in its then current form at the time of the making by the Franchisee of any such statement, representation, claim or warranty.

30.2 The Franchisee undertakes with the Franchisor to keep it fully and effectually indemnified against all claims demands losses expenses and costs which the Franchisor may incur because of any breach by the Franchisee of this provision or of any other provision contained in this Agreement.

31 **Assignment by Franchisor**

This Agreement and all the rights of the Franchisor hereunder may be assigned, transferred, or otherwise dealt with by the Franchisor and shall inure to the benefit of the successors and assigns of the Franchisor.

32 **Reservation of Rights**

All rights and licences not specifically and expressly granted to and conferred upon the Franchisee by this Agreement are for all purposes reserved to the Franchisor.

33 **No Partnership or Agency**

Nothing in this Agreement shall be construed as making the parties hereto partners or joint venturers or render either party hereto liable for any of the debts or obligations of the other party and the Franchisee shall in no way be considered as being an agent employee or representative of the Franchisor in any dealings which the Franchisee may have with any third party and the Franchisee shall not act for or make any representation on behalf of the Franchisor in any such dealings and shall have no power to contract on behalf of the Franchisor nor pledge the credit of the Franchisor in any way.

34 **Force Majeure**

None of the parties to this Agreement shall be responsible to any other party for any delay in performance or non-performance due to any causes beyond the reasonable control of a party hereto, but the affected party shall promptly upon the occurrence of any such cause so inform the other parties in writing, stating

that such cause has delayed or prevented its performance hereunder and thereafter such parties shall take all action within its power to comply with the terms of this Agreement as fully and promptly as possible.

35 **Waiver**

The failure of the Franchisor at any time to enforce any of the terms, provisions, or conditions of this Agreement or to exercise any right hereunder shall not constitute a waiver of the same or affect its rights thereafter.

36 **Continuing Provisions**

The termination of this Agreement (for whatever reason) shall not terminate any provision hereof which is expressly or by implication provided to come into or continue in force after such termination and shall be without prejudice to the accrued rights and liabilities and other remedies of the parties hereto.

37 **Governing Law**

37.1 This Agreement is governed by and shall be construed in accordance with English Law.

37.2 The Franchisee shall conduct its business in a lawful manner and will faithfully comply with all applicable laws or regulations for the conduct of its business.

37.3 The parties shall before recourse to litigation or arbitration attempt to settle all disputes in accordance with Clause 38.

38 **Expert determination**

38.1 **Expert** means a person appointed in accordance with this clause to resolve a matter in dispute between the parties in accordance with this Agreement.

38.2 The parties shall agree on the appointment of an independent Expert and shall agree with the Expert the terms of his appointment.

38.3 If the parties are unable to agree on an Expert or the terms of his appointment within seven days of either party serving details of a suggested expert on the other, either party shall then be entitled to request The Institute of Chartered Accountants of England and Wales to appoint an Expert chartered accountant of repute with relevant experience in franchising and for The Institute of Chartered Accountants of England and Wales to agree with the Expert the terms of his appointment.

38.4 The Expert is required to prepare a written decision and give notice (including a copy) of the decision to the parties within a maximum of two months of the matter being referred to the Expert.

38.5 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause then:

(a) either party may apply to The Institute of Chartered Accountants of England and Wales to discharge the Expert and to appoint a replacement Expert with the required expertise; and

(b) this clause shall apply to the new Expert as if he were the first Expert appointed.

38.6 All matters under this clause must be conducted, and the Expert's decision shall be written, in the English language.

- 38.7 The parties are entitled to make submissions to the Expert and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
- 38.8 To the extent not provided for by this clause, the Expert may in his reasonable discretion determine such other procedures to assist with the conduct of the determination as he considers just or appropriate, including (to the extent he considers necessary) instructing professional advisers to assist him in reaching his determination.
- 38.9 Each party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel and/or things as the other party may reasonably require to make a submission under this clause.
- 38.10 The Expert shall act as an expert and not as an arbitrator. The Expert shall determine the matter in dispute which may include any issue involving the interpretation of any provision of this Agreement, his jurisdiction to determine the matters and issues referred to him and/or his terms of reference. The Expert's written decision on the matters referred to him shall be final and binding on the parties in the absence of manifest error or fraud.
- 38.11 The Expert may direct that any legal costs and expenses incurred by a party in respect of the determination shall be paid by another party to the determination on the general principle that costs should follow the event, except where it appears to the Expert that, in the circumstances, this is not appropriate in relation to the whole or part of such costs.
- 38.12 All matters concerning the process and result of the determination by the Expert shall be kept confidential among the parties and the Expert.
- 38.13 Each party shall act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching his determination.

39 **Dispute resolution**

- 39.1 Save for any matter expressly required to be referred to an Expert, any dispute arising out of or in connection with this Agreement shall, at first instance, be referred to a mediator for resolution. The parties shall attempt to agree upon the appointment of a mediator, upon receipt, by either of them, of a written notice to concur in such appointment. Should the parties fail to agree within fourteen days, either party, upon giving written notice, may apply to the President or the Deputy President, for the time being, of the Chartered Institute of Arbitrators, for the appointment of a mediator.
- 39.2 Should the mediation fail, in whole or in part, either party may, upon giving written notice, and within twenty-eight days thereof, apply to the President or the Deputy President, for the time being, of the Chartered Institute of Arbitrators, for the appointment of a single arbitrator, for final resolution. The arbitrator shall have no connection with the mediator or the mediation proceedings, unless both parties have consented in writing. The arbitration shall be governed by both the Arbitration Act 1996 and the Controlled Cost Rules of the Chartered Institute of Arbitrators (2000 Edition), or any amendments thereof, which Rules are deemed to be incorporated by reference into this clause. The seat of the arbitration shall be England and Wales

40 **Supervening Laws**

40.1 The rights and obligations of the parties hereto under this Agreement shall be subject to all applicable law orders regulations directions restrictions and limitations of governments or other bodies having jurisdiction over the parties hereto.

40.2 If any such law, order, regulation, direction, restriction or limitation as aforesaid or any treaty or other international agreement or the judicial construction of any of them shall substantially alter the relationship between the parties hereto or the advantages derived from such relationship then the parties shall on request from the Franchisor enter into bona fide negotiations directed towards agreeing a modification to this Agreement to restore the situation if practicable or to compensate for such alteration if not. If the parties are unable to agree on such a modification or compensation within 3 months after the notice of request has been received by the party not affected, then the Franchisor may terminate this Agreement.

41 **Modification**

No variation, modification, or alteration of any of the terms of this Agreement shall be of any effect unless evidenced in writing signed by or on behalf of each of the parties hereto.

42 **Interest**

Any monetary obligation not paid by the Franchisee on its due date shall bear interest at five per cent per annum over the base lending rate of the Bank of England from time to time applicable from the date payment became due. The Franchisee shall pay all the Franchisor's costs charges and expenses directly or indirectly incurred in obtaining or otherwise enforcing payment of the same.

43 **Entire Agreement and Further Assurance**

43.1 In this clause the expression "pre-contractual statements" includes written or oral pre-contractual statements or agreements, financial statements, profit projections representations warranties inducements or promises made innocently or negligently.

43.2 The Franchisee's waiver contained in this clause shall be irrevocable and unconditional, but it is expressly provided that such waiver shall not exclude any liability of the Franchisor for pre-contractual statements made by it fraudulently.

43.3 The Franchisee acknowledges that it has been told that if there are any pre-contractual statements which it considers have been made to it which have induced it to enter into this Agreement it is obliged to submit particulars thereof to the Franchisor so that any misconceptions or misunderstandings can be resolved after which an agreed form of pre-contractual statements on which the Franchisee has relied may be annexed to and form part of this Agreement. The Franchisee having been given the opportunity to provide to the Franchisor particulars of such pre-contractual statements which it considers have been made to it which has so induced it to enter into this Agreement shall be deemed not to have relied upon any pre-contractual statements made or given or purportedly made or given by the Franchisor unless such a written statement is annexed hereto. This Agreement therefore contains the entire agreement between the parties and accordingly no pre-contractual statements shall add to or vary this Agreement or be of any force or effect and unless such pre-contractual statements are either contained in this Agreement or in an annexure the

Franchisee waives any right it may have to sue for damages and/or rescind this Agreement.

- 43.4 Each of the Parties will always from time to time and hereafter at their own cost and expense make, perform, and execute or cause to be made, done or executed all such acts, agreements, deeds, and assurances in writing as shall be necessary and desirable to give effect to the transactions contemplated in this Agreement

44 **Notice**

Any notice (other than for or in legal proceedings) given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office or other address or email address stated in this Agreement or such other address or email address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier or e-mail. A notice shall be deemed to have been received: if delivered personally, when left at the address referred to above; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, on transmission (provided a delivered message can be produced).

45 **Third Party Rights**

This Agreement does not create any right enforceable by any person not a party to it except a transferee, successor, or assignee pursuant to Clauses 19, 20 or 27 is deemed to be a party to this Agreement

46 **General**

- 46.1 The parties shall each bear their own legal and accountancy costs and other expenses incurred in connection with this Agreement.

- 46.2 In the event of this Agreement being prepared in several parts each of the parties may execute one or more parts and the parts so executed shall constitute one Agreement and be binding on the parties as if they had all executed the same document.









Executed by the parties or their duly authorised representatives the day and year first before written






Information

Schedule 1: The Fees

Initial Licence Fee	£[] plus VAT
Initial Training Fee	£[] plus VAT
Initial Marketing Fee	£[] plus VAT
Vehicle Fee (optional)	£[] plus VAT
Management Services Fee	10% of Gross Monthly Income
Ongoing Marketing Fee	3% of Gross Monthly Income
Ongoing Administration Fee	2% of Gross Monthly Income

Schedule 2: The Trademarks

Trademark No.	Mark Text	File Date	Status	Nice Classes	Vienna Classes	Image
2510102	Just Shutters	03/03/09	Registered	19 35 37	26.11.00	
2510102	JUST SHUTTERS	03/03/09	Registered	19 35 37	26.11.00	
2510102	Just Shutters	03/03/09	Registered	19 35 37	26.11.00	
2510102	JUST SHUTTERS	03/03/09	Registered	19 35 37	26.11.00	
2510102	Just Shutters	03/03/09	Registered	19 35 37	26.11.00/	
2510102	JUST SHUTTERS	03/03/09	Registered	19 35 37	26.11.00	
2510102	JUSTSHUTTERS	03/03/09	Registered	19 35 37	26.11.00	
2510102	JUSTSHUTTERS	03/03/09	Registered	19 35 37	26.11.00	

2510102	JUSTSHUTTERS	03/03/09	Registered	19 35 37	26.11.00	
3675116	Just Shutters for Beautiful Homes	29/07/21	Registered	19 35 37 41	TBC	
3675116	Just Shutters for Beautiful Homes	29/07/21	Registered	19 35 37 41	TBC	
3675062	Just Shutters Franchise		Pending	TBC	TBC	
3675062	Just Shutters Franchise		Pending	TBC	TBC	
3675062	Just Shutters Franchise	29/07/21	Registered	19 35 37 41		JUST SHUTTERS FRANCHISE

Schedule 3: Launch Pack

1. The marketing and promotions activities itemised on the list provided to the Franchisee
2. Uniform (Oxford Shirt, Polo Shirt, Jacket).
3. 500 business cards, 50 brochures, and a full stationery pack.
4. Just Shutters demonstration kit, bagged and ready for presentation, 4 bags in total.
5. Full measuring and surveying kit.
6. Pi set up (the Franchisors Proprietary Software system).

Schedule 4: The Vehicle

1. A black, long wheelbase Volkswagen Transporter, colour coded bumpers and mirrors with tailgate and alloy wheels on a 3- or 4-year lease agreement as a separate contract.
2. Ply lining
3. Boxing and fitting for tools and battens as supplied by the Franchisor.
4. Livery as supplied by the Franchisor.

Schedule 5: Franchisee acquired operating equipment

1. The current Additional Equipment itemised on the list provided to the Franchisee
2. A computer and quality printer
3. Microsoft Office
4. Mobile telephone
5. A satellite navigation system
6. Digital Camera (minimum 8mp resolution)
7. Broadband internet connection (The Franchisee must notify the Franchisor as soon as practical if the Premises do not have access to a 10mb broadband connection)

Schedule 6: The Initial Training

The Initial Training will comprise:

The current training programme

Schedule 7: The Premises

[address of premises]

Schedule 8: The Territory

The Postcode districts of [xxxxxxxxxx] as shown on the area outlined on the map annexed to this Agreement.

Schedule 9: Minimum Performance Criteria

1. Minimum Customer Service Standards

The Franchisee must:

- (a) respond within 24 hours to not less than 95% of Customer enquiries/Customer referrals from the Franchisor.
- (b) deliver not less than 80% of Customer quotations and orders in writing within 24 hours of the relevant Customer meeting.
- (c) return not less than 95% of all telephone calls/enquiries within 24 hours.
- (d) procure that not less than 90% of orders have been sent to the Supplier within 36 hours of receipt of the Customer's deposit.
- (e) ensure that 80% of all shutters are fitted within 7 days of receipt by the Franchisee of such shutters from the relevant supplier; and
- (f) ensure that the Franchisee's Business has not less than a "9 out of 10" rating on checkatrade.com at all times.

2. Gross Monthly Income

Relevant Period from the Opening Date (inclusive)	Minimum Performance Criteria
Months 13 onwards	Gross Monthly Income per Quarter of not less than 70 % of the average Gross Monthly Income per Quarter across the Just Shutters franchise network for comparable territories

Notes:

- (g) In this Schedule, "Quarter" shall mean each period of 3 Months ending on 31 March, 30 June, 30 September, and 31 December.
- (h) The Franchisor shall act reasonably in its determination of "comparable territories"; however, the Franchisee acknowledges and agrees that no two franchise territories will be identical in all respects and the terms "comparable territories" shall be construed accordingly.

Execution page

In witness of which this document has been executed by the Parties as an Agreement and **delivered** on the date set out at the beginning of this Agreement.

Executed by)
Just Shutters (Franchise) Limited)
acting by a director:) _____
Director
Chris Rocker

Executed by)
[company name] Ltd)
acting by a director:) _____
Director
[name]

Signed by)
[Principal name])
As Principal:) _____