

## FRANCHISE DISCLOSURE DOCUMENT

A DOG'S DAY OUT FRANCHISE SERVICES, LLC

A Virginia Limited liability company

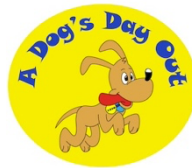
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The franchise relates to the establishment and operation of a dog care services business (“Franchised Business”) that is identified by the mark “A Dog’s Day Out. The total investment necessary to begin operation of a Franchised Business is \$750,000 to \$800,000. This includes \$42,300 that must be paid to the franchisor or an affiliate.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar-days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this document.**

The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read all of your contract carefully and in its entirety. Show your contract and this disclosure document to an advisor, such as a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as “A Consumer's Guide to Buying a Franchise,” which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1–877–FTC–HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may also be laws on franchising in your state. Ask your state agencies about them.

Issuance Date: May 19, 2025

## STATE COVER PAGE

Your state may have a franchise law that requires a franchisor to register or file with a state franchise administrator before offering or selling in your state. REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT.

Call the state administrators listed in Exhibit D for information about the franchisor, about other franchisors, or about franchising in your state.

MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES. YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS. BEFORE YOU BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW.

Please consider the following RISK FACTORS before you buy this franchise:

THE FRANCHISE AGREEMENT REQUIRES YOU TO RESOLVE DISPUTES WITH US BY LITIGATION ONLY IN VIRGINIA. OUT-OF-STATE LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO LITIGATE WITH US IN VIRGINIA THAN IN YOUR HOME STATE.

THE FRANCHISE AGREEMENT STATES THAT VIRGINIA LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE LAWS.

THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

**We may use the services of one or more FRANCHISE BROKERS or referral sources to assist us in selling our franchise. A franchise broker or referral source represents us, not you. We pay this person a fee for selling our franchise or referring you to us. You should make sure to do your own investigation of the franchise.**

## STATE EFFECTIVE DATES

The following states require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Florida, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Utah, Virginia, Washington and Wisconsin.

This Franchise Disclosure Document is registered, on file, or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates:

STATE	EFFECTIVE DATE
California	Not Registered
Hawaii	Not Registered
Illinois	Not Registered
Indiana	Not Registered
Maryland	Not Registered
Michigan	Not Registered
Minnesota	Not Registered
New York	Not Registered
North Dakota	Not Registered
Rhode Island	Not Registered
South Dakota	Not Registered
Virginia	Pending
Washington	Not Registered
Wisconsin	Not Registered

Other states might require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

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### Exhibits:

Exhibit A - Financial Statements

Exhibit B - Table of Contents of Manuals

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Exhibit F - Existing Franchisees

Exhibit G - Former franchisees

Exhibit H - Receipts

## **ITEM 1. THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS, AND AFFILIATES**

To simplify the language in this disclosure document, we refer to A Dog's Day Out Franchise Services, LLC as "DDOFS," "we," or "us." We refer to the individual or business entity (corporation, partnership, etc.) buying the franchise as "you." Except for sole proprietorships, the term "you" does not include a business entity's owners.

DDOFS was formed in Virginia on February 27, 2009 but did not engage in business activities prior to 2025. We maintain our principal place of business at 4934 Gainsborough Dr., Fairfax, VA 22032. We do business only under the name A Dog's Day Out. Our agents for service of process are described in Exhibit E. We did not offer franchises for A Dog's Day Out prior to registering this FDD. We have not offered franchises in any other line of business. We do not operate A Dog's Day Out ourselves, but some of our affiliates do. A Dog's Day Out, LLC ("ADDO") has owned and operated an A Dog's Day Out business in Vienna, Virginia since 2004. A Dog's Day Out Ashburn, LLC has owned and operated an A Dog's Day Out business in Ashburn, Virginia since 2013. A Dog's Day Out Springfield, LLC has owned and operated an A Dog's Day Out business in Springfield, Virginia since 2013.

### **Parents, Affiliates, and Predecessors**

Our parent company is A Dog's Day Out Enterprises, LLC. Its principal business address is 4934 Gainsborough Dr., Fairfax, VA 22032.

A Dog's Day Out Holdings, LLC ("Holdings") is an affiliate of ours that owns the trademarks that we sublicense to our franchisees. Holdings's principal business address is 4934 Gainsborough Dr., Fairfax, VA 22032.. We do not have any affiliates that offer or previously offered franchises in this or any other line of business. We have no other affiliates or predecessors.

In addition to the business outlets of our affiliates, there is an existing licensee that operates an A Dog's Day Out business in Alexandria, Virginia, pursuant to a license agreement with our affiliate ADDO.

### **The Franchise Offered**

A Dog's Day Out offers dog day care, overnight boarding for dogs, and grooming for dogs, and related retail products. You will operate an A Dog's Day Out franchise (referred to in this disclosure document as the "Franchised Business") according to the terms of our franchise agreement in the form attached as Exhibit C to this disclosure document ("Franchise Agreement") and according to our standards, as described below. The A Dog's Day Out system (the "System") is identified by means of certain trade names, service marks, trademarks, trade dress, logos, emblems, and/or indicia of origin, including the name "A Dog's Day Out" (the "Proprietary Marks"). We can add, eliminate, modify or substitute any of the Proprietary Marks at any time, in our sole discretion. Our System includes our methods, techniques, standards, specifications, policies and procedures relating to the operation of A Dog's Day Out as described in our confidential operations manual and other written directives (collectively, the "Manuals"). It also includes our distinctive decor, color schemes, and our advertising and promotional programs, all of which we may change, improve and further develop.

## **Market and Competition**

The Franchised Business will provide products and services to the general public. The market for dog care services is highly competitive. This competition includes many local, regional and national chains, as well as independent businesses.

## **Industry-Specific Regulations**

In addition to the laws, regulations and ordinances applicable to businesses generally, such as the Americans with Disabilities Act, Federal Wage and Hour Laws, and the Occupational Safety and Health Act, there may be various state and local laws, regulations, or ordinances that address environmental, health and safety, noise, waste disposal, and similar issues that may be applicable to your Franchised Business. You will have to obtain local business permits before opening, which in some jurisdictions may include a local permit to operate a kennel service. State and local agencies routinely conduct inspections for compliance with these requirements. We do not assume any responsibility for advising you on these regulatory or legal matters. You should consult with an attorney about laws and regulations that may affect the Franchised Business and investigate the applicability of those laws.

## **ITEM 2. BUSINESS EXPERIENCE**

### **Charles W. Richardson, Jr. – CEO**

Mr. Richardson has served as the CEO and a member of our affiliate, ADDO, since April, 2004, and as the CEO of ADDOFS since 2009 in Fairfax, Virginia. He also has served as Member and CEO of ADDO Ashburn, LLC and ADDO Springfield, LLC since their respective formations in 2013.

Prior to his tenure with ADDOFS and its affiliates, Mr. Richardson had a career in the U.S. Army, retiring as Colonel in 1980. Thereafter Mr. Richardson was a business development executive for two Fortune 500 technology companies and was an equity investor in two small businesses in addition to ADDOFS and its affiliates.

### **Charles W. Richardson, III – COO**

Mr. Richardson is a founder of our affiliate, ADDO, and has served as a Member and COO of ADDO since April, 2004, and as the COO of ADDOFS since its formation in 2009 in Fairfax, Virginia. He has also served as Member and COO of ADDO Ashburn, LLC and ADDO Springfield, LLC since their respective formations in 2013. Mr. Richardson also worked in two and managed one other large dog care businesses and invented and received a federal patent on a dog safety device that has been sold nationwide.

### **Dana Richardson – Director of Marketing and Human Resources**

Mrs. Richardson joined our affiliate, ADDO, in 2016 and has been a director of that entity since 2021. Since 2025, Mrs. Richardson has been the Director of Human Resources and Finance for ADDOFS. Mrs. Richardson's responsibilities include payroll, staffing, website maintenance, social media management, email marketing, advertising creation, bookkeeping, and accounts payable and receivable for us and for our affiliates. Before joining ADDO in 2016, Mrs. Richardson spent over fifteen years as a marketing coordinator for nationally-known companies in the architecture, engineering, and construction space.

**Katie Watt – Trainer**

Ms. Watt joined ADDO in 2007 and has been the manager of ADDO Ashburn, LLC’s location since 2014. Her involvement with ADDOFS is limited to the provision of training services for its franchisees.

**ITEM 3. LITIGATION**

We have no information and no litigation to disclose in this Item.

**ITEM 4. BANKRUPTCY**

We have no bankruptcy information to disclose in this Item.

**ITEM 5. INITIAL FEES**

You must pay us an initial franchise fee of \$35,000. The entire fee is due when you sign the Franchise Agreement. The initial franchise fee is not refundable.

If you are signing your Franchise Agreement to renew your existing franchise, you must pay a Renewal Fee in the amount of \$10,000 when you sign your Franchise Agreement in lieu of the initial franchise fee described above.

The initial franchise fee is uniform for all franchises currently being offered.

**ITEM 6. OTHER FEES**

Type of Fee	Amount	Due Date	Remarks	Type of fee
Royalty Fee	6% of Gross Sales per month	5th day of each month	See Notes 1 and 2.	Royalty Fee
Brand Fund	1% of Gross Sales per month	5th day of each month	See Notes 2 and 3.	Brand Fund
Inspection/Audit Expenses	The lesser of 18% APR interest on underpayment and the highest rate allowed by law. In addition, if the audit or inspection reveals an understatement of Gross Sales, you must also reimburse us for the cost of the audit or inspection.	On demand	Payable only if inspection or audit shows that any financial information delivered by you to us is inaccurate.	Inspection/Audit Expenses
Training Expenses	Amount of expenses for you and your employees who attend training,	As incurred		Training Expenses

	including costs of transportation, lodging, meals, and wages, estimated to be \$6,000 if travel is required, plus airfare if needed.			
Insurance Fee	Amount of premium plus administrative fee equal to 5% of premium	On demand	Payable only if you fail to maintain required insurance coverage and we elect to obtain coverage for you. See Item for insurance requirements.	Insurance Fee
Renewal Fee	\$10,000	When signing Renewal Agreement	Payable if you renew your franchise.	Renewal Fee
Interest/Late Fee	For each month in which the payment remains delinquent, the lesser of 1.5% on the then-delinquent amount and the highest amount permitted by law.	Continues to accrue until paid	Payable only if any sums due us are not paid promptly when due.	Interest/Late Fee
Manual Replacement Fee	\$300	When billed	Payable if you lose or misplace any part of the Manual and we replace it.	Manual Replacement Fee
Transfer Fee	\$17,500	Before transfer	Payable if you transfer/assign your franchise.	Transfer Fee
Product Inspection and Testing	Cost of inspection or testing. We estimated that our costs will be between \$200 and \$1,000, depending on whether travel is required.	When billed	Payable if you ask us to evaluate or approve a proposed supplier. See Item 8 for information about supplier restrictions and	Product Inspection and Testing

			our supplier approval process.	
Software License Fees	\$150	Monthly	Payable to vendor.	Software license Fees
Technology Fee	\$150	5 <sup>th</sup> day of each month	Payable to us.	Technology Fee
Legal Fees and Indemnification	Varies according to cost or loss incurred	On demand	You must indemnify us and our affiliates from liability for any claim based on or arising from your operation of the Franchised Business.	Legal Fees and Indemnification

Note 1. Except for Insurance, software support, and upgrade fees, which are paid directly to vendors, all fees are payable to us, and except as described above, all fees are non-refundable and are uniform for franchises currently being offered in this state.

Note 2. “Gross Sales” means all revenues generated from sales of all products and services conducted at, from or with respect to the Franchised Business, whether these sales are evidenced by cash, check, credit, charge, account, barter or exchange. Gross Sales do not include the sale of products or services for which refunds have been made in good faith to customers, the sale of equipment or furnishings used in the operation of the Franchised Business, or any sales taxes or other taxes collected from customers and paid directly to the appropriate taxing authority.

Note 3. Your required contribution to the Brand Fund is in addition to the amount you must spend on local advertising of your franchise. You also must spend \$5,000 on grand opening advertising. During the first 6 months of operation, you must spend at least an additional \$3,000 each month on local advertising, with the first month prorated if necessary, and for each subsequent month you must spend at least 2.0% of monthly Gross Sales. See Item 11 of this disclosure document for more information about the Brand Fund and your local marketing obligations.

**ITEM 7. ESTIMATED INITIAL INVESTMENT**  
**YOUR ESTIMATED INITIAL INVESTMENT**

<b>Expense</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to Be Made</b>
Initial Franchise Fee	\$35,000	Lump sum	When you sign your Franchise Agreement	Us
Travel and Living Expenses (Note 1)	\$6,000-\$8,000	As incurred	During training	Airlines, Hotels, Restaurants, etc.
Rent or Real Estate (Not including Purchase of Property) (Note 2)	\$12,000	As arranged	Before opening	Lessor
Improvements (Build Out) (Note 3)	\$542,000	As arranged	Before opening	Contractor
Furniture & Fixtures (Note 4)	\$8,000-\$10,000	As arranged	Before opening or as arranged with Vendors	Vendors
Equipment (Note 4)	\$65,000	As arranged	Before opening or as arranged with Vendors	Vendors
Insurance (Note 5)	\$1,250	As arranged	Before opening	Insurance Company
Signage	\$7,000	As arranged	Before opening or as arranged with Vendors	Vendors
Miscellaneous Opening Costs	\$12,200	As incurred	Before opening	Suppliers, Utilities, etc.
Opening Inventory (Note 6)	\$800	As arranged	Before opening	Us, Approved Suppliers
Grand Opening Advertising	\$4,000	As arranged	Within 30 days after opening	Distribution Service and Media

Computer and IT Package (Note 7)	\$6,500 - \$7,000	As incurred	Before opening and as arranged with Us	Us
Additional Funds (Note 8)	\$50,000	As incurred	As incurred	Employees, Suppliers, Utilities
<b>TOTAL</b>	<b>\$749,750- \$754,250</b>			

Notes:

Note 1. The figures in the charts represent estimated pre-opening salaries of one employee during our 3 week management training program. See Item 11 of this disclosure document for more information about our management training program. We will cover the cost of instructors and instructional materials, but you must pay your cost of travel, meals, lodging and salaries.

Note 2. The figures in the charts reflect the estimated security deposit, which typically is calculated as one to two months' rent. The estimate assumes an annual rent of between \$10 and \$15 per square foot, depending upon the site You will purchase or lease real estate for the operation of the Franchised Business. Lease costs will vary based on square footage, cost per square foot, location, length of lease, age of the leased property, local market conditions, zoning, and the size of the premises. You should consult a real estate professional in your geographic area before purchasing a franchise.

Note 3. The cost of leasehold improvements will depend on the condition and size of the site, the local cost of contract work, and the location of the Franchised Business. The figures in the charts represent the estimated cost of hiring an architect to conform standard plans to the layout of the Franchised Business, and to engage a general contractor to adapt the Franchised Business to meet our standards. They include remodeling walls, ceilings, floors, and other renovations, including the purchase and installation of signage and HVAC systems, and electrical and carpentry work. This estimate does not include new construction.

Note 4. The figures in the chart represent estimated purchase costs of fixtures and furniture, including tables, chairs, and office furniture. They also include the estimated purchase cost of point of sale hardware and other equipment provided by third-party vendors. The furniture, fixtures and equipment will vary, depending on the size of the Franchised Business.

Note 5. The estimated cost of annual premiums for the policies required by the Franchise Agreement will vary significantly based on your location, and the claims experience of commercial businesses in the area, as well as your claims experience in other businesses you operate. The figures quoted assume deposits for one month's coverage.

Note 6. Opening inventory of products and supplies will vary based on your expected volume of business, the size of your Franchised Business, and the size of any storage areas in the Franchised Business.

Note 7. We will sell you pre-configured equipment and install it for you. See Item 11 for more information about our computer hardware and software requirements.

Note 8. These amounts are the minimum recommended levels to cover operating expenses, including employee salaries for 3 months. However, we cannot guarantee that this amount will be sufficient. Additional working capital may be required if sales are low or fixed costs are high. The disclosure laws require us to include this estimate of all costs and expenses to operate your franchise during the “initial phase” of your business, which is defined as a 3 months or longer period if “reasonable for the industry.”

\* \* \*

You will obtain all necessary permits and licenses directly from government authorities or through your contractors.

We have prepared these estimates based on our Affiliates’ experience opening and operating several A Dog’s Day Out businesses. The payments described above that are payable to us are not refundable. We are not able to represent whether or not amounts that you pay to third parties are refundable. Except as expressly indicated otherwise in the charts above, these estimates describe your initial cash investment up to the opening of your Franchised Business. They do not provide for your cash needs to cover any financing incurred by you or your other expenses. You should not plan to draw income from the operation during the start-up and development stage of your Franchised Business, the actual duration of which will vary materially from unit to unit and cannot be predicted by us for your Franchised Business (and which may extend for longer than the 3 month “initial phase” described in Note 8 of the above charts). You must have additional sums available, whether in cash or through a bank line of credit, or have other assets which you may liquidate or against which you may borrow, to cover other expenses and any operating losses you may sustain, whether during your start-up and development stage, or beyond. The amount of necessary reserves will vary greatly from franchisee to franchisee and will depend upon many factors, including the rate of growth and success of your Franchised Business, which in turn will depend upon factors such as the demographics and economic conditions in the area in which your Franchised Business is located, the presence of other A Dog’s Day Out businesses or other public awareness of our A Dog’s Day Out Proprietary Marks within the general vicinity of your Franchised Business, your ability to operate efficiently and in conformance with our recommended methods of doing business, and competition. Because the exact amount of reserves will vary from operation to operation and cannot be meaningfully estimated by us, we urge you to retain the services of an experienced accountant or financial advisor to develop a business plan and financial projections for your particular operation.

#### **ITEM 8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

All products and services sold or offered for sale at the Franchised Business, and other products, materials, supplies, fixtures, furnishings and equipment used or sold at the Franchised Business, must meet our standards and specifications, as established in the Manual or otherwise in writing. You must purchase all supplies, materials, and other products and equipment used or offered for sale at the Franchised Business for which we have established standards or specifications solely from suppliers (including manufacturers, distributors and other sources) which demonstrate the ability to meet our standards and specifications, who possess adequate quality controls and capacity to supply your needs promptly and reliably, and who have been approved by us. If you desire to purchase products from a party other than an approved supplier, you must submit to us a written request to approve the proposed supplier, together with evidence of conformity with our specifications as we may require. You must pay the reasonable costs of the evaluation and testing

of the proposed supplier. We will use our best efforts, within 30 days after our receipt of your completed request and completion of all required evaluation and testing, to notify you of our approval or disapproval of the proposed supplier. Approval will not be unreasonably withheld. You may not sell or offer for sale any products of the proposed supplier until our written approval of the proposed supplier is received. We may at any time revoke our approval of particular products or suppliers when we determine, in our sole discretion, that such products or suppliers no longer meet our standards.

You must purchase all required products and supplies used at the Franchised Business from us, an affiliate, or a supplier designated or approved by us. We have developed certain proprietary, confidential and trade secrets that are part of the System (including but not limited to our build-out/improvement designs and sources, equipment lists and sources, site selection criteria, research and related analytical information, business plans, financial or other economic data, customer lists and contact information, franchisor employee information, investment plans, training materials, performance requirements, and marketing plans) and might develop additional trade secret items. We have the right to specify certain third parties as designated suppliers for specified products, materials, supplies, paper goods, fixtures, furnishings and equipment used or sold at the Franchised Business. You must purchase such items from our designated suppliers in order to assure the uniform quality and image associated with the Franchised Business.

We derived no revenues during our fiscal year ending December 31, 2024 as a result of franchisee required purchases. None of our officers has an interest in any of our approved suppliers.

All advertising, including internet advertising, must meet our specifications as set forth in our Operations Manual. You must submit all proposed advertising to us for our approval before use. You may not use any advertising not prepared or previously approved by us within the preceding 6 months. On written notice from us, you must immediately discontinue use of any unapproved, or approved and subsequently disapproved, advertising materials.

As more fully described in Item 11, you must obtain and maintain during the term of the Franchise Agreement computer hardware and software meeting our specifications.

You must obtain before opening the Franchised Business, and maintain in full force and effect at all times during the term of the Franchise Agreement, at your expense, insurance policies protecting you, us, and your and our respective officers, directors, partners, agents and employees against any demand or claim with respect to personal injury, death or property damage, or any loss, liability or expense arising or occurring in connection with the Franchised Business, including comprehensive general liability insurance, property and casualty insurance, business interruption insurance, statutory workers' compensation insurance, employer's liability insurance, product liability insurance, and automobile insurance coverage for all vehicles used in connection with the Franchised Business. These policies must be written by a responsible carrier or carriers acceptable to us and must name us as an additional insured, and must provide at least the types and minimum amounts of coverage specified in the Manual.

If you should fail to obtain or maintain the insurance required by the Franchise Agreement for any reason, we have the right and authority (without, however, any obligation to do so) to procure the insurance. If we do so, you must reimburse us for the full annual premium paid, plus an administrative surcharge of 5%.

We do not currently negotiate purchase arrangements with the approved or designated suppliers, but we reserve the right to do so in the future. We may receive money or other benefits from approved or designated suppliers as a result of your purchases. As of the date of this disclosure document, there are no purchasing or distribution cooperatives. We do not provide material benefits to you based on your purchase of particular products or services or your use of designated or approved suppliers but we may terminate your Franchise Agreement if you purchase from unapproved sources in violation of your Franchise Agreement.

We estimate that 100% of your expenditures for leases and purchases in establishing your Franchised Business and on an ongoing basis will be for goods and services which are subject to sourcing restrictions (that is, for which suppliers must be approved by us, or which must meet our standards or specifications).

## ITEM 9. FRANCHISEE’S OBLIGATIONS

This table lists your principal obligations under the franchise and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.

Obligation	Section in Agreement	Disclosure Document Item
a. Site selection and acquisition/lease	1.2, 5, and Exhibits B and C	Items 8 and 11
b. Pre-opening purchases/leases	7.4, 7.6, and 8.4	Items 5, 6, 7, 8 and 11
c. Site development and other pre-opening requirements	5, 6, 7.4, 7.6, 8.4, and Exhibits B and C	Items 6, 7 and 11
d. Initial and ongoing training	6	Items 6, 7, 8 and 11
e. Opening	5, 7.4, 7.6, 8.4, and 12.1	Item 11
f. Fees	2.2(i), 4, 12.4, and 14.3(i)	Items 5 and 6
g. Compliance with standards and policies/Manuals	7, 8.2-8.8, 8.10, 8.12, and 9	Items 11 and 14
h. Trademarks and proprietary information	8 and 10	Items 13 and 14
i. Restrictions on products/services offered	1.4, 7.2-7.3, 7.5-7.6, and 7.15	Items 8 and 16
j. Warranty and customer service requirements	Not Applicable	Item 8
k. Territorial development and sales quotas	1.3 and Exhibits B and C	Item 12
l. Ongoing product/service purchases	7.4-7.6	Items 6 and 8
m. Maintenance, appearance and remodeling requirements	2.2(b), 7.11, and 7.13	Items 8 and 11
n. Insurance	13	Items 7 and 8
o. Advertising	12	Items 6, 8, and 11
p. Indemnification	20.3	Item 6

q. Owner's participation/management/staffing	7.7 and 17.1	Items 1, 11, and 15
r. Records and reports	11	Item 6
s. Inspections and audits	7.8 and 11.5	Items 6, 8, and 11
t. Transfer	14	Items 6 and 17
u. Renewal or Extension of Rights	2.2	Items 6 and 17
v. Post-termination obligations	16 and 17.3	Items 6 and 17
w. Noncompetition covenants	17.2-17.3	Item 17
x. Dispute resolution	25	Items 6 and 17

## **ITEM 10. FINANCING**

Neither we nor our affiliates or agents offer you, directly or indirectly, any financing arrangement, including loans, guarantees, leases and installment contracts.

## **ITEM 11. FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

**Except as listed below, we are not required to provide you with any assistance:**

### **Pre-Opening Obligations**

Before the Franchised Business opens, we must provide the following to you:

1. If you do not have an approved location prior to signing the Franchise Agreement and sign a site selection addendum, such site selection guidelines and consultation as we deem advisable (Franchise Agreement, Exhibit C, Paragraph 6);
2. If you do not have an approved location prior to signing the Franchise Agreement and sign a site selection addendum, such on-site evaluations as we deem advisable as part of our evaluation of your request for site approval. However, we will not provide on-site evaluations for any proposed site before our receipt of the information or materials required by the Franchise Agreement. If an on-site evaluation is deemed necessary and appropriate by us, we will conduct up to two on-site evaluations at our expense, unless travel out of the northern Virginia area is required (in which case you must reimburse us our costs of travel, meals, and lodging). For each additional on-site evaluation (if any), you must reimburse us for our reasonable expenses, including the costs of travel, lodging and meals (Franchise Agreement, Exhibit C, Paragraph 6);
3. We will make available to you (a) standard architectural plans for the Franchised Business, including exterior and interior design and layout; and (b) specifications for fixtures, furnishings and signs. (Franchise Agreement, Section 3.1);
4. We will provide initial training for you and your managers, as further described below (Franchise Agreement, Sections 3.2 and 6);

5. We will provide at least one representative to provide such on-site, pre-opening and opening assistance as we deem appropriate in our sole discretion (Franchise Agreement, Section 3.3);
6. We will make available to you advertising and promotional materials at your expense (Franchise Agreement, Sections 3.5 and 12);
7. We will loan you one copy of our Manual or make it available to you through a password protected website (Franchise Agreement, Sections 3.6 and 9); and
8. We or our affiliate will make available to you for sale, or designate or approve other suppliers who shall make available to you for sale, products and supplies as we designate in the Manual or in writing (Franchise Agreement, Section 3.7).
9. We or our affiliate will sell you and install for you our custom Computer and IT Package that includes a front desk computer, telephone equipment, networking equipment, and related computer peripherals as we designate in the Manual or in writing.

### **Continuing Obligations**

After the Franchised Business opens, we must provide the following to you:

1. On your reasonable request, in our sole discretion, we will make available to you advice and assistance on the proper implementation of the System and operation of the Franchised Business (Franchise Agreement, Section 3.4);
2. We will make available to you advertising and promotional materials at your expense (Franchise Agreement, Sections 3.5 and 12);
3. We will designate or approve suppliers who will make available to you for sale products, supplies, materials, and other products and equipment used or offered for sale at the Franchised Business (Franchise Agreement, Section 7.5);
4. We will maintain a system-wide website and create a specific page for your location at no additional cost to you. We will provide to you as part of the monthly recurring Technology Fee an approved email account for your management personnel.
5. We or our affiliate will maintain and administer a Brand Fund, as further described below (Franchise Agreement, Sections 3.8 and 12).

### **Manual**

In order to protect our reputation and goodwill and to maintain high standards of operation under the System, you must operate the Franchised Business in accordance with the standards, methods, policies, and procedures specified in our Manual, which will be loaned to you for the term of the Franchise Agreement once you complete the initial training program to our satisfaction. The Manual may consist of multiple volumes of printed text, computer disks, other electronically stored

data, and/or DVDs. We may provide a portion or all of the Manual (including updates and amendments), and other instructional information and materials, in or via electronic media, including through the Internet. If your copy of the Manual is lost, stolen, or destroyed, you must obtain another copy of the Manual from us and pay us a replacement fee of \$300. A copy of the Table of Contents of the Manual is attached to this disclosure document as Exhibit B.

### **Advertising**

You must spend at least \$4,000 on an initial, grand opening local advertising, marketing, and promotional program in the form and manner prescribed by us in the Manual or otherwise in writing within thirty (30) days before the opening of the Franchised Business. (Franchise Agreement, Section 12.1.)

In addition to the grand opening marketing program, during the first three months the Franchised Business is open, you must spend at least an additional \$3,000 per month on local marketing, advertising, and promotion. During the remainder of the term of the Franchise Agreement, you must expend, on a monthly basis, an amount equal to 1.0% of Gross Sales on local marketing, advertising, and promotion as we may, in our sole discretion, direct in the Manual or otherwise in writing. (Franchise Agreement, Section 12.2.)

All advertising and promotion by you (including any design, advertisement, sign, or form of publicity) must be in the media and of a type and format as we may approve, including television, print media (including yellow pages), radio, and local promotional events, must be conducted in a dignified manner, and must conform to these standards and requirements as we may specify. You must not use any advertising or promotional plans or materials unless and until you have received written approval from us. (Franchise Agreement, Section 12.6.) You must submit to us for our prior approval samples of all advertising and promotional plans and materials for any print, broadcast, cable, electronic, computer or other media (including the Internet) that you wish to use and that we have not prepared or previously approved within the preceding 6 months. You must not use these plans or materials until they have been approved in writing by us. If you do not receive written notice of disapproval from us within 15 days of the date of our receipt of these samples or materials, we will be deemed to have disapproved them. (Franchise Agreement, Section 12.6.)

We may make available to you periodically, at your expense, approved advertising and promotional materials, including merchandising materials, point-of-purchase materials, and materials for special promotions. (Franchise Agreement, Section 12.5.)

### **Brand Fund**

You must pay to the Brand Fund a monthly fee in the amount of 1% of your Gross Sales for the second preceding Accounting Period. Your contribution to the Brand Fund is in addition to the required grand opening and local advertising described above. (Franchise Agreement, Section 12.4.) The A Dog's Day Out units owned and operated by us or our affiliates contribute to the Brand Fund in the manner, and in the amount, that we determine to be reasonable, which may be the same as or more than our franchised businesses.

We will direct all advertising, marketing, and promotional programs and have sole discretion over all aspects of those programs, including the concepts, materials, and media used and the placement and allocation of them. (Franchise Agreement, Section 12.4(a).) The Brand Fund, all contributions to it, and any of its earnings, are used exclusively to meet any and all costs of maintaining,

administering, directing, conducting, and preparing advertising, marketing, public relations, and/or promotional programs and materials, and any other activities which we believe will enhance the image of the System, including the costs of preparing and conducting radio, television, print, and Internet-based advertising campaigns; utilizing social and business networking media sites and other emerging media or promotional tactics; developing, maintaining, and updating a Website on the Internet; review of locally produced advertisements; door hangers, mailers, inserts and coupons; brochures and promotional materials; market research, market surveys, and sponsorships; website design and maintenance; public relations and related retainers; mystery shoppers for the System and competitors; celebrity endorsements; trade shows (including costs of travel and personnel expenses, trade booths, and specialty entertainment); association dues; search engine optimization; employing advertising and/or public relations agencies; purchasing promotional items; providing promotional and other marketing materials and services to the businesses operating under the System; developing poster, banners, and signs; advertising for the sale of franchises. (Franchise Agreement, Section 12.4(b).) Media coverage for advertising expenditures will be local and regional.

During our most recent fiscal year, we had not established the Brand Fund, so it had no expenditures on media placement, production, or administrative expenses. We conduct advertising through third party advertising agencies as well as in-house marketing personnel. We do not anticipate any Brand Fund expenditures to be used principally to solicit new franchise sales.

A reasonable amount of the Brand Fund fees paid by all franchisees may be used to cover our or our affiliate's costs and overhead as may be incurred in activities reasonably related to the direction and implementation of the Brand Fund and advertising programs for franchisees and the System, including costs and salaries of personnel for creating and implementing advertising, promotional and marketing programs, accounting expenses, and other out of pocket expenses to third parties incurred by the Brand Fund. (Franchise Agreement, Section 12.4(c).)

Except as indicated above, neither we nor our affiliates receive payment for providing goods or services to the Brand Fund. We or our affiliate are not obligated, in administering the Brand Fund, to make expenditures for you which are equivalent or proportionate to your contribution, or to ensure that any particular franchisee benefits directly or on a pro rata basis from expenditures or activities of the Brand Fund. (Franchise Agreement, Section 12.4(a).)

It is anticipated that all contributions to the Brand Fund will be expended for their intended purposes during the fiscal year in which contributions are made. To the extent any contributions are not expended by the end of the fiscal year, they will be expended no later than the end of the taxable year following the year of receipt. (Franchise Agreement, Section 12.4(d).) Although we intend that the Brand Fund will be of perpetual duration, we and our affiliates maintain the right to terminate the Brand Fund. The Brand Fund may not be terminated, however, until all monies in the Brand Fund have been expended for advertising and/or promotional purposes or returned to contributors on the basis of their respective contributions. (Franchise Agreement, Section 12.4(e).) We will maintain separate bookkeeping accounts for the Brand Fund and reserve the right to form an affiliated entity to control and administer the Brand Fund. The Brand Fund will not be audited. We will make available to you, once per year, an annual accounting of the Brand Fund's expenditures upon written request.

### **Advertising Cooperative**

We have the right, in our discretion, to designate any geographical area for purposes of establishing a regional advertising and promotional cooperative (“Cooperative”), and to determine whether a Cooperative is applicable to the Franchised Business. If a Cooperative has been established in your area before you open the Franchised Business, you must become a member of the Cooperative no later than 30 days after opening the Franchised Business. If a Cooperative is established after you open the Franchised Business, you must become a member of the Cooperative no later than 30 days after the date on which the Cooperative begins operation. If the Franchised Business is within the territory of more than one Cooperative, you will not be required to be a member of more than one Cooperative within that territory. (Franchise Agreement, Section 12.9.)

Each Cooperative will be organized for the exclusive purpose of administering local and/or regional advertising programs and developing, subject to our approval, standardized advertising materials for use by the members in local advertising. No promotional or advertising plans or materials may be used by a Cooperative or furnished to its members without our approval. Each Cooperative will have the right to require its members to make contributions to the Cooperative in an amount determined by the Cooperative, up to a maximum of 1% of Gross Sales during any calendar year, unless two-thirds of the members of the Cooperative vote in favor of a greater contribution. Any payments you make to the Cooperative will be credited towards your required local advertising expenditure.

We will have the power to require the Cooperative to be formed, changed, dissolved, or merged.

### **Advertising Council**

There is presently no advertising council composed of franchisees that advises us on advertising policies.

### **Website**

You may not establish a separate Website for the Franchised Business.. However, we require that you have one or more references or webpage(s), as designated and approved by us in advance, within our principal Website (currently, [www.adogsdayout.com](http://www.adogsdayout.com)). The term “Website” means an interactive electronic document contained in a network of computers linked by communications software, commonly referred to as the Internet or World Wide Web, including any account, page, or other presence on a social or business networking media site, such as Facebook, Instagram, TikTok, X, LinkedIn, and on-line blogs and forums (“Networking Media Sites”). We have the right to require that you not have any Website other than the webpage(s), if any, made available on our principal Website. (Franchise Agreement, Section 8.8.)

### **Franchised Business Location and Lease**

You must operate the Franchised Business only at the location approved by us (“Approved Location”). You may not relocate the Franchised Business without our prior written approval, which we may withhold in our sole discretion. (Franchise Agreement, Section 1.2.)

If you have an Approved Location at the time you sign the Franchise Agreement, you must begin operation of the Franchised Business within 365 days after the date of the Franchise Agreement.

If you do not have an Approved Location when you sign the Franchise Agreement, you must sign the Site Selection Addendum attached to the Franchise Agreement as Exhibit B and begin operation of the Franchised Business within 365 days after obtaining an Approved Location. (Franchise Agreement, Section 5.3.)

If you sign the Site Selection Addendum, you must, at your expense, lease or acquire a location approved by us within 90 days of the date of the Franchise Agreement within the Site Selection Territory specified in the Site Selection Addendum. (Franchise Agreement, Section 1.2.) If you fail to obtain an Approved Location within 90 days after signing the Franchise Agreement or to open the Franchised Business within 365 days after signing the Franchise Agreement, we can terminate the Franchise Agreement. Under the terms of the Site Selection Addendum, you must submit your proposed site to us for approval within 60 days of signing the Franchise Agreement in the manner and form specified in the Franchise Agreement, and we will notify you in writing of our approval or disapproval of your proposed site within 30 days. When we review a proposed site, we will review such factors as demographics, proximity to other A Dog's Day Out facilities, proximity to other dog care businesses, zoning and other government restrictions, size, layout, access, parking, signage, and lease terms. (Franchise Agreement, Exhibit C.)

We will provide site selection guidelines and consultation that we deem advisable. We will conduct two on-site evaluations, as we deem necessary and appropriate and at our expense unless travel outside the northern Virginia area is required, in which case you must reimburse us our costs of travel, lodging, and meals. For each additional on-site evaluation (if any), you must reimburse us for our expenses, including costs of travel, lodging and meals. Our approval of your proposed site will depend on the factors listed above. (Franchise Agreement, Exhibit C.)

### **Length of Time to Open Franchised Business**

We expect your A Dog's Day Out business to open 9 to 12 months after the Franchise Agreement is signed or the location is approved. Factors which may affect the length of time between signing of the Franchise Agreement and opening for business include the time necessary to obtain necessary financing, to obtain permits and licenses necessary to construct and operate the Franchised Business, to complete construction or remodeling (as it may be affected by other conditions, shortages, delivery schedules and other similar factors) to complete landscaping and to complete required training, as described below.

### **Computer System**

You must purchase from us and use a Computer and IT Package that we specify. The system consists of a computer and related hardware, credit card-related hardware, caller ID, networking equipment, digital signage, and other hardware and software as we specify.

We estimate that your cost to purchase the Computer and IT Package is between \$6,500 and \$7,000, depending on the size of the Franchised Business. There are also ongoing monthly fees to maintain the software. You will work with our technical representative for purchase and set up of the required computer equipment and software.

We have no proprietary interest in the software. Support and upgrades may be provided by the software provider, but we do not require or offer upgrades or maintenance services. We estimate your cost for support services from the software provider will be about \$1,800 per year, subject to future increases. You must maintain, upgrade, and update the computer system as we require and the franchise agreement does not restrict the frequency or expense of upgrades and maintenance.

We will have independent access to the business data only (customer database, POS, sales, inventory, COGS) which is stored in your computer system. There are no contractual limitations on our right to access this information. You must have high-speed Internet to enable us to access this information.

**Initial Training Program**

You and all approved managers of the Franchised Business and any transferees of the Franchised Business approved by us must successfully complete our initial training program. Any persons subsequently employed by you in the position of manager shall also attend and complete Franchisor’s training program, to our satisfaction, within ninety (90) days of their date of hire at your expense. Except to the extent that we have waived any requirements, our initial training program consists of approximately two weeks of training at our headquarters and/or at an affiliate-owned Franchised Business in Ashburn, Virginia.

The instructional materials used in the initial training program consist of our Manuals and other operational materials used in Franchised Businesses. We do not charge tuition or impose a fee for training-related materials in connection with our initial training program, but you are responsible for all training-related expenses incurred by all persons who attend training including costs of travel, lodging, meals, and wages.

Our training program is currently conducted by our COO, Charles Richardson III, our CEO, Charles Richardson, Jr., Dana Richardson, and Katie Watt, the manager since 2014 of our affiliate’s location in Ashburn, Virginia. We may change the personnel responsible for training at any time, in our discretion.

Our initial training program may change due to updates in materials, methods, manuals, and personnel, or other reasons, without advance notice to you. The subjects and time periods allocated to the subjects actually taught to a particular franchisee and its personnel may vary based on the experience of those persons being trained.

The following table is a summary of the subjects covered in our initial training program and an estimate of the number of hours of classroom and on the job training allocated to the initial training program.

**TRAINING PROGRAM**

Subject	Hours of Classroom Training	Hours of Practical Training (Hands-On )	Location
Introduction and overview; general policies and procedures	2	0	All training at Fairfax or Ashburn, VA locations unless otherwise indicated

Dog evaluation processes; play area management	0	28	
Dog intake, new and returning	1.5	1	
Incident reporting process	1		
Use of Veterinarians or animal hospitals	1		
Medication process	1		
Morning opening procedures		2	
Feeding process		1	
Evening closing procedures		2	
Kitchen management		1	
Storage, cleaning, and preventive maintenance		3	
Security procedures and signage	1.0		
PetExec Software training, including reservations, in-processing dogs for care, pricing, passes, discounts, revenue management	20.		
Website and telecommunications	1.0		
Staffing, payroll reporting	3.0		
QuickBooks, bank register	2.0		
Inventory management, forms, and equipment	1.5		
Marketing, community relations, customer satisfaction	2.0		
<b>Total</b>	37	38	

### **Additional Training**

You, your managers, and other employees shall also attend such additional courses, seminars and other training programs as we may reasonably require from time to time.

At your request, we will provide advice and assistance on the proper implementation of the A Dog's Day Out system and operation of your Franchised Business. We may impose reasonable fees for these services. Other than as described above, we do not provide any other mandatory or optional training courses.

## **ITEM 12. TERRITORY**

If you do not already have a location when you sign your Franchise Agreement, you must purchase or lease a site for your Franchised Business. Although you are solely responsible for locating the site for your Franchised Business, the location is subject to our written approval. Our approval will be based upon a variety of factors which may include demographics, proximity to other A Dog's Day Out locations, proximity to other dog care businesses, zoning and other government restrictions, size, layout, access, parking, signage, and lease terms.. You may not relocate the Franchised Business to any other location without our prior written consent. If we approve any relocation of your Franchised Business, you must de-identify the former location. If you have an approved location when you sign the Franchise Agreement, you must begin operations of your Franchised Business within 365 days after you sign your Franchise Agreement. If you do not have an approved location when you sign the Franchise Agreement, you must sign our standard Site Selection Addendum. Under the Site Selection Addendum, you must acquire a location within 90 days after you sign your Franchise Agreement and begin operations of your Franchised Business within 365 days after obtaining an approved location.

You must submit to us for approval your proposed lease or real estate contract, plus any related documents required by us. We will only approve a lease if you and the landlord have signed a Conditional Assignment of Lease in the form attached as Exhibit G to your Franchise Agreement, which provides that we may assume the lease if you default under your lease or your Franchise Agreement.

You will receive a territory, which will be described in Exhibit B of your Franchise Agreement ("Territory"). Your Territory will be determined by us in our sole discretion as we consider appropriate under the circumstances, and will generally be a geographic area described by attaching a map, or by reference to streets, natural boundaries or zip codes. We may permit you to operate at a temporary location in your Territory for fund raising and other special events.

During the term of your Franchise Agreement, we will not open or operate, or license others to own or operate, an A Dog's Day Out in your Territory. We reserve all rights inside and outside the Territory except those we expressly grant in the Franchise Agreement, including the exclusive, unrestricted right, in our sole and absolute discretion, directly and indirectly: (a) to establish and operate, and license others to establish and operate, an A Dog's Day Out under the System and the Proprietary Marks at any location outside the Territory; (b) to establish and operate, and license other parties to establish and operate, A Dog's Day Out under the System and Proprietary Marks in the Territory at any existing or future, (1) airports, (2) bus and train depots and other transportation terminals, and (3) entertainment facilities (including sports stadiums) and theme parks; (c) to sell or distribute, directly or indirectly, or license others to sell or distribute, products the same as or similar to those offered under the System, and any other products or services, at any location other than an A Dog's Day Out (regardless of its proximity to your Franchised Business) whether within or outside the Territory under the same or different Proprietary Marks; (d) to acquire and operate any business or store of any kind under different proprietary marks at any location (regardless of its proximity to your Franchised Business) whether located within or

outside the Territory; and (e) within and outside the Territory to acquire, merge with, or otherwise affiliate with, and then own and operate, and franchise or license others to own and operate, any business of any kind, including any business that offers products and services similar to those offered under the System or that uses the Proprietary Marks or any other system or marks. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control.

You do not have the right to use other channels of distribution, such as the Internet, telemarketing or other direct marketing, or mobile service to make sales outside your Territory, unless permitted by us in writing.

Under the Franchise Agreement, continuation of your location rights does not depend upon the volume of sales generated nor your penetration of the market potential. You do not have the right to acquire additional franchises, although you may apply for the right to operate additional Franchised Businesses pursuant to separate franchise agreements.

**ITEM 13. TRADEMARKS**

Under the Franchise Agreement, you will be granted the right to establish and operate an A Dog’s Day Out under the Proprietary Marks, including “A Dog’s Day Out” and such other trademarks, trade names, and service marks as we may designate as part of the System. The following mark(s) are registered on the Principal Register of the United States Patent and Trademark Office:

<b>MARK</b>	<b>SERIAL NUMBER</b>	<b>REGISTRATION NUMBER</b>	<b>REGISTRATION DATE</b>
A Dog’s Day Out	88594351	6,156,603	September 22, 2020
	99054010		Application Pending

All required affidavits for the Registered Proprietary Marks have been filed. On January 31, 2025, we entered into a License Agreement with our Affiliate Holdings, the owner of the Proprietary Marks. Under the terms of the License Agreement, Holdings granted us a royalty free license to use the Marks in the A Dog’s Day Out System and to sublicense the marks to our franchisees. The term of the License Agreement continues indefinitely until it is terminated in accordance with its terms. Either party is permitted to terminate the License Agreement if the other party breaches and fails to cure within a 30 day period. There are currently no effective determinations of the United States Patent and Trademark Office, the Trademark Trial and Appeal Board, or any state trademark administrator or court; or any pending infringement, opposition, or cancellation proceeding, or any pending material federal or state litigation involving the Proprietary Marks.

There are no agreements currently in effect which significantly limit our rights to use or license the use of the Proprietary Marks in any manner material to the franchise. We know of no superior prior rights or infringing uses that could materially affect your use of the Proprietary Marks.

You may use the Proprietary Marks only for the purpose of operating and advertising the Franchised Business, in accordance with our standards. You may not use the Proprietary Marks in

your corporate name, and every use of the “A Dog’s Day Out” mark as a service mark or trade name or other identifier of the Franchised Business must be in conjunction with the suffix or other words or phrases more specifically identifying the Franchised Business in the exact format that we prescribe. You must comply with our requirements, and all requirements imposed by the jurisdiction in which you operate the Franchised Business, concerning fictitious name usage.

You must promptly notify us of any suspected unauthorized use of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to our ownership of, our right to use and to license others to use, or our right to use, the Proprietary Marks. We have the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including any settlement. We have the right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks. We will defend you against any third-party claim, suit, or demand arising out of your use of the Proprietary Marks. If we, in our sole discretion, determine that you have used the Proprietary Marks in accordance with the Franchise Agreement, the cost of your defense, including the cost of any judgment or settlement, will be borne by us. However, if we, in our sole discretion, determine that you have not used the Proprietary Marks in accordance with the Franchise Agreement, the cost of your defense, including the cost of any judgment or settlement, will be your responsibility. In any litigation relating to your use of the Proprietary Marks, you must sign all documents and do such acts as we may require to effectively carry out your defense or prosecution, including becoming a nominal party to any legal action. We will reimburse you for your out-of-pocket expenses for these acts, except to the extent that the litigation is the result of your use of the Proprietary Marks in a manner inconsistent with the terms of the Franchise Agreement.

We may designate new, modified or replacement marks for your use, and require you, at your own expense, to use them in addition to or instead of any of the previously designated Proprietary Marks. These requirements may include, among things, conducting business under a different trade name.

#### **ITEM 14. PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION**

There are no registered patents or copyrights material to your operation of the franchise. There are no pending patent applications that are material to the franchise.

We do, however, claim common law copyright and trade secret protection for all elements of the System, including our confidential information (which includes our trade secrets, supplier information, operational standards, advertising, marketing and brand strategy information and other information relating to the establishment and operation of an A Dog’s Day Out that we designate as “Confidential Information”), our trade dress, copyrighted works and any designs or processes that may in the future be subject to a patent.

Except as otherwise authorized by the Franchise Agreement, you shall not disclose or use, and you must use your best efforts to ensure that no other person discloses or uses, any of the contents of the Manual or any other trade secrets, whether during or after the term of your Franchise Agreement.

#### **ITEM 15. OBLIGATIONS TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISED BUSINESS**

Except as otherwise agreed, you must personally participate in the day-to-day operation of your Franchised Business or Franchised Businesses. Your day-to-day manager will be bound by certain

provisions of the Franchise Agreement, including the confidentiality and non-compete provisions. Your manager need not have an equity interest in the franchise.

**ITEM 16. RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must offer for sale and sell all products and services that we designate for sale and only those products and services that we authorize for sale. We have the right to change the products and services that you must offer for sale.

We have the right to specify in the Manual or otherwise in writing certain third parties that may be designated suppliers for specified products, materials, supplies, paper goods, fixtures, furnishings and equipment used or sold at the Franchised Business. You must purchase these items from those suppliers designated by us in order to assure the uniform quality and image associated with the Franchised Business.

Unless expressly permitted by us, you may not operate a mobile unit or temporary location within your Territory. No vending, game, audio, video, internet, other coin or currency-operated machines, or any service, product or entertainment machine of any kind are permitted in your Franchised Business.

**ITEM 17. RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION  
THE FRANCHISE RELATIONSHIP**

**This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this disclosure document.**

Provision	Section in Franchise Agreement	Summary
a. Length of the term of the franchise	2.1	10 years.
b. Renewal or extension of the term	2.2	You have the right to renew for one_ additional 10-year term(s) if certain conditions are met.
c. Requirements to renew or extend	2.2	Conditions include timely delivery of written notice of your election to renew; completion of all maintenance, refurbishing, renovating and remodeling of the Franchised Business and all of the equipment, fixtures, furnishings, interior and exterior signage as we require so that the Franchised Business reflects the then-current image of an A Dog’s Day Out; your compliance with the Franchise Agreement and substantial compliance with the terms of the Franchise Agreement during the term; your satisfaction of all monetary obligations that you owe to us and our affiliates; satisfaction of all monies owed to trade creditors; your ability to remain in possession of the Franchised Business premises for the duration of the renewal term; your execution of our then-current form of franchise agreement, which may have materially different terms and conditions than your initial franchise agreement; your execution (and your principals' execution) of a full and general release; your compliance with our then-current qualification and training requirements.
d. Termination by Franchisee	Not Applicable	Not Applicable
e. Termination by Franchisor without cause	Not Applicable	Not Applicable
f. Termination by Franchisor with cause	15.1-15.3	We can terminate the Franchise Agreement only if you default.

<p>g. “Cause” defined — curable defaults</p>	<p>15.3</p>	<p>We can terminate the Franchise Agreement after providing you a 30 day cure period if you: fail to maintain the cleanliness of the Franchised Business; fail to substantially comply with the Franchise Agreement; fail to pay us monies owing under the Franchise Agreement; fail to maintain and observe our standards and specifications; fail to obtain our written approval when required; violate your lease; use marks confusingly similar to the Proprietary Marks; or receive a health code violation.</p>
<p>h. “Cause” defined — non-curable defaults</p>	<p>15.1-15.2</p>	<p>The Franchise Agreement will terminate without an opportunity to cure if: you become insolvent or make a general assignment for the benefit of creditors; you file a voluntary bankruptcy petition; you are adjudicated bankrupt or insolvent; a bill in equity or other proceeding for the appointment of your receiver or other custodian for your business or assets is filed and consented to by you; a receiver or other custodian (permanent or temporary) of your assets or property is appointed by any court of competent jurisdiction; proceedings for a composition with creditors is instituted by or against you; a final judgment remains unsatisfied or of record for 30 days or longer; you are dissolved; execution is levied against the Franchised Business’ business or property; suit to foreclose any lien or mortgage against the Franchised Business premises or equipment is instituted against you and not dismissed within 30 days; the real or personal property of the Franchised Business is sold after levy by any sheriff, marshal, constable or other government official; you fail to locate an approved site or open the Franchised Business within the required time limits; you fail to successfully complete the initial training program; you abandon the Franchised Business or lose your right to possession of the premises; you are convicted of a crime; you violate any non-competition covenant; you disclose any confidential information; you submit false reports to us; you misuse the Proprietary Marks; you refuse to permit</p>

		us to inspect the Franchised Business; or you commit multiple defaults, whether or not cured. We can also terminate the Franchise Agreement if you default under another agreement with us that gives us the right to terminate that other agreement.
i. Franchisee's obligations on termination/non-renewal	16	You must stop operating the Franchised Business; refrain from holding yourself out as a present or former A Dog's Day Out franchisee; stop using all Confidential Information and Proprietary Marks; cancel all assumed names containing the Proprietary Marks; refrain from infringing on our Proprietary Marks; pay all sums that you owe to us and our affiliates; pay us liquidated damages; return the Manuals and all other Confidential Information; comply with the non-compete covenants; provide us a summary of your advertising and promotion schedule; offer us the option to purchase, or assume the lease for, as applicable, the Franchised Business premises and to purchase the Franchised Business' assets; assign to us all telephone numbers that you used in connection with the operation of the Franchised Business; cancel or assign to us all Internet domain names, URLs and website advertising containing or reflecting the Proprietary Marks.
j. Assignment of contract by Franchisor	14.1	We can transfer or assign the Franchise Agreement and all or any part of its rights or obligations to any person or legal entity, and any designated assignee of ours will become solely responsible for all obligations of ours under the Franchise Agreement from the date of assignment.
k. "Transfer" by Franchisee — defined	14.2	A transfer is when you sell, assign, transfer, convey, pledge, encumber, merge or give away any direct or indirect interest in the Franchise Agreement, in Franchisee, or in all or substantially all of the assets of the Franchised Business.
l. Franchisor approval of transfer by Franchisee	14.2	Transfers require our prior written consent.
m. Conditions for Franchisor approval of transfer	14.3	You have satisfied all monetary obligations under the Franchise Agreement; you are not in default; the

		payment terms offered by the transferee are not excessive or unreasonable; you sign a general release; the transferee signs our then-current form of franchise agreement; the transferee is approved by us as a franchisee; and you pay us a transfer fee.
n. Franchisor's right of first refusal to acquire Franchisee's business	14.5	We can match any offer for your business by a third party.
o. Franchisor's option to purchase Franchisee's business	16.11	Upon the termination or expiration of the Franchise Agreement, we can require you to assign your lease, telephone number(s), and email addresses to us. We also have the option of purchasing the assets of the Franchised Business from you within 30 days, including but not limited to equipment, furnishings, and signs at fair market value or book value, whichever is less. If the parties cannot agree on price within a reasonable time, an independent appraisal shall be conducted at our direction and expense and will be binding
p. Death or disability of Franchisee	14.6	Upon the death or physical or mental incapacity of any person with an interest in the Franchise Agreement, in Franchisee, or in all or substantially all of the assets of the Franchised Business, the executor, administrator, or personal representative of such person must transfer the interest to a third party approved by us within 3 months, which will be subject to the same conditions as any other transfer.
q. Non-competition covenants during the term of the franchise	17.2	During the term of the Franchise Agreement, neither you, your principals, nor your personal guarantors shall own or have any interest in any business that offers dog day care, overnight boarding of dogs, kenneling, dog grooming, dog training, or related retail products.
r. Non-competition covenants after the franchise is terminated or expires	17.3	For two years after expiration or termination of the Franchise Agreement, within your Territory or 15 miles of your Franchised Business or any business operating under the Proprietary Marks, neither you, your principals, nor your personal guarantors may own or have any interest in any business that offers dog day care, overnight boarding of dogs,

		kenneling, dog grooming, dog training, or related retail products.
s. Modification of the Agreement	23	No amendment or change to the Franchise Agreement is binding on either you or us unless mutually agreed to by the parties and signed by their authorized officers or agents in writing.
t. Integration/merger clause	23	The Franchise Agreement and exhibits constitute the entire, full and complete agreement between you and us concerning the subject matter of the Franchise Agreement. Nothing in the Franchise Agreement is intended to disclaim any of the representations made in this disclosure document.
u. Dispute resolution by arbitration or mediation	25.2-25.4	Except for certain claims, all disputes must be mediated and arbitrated in the principal city closest to our principal place of business (currently, Fairfax, Virginia), subject to applicable state law.
v. Choice of forum	25.2-25.4	Except for claims for temporary restraining orders and preliminary injunctive relief, all disputes must be mediated and arbitrated in the principal city closest to our principal place of business (currently, Fairfax, Virginia), subject to applicable state law. Further, except as otherwise stated in this Subsection v, disputes such claims, when brought by you, must be litigated in the United States district court for the district in which our principal office is located at the time, or if federal courts lack jurisdiction over the dispute, in a state court responsible for the county in which our then-principal office is located. Nonetheless, we will have the right to ask a court in any jurisdiction in which you are doing business to issue a temporary restraining order or injunction against you, your principals, and/or your guarantors.
w. Choice of law	25.1	Except to the extent that the Federal Arbitration Act, the Lanham Act, or other federal or state law applies, Virginia law governs all disputes.

**ITEM 18. PUBLIC FIGURES**

We do not use any public figures to promote our franchise.

**ITEM 19. FINANCIAL PERFORMANCE REPRESENTATION**

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchise and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may also be given, but only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting our Chief Operating Officer, Charles Richardson III, 4934 Gainsborough Drive, Fairfax, Virginia 22032 or 703-371-8653; the Federal Trade Commission; and the appropriate state regulatory agencies.

**ITEM 20. OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1  
System-Wide Outlet Summary  
For Years 2022 to 2024**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
Franchised	2022	0	0	0
	2023	0	0	0
	2024	0	0	0
Company-Owned	2022	0	0	0
	2023	0	0	0
	2024	0	0	0
Affiliate-Owned	2022	0	0	0
	2023	0	0	0
	2024	0	0	0
Total Outlets	2022	0	0	0
	2023	0	0	0
	2024	0	0	0

**Table No. 2**

**Transfers of Outlets from Franchisee to New Owners  
(other than the Franchisor or an Affiliate)  
For Years 2022 to 2024**

State	Year	Number of Transfers
Total	2022	0
	2023	0
	2024	0

**Table No. 3  
Status of Franchised Outlets  
For Years 2022 to 2024**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor or Affiliate	Ceased Operations-Other Reasons	Outlets at End of the Year
Total	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
	2024	0	0	0	0	0	0	0

**Table No. 4  
Status of Affiliate-Owned Outlets  
For Years 2022 to 2024**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of the Year
VA	2022	3	0	0	0	0	3
VA	2023	3	0	0	0	0	3
VA	2024	3	0	0	0	0	3
Total	2022	3	0	0	0	0	3
	2023	3	0	0	0	0	3
	2024	3	0	0	0	0	3

**Table No. 5  
Projected Openings As of May 2025**

State	Franchise Agreements Signed but Outlet Not Opened	Projected New Franchised Outlet in the Next Fiscal Year	Projected New Company- or Affiliate-Oened Outlet in the Next Fiscal Year
Total	0	0	0
	0	0	0

Exhibit F lists the name of all current franchisees and the addresses and telephone numbers of their Franchised Businesses, as of the date of this franchise disclosure document.

Exhibit G lists the name, city and state, and current business telephone number, or if unknown, the last known home telephone number, of each franchisee whose franchise was transferred, terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during the most recently completed fiscal year; or who has not communicated with us within 10 weeks of the date of this disclosure document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

In the last 3 fiscal years, we have not entered into any agreements with franchisees that contain confidentiality clauses restricting their ability to communicate with you. We are not aware of any trademark-specific franchisee organizations that are associated with our franchise system.

**ITEM 21. FINANCIAL STATEMENTS**

Attached to this disclosure document as Exhibit A is a copy of our audited opening balance sheet as of April 2, 2025.

**ITEM 22. CONTRACTS**

Our standard form of Franchise Agreement is attached to this disclosure document as Exhibit C.

**ITEM 23. RECEIPT**

Two copies of the Receipt for this disclosure document are attached to this disclosure document as Exhibit H. Please return one copy to us and retain one copy for your files.

**EXHIBIT A. FINANCIAL STATEMENTS**



ELLIS CPA, LLC

**INDEPENDENT AUDITOR'S REPORT AND FINANCIAL STATEMENTS  
A DOG'S DAY OUT FRANCHISE SERVICES LLC  
April 2, 2025**

**A Dog's Day Out Franchise Services, LLC**

**April 2, 2025**

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**Date:** April 15, 2025

**To:** Ellis CPA, LLC  
8201 Corporate Drive, Suite 610, PMB 1040  
Hyattsville, MD 20785

### **Management Representation Letter for the Audit of the Balance Sheet as of April 2, 2025**

This representation letter is provided in connection with your audit of the balance sheet of **A Dog's Day Out Franchise Services, LLC** (the "Company") as of **April 2, 2025**, and the related notes to the financial statement, for the purpose of expressing an opinion as to whether the balance sheet is presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP). We confirm, to the best of our knowledge and belief, as of the date of this letter:

#### **Financial Statements**

We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter, for the preparation and fair presentation of the balance sheet in accordance with U.S. GAAP. The balance sheet is complete and fairly presented in accordance with U.S. GAAP and includes all properly classified assets and liabilities. All events subsequent to the date of the balance sheet and through the date of this letter that would require adjustment or disclosure have been properly accounted for or disclosed.

#### **Completeness of Information**

We have provided you with:

Access to all information of which we are aware that is relevant to the preparation and fair presentation of the balance sheet, such as records, documentation, and other matters. Additional information that you have requested for the purpose of the audit. Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence. All transactions have been recorded in the accounting records and are reflected in the balance sheet.

#### **Ownership, Liabilities, and Legal Matters**

The Company has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral. We have disclosed all liabilities of which we are aware, including any contingent liabilities. We are not aware of any pending or threatened litigation, claims, or assessments that would require disclosure or adjustment in the balance sheet, or that would be material to the financial statements. We have disclosed to you all guarantees, whether written or oral, under which the Company is contingently liable.

#### **Fraud and Compliance**

We acknowledge our responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud. We have no knowledge of any fraud or suspected fraud that affects the Company and involves: Management, Employees who have significant roles in internal control, or others where the fraud could have a material effect on the financial statements. We have no knowledge of any allegations of fraud or suspected fraud affecting the Company's financial statements communicated by employees, former employees, analysts, regulators, or others.

#### **Related Party Transactions**

We have disclosed to you the identity of all related parties and all related party relationships and transactions of which we are aware, and we have appropriately accounted for and disclosed such relationships and transactions in accordance with U.S. GAAP.

#### **Other Representations**

There are no known unasserted claims or assessments that our legal counsel has advised are probable of assertion and must be disclosed in accordance with U.S. GAAP.

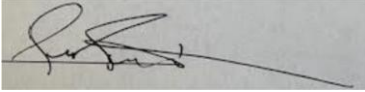
There are no violations or possible violations of laws or regulations the effects of which should be considered for disclosure in the balance sheet or as a basis for recording a loss contingency.

The Company is not undergoing or aware of any regulatory inquiry or investigation that would have a material effect on the balance sheet.

We understand that your audit was conducted in accordance with U.S. generally accepted auditing standards and was, therefore, designed primarily to enable you to form an opinion on the balance sheet as a whole and that your audit would not necessarily disclose all matters that may be of interest to us.

Sincerely,

**A Dog's Day Out Franchise Services, LLC**

By: 

**Owner**

Title: Owner

Date: April 14, 2025



### **Independent Auditor's Report**

To the Member of A Dog's Day Out Franchise Services, LLC  
4934 Gainsborough Drive  
Fairfax VA, 22032-2318

### **Opinion**

We have audited the accompanying balance sheet of A Dog's Day Out Franchise Services, LLC (the "Company") as of April 2, 2025, and the related notes to the financial statement. In our opinion, the balance sheet referred to above presents fairly, in all material respects, the financial position of A Dog's Day Out Franchise Services, LLC as of April 2, 2025, in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Balance Sheet section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Responsibilities of Management for the Balance Sheet**

Management is responsible for the preparation and fair presentation of the balance sheet in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a balance sheet that is free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibilities for the Audit of the Balance Sheet**

Our objectives are to obtain reasonable assurance about whether the balance sheet as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this balance sheet.

As part of an audit in accordance with generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the balance sheet, whether due to fraud or error, and design and perform audit procedures responsive to those risks.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the



ELLIS CPA, LLC

balance sheet.

We communicate with management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies and material weaknesses in internal control that we identify during our audit.

**Restriction on Use**

This report is intended solely for the information and use of regulators and prospective franchisees of A Dog's Day Out Franchise Services, LLC, and is not intended to be and should not be used by anyone other than these specified parties.

Ellis CPA, LLC  
Hyattsville MD,

*Rachel S. Ellis*  
April 15, 2025

3:25 PM  
04/02/25  
Accrual Basis

**A Dog's Day Out Franchise Services LLC**  
**Balance Sheet**  
As of April 2, 2025

---

	<u>Apr 2, 25</u>
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
Truist Checking x9296	25,000.00
<b>Total Checking/Savings</b>	<u>25,000.00</u>
<b>Total Current Assets</b>	<u>25,000.00</u>
<b>TOTAL ASSETS</b>	<u><b>25,000.00</b></u>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Other Current Liabilities	
Loan from Charlie Richardson	25,000.00
Loan from ADDO ASH	1,570.00
<b>Total Other Current Liabilities</b>	<u>26,570.00</u>
<b>Total Current Liabilities</b>	<u>26,570.00</u>
<b>Total Liabilities</b>	26,570.00
Equity	
Net Income	-1,570.00
<b>Total Equity</b>	<u>-1,570.00</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><b>25,000.00</b></u>

## Notes To The Financial Statements

### 1. Nature of Operations

A Dog's Day Out Franchise Services, LLC ("the Company") is a limited liability company organized in the State of Virginia on February 27, 2009. The Company is in the business of awarding franchises for the operation of a business that offers daycare, boarding, kenneling, and grooming services for dogs and the retail sale of dog-related products.

### 2. Summary of Significant Accounting Policies

**Basis of Accounting:** The balance sheet is prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP), using the accrual basis of accounting.

**Cash and Cash Equivalents:** The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents.

### 3. Cash and Cash Equivalents

Cash consists of checking and savings accounts maintained at Truist. The total cash balance at April 2, 2025, was \$25,000. The Company's balances did not exceed FDIC-insured limits.

### 4. Accounts Payable and Accrued Expenses

As of April 2, 2025, accounts payable and accrued expenses consist of the following:

- Loan payable: \$1,570

### 5. Members' Equity

The Company is owned by a single member. As a limited liability company, the net income or loss is passed through to the member for income tax purposes. There were no capital contributions or distributions during the period ending April 2, 2025.

### 6. Subsequent Events

Management has evaluated events through April 15, 2025, the date the financial statements were available to be issued. No events requiring disclosure or adjustment were identified.

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4. Personnel
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11. Administrative Equipment

**EXHIBIT C. FRANCHISE AGREEMENT**

**A DOG'S DAY OUT FRANCHISE SERVICES, LLC**  
**FRANCHISE AGREEMENT**

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## FRANCHISE AGREEMENT

THIS AGREEMENT (“Agreement”) is made and entered into on \_\_\_\_\_, 202\_\_ by and between A Dog’s Day Out Franchise Services, LLC, a Virginia limited liability company with its principal place of business at 4934 Gainsborough Dr., Fairfax, VA 22032 (“Franchisor” or “ADDOFS”) and the person(s) or entity identified on Exhibit A to this Agreement (“Franchisee”).

### WITNESSETH:

**WHEREAS**, Franchisor, as the result of the expenditure of time, skill, effort, and money, has developed, and continues to develop, a distinctive system relating to the establishment, operation, and promotion of dog care service businesses, which offer dog day care, overnight boarding for dogs, and grooming for dogs, and sale of related retail products, and all of which may be changed, improved and further developed by Franchisor from time to time (the “System”);

**WHEREAS**, the distinguishing characteristics of the System include, without limitation, distinctive exterior and interior design, décor, color scheme, fixtures, and furnishings; standards and specifications for services, products, and supplies; uniform standards, specifications, and procedures for operations; payroll and bookkeeping procedures and policies; training and assistance; marketing methods; and advertising and promotional programs (all of which may be changed, improved and further developed by Franchisor from time to time);

**WHEREAS**, the System is identified by means of certain trade names, service marks, trademarks, trade dress, logos, emblems, and/or indicia of origin, including, but not limited to, the name “A Dog’s Day Out,” as are now designated and may hereafter be designated by Franchisor in writing for use in connection with the System (the “Proprietary Marks”);

**WHEREAS**, Franchisee desires to own and operate an A Dog’s Day Out franchise under Franchisor’s System and Proprietary Marks, to enter into an agreement with Franchisor for that purpose, and to receive the training and other assistance provided by Franchisor in connection therewith; and

**WHEREAS**, Franchisee understands and acknowledges the importance of Franchisor’s high standards of quality, cleanliness, appearances, and service and the necessity of operating the business franchised hereunder in conformity with Franchisor’s standards and specifications;

**NOW, THEREFORE**, the parties agree as follows:

### ARTICLE I. GRANT.

- 1.1. Grant of Franchise.** Franchisor grants to Franchisee the right and Franchisee undertakes the obligation, upon the express terms and conditions set forth in this Agreement, to establish and operate an A Dog’s Day Out franchise under the Proprietary Marks and System (the “Franchised Business”), and to use the Proprietary Marks and the System, as they may be changed and improved from time to time at Franchisor’s sole discretion, solely in connection therewith.
- 1.2. Approved Location.** Franchisee shall operate the Franchised Business only at the location identified in Exhibit B (the “Approved Location”). If, at the time of execution of this Agreement, a location for the Franchised Business has not been obtained by Franchisee and approved by Franchisor, Franchisee shall lease or acquire a location within ninety (90)

days after the date of this Agreement, subject to the Franchisor's approval, as provided for in the Site Selection Addendum attached hereto as Exhibit C. Franchisee shall not relocate the Franchised Business without the prior written approval of Franchisor. Franchisor shall have the right, in its sole discretion, to withhold approval of relocation.

**1.3. Franchisee's Territory.** Except as otherwise provided in this Agreement, during the term of this Agreement Franchisor shall not establish or operate, nor license any other person to establish or operate, an A Dog's Day Out franchise under the System and the Proprietary Marks at any location within the territory described in Exhibit B (the "Franchisee's Territory"). Franchisor and its affiliates further retain the rights, among others, on any terms and conditions Franchisor deems advisable, and without granting Franchisee any rights therein:

- (a) to establish and operate, and license others to establish and operate, an A Dog's Day Out business under the System and the Proprietary Marks at any location outside the Franchisee's Territory;
- (b) to sell or distribute, directly or indirectly, or license others to sell or distribute, products and services the same as or similar to those offered under the System, and any other products or services, at any location other than an A Dog's Day Out business (notwithstanding its proximity to the Approved Location) whether within or outside the Franchisee's Territory under the same or different Proprietary Marks, including, without limitation, sales made at supermarkets, convenience stores, markets, and grocery stores, and over the Internet and/or other on-line networks and other communications methods now or hereafter devised of any nature whatsoever;
- (c) to acquire and operate any business or store of any kind under different proprietary marks at any location (notwithstanding its proximity to the Approved Location) whether located within or outside the Franchisee's Territory; and
- (d) within and outside Franchisee's Territory, and notwithstanding any other provision hereof, to acquire, merge with, or otherwise affiliate with, and thereafter own and operate, and franchise or license others to own and operate, any business of any kind, including, without limitation, any business that offers products and services the same as or similar to those offered under the System or that uses the Proprietary Marks or any other system or marks.

**1.4. Supplementing the System.** Franchisee acknowledges that the System may be supplemented, improved, and otherwise modified from time to time by Franchisor; and Franchisee agrees to comply with all reasonable requirements of Franchisor in that regard, including, without limitation, offering and selling new or different products or services as specified by Franchisor.

## **ARTICLE II. TERM AND RENEWAL.**

**2.1. Term.** This Agreement shall be in effect upon its acceptance and execution by Franchisor and, except as otherwise provided herein, the term of this Agreement shall be ten (10) years from the date first above written.

**2.2. Renewal.** Franchisee may, subject to the following conditions, renew the rights granted under this Agreement for one (1) additional consecutive term of ten (10) years. Franchisor

may require, in its sole discretion, that any or all of the following conditions be met prior to such renewal:

- (a) Franchisee shall give Franchisor written notice of Franchisee's election to renew not less than six (6) months nor more than twelve (12) months prior to the end of the then-current term;
- (b) Franchisee shall make or provide for, in a manner satisfactory to Franchisor, such renovation and modernization of the premises of the Franchised Business (the "Premises") as Franchisor may reasonably require, including, without limitation, installation of new equipment and renovation of signs, furnishings, fixtures, and décor to reflect the then-current standards and image of the System;
- (c) Franchisee and all of its affiliates shall not be in default of any provision of this Agreement, any amendment hereof or successor hereto, or any other agreement between Franchisee and Franchisor or its affiliates; and Franchisee and all of its affiliates shall have substantially complied with all the terms and conditions of such agreements during the terms thereof;
- (d) Franchisee and all of its affiliates shall have satisfied all monetary obligations owed by Franchisee to Franchisor and its affiliates under this Agreement, and shall have timely met those obligations throughout the term of this Agreement;
- (e) Franchisee shall present evidence satisfactory to Franchisor that Franchisee has the right to remain in possession of the Premises for the duration of the renewal term (including without limitation providing Franchisor a complete copy of Franchisee's lease and all exhibits and amendments thereto) or shall obtain Franchisor's approval of a new location for the Franchised Business for the duration of the renewal term;
- (f) Franchisee shall, at Franchisor's option, execute Franchisor's then-current form of franchise agreement (but only for such renewal terms as are provided by this Agreement), which shall supersede this Agreement in all respects, and the terms of which may differ from the terms of this Agreement including, without limitation, a higher royalty fee and advertising contribution and a smaller or modified Franchisee's Territory, except that Franchisee shall not be required to pay any initial franchise fee (but shall be required to pay the renewal fee set forth in Section 2.2(i) hereof);
- (g) Franchisee shall execute, and shall cause each of its affiliates to execute, a general release, in a form prescribed by Franchisor, of any and all claims against Franchisor and its affiliates, and their respective officers, directors, agents, and employees;
- (h) Franchisee shall comply with Franchisor's then-current qualification and training requirements; and
- (i) Franchisee shall pay Franchisor a renewal fee in the amount of ten thousand dollars (\$10,000).

### **ARTICLE III. DUTIES OF FRANCHISOR.**

- 3.1. **Plans and Specifications.** Franchisor shall make available, at no charge to Franchisee, (a) standard architectural plans for the Franchised Business, including exterior and interior design and layout, and (b) specifications for fixtures, furnishings and signs. Franchisee acknowledges that such layout and specifications shall not contain the requirements of any federal, state, or local law, code, or regulation (including, without limitation, those concerning the Americans with Disabilities Act (the “ADA”) or similar rules governing public accommodations or commercial facilities for persons with disabilities).
- 3.2. **Training.** Franchisor shall provide training as set forth in Article VI hereof.
- 3.3. **Opening Assistance.** Franchisor shall provide one (1) or more representatives to perform such on-site, pre-opening, and opening assistance as Franchisor, in its sole discretion, deems appropriate.
- 3.4. **Additional Assistance.** On Franchisee’s reasonable request, and in Franchisor’s sole discretion, Franchisor will make available to Franchisee advice and assistance on the proper implementation of the System and operation of the Franchised Business. Franchisor shall have the right to charge a reasonable fee for such advice and assistance.
- 3.5. **Advertising and Promotional Materials.** Franchisor shall make available to Franchisee advertising and promotional materials as provided in Article XII hereof.
- 3.6. **Confidential Operations Manual.** Franchisor shall provide Franchisee, on loan, one copy of Franchisor’s Confidential Operations Manual (the “Manual”), as more fully described in Section 9 hereof.
- 3.7. **Products.** During the required time period of operations of the Franchised Business, as specified by Franchisor in the Manual or otherwise in writing from time to time, Franchisor may make available to Franchisee for sale, or designate or approve other suppliers who shall make available to Franchisee for sale, products and supplies as Franchisor may designate in the Manual or in writing from time to time.
- 3.8. **Brand Fund.** Franchisor reserves the right, as it deems advisable in its sole discretion, to administer an advertising and brand promotion fund in the manner set forth in Article XII hereof.
- 3.9. **Inspections.** Franchisor shall have the right, as it deems advisable in its sole discretion, to conduct inspections of Franchisee’s operation of the Franchised Business.
- 3.10. **Performance by Designee.** Franchisee acknowledges and agrees that any duty or obligation imposed on Franchisor by this Agreement may be performed by any designee, employee, or agent of Franchisor, as Franchisor may direct.

#### **ARTICLE IV. FEES.**

- 4.1. **Initial Franchise Fee.** In consideration of the franchise granted herein, Franchisee shall pay to Franchisor, on execution of this Agreement, an initial franchise fee of thirty-five thousand dollars (\$35,000). The entire initial franchise fee is fully earned and non-refundable in consideration of administrative and other expenses incurred by Franchisor in granting this franchise and for Franchisor’s lost or deferred opportunity to enter into this Agreement with others.

- 4.2. Royalty Fees.** Franchisee shall pay to Franchisor a continuing royalty fee in an amount equal to six percent (6.0%) of Gross Sales for each month during the term of this Agreement, which shall be paid to Franchisor in accordance with Section 4.5 below.
- 4.3. Gross Sales.** “Gross Sales” means all revenues generated from sales of all products and services conducted at, from or with respect to the Franchised Business, whether such sales are evidenced by cash, check, credit, charge, account, barter or exchange. Gross Sales shall not include the sale of products or services for which refunds have been made in good faith to customers, the sale of equipment or furnishings used in the operation of the Franchised Business, any sales taxes or other taxes collected from customers by Franchisee and paid directly to the appropriate taxing authority.
- 4.4. Advertising Expenditures.** Franchisee shall make monthly expenditures and contributions for advertising and promotion as specified in Article XII hereof.
- 4.5. Payments.** All payments to Franchisor required by Sections 4.2 and Article XII hereof shall be paid, using direct deposit or electronic funds transfer (“EFT”), by the tenth (10th) day of each month based on the Gross Sales from the preceding month. Franchisee must furnish to Franchisor and the commercial bank used by Franchisee with authorizations as necessary to enable Franchisor to make withdrawals from Franchisee’s bank account by EFT (including the ACH Authorization Form attached as Exhibit H). Further, all such payments shall be accompanied by such Gross Sales reports as Franchisor requires under Section 11.1 below. Any payment or Gross Sales report not actually received by Franchisor on or before such date shall be deemed overdue. If any payment or Gross Sales report is overdue, Franchisee shall pay Franchisor immediately upon demand, in addition to the overdue amount, a “late charge” on such amount from the date it was due until received by Franchisor, at the rate of one-and-a-half percent (1.5%) per month on the overdue amount, or the maximum rate permitted by applicable law. Entitlement to such late charges shall be in addition to any other remedies Franchisor may have. Franchisee shall not be entitled to set off any payments required to be made under this Article IV against any monetary claim it may have against Franchisor. Franchisor reserves the right to require Franchisee to make any or all payments under this Agreement to an affiliate of Franchisor.
- 4.6. Bank Account.** Franchisee shall deposit all revenues from operation of the Franchised Business into one bank account within two (2) days of receipt, including cash, checks, credit card receipts or the value of other forms of payment. Franchisee shall furnish to Franchisor, upon Franchisor’s request, such bank and account number, a voided check from such bank account, and written authorization for Franchisor to withdraw funds from such bank account via electronic funds transfer without further consent or authorization for all payments payable by Franchisee to Franchisor hereunder. Franchisee agrees to execute any and all documents as may be necessary to effectuate and maintain the electronic funds transfer arrangement, as required by Franchisor. Franchisee agrees to pay all costs associated with any such transfer. In the event Franchisee changes banks or accounts for the bank account required by this Section 4.6, Franchisee shall, prior to such change, provide such information concerning the new account and an authorization to make withdrawals therefrom. Franchisee’s failure to provide such information concerning the bank account required by this Section 4.6 or any new account, or Franchisee’s withdrawal of consent to withdrawals for whatever reason and by whatever method, shall be a breach of this Agreement.

## ARTICLE V. OPENING OF FRANCHISED BUSINESS.

- 5.1. Construction.** Franchisee shall renovate or construct, and equip, the Franchised Business at Franchisee's own expense. Before commencing any renovation or construction of the Franchised Business, Franchisee, at its expense and using an architect and engineering team containing all required licenses and certifications, shall tailor to its Premises the preliminary plans and drawings that Franchisor provides to Franchisee under Section 3.1 above. Such draft and final drawings and specifications shall be submitted to Franchisor for its prior written approval. The drawings and specifications shall not thereafter be changed or modified without the prior written approval of Franchisor. Franchisor's approval hereunder shall not relate to Franchisee's obligations with respect to any federal, state or local laws, codes or regulations including, without limitation, the applicable provisions of the ADA regarding the construction, design and operation of the Franchised Business, which shall be Franchisee's sole responsibility.
- 5.2. Permits.** Franchisee shall be responsible, at Franchisee's expense, for conforming the premises to local ordinances, building codes and the ADA, and for obtaining all zoning classifications, permits, and clearances, including, but not limited to, certificates of occupancy and certificates of health, which may be required by federal, state or local laws, ordinances, or regulations, or which may be necessary or advisable owing to any restrictive covenants relating to the premises or required by the lessor.
- 5.3. Opening Deadline.** Franchisee shall obtain Franchisor's written approval prior to first opening the Franchised Business, which approval shall not be unreasonably withheld. Franchisee shall commence operation of the Franchised Business not later than three hundred sixty-five (365) days after the date of this Agreement, if Franchisee has selected a site prior to the execution hereof or, if Franchisee has executed the Site Selection Addendum, within three hundred sixty-five (365) days after obtaining an Approved Location. The parties agree that time is of the essence in the opening of the Franchised Business.

## ARTICLE VI. TRAINING.

- 6.1. Initial Training Program.** Prior to the opening of the Franchised Business, Franchisee (or, if Franchisee is a corporation, partnership or limited liability company, a principal of Franchisee approved by Franchisor) and all Franchised Business managers who have been approved by Franchisor shall attend and complete to Franchisor's satisfaction the initial training program offered by Franchisor. Any persons subsequently employed by Franchisee in the position of manager shall also attend and complete Franchisor's training program, to Franchisor's satisfaction, within ninety (90) days of their date of hire. Franchisee, Franchisee's managers, and other employees shall also attend such additional courses, seminars and other training programs as Franchisor may reasonably require from time to time.
- 6.2. Training Expenses.** All training programs required by Section 6.1 hereof shall be at such times and places as may be designated by Franchisor, and also may be conducted via Internet, intranet, conference call, or such other means as Franchisor determines in its sole discretion. Except for subsequent manager hires, for all training courses, seminars and programs required by Section 6.1 hereof, Franchisor shall provide, at no charge to

Franchisee, instructors, training materials, and technical training tools. Franchisee shall be responsible for any and all other expenses incurred by Franchisee and its employees in connection with the initial training program and any additional courses, seminars, and other training programs, including, without limitation, the costs of transportation, lodging, meals, and wages. We may charge a reasonable training fee to train subsequent manager hires, and when we provide any other non-initial training.

## **ARTICLE VII. DUTIES OF FRANCHISEE.**

- 7.1. Operating Standards.** Franchisee understands and acknowledges that every detail of the Franchised Business is important to Franchisee, Franchisor and other franchisees in order to develop and maintain high operating standards, to increase the demand for the products sold by all franchised businesses operating under the System, and to protect Franchisor's reputation and goodwill.
- 7.2. Use of Premises.** Franchisee shall use the Premises solely for the operation of the business franchised hereunder; shall keep the Franchised Business open and in normal operation for such minimum hours and days as Franchisor may specify; shall refrain from using or permitting the use of the Premises for any other purpose or activity at any time without first obtaining the written consent of Franchisor; and shall operate the Franchised Business in strict conformity with such methods, standards, and specifications as Franchisor may from time to time prescribe in the Manual or otherwise in writing. Franchisee shall refrain from deviating from such standards, specifications, and procedures without Franchisor's prior written consent.
- 7.3. Adherence to Standards and Specifications.** To insure that the highest degree of quality and service is maintained, Franchisee shall operate the Franchised Business in strict conformity with such methods, standards, and specifications as Franchisor may from time to time prescribe in the Manual or otherwise in writing. Franchisee agrees:
- (a) To maintain in sufficient supply as Franchisor may prescribe in the Manual or otherwise in writing, and to use at all times, only such products acquired from a supplier or suppliers designated or approved by Franchisor, and such other products, materials, supplies, paper goods, fixtures, furnishings, equipment, and signs as conform with Franchisor's standards and specifications, and to refrain from deviating therefrom by the use of nonconforming items, without Franchisor's prior written consent. Franchisor may designate itself or an affiliate to be an approved supplier, or the only approved supplier, of any products or other items.
  - (b) To sell or offer for sale only such products and services as have been expressly approved for sale in writing by Franchisor; to sell or offer for sale all types of products and services specified by Franchisor; to refrain from any deviation from Franchisor's standards and specifications without Franchisor's prior written consent; and to discontinue selling and offering for sale any products or services which Franchisor may, in its discretion, disapprove in writing at any time.
  - (c) To purchase products and supplies designated by Franchisor solely from Franchisor or such other designated sources as Franchisor may describe in the Manual or otherwise in writing from time to time.

- (d) Franchisee agrees that all products shall be stored, maintained and served in strict conformity with Franchisor's standards, specifications and procedures.
- (e) Franchisee acknowledges and agrees that all services shall be performed in strict accordance with the quality standards prescribed in the Manual or otherwise in writing from time to time, and that any services failing to meet such standards shall not be offered for sale or sold by Franchisee.
- (f) To sell all products at retail and not sell such products at wholesale or for re-sale, and to refrain from selling any products at any location other than the Approved Location, except as otherwise stated herein.
- (g) To use, in the operation of the Franchised Business, such standards, specifications, and procedures as prescribed by Franchisor.
- (h) To refrain from selling or advertising any products or services hereunder on the Internet without Franchisor's prior, written approval.
- (i) To participate in any gift certificate or gift card programs prescribed by Franchisor in the Manual or otherwise in writing from time to time, including, but not limited to, selling and offering for sale gift certificates/cards that may be redeemed at any A Dog's Day Out business for services or products; permitting customers who purchased gift certificates from another A Dog's Day Out business or Franchisor to redeem their gift certificates for services or products at Franchisee's Franchised Business; and participating in Franchisor's customer complaint program, which may require Franchisee's offering free gift certificates, at Franchisee's expense, to customers complaining about service at Franchisee's Franchised Business. Franchisee must comply with all of Franchisor's policies regarding advertising and promotion, including the use and acceptance of coupons.

**7.4. Fixtures, Furnishings, and Equipment.** Franchisee shall purchase and install, at Franchisee's expense, all fixtures, furnishings, supplies, equipment (including, without limitation, décor, and signs as Franchisor may reasonably direct from time to time); and shall refrain from installing or permitting to be installed on or about the Premises, without Franchisor's prior written consent, any fixtures, furnishings, equipment, décor, signs or other items not previously approved by Franchisor.

**7.5. Sources of Products.** All products sold or offered for sale at the Franchised Business, and other products, materials, supplies, fixtures, furnishings and equipment used or sold at the Franchised Business, shall meet Franchisor's then-current standards and specifications, as established in the Manual or otherwise in writing. Except as provided in Section 7.3 and 7.4 hereof, Franchisee shall purchase all supplies, materials, and other products and equipment used or offered for sale at the Franchised Business for which Franchisor has established standards or specifications solely from Franchisor, an affiliate of Franchisor, or suppliers (including manufacturers, distributors and other sources) designated by Franchisor that demonstrate, to the continuing reasonable satisfaction of Franchisor, the ability to meet Franchisor's standards and specifications, who possess adequate quality controls and capacity to supply Franchisee's needs promptly and reliably, and who have been approved by Franchisor in the Manual or otherwise in writing. Franchisor reserves the right to require Franchisee to purchase any or all approved products, equipment, and

merchandise solely from Franchisor or an affiliate of Franchisor. If Franchisee desires to purchase products from a party other than an approved supplier, Franchisee shall submit to Franchisor a written request to approve the proposed supplier, together with such evidence of conformity with Franchisor's specifications as Franchisor may reasonably require. Franchisor shall have the right to require that its representatives be permitted to inspect the supplier's facilities, and that samples from the supplier be delivered for evaluation and testing either to Franchisor or to an independent testing facility designated by Franchisor. A charge not to exceed the reasonable cost of the evaluation and testing shall be paid by Franchisee. Franchisor shall use its best efforts, within thirty (30) days after its receipt of such completed request and completion of such evaluation and testing (if required by Franchisor), to notify Franchisee in writing of its approval or disapproval of the proposed supplier. Franchisee shall not sell or offer for sale any products of the proposed supplier until Franchisor's written approval of the proposed supplier is received. Franchisor may from time to time revoke its approval of particular products or suppliers when Franchisor determines, in its sole discretion, that such products or suppliers no longer meet Franchisor's standards. Upon receipt of written notice of such revocation, Franchisee shall cease to sell any disapproved products and cease to purchase from any disapproved supplier. Franchisee agrees that it shall use products purchased from approved suppliers solely for the purpose of operating the Franchised Business and not for any other purpose, including, without limitation, resale. Notwithstanding the above, Franchisor reserves the right, in its business judgment, to require Franchisee to purchase any or all approved products, equipment, merchandise, or services used in the Franchised Business solely from Franchisor or an affiliate of Franchisor.

- 7.6. Initial Inventory.** At the time the Franchised Business opens for the first time, Franchisee shall stock the initial inventory of products and supplies prescribed by Franchisor in the Manual or otherwise in writing. Thereafter, Franchisee shall stock and maintain all types of approved products in quantities sufficient to meet reasonably anticipated customer demand.
- 7.7. On-Premises Supervision.** The Franchised Business shall at all times be under the direct, on-premises supervision of an individual who has satisfactorily completed the training as required by Section 6.1 hereof. Franchisee shall maintain a competent, conscientious, trained staff, including a manager (who may be Franchisee) who has completed the training described in Section 6.1 hereof. Franchisee shall take such steps as are necessary to ensure that its employees preserve good customer relations; render competent, prompt, courteous and knowledgeable service; wear uniforms of the color, design, and other specifications that Franchisor requires; present a neat and clean appearance during all hours of operation; and meet such additional minimum standards as Franchisor may establish from time to time in the Manual. Franchisee and its employees shall handle all customer complaints, refunds, returns and other adjustments in a manner that will not detract from the name and goodwill of Franchisor. Franchisee shall take such steps as are necessary to ensure that its employees do not violate Franchisor's policies relating to the use of Networking Media Sites (as defined in Section 8.8 below), including, but not limited to, prohibiting employees from posting any information relating to Franchisor, the System, the Proprietary Marks, or the Franchised Business on any Networking Media Site that is inconsistent with such policies. Franchisee shall be solely responsible for all employment decisions and functions of the Franchised Business, including, without limitation, those related to hiring, firing,

training, wage and hour requirements, record-keeping, supervision, and discipline of employees.

- 7.8. Inspections.** Franchisee shall permit Franchisor and its agents to enter upon the Franchised Business premises at any time during normal business hours for the purpose of conducting inspections; shall cooperate with representatives of Franchisor in such inspections by rendering such assistance as they may reasonably request; and, upon notice from Franchisor or its agents, and without limiting Franchisor's other rights under this Agreement, shall take such steps as may be necessary to correct immediately any deficiencies detected during any such inspection. Should Franchisee, for any reason, fail to correct such deficiencies within a reasonable time as determined by Franchisor, Franchisor shall have the right, but not the obligation, to correct any deficiencies which may be susceptible to correction by Franchisor and to charge Franchisee a reasonable fee for Franchisor's expenses in so acting, payable to Franchisor upon demand. The foregoing shall be in addition to such other remedies Franchisor may have.
- 7.9. Advertising Materials.** Franchisee shall ensure that all advertising and promotional materials, signs, decorations and other items specified by Franchisor bear the Proprietary Marks in the form, color, location, and manner prescribed by Franchisor and in compliance with Article XII.
- 7.10. Maintenance of Premises.** Franchisee shall maintain the Franchised Business premises (including the adjacent public areas) in a clean, orderly condition and in excellent repair; and, in connection therewith, Franchisee shall, at its expense, make such additions, alterations, repairs and replacements thereto (but no others without Franchisor's prior written consent) as may be required for that purpose, including, without limitation, such periodic repainting or replacement of obsolete signs, furnishings, equipment and décor as Franchisor may reasonably direct.
- 7.11. Refurbishment.** At Franchisor's request, but no more than once every five (5) years, unless sooner required by Franchisee's lease, Franchisee shall refurbish the Franchised Business premises, at its expense, to conform to the building design, trade dress, color schemes and presentation of the Proprietary Marks in a manner consistent with the then-current image for new an A Dog's Day Out business franchised businesses. Such refurbishment may include, without limitation, structural changes, remodeling, redecoration and modifications to existing improvements.
- 7.12. Changes to the System.** Franchisee shall not implement any change, amendment or improvement to the System without the express prior written consent of Franchisor. Franchisee shall notify Franchisor in writing of any change, amendment or improvement in the System which Franchisee proposes to make, and shall provide to Franchisor such information as Franchisor requests regarding the proposed change, amendment or improvement. Franchisee acknowledges and agrees that Franchisor shall have the right to incorporate the proposed change, amendment or improvement into the System and shall thereupon obtain all right, title and interest therein without compensation to Franchisee.
- 7.13. Compliance with Lease.** If Franchisee leases or subleases the Premises, Franchisee shall execute the Conditional Assignment of Lease and Consent and Agreement of Lessor, attached hereto as Exhibit G. Franchisee shall comply with all the terms of its lease or sublease and all other agreements affecting the operation of the Franchised Business; shall

promptly furnish Franchisor a copy of its lease, upon request; shall undertake best efforts to maintain a good and positive working relationship with its landlord and/or lessor; and shall refrain from any activity which may jeopardize Franchisee's right to remain in possession of, or to renew the lease or sublease for, the Franchised Business premises.

- 7.14. Health and Safety Standards.** Franchisee shall meet and maintain the highest health and safety standards and ratings applicable to the operation of the Franchised Business.
- 7.15. Pricing.** Franchisor shall have the right to establish minimum prices and/or maximum prices of the products and services offered, sold, and advertised by Franchisee as allowable by law. Franchisee shall strictly adhere to the prices (including minimum and/or maximum prices) established by Franchisor. Franchisor retains the right to modify the prices from time to time in its reasonable discretion.

## **ARTICLE VIII. PROPRIETARY MARKS AND TECHNOLOGY.**

**8.1. Franchisor's Representations.** Franchisor represents with respect to the Proprietary Marks:

- (a) Franchisor or its affiliate is the owner of all right, title, and interest in and to the Proprietary Marks;
- (b) Franchisor has the right to use, and to license others to use, the Proprietary Marks in accordance with this Agreement; and
- (c) Franchisor or its affiliate has taken and will take all steps reasonably necessary to preserve and protect the ownership and validity of the Proprietary Marks.

**8.2. Franchisee's Use of the Proprietary Marks.** With respect to Franchisee's use of the Proprietary Marks, Franchisee agrees that:

- (a) Franchisee shall use only the Proprietary Marks designated by Franchisor, and shall use them only in the manner authorized and permitted by Franchisor;
- (b) Franchisee shall use the Proprietary Marks only for the operation of the Franchised Business and only at the Approved Location, or in advertising for the Franchised Business conducted at or from the Approved Location;
- (c) Unless otherwise authorized or required by Franchisor, Franchisee shall operate and advertise the Franchised Business only under the name "A Dog's Day Out" and shall use all Proprietary Marks without prefix or suffix. Franchisee shall not use the Proprietary Marks or the acronym "ADD0" as part of its corporate or other legal name;
- (d) During the term of this Agreement and any renewal or extension hereof, Franchisee shall identify itself as the owner of the Franchised Business (in the manner required by Franchisor) in conjunction with any use of the Proprietary Marks, including, but not limited to, on invoices, order forms, receipts, business stationery, and contracts with all third parties or entities, as well as the display of such notices in such content and form and at such conspicuous locations as Franchisor may designate in writing;
- (e) Franchisee's right to use the Proprietary Marks is limited to such uses as are authorized under this Agreement, and any unauthorized use thereof shall constitute

an infringement of Franchisor's rights and will entitle Franchisor to exercise all of its rights under this Agreement in addition to all rights available at law or in equity;

- (f) Franchisee shall not use the Proprietary Marks to incur any obligation or indebtedness on behalf of Franchisor;
- (g) Franchisee shall execute any documents deemed necessary by Franchisor to obtain protection for the Proprietary Marks or to maintain their continued validity and enforceability;
- (h) Franchisee shall promptly notify Franchisor of any suspected unauthorized use of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to Franchisor's ownership of, Franchisor's right to use and to license others to use, or Franchisee's right to use, the Proprietary Marks. Franchisee acknowledges that Franchisor has the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including any settlement thereof. Franchisor has the right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks. Franchisor shall defend Franchisee against any third-party claim, suit, or demand arising out of Franchisee's use of the Proprietary Marks. If Franchisor, in its sole discretion, determines that Franchisee has used the Proprietary Marks in accordance with this Agreement, the cost of such defense, including the cost of any judgment or settlement, shall be borne by Franchisor. If Franchisor, in its sole discretion, determines that Franchisee has not used the Proprietary Marks in accordance with this Agreement, the cost of such defense, including the cost of any judgment or settlement, shall be borne by Franchisee. In the event of any litigation relating to Franchisee's use of the Proprietary Marks, Franchisee shall execute any and all documents and do such acts as may, in the opinion of Franchisor, be necessary to carry out such defense or prosecution, including, but not limited to, becoming a nominal party to any legal action. Except to the extent that such litigation is the result of Franchisee's use of the Proprietary Marks in a manner inconsistent with the terms of this Agreement, Franchisor agrees to reimburse Franchisee for its out-of-pocket costs in doing such acts; and
- (i) Franchisee shall not attempt to register or otherwise obtain any interest in any Internet domain name or URL containing any of the Proprietary Marks or any other word, name, symbol or device which is likely to cause confusion with any of the Proprietary Marks.

**8.3. Acknowledgements.** Franchisee expressly understands and acknowledges that:

- (a) The Franchise Owner is the owner of all right, title, and interest in and to the Proprietary Marks and the goodwill associated with and symbolized by them, and Franchisor has the right to use, and license others to use, the Proprietary Marks;

- (b) The Proprietary Marks are valid and serve to identify the System and those who are authorized to operate under the System;
- (c) During the term of this Agreement and after its expiration or termination, Franchisee shall not directly or indirectly contest the validity of Franchisor's ownership of, or Franchisor's right to use and to license others to use, the Proprietary Marks;
- (d) Franchisee's use of the Proprietary Marks does not give Franchisee any ownership interest or other interest in or to the Proprietary Marks;
- (e) Any and all goodwill arising from Franchisee's use of the Proprietary Marks shall inure solely and exclusively to the benefit of Franchisor, and upon expiration or termination of this Agreement and the license granted herein, no monetary amount shall be assigned to Franchisee or any of its principals, affiliates, subsidiaries, successors, licensees or assigns as attributable to any goodwill associated with Franchisee's use of the System or the Proprietary Marks;
- (f) Except as specified in Section 1.3 hereof, the license of the Proprietary Marks granted hereunder to Franchisee is nonexclusive, and Franchisor and its affiliates thus have and retain the rights, among others: (a) to use the Proprietary Marks itself in connection with selling products and services; (b) to grant other licenses for the Proprietary Marks; and (c) to develop and establish other systems using the Proprietary Marks, similar proprietary marks, or any other proprietary marks, and to grant licenses thereto without providing any rights therein to Franchisee; and
- (g) Franchisor reserves the right, in Franchisor's sole discretion, to modify, add to, or discontinue use of the Proprietary Marks, or to substitute different proprietary marks, for use in identifying the System and the businesses operating thereunder. Franchisee agrees promptly to comply with such changes, revisions and/or substitutions, and to bear all the costs of modifying Franchisee's signs, advertising materials, interior graphics and any other items which bear the Proprietary Marks to conform therewith.

#### **8.4. Computer System and Required Software.**

- (a) Franchisor shall have the right to specify or require that certain brands, types, makes, and/or models of communications, computer systems, and hardware be used by Franchisee, including without limitation: (a) front office and point of sale systems, data, audio, and video, systems for use at the Franchised Business; (b) printers and other peripheral hardware or devices; (c) archival back-up systems; (d) Internet access mode and speed; and (e) physical, electronic, and other security systems (collectively, the "Computer System").
- (b) Franchisor shall have the right, but not the obligation, to develop or have developed for it, or to designate: (a) computer software programs that Franchisee must use in connection with the Computer System (the "Required Software"), which Franchisee shall install at its expense (including payment of any software license fees); (b) updates, supplements, modifications, or enhancements to the Required Software, which Franchisee shall install at its expense; (c) the tangible media upon which Franchisee shall record data; and (d) the database file structure of the Computer System.

- (c) At Franchisor's request, Franchisee shall purchase or lease, and thereafter maintain, the Computer System and, if applicable, the Required Software. Franchisor shall have the right at any time to remotely retrieve and use such data and information from Franchisee's Computer System or Required Software that Franchisor deems necessary or desirable. Franchisee expressly agrees to strictly comply with Franchisor's standards and specifications for all items associated with Franchisee's Computer System and any Required Software in accordance with Franchisor's standards and specifications. Franchisee agrees, at its own expense, to keep the Computer System in good maintenance and repair and install such additions, changes, modifications, substitutions, and/or replacements to the Computer System or Required Software as Franchisor directs from time to time in writing. Franchisee agrees that its compliance with this Section 8.4 shall be at Franchisee's sole cost and expense.
- 8.5. Data.** All data provided by Franchisee, uploaded to Franchisor's system from Franchisee's system, downloaded from Franchisee's system to Franchisor's system, and/or obtained electronically or otherwise from Franchisee by Franchisor, is and will be owned exclusively by Franchisor, and Franchisor will have the right to use such data in any manner that Franchisor deems appropriate without compensation to Franchisee. In addition, all other data created or collected by Franchisee in connection with the System, or in connection with Franchisee's operation of the Franchised Business (including but not limited to consumer and transaction data), is and will be owned exclusively by Franchisor during the term of, and following termination or expiration of, this Agreement. Copies and/or originals of such data must be provided to Franchisor upon Franchisor's request. Franchisor hereby licenses use of such data back to Franchisee, at no additional cost, solely for the term of this Agreement and solely for Franchisee's use in connection with the establishment and operation of the Franchised Business pursuant to this Agreement.
- 8.6. Privacy.** Subject to applicable law, Franchisor may, from time-to-time, specify in the Manual (or otherwise in writing) the information that Franchisee shall collect and maintain on the Computer System installed at the Franchised Business, and Franchisee shall provide to Franchisor such reports as Franchisor may reasonably request from the data so collected and maintained. All data pertaining to or derived from the Franchised Business (including, without limitation, data pertaining to or otherwise about customers) is and shall be the exclusive property of Franchisor, and Franchisor hereby grants a royalty-free nonexclusive license to Franchisee to use said data during the term of this Agreement. Franchisee shall abide by all applicable laws pertaining to the privacy of consumer, employee, and transactional information. Franchisee shall not publish, disseminate, implement, revise, or rescind a data privacy policy without Franchisor's prior written consent as to said policy.
- 8.7. Extranet.** Franchisor may, but is not obligated to, establish an Extranet. The term "Extranet" means a private network based upon Internet protocols that will allow users inside and outside of Franchisor's headquarters to access certain parts of Franchisor's computer network via the Internet. If Franchisor does establish an Extranet, then Franchisee shall comply with Franchisor's requirements (as set forth in the Manual or otherwise in writing) with respect to connecting to the Extranet and utilizing the Extranet in connection with the operation of the Franchised Business. The Extranet may include, without limitation, the Manual, training and other assistance materials, and management

reporting solutions (both upstream and downstream, as Franchisor may direct). Franchisee shall purchase and maintain such computer software and hardware (including, but not limited to, telecommunications capacity) as may be required to connect to and utilize the Extranet. Franchisor shall have the right to require Franchisee to install a video, voice and data system that is accessible by both Franchisor and Franchisee on a secure Internet website, in real-time, all in accordance with Franchisor's then-current written standards as set forth in the Manual or otherwise in writing. Franchisee shall comply with Franchisor's requirements (as set forth in the Manual or otherwise in writing) with respect to establishing and maintaining telecommunications connections between Franchisee's Computer System and Franchisor's Extranet and/or such other computer systems as Franchisor may reasonably require.

**8.8. Websites.** Unless otherwise approved in writing by Franchisor, Franchisee shall not establish a separate Website. However, Franchisor shall have the right to require that Franchisee have one or more references or webpage(s), as designated and approved in advance by Franchisor, within Franchisor's principal Website (currently, [www.adogsdayout.com](http://www.adogsdayout.com)) ("Franchisor's Website"). The term "Website" means an interactive electronic document contained in a network of computers linked by communications software, commonly referred to as the Internet or World Wide Web, including, but not limited to, any account, page, or other presence on a social or business networking media site, such as Facebook, TikTok, Instagram, X, Linked In, and on-line blogs and forums ("Networking Media Sites"). Franchisor shall have the right to require that Franchisee not have any Website other than the webpage(s), if any, made available on Franchisor's Website. However, if Franchisor approves a separate Website for Franchisee (which Franchisor is not obligated to approve; and, which approval, if granted, may later be revoked by Franchisor), then each of the following provisions shall apply:

- (a) Franchisee specifically acknowledges and agrees that any Website owned, established, or maintained by or for the benefit of Franchisee shall be deemed "advertising" under this Agreement and will be subject to, among other things, Franchisor's prior review and approval;
- (b) Before establishing any Website, Franchisee shall submit to Franchisor, for Franchisor's prior written approval, a sample of the proposed Website domain name, format, visible content (including, without limitation, proposed screen shots), and non-visible content (including, without limitation, meta tags) in the form and manner Franchisor may reasonably require;
- (c) If approved, Franchisee shall not materially modify such Website without Franchisor's prior written approval as to such proposed modification;
- (d) Franchisee shall comply with the standards and specifications for Websites that Franchisor may periodically prescribe in the Manual or otherwise in writing;
- (e) If required by Franchisor, Franchisee shall establish such hyperlinks to Franchisor's Website and other Websites as Franchisor may request in writing;
- (f) Neither Franchisee, its principals, its guarantors, nor any of Franchisee's employees ("Covered Persons") shall, directly, or indirectly through others, make any posting or other contribution to a Networking Media Site relating to Franchisor, the System, the

Proprietary Marks, or the Franchised Business that (a) is derogatory, disparaging, or critical of Franchisor; (b) is offensive, inflammatory, or indecent; (c) harms the goodwill and public image of the System and/or the Proprietary Marks; or (d) violates Franchisor's policies relating to the use of Networking Media Sites. At Franchisor's option, Franchisee shall require its employees to sign non-disparagement agreements in a form acceptable to Franchisor.

- 8.9. Domain Names.** Franchisee acknowledges and agrees that if Franchisor grants its approval for Franchisee's use of a generic, national, and/or regionalized domain name, Franchisor shall have the right to own and control said domain name at all times and may license it to Franchisee for the term of this Agreement on such terms and conditions as Franchisor may reasonably require (including, but not limited to, the requirement that Franchisee reimburse Franchisor's costs for doing so). If Franchisee already owns any domain names, or hereafter registers any domain names, then Franchisee agrees that it shall notify Franchisor in writing and assign said domain names to Franchisor and/or a designee that Franchisor specifies in writing.
- 8.10. Online Use of Proprietary Marks and E-Mail Solicitations.** Except as authorized in writing by Franchisor, Franchisee shall not use the Proprietary Marks or any abbreviation or other name associated with Franchisor and/or the System as part of any e-mail address, domain name, and/or other identification of Franchisee in any electronic medium. Franchisee agrees not to transmit or cause any other party to transmit advertisements or solicitations by e-mail or other electronic media without first obtaining Franchisor's written consent as to: (a) the content of such e-mail advertisements or solicitations; and (b) Franchisee's plan for transmitting such advertisements. In addition to any other provision of this Agreement, Franchisee shall be solely responsible for compliance with all laws pertaining to e-mails.
- 8.11. No Outsourcing Without Prior Written Approval.** Franchisee shall not hire third party or outside vendors to perform any services or obligations in connection with the Computer System, Required Software, or any other of Franchisee's obligations without Franchisor's prior written approval. Franchisor's consideration of any proposed outsourcing vendor(s) may be conditioned upon, among other things, such third party or outside vendor's entry into a confidentiality agreement with Franchisor and Franchisee in a form that is provided by Franchisor. The provisions of this Section 8.11 are in addition to and not instead of any other provision of this Agreement.
- 8.12. Changes to Technology.** Franchisee and Franchisor acknowledge and agree that changes to technology are dynamic and not predictable within the term of this Agreement. In order to provide for inevitable but unpredictable changes to technological needs and opportunities, Franchisee agrees that Franchisor shall have the right to establish, in writing, reasonable new standards for the implementation of technology in the System; and Franchisee agrees that it shall abide by those reasonable new standards established by Franchisor as if this Agreement were periodically revised by Franchisor for that purpose.

## **ARTICLE IX. OPERATIONS MANUAL.**

- 9.1. Standards of Operation.** In order to protect the reputation and goodwill of Franchisor and to maintain high standards of operation under the System, Franchisee shall operate the

Franchised Business in accordance with the standards, methods, policies, and procedures specified in the Manual, one copy of which Franchisee shall receive on loan from Franchisor for the term of this Agreement upon completion by Franchisee of Franchisor's initial training program to Franchisor's satisfaction. The Manual may consist of multiple volumes of printed text, computer disks, other electronically stored data, DVDs, and/or videotapes. Franchisee acknowledges and agrees that Franchisor may provide a portion or all of the Manual (including updates and amendments), and other instructional information and materials, in or via electronic media, including, without limitation, through the Internet. If Franchisee's copy of the Manual is lost, stolen, or destroyed, Franchisee shall be required to obtain another copy of the Manual from Franchisor and pay Franchisor a replacement fee of three hundred dollars (\$300).

- 9.2. **Confidentiality.** Franchisee shall treat the Manual, any other manuals created for or approved for use in the operation of the Franchised Business, and the information contained therein, as confidential, and shall use all reasonable efforts to maintain such information as secret and confidential. Franchisee shall not copy, duplicate, record or otherwise reproduce the foregoing materials, in whole or in part, or otherwise make the same available to any unauthorized person.
- 9.3. **Exclusive Property.** The Manual shall remain the sole property of Franchisor and shall be kept in a secure place on the Franchised Business premises.
- 9.4. **Revisions to Manual.** Franchisor may from time to time revise the contents of the Manual, and Franchisee expressly agrees to comply with each new or changed standard. Franchisee shall ensure that the Manual is kept current at all times. In the event of any dispute as to the contents of the Manual, the terms of the master copy maintained by Franchisor shall be controlling.

## ARTICLE X. CONFIDENTIAL INFORMATION.

- 10.1. **Confidential Information.** Franchisee shall not, during the term of this Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, partnership, association, limited liability company or corporation any confidential information, knowledge, or know-how concerning the methods of operation of the business franchised hereunder, including, without limitation, the Manual and the information conveyed therein, customer lists, drawings, or specifications that may be communicated to Franchisee or of which Franchisee may be apprised by virtue of Franchisee's operation under the terms of this Agreement ("Confidential Information"). Franchisee shall divulge such Confidential Information only to such of its employees as must have access to it in order to operate the Franchised Business. Any and all information, knowledge, know-how, techniques and other data which Franchisor designates as confidential shall be deemed confidential for purposes of this Agreement.
- 10.2. **Confidentiality Agreements.** At Franchisee's request, Franchisee shall require Franchisee's managers and other such personnel having access to any of Franchisor's Confidential Information as Franchisor requires to execute non-competition covenants and covenants that they will maintain the confidentiality of information they receive in connection with their employment by Franchisee at the Franchised Business. Such covenants shall be in the form attached hereto as Exhibit D.

- 10.3. Irreparable Injury.** Franchisee acknowledges that any failure to comply with the requirements of this Article X will cause Franchisor irreparable injury, and Franchisee agrees to pay all court costs and reasonable attorneys' fees incurred by Franchisor in obtaining specific performance of, or an injunction against violation of, the requirements of this Article X, or such other relief sought by Franchisor.

## **ARTICLE XI. ACCOUNTING AND RECORDS.**

- 11.1. Gross Sales Reports.** Franchisee shall record all sales on a point-of-sale recordkeeping and control system designated by Franchisor, or on any other equipment specified by Franchisor in the Manual or otherwise in writing. Franchisee shall maintain a record of all Gross Sales and expenses using such software or other means as specified by Franchisor in the Manual or otherwise in writing. Franchisee shall provide Franchisor with such Gross Sales records together with Franchisee's Royalty Fee payments as required by Section 4.5 hereof. Such reports shall be submitted to Franchisor by such means as designated by Franchisor in the Manual or otherwise in writing, including, but not limited to, a Web-based management system or other system that allows Franchisor instant, unrestricted access to Franchisee's sales information. Any report not actually received by Franchisor on or before the due date shall be deemed overdue. If a report is overdue, all payments to Franchisor for that month, whether or not timely received, shall be deemed overdue until such time as Franchisor has received the required report, and late charges shall be due as provided in Section 4.5. Franchisor shall have the right to access any business information or data collected and generated on Franchisee's point-of-sale system.
- 11.2. Other Reports.** Franchisee shall submit to Franchisor within thirty (30) days after the close of each fiscal quarter, a quarterly profit and loss statement. Upon Franchisor's request, but not more often than once per month, Franchisee shall, at Franchisee's expense, submit to Franchisor in the form prescribed by Franchisor, within fifteen (15) days of Franchisor's request, unaudited financial statements showing the results of operations of the Franchised Business during the preceding calendar month, and such other forms, reports, records, information and data as Franchisor may reasonably designate.
- 11.3. Annual Financial Statements.** Franchisee shall, at Franchisee's expense, submit to Franchisor in the form prescribed by Franchisor, within ninety (90) days after the end of each fiscal year, Franchisee's financial statements for the preceding fiscal year, including, without limitation, a complete and accurate profit and loss statement and balance sheet, which may be unaudited but, upon Franchisor's request, shall be reviewed in accordance with generally accepted accounting principles.
- 11.4. Preservation of Records.** Franchisee shall prepare, and shall preserve for at least seven (7) years from the dates of their preparation (or such longer period as may be required under applicable law), complete and accurate books, records and accounts in accordance with generally accepted accounting principles and in the form and manner prescribed by Franchisor from time to time in the Manual or otherwise in writing.
- 11.5. Inspection and Audit.** **FRANCHISOR AND ITS DESIGNATED AGENTS SHALL HAVE THE RIGHT AT ALL REASONABLE TIMES TO EXAMINE AND COPY, AT FRANCHISOR'S EXPENSE, THE BOOKS, RECORDS, ACCOUNTS AND TAX RETURNS OF FRANCHISEE. FRANCHISOR SHALL ALSO HAVE THE**

**RIGHT, AT ANY TIME, TO HAVE AN INDEPENDENT AUDIT MADE OF THE BOOKS OF FRANCHISEE. IF AN INSPECTION SHOULD REVEAL THAT ANY PAYMENTS HAVE BEEN UNDERSTATED IN ANY REPORT TO FRANCHISOR, THEN FRANCHISEE SHALL IMMEDIATELY PAY TO FRANCHISOR THE AMOUNT UNDERSTATED UPON DEMAND, IN ADDITION TO INTEREST FROM THE DATE SUCH AMOUNT WAS DUE UNTIL PAID, AT THE RATE OF EIGHTEEN PERCENT (18%) PER ANNUM, OR THE MAXIMUM RATE PERMITTED BY LAW, WHICHEVER IS LESS, PLUS ALL OF FRANCHISOR'S COSTS AND EXPENSES IN CONNECTION WITH THE INSPECTION, INCLUDING, WITHOUT LIMITATION, TRAVEL COSTS, LODGING AND WAGES EXPENSES, AND REASONABLE ACCOUNTING AND LEGAL COSTS. THE FOREGOING REMEDIES SHALL BE IN ADDITION TO ANY OTHER REMEDIES FRANCHISOR MAY HAVE.**

## **ARTICLE XII. ADVERTISING AND PROMOTION.**

Recognizing the value of advertising and promotion, and the importance of the standardization of advertising and promotion programs to the furtherance of the goodwill and public image of the System, the parties agree as follows:

- 12.1. Grand Opening Advertising.** At least thirty (30) days prior to the opening of the Franchised Business, Franchisee shall prepare and submit to Franchisor for its approval a grand opening advertising and promotional program in the form and manner prescribed by Franchisor in writing. Franchisee shall expend at least four thousand dollars (\$4,000) on such grand opening advertising and promotion.
- 12.2. Local Advertising and Promotion.** During the first three (3)-month period after the Franchised Business's opening, Franchisee must spend at least an additional three thousand dollars (\$3,000) on local marketing, advertising, and promotion. Thereafter, the Franchisee shall expend, on a monthly basis, an amount equal to at least two percent (2.0%) of Franchisee's Gross Sales from the previous month on such marketing, advertising, and promotion. All local marketing, advertising, and promotion shall be conducted in such manner as Franchisor may, in its sole discretion, direct in the Manual or otherwise in writing.
- 12.3. Verification of Advertising Expenditures.** Franchisee shall submit verification of the expenditures required by Sections 12.1 and 12.1 hereof to Franchisor in the form and manner prescribed by Franchisor in the Manual or otherwise in writing from time to time.
- 12.4. Brand Fund Fee.** Franchisor reserves the right, but not the obligation, to establish and maintain an advertising and brand promotion fund (the "Brand Fund"). Throughout the existence of any Brand Fund, Franchisee must, on a monthly basis, pay a fee in an amount equal to one percent (1.0%) of Franchisee's Gross Sales from the preceding month. Such contributions to the Brand Fund shall be in addition to any expenditures made pursuant to Sections 12.1 and 12.1 hereof and shall be made in accordance with Section 4.5 hereof. The Brand Fund shall be maintained and administered by Franchisor or its affiliate as follows:
  - (a) Franchisor or its affiliate shall direct all advertising programs, with sole discretion over the concepts, materials, and media used in such programs and the placement and

allocation thereof. Franchisee agrees and acknowledges that the Brand Fund is intended to maximize general public recognition, acceptance, and use of the System; and that Franchisor or its affiliate is not obligated, in administering the Brand Fund, to make expenditures for Franchisee which are equivalent or proportionate to Franchisee's contribution, or to ensure that any particular franchisee benefits directly or from expenditures by the Brand Fund.

- (b) The Brand Fund, all contributions thereto, and any earnings thereon, shall be used exclusively to meet any and all costs of maintaining, administering, directing, conducting and preparing advertising, marketing, public relations, and/or promotional programs and materials, and any other activities which Franchisor or its affiliate believes will enhance the image of the System, including, among other things, the costs of preparing and conducting radio, cable television, print, and Internet-based advertising campaigns; utilizing Networking Media Sites (as defined in Section 8.8 above) and other emerging media or promotional tactics; developing, maintaining, and updating a Website on the Internet; review of locally produced advertisements; door hangers, mailers, inserts and coupons; brochures and promotional materials; market research, market surveys, and sponsorships; web site design and maintenance; public relations and related retainers; mystery shoppers for the System and competitors; celebrity endorsements; trade shows (including costs of travel and personnel expenses, trade booths, and specialty entertainment); association dues; search engine optimization; employing advertising and/or public relations agencies; purchasing promotional items; providing promotional and other marketing materials and services to the businesses operating under the System; developing poster, banners, and signs; advertising for the sale of franchises.
- (c) All sums paid by Franchisee to the Brand Fund shall be maintained in an account separate from the other monies of Franchisor and shall not be used to defray any of Franchisor's or its affiliate's expenses, except for such reasonable costs and overhead, if any, as Franchisor or its affiliate may incur in activities reasonably related to the direction and implementation of the Brand Fund and advertising programs for franchisees and the System, including, among other things, costs of personnel for creating and implementing advertising, promotional and marketing programs, accounting expenses, and other out of pocket expenses to third parties incurred by the Brand Fund. Franchisor shall maintain separate bookkeeping accounts for the Brand Fund and reserves the right to form an affiliated entity to control and administer the Brand Fund. Franchisee acknowledges that neither Franchisor nor its affiliate is a fiduciary to Franchisee of the monies in the Brand Fund.
- (d) It is anticipated that all contributions to and earnings of the Brand Fund will be expended for advertising and/or promotional purposes during the taxable year within which the contributions are made. If, however, excess amounts remain in the Brand Fund at the end of such taxable year, all expenditures in the following taxable year(s) will be made first out of accumulated earnings from previous years, next out of earnings in the current year, and finally from contributions.
- (e) Although the Brand Fund is intended to be of perpetual duration, Franchisor or its affiliate maintains the right to terminate the Brand Fund. The Brand Fund shall not

be terminated, however, until all monies in the Brand Fund have been expended for advertising and/or promotional purposes.

- 12.5. Advertising Materials.** All advertising and promotion (including without limitation any design, advertisement, sign, or form of publicity) by Franchisee shall be in such media and of such type and format as Franchisor may approve, shall be conducted in a dignified manner, and shall conform to such standards and requirements as Franchisor may specify. Franchisee shall not use any such advertising or promotional plans or materials unless and until Franchisee has received written approval from Franchisor, pursuant to the procedures and terms set forth in Section 12.6 hereof. Franchisor may make available to Franchisee from time to time, pre-approved advertising that Franchisee will be required to use during such season and at such times as Franchisor shall specify in writing. In addition, Franchisor may make available, at Franchisee's expense, such promotional materials, including newspaper mats, coupons, merchandising materials, point-of-purchase materials, special promotions, and similar advertising and promotional materials.
- 12.6. Franchisor Approval.** Franchisee shall submit to Franchisor samples of all advertising and promotional plans and materials (including without limitation any design, advertisement, sign, or form of publicity) and proposed coupons for any print, broadcast, cable, electronic, computer or other media (including, without limitation, the Internet) that Franchisee desires to use and that have not been prepared or previously approved by Franchisor within the preceding six (6) months for Franchisor's prior approval. Any request by Franchisee for Franchisor's approval of advertising materials must be addressed to Franchisor and marked "Attention: Advertising Department - Ad Review." Franchisee shall not use such plans or materials or coupons until they have been approved in writing by Franchisor. If written notice of approval is not received by Franchisee from Franchisor within fifteen (15) days of the date of receipt by Franchisor of such samples or materials, Franchisor shall be deemed to have disapproved them.
- 12.7. Directory Listings.** Should Franchisor so require, Franchisee shall, at its expense, list the Franchised Business in any and all directories identified by Franchisor. Franchisee shall comply with Franchisor's specifications regarding same. Franchisee's expenditures for the advertising described in this Section 12.8 shall be in addition to any expenditures required under this Article XII.
- 12.8. Photographs of the Franchised Business.** Franchisor shall have the right to photograph the interior and exterior of the Franchised Business and use such photographs in any advertising or promotional materials. Franchisor is not obliged to compensate Franchisee or Franchisee's employees for use of the Franchised Business or Franchisee's employees in any advertising or promotional materials. Franchisee shall cooperate in securing the consent of persons photographed for such use.
- 12.9. Advertising Cooperative.** Franchisor shall have the right, in its discretion, to designate any geographical area for purposes of establishing a regional advertising and promotional cooperative ("Cooperative"), and to determine whether a Cooperative is applicable to the Franchised Business. If a Cooperative has been established applicable to the Franchised Business at the time the Franchisee commences operations hereunder, Franchisee shall immediately become a member of the Cooperative. If a Cooperative applicable to the Franchised Business is established at any later time during the term of this Agreement,

Franchisee shall become a member of such Cooperative no later than thirty (30) days after the date on which the Cooperative commences operation. If the Franchised Business is within the territory of more than one Cooperative, Franchisee shall be required to be a member of only one such Cooperative:

- (a) Each Cooperative shall be organized and governed in a form and manner, shall commence operation on a date, and shall operate pursuant to written governing documents, all of which must be approved in advance by Franchisor in writing.
- (b) Each Cooperative shall be organized for the exclusive purpose of administering regional advertising programs and developing, subject to Franchisor's
- (c) No promotional or advertising plans or materials may be used by a Cooperative or furnished to its members without the prior approval of Franchisor. All such plans and materials shall be submitted to Franchisor in accordance with the procedure set forth in Section 12.6 hereof.
- (d) Each Cooperative shall have the right to require its members to make contributions to the Cooperative in such amounts as determined by the Cooperative; provided, however, that Franchisee shall not be required to contribute to any Cooperative in excess of one percent (1.0%) of Gross Sales during any calendar year, unless two-thirds of the members of the Cooperative vote in favor of a greater contribution. Franchisee's payments made under this Section 12.9(d) shall be credited towards the expenditure required to be made under Section 12.1 hereof. Each member franchisee shall submit to the Cooperative the amount invoiced by the Cooperative or Franchisor, as described in Section 4.5 hereof, its contribution as provided in Section 12.9(d) hereof, together with such other statements or reports as may be required by Franchisor or by the Cooperative with Franchisor's prior approval.
- (e) Franchisor, in its sole discretion, may grant to any franchisee an exemption for any length of time from the requirement of membership in a Cooperative, upon written request of such franchisee stating the reasons supporting such exemption. Franchisor's decision concerning such request for exemption shall be final. If an exemption is granted to a franchisee, such franchisee shall be required to expend on local promotion and advertising in the full amount provided for in Section 12.1 hereof. Franchisor reserves the right to require Cooperatives to be changed, dissolved, or merged.

## **ARTICLE XIII. INSURANCE.**

**13.1. Minimum Insurance Requirements.** Franchisee shall procure, prior to the commencement of any operations under this Agreement, and shall maintain in full force and effect at all times during the term of this Agreement, at Franchisee's expense, an insurance policy or policies protecting Franchisee, Franchisor, and their respective officers, directors, partners, agents and employees against any demand or claim with respect to personal injury, death or property damage, or any loss, liability or expense whatsoever arising or occurring upon or in connection with the Franchised Business, including, but not limited to, comprehensive general liability insurance, property and casualty insurance, business interruption insurance, statutory workers' compensation insurance, employer's liability insurance, product liability insurance, and automobile insurance coverage for all

vehicles used in connection with the Franchised Business. Such policy or policies shall be written by a responsible carrier or carriers acceptable to Franchisor, shall name Franchisor as an additional insured as specified by Franchisor, and shall provide at least the types and minimum amounts of coverage specified in the Manual.

- 13.2. No Waiver.** Franchisee's obligation to obtain and maintain the policy or policies in the amounts specified in the Manual shall not be limited in any way by reason of any insurance which may be maintained by Franchisor, nor shall Franchisee's performance of that obligation relieve it of liability under the indemnity provisions set forth in Section 20.3 of this Agreement.
- 13.3. Franchisor Entitled to Recover.** All public liability and property damage policies shall contain a provision that Franchisor, although named as an insured, shall nevertheless be entitled to recover under such policies on any loss occasioned to Franchisor or its servants, agents or employees by reason of the negligence of Franchisee or its servants, agents or employees.
- 13.4. Certificates of Insurance.** Prior to the commencement of any operations under this Agreement, and thereafter at least thirty (30) days prior to the expiration of any policy, Franchisee shall deliver to Franchisor Certificates of Insurance evidencing the proper types and minimum amounts of coverage. All Certificates shall expressly provide that no less than thirty (30) days' prior written notice shall be given Franchisor in the event of material alteration to or cancellation of the coverages evidenced by such Certificates.
- 13.5. Franchisor's Right to Procure.** Should Franchisee, for any reason, fail to procure or maintain the insurance required by this Agreement, as such requirements may be revised from time to time by Franchisor in the Manual or otherwise in writing, Franchisor shall have the right and authority (but not the obligation) to procure such insurance and to charge same to Franchisee, which charges, together with an administrative surcharge of five percent (5%), shall be payable by Franchisee immediately upon notice. The foregoing remedies shall be in addition to any other remedies Franchisor may have.

#### **ARTICLE XIV. TRANSFER OF INTEREST.**

- 14.1. Franchisor's Right to Transfer.** Franchisor shall have the right to transfer or assign this Agreement and all or any part of its rights or obligations herein to any person or legal entity, and any designated assignee of Franchisor shall become solely responsible for all obligations of Franchisor under this Agreement from the date of assignment. Franchisee shall execute such documents of attornment or otherwise as Franchisor shall request.
- 14.2. Franchisee's Conditional Right to Transfer.** Franchisee understands and acknowledges that the rights and duties set forth in this Agreement are personal to Franchisee, and that Franchisor has granted this franchise in reliance on Franchisee's (or, if Franchisee is a corporation, partnership, or limited liability company, its principals') business skill, financial capacity and personal character. Accordingly, neither Franchisee nor any immediate or remote successor to any part of Franchisee's interest in this Agreement, nor any individual, partnership, limited liability company, corporation or other legal entity which directly or indirectly owns any interest in Franchisee or in the Franchised Business shall sell, assign, transfer, convey, pledge, encumber, merge or give away (collectively, "transfer") any direct or indirect interest in this Agreement or in all or substantially all of

the assets of the Franchised Business, or a controlling interest in Franchisee, without the prior written consent of Franchisor. Any purported assignment or transfer not having the written consent of Franchisor required by this Section 14.2 shall be null and void and shall constitute a material breach of this Agreement, for which Franchisor may immediately terminate without opportunity to cure pursuant to Section 15.2(f) of this Agreement.

- 14.3. Conditions of Transfer.** Franchisee shall notify Franchisor orally and in writing sent by certified mail, return receipt requested, of any proposed transfer of any direct or indirect interest in this Agreement, in Franchisee, or in all or substantially all of the assets of the Franchised Business (a) prior to Franchisee's offering for sale (including, but not limited to, advertising the sale of) the Franchised Business, or any assets of the Franchised Business, or any ownership interest in Franchisee; and (b) at least thirty (30) days before any transfer is proposed to take place. Franchisor shall not unreasonably withhold its consent to any transfer. Franchisor may, in its sole discretion, require any or all of the following as conditions of its approval:
- (a) That all of Franchisee's accrued monetary obligations and all other outstanding obligations to Franchisor and its affiliates have been satisfied;
  - (b) That Franchisee is not in default of any provision of this Agreement, any amendment hereof or successor hereto, or any other agreement between Franchisee and Franchisor or its affiliates;
  - (c) That the consideration or payment terms offered by a proposed transferee are not excessive or unreasonable, based on the gross revenues of the Franchised Business and sale prices of other franchised businesses in the System, in our reasonable business judgment;
  - (d) That the transferor executes a general release, in a form satisfactory to Franchisor, of any and all claims against Franchisor and its affiliates, and their respective officers, directors, agents, shareholders, and employees;
  - (e) That (1)(a) the transferee (and, if the transferee is other than an individual, such owners of a beneficial interest in the transferee as Franchisor may request) enters into a written assignment, in a form satisfactory to Franchisor, assuming and agreeing to discharge all of Franchisee's obligations under this Agreement, or (b) the transferee executes, for a term ending on the expiration date of this Agreement and with such renewal term(s) as may be provided by this Agreement, the Franchisor's then-current form of franchise agreement and other ancillary agreements as Franchisor may require for the Franchised Business, which agreements shall supersede this Agreement in all respects, and the terms of which may differ from the terms of this Agreement including, without limitation, a higher royalty fee and advertising contribution and a smaller or modified Franchisee's Territory, except that transferee shall not be required to pay any initial franchise fee; and (2) the transferee or its principals guaranty the performance of all such obligations in writing in a form satisfactory to Franchisor;
  - (f) That the transferee (and, if the transferee is other than an individual, such owners of a beneficial interest in the transferee as Franchisor may request) demonstrates to Franchisor's satisfaction that it meets Franchisor's educational, managerial and

business standards; possesses a good moral character, business reputation and credit rating; has the aptitude and ability to operate the Franchised Business (as may be evidenced by prior related business experience or otherwise), and has adequate financial resources and capital to operate the Franchised Business;

- (g) That Franchisee remains liable for all of the obligations to Franchisor in connection with the Franchised Business which arose prior to the effective date of the transfer and execute any and all instruments reasonably requested by Franchisor to evidence such liability;
- (h) That the transferee (or, if the transferee is a corporation, partnership or limited liability company, a principal of the transferee acceptable to Franchisor), or the transferee's manager (if transferee or transferee's principal will not manage the Franchised Business), at the transferee's expense, completes any training programs then in effect upon such terms and conditions as Franchisor may reasonably require; and
- (i) That Franchisee pays to Franchisor a transfer fee of seventeen thousand, five hundred dollars (\$17,500).

**14.4. No Security Interest.** Franchisee shall not grant a security interest in the Franchised Business or in any of the assets of the Franchised Business unless the secured party agrees that in the event of any default by Franchisee under any documents related to the security interest, Franchisor shall have the right and option (but not the obligation) to be substituted as obligor to the secured party and to cure any default of Franchisee, and, in the event Franchisor exercises such option, any acceleration of indebtedness due to Franchisee's default shall be void.

**14.5. Franchisor's Right of First Refusal.** If any party holding any direct or indirect interest in this Agreement, in Franchisee, or in all or substantially all of the assets of the Franchised Business desires to accept any bona fide offer from a third party to purchase such interest, Franchisee shall notify Franchisor as provided in Section 14.3 hereof, and shall provide such information and documentation relating to the offer as Franchisor may require. Franchisor shall have the right and option, exercisable within thirty (30) days after receipt of such written notification, to send written notice to the seller that Franchisor intends to purchase the seller's interest on the same terms and conditions offered by the third party. If Franchisor elects to purchase the seller's interest, closing on such purchase shall occur within ninety (90) days from the date of notice to the seller of the election to purchase by Franchisor. If Franchisor elects not to purchase the seller's interest, any material change thereafter in the terms of the offer from a third party shall constitute a new offer subject to the same rights of first refusal by Franchisor as in the case of the third party's initial offer. Failure of Franchisor to exercise the option afforded by this Section 14.5 shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Article XIV, with respect to a proposed transfer. In the event the consideration, terms and/or conditions offered by a third party are such that Franchisor may not reasonably be required to furnish the same consideration, terms and/or conditions, then Franchisor may purchase the interest proposed to be sold for the reasonable equivalent in cash. If the parties cannot agree within thirty (30) days on the reasonable equivalent in cash of the consideration, terms and/or conditions offered by the third party, an independent

appraiser shall be designated by Franchisor at Franchisor's expense, and the appraiser's determination shall be binding.

- 14.6. Death or Incapacity.** Upon the death or physical or mental incapacity of any person with an interest in this Agreement, in Franchisee, or in all or substantially all of the assets of the Franchised Business, the executor, administrator, or personal representative of such person shall transfer such interest to a third party approved by Franchisor within three (3) months after such death or incapacity. Such transfers, including, without limitation, transfers by devise or inheritance, shall be subject to the same conditions as any *inter vivos* transfer. In the case of transfer by devise or inheritance, if the heirs or beneficiaries of any such person are unable to meet the conditions in this Article XIV, the executor, administrator, or personal representative of the decedent shall transfer the decedent's interest to another party approved by Franchisor within a reasonable time, which disposition shall be subject to all the terms and conditions for transfers contained in this Agreement. If the interest is not disposed of within a reasonable time, Franchisor may terminate this Agreement, pursuant to Section 15.2(g) hereof.
- 14.7. No Waiver.** Franchisor's consent to a transfer of any interest in this Agreement, in Franchisee, or in all or substantially all of the assets of the Franchised Business shall not constitute a waiver of any claims it may have against the transferring party, nor shall it be deemed a waiver of Franchisor's right to demand exact compliance with any of the terms of this Agreement by the transferor or transferee.

## **ARTICLE XV. DEFAULT AND TERMINATION.**

- 15.1. Automatic Termination.** Franchisee shall be deemed to be in default under this Agreement, and all rights granted to Franchisee herein shall automatically terminate without notice to Franchisee, if Franchisee shall become insolvent or make a general assignment for the benefit of creditors; if a petition in bankruptcy is filed by Franchisee or such a petition is filed against and not opposed by Franchisee; if Franchisee is adjudicated a bankrupt or insolvent; if a bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian for Franchisee's business or assets is filed and consented to by Franchisee; if a receiver or other custodian (permanent or temporary) of Franchisee's assets or property, or any part thereof, is appointed by any court of competent jurisdiction; if proceedings for a composition with creditors under any state or federal law should be instituted by or against Franchisee; if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless supersedeas bond is filed); if Franchisee is dissolved; if execution is levied against Franchisee's business or property; if suit to foreclose any lien or mortgage against the premises of the Franchised Business or equipment is instituted against Franchisee and not dismissed within thirty (30) days; or if the real or personal property of the Franchised Business shall be sold after levy thereupon by any sheriff, marshal, or constable.
- 15.2. Notice Without Opportunity to Cure.** Upon the occurrence of any of the following events of default, Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, without affording Franchisee any opportunity to cure the default, effective

immediately upon the provision of notice to Franchisee (in the manner provided under 0 hereof):

- (a) If Franchisee fails to locate an approved site or to construct and open the Franchised Business within the time limits provided in the Site Selection Addendum or Section 5.3 hereof;
- (b) If Franchisee or Franchisee's designated trainees fail to complete the initial training program or additional training described in Section 6.1 hereof to Franchisor's satisfaction;
- (c) If Franchisee at any time ceases to operate or otherwise abandons the Franchised Business, or loses the right to possession of the premises of the Franchised Business, or otherwise forfeits the right to do or transact business in the jurisdiction where the Franchised Business is located. However, if, through no fault of Franchisee, the premises of the Franchised Business are damaged or destroyed by an event such that repairs or reconstruction cannot be completed within sixty (60) days thereafter, then Franchisee shall have thirty (30) days after such event in which to apply for Franchisor's approval to relocate and/or reconstruct the premises of the Franchised Business, which approval shall not be unreasonably withheld;
- (d) If Franchisee is convicted of a felony, a crime involving moral turpitude, or any other crime or offense that Franchisor believes is reasonably likely to have an adverse effect on the System, the Proprietary Marks, the goodwill associated therewith or Franchisor's interest therein;
- (e) If a threat or danger to public health or safety results from the operation of the Franchised Business;
- (f) If any purported assignment or transfer of any direct or indirect interest in this Agreement, in Franchisee, or in all or substantially all of the assets of the Franchised Business is made to any third party without Franchisor's prior written consent, contrary to the terms of Article XIV hereof;
- (g) If an approved transfer is not effected within the time provided following death or mental incapacity, as required by Section 14.6 hereof;
- (h) If Franchisee fails to comply with the covenants in Section 17.2 hereof or fails to obtain execution of the covenants required under Section 10.2 hereof;
- (i) If, contrary to the terms of Article IX or Article X hereof, Franchisee discloses or divulges the contents of the Manual or other Confidential Information provided to Franchisee by Franchisor;
- (j) If Franchisee submits any false reports to Franchisor;
- (k) If Franchisee misuses or makes any unauthorized use of the Proprietary Marks or any other identifying characteristics of the System, or otherwise materially impairs the goodwill associated therewith or Franchisor's rights therein;
- (l) If Franchisee violates its obligation, pursuant to Section 7.15 [8.2(h)] hereof, to timely notify Franchisor of adverse activity.

- (m) If Franchisee refuses to permit Franchisor to inspect the Franchised Business premises, or the books, records or accounts of Franchisee upon demand;
- (n) If Franchisee, upon receiving a notice of default under Section 15.3 hereof, fails to initiate immediately a remedy to cure such default; or
- (o) If Franchisee, after curing any default pursuant to Section 15.3 hereof, commits the same default again, whether or not cured after notice.
- (p) If Franchisee, within any consecutive twelve (12)-month period, commits three (3) or more defaults pursuant to Section 15.3 hereof, whether or not cured after notice.

**15.3. Notice with Opportunity to Cure.** Except as otherwise provided in Sections 15.1 and 15.2 of this Agreement, upon any other default by Franchisee, Franchisor may terminate this Agreement by giving written notice of termination (in the manner set forth under 0 hereof) stating the nature of the default to Franchisee at least thirty (30) days prior to the effective date of termination; provided, however, that Franchisee may avoid termination by immediately initiating a remedy to cure such default, curing it to Franchisor's satisfaction, and by promptly providing proof thereof to Franchisor within the applicable cure period. If any such default is not cured within the specified time, or such longer period as applicable law may require, this Agreement shall terminate without further notice to Franchisee, effective immediately upon the expiration of the applicable cure period or such longer period as applicable law may require. Defaults which are susceptible of cure hereunder include the following illustrative events:

- (a) If Franchisee fails to maintain the cleanliness of the Franchised Business, or fails to comply with any of Franchisor's specifications;
- (b) If Franchisee fails to substantially comply with any of the requirements imposed by this Agreement, as it may from time to time reasonably be supplemented by the Manual, or failure to carry out the terms of this Agreement in good faith;
- (c) If Franchisee fails, refuses or neglects promptly to pay any monies owing to Franchisor or its affiliates when due, or to submit the financial or other information required by Franchisor under this Agreement;
- (d) If Franchisee fails to maintain or observe any of the standards or procedures prescribed by Franchisor in this Agreement, the Manual or otherwise in writing;
- (e) Except as provided in Section 15.2(f) hereof, if Franchisee fails, refuses or neglects to obtain Franchisor's prior written approval or consent as required by this Agreement;
- (f) If Franchisee acts, or fails to act, in any manner which is inconsistent with or contrary to its lease or sublease for the premises, or in any way jeopardizes its right to renewal of such lease or sublease;
- (g) If Franchisee engages in any business or markets any service or product under a name or mark which, in Franchisor's opinion, is confusingly similar to the Proprietary Marks; or
- (h) If Franchisee receives any citation or notice of potential health code violation from the local board of health or Franchisor.

- 15.4. Cross-Default.** Any default by Franchisee under any other agreement between Franchisor or its affiliates as one party and Franchisee or any of Franchisee's owners or affiliates as the other party that is so material as to permit Franchisor to terminate such other agreement, shall be deemed to be a default of this Agreement, and Franchisor shall have the right, at its option, to terminate this Agreement without affording Franchisee an opportunity to cure, effective immediately upon notice to Franchisee.

## **ARTICLE XVI. OBLIGATIONS UPON TERMINATION OR EXPIRATION.**

Upon termination or expiration of this Agreement, all rights granted hereunder to Franchisee shall forthwith terminate, and:

- 16.1. Cease Operations.** Franchisee shall immediately cease to operate the Franchised Business, and shall not thereafter, directly or indirectly, represent to the public or hold itself out as a present or former franchisee of Franchisor. Immediately upon the expiration or termination hereof, Franchisee shall dispose of, and not sell, any proprietary or trade secret products sold hereunder, including, but not limited to, any products having the Proprietary Marks or contained in packaging having the Proprietary Marks.
- 16.2. Cease Use of Confidential Information and Marks.** Franchisee shall immediately and permanently cease to use, in any manner whatsoever, any confidential methods, procedures and techniques associated with the System; any Confidential Information; the Proprietary Mark "A Dog's Day Out" and all other Proprietary Marks and distinctive forms, slogans, signs, symbols and devices associated with the System. In particular, Franchisee shall cease to use, without limitation, all signs, advertising materials, displays, stationery, forms, products and any other articles which display the Proprietary Marks.
- 16.3. Cancellation of Registrations.** Franchisee shall take such action as may be necessary to cancel any assumed name registration or equivalent registration obtained by Franchisee which contains the mark "A Dog's Day Out" or any other Proprietary Marks, and Franchisee shall furnish Franchisor with evidence satisfactory to Franchisor of compliance with this obligation within five (5) days after termination or expiration of this Agreement.
- 16.4. Assignment of Lease.** Franchisee shall, at Franchisor's option, assign to Franchisor any interest which Franchisee has in any lease or sublease for the Franchised Business premises pursuant to the Conditional Assignment of Lease attached hereto as Exhibit G. In the event Franchisor does not elect to exercise its option to acquire the lease or sublease for the Franchised Business premises, Franchisee shall make such modifications or alterations to the premises immediately upon termination or expiration of this Agreement as may be necessary to distinguish the appearance of the premises from that of the Franchised Business under the System, and shall make such specific additional changes thereto as Franchisor may reasonably request for that purpose. In the event Franchisee fails or refuses to comply with the requirements of this Section 16.4, Franchisor shall have the right to enter upon the premises, without being guilty of trespass or any other tort, for the purpose of making or causing to be made such changes as may be required, at the expense of Franchisee, which expense Franchisee agrees to pay upon demand.
- 16.5. Assignment of Telephone Number.** Franchisee must cease using all telephone numbers and directory or other business listings used in connection with the Franchised Business. At Franchisor's option, Franchisee shall assign to Franchisor all rights to such telephone

numbers and directory and other business listings, and shall sign all forms and documents required by Franchisor and any telephone company to effect such transfer. Franchisee hereby appoints Franchisor as Franchisee's true and lawful agent and attorney-in-fact with full power and authority for the sole purpose of taking such action as is necessary to complete such assignment, and Franchisee agrees to execute Exhibit E for such purpose. This power of attorney shall survive the expiration, termination or transfer of this Agreement. Franchisee is not entitled to any compensation from Franchisor if Franchisor exercises its rights or options under this Section 16.5.

- 16.6. Subsequent Use of Proprietary Marks Prohibited.** Franchisee agrees, in the event it continues to operate or subsequently begins to operate any other business, not to use any reproduction, counterfeit, copy or colorable imitation of the Proprietary Marks, either in connection with such other business or the promotion thereof, which, in Franchisor's sole discretion, is likely to cause confusion, mistake or deception, or which, in Franchisor's sole discretion, is likely to dilute Franchisor's rights in and to the Proprietary Marks. Franchisee further agrees not to utilize any designation of origin, description or representation (including but not limited to reference to the Franchisor, the System or the Proprietary Marks) which, in Franchisor's sole discretion, suggests or represents a present or former association or connection with Franchisor, the System or the Proprietary Marks.
- 16.7. Payment.** Franchisee shall promptly pay all sums owing to Franchisor and its affiliates. In the event of termination for any default of Franchisee, such sums shall include all damages, costs, and expenses, including reasonable attorneys' fees, incurred by Franchisor as a result of the default, which obligation shall give rise to and remain, until paid-in-full, a lien in favor of Franchisor against any and all of the personal property, furnishings, equipment, signs, fixtures, and inventory owned by Franchisee and on the premises operated hereunder at the time of default.
- 16.8. Liquidated Damages.** In the event this Agreement is terminated prior to the end of its term due to Franchisee's default hereunder, in addition to the amounts set forth in Section 16.7 above, Franchisee shall promptly pay to Franchisor a lump sum payment (as damages and not as a penalty) for breaching this Agreement in an amount equal to: (a) the average monthly continuing royalty fee and Brand Fund fee payable by you under Sections 4.2 and 12.4 above over the twelve (12) month period immediately preceding the date of termination (or such shorter time period if the Franchised Business has been open less than twelve (12) months); (b) multiplied by the lesser of (a) thirty-six (36) months or (b) the number of months then remaining in the then-current term of this Agreement. Franchisee acknowledges that a precise calculation of the full extent of the damages Franchisor will incur in the event of termination of this Agreement as a result of Franchisee's default is difficult to determine and that this lump sum payment is reasonable in light of the damages Franchisor will incur for Franchisee's pre-mature termination of this Agreement. This lump sum payment shall be in lieu of any damages we may incur as a result of Franchisee's default, but it shall be in addition to all amounts provided above in Section 16.7 and any attorneys' fees and other costs and expenses to which Franchisor is entitled under the terms of this Agreement, including but not limited to, Section 25.3 below. Franchisee's payment of this lump sum shall not affect Franchisor's right to obtain appropriate injunctive relief and remedies to enforce this Article XVI and the covenants set forth in Article X and Article XVII.

- 16.9. Return Manual.** Franchisee shall immediately deliver to Franchisor the Manual and all other records, correspondence and instructions containing Confidential Information relating to the operation of the Franchised Business (and any copies thereof, even if such copies were made in violation of this Agreement), all of which are acknowledged to be the property of Franchisor, and shall retain no copy or record of any of the foregoing, with the exception of Franchisee's copy of this Agreement, any correspondence between the parties and any other documents which Franchisee reasonably needs for compliance with any provision of law.
- 16.10. Transfer Websites.** Franchisee shall immediately and irrevocably assign and transfer to Franchisor or its designee any and all interests Franchisee may have in the Website maintained by Franchisee in connection with the Franchised Business and in the domain name and home page address related to such Website. Franchisee shall immediately execute any documents and perform any other actions required by Franchisor to effectuate such assignment and transfer and otherwise ensure that all rights in such Website revert to Franchisor or its designee, and hereby appoints Franchisor as its attorney-in-fact to execute such documents on Franchisee's behalf if Franchisee fails to do so. Franchisee may not establish any Website using any similar or confusing domain name and/or home page address.
- 16.11. Franchisor's Option to Purchase Assets.** Franchisor shall have the option, to be exercised within thirty (30) days after termination, to purchase from Franchisee any or all of the equipment, furnishings, and signs related to the operation of the Franchised Business at fair market value or at Franchisee's depreciated book value, whichever is less, and to purchase any or all supplies and inventory of the Franchised Business at Franchisee's cost or depreciated book value, whichever is less. If the parties cannot agree on the price of any such items within a reasonable time, an independent appraisal shall be conducted at Franchisor's expense, and the appraiser's determination shall be binding. If Franchisor elects to exercise any option to purchase herein provided, it shall have the right to set off all amounts due from Franchisee, and the cost of the appraisal, if any, against any payment therefor.
- 16.12. Compliance With Covenants.** Franchisee shall comply with the covenants contained in Sections 10.1 and 17.3 of this Agreement.

## **ARTICLE XVII. COVENANTS.**

- 17.1. Best Efforts.** Franchisee covenants that, during the term of this Agreement, except as otherwise approved in writing by Franchisor, Franchisee (or, if Franchisee is a corporation, partnership or limited liability company, a principal, general partner or member of Franchisee) or Franchisee's fully-trained manager shall devote full time and best efforts to the management and operation of the Franchised Business.
- 17.2. In-Term Covenants.** Franchisee specifically acknowledges that, pursuant to this Agreement, Franchisee will receive valuable, specialized training and Confidential Information, including, without limitation, information regarding the operational, sales, promotional, and marketing methods and techniques of Franchisor and the System. Franchisee covenants that during the term of this Agreement, except as otherwise approved

in writing by Franchisor, Franchisee shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person or legal entity:

- (a) Divert or attempt to divert any present or prospective business or customer of any of Franchisor's franchised businesses to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks and the System;
- (b) Employ or seek to employ any person who is at that time employed by Franchisor or by any other franchisee of Franchisor, or otherwise directly or indirectly induce such person to leave his or her employment; or
- (c) Own, maintain, operate, engage in, be employed by, provide any assistance or advice to, or have any interest in (as owner or otherwise) any business that offers or sells dog day care, overnight boarding for dogs, dog kenneling, grooming for dogs, dog training, or related retail products that are the same as or similar to the products being offered by the Franchised Business under the System.

**17.3. Post-Term Covenants.** Franchisee covenants that, except as otherwise approved in writing by Franchisor, Franchisee shall not, for a continuous uninterrupted period of two (2) years commencing upon the date of: (a) a transfer permitted under Section 14 of this Agreement; (b) expiration of this Agreement; (c) termination of this Agreement (regardless of the cause for termination); (d) a final order of a duly authorized arbitrator, panel of arbitrators, or a court of competent jurisdiction (after all appeals have been taken) with respect to any of the foregoing or with respect to enforcement of this Section 17.3; or (e) any or all of the foregoing; either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person or legal entity, own, maintain, operate, engage in, be employed by, provide assistance to, or have any interest in (as owner or otherwise) any business that: (i) offers or sells dog day care, overnight boarding for dogs, dog kenneling, grooming for dogs, dog training, or related retail products that are the same as or similar to the products being offered by the Franchised Business under the System; and (ii) is, or is intended to be, located at or within:

- (a) the Approved Location or Franchisee's Territory; or
- (b) fifteen (15.0) miles of the Approved Location; or
- (c) fifteen (15.0) miles of any business operating under the Proprietary Marks;

provided, however, that Sections 17.2(c) and this Section 17.3 shall not apply to the operation by Franchisee of any business under the System which may be franchised by Franchisor to Franchisee under a written Franchise Agreement.

**17.4. No Application to Equity Securities.** Sections 17.2(c) and 17.3 shall not apply to ownership by Franchisee of a less than five percent (5%) beneficial interest in the outstanding equity securities of any corporation which has securities registered under the Securities Exchange Act of 1934.

**17.5. Reduction of Scope of Covenants.** Franchisee understands and acknowledges that Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in Sections 17.2 and 17.3, or any portion thereof, without Franchisee's consent,

effective immediately upon receipt by Franchisee of written notice thereof; and Franchisee agrees that it shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding the provisions of Article XXIII hereof.

- 17.6. No Defense.** Franchisee expressly agrees that the existence of any claims it may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by Franchisor of the covenants in this Article XVII. Franchisee agrees to pay all costs and expenses (including reasonable attorneys' fees) incurred by Franchisor in connection with the enforcement of this Article XVII.

## **ARTICLE XVIII. CORPORATE, PARTNERSHIP OR LIMITED LIABILITY COMPANY FRANCHISEE.**

- 18.1. Franchisee Corporation.** If Franchisee is a corporation, Franchisee shall comply with the following requirements:

- (a) Franchisee shall be newly organized and its charter shall at all times provide that its activities are confined exclusively to operating the Franchised Business.
- (b) Copies of Franchisee's Articles of Incorporation, Bylaws and other governing documents, and any amendments thereto, including the resolution of the Board of Directors authorizing entry into this Agreement, shall be promptly furnished to Franchisor.
- (c) Franchisee shall maintain stop-transfer instructions against the transfer on its records of any equity securities; and each stock certificate of Franchisee shall have conspicuously endorsed upon its face a statement in a form satisfactory to Franchisor that it is held subject to, and that further assignment or transfer thereof is subject to, all restrictions imposed upon assignments by this Agreement; provided, however, that the requirements of this Section 18.1(c) shall not apply to a publicly-held corporation.
- (d) Franchisee shall maintain a current list of all owners of record and all beneficial owners of any class of voting securities or securities convertible into voting securities of Franchisee and shall furnish the list to Franchisor upon request.

- 18.2. Franchisee Partnership.** If Franchisee or any successor to or assignee of Franchisee is a partnership, it shall comply with the following requirements:

- (a) Franchisee shall furnish Franchisor with a copy of its partnership agreement as well as such other documents as Franchisor may reasonably request, and any amendments thereto.
- (b) The partnership agreement shall at all times note conspicuously that partnership rights are held subject to, and that further assignment or transfer thereof are subject to, all restrictions imposed upon assignments by the Franchise Agreement.
- (c) Franchisee shall prepare and furnish to Franchisor, upon request, a list of all general and limited partners in Franchisee.

- 18.3. Franchisee Limited Liability Company.** If Franchisee or any successor to or assignee of Franchisee is a limited liability company, it shall comply with the following requirements:

- (a) Franchisee shall furnish Franchisor with a copy of its articles of organization and operating agreement as well as such other documents as Franchisor may reasonably request, and any amendments thereto.
- (b) The articles of organization or operating agreement shall at all times note conspicuously that membership rights are held subject to, and that further assignment or transfer thereof are subject to, all restrictions imposed upon assignments by the Franchise Agreement.
- (c) Franchisee shall prepare and furnish to Franchisor, upon request, a list of all members in Franchisee.

**18.4. Guaranty and Indemnification.** If Franchisee is a corporation, partnership or limited liability company, or if any successor to or assignee of Franchisee is a corporation, partnership or limited liability company, then all of the principals thereof and their spouses shall execute a Guarantee, Indemnification, and Acknowledgment in the form attached hereto as Exhibit F.

#### **ARTICLE XIX. TAXES, PERMITS, AND INDEBTEDNESS.**

- 19.1. Payment of Taxes.** Franchisee shall promptly pay when due all taxes levied or assessed, including, without limitation, employer's portion of employment-related taxes (FICA, Medicare and unemployment taxes) and sales taxes, and all accounts and other indebtedness of every kind incurred by Franchisee in the operation of the Franchised Business. Franchisee shall pay to Franchisor an amount equal to any state or local taxes, including, without limitation, sales, use, service, occupation, employment related, excise, gross receipts, income, property or other taxes, that may be imposed on Franchisor as a result of Franchisor's receipt or accrual of the initial franchise fee, royalty fees, advertising fees, renewal fees, and all other fees that are referenced in this Agreement, whether assessed against Franchisee through withholding or other means or whether paid by Franchisor directly, unless the tax is credited against income tax otherwise payable by Franchisor. In such event, Franchisee shall pay to Franchisor (or to the appropriate governmental authority) such additional amounts as are necessary to provide Franchisor, after taking such taxes into account (including any additional taxes imposed on such additional amounts), with the same amounts that Franchisor would have received or accrued had such withholding or other payment, whether by Franchisee or by Franchisor, not been required.
- 19.2. Contesting Taxes.** In the event of any bona fide dispute as to Franchisee's liability for taxes assessed or other indebtedness, Franchisee may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law, but in no event shall Franchisee permit a tax sale or seizure by levy or execution or similar writ or warrant, or attachment by a creditor, to occur against the premises of the Franchised Business, or any improvements thereon.
- 19.3. Permits and Licenses.** Franchisee shall comply with all federal, state, and local laws, rules, and regulations (including, without limitation, the applicable provisions of the ADA regarding the construction, design and operation of the Franchised Business), and shall timely obtain any and all permits, certificates, or licenses necessary for the full and proper conduct of the Franchised Business, including, without limitation, licenses to do business,

fictitious name registrations, sales tax permits, health permits, building permits, handicap permits and fire clearances.

- 19.4. Notification of Adverse Action.** Franchisee shall immediately notify Franchisor in writing of the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, which may adversely affect the operation or financial condition of the Franchised Business.

## **ARTICLE XX. INDEPENDENT CONTRACTOR AND INDEMNIFICATION.**

- 20.1. Independent Contractor.** Franchisor and Franchisee agree that this Agreement does not create a fiduciary relationship between them, that Franchisee shall be an independent contractor, and that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever. Franchisee acknowledges and agrees that Franchisor's usual business is offering and selling rights to operate an A Dog's Day Out business using the Proprietary Marks and System, developing enhancements to the System, and providing assistance to franchisees, and, accordingly, Franchisor's usual business is different from Franchisee's usual business of operating the Franchised Business. During the term of this Agreement, Franchisee shall hold itself out to the public as an independent contractor operating the Franchised Business pursuant to a franchise agreement from Franchisor. Franchisee agrees to take such action as may be necessary to do so, including, without limitation, exhibiting a notice of that fact in a conspicuous place at the premises of the Franchised Business, the content of which Franchisor reserves the right to specify.
- 20.2. No Authority to Contract.** Nothing in this Agreement authorizes Franchisee to make any contract, agreement, warranty or representation on Franchisor's behalf, or to incur any debt or other obligation in Franchisor's name; and Franchisor shall in no event assume liability for, or be deemed liable hereunder as a result of, any such action; nor shall Franchisor be liable by reason of any act or omission of Franchisee in its operation of the business franchised hereunder or for any claim or judgment arising therefrom against Franchisee or Franchisor.
- 20.3. Indemnification.** Franchisee shall indemnify and hold harmless Franchisor and its affiliates, and their respective officers, directors and employees against any and all claims, losses, costs, expenses, liabilities and damages arising directly or indirectly from, as a result of, or in connection with Franchisee's operation of the Franchised Business, the business conducted under this Agreement, or Franchisee's breach of this Agreement, including, but not limited to, those alleged to be caused by Franchisor's negligence, unless (and then only to the extent that) the claims, obligations, and damages are determined to be caused solely by Franchisor's gross negligence or willful misconduct according to a final, unappealable ruling issued by a court or arbitral tribunal with competent jurisdiction, as well as the costs, including reasonable attorneys' fees, of defending against them. In the event Franchisor incurs any costs or expenses, including, without limitation, legal fees, travel expenses, and other charges, in connection with any proceeding involving Franchisee in which Franchisor is not a party, Franchisee shall reimburse Franchisor for all such costs and expenses promptly upon presentation of invoices. Franchisee acknowledges and agrees that

Franchisee's indemnification and hold harmless obligations under this Section shall survive the termination or expiration of this Agreement. Nothing herein shall preclude Franchisor from choosing its own legal counsel to represent it in any lawsuit, arbitration, or other dispute resolution.

- 20.4. Force Majeure.** Neither Franchisor, Franchisor's affiliates, nor Franchisee shall be responsible or liable for any delays in the performance of any duties under this Agreement which are not the fault or within the reasonable control of that party including, but not limited to, fire, flood, natural disasters, acts of God, delays in deliveries by common carriers, governmental acts or orders, late deliveries of products or goods or furnishing of services by third party vendors, civil disorders, acts of terrorism, or strikes and any other labor-related disruption, and in any event said time period for the performance of an obligation hereunder shall be extended for the amount of time of the delay or impossibility. Provided, however, this clause shall not apply to and not result in an extension of: (1) the time for payments to be made by Franchisee as required by Section 4.5 hereof; or (2) the term of this Agreement.

## **ARTICLE XXI. APPROVALS AND WAIVERS.**

- 21.1. Approvals and Consent.** Whenever this Agreement requires the prior approval or consent of Franchisor, Franchisee shall make a timely written request to Franchisor therefor, and such approval or consent must be obtained in writing.
- 21.2. No Warranties or Guarantees.** Franchisor makes no warranties or guarantees upon which Franchisee may rely, and assumes no liability or obligation to Franchisee, by providing any waiver, approval, consent, or suggestion to Franchisee in connection with this Agreement, or by reason of any neglect, delay or denial of any request therefor.
- 21.3. No Waiver.** No failure of Franchisor to exercise any power reserved to it by this Agreement, or to insist upon strict compliance by Franchisee with any obligation or condition hereunder, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of Franchisor's right to demand exact compliance with any of the terms hereof. Waiver by Franchisor of any particular default of Franchisee shall not affect or impair Franchisor's rights with respect to any subsequent default of the same, similar, or different nature; nor shall any delay, force, or omission of Franchisor to exercise any power or right arising out of any breach of default by Franchisee of any of the terms, provisions, or covenants hereof, affect or impair Franchisor's right to exercise the same, nor shall such constitute a waiver by Franchisor of any right hereunder, or the right to declare any subsequent breach or default and to terminate this Agreement prior to the expiration of its term. Subsequent acceptance by Franchisor of any payments due to it hereunder shall not be deemed to be a waiver by Franchisor of any preceding breach by Franchisee of any terms, covenants, or conditions of this Agreement.

## **ARTICLE XXII. NOTICES.**

Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by registered mail, or sent by other means which affords the sender evidence of delivery or rejected delivery (which shall not include electronic communication, such as e-mail), to the respective parties at the following addresses, unless and until a different address has been designated by written notice to the other party:

**Notices to Franchisor:**

Attn: Charles W. Richardson, III  
A DOG’S DAY OUT FRANCHISE SERVICES, LLC  
4934 Gainsborough Dr.  
Fairfax, VA 22032

**Notices to Franchisee:**

Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ARTICLE XXIII. ENTIRE AGREEMENT.**

This Agreement, the attachments hereto, and the documents referred to herein constitute the entire Agreement between Franchisor and Franchisee concerning the subject matter hereof, and supersede any prior agreements, no other representations having induced Franchisee to execute this Agreement. Except for those permitted to be made unilaterally by Franchisor hereunder, no amendment, change, or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing. Nothing in this Agreement or in any related agreement between Franchisor and Franchisee is intended to disclaim the representations in Franchisor’s Franchise Disclosure Document.

**ARTICLE XXIV. SEVERABILITY AND CONSTRUCTION.**

- 24.1. Severability.** If, for any reason, any section, part, term, provision, and/or covenant herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having valid jurisdiction, such shall not impair the operation of, or have any other effect upon, such other portions, sections, parts, terms, provisions, and/or covenants of this Agreement as may remain otherwise intelligible; and the latter shall continue to be given full force and effect and bind the parties hereto; and said invalid portions, sections, parts, terms, provisions, and/or covenants shall be deemed not to be a part of this Agreement.
- 24.2. Survival.** Any provision or covenant in this Agreement which expressly or by its nature imposes obligations beyond the expiration, termination or assignment of this Agreement (regardless of cause for termination), shall survive such expiration, termination or assignment, including but not limited to Article X, Article XVII, and Article XXVI.
- 24.3. No Rights or Remedies Conferred.** Except as expressly provided to the contrary herein, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or

legal entity other than Franchisee, Franchisor, Franchisor's officers, directors, shareholders, agents, and employees, and such of Franchisor's successors and assigns as may be contemplated by Section Article XIV hereof, any rights or remedies under or by reason of this Agreement.

- 24.4. Promises and Covenants.** Franchisee expressly agrees to be bound by any promise or covenant imposing the maximum duty permitted by law which is subsumed within the terms of any provision hereof, as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions hereof any portion or portions which a court or agency having valid jurisdiction may hold to be unreasonable and unenforceable in an unappealed final decision to which Franchisor is a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court or agency order.

## **ARTICLE XXV. APPLICABLE LAW AND DISPUTE RESOLUTION.**

- 25.1. Applicable Law.** This Agreement shall be interpreted and construed exclusively under the laws of the Virginia. In the event of any conflict of law, the substantive law of Virginia shall prevail without regard to the application of Virginia's conflict-of-law rules. If, however, any provision of this Agreement would not be enforceable under the laws of Virginia and if Franchisee is located outside of Virginia and such provision would be enforceable under the laws of the state in which Franchisee is located, then such provision shall be interpreted and construed under the laws of that state.

- 25.2. Mediation.** Except as otherwise provided in this Agreement, all claims or disputes between Franchisee and Franchisor or its Affiliates arising out of, or in any way relating to, this Agreement, or any of their respective rights and obligations arising out of this Agreement, shall be submitted first to non-binding mediation prior to a hearing in binding arbitration. Such mediation shall take place in the city in which Franchisor's principal place of business is located (currently Fairfax, Virginia) under the auspices of the American Arbitration Association ("AAA") or other mediation service acceptable to Franchisor, in its sole discretion, under AAA's Commercial Mediation Procedures then in effect. Franchisee may not commence any action against Franchisor or Affiliates regarding any such claim unless mediation proceedings have been terminated either: (i) as the result of a written declaration of the mediator(s) that further mediation efforts are not worthwhile; or (ii) because of a written declaration by Franchisor. The parties shall each bear their own costs of mediation and shall share equally the filing fee imposed by the mediator and the mediator's fees. Franchisor reserves the right to specifically enforce its right to mediation in a court of law. Prior to mediation, and before commencing any legal action against Franchisor or Affiliates regarding any such claim or dispute, Franchisee must submit a notice to Franchisor, which specifies the precise nature and grounds of such claim or dispute. The parties will first attempt for no more than thirty (30) days to resolve any dispute relating to or arising out of this Agreement by Franchisor's internal dispute resolution procedures. If the parties are unable to resolve their dispute, then either side may initial the non-binding mediation process described above. Non-binding mediation hereunder will be concluded within 90 days of the issuance of the request for mediation, or such longer period as may be agreed upon by the parties in writing ("Mediation Termination Date"). All aspects of the internal dispute procedures and mediation process will be treated as confidential, will not be

disclosed to others, and will not be offered or admissible in any other proceeding or legal action whatsoever.

**25.3. Binding Arbitration.** Without limiting Franchisor’s rights and remedies under Article XV of this Agreement, if a dispute is not resolved through mediation as described above, then following the Mediation Termination Date, such dispute shall be submitted to final and binding arbitration as the sole and exclusive remedy for any such controversy or dispute. Without limiting the generality of anything contained herein, the following shall be subject to mediation and then binding arbitration: any controversy or dispute arising out of, or relating to the Franchise or this Agreement, including, but not limited to, any claim by Franchisee or any Persons in Privity with or claiming through, for or in the right of Franchisee, concerning the entry into, performance under, or termination of, this Agreement or any other agreement entered into by Franchisor, or its subsidiaries or Affiliates, and Franchisee; any claim against a past or present employee, officer, director, member, shareholder or agent of Franchisor; any claim of breach of this Agreement; and any claims arising under state or federal laws. “Persons in Privity” are defined as any person(s) or entities with or claiming through, on behalf of or in the right of Franchisee include but are not limited to, spouses and other family members, domestic partners, heirs, executors, representatives, successors and assigns. The right and duty of the parties to this Agreement to resolve any disputes by arbitration shall be governed exclusively by the Federal Arbitration Act, as amended, and arbitration shall take place according to the commercial arbitration rules (in effect as of the date the demand for arbitration is filed) of, and under the auspices of, AAA or such other arbitrator as Franchisor deems acceptable in its sole discretion. The arbitration, which shall be held before a single arbitrator, shall be held in the AAA office in or nearest to Franchisor’s principal place of business (currently Fairfax, Virginia), or at such other location as shall be mutually agreed upon by the parties in writing. A single arbitrator shall be selected by the parties from a panel of neutral arbitrators provided by the arbitration service and shall be chosen by the striking method. Each party shall bear its own costs of arbitration; however, the fees of the arbitrator shall be divided equally between the parties. The arbitrator shall have no authority to amend or modify the terms of this Agreement. The award or decision by the arbitrator shall be final and binding on the parties and may be enforced by judgment or order of a court having subject matter jurisdiction in the state where the arbitration took place. The prevailing party shall be entitled to reimbursement of its costs including reasonable accounting and attorneys’ fees, in connection with such proceeding. Parties to arbitration under this Agreement shall not include, by consolidation, joinder or in any other manner, any person other than Franchisee and any Person in Privity with or claiming through, in the right of or for Franchisee or Franchisor, unless both parties consent in writing. To the extent permitted by applicable law, no issue of fact or law shall be given preclusive or collateral estoppel effect in any arbitration hereunder, except to the extent such issue may have been determined in another proceeding between Franchisor and Franchisee or any Person in Privity with or claiming through, in the right of or on behalf of Franchisee or Franchisor. The parties agree that any arbitration arising out of a dispute relating to this Agreement is only a matter between Franchisor and Franchisee and no other franchisees or area developers, if any. Franchisee agrees not to join or attempt to join other franchisees, area developers, or other third-parties in any arbitration proceeding and to not participate in any “class action” litigation or arbitration proposed or asserted by any other franchisee(s).

Except as required by applicable law, including any required disclosure in Franchisor's franchise disclosure document, the entire arbitration proceedings and related documents are confidential. Except as necessary to enforce the decision of the arbitrator hereunder, all conduct, statements, promises, offers, views and opinions, whether oral or written, made in the course of the arbitration by any of the parties, their agents, employees or representatives and by the arbitrator, are confidential.

**25.4. Provisional Remedies.** Nothing in Sections 25.2 or 25.3 of this Agreement will bar either party's right to seek injunctive relief without the posting of any bond or security to obtain the entry of temporary and permanent injunctions and orders of specific performance enforcing the provisions of this Agreement, which claims shall not be subject to mediation or arbitration. Either party also will be able to seek injunctive relief to prohibit any act or omission by the other party or its employees that constitutes a violation of any applicable health or safety law, is dishonest or misleading to Franchisee's customers or to the public, or which may impair the goodwill associated with the Marks. In addition, in order to protect from violations that would cause immediate loss and damages or irreparable harm, Franchisor, without first seeking mediation or arbitration, shall have the right to seek:

(a) an action to secure injunctive relief or specific performance and any related incidental damages;

(b) an action for disputes or claims related to or based on Franchisor's protected intellectual property rights in the Marks, Copyrighted Works or the System;

(c) an action for issues related to the disclosure or misuse of Confidential Information or Trade Secrets;

(d) an action seeking to enforce any of the Franchisee's post-termination obligations under this Agreement;

(e) an action seeking to enforce Franchisor's right to indemnification; or

(f) an action for any claim related to a violation of the restrictive covenants contained in this Agreement. If a judicial action is expressly permitted by Section 25.4 of this Agreement, any such action brought by Franchisee against Franchisor will be brought exclusively, and any such action brought by Franchisor against Franchisee may be brought, in the federal or state court in the jurisdiction in which Franchisor's principal place of business is located (currently Fairfax, Virginia) when the action is commenced. The prevailing party will be entitled to recover its costs and reasonable attorney fees incurred by it in obtaining such relief. The parties waive all questions of personal jurisdiction or venue for the purpose of carrying out this provision.

**25.5.** No right or remedy conferred upon or reserved to Franchisor or Franchisee hereby is intended to be, nor will be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each will be cumulative of every other right or remedy.

**25.6.** Any claim or controversy arising out of or related to this Agreement, or the making, performance, breach, interpretation, or termination thereof, brought by any party hereto against the other, will be commenced within one year from the occurrence of the facts giving rise to such claim or action, or such claim or action will be barred. **THE PARTIES TO THIS FRANCHISE AGREEMENT HEREBY WAIVE IN ANY ARBITRATION OR JUDICIAL ACTION, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY**

RIGHT TO OR CLAIM OF ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM, EACH WILL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT AND EQUITABLE RELIEF TO WHICH IT SHOWS IT IS ENTITLED, INCLUDING SPECIFIC PERFORMANCE, INJUNCTIVE OR DECLARATORY RELIEF.

- 25.7. Franchisor and Franchisee each agree that the terms of this Article XXV shall expressly survive any termination or expiration of this Agreement.
- 25.8. **No Exclusivity.** No right or remedy conferred upon or reserved to Franchisor or Franchisee by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.
- 25.9. **Waiver of Right to Jury Trial and Punitive Damages.** FRANCHISOR AND FRANCHISEE HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY AGREE AS FOLLOWS: (A) FRANCHISOR AND FRANCHISEE HEREBY EXPRESSLY AND IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING; AND (B) FRANCHISOR AND FRANCHISEE HEREBY WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM EACH SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT.
- 25.10. **Limitation of Claims.** ANY AND ALL CLAIMS AND ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE RELATIONSHIP OF FRANCHISEE AND FRANCHISOR, OR FRANCHISEE'S OPERATION OF THE FRANCHISED BUSINESS, BROUGHT BY FRANCHISEE AGAINST FRANCHISOR, SHALL BE COMMENCED WITHIN ONE (1) YEAR FROM THE OCCURRENCE OF THE FACTS GIVING RISE TO SUCH CLAIM OR ACTION, OR SUCH CLAIM OR ACTION SHALL BE BARRED.
- 25.11. **Injunctive Relief.** Nothing herein contained (including, without limitation, Section **Error! Reference source not found.** above) shall bar Franchisor's right to obtain injunctive relief from a court of competent jurisdiction against threatened conduct that will cause it loss or damage, under the usual equity rules, including the applicable rules for obtaining specific performance, restraining orders, and preliminary injunctions.
- 25.12. **Costs and Expenses.** Franchisee shall pay to Franchisor all damages, costs, and expenses, including all court costs, mediation costs, and reasonable attorney's fees, and all other expenses incurred by Franchisor in enforcing any obligation under, or in defending against any claim, demand, action, or proceeding related to, this Agreement, including, but not limited to the obtaining of injunctive relief.

## **ARTICLE XXVI. FRANCHISEE'S ACKNOWLEDGEMENTS AND REPRESENTATIONS.**

- 26.1. Independent Investigation.** Franchisee acknowledges that it has conducted an independent investigation of the business franchised hereunder, and recognizes that the business venture contemplated by this Agreement involves business risks and that its success will be largely dependent upon the ability of Franchisee (or, if Franchisee is a corporation, partnership or limited liability company, the ability of its principals) as an independent businessperson. Franchisor expressly disclaims the making of, and Franchisee acknowledges that it has not received, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business venture contemplated by this Agreement.
- 26.2. Acknowledgement of Receipt.** Franchisee acknowledges that it received Franchisor's current Franchise Disclosure Document at least fourteen (14) calendar days prior to the date on which this Agreement was executed or Franchisee paid any money to Franchisor. Franchisee further acknowledges that it received a complete copy of this Agreement, the attachments hereto, and all related agreements attached to the Franchise Disclosure Document, and that Franchisee waited at least seven (7) calendar days prior to executing them if any changes to such agreements were unilaterally and materially made by Franchisor.
- 26.3. Acknowledgement of Understanding.** Franchisee acknowledges that it has read and understood this Agreement, the attachments hereto, and agreements relating thereto, if any, and that Franchisor has accorded Franchisee ample time and opportunity to consult with advisors of Franchisee's own choosing about the potential benefits and risks of entering into this Agreement.
- 26.4. Compliance with Anti-Terrorism Laws.** Franchisee acknowledges that under applicable U.S. law, including, without limitation, Executive Order 13224, signed on September 23, 2001 (the "Order"), Franchisor is prohibited from engaging in any transaction with any Specially Designated National or Blocked Person. "Specially Designated National" or "Blocked Person" shall mean (1) those persons designated by the U.S. Department of Treasury's Office of Foreign Assets Control from time to time as a "specially designated national" or "blocked person" or similar status, (2) a person engaged in, or aiding any person engaged in, acts of terrorism, as defined in the Order, or (3) a person otherwise identified by government or legal authority as a person with whom Franchisor is prohibited from transacting business. Currently, a listing of such designations and the text of the Order are published at the Internet website address, [www.ustreas.gov/offices/enforcement/ofac](http://www.ustreas.gov/offices/enforcement/ofac). Accordingly, Franchisee represents and warrants to Franchisor that as of the date of this Agreement, neither Franchisee nor any person holding any ownership interest in Franchisee, controlled by Franchisee, or under common control with Franchisee is a Specially Designated National or Blocked Person, and that Franchisee (1) does not, and hereafter shall not, engage in any terrorist activity; (2) is not affiliated with and does not support any individual or entity engaged in, contemplating, or supporting terrorist activity; and (3) is not acquiring the rights granted under this Agreement with the intent to generate funds to channel to any individual or entity engaged in, contemplating, or supporting terrorist activity, or to otherwise support or further any terrorist activity. Franchisee agrees that Franchisee shall immediately provide written notice to Franchisor of the occurrence of any event which renders the representations and warranties in this Section 26.4 incorrect.

**26.5. Site Approval.** Franchisee hereby acknowledges and agrees that Franchisor’s approval of a site does not constitute an assurance, representation or warranty of any kind, express or implied, as to the suitability of the site for the Franchised Business or for any other purpose. Franchisor’s approval of a site indicates only that Franchisor believes the site complies with acceptable minimum criteria established by Franchisor solely for its purposes as of the time of the evaluation. Both Franchisee and Franchisor acknowledge that application of criteria that may have been effective with respect to other sites and premises may not be predictive of potential for all sites and that, subsequent to Franchisor’s approval of a site, demographic and/or economic factors, such as competition from other similar businesses, included in or excluded from Franchisor’s criteria could change, thereby altering the potential of a site or lease. Such factors are unpredictable and are beyond Franchisor’s control. Franchisor shall not be responsible for the failure of a site approved by Franchisee to meet Franchisee’s expectations as to revenue or operational criteria. Franchisee further acknowledges and agrees that its acceptance of a franchise for the operation of the Franchised Business at the site is based on its own independent investigation of the suitability of the site.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement in duplicate on the date first above written.

**Franchisor:**

**A DOG’S DAY OUT FRANCHISE SERVICES, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Franchisee:**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A TO FRANCHISE AGREEMENT**

**FRANCHISEE:**

\_\_\_\_\_

**DISCLOSURE OF PRINCIPALS**

**(To be completed if Franchisee is a Corporation, Partnership, or Limited Liability Company only)**

1. Date: \_\_\_\_\_
2. Franchisee Contact. The following individual is a shareholder, member, or partner of Franchisee and is the principal person to be contacted on all matters relating to the Franchised Business:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Daytime Telephone No: \_\_\_\_\_

Evening Telephone No: \_\_\_\_\_

Facsimile No: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

3. Franchisee Owners. The undersigned agree and acknowledge that the following is a complete list of all of the shareholders, partners, or members (“Owners”) of Franchisee and the percentage interest of each individual:

<u>Name</u>	<u>Position</u>	<u>Interest (%)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Change in Owners. Franchisee acknowledges and agrees that any proposed change in the Owners listed in Paragraph 3, above, shall require Franchisor’s prior written consent in accordance with the terms of Section 14 of the Franchise Agreement.

IN WITNESS WHEREOF, the undersigned has duly executed this Disclosure of Principals on the date first above written.

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Witness/Attest

**EXHIBIT B TO FRANCHISE AGREEMENT**

**APPROVED LOCATION AND FRANCHISEE’S TERRITORY**

**Approved Location.** The Approved Location under the Franchise Agreement shall be: \_\_\_\_\_ . (Franchisor and Franchisee acknowledge that the Approved Location may not be determined until after the Franchise Agreement is signed.)

**Franchisee’s Territory.** Franchisee’s Territory under this Agreement shall consist of the following geographic area described below and on the map attached to this Exhibit A:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**A DOG’S DAY OUT FRANCHISE SERVICES, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Witness/Attest

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Witness/Attest

## EXHIBIT C TO FRANCHISE AGREEMENT

### SITE SELECTION ADDENDUM

A Dog's Day Out Franchise Services, LLC (hereinafter the "Franchisor") and \_\_\_\_\_ (hereinafter "Franchisee"), have this date, [date], entered into a certain Franchise Agreement (the "Franchise Agreement") and desire to supplement its terms, as set forth below. The parties hereto therefore agree as follows:

1. Within ninety (90) days after Franchisee's execution of the Franchise Agreement, Franchisee shall, at Franchisee's expense, obtain a site approved by Franchisor (as hereinafter provided) for the A Dog's Day Out business ("Franchised Business"). The premises shall be within the following territory ("Site Selection Territory"):

[description]

[description]

2. Failure by Franchisee to obtain premises for the Franchised Business within the time required in Paragraph 1 hereof shall constitute a default under the Franchise Agreement and this Site Selection Addendum. Time is of the essence.
3. Franchisor shall not establish, nor franchise another to establish, an A Dog's Day Out business within the Site Selection Territory until Franchisor approves a location for the Franchised Business, or until the time set forth in Paragraph 1 hereof expires, whichever event first occurs.
4. Prior to Franchisee's acquisition by lease or purchase of a site for the Franchised Business, Franchisee shall submit to Franchisor, in the form specified by Franchisor, a completed site review form, such other information or materials as Franchisor may reasonably require, and a letter of intent or other evidence satisfactory to Franchisor which confirms Franchisee's favorable prospects for obtaining the proposed site. Recognizing that time is of the essence, Franchisee agrees that Franchisee must submit a proposed site, together with the information and materials required by this Paragraph 4, to Franchisor for its approval within sixty (60) days after execution of this Site Selection Addendum. Franchisor shall have thirty (30) days after receipt of such information and materials from Franchisee to approve or disapprove, in Franchisor's sole discretion, the site as a location for the Franchised Business. No proposed site shall be deemed approved unless it has been expressly approved in writing by Franchisor.
5. Franchisor shall furnish to Franchisee the following:

Such site selection guidelines and consultation as Franchisor deems advisable;

Such on-site evaluation as Franchisor deems advisable as part of its evaluation of Franchisee's request for site approval; provided, however, that Franchisor shall not provide on-site evaluation for any proposed site prior to Franchisor's receipt of the information or materials required by Paragraph 4 hereof. If on-site evaluation is deemed necessary and appropriate by Franchisor, Franchisor shall conduct up to two (2) on-site evaluations at Franchisor's expense, unless travel out of the northern Virginia area is required (in which case you must reimburse us our costs of travel, meals, and lodging). For each additional on-site evaluation (if any), Franchisee shall reimburse Franchisor for Franchisor's reasonable expenses, including, without limitation, the costs of travel, lodging and meals.

6. If Franchisee will occupy the premises of the Franchised Business under a lease, Franchisee shall, prior to the execution thereof, (1) execute the Conditional Assignment of Lease and obtain the Lessor's execution of the Consent and Agreement of Lessor, in the forms attached as Exhibit G to the Franchise Agreement, and (2) submit the lease to Franchisor for its approval. Franchisor's approval of the lease may be conditioned upon the inclusion of the following terms and conditions:

That the initial term of the lease, or the initial term together with renewal terms, shall be for not less than ten (10) years;

That the lessor consents to Franchisee's use of such Proprietary Marks and initial signage as Franchisor may prescribe for the Franchised Business;

That the use of the premises be restricted solely to the operation of the Franchised Business;

That Franchisee be prohibited from subleasing or assigning all or any part of its occupancy rights or extending the term of or renewing the lease without Franchisor's prior written consent;

That lessor provide to Franchisor copies of any and all notices of default given to Franchisee under the lease;

That Franchisor have the right to enter the premises to make modifications necessary to protect the Proprietary Marks or the System or to cure any default under the Franchise Agreement or under the lease;

That Franchisor (or Franchisor's designee) have the option, upon default, expiration or termination of the Franchise Agreement, and upon notice to the lessor, to assume all of Franchisee's rights under the lease terms, including the right to assign or sublease.

7. Franchisee shall furnish Franchisor with a copy of any executed lease within ten (10) days after execution thereof.
8. After a site for the Franchised Business has been approved in writing by Franchisor and obtained by Franchisee pursuant to Paragraph 4 hereof, the site shall constitute the Approved Location referred to in Section 1.2 of the Franchise Agreement.
9. Franchisee hereby acknowledges and agrees that Franchisor's approval of a site does not constitute an assurance, representation or warranty of any kind, express or implied, as to the suitability of the site for the Franchised Business or for any other purpose. Franchisor's approval of the site indicates only that Franchisor believes the site complies with acceptable minimum criteria established by Franchisor solely for its purposes as of the time of the evaluation. Both Franchisee and Franchisor acknowledge that application of criteria that may have been effective with respect to other sites and premises may not be predictive of potential for all sites and that, subsequent to Franchisor's approval of a site, demographic and/or economic factors, such as competition from other similar businesses, included in or excluded from Franchisor's criteria could change, thereby altering the potential of a site or lease. Such factors are unpredictable and are beyond Franchisor's control. Franchisor shall not be responsible for the failure of a site approved by Franchisee to meet Franchisee's expectations as to revenue or operational criteria. Franchisee further acknowledges and agrees that its acceptance of a franchise for the operation of the Franchised Business at the site is based on its own independent investigation of the suitability of the site.

10. This Site Selection Addendum constitutes an integral part of the Franchise Agreement between the parties hereto, and the terms of this Site Selection Addendum shall be controlling with respect to the subject matter hereof. Except as modified or supplemented by this Site Selection Addendum, the terms of the Franchise Agreement are hereby ratified and confirmed.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement in duplicate on the date first above written.

**[FRANCHISEE NAME]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT D TO FRANCHISE AGREEMENT

### CONFIDENTIALITY AND NON-COMPETITION AGREEMENT

**(For execution by Franchisee's managers and other personnel having access to Franchisor's Confidential Information.)**

In consideration of my position as \_\_\_\_\_ of \_\_\_\_\_ (the "Franchisee"), and One Dollar, receipt of which is acknowledged, I hereby acknowledge and agree that:

1. A Dog's Day Out Franchise Services, LLC (the "Franchisor"), as the result of the expenditure of time, skill, effort, and money, has developed, and continues to develop, a distinctive system relating to the establishment, operation, and promotion of dog care service businesses, which offer dog day care, overnight boarding for dogs, kenneling, grooming for dogs, and sale of related retail products, and all of which may be changed, improved and further developed by Franchisor from time to time (the "System").
2. As an employee of the Franchisee, I will receive valuable confidential information, disclosure of which would be detrimental to the Franchisor and the Franchisee, such as information relating to the Manual, customer lists, drawings, materials, or equipment of the Franchisor and the System related to the establishment and operation of an A Dog's Day Out business, which are beyond the present skills and experience possessed by me ("Confidential Information"). This list of confidential matters is illustrative only, and does not include all matters considered confidential by the Franchisor and the Franchisee.
3. I will hold in strict confidence all information designated by the Franchisor or the Franchisee as confidential. Unless the Franchisor otherwise agrees in writing, I will disclose and/or use the Confidential Information only in connection with my duties as an employee of the Franchisee. My undertaking not to disclose Confidential Information is a condition of my position with the Franchisee, and continues even after I cease to be in that position.
4. While in my position with the Franchisee, I will not do anything which may injure the Franchisee or the Franchisor, such as (a) divert or attempt to divert any present or prospective business or customer of any A Dog's Day Out business to any competitor, by direct or indirect inducement or otherwise; (b) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Franchisor's marks and the System; or (c) employ or seek to employ any person who is at that time employed by the Franchisor or any franchisee of the Franchisor (including the Franchisee), or otherwise directly or indirectly induce such person to leave his or her employment.
5. While in my position with the Franchisee and for two (2) years after I cease to be in my position with the Franchisee, I will not own, maintain, operate, engage in, be employed by, provide any assistance or advise to, or have any interest in (as owner or otherwise) any business that: (a) offers or sells dog day care, overnight boarding for dogs, kenneling, grooming for dogs, and sale of related retail products that are the same as or similar to the products being offered by an A Dog's Day Out business under the System; and (b) is, or is intended to be, located at or within: (1) the Franchisee's Territory, the boundaries of which I acknowledge have been described to me; (2) a radius of fifteen (15) miles from the premises of the Franchisee's franchised business; or (4) a radius of fifteen (15) miles of any business operating under the Franchisor's marks.

6. The Franchisor is a third-party beneficiary of this Agreement and may enforce it, solely and/or jointly with the Franchisee. I am aware that my violation of this Agreement will cause the Franchisor and the Franchisee irreparable harm; therefore, I acknowledge and agree that the Franchisor and/or the Franchisee may apply for the issuance of an injunction preventing me from violating this Agreement in addition to any other remedies it may have hereunder, at law or in equity; and I agree to pay the Franchisor and the Franchisee all the costs it/they incur/s, including without limitation attorneys' fees, if this Agreement is enforced against me. Due to the importance of this Agreement to the Franchisor and the Franchisee, any claim I have against the Franchisor or the Franchisee is a separate matter and does not entitle me to violate, or justify any violation of, this Agreement. If any part of this Agreement is held invalid by a court or agency having valid jurisdiction, the rest of the Agreement is still enforceable and the part held invalid is enforceable to the extent found reasonable by the court or agency. I agree that all the words and phrases used in this Agreement will have the same meaning as used in the Franchise Agreement, and that such meaning has been explained to me.
7. The Franchisor may, in its sole discretion, reduce the scope of any covenant set forth in this Agreement, without my consent, effective immediately upon my receipt of written notice thereof; and I agree to comply with any covenant as so modified.
8. This Agreement shall be construed under the laws of the Commonwealth of Virginia. The only way this Agreement can be changed is in a writing signed by both the Franchisee and me.

**ACKNOWLEDGED BY FRANCHISEE:**

By: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT E TO FRANCHISE AGREEMENT**  
**ASSIGNMENT OF TELEPHONE NUMBERS, LISTINGS,**  
**AND SERVICE AGREEMENT**

\_\_\_\_\_ (“Franchisee” or “You”) operates an A Dog’s Day Out business at \_\_\_\_\_ (the Franchised Business). In consideration of the granting of a franchise to You and other valuable consideration paid by A Dog’s Day Out Franchise Services, LLC, (“We” or “Us”), You assign to Us all telephone numbers and listings You use in the operation of the Franchised Business. We assume the performance of all the terms, covenants and conditions of your agreement with the telephone company listed below concerning the telephone numbers and telephone listings with the full force and effect as if We had been originally issued the telephone numbers and telephone listings. We will hold this assignment and will deliver it to the telephone company or other interested third parties only upon termination of the Franchise Agreement between Us and You dated [date].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

**[FRANCHISEE NAME]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Telephone Company:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

In the event the Franchised Business is discontinued for any reason, I hereby release to A Dog’s Day Out Franchise Services, LLC or its designee the use of the following telephone number or numbers which were used in conjunction with the Franchised Business:

\_\_\_\_\_  
\_\_\_\_\_

Date: [date]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Sworn and Subscribed to before me, a Notary Public, by the said \_\_\_\_\_ (Franchisee) on the \_\_\_\_\_ day of [month and year].

Name: \_\_\_\_\_

Notary Public, State of \_\_\_\_\_

Date My Commission Expires: \_\_\_\_\_

**EXHIBIT F TO FRANCHISE AGREEMENT**  
**GUARANTEE, INDEMNIFICATION, AND ACKNOWLEDGEMENT**

As an inducement to A Dog’s Day Out Franchise Services, LLC (“Franchisor”) to execute the Franchise Agreement between Franchisor and \_\_\_\_\_ (“Franchisee”) dated [date] (the “Franchise Agreement”), the undersigned, jointly and severally, hereby unconditionally guarantee to Franchisor and its successors and assigns that all of Franchisee’s obligations under the Franchise Agreement will be punctually paid and performed.

Upon demand by Franchisor, the undersigned will immediately make each payment to Franchisor required of Franchisee under the Franchise Agreement. The undersigned hereby waive any right to require Franchisor to: (a) proceed against Franchisee for any payment required under the Franchise Agreement; (b) proceed against or exhaust any security from Franchisee; or (c) pursue or exhaust any remedy, including any legal or equitable relief, against Franchisee. Without affecting the obligations of the undersigned under this Guarantee, Franchisor may, without notice to the undersigned, extend, modify, or release any indebtedness or obligation of Franchisee, or settle, adjust, or compromise any claims against Franchisee. The undersigned waive notice of amendment of the Franchise Agreement and notice of demand for payment by Franchisee, and agree to be bound by any and all such amendments and changes to the Franchise Agreement.

The undersigned hereby agree to defend, indemnify, and hold Franchisor harmless against any and all losses, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys’ fees, reasonable costs of investigation, court costs, and arbitration fees and expenses) resulting from, consisting of, or arising out of or in connection with any failure by Franchisee to perform any obligation of Franchisee under the Franchise Agreement, any amendment thereto, or any other agreement executed by Franchisee referred to therein.

The undersigned hereby acknowledge and agree to be individually bound by all of the confidentiality provisions and non-competition covenants contained in Sections 10 and 17 of the Franchise Agreement.

This Guarantee shall terminate upon the termination or expiration of the Franchise Agreement, except that all obligations and liabilities of the undersigned which arose from events which occurred on or before the effective date of such termination shall remain in full force and effect until satisfied or discharged by the undersigned, and all covenants which by their terms continue in force after the expiration or termination of the Franchise Agreement shall remain in force according to their terms. Upon the death of an individual guarantor, the estate of such guarantor shall be bound by this Guarantee, but only for defaults and obligations hereunder existing at the time of death; and the obligations of the other guarantors will continue in full force and effect.

Unless specifically stated otherwise, the terms used in this Guarantee shall have the same meaning as in the Franchise Agreement, and shall be interpreted and construed in accordance with Section 25 of the Franchise Agreement. This Guarantee shall be interpreted and construed under the laws of the Commonwealth of Virginia. In the event of any conflict of law, the laws of Virginia shall prevail, without regard to, and without giving effect to, the application of the Commonwealth of Virginia’s conflict of law rules.

The Guarantors agree that the dispute resolution and attorney fee provisions in Section 25 of the Franchise Agreement are hereby incorporated into this Guarantee by reference, and

references to “Franchisee” and the “Franchise Agreement” therein shall be deemed to apply to “Guarantors” and this “Guarantee,” respectively, herein.

Any and all notices required or permitted under this Guarantee shall be in writing and shall be personally delivered, sent by registered mail, or sent by other means which afford the sender evidence of delivery or rejected delivery, to the respective parties at the address set forth in Section 22 of the Franchise Agreement, unless and until a different address has been designated by written notice to the other party.

Any notice by a method which affords the sender evidence of delivery or rejected delivery shall be deemed to have been given at the date and time of receipt or rejected delivery.

IN WITNESS WHEREOF, each of the undersigned has signed this Guarantee as of the date of the Franchise Agreement.

**GUARANTORS**

**Owners:**

\_\_\_\_\_

Name:

\_\_\_\_\_

Name:

**Spouses:**

\_\_\_\_\_

Name:

\_\_\_\_\_

Name:

**EXHIBIT G TO FRANCHISE AGREEMENT**  
**CONDITIONAL ASSIGNMENT OF LEASE**

**FOR VALUE RECEIVED**, the undersigned (“Assignor”) hereby assigns and transfers to A Dog’s Day Out Franchise Services, LLC, a Virginia limited liability company (“Assignee”), all of Assignor’s right, title and interest as tenant in, to and under that certain lease, a copy of which is attached hereto as Exhibit 1 (the “Lease”) respecting premises commonly known as \_\_\_\_\_ . This Assignment is for collateral purposes only and except as specified herein, Assignee shall have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment or the Lease unless Assignee takes possession of the premises demised by the Lease pursuant to the terms hereof and assumes the obligations of Assignor thereunder.

Assignor represents and warrants to Assignee that it has full power and authority to so assign the Lease and its interest therein and that Assignor has not previously assigned or transferred, and is not obligated to assign or transfer, any of its interest in the Lease or the premises demised thereby.

Upon a default by Assignor under the Lease or under the franchise agreement for an A Dog’s Day Out business between Assignee and Assignor (the “Franchise Agreement”), or in the event of a default by Assignor under any document or instrument securing the Franchise Agreement, Assignee shall have the right and is hereby empowered to take possession of the premises demised by the Lease, expel Assignor therefrom, and, in such event, Assignor shall have no further right, title or interest in the Lease.

Assignor agrees that it will not suffer or permit any surrender, termination, amendment or modification of the Lease without the prior written consent of Assignee. Throughout the term of the Franchise Agreement and any renewals thereto, Assignor agrees that it shall elect and exercise all options to extend the term of or renew the Lease not less than thirty (30) days prior to the last day that the option must be exercised, unless Assignee otherwise agrees in writing. If Assignee does not otherwise agree in writing, and upon failure of Assignor to so elect to extend or renew the Lease as aforesaid, Assignor hereby appoints Assignee as its true and lawful attorney-in-fact to exercise such extension or renewal options in the name, place and stead of Assignor for the purpose of effecting such extension or renewal.

**ASSIGNOR:**

By: \_\_\_\_\_  
[Print Name]

**WITNESS:**

\_\_\_\_\_

**CONSENT AND AGREEMENT OF LESSOR**

The undersigned Lessor under the aforescribed Lease hereby:

- Agrees to notify Assignee in writing of and upon the failure of Assignor to cure any default by Assignor under the Lease;
- Agrees that Assignee shall have the right, but shall not be obligated, to cure any default by Assignor under the Lease within 30 days after delivery by Lessor of notice thereof in accordance with paragraph (a) above;
- Consents to the foregoing Conditional Assignment and agrees that if Assignee takes possession of the premises demised by the Lease and confirms to Lessor the assumption of the Lease by Assignee as tenant thereunder, Lessor shall recognize Assignee as tenant under the Lease, provided that Assignee cures within the 30-day period the defaults, if any, of Assignor under the Lease; and
- Agrees that Assignee may further assign the Lease to a person, firm or corporation who shall agree to assume the tenant’s obligations under the Lease and who is reasonably acceptable to Lessor and upon such assignment Assignee shall have no further liability or obligation under the Lease as assignee, tenant or otherwise.

**DATED:** \_\_\_\_\_

**LESSOR:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**EXHIBIT H TO FRANCHISE AGREEMENT**

**ACH AUTHORIZATION FORM**

AUTOMATED CLEARINGHOUSE PAYMENT AUTHORIZATION (ACH)

\*\*\* This form MUST be accompanied by a Printed Voided Check or Bank Letter. \*\*\*

**Franchisee Information**

<b>Franchisee Name:</b>	
<b>Franchisee Business Phone #:</b>	
<b>Franchisee Facility Email Address:</b>	
Franchisee Facility Mailing Address (street):	
(city, state, zip code)	
<b>Franchisee Contact Name(s):</b>	
<b>Franchisee Contact Phone #:</b>	
<b>Franchisee Personal Email Address:</b>	
Franchisee Home Address:(street address):	
(city, state, zip code)	

**Funds Settlement Information**

<b>Bank Name:</b>	
<b>Bank Mailing Address (street):</b>	
(city, state, zip code)	
<b>Bank Account Owner(s):</b>	
<b>Bank Routing #:</b>	
<b>Bank Account #:</b>	

\_\_\_\_\_ (hereinafter, "User or "Franchisee") hereby authorizes **A Dog's Day Out Franchise Services, LLC** ("Franchisor") to initiate debit entries to Franchisee's bank account with the Bank listed above and Franchisee authorizes the Bank to accept and to debit the amount of such entries to Franchisee's bank account. Each debit shall be made from time to time in an amount sufficient to cover any fees payable to Franchisor pursuant to any agreement between Franchisor and Franchisee as well as to cover any purchases of goods or services from Franchisor. Franchisee agrees to be bound by the National Automated Clearing House Association (NACHA) rules in the administration of these debit entries. Debit entries will only be initiated only as authorized above. This authorization is to remain in full force and effect until Franchisor has received written notification from Franchisee of its termination in such time and in such manner as to afford Franchisor and the Bank a reasonable opportunity to act on it. Franchisee shall notify Franchisor of any changes to any of the information contained in this authorization form at least 30 days before such change becomes effective. Undersigned represents and warrants to

Franchisor that the person executing this form is an authorized signatory on the Bank Account referenced on this document and all information regarding the Bank Account and Account Owner is true and correct.  
Bank Account Owner Signature: \_\_\_\_\_ Date:

\_\_\_\_\_  
Printed Bank Account Owner Name & Title:

\_\_\_\_\_  
Franchisee Business Federal Tax ID Number:

\_\_\_\_\_  
**Note: FRANCHISEE MUST ATTACH A VOIDED CHECK OR BANK LETTER.**

## EXHIBIT D. STATE ADMINISTRATORS

### **California**

Department of Financial Protection and Innovation  
320 West 4th Street  
Suite 750  
Los Angeles, CA 90013  
(866) 275-2677

### **Connecticut**

The Department of Banking  
Securities and Business Investment Division  
260 Constitution Plaza  
Hartford, CT 06103-1800  
(860) 240-8230

### **Florida**

Florida Department of Agriculture & Consumer Services  
Division of Consumer Affairs  
Mayo Building, Second Floor  
407 S. Calhoun St.  
Tallahassee, FL 32399-0800  
(850) 245-1040

### **Hawaii**

Business Registration Division  
Securities Compliance Branch  
Department of Commerce and Consumer Affairs  
335 Merchant Street #203  
Honolulu, HI 96813  
(808) 586-2727

### **Illinois**

Office of Attorney General  
Franchise Division  
500 South Second Street  
Springfield, IL 62704  
(217) 782-1090

### **Indiana**

Secretary of State  
Franchise Section  
Indiana Securities Division  
302 West Washington #201  
Indianapolis, IN 46204  
(317) 232-6531

### **Kentucky**

Commonwealth of Kentucky Office of the Attorney General  
Consumer Protection Division  
1024 Capital Center Drive #200  
P.O. Box 2000  
Frankfort, KY 40602  
(502) 696-5389

### **Maryland**

Office of the Attorney General  
Division of Securities  
200 St. Paul Place  
Baltimore, MD 21202-2020  
(410) 576-6360

### **Michigan**

Department of Attorney General  
Consumer Protection Division  
Franchise Section  
Michigan Department of Attorney General  
525 West Ottawa Street  
G. Mennen Williams Bldg., 1st Floor  
Lansing, MI 48909  
(517) 373-7117

### **Minnesota**

Department of Commerce  
85 7th Place East  
Suite 280  
St. Paul, MN 55101  
(651) 539-1500

### **Nebraska**

Department of Banking and Finance  
1526 K St. #300  
P.O. Box 95006  
Lincoln, NE 68508  
(402) 471-3445

### **New York**

Investor Protection Bureau  
New York State Department of Law  
28 Liberty St., 21st Floor  
New York, NY 10005  
(212) 416-8222

### **North Dakota**

Office of Securities Commissioner  
Fifth Floor  
600 East Boulevard  
Bismarck, ND 58505  
(701) 328-2910

### **Rhode Island**

Department of Business Regulation  
Securities Division  
1511 Pontiac Avenue  
Cranston, RI 02920-4407  
(401) 462-9500

### **South Dakota**

Division of Insurance – Securities Regulation  
124 S. Euclid, Ste. 104  
Pierre, SD 57501  
(605) 773-3563

### **Texas**

Statutory Document Section  
Secretary of State  
P.O. Box 12887  
Austin, TX 78711

### **Virginia**

State Corporation Commission  
Division of Securities and Retail Franchising  
Ninth Floor  
1300 East Main Street  
Richmond, VA 23219  
(804) 371-9051

### **Washington**

Department of Financial Institutions  
Securities Division  
150 Israel Rd., SW  
Tumwater, WA 98501  
(360) 902-8760

### **Wisconsin**

Franchise Registration Division  
Office of the Wisconsin Commissioner of Securities  
101 East Wilson Street  
Madison, WI 53702  
(608) 266-0448

**EXHIBIT E. AGENTS FOR SERVICE OF PROCESS**

**Virginia**

Clerk of the State Corporation Commission  
First Floor  
1300 East Main Street  
Richmond, VA 23219

**EXHIBIT F. EXISTING FRANCHISEES**

None.

**EXHIBIT G. FORMER FRANCHISEES**

None.

## EXHIBIT H. RECEIPTS

### RECEIPT

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If ADDOFS offers you a franchise, it must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

If ADDOFS does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the state agency listed on Exhibit D.

The agents listed in Exhibit E are authorized to receive service of process for ADDOFS

The following is the name, principal business address and telephone number of each franchise seller offering this franchise:

A Dog's Day Out Franchise Services, LLC  
4934 Gainsborough Dr.  
Fairfax, VA 22032  
(703) 371-8653

Issuance Date: \_\_\_\_\_ (See State Cover Page for state effective dates.)

I have received a disclosure document dated \_\_\_\_\_ that included the following exhibits:

Exhibit A — Financial Statements

Exhibit B — Table of Contents of Manuals

Exhibit C — Franchise Agreement

Exhibit D — State Administrators

Exhibit E — Agents for Service of Process

Exhibit F — Existing Franchisees

Exhibit G — Former Franchisees

Exhibit H — Receipts

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

### Prospective Franchisee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Individually and on behalf of the following entity: \_\_\_\_\_

**RETAIN THIS COPY FOR YOUR FILES**

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

**Prospective Franchisee**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Individually and on behalf of the following entity: \_\_\_\_\_

**RETURN THIS COPY TO US**