



# Comfort Keepers

**FRANCHISE AGREEMENT  
(CANADA)**

## SUMMARY PAGE

This page summarizes certain provisions of the Franchise Agreement to which it is attached. The Franchise Agreement's provisions will control in the event of any conflict.

Effective Date: October 31, 2024

Territory: Mississauga

Franchisee: 2633339 Ontario Inc.

Address: 5 Brisdale Drive, Unit 202 Brampton, ON L7A 0S9

Phone: 9 0 5 - 6 7 1 - 4 0 0 4

Fax: \_\_\_\_\_

Email: b.rosati@comfortkeepers.ca

Franchise Fee: N/A

Late Fee: \$225 (interest at up to 18% begins accruing after 30 days)

Renewal Fee: \$5,000

Royalty Fee: 5% of Gross Revenue. The Minimum Royalty Fee is \$350.  
(See Section 6.2 for further description)

Transfer Fee: See Section 10.4(e)

Addresses for Notices:

Franchisor:

KanKare Home Services Inc.  
 245 Fairview Mall Drive, Suite 401  
 Toronto, Ontario  
 Canada M2J 4T1

Franchisee: 2633339 Ontario Inc.

Comfort Keepers dba # 3043  
5 Brisdale Drive, Unit 202  
Brampton, Ontario L7A 0S9

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## COMFORT KEEPERS® FRANCHISE AGREEMENT

### 1. PARTIES

THIS FRANCHISE AGREEMENT is made as of the Effective Date by and between KanKare Home Services Inc. ("**Franchisor**"), and the Entity identified on the Summary Page as Franchisee (jointly and severally, "**You**").

### 2. RECITALS

- 2.1 **Ownership of System and Marks.** Through the expenditure of time, skill, effort, and money, Franchisor and its Affiliates have developed the System and Marks relating to the establishment and operation of a business that, under the Marks, provides in-home care for seniors and other adults who need assistance in daily living, including companionship care, personal care, and personal technology services and equipment. The distinguishing characteristics of the System include, without limitation, uniform and distinctive methods for selling and advertising the services and equipment, uniform and distinctive operating procedures, methods, and techniques for operations, accounting, record-keeping and reporting, personnel management, promotion, marketing, advertising, training, and customer service, all of which Franchisor may change, improve, and further develop over time.
- 2.2 **Objectives of Parties.** Franchisor would like to grant to You, and You would like to accept from Franchisor, a Franchise to operate a Franchised Business, using the Marks and the System, upon the terms and conditions in this Agreement. You understand and acknowledge the importance of Franchisor's high and uniform standards of quality and service and the necessity of operating the Franchised Business in conformity with Franchisor's standards and specifications.

### 3. DEFINITIONS

Capitalized terms in this Agreement will have the meanings given them in this Section 3:

- 3.1 **Additional Services.** Those services other than Core Services that Franchisor authorizes Franchisees to offer and provide. The Additional Services that Franchisor authorizes You to perform in accordance with this Agreement, if any, are set forth in the Manual or a fully executed Additional Services Addendum. Franchisor may designate as Core Services those services that were Additional Services as of the Effective Date.
- 3.2 **ADR Process.** The process set forth in Section 12.7 for resolution of Disputes between the parties.
- 3.3 **Advertising Cooperative.** A group of 2 or more Franchised Businesses, as determined by Franchisor, for the purpose of funding, administering and developing regional advertising and promotion under the Cooperative Advertising Program.
- 3.4 **Affiliate.** A Person that controls, is controlled by, or is under common control with another Person.
- 3.5 **Agreement.** This Franchise Agreement, including any amendments, exhibits and other attachments.

- 3.6 **Allowances.** Any form of allowances, rebates, credits, monies, payments, benefits or any other forms of consideration offered or paid by suppliers or others.
- 3.7 **Applicable Data Protection Laws.** All applicable laws, regulations and best practices relating to privacy, data protection and commercial electronic messages, including, without limitation, PIPEDA and similar provincial statutes.
- 3.8 **Authorized Representatives.** People authorized by the Complainant or the Respondent to act on behalf of such party to settle a dispute between the parties arising out of or in connection with this Agreement.
- 3.9 **Beneficial Ownership.** As applicable: (a) direct or indirect ownership of all or any portion of an Entity's voting stock if it is a corporation; (b) direct or indirect ownership of all or any portion of the rights to capital or profits if the Entity is a partnership of any kind (regardless of whether the partnership has been formalized or exists as a matter of law), or any Entity other than a corporation; or (c) direct ownership of the Franchised Business by any one or more individuals.
- 3.10 **Brand Fund.** The vehicle or arrangement that Franchisor has established or may establish in accordance with Section 8.1 to develop brand enhancement programs and materials.
- 3.11 **Business Day.** Any day other than Saturday, Sunday or a holiday on which Canada Post does not deliver mail.
- 3.12 **Care Recipient.** A person to whom You or another Franchisee provides Services.
- 3.13 **CK Intranet.** A private, Internet-based network that Franchisor or its Affiliate maintains to, among other things, post advertising materials, guidelines, resource materials, and other items (including all or part of the Manual) for Your review and use, and to facilitate electronic communication among itself, Franchisees and others authorized by Franchisor.
- 3.14 **CK Website.** The Internet Website that Franchisor or its Affiliate maintains at [www.comfortkeepers.com](http://www.comfortkeepers.com) and/or [www.comfortkeepers.ca](http://www.comfortkeepers.ca) and any additional or substitute Website that Franchisor develops to advertise and promote the System, Franchised Businesses, the Network and the Services and Products offered under the Marks.
- 3.15 **Client Agreement.** A written agreement between You and a Client for the provision of Services (other than Technology Services). You are responsible for ensuring that the Client Agreement is in compliance with the law in Your Territory. To assist with compliance, an online Client Agreement template is available. Prior to use of the template, You must receive Franchisor's written approval of the form, which may be subject to Your use of the online specific Client Agreement support.
- 3.16 **Client Information.** Any and all of, or any combination of, the name, contact information, care needs, Services provided, Equipment leased or purchased, payment history, and relationship history of any Client, Care Recipient or Subscriber, without regard to how the Client Information is compiled or designated, who has compiled the Client Information, or the medium in which it is maintained. All Client Information belongs to Franchisor or its Affiliate and it may use or transfer the Client Information in its sole judgment, subject to applicable law.
- 3.17 **Clients.** Persons (including hospitals and other residential or medical facilities) that engage Your Franchised Business, or any other Franchised Business, to provide Services

to Care Recipients or Subscribers. A Client may or may not be the intended Care Recipient or Subscriber.

- 3.18 **Commencement Date.** For You, the date of Termination of this Agreement (regardless of the reason for Termination), or the date that You Transfer all of Your interest in this Agreement. For a Related Party, the earlier of the date the Related Party ceases to satisfy the definition of a Related Party, or the date of Termination (regardless of the reason for Termination) of this Agreement.
- 3.19 **Company-owned Unit.** A business owned or operated by Franchisor or an Affiliate of Franchisor that provides Services under the Marks.
- 3.20 **Competitive Business.** A business that: (a) derives any revenues from providing any of the services encompassed within the definition of Homemaker/Companionship Services, Personal Care Services and/or Technology Services; or (b) offers franchises or provides support services for any business of the type described in Section 3.20(a).
- 3.21 **Complainant.** The party that initiates the ADR Process described in Section 12.7.
- 3.22 **Confidential Information.** Any know-how, trade secrets and all other information not generally known that has been developed or is owned by Franchisor or any of its Related Parties or their officers, directors, employees, agents, representatives, licensees and franchisees, including, but not limited to, all Client Information, all oral or written training, advice, Standards, guidelines and directives furnished by Franchisor in connection with this Agreement or Your Franchised Business, all Manuals and other documentation, including those on the subjects of employee relations, finance and administration, field operation, purchasing and marketing; all information relating to operations of Franchisees or the Network, all other non-public aspects of the System; any password or electronic key or other device necessary to access other Confidential Information or the CK Intranet; and all other information Franchisor or any of its Related Parties provides to or makes available to You or Your Related Parties, in any form or by any method, for use in the operation of Your Franchised Business under this Agreement. Notwithstanding the foregoing, Confidential Information does not include any information that is: (i) already known to the receiving party at the time of disclosure, (ii) in the public domain through no fault of the receiving party, (iii) which later becomes known from a third party without restrictions on disclosure, or (iv) required to be disclosed by law or by a court or administrative agency of competent jurisdiction.
- 3.23 **Cooperative Advertising Program.** The advertising program described in Section 8.3.
- 3.24 **Core Services.** The following Services: (a) Homemaker/Companionship Services; (b) Personal Care Services; and (c) Technology Services. Core Services also include every other Service that Franchisor requires Franchisees to offer. Franchisor may designate as Core Services those services that were Additional Services as of the Effective Date.
- 3.25 **CPI.** The Consumer Price Index, as determined by the Statistics Canada (or a successor agency). Changes to fees based on CPI changes will be implemented in the month following the annual determination of the CPI.
- 3.26 **Customer Personal Data.** All personal data, including customer contact information (such as name, telephone numbers, email and postal addresses), and transactional information collected by You from customers and prospective customers of the Franchised Business.

- 3.27 **Customers.** Persons who purchase Products other than in connection with Services.
- 3.28 **Data Breach.** An unauthorized or unlawful processing, access or use or accidental loss, destruction, damage, alteration or disclosure.
- 3.29 **Designated Manager.** The person, regardless of title, whom You have appointed to fulfill the functions of a general manager (as that term is generally understood) of Your Franchised Business.
- 3.30 **Dispute.** Any claim or controversy arising out of or related to: (a) this Agreement; (b) the relationship between You, Franchisor or any Related Party, including the rights and obligations owing between any of them; or (c) Your operation of the Franchised Business.
- 3.31 **Effective Date.** The date stated on the Summary Page.
- 3.32 **Entity.** Any legal entity, including but not limited to, a trust, a corporation, a general or limited partnership (regardless of whether the partnership has been formalized or exists as a matter of law).
- 3.33 **Equipment.** Personal care technology equipment that You will offer under the Marks, as further described in the Manual.
- 3.34 **Expansion Agreement.** A Franchise Agreement signed by You (or an Entity in which You hold more than 50% of the Beneficial Ownership) for an additional Franchised Business when You (or an Entity in which You hold more than 50% of the Beneficial Ownership) are then a party to another Franchise Agreement.
- 3.35 **Financial Statements.** A balance sheet, income statement and statement of owners' equity as of a particular date and for the fiscal period then ended, prepared in accordance with generally accepted accounting principles, consistently applied, and in accordance with the chart of accounts that Franchisor specifies. The Financial Statements will relate to Your assets, liabilities and operations.
- 3.36 **Fiscal Quarter.** A accounting period consisting of three calendar months.
- 3.37 **Franchise.** The rights to operate a Franchised Business.
- 3.38 **Franchise Agreement.** An agreement that sets forth the terms of the Franchise and governs the operation of the Franchised Business.
- 3.39 **Franchise Fee.** The fee, in the amount set forth in the Summary Page, You must pay to Franchisor upon Your execution of this Agreement, as described in Section 6.1.
- 3.40 **Franchised Business.** A business providing Services and Products in accordance with the System and in association with the Marks and operating under a Franchise Agreement. The Franchised Business that You will operate under this Agreement is referred to in this Agreement as "**Your Franchised Business.**"
- 3.41 **Franchisee.** A Person (or Persons) who signs a Franchise Agreement as a primary obligor under the Franchise Agreement.
- 3.42 **Franchisor.** KanKare Home Services Inc. or any Person to which KanKare Home Services Inc. delegates, transfers or assigns all or part of its rights and obligations under this Agreement.

- 3.43 **Good Standing.** Full and timely compliance, as determined by Franchisor in its sole judgment, by You and Your Related Parties with all provisions of this Agreement, the Manual, and any other agreement between You or Your Related Parties and Franchisor or its Related Parties. If You have been in default at least 2 times in a 12-month period or at least 3 times in any 24-month period, regardless of whether the prior defaults were cured, Franchisor may, in its sole judgment, determine that You are not in Good Standing.
- 3.44 **Gross Revenue.** The total amount of money received by You and Your Related Parties, in a given accounting period, for all Products sold or leased and Services rendered in connection with the Marks, and all other income of any kind (including income from the provision of any ancillary service approved by Franchisor and the cash equivalent of goods and services received in a barter exchange) derived directly or indirectly in connection with Your operation of Your Franchised Business or Your operation under the Marks or any aspect of the System, including Client and Subscriber deposits and payments for mileage charges, but excluding: (a) sales taxes, value added taxes, or consumption taxes actually paid to a governmental authority; (b) mileage reimbursement actually paid for mileage billed to Clients; and (c) refunds actually made to Clients and Subscribers, during that accounting period.
- 3.45 **Homemaker/Companionship Services.** Services and care for the elderly and other adults who need assistance in daily living, including companionship, meal preparation, light housekeeping, grocery and clothes shopping, grooming and dressing guidance, and assistance with recreational activities, all as further described in the Manual.
- 3.46 **Immediate Family.** The spouse (common law or otherwise), parents, children, step-children, brothers, sisters, nieces, nephews, and in-laws of an individual having Beneficial Ownership in You.
- 3.47 **Improvements.** Any addition, modification, adaptation, improvement, refinement, invention or innovation (including advertising slogans, logos, advertising concepts, and the like) that any Person makes or suggests related to the System, the Network, the Manual or other confidential information relating to any Franchised Business.
- 3.48 **Indemnified Parties.** Jointly and severally, Franchisor and its Affiliates, parents, ultimate parents, and their respective directors, officers, employees, shareholders, agents, consultants, lawyers, independent contractors, designees, successors, and assignees.
- 3.49 **Late Fee.** The fee, in the amount set forth in the Summary Page, You must pay to Franchisor as described in Section 6.7.
- 3.50 **Losses and Expenses.** Compensatory, exemplary or punitive damages; fines and penalties; legal fees; experts' fees; court costs; costs associated with investigating and defending against claims; settlement amounts; judgments; as applicable, compensation for damages to the reputation and goodwill Franchisor or the System; and all other costs associated with any of the foregoing losses and expenses.
- 3.51 **Lost Revenue Damages.** An amount equal to the net present value of the Royalty Fee, the Brand Fund fee and the Cooperative Advertising Program fee (if applicable) that would have been paid in the Measurement Period had the Agreement not been terminated. Lost Revenue Damages will be calculated as follows: (a) the aggregate of the Royalty Fee, the Brand Fund fee and the Cooperative Advertising Program fee percentages multiplied by the Gross Revenues of the Franchised Business during the 12 calendar months



immediately preceding the Commencement Date; multiplied by (b) the number of calendar months in the Measurement Period.

- 3.52 **MPS or Minimum Performance Standards.** The requirement that Your Franchised Business achieve a specified minimum Gross Revenue during a month to comply with this Agreement. The Minimum Performance Standards are set out in Section 7.3 of this Agreement.
- 3.53 **MPS Gross Revenue.** The minimum monthly Gross Revenue Your Franchised Business must achieve to comply with the MPS, as set out in Section 7.3 of this Agreement.
- 3.54 **Manual.** All manuals, bulletins, directives, memoranda, marketing specifications, guides, video or audio tapes, computer media (e.g., computer software), electronic communications (e.g., via the Internet or CK Intranet) and other written and electronic communications prepared by Franchisor or its Affiliate or under its direction periodically, that contain the Standards and other requirements or recommendations for the operation of a Franchised Business and the use of the System. The Manual contains, among other things, instructions for use of the Marks, the Standards for operation of Your Franchised Business, including specifications for printed materials and computer equipment and software that You will use, sample business forms, information on marketing, management, operating techniques, and administration methods developed by Franchisor or its Affiliate for use in a Franchised Business, and other information that Franchisor believes may be necessary or helpful to You in Your operation of Your Franchised Business. Franchisor currently makes the Manual available online through CK Intranet. The Manual remains Franchisor's exclusive property at all times.
- 3.55 **Marks.** The registered and unregistered trademarks, trade names, logos, emblems, domain names, trade dress, and other indicia of origin, including the trade name "COMFORT KEEPERS®", licensed by Franchisor to You under this Agreement and used by Franchisor to identify the System and the Franchised Businesses and to promote Services and Products in various media, including the Internet.
- 3.56 **Measurement Period.** The period of time from the date of termination to the scheduled expiration of the Term.
- 3.57 **Minimum Royalty Fee.** The minimum Royalty Fee payment due during the first 24 months after the Start Date, as provided in Section 6.2(a)(i). The Minimum Royalty Fee is set forth on the Summary Page.
- 3.58 **Network.** All Franchised Businesses and all Company-owned Units.
- 3.59 **NKA Agreement.** An agreement with a Network Key Account Referral Source under which Franchisees may provide Services or Products to NKA Clients. The NKA Agreement may, but need not, involve a prescribed discount or other special terms and may be between Franchisor or its Affiliate and a Network Key Account Referral Source or between a group of Franchisees and a Network Key Account Referral Source. The NKA Agreement may also provide for individual sub-agreements with Franchisees providing Services or Products under the terms of the NKA Agreement.
- 3.60 **NKA Client.** Any person who seeks to have a Franchisee provide any Services or Products under the terms of an NKA Agreement and who is also a member or affiliate of, or similarly associated with, a Network Key Account Referral Source. Franchisor makes

no representations with respect to the amount of business, if any, that may be related to or generated by NKA Clients or Network Key Account Referral Sources.

- 3.61 **Network Key Account Referral Source.** Any referral source that offers the opportunity for Franchisees in the applicable geographic area to provide any Services or Products to the referral source's members, affiliates, or, however designated, other persons who have a similar relationship with that referral source.
- 3.62 **Office.** A permanent physical facility, with hours of operation Monday through Friday from no later than 9:00 a.m. to no earlier than 5:00 p.m. and with its own telephone numbers, from which a Franchisee operates a Franchised Business.
- 3.63 **Open Area.** Postal codes or forward sortation areas, or other areas defined by Franchisor, that are not assigned as part of any Territory, in which any Franchisee may provide Services or sell or lease Products.
- 3.64 **PAD.** Pre-authorized debit, electronic funds transfer, or other payment system.
- 3.65 **Permanently Disabled.** Being subject to any physical, emotional or mental injury, illness or incapacity that prevents an individual from performing his or her obligations under this Agreement or under any guaranty of Franchisee's obligations under this Agreement for at least 90 consecutive days, and from which recovery is unlikely within 90 days from the date such person is determined to be Permanently Disabled.
- 3.66 **Person.** An individual or an Entity.
- 3.67 **Personal Care Services.** Basic personal care services for the elderly and other adults who need assistance with the basic activities of daily living, including eating, bathing, and dressing, all as further described in the Manual.
- 3.68 **Plan of Care.** A written plan setting out the Services that Your Franchised Business will provide to a Care Recipient.
- 3.69 **Products.** Those items, other than Services, that Franchisor authorizes You to offer and sell or lease to Clients, Care Recipients, Subscribers, or others, including Equipment.
- 3.70 **Related Party(ies).** Persons affiliated with either Franchisor or You, as the context requires, including Persons owning or otherwise having a Substantial Interest in Franchisor or You, Persons in which Franchisor or You have a Substantial Interest and Persons in which any Person owning a Substantial Interest in You also has a Substantial Interest, and each of Your officers and directors. If any of You is an individual, the spouse of each such individual is a Related Party. The spouse of an individual who has a direct or indirect Substantial Interest in You also is a Related Party. A Substantial Interest means the right to 10% or more of the capital or earnings of a Person.
- 3.71 **Renewal Agreement.** Franchisor's then-current form of Franchise Agreement (modified to reflect the fact that the Franchised Business is already operating) that a Franchisee signs for an additional term at the end of the expiring term of a Franchise Agreement or at such earlier time as Franchisor may permit.
- 3.72 **Respondent.** The party receiving the notice of initiation of the ADR Process.
- 3.73 **Royalty Due Date.** The 7<sup>th</sup> day of a calendar month or, if that is not a Business Day, the next Business Day.

- 3.74 **Royalty Fee.** The continuing monthly fee that You will pay, as set forth in Section 6.2.
- 3.75 **Satellite Unit.** A second or additional physical facility from which You operate some functions of the Franchised Business within Your Territory. The Satellite Unit is not required to be staffed full-time and need not have its own telephone number.
- 3.76 **Services.** All Core Services and those Additional Services and ancillary services that Franchisor has authorized You to perform.
- 3.77 **Standards.** The mandatory standards, specifications, procedures and processes required by Franchisor in connection with the operation of a Franchised Business as set forth in the Manual or otherwise in writing and as periodically modified by Franchisor.
- 3.78 **Start Date.** The date by which You must begin offering Homemaker/Companionship Services and Technology Services, which may only be extended with Franchisor's written consent.
- 3.78.1 With respect to a Start-up Agreement, the Start Date is the last day of the month following the month in which all of those persons designated in Section 7.2.1: (a) successfully complete, as determined by Franchisor in its sole discretion, the initial training program specified in Section 7.2.1; or (b) are required to complete the initial training program (i.e., 60 days after the Effective Date), whichever is earlier. With respect to a Start-Up Agreement, Franchisor will provide you written notice of the Start Date.
- 3.78.2 With respect to an Expansion Agreement not acquired through a Transfer, the Start Date is 60 days after the Effective Date.
- 3.78.3 With respect to: (a) a Franchised Business acquired through a Transfer; and (b) a Franchise Agreement signed in connection with the conversion of an independent business to a Franchised Business, the Start Date is the Effective Date.
- 3.79 **Start-up Agreement.** A Franchise Agreement signed by a Franchisee for the Franchisee's first Franchised Business, but it does not include an Expansion Agreement, a Renewal Agreement, a Franchise Agreement signed in connection with a Transfer and a Franchise Agreement signed in connection with a conversion of an independent business to a Franchised Business.
- 3.80 **Subscriber.** A Person who signs an agreement with a Franchisee for that Franchisee to provide Technology Services and Equipment. A Subscriber may, but need not be, a Client or Care Recipient.
- 3.81 **Subscriber Agreement.** An agreement between a Franchisee and a Subscriber for Technology Services.
- 3.82 **Summary Page.** The page that directly precedes the Table of Contents.
- 3.83 **System.** The distinctive and proprietary business system developed and owned by Franchisor or its Affiliate, as it may be periodically developed, changed and modified, including the Confidential Information, Services, vendor arrangements, business methods, methods of operation, Standards, technical knowledge, trade secrets, purchasing arrangements, advertising materials, marketing concepts and strategies, information on sources of supply, administrative procedures, business forms and employee training techniques.

- 3.84 **TS Supplier.** A supplier of any of the Equipment or monitoring or related services that You will sell or lease to Subscribers and others. A TS Supplier may include or be limited to, from time to time, Franchisor, its Affiliate, or a third party specified by Franchisor.
- 3.85 **Technology Services.** Monitoring or related services provided under one or more of the Marks in connection with the sale or lease of Equipment. Technology Services may not involve monitoring and may not require or involve electronic Equipment. By way of example, Technology Services might include mailing medication packets to be used in connection with a medication management system. The Equipment and monitoring or related services may also be co-branded with the mark of a third party.
- 3.86 **Term.** The term of the Franchise Agreement as set forth in Section 4.4.1.
- 3.87 **Termination.** The expiration, non-renewal of this Agreement or termination, under the circumstances described in Section 11 of this Agreement, of the then-current Term before its normal expiration date.
- 3.88 **Territory.** A fixed geographical area within which Franchisor authorizes a Franchisee to provide Services to Care Recipients, Technology Services to Subscribers, or to sell or lease Products to Clients, Care Recipients, Subscribers, or others. The geographical area is defined by the boundary of specified postal codes forward sortation areas as they exist on the Effective Date. The Territory assigned to You is set forth in Attachment 1 to this Agreement and is referred to in this Agreement as “**Your Territory**.” If You provide Services or sell Products in an Open Area under the terms set forth in Section 4.2.4, the Open Area does not become part of Your Territory.
- 3.89 **Transfer.** Any sale, gift, assignment, conveyance, pledge, encumbrance, or other direct or indirect lien or change in ownership, whether voluntary or by operation of law, of all or any part of: (a) the rights and obligations under this Agreement; (b) any Beneficial Ownership in the Franchised Business or its assets; or (c) any Beneficial Ownership interest in You.
- 3.90 **Transfer Fee.** The fee, calculated as set forth in Section 10.4(e), to be paid to Franchisor in the event of a Transfer.
- 3.91 **Website.** An interactive electronic document contained in a network of computers linked by communications software, including the Internet and World Wide Web home pages.

#### 4. GRANT OF FRANCHISE

- 4.1 **Granting Clause.** Franchisor grants to You, and You accept from Franchisor, a Franchise to operate a Franchised Business within Your Territory in accordance with the terms of this Agreement.
- 4.2 **Territory.**
- 4.2.1 **Geographic Restrictions on Your Activities.** You may provide Services and lease or sell Products (or sign an agreement to provide Services or lease or sell Products) only in Your Territory unless one of the following exceptions applies: (a) the conditions set forth in Section 4.2.4 are met; (b) You have received the prior express written permission of the Franchisee (in a format designated by Franchisor) in whose Territory You intend to provide Services or lease or sell Products, and have provided a copy of that written permission to Franchisor; or (c)

You have Franchisor's prior written permission to do so.

You may solicit referral sources without regard to their geographic location; however, You may not directly or indirectly solicit to or advertise for Clients, Care Recipients, Subscribers, or Customers outside Your Territory except as otherwise provided in Section 4.2.4 or unless Franchisor, in its sole judgment, provides its prior written consent.

**4.2.2 Territorial Protection for Technology Services and Products.** Subject to the rights reserved by Franchisor in Section 4.3, as long as You and Your Related Parties are in Good Standing, Franchisor will not provide Technology Services under the Marks in Your Territory without Your written permission. In addition, as long as You and Your Related Parties are in Good Standing, Franchisor will not authorize another Franchisee to provide Technology Services or sell or lease Products under the Marks in Your Territory without Your written permission, except under one of the following circumstances:

- (a) If, as described in Section 4.2.3, Franchisor permits one or more other Franchisees to continue to provide Homemaker/Companionship Services or Personal Care Services to Care Recipients in an Open Area that now is within Your Territory, those Franchisees may also market and provide Technology Services or Products to those existing Care Recipients.
- (b) If, for any reason (other than an unsafe or unhealthy environment for the installer, non-payment by the potential Client or Subscriber of a requested deposit, or direct or indirect request by a potential Client, Subscriber, or Customer that You violate the law), You decline to provide Technology Services to a potential Client, Subscriber or Customer in Your Territory (including NKA Clients), Franchisor, another Franchisee or a Company-owned Unit may provide Technology Services/Equipment and Products to the potential Client, Subscriber or Customer. If You decline to provide Technology Services/Equipment or Products, You must notify Franchisor and provide Franchisor all necessary contact information. This Section 4.2.2(b) does not apply if You are providing personal technology services or equipment under other marks as permitted by Section 7.2.5.
- (c) If You acquired the Franchised Business by Transfer and the transferring franchisee had given another Franchisee or Company-owned Unit written permission to provide Services to specific Care Recipients in Your Territory, that Franchisee or Company-owned Unit may continue to provide Technology Services and Products to Care Recipients under signed Client Agreements.

The territorial protection described in this Section 4.2.2 begins on the third Business Day after You meet the conditions set forth in Section 7.2.2.

**4.2.3 Territorial Protection for Services Other than Technology Services.** Subject to the rights reserved by Franchisor in Section 4.3, as long as You and Your Related Parties are in Good Standing, Franchisor will not provide, and will not authorize any other Franchisee or licensee to provide, Services (other than Technology Services, for which territorial protection is specified in Section 4.2.2) under the Marks to Clients or Care Recipients within Your Territory (other than

Technology Services) under the Marks to Clients or Care Recipients within Your Territory, except in any of the following circumstances:

- (a) If, before You executed this Agreement, other Franchisees or Company-owned Units had been serving Care Recipients in an Open Area that now is within Your Territory, Franchisor will, in the best interests of continuity of client care, permit those Franchisees or Company-owned Units to continue to provide Services (including, to the extent provided in Section 4.2.2, Technology Services and Products) to those Care Recipients.
- (b) To protect the goodwill associated with the Marks and the reputation of the System, Franchisor may, in its sole judgment, permit another Franchisee or Company-owned Unit to provide Services (other than Technology Services) under the Marks to new or existing Care Recipients in Your Territory (including NKA Clients) if: (i) You have failed to respond to requests for Services (other than Technology Services) from existing or potential Clients or Care Recipients in Your Territory in violation of customer service Standards, regardless of whether Franchisor has given You formal notice of default under this Agreement; and (ii) Franchisor calls Your Franchised Business to advise of Franchisor's intent to give such service permission and You do not, within 3 hours after the call, provide evidence to Franchisor's reasonable satisfaction that You have satisfactorily resolved the issue of contacting the prospective or existing Client.
- (c) If, for any reason (other than an unsafe or unhealthy environment for the caregiver, non-payment by the potential Client or Care Recipient of a requested deposit, or direct or indirect request by a potential Client or Care Recipient that You violate the law), You decline to serve a potential Client or Care Recipient in Your Territory, Franchisor may permit another Franchisee or Company-owned Unit to provide Services. If You decline to provide Services, You must immediately refer the potential Client or Care Recipient to another Franchisee and notify Franchisor that You have done so.
- (d) If You opt not to provide Services under an NKA Agreement where participation is non-mandatory, Franchisor may assign all NKA Clients in Your Territory to another Franchisee, Franchisees, or Company-owned Units, as it deems advisable.
- (e) If You acquired the Franchised Business by Transfer and the transferring franchisee had given another Franchisee or Company-owned Unit written permission to provide Services to specific Care Recipients in Your Territory, that Franchisee or Company-owned Unit may continue thereafter to provide Services (including Technology Services or Products, regardless of whether the Care Recipient is a Subscriber when You acquire the Franchised Business) to Care Recipients under signed Client Agreements.

The territorial protection described in this Section 4.2.3 begins on the third Business Day after You have met the conditions set forth in Section 7.2.2.

- 4.2.4 **Open Areas.** You may provide Services to Clients, Care Recipients, or Subscribers, and You may lease or sell Products in an Open Area only with

Franchisor's prior written consent and only if You and Your Related Parties are, and remain, in Good Standing. Franchisor's written consent, which it may withdraw in its sole judgment, will be deemed given if the following conditions are met:

- (a) You direct solicitations, marketing and advertising to prospective Clients outside of Your Territory only within the Open Area and You can completely discontinue that directed solicitation, marketing and advertising on 14 days' notice or less.
- (b) You agree that, when any portion of the Open Area is granted to another Franchisee as part of its Territory or Franchisor opens a Company-owned Unit that serves any portion of the Open Area or otherwise upon notice from Franchisor: (i) You will cease accepting new Clients, Care Recipients, and Subscribers (except as otherwise permitted in writing by Franchisor) for any Services in the Open Area that is assigned as the Territory of that Franchisee or the Company-owned Unit; and (ii) You will immediately take all steps necessary to completely discontinue any advertising You have directed to prospective Clients, Care Recipients, Subscribers, or Customers in the Open Area.

If You begin to provide Services or market, sell, or lease Products in an Open Area, You will be deemed to have agreed to the foregoing. You must immediately stop providing Services to Clients and Care Recipients in an Open Area if Franchisor withdraws its consent to Your operating there. Franchisor reserves the right to withdraw its consent following written notice to You.

**4.2.5 Modification of Your Territory.** Franchisor may not modify Your Territory without Your consent.

**4.3 Rights Reserved.** This Agreement does not limit the rights of Franchisor, its Related Parties or Affiliates to use or license the Marks and System or to engage in or license any business activity at any other location or by any other means, except as provided in Section 4.2 above. You are not acquiring any rights under this Agreement other than the right to use the System as specifically defined in this Agreement and in accordance with its terms. Franchisor, its Affiliates and Related Parties retain all rights not expressly granted to You in this Agreement including, without limitation and without compensation to you, the right to:

- (a) Own, acquire, establish and operate, and license others to establish and operate, Franchised Businesses outside Your Territory.
- (b) Own, acquire, establish and operate systems (franchised or company-owned) under other proprietary marks, whether any such system is same as, similar to or different from the System, at any locations in or outside Your Territory, and to use other channels of distribution (for example, the Internet, catalog sales, telemarketing, or other direct marketing) in connection with those systems and locations.
- (c) Own, acquire, establish and operate, and license others to establish and operate, businesses different from a Franchised Business, but operated under the Marks, in or outside Your Territory, and to use other channels of distribution (e.g., the Internet, catalog sales, telemarketing, or other direct marketing) in connection with those systems and locations.

- (d) Be acquired by a business or entity providing products and services the same or similar to those provided by Franchised Businesses, even if that business or entity operates, franchises or licenses Competitive Businesses in Your Territory.
- (e) Sell or distribute, at retail or wholesale, directly or indirectly, or via the Internet or any other means, or license others to sell or distribute, via any means (including the Internet and other channels of distribution) any products (including Products) that bear any proprietary marks, including the Marks, whether in or outside Your Territory.

#### 4.4 **Term and Renewal.**

4.4.1 **Term.** This Agreement becomes effective on the earlier of the date signed by Franchisor or the Effective Date and the Term will continue for 10 years from the Start Date, unless terminated earlier.

4.4.2 **Renewal.** At the end of the Term, You will have the right to renew the Franchise for consecutive additional 10 year terms if at the time of each renewal all of the following conditions are, in Franchisor's sole judgment, fulfilled:

- (a) You and Your Related Parties have substantially complied with all of the material provisions of this Agreement (including the Standards) throughout the Term and You and Your Related Parties are then in full compliance with all of the material provisions of this Agreement (including the Standards).
- (b) You have notified Franchisor in writing at least 120 days before the expiration of the Term of Your desire to renew.
- (c) You and all of Your Related Parties who are, in Franchisor's determination, actively involved in the Franchised Business have complied with Franchisor's then-current training requirements for renewing Franchisees.
- (d) You and any Person with a Substantial Interest in You have timely executed the Renewal Agreement (including an Agreement and Guaranty and a Confidentiality and Non-Compete Agreement in such forms as Franchisor may then require, and any ancillary agreements Franchisor may require).
- (e) You and all Persons that have any Beneficial Ownership interest in You or in the Franchise or have signed a guaranty of Your obligations have executed a release of claims (except for claims which cannot be released pursuant to an applicable franchise law statute) in favor of Franchisor and its Related Parties and Affiliates.
- (f) At the time You sign the Renewal Agreement, You pay Franchisor a renewal fee in the amount specified on the Summary Page.

The Renewal Agreement will be in the form of Franchisor's then-current form of Franchise Agreement for new franchisees, modified to reflect the fact that the Franchised Business is already operating. The form, terms and conditions of the Renewal Agreement, and any other agreements Franchisor may require, may differ materially from those contained in this Agreement, including increased



Royalty Fees and Brand Fund contributions, and subsequent renewal requirements.

## 5. SERVICES TO FRANCHISEE

Provided You are in Good Standing, Franchisor will perform the following obligations at locations selected by it in the manner it determines.

### 5.1 Training.

5.1.1 **Initial Training.** Before You commence offering Services or selling or leasing Products, Franchisor will conduct an initial training program in the operation of a Franchised Business of such duration and at such location as the Franchisor may deem necessary for 2 persons, at least 1 of which must have Beneficial Ownership in You. Additional persons may attend that initial training program or subsequent initial training programs if there are open training spaces.

5.1.2 **Additional Training.** Franchisor will also provide those additional seminars, conferences, courses and other training as it deems advisable and it may require You, Your Designated Manager and other employees to attend at Your cost, including payment of the then-current fee per attendee. Franchisor may offer the additional training in person, online or through teleconference or video conference as it deems advisable. All additional training is subject to Section 7.2.1.

5.2 **Operational Assistance.** Franchisor will provide that periodic and continuing advisory assistance to You in the operation of Your Franchised Business as Franchisor deems advisable. Franchisor may provide this assistance by telephone, email, the CK Intranet, Office visits, additional training, and those other means as it deems appropriate.

5.3 **Marketing and Branding Assistance.** Franchisor will periodically make available, at Your expense, marketing and other materials for Your use in advertising. In addition, as described in Section 8, Franchisor will provide that other marketing and branding assistance and develop that marketing, branding, public relations and advertising programs as it deems advisable.

5.4 **Services Development.** Franchisor will, to the extent it deems advisable, research new types of Services that You may offer under this Agreement.

5.5 **Manual.** During the Term, Franchisor will furnish You a copy of, or provide electronic access to, the Manual. Franchisor may revise the Manual periodically to reflect System modifications and will provide You with those revisions.

5.6 **Equipment and Technology Services.** Franchisor will make available to You, for lease or purchase, Equipment and monitoring and related services for Your use in providing Technology Services and selling or leasing Products, as further described in the Manual. Franchisor may modify, cancel, withdraw and substitute the models or types of Equipment and monitoring or related services at any time following 60 days' notice to You, and Franchisor may change, substitute and add TS Suppliers at any time without notice to You. Franchisor may provide any notice required under this Section by email. Franchisor's obligation to make available Equipment and monitoring and related services as described in this Section is not absolute and may be delayed or excused, without liability to You, upon the occurrence of any circumstance beyond Franchisor's control, including acts of God, war, government regulations, disaster, failure of the TS Supplier to meet its

obligations to Franchisor, acts of terrorism, strikes (except those involving Franchisor's employees), civil disorder or curtailment of transportation facilities.

5.7 **Pricing.** Franchisor may recommend suggested pricing for the Equipment and Core and Additional Services. In addition, Franchisor may, from time to time, set and require minimum and maximum prices that You must charge to Clients, Care Recipients and Subscribers for any of the Equipment, Core Services, Additional Services, and any other good or service that You sell to Clients.

5.8 **Suppliers and Warranty.**

- (a) Franchisor will provide, and periodically update, a list of approved, designated or sole suppliers of goods and services that you are required to purchase and use in Your Franchise Business. Franchisor and its Affiliates may be approved, designated or sole suppliers of any such goods or services and may mark up and profit on goods and services sold or leased to You.
- (b) To the extent possible, Franchisor will pass on to You the benefit of any warranty it receives from a manufacturer of Equipment. You acknowledge that Franchisor is not the manufacturer of the Equipment or other items and that Franchisor does not itself provide monitoring and related services that You will provide as part of Technology Services. **Franchisor makes no express or implied warranty of the Equipment and Services that are part of Technology Services, including any warranty of merchantability or of fitness for any particular purpose. You agree to rely solely on the Equipment warranty given by the TS Supplier and to look solely to the TS Supplier for fulfillment of any Equipment or Services warranty. You agree that Franchisor has no liability for any failure of the Equipment or monitoring or related Services that constitute Technology Services.**

5.9 **Subscriptions and Other Items.** If this Agreement is a Start-up Agreement, Franchisor will pay for the following program-related expenses, provided, in each case, You begin using the program as of the Start Date:

- (a) The start-up fee and a 1-year subscription to a scheduling software program designated by Franchisor and for initial training on that software program, subject to Your execution of the license agreement for that program.
- (b) The start-up fee and a 1-year subscription related to an online learning system approved by Franchisor.
- (c) The registration fees for up to 2 of Your owners to attend the next scheduled meeting for franchisees.

5.10 **Franchisee Meetings.** In addition to conferences as set out in Section 7.10 herein, Franchisor will, as Franchisor deems advisable or necessary, coordinate periodic and mandatory meetings of franchisees on a local, regional, national and/or international basis; the meetings may, at Franchisor's option, be in person, online, electronic, via teleconference, videoconference, or such other means as Franchisor deems advisable.

Unless Franchisor specifies otherwise, You and Your required attendees shall be responsible for costs associated with Your attendance at such meetings. Franchisor may charge a fee for attendance at such meetings for franchisees; Franchisor will announce the amount of the fee in advance of that meeting. Failure to attend a mandatory meeting is a default under the this Agreement, and notwithstanding any other available remedy available to Franchisor, You will be charged the attendance fee applicable to attendees despite Your failure to attend.

- 5.11 **Withholding Performance.** Franchisor will perform its obligations under this Agreement if You and Your Related Parties are in Good Standing. Should You or Your Related Parties fail to be in Good Standing, Franchisor may, in its sole judgment, do any or all of the following until You and Your Related Parties fully cure the default or Franchisor terminates this Agreement: (a) deny You access to the CK Intranet; (b) refuse to sell Technology Services or Equipment to You; (c) remove Your Franchised Business from the Franchised Business locator page and Your interior pages, on the CK Website; (d) remove Your Franchised Business from the list of Franchised Businesses to which telephone inquiries for Services are referred; (e) remove Your Franchised Business from the list of Franchised Businesses to which caregiver employment inquiries are referred; (f) remove Your Franchised Business from the list of Franchised Businesses that are entitled to “**Comfort Keepers**” terms from approved or designated vendors; and (g) remove Your Franchised Business from the list of Franchised Businesses that are approved to participate in alliance programs. Franchisor may take these actions in addition to, or instead of, giving You notice of default and termination under this Agreement.

Franchisor’s withholding of performance services in accordance with this Section is not a breach of this Agreement or a defense to Franchisor’s enforcement of this Agreement. Franchisor’s decision to withhold performance rather than terminating this Agreement, does not constitute a waiver of Franchisor’s subsequent right to terminate this Agreement or to exercise any other remedies available to Franchisor.

- 5.12 **No Third-Party Rights.** Except as otherwise expressly provided, nothing in this Agreement is intended, nor will be deemed, to confer on any Person other than Franchisee, Franchisor and Franchisor’s Affiliates any rights or remedies under or by reason of this Agreement. You have no rights, as a third-party beneficiary or otherwise, to enforce any provision of any Franchise Agreement between Franchisor and any other Franchisee.
- 5.13 **Delegation.** Franchisor’s duties and obligations under this Agreement may be performed by any designee, employee or agent as Franchisor may direct.
- 5.14 **Non-Uniform Agreements.** Franchisor has entered, may continue to enter and may amend agreements with other Franchisees that may contain provisions, conditions and obligations that differ from those contained in this Agreement. The existence of different forms of agreement and the fact that Franchisor and other Franchisees may have different rights and obligations does not affect Franchisor’s or Your duties to comply with the terms of this Agreement.
- 5.15 **Accreditation.** Franchisor or its Affiliates or other Franchisees with approval of Franchisor may apply for accreditation under such accrediting organizations (but not limited to) Accreditation Canada or C.A.R.F. In order for your Office to be accredited and thereby participate in selected programs or “Requests for Proposal”, You will be required to pay your proportional cost as determined solely by Franchisor. In the event that You choose

not to participate in accreditation and proportionally share in its costs, Franchisor may authorize an accredited Office or an affiliate to perform services in your territory.

## 6. PAYMENTS BY FRANCHISEE

6.1 **Franchise Fee.** No later than the date You sign this Agreement, You must pay Franchisor the Franchise Fee. The Franchise Fee is fully earned by Franchisor when this Agreement is signed by You and is not refundable.

6.2 **Royalty Fee and Gross Revenue Reports.**

- (a) On each Royalty Due Date, You will pay to Franchisor a monthly Royalty Fee equal to the greater of the Minimum Royalty Fee or 5% of Gross Revenue for the immediately preceding calendar month. If this Agreement is a Start-up Agreement, Your obligation to pay the Royalty Fee commences in the 5th full calendar month after the Start Date with respect to operations in the 4th month. Notwithstanding the foregoing, if any of Your guarantors or any Entity in which any of your guarantors has Beneficial Ownership has been providing Services to Care Recipients in an Open Area that is now part of Your Territory and You are now serving any of those Care Recipients, You must pay Royalty Fees from the Start Date on Gross Revenue from Services provided to those Care Recipients.

To the extent provided in Section 7.3, You will pay a monthly Royalty Fee on the greater of Your actual Gross Revenue or the MPS Gross Revenue applicable to Your Franchised Business for that month.

- (b) By the 7th day of each month during the Term following the Start Date, You will transmit to Franchisor by email, fax or other delivery method designated by Franchisor a Gross Revenue report, in the form specified by Franchisor, itemizing Gross Revenue for the preceding month. If You fail to timely transmit the Gross Revenue report to Franchisor, Franchisor may debit from Your designated bank account (by PAD as provided in Section 6.8) estimated Royalty Fees in an amount equal to 120% of the Royalty Fee collected for the preceding month (together with service charges, interest and Late Fees, as applicable). Once you transmit a Gross Revenue report that was not timely provided, Franchisor will, if applicable, debit Your designated bank account for any underpayment or credit any overpayment against the next Royalty Fee due. Franchisor will retain any interest on any overage that Franchisor has debited due to Your failure to timely file a Gross Revenue report. Franchisor's debiting of an estimated Royalty Fee will not constitute a waiver of Franchisor's right to declare a default for Your failure to file the Gross Revenue report or timely pay Royalty Fees and other amounts due.

6.3 **Payment for Technology Services and Equipment.** By the 10th day of each month during the Term, Franchisor will provide You with an invoice for all service fees, Equipment costs, and related fees You owe Franchisor relating to the Technology Services You have provided and the Equipment You have leased or sold during the preceding month. On the 25<sup>th</sup> day of each month, Franchisor will debit the amount invoiced by PAD, as described in Section 6.8. Payment is due regardless of whether Subscribers or Customers have paid You. Franchisor may periodically change its fees and Equipment costs following 60 days' written notice to You, but Franchisor may not increase them by more than the greater of

the CPI increase or the amount by which a TS Supplier has increased its fees to Franchisor. Franchisor may provide this notice by email to the email address Franchisor has assigned to You.

- 6.4 **Audit.** Franchisor has the right at all reasonable times to review, inspect, audit and copy Your books and records, including Your tax returns, with respect to Your Franchised Business. If the inspection or audit discloses an underpayment of Royalty Fees or other fees or amounts payable under this Agreement, You will immediately pay these amounts to Franchisor together with accrued interest on the amount underpaid, in accordance with Section 6.7. In addition, if the underpayment exceeds 3% of the total Royalty Fees payable for any period covered under the audit, You will reimburse all expenses actually incurred by Franchisor or its agents in connection with the audit. If You are an Entity for which separate books, records and tax returns are not prepared (that is, You are a subsidiary of an Entity for which only consolidated Financial Statements are required to be prepared), You must make available for audit those books, records, schedules, tax returns, and work papers relating to Your assets, liabilities and operations that Franchisor deems necessary.
- 6.5 **Out of Territory Administrative Fee.** If You enter into a Client Agreement to provide Services outside of Your Territory in violation of this Agreement, without limitation to Franchisor's other rights, You will pay Franchisor an administrative fee of \$500 to cover Franchisor's costs if not cured within seven (7) days. In addition, if an audit is required to determine if You are providing Services outside of Your Territory, You will reimburse all expenses actually incurred by Franchisor or its agents in conducting the audit.
- 6.6 **Additional Fees.** In addition to the fees included in this Section 6, You must pay those other fees and costs described elsewhere in this Agreement.
- 6.7 **Interest and Late Fee.** Any payment not received by Franchisor within 30 days after the payment is due will bear interest at the lesser of 18% per year or the highest rate allowed by applicable law, commencing the date the payment was due. In addition, You will pay the Late Fee if any payment-related report or any payment You must make to Franchisor is not reported or made to Franchisor within 2 days after the date the report or payment was due. Franchisor may change the late fee each year by the amount of the change in the CPI.
- 6.8 **PAD Payments.** All amounts You owe to Franchisor under or in connection with this Agreement will be paid by PAD. Simultaneously with executing this Agreement, You will execute a document in the form of Attachment 2 granting Franchisor the authority to process PADs from Your designated bank account. At Franchisor's request, You will periodically execute any additional documents necessary to confirm or update this authority. You will be responsible for any PAD transfer fee or similar charge imposed by Your bank and for any service charges incurred by Franchisor or imposed by Your bank should any PAD not be honored by Your bank for any reason.
- 6.9 **Tax.** Any and all amounts expressed as being payable pursuant to this Agreement are exclusive of any applicable taxes. Accordingly, if applicable, all payments by You shall, in addition, include an amount equal to any and all goods and services taxes, harmonized taxes, sales taxes, value added taxes, or other taxes, assessments or amounts of a like nature imposed on any payments to be made pursuant to this Agreement. In addition, in the event that any amount payable by You to Franchisor or its Affiliates under this Agreement or any other agreement entered into pursuant to this Agreement is subject to withholding or other taxes that You are required to deduct from such payments, You shall

be required to deduct such taxes and remit the same to the applicable governmental authorities. Within the time required by law, You must complete all forms prescribed by applicable governmental authorities in respect of taxes withheld or paid and provide copies thereof to Franchisor. You agree to fully and promptly cooperate with Franchisor to provide any information or records Franchisor requests in connection with any application by Franchisor to any taxing authority.

6.10 **Currency.** All amounts in this Agreement are expressed and payable in Canadian dollars, unless otherwise required by the Franchisor.

6.11 **Application of Payments; No Right of Set-off.** Franchisor has the right to apply any payment it receives from You to any past due amount You owe to Franchisor or any of Franchisor's Related Parties or Affiliates, regardless of how You indicate the payment is to be applied. You may not, on grounds of alleged non-performance by Franchisor of its obligations under this Agreement, withhold payment of Royalty Fees or any other amounts due to Franchisor or its Affiliates.

You acknowledge that any development incentive program offered by Franchisor to You may be modified or terminated at any time, provided that, at the time of modification or termination, You and Franchisor have not entered into a written agreement pursuant to which You have accepted the incentive offer.

## 7. YOUR OBLIGATIONS

7.1 **Marks.**

7.1.1 **Ownership and Use of Marks.**

- (a) You acknowledge that the Marks are valid and that they are the sole property of Franchisor or its Affiliates. Your right to use the Marks derives solely from this Agreement.
- (b) You may use the Marks only in the operation of Your Franchised Business and only in the manner and for the purposes permitted or specified by Franchisor. You may not use any other trade name or marks in connection with Your Franchised Business. You may not use the Marks, or any portions thereof (including the letters "**CK**"), as part of Your corporate, partnership or other entity name.
- (c) In order to protect the goodwill associated with the Marks, neither You nor any of Your Related Parties or Affiliates may use any portion of the Marks or the letters "**CK**" or any other confusingly similar mark, logo, trade name or reference in connection with the operation of a business that is not a Franchised Business.

7.1.2 **Changes in Marks.** Franchisor has invested substantial time, energy and money in the promotion and protection of the Marks, however, rights in intangible property such as the Marks are often difficult to establish and defend. In addition, other circumstances, such as changes in the cultural and economic environment within which the Network operates, changes in marketing or other strategies, or third-party challenges to Franchisor's rights in the Marks, may make changes in the Marks desirable or necessary. Accordingly, Franchisor reserves the right to change, substitute or otherwise modify the Marks and the specifications for each when Franchisor believes that such changes will benefit the System. You will

promptly conform, at Your expense, to those changes, substitutions or modifications. Franchisor need not reimburse You for any loss of revenue due to any changed, substituted, modified or discontinued Mark or for Your expenses in changing to, or promoting, a changed, modified or substitute trademark or service mark.

**7.1.3 Notice of Claims Relating to Marks.** You must notify Franchisor in writing within 5 days of any apparent infringement of any Mark, any challenge to Your use of any Mark, and of any claim by any Person to any rights in any Mark. Except as Franchisor otherwise permits in writing, You may not directly or indirectly communicate with any person other than Your lawyer (if a claim is brought against You) and Franchisor and its counsel in connection with any such infringement, challenge or claim. Franchisor has the sole right to determine whether any action should be taken. If any action is taken, Franchisor has the right to direct and control that action, including the conduct of an administrative proceeding or litigation or other adjudicative proceeding involving the Marks, as well as any settlement of any such proceeding or litigation. You have no right, independent of Franchisor, to make any demand against any user or challenger or to prosecute any claim of any kind or nature relating to the Marks. You must execute any and all documents, render that assistance, and do all acts that may, in the opinion of Franchisor's counsel, be necessary or advisable to protect and maintain the interests of Franchisor and its Affiliates in any such litigation or administrative proceedings, or to otherwise protect and maintain the interest of Franchisor and its Affiliates in the Marks.

**7.1.4 Goodwill; Notice of Negative Publicity.** Any and all goodwill, including Client Information, arising from or in connection with Your use of the Marks and the System belongs to and inures solely to the benefit of Franchisor and its Affiliates. You will promptly notify Franchisor in writing of any publicity (in any medium) relating to You, Your Franchised Business, any of Your Related Parties or any other Person, that is negative or reasonably likely to damage the goodwill associated with the Marks, including the occurrence of "**sentinel events**" involving death or serious injury to a Care Recipient, as provided in the Manual. You, Your Related Parties, and Your employees will cooperate with Franchisor in its handling of the publicity related to the matter.

## **7.2 Quality Control.**

### **7.2.1 Training.**

- (a) If this Agreement is a Start-up Agreement, an individual with Beneficial Ownership in You must attend and successfully complete, as determined by Franchisor in its sole discretion, Franchisor's initial training within 60 days after the Effective Date or during the next scheduled training Franchisor conducts after the Effective Date. If you have a Designated Manager, the Designated Manager must take and complete the initial training to our reasonable satisfaction within the stated time periods. If this Agreement is an Expansion Agreement, Your Designated Manager for the Franchised Business, if any, must attend and successfully complete, as determined by Franchisor in its sole discretion, Franchisor's initial training within 60 days after the Effective Date or during the next scheduled training Franchisor conducts after the Effective Date. Franchisor does not charge a

training fee for You or Your employees to attend initial training, however, unless this is a Start-up Agreement, You must pay any costs (not to exceed \$750 per person) paid by Franchisor to third party certification or similar entities for each individual You send to the full initial training or to those portions that include certification courses. If this is a Start-up Agreement, you may send 2 persons to initial training without reimbursing Franchisor for the certification costs.

- (b) As Franchisor periodically requires, You, Your Designated Manager and other employees shall also attend, at Your expense, those courses, seminars and other training programs. Franchisor will not charge a fee for required training programs.
- (c) For all training that is not required (other than training associated with the meeting), You will pay a training fee as established by Franchisor on a per-attendee basis if Franchisor incurs out-of-pocket costs associated with a speaker or other program.
- (d) You will be responsible for all expenses incurred by You and any other person who attends any training in connection with Your Franchised Business, including the costs of transportation, lodging, meals and any wages, all of which may be offered or made available at locations Franchisor may specify, which may be outside Canada.

**7.2.2 Beginning Operations.** You begin providing Homemaker/Companionship Services and Technology Services by the Start Date. You begin providing Personal Care Services by the later of: (i) 90 days after the Start Date; or (ii) the date on which You receive any required licensure, provided that Your applications were timely filed. Before You begin providing any services that require a license, You provide Franchisor a copy of applicable licenses. You may not offer or provide Services or sell or lease Products until all of the following conditions are met: (a) You and Your Designated Manager have completed the required initial training; (b) You have obtained a business telephone number with the "Comfort Keepers" name in the listing, irrevocably listing an individual designated by Franchisor as an authorized contact, and you must provide Franchisor with a copy of the service contract; (c) You have at least 2 full-time employees or equivalent; (d) You have obtained insurance and provided a certificate of insurance to Franchisor as required by Section 7.6; and (e) You have complied with all licensure requirements and provided a copy of all licenses to Franchisor.

**7.2.3 Office.** You must open Your Office, which must be in commercial office or retail space in Your Territory, by the Start Date. Unless permitted by Franchisor, You may not establish a Satellite Unit or an additional Office in Your Territory. You must ensure that Franchisor at all times has the current address and telephone number of Your Office and, if applicable, Satellite Unit. If You relocate Your Office or Satellite Unit or if You close Your Satellite Unit, You must advise Franchisor of the planned relocation or closure and, for a relocation, the new address and telephone number, at least 5 days in advance. You may not use Your Office for any purpose other than the operation of Your Franchised Business. The furniture, fixtures, and décor of Your Office must at all times be professional, clean, and in good condition. If Franchisor notifies You that, in its reasonable judgment, the condition or site of Your Office or Satellite Unit materially damages the goodwill associated with the



Marks, You must relocate Your Office or Satellite Unit within 60 days. If Franchisor and You are parties to more than one Franchise Agreement, You only need to have an Office in a contiguous territory in which You operate under another Franchise Agreement.

**7.2.4 Compliance with Manual.** You acknowledge and agree that the requirements imposed by this Agreement and by the Manual are necessary to promote high and uniform standards of quality of Services and Products provided by Franchisees and to promote and maintain the goodwill associated with the Marks, the System, and the Network. You must operate Your Franchised Business in complete compliance with the Standards. Franchisor may periodically change the Standards which may necessitate, among other things, the purchase of software, equipment, supplies, furnishings, or other goods and completion of additional training by You or Your employees. You must promptly conform to the modified Standards at Your own expense. If there is a dispute as to the requirements of the Manual, the terms of the master copy of the Manual maintained by Franchisor (regardless of format or medium) will control.

**7.2.5 Services and Products Offered.** You may offer and provide to Your Clients, Care Recipients, and Subscribers only the Services that Franchisor has specified and authorized You to provide. You must obtain all required licenses. You must offer and provide all Core Services as defined by Franchisor.

- (a) Following Franchisor's express written consent, which it may withhold in its sole judgment, and Your execution of an Additional Services Addendum and any related documents required by Franchisor, You may also provide those Additional Services described in the Additional Services Addendum. In addition, You may also provide such ancillary services as Franchisor may approve or designate in the Manual. As Franchisor modifies the System, Franchisor may designate as Core Services new Services related to the System or certain Services that were formerly Additional Services, and You agree that You will offer and provide those Core Services within 90 days following Franchisor's notice or that longer period as Franchisor may permit. Except as set forth in this Section 7.2.5, You may not offer or provide any other goods or services. You may not provide Services through an independent contractor or any Person, with Franchisor's permission, other than an employee except for licensed medical professionals supervising or training employees providing Personal Care Services or authorized Additional Services as permitted by Franchisor.
- (b) You may only offer, sell or lease the Products that Franchisor has approved or designated for You to offer, sell or lease. If You offer, sell or lease Technology Services or Equipment, You must do so only in accordance with the Manual unless Franchisor otherwise permits in writing.
- (c) Franchisor may require You to offer Services or Products under the terms of an NKA Agreement. With respect to any NKA Agreement that Franchisor does not designate as mandatory, You will be deemed to have agreed to participate, and must provide the required Services or Products, unless You notify Franchisor otherwise in writing, in accordance with the NKA Agreement and such other terms and conditions that the Franchisor requires. If You choose not to participate, or do not comply with this

Agreement, Franchisor may authorize other Franchisees to serve NKA Clients in Your Territory, as provided in Sections 4.4.2(b) and 4.4.2(d). Franchisor may designate participation under an NKA Agreement as mandatory following 15 days' notice.

#### 7.2.6 **Sourcing.**

- (a) You must purchase all Equipment and Technology Services from Franchisor, its Affiliate, or an approved or designated third party. Franchisor may revise the designated or approved supplier, terms and conditions of the sale and price of Equipment and Technology Services following 60 days' notice.
- (b) Franchisor may in its discretion, limit the number of designated or approved suppliers, designate sole sources that You must use for some or all items or services, and refuse permission to use other suppliers. Franchisor may at any time withdraw its designation or approval of a supplier. Franchisor and its Affiliates may be approved or designated suppliers and they may, and have the right to, realize a profit on any items or services they supply to You. If Franchisor designates suppliers, or sole suppliers, You must use those suppliers and no other suppliers.
- (c) Franchisor may appoint a single manufacturer, distributor, reseller or other vendor for any particular item or service, including Franchisor and its Affiliates. Franchisor may also establish strategic alliances or preferred vendor programs with suppliers. Franchisor does not represent that these alliances or programs will provide any specific Franchised Business with the lowest cost items or services available to that Franchised Business or that any individual Franchised Business will benefit proportionately from any such alliance or arrangements.
- (d) If Franchisor identifies specifications for items or services in connection with Your Franchised Business, You must purchase only items or services that meet those specifications.
- (e) Franchisor has the right to collect and retain the entirety of any Allowances, whether such Allowances are based on the purchase or other acquisition of goods and services by You, Franchisor, its Affiliates, or others.
- (f) Franchisor expressly disclaims any warranties or representations as to the condition of the goods or services sold by suppliers, including, without limitation, expressed or implied warranties as to merchantability or fitness for any intended purpose. You will look solely to the manufacturer of goods or the supplier of services for the remedy for any defect in the goods or services.

**7.2.7 Client Satisfaction Program.** Your Franchised Business' dealings with Clients and Care Recipients must adhere to the highest standards of honesty, integrity, fair dealing, and ethical conduct. Your Franchised Business must at all times give prompt and courteous service to Clients, Care Recipients, Subscribers and Customers and, as required by the Standards, must respond timely to inquiries and requests for service from prospective Clients and Subscribers. Franchisor may

contact Your past and present Clients, Care Recipients, Subscribers, and Customers to assess Your Franchised Business' performance. If Your Franchised Business' scores do not meet the then-current Standards, Franchisor may suggest or require ways You can or must improve the scores. You must immediately take steps to bring Your Franchised Business' operation up to the Standards.

#### 7.2.8 Required Computer and Technology Systems.

- (a) You must purchase or lease and maintain at Your expense computer and technology hardware and software systems (including data collection software and other online data collection tools, web-based programs, and software technology platforms, including the hardware necessary for their proper functioning) according to specifications or from approved or designated suppliers (including Franchisor and its Affiliates). The required systems may include, among other things, the use of remote servers and web-based programs, off-site electronic information storage and high-speed internet connections, and may include the capability for remote access and information retrieval by Franchisor and for Your login to Franchisor's web-based applications. Franchisor may also require You to maintain a dedicated high speed internet service or connection or other communication means for remote access and information retrieval by Franchisor. You must acquire, install and use the computer and technology hardware and software systems prescribed by Franchisor, including any required upgrades of software and hardware and You must execute any license agreements required by Franchisor.
- (b) Following 60 days' notice from Franchisor of the implementation of an aggregated data tool, You must participate in a defined collection process (as it may periodically be modified) and pay an annual fee. Franchisor may increase this fee annually based on increased costs and technology changes upon 30 days' prior written notice from Franchisor. If You own more than one Franchised Business, You will pay an annual fee for each Franchised Business for which there is an accounting software installation.
- (c) Within 4 months following Franchisor's announcement of an additional technology requirement, you must acquire and install all hardware, software and peripherals (including all subsequent upgrades), install all communication facilities, contract for all required support and maintenance and meet all other requirements Franchisor may specify.
- (d) Franchisor, its Affiliates or Related Parties may condition any license of proprietary, approved or designated third party software to You, or Your use of technology that Franchisor, its Affiliates or Related Parties develop or maintain, on Your signing a software license or similar agreement. If Franchisor requires You to use one or more proprietary, approved or designated third party software technology platforms that Franchisor supports, You must pay Franchisor an annual fee per platform for the cost of providing technical support and of developing, maintaining and supporting the technology platforms (a "**Technology Support Fee**"). Franchisor may change a Technology Support Fee per platform annually based on increased costs and technology changes upon 30 days' prior written notice from Franchisor. If You own more than one Franchised

Business, You will pay an annual fee for each Franchised Business for which there is separate installation, implementation, maintenance or support.

- (e) You are solely responsible for, at Your expense: (i) acquiring, operating, maintaining and upgrading the hardware, software and technology platform; (ii) assuring that the specified software, hardware and technology platform interfaces at Franchisor's required levels of connection speed with Franchisor's or any designated third party's computer or technology system; and (iii) any and all consequences to Your Franchised Business if You do not properly operate, maintain, upgrade and replace any specified software, hardware and technology platform.
- (f) Franchisor may have access to information about Your Franchised Business and its operations (including Client Information) through software and hardware Franchisor may require You to use. Franchisor may access and download this information as often as it deems appropriate. You consent to Franchisor obtaining, using and disclosing to third parties (including, without limitation, prospective franchisees, financial institutions, legal and financial advisors), for any purpose or as may be required by law, any financial or other information contained in or resulting from information, data, materials, statements and reports received by Franchisor or disclosed to the Franchisor in accordance with this Agreement.
- (g) If any equipment, software or computer system You use provides for electronic, online or similar remote monitoring capability, You do hereby permit Franchisor to monitor and download all information the equipment provides and to use the information for any lawful purposes. Franchisor may access information on any web-based programs it specifies that You use and Franchisor may use that information for any lawful purpose. Franchisor may compile and share information You provide or Franchisor accesses, but Franchisor will not share any information in violation of applicable law.

**7.2.9 Inspections and Quality Assurance.** Franchisor will conduct periodic quality control inspections of Your Franchised Business during normal business hours without prior notice. Quality control inspections may be made by third parties, such as a "**mystery shopper**" service, that may record telephone calls placed to Your Franchised Business. You consent to the recording of those calls. Franchisor may use other means as it deems advisable to determine if You are operating Your Franchised Business in accordance with the Standards. You must promptly correct any deficiencies in Your operation of which Franchisor advises You and take all actions necessary to bring Your operation up to the Standards.

**7.2.10 Data Protection.** You agree and undertake that You will:

- (a) Comply with the provisions of all Applicable Data Protection Laws in the use and processing of Customer Personal Data.
- (b) Refrain from otherwise modifying, amending or altering the contents of the Customer Personal Data or disclosing or permitting the disclosure of any of the Customer Personal Data to any third party unless required by applicable law or specifically authorized in writing by Franchisor.

- (c) Implement and maintain throughout the Term appropriate technical and organizational measures to protect Customer Personal Data against a Data Breach.
- (d) Promptly notify Franchisor in writing if You suspect there has been a Data Breach, in which event You will do all such acts and things (at Your own expense) as Franchisor may require in order to remedy or mitigate the effects of the Data Breach.
- (e) Promptly notify Franchisor of any complaint, communication or request of which You become aware relating to the Applicable Data Protection Laws.
- (f) To the extent that there are any particular circumstances in which You process Customer Personal Data as a data processor on Franchisor's behalf (including, among other circumstances, for Your reporting obligations), You warrant and undertake that You will, in addition to the foregoing:
  - (i) Process the personal data only in accordance with written instructions from Franchisor and not for Your own purposes. If You are required to process the personal data for any other purpose by any applicable law to which You are subject, You will inform Franchisor of this requirement before the processing, unless that law prohibits this on important grounds of public interest.
  - (ii) Notify Franchisor immediately if, in Your opinion, an instruction for the processing of personal data given by Franchisor infringes the Applicable Data Protection Laws.
  - (iii) Refrain from giving access to or transfer any Customer Personal Data to any third party without the prior written consent of Franchisor. If Franchisor does consent, You must ensure the reliability and competence of the third party, its employees and agents who may have access to the Customer Personal Data and must include in any contract with the third party provisions in favor of Franchisor that are equivalent to those in this Section and as are required by the Applicable Data Protection Laws. Where a third party fails to fulfil its obligations under any sub-processing agreement or any Applicable Data Protection Laws, You will remain fully liable to Franchisor for the fulfilment of Your obligations under this Agreement.
  - (iv) Ensure that personnel required to access the Customer Personal Data are informed of the confidential nature of the Customer Personal Data and are subject to a binding duty of confidentiality with respect to such data.
  - (v) Allow Franchisor and its respective auditors or authorized agents to conduct audits or inspections during the Term for the purposes of verifying that You are processing Customer Personal Data in accordance with Your obligations under this Agreement and the Applicable Data Protection Laws, which will include providing

access to Your premises, resources and personnel and any sub-contractors used in connection with this Agreement.

- (vi) Unless exemptions apply, maintain written records of all categories of processing activities carried out on behalf of Franchisor and containing the information prescribed in the Applicable Data Protection Laws.
- (vii) Appoint a data protection officer if required by any Applicable Data Protection Laws.

### 7.3 Minimum Performance Standards.

- (a) Except as provided in Section 7.3(b), Your Franchised Business must achieve the following MPS Gross Revenue each month:

<b>Full Calendar Months After Start Date</b>	<b>MPS Gross Revenue</b>
13 to 24	\$24,000
25 to 36	\$30,000
37 to 48	\$33,000
49 to 60	\$36,300
61 to 72	\$39,930
73 or more	\$43,920

- (b) If this Agreement is a Start-up Agreement or a Franchise Agreement for a Franchised Business acquired through Transfer, You need not comply with the MPS requirement during the first 24 full calendar months after the Start Date.
- (c) Each month while the MPS requirement applies to Your Franchised Business, Franchisor will assess Your compliance with the Minimum Performance Standards by reviewing Your Gross Revenue during a rolling 3-month period consisting of the most recent month and the preceding 2 months. For example, to determine compliance for month 30, Franchisor will review Your Gross Revenue for months 28, 29 and 30. Franchisor will first assess Your compliance with MPS at the end of month 25 after the Start Date. So long as You fail to meet MPS, You are not in Good Standing.
- (d) You must provide Franchisor, within 14 days after Your receipt of notice of MPS noncompliance, a detailed business plan for meeting the MPS within the following 3 calendar months.
- (e) If You fail to timely provide a business plan or if You provide a business plan but fail to meet the MPS, on average, over the following 3 calendar months, You will be in default of this Agreement and You must begin to pay, and thereafter continue to pay, the monthly Royalty Fee calculated as set forth in Section 6.2(a)(i) on the greater of Your actual Gross Revenue

or the applicable MPS Gross Revenue until You meet the Minimum Performance Standards for at least 3 consecutive months. Payment of a Royalty Fee based on MPS Gross Revenue is not a cure of the default under this Section 7.3(e) regardless of whether Franchisor has sent You a notice of default.

- (f) If You own more than one Franchised Business, each Franchised Business must meet the MPS based on the Gross Revenue in its Territory (and, as applicable, an Open Area) and may not be averaged with any other Territory for the purposes of calculating the MPS.
- (g) Following notice to You, Franchisor may increase the above MPS Gross Revenue amounts by up to 7% each calendar year.

#### 7.4 **Personnel.**

7.4.1 **Management.** You or Your Designated Manager must devote all of Your or his or her productive time and effort required and necessary for the productive and successful management and operation of Your Franchised Business and to the promotion of Services within Your Territory. Your Franchised Business must be supervised by an individual who has completed the initial training program to Franchisor's reasonable satisfaction. For each Office that You operate, You must appoint a Designated Manager, which can be You or another individual who has completed the initial training program to Franchisor's reasonable satisfaction; however, overall supervision of each Franchised Business must be provided by You (if You are an individual) or a Related Party who holds more than a 10% Beneficial Ownership interest in You. You must advise Franchisor of the identity of Your Designated Manager. Any successor Designated Manager must successfully complete the initial training program no later than 6 months after being hired.

7.4.2 **Employees.** You must maintain a staff of trained employees sufficient to operate Your Franchised Business in compliance with the Standards. You are solely responsible for, and You shall make clear to Your employees that You (and not Franchisor) are responsible for, all decisions relating to Your employees, including hiring, firing, retention, promotion, wages and benefits. You must conduct background checks, as specified in the Manual, on each person working for Your Franchised Business.

#### 7.5 **Financial, Operational, and Other Information.**

7.5.1 **Financial Records.** You must maintain the financial books and records of Your Franchised Business in the manner Franchisor directs and retain those records, and all Client Agreements, for at least 7 years. You must retain Client records as required by applicable law, and You must maintain other records, including caregiver and employment records, as required by applicable law.

##### 7.5.2 **Financial Reports.**

- (a) You must prepare and submit all reports and Financial Statements in the form and at the times Franchisor requires.
- (b) You must submit to Franchisor, within 30 days after filing, copies of Your income tax returns.

- (c) Within 120 days after the end of each fiscal year during the Term, You will provide Franchisor a complete set of Your fiscal year Financial Statements. These Financial Statements need not be audited, although any Financial Statements must be prepared by a chartered accountant in accordance with generally accepted accounting principles, consistently applied, and certified as true, complete and correct by You or Your Chief Financial Officer.
- (d) You will submit to Franchisor, within 20 days after the end of each Fiscal Quarter, Your profit and loss statement for the preceding Fiscal Quarter. Each such statement must be in the form prescribed by Franchisor and may be unaudited, but must be certified as true, complete and correct by You or Your Chief Financial Officer.
- (e) You will submit to Franchisor the Gross Revenue report as required by Section 6.2(b).
- (f) If You are an Entity for which separate Financial Statements or tax returns are not required to be prepared (for example, You are a subsidiary of an Entity for which only consolidated Financial Statements must be prepared or tax returns must be filed), You shall provide to Franchisor those books, records, separate tax schedules and work papers relating to Your assets, liabilities, and operations as Franchisor may reasonably request.

**7.5.3 Operational Reports and Information.** You must make available to Franchisor Client Care Agreements and updated Plans of Care according to the schedule specified in the Manual. You will submit to, or make available for inspection by, Franchisor such other information and reports relating to Your Franchised Business as Franchisor may require in order to assure Your compliance with the Standards and this Agreement.

**7.5.4 Other Reports and Information.** You will submit to, or make available for inspection by, Franchisor such other information and reports as Franchisor may reasonably request. You will promptly inform Franchisor in writing of any changes to Beneficial Ownership in You or in the Franchised Business. In addition, You will provide updated information about Your Beneficial Ownership and Your Related Parties, as well as related business and personal contact information, upon Franchisor's request. You will provide all reports, data and other information required or requested by Franchisor under this Agreement in the format that Franchisor requires.

**7.6 Insurance.** Before beginning operations, You must purchase, and maintain throughout the Term, a policy or policies providing the types and scope of coverage as is specified from time to time in the Manual. All insurance (except for the worker's compensation insurance) must name Franchisor as an additional insured and must be obtained from an "A" or better rated insurance company registered in the jurisdiction or jurisdictions that include any part of Your Territory and any Open Area in which You provide Services or sell or lease Products. Franchisor may change or increase the amounts of coverage and require different or additional kinds of insurance at any time. Each insurance policy required under this Agreement must contain a specific endorsement stating that the policy cannot be canceled without at least 10 days' advance written notice to Franchisor. You must deliver a certificate of the issuing insurance company evidencing each policy to



Franchisor within 10 days after the policy is issued or renewed. If You fail to obtain or maintain the required insurance coverages or provide certificates of insurance evidencing required coverages to Franchisor, Franchisor may obtain insurance policies sufficient to meet its minimum requirements and You must promptly reimburse Franchisor for the cost of the insurance premiums and its expenses. Franchisor's insurance requirements are based solely on Franchisor's assessment of Franchisor's risk. Franchisor does not warrant that the insurance coverages required by Franchisor are based on an assessment of Your risk. It is Your sole responsibility to assess Your risk and determine whether You need to obtain additional types of insurance and coverage.

## 7.7 **Financial and Legal Responsibility.**

7.7.1 **Compliance with Law.** You must comply with all applicable laws and regulations pertaining, directly or indirectly, to Your Franchised Business. You must keep current all licenses, permits, bonds and deposits made to or required by any governmental agency in connection with the operation of Your Franchised Business. Franchisor may, but is not required to, advise You of any legislative or other legal developments that may affect Your Franchised Business. You are solely responsible for complying with all legal requirements relating to Your Franchised Business.

7.7.2 **Payment of Indebtedness.** You must pay promptly when due all taxes and debts that You incur in the conduct of Your Franchised Business.

7.7.3 **Notice of Litigation.** You must notify Franchisor in writing within 5 days if You are served with a complaint in any legal proceeding related to Your Franchised Business (including any claim by a third party of trademark or copyright infringement) or if You become aware that You are the subject of any complaint to, or investigation by, a governmental licensing authority or consumer protection agency. You must notify Franchisor in writing within 5 days after the commencement of any legal action that may adversely affect the operation or financial condition of You or of the Franchised Business.

## 7.8 **Anti-Terrorism/Anti-Corruption Laws/Exclusions and Sanctions.** You represent and warrant to Franchisor that:

- (a) Neither You, Your Related Parties or employees: (i) are identified, either by name or an alias, pseudonym or nickname, on the lists of "**Specially Designated Nationals**" or "**Blocked Persons**" maintained by the U.S. Treasury Department's Office of Foreign Assets Control (texts available at [www.treas.gov/offices/enforcement/ofac/](http://www.treas.gov/offices/enforcement/ofac/) or the Canadian government; or (ii) have violated any law (in effect now or which may become effective in the future) prohibiting corrupt business practices, money laundering or the aid or support of persons or entities who conspire to commit acts of terror against any person or government, including acts prohibited by the U.S. Patriot Act, as amended (text available at <http://www.epic.org/privacy/terrorism/hr3162.html>), U.S. Executive Order 13224 (text at <http://www.treasury.gov/resource-center/sanctions/programs/documents/terror.pdf>), or similar law in the United States or Canada. Neither You nor any of Your Related Parties will violate any such laws.

- (b) You, Your Related Parties, subsidiaries, directors, employees, representatives, subcontractors and agents, to the extent applicable, shall more specifically comply with applicable laws related to anti-bribery and anti-corruption in the United States and Canada.
- (c) You, Your Related Parties, employees and agents are not, and shall not at any time be, identified on any federal list of sanctioned, suspended, debarred, excluded, "opted out" or otherwise ineligible entities and individuals (including lists maintained by the Department of Health and Human Services, General Services Administration, Office of Inspector General, departments of the Government of Canada, or others).

The foregoing constitute continuing representations and warranties and You must notify Franchisor immediately in writing of the occurrence of any event or the development of any circumstance that might render any of the foregoing representations and warranties false, inaccurate or misleading. It is Your responsibility to ascertain what actions You must take to comply with the referenced laws.

#### 7.9 **Confidential Information.**

- (a) You and Your Related Parties acknowledge that Franchisor and its Related Parties have developed the Confidential Information over time and at great expense, that the Confidential Information provides a competitive advantage to You and that having access to the Confidential Information is one of the primary reasons why You have entered into this Agreement. You and Your Related Parties acknowledge and agree that the covenants in this Section 7.9 are reasonable and necessary to protect the legitimate business interests of Franchisor and its Related Parties.
- (b) Neither You nor any of Your Related Parties will communicate or divulge to, or use for the benefit of, any Person nor, following the Termination of this Agreement, use for Your or their own benefit, any Confidential Information that may be communicated to You or any of Your Related Parties or of which You may be apprised under this Agreement. You and Your Related Parties will disclose such Confidential Information only to those of Your employees as have a need to know such information to perform their assigned duties properly. You and Your Related Parties will take reasonable steps to prevent misuse or disclosure of Confidential Information, including protection of any password or electronic key or other device necessary to access Confidential Information or the CK Intranet. Neither You nor any of Your Related Parties will at any time copy, duplicate, record or otherwise reproduce any Confidential Information or make it available to any unauthorized Person.
- (c) The covenants in this Section 7.9 will survive the Termination or Transfer of this Agreement or an interest in You or any Related Party and will be perpetually binding upon You and each of the Related Parties.
- (d) Each of Your Related Parties must execute and bind themselves to the confidentiality and noncompetition covenants set forth in a Confidentiality Agreement and Ancillary Covenants Not to Compete or such other form of agreement that Franchisor may use when the Person becomes a Related Party. If You are an Entity or any Related Party is an Entity, all of Your and

their officers, directors and partners must sign a Confidentiality Agreement and Ancillary Covenants not to Compete in the form specified by Franchisor. You will also require that all of Your employees who will receive or have access to Confidential Information execute and bind themselves to confidentiality in the form Franchisor specifies, and You will make those agreements available to Franchisor upon request.

- (e) You must notify Franchisor in writing within 5 days of any unauthorized use or disclosure of Confidential Information or other Franchisor intellectual property and of any claim by any Person to any rights in any Confidential Information, copyright or other Franchisor intellectual property.

You must not directly or indirectly communicate with any person other than Your lawyer (if a claim is brought against You) and Franchisor and its counsel in connection with any claim of such rights. Franchisor has the sole right to determine whether any legal action should be taken and the right to direct and control any such action. You may not make any demand or prosecute any claim relating to the Confidential Information, copyright or intellectual property. You must execute all documents, render such assistance and do all acts that may, in the opinion of Franchisor's counsel, be necessary or advisable to protect and maintain the interests of Franchisor and its Affiliates. This Section 7.9(e) does not prohibit You from taking action against any Related Party or employee of Yours who makes unauthorized use or disclosure of Confidential Information.

- 7.10 **Annual Conferences & Attendance at Meetings.** The Franchisor and/or its Affiliates may hold an annual conference, which You or Your Designated Manager will be required to attend and must pay the annual conference fee as required. The meeting(s) may, at our option, be in person, online, electronic, via teleconference, videoconference, or such other means as Franchisor deems advisable. If held in person, the meeting(s) may be held outside of Canada. You are responsible for travel and living expenses for the attendees from Your Franchised Business at any meeting. Failure to attend a mandatory meeting is a default under this Agreement, and notwithstanding any other available remedy available to Franchisor, You will be charged the attendance fee applicable to attendees despite Your failure to attend. Should You fail to register for the annual conference or register but fail to attend any portion of the conference, Franchisor will in, addition to the attendance fee, charge You for any expenses incurred by us that directly relate to Your failure to register or fully attend. These expenses are typically incurred where Franchisor has obligations under an event contract with a selected venue and may include but are not limited to room charges at the conference hotel, meal charges at any venue during the conference, and per diem fees related to meeting rooms or food and beverage obligations.

- 7.11 **Covenants Against Competition.** You and Your Related Parties acknowledge that You and Your Related Parties will receive valuable training and Confidential Information that are beyond the present skills and experience of You and Your Related Parties and Your managers and employees. You and Your Related Parties further acknowledge that this training and Confidential Information provide a competitive advantage and will be valuable in operating and developing Your Franchised Business. Accordingly, You and Your Related Parties covenant as follows:

- (a) You will not (during the Term), and each of the Related Parties will not (during the portion of the Term that each satisfies the definition of a Related Party), either directly or indirectly, for Yourself or any Related Party, or through, on behalf of, or in conjunction with any Person:

- (i) Divert, or attempt to divert, any business, Client, Care Recipient or Subscriber to any competitor of any Franchised Business, 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 Marks and the System; or
  - (ii) Own, maintain, operate, engage in, or have any financial or beneficial interest in any Competitive Business. There is no geographical limitation on this restriction.
- (b) For a continuous uninterrupted period of 2 years beginning on the Commencement Date, neither You nor any of Your Related Parties will, either directly or indirectly, for Yourself or for any Related Party, or through, on behalf of or in conjunction with any Person:
  - (i) Divert, or attempt to divert, any business, Client, Care Recipient, or Subscriber to any competitor of any Franchised Business, 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 Marks and the System; or
  - (ii) Own, maintain, operate, engage in, advertise, advise, assist, or make loans to, or have any financial or beneficial interest in any Competitive Business that is, or is intended to be, located in, or that offers or provides services in, or is intended to offer or provide services in any of the following geographic areas: (A) Your Territory; and (B) within 50 miles from the border of Your Territory.
- (c) You and Your Related Parties acknowledge that, during the Term, You will have operated under the Marks and that Clients will have sought Services and Products from Your Franchised Business as a result of their recognition of, and the goodwill associated with, the Marks. You also acknowledge that any and all Client Information and other customer-related information belong to Franchisor as a result of there having been developed under the Marks and as part of the goodwill associated with the Marks. Accordingly, for a continuous uninterrupted period of 2 years beginning with the Commencement Date, neither You nor any of Your Related Parties will, either directly or indirectly, for Yourself or through, on behalf of or in conjunction with any Person, contact or solicit: (i) any former Client, Care Recipient, or Subscriber for the purpose of providing or offering to provide any service identical or similar to any Core Services or Additional Services provided by any Franchised Business or to sell or lease any personal care technology equipment, and (ii) any referral source with which You or a Related Party had contact during the Term, for the purpose of obtaining a referral for the provision of any service identical or similar to any Core Services or Additional Services provided by Your Franchised Business or to sell or lease any Equipment.
- (d) Sections 7.11(a)(ii) and 7.11(b)(ii) do not apply to ownership of 5% or less of stock in a publicly-held corporation, as that term is defined by applicable law, or to ownership by You or Your Related Parties of another Franchised Business.

- (e) If any part of the restrictions in this Section is found to be unreasonable in time or distance, each month of time or mile of distance may be deemed a separate unit so that the time or distance may be reduced by appropriate order of the court to that deemed reasonable. If, at any time during the 2-year period beginning on the Commencement Date, You fail to comply with Your obligations under this Section, that period of noncompliance will not be credited toward Your satisfaction of the 2-year obligation. Following the resolution of any dispute regarding the enforceability of this Section that is resolved in Franchisor's favor, the 2-year period (or that other period as may be deemed reasonable by the court) will run from the date of the resolution.
- (f) Franchisor may reduce the scope of any covenant set forth in this Section 7.11 following notice to You. You and Your Related Parties will immediately comply with any covenant as so modified, which will be fully enforceable notwithstanding any other provisions of this Agreement.
- (g) The existence of any claims You or Your Related Parties may have against Franchisor will not constitute a defense to the enforcement by Franchisor of this Section 7.11. You and Your Related Parties agree to pay all costs and expenses (including reasonable legal fees and costs) incurred by Franchisor in connection with the enforcement of this Section 7.11.
- (h) You and Your Related Parties acknowledge that a violation of this Section 7.11 would result in irreparable injury to Franchisor for which no adequate remedy at law may be available, and You and Your Related Parties accordingly consent to the issuance of an injunction prohibiting any conduct by You and Your Related Parties in violation of the terms of this Section 7.11. You and Your Related Parties agree to pay all court costs and reasonable legal fees incurred by Franchisor in obtaining specific performance, injunctive relief or any other remedy available to Franchisor for any violation of this Section 7.11.

7.12 **Other Obligations.** You agree to fulfill all other obligations required under this Agreement and the other documents and agreements referred to in this Agreement.

7.13 **Release.** You, on behalf of yourself and your Related Parties (collectively, "**Releasors**"), freely and without any influence forever release and covenant not to sue Franchisor, its parent, subsidiaries and affiliates and their and our respective past and present officers, directors, shareholders, members, managers, agents and employees, in their corporate and individual capacities, with respect to any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected (collectively, "**Claims**"), that any Releasor now owns, has or claims to have or holds, or may in the future own or hold, or at any prior time owned, held, had or claimed to have, based on, arising out of or relating to, in whole or in part any fact, event, conduct or omission occurring on or before the Effective Date, including, without limitation, Claims arising under laws, rules and by-law and Claims arising out of, or relating to this Agreement and all other agreements between any Releasor and Franchisor or its parent, subsidiaries or affiliates, the sale of any franchise to any Releasor, the development and operation of the Franchised Business and the development and operation of all other Comfort Keeper businesses operated by any Releasor that are franchised by Franchisor or its parent, subsidiaries or affiliates.

Releasors expressly agree that fair consideration has been given by Franchisor for this release, and they fully understand that this is a negotiated, complete and final release of all claims. Notwithstanding this Section 7.13, the foregoing release shall not include any Claims which cannot be released or waive pursuant to an applicable franchise law statute.

## **8. ADVERTISING, BRANDING AND INTERNET**

### **8.1 Brand Fund.**

- (a) The Brand Fund may be used to promote the goodwill and public image of the System, Network and Marks and to develop brand enhancement programs and materials as Franchisor (or its Affiliates) deems appropriate. "Brand enhancement" includes advertising, marketing, promotions, public relations and other brand development activities and materials designed to promote the goodwill and public image of the System, Network, and Marks.
- (b) You must make monthly contributions to the Brand Fund based on Your monthly Gross Revenue. Although Franchisor (or its Affiliates) may solicit input from an advisory body of franchisees ("**Advisory Council**") in setting the contribution percentage, Franchisor will, in its sole judgment, establish the amount of the monthly contribution for all Franchisees. Franchisor (or its Affiliates) may change the percentage contribution every 2 years. Your contribution will be no less than 1/2% of Your monthly Gross Revenue and no more than 2% of Your monthly Gross Revenue. You will make the monthly contribution to the Brand Fund by PAD, together with Your Royalty Fee. Franchisor (or its Affiliates) will establish the contribution percentage in advance for each 2-year period.
- (c) Franchisor (or its Affiliates) will work with the Advisory Council, but Franchisor will have sole control over all activities and expenditures of the Brand Fund. Among other matters, Franchisor (or its Affiliates) will determine the content and the format of all brand enhancement activities by the Brand Fund, the creative concepts, materials, content, and endorsements used in these activities, and the geographic, market and media placement and allocation of all brand enhancement activities of the Brand Fund. Franchisor (or its Affiliates) may use any form of media for any brand enhancement activities it authorizes. Franchisor (or its Affiliates) will not use any part of the Brand Fund to pay for anything whose sole purpose is the marketing of franchises, but You acknowledge that the Brand Fund may pay for media, materials and programs, including one or more consumer-oriented System Websites, that may contain information about or support franchising opportunities and sales. Franchisor (or its Affiliates) may use the Brand Fund (including any interest that may accrue on Brand Fund contributions) to fund or pay:
  - (i) The costs of any purchased media time (paid advertising, also known as "media weight") in any medium (broadcast or cable television, print, radio, outdoor displays, online/digital advertising).
  - (ii) The costs incurred for advertising agencies, public relations agencies, and other advisors.

- (iii) The costs of designing, conducting, and administering public relations projects and events intended to enhance the goodwill and public image of the System, Network, and Marks, including participation in or joint public relations projects with Franchisor Affiliates or others.
- (iv) The costs of market research, including branding studies, consumer research, competitive research, and similar programs.
- (v) The costs of preparing, producing and placing brand enhancement materials in any medium, including direct mail, Internet, mobile and social media advertising.
- (vi) The costs associated with running a call center or providing another electronic mechanism for capturing leads generated by the Brand Fund's brand enhancement activities.
- (vii) The costs for special or unique projects or investments related to the System, Network, and Marks.
- (viii) The costs of purchasing promotional items.
- (ix) The costs of designing and administering brand enhancement programs and activities, including social media programs, search engine optimization, pay per click programs, and purchasing media advertising.
- (x) The costs of obtaining sponsorships and endorsements and developing alliances, marketing and sales promotions, provider relationships, customer loyalty programs and similar brand enhancement activities and programs.
- (xi) The costs of establishing, designing, maintaining, updating, and upgrading one or more consumer-oriented Internet, on-line, mobile and other electronic applications, including hosting, maintenance, web-optimization, search engine marketing, and similar costs (provided, however, that Franchisor will be responsible for development, hosting, maintenance, and optimization costs associated with maintaining, at its current or similar functionality, the website at [www.comfortkeepers.com](http://www.comfortkeepers.com)).
- (xii) All administrative costs associated with the Brand Fund.
- (xiii) The costs of such other brand enhancement activities as Franchisor may deem advisable.

The Brand Fund may pay Franchisor or its Affiliates for any services or products they provide in connection with the activities and operations listed above.

- (d) Franchisor (or its Affiliates) may use collection agents and bring legal proceedings at the Brand Fund's expense to collect Brand Fund contributions. Franchisor may forgive, waive, settle and compromise all claims by or against the Brand Fund, including, in its sole judgment, claims

involving individual Franchised Businesses. Franchisor assumes no liability or obligation to You for collecting amounts due to, maintaining, directing, or administering the Brand Fund. You will reimburse the Brand Fund for any costs (including legal fees) incurred in collecting Brand Fund contributions You have not paid. Any claim You have related to the Brand Fund must be brought separately from any claim unrelated to the Brand Fund.

- (e) Administrative costs of the Brand Fund include, and Franchisor (or its Affiliates) may reimburse itself for, such reasonable salary costs of Franchisor's employees, and such administrative and overhead costs and expenses, as Franchisor (or its Affiliates) may incur in activities reasonably related to the administration of the Brand Fund and its brand enhancement programs and activities.
- (f) Franchisor (or its Affiliates) may administer the Brand Fund as a segregated fund or it may cause the Brand Fund to be incorporated or operated through an entity separate from Franchisor. If Franchisor (and/or its Affiliates) deems appropriate, Franchisor, together with one or more of its Affiliates, shall have the right to co-mingle, transfer, merge and/or separate funds, the monies therein, and the administration thereof, to create one or more Brand Funds, for one or more markets, including inside and/or outside of Canada. The Brand Fund will not be deemed a trust and Franchisor has no fiduciary obligation to You with respect to the Brand Fund. The Brand Fund will indemnify and hold harmless Franchisor (or its Affiliates) with respect to any action or decision taken with respect to the Brand Fund, including any claims brought by third parties.
- (g) Within 90 days after the close of Franchisor's fiscal year, Franchisor (or its Affiliates) will prepare an unaudited statement of contributions to and expenditures by the Brand Fund during that fiscal year. Franchisor (or its Affiliates) will furnish that annual statement to You upon Your written request.
- (h) Franchisor (or its Affiliates) will attempt to spend Brand Fund contributions so as to provide benefits to Franchised Businesses, but Franchisor (or its Affiliates) has no obligation to ensure that expenditures by the Brand Fund in or affecting any geographic area are proportionate or equivalent to the contributions to the Brand Fund by Franchised Businesses operating in that area or that any Franchised Business, including Yours, will benefit in any manner directly or in proportion to its contribution to the Brand Fund. The Brand Fund may be used in whole or in part inside or outside of Canada.
- (i) Franchisor (or its Affiliates) may spend in any fiscal year an amount greater or less than the aggregate contribution of all Franchised Businesses to the Brand Fund in that year. Franchisor (or its Affiliates) may borrow money on behalf of the Brand Fund from any source and Franchisor (or its Affiliates) may advance monies to the Brand Fund, charge the Brand Fund interest on those advances at 1% above the prime rate then designated by any major bank Franchisor selects, and authorize repayment of the advances from the Brand Fund. Franchisor (or its Affiliates) will retain in the Brand Fund for future use any amounts that are not disbursed in a given fiscal year.



- (j) Franchisor (or its Affiliates) may terminate the Brand Fund at any time. If Franchisor does so, You and Franchisor must continue to make Your and its respective Brand Fund contributions until all loans and other outstanding financial obligations of the Brand Fund (whether to Franchisor or others) have been paid. If there are any funds remaining in the Brand Fund, Franchisor (or its Affiliates) will return contributions to then-current franchisees and then to itself on a pro rata basis based on contributions during the prior 12 months.
- (k) You consent to the recording of any calls that may be made or forwarded to Your Franchised Business by any call center or call forwarding operation that captures leads generated by the Brand Fund. You will obtain the written consent to record of all persons who may answer the Franchised Business' telephone lines and that Franchisor (or its Affiliates) and any authorized third party recording those calls may rely on your undertaking.

**8.2 Other Marketing Programs.** Franchisor may establish other marketing and sales programs, client loyalty programs and similar programs or activities as Franchisor deems appropriate. These may be local, regional, national or international or based on the market orientation of the Franchised Businesses, and they may include participation by facilities other than Franchisor. Franchisor may require You to participate in these programs and activities at your expense and You may incur program-related expenses or accept a uniform fee schedule (which may include discounted fees).

**8.3 Cooperative Advertising Program.** Franchisor may create a Cooperative Advertising Program under which the Franchised Businesses located in a particular geographic area or region will be part of an Advertising Cooperative. Franchisor has the right to: (a) determine the area covered by an Advertising Cooperative; (b) designate which Franchisees will be members of a particular Advertising Cooperative; (c) instruct members of an Advertising Cooperative to allocate all or any portion of their local advertising budgets to the Advertising Cooperative; (d) make a contribution to any Advertising Cooperative without any obligation to make an equal, or any, contribution to all Advertising Cooperatives; and (e) delegate to an Advertising Cooperative the power to self-administer the advertising used by that Advertising Cooperative. Franchisor may require that You participate in an Advertising Cooperative when established in an area including Your Territory. You agree to participate in any Advertising Cooperative according to the then- current rules and procedures under the Cooperative Advertising Program and to abide by the decisions made by Franchisor under the Cooperative Advertising Program and, if applicable, the decisions made by an Advertising Cooperative of which You are a member. Any amounts You pay in connection with Your participation in an Advertising Cooperative will count toward the amount You must spend on local advertising each month under Section 8.4.

**8.4 Local Advertising.** You must spend each month the greater of \$1,500 or 2% of Gross Revenue on local advertising that conforms to Standards and that Franchisor has approved. Franchisor may change Your local advertising obligation each year by the change in the CPI. At Franchisor's request, You must submit copies of invoices for local advertising expenditures showing compliance with this Section 8.4. Advertising expenditures in excess of the required minimum in any month may be used to offset shortfalls in any later month if the total advertising expenditures at the end of each calendar quarter, on a cumulative basis, equal or exceed the required minimum for that calendar quarter. All advertising and promotions by You will be conducted in a dignified

manner and will conform to the Standards. You may not direct advertising outside of Your Territory without Franchisor's prior written consent.

- 8.5 **Advertising Materials.** You will submit to Franchisor copies of all advertising materials not provided by Franchisor and sample runs of all proposed online and offline advertising at least 3 weeks before first use. Franchisor will review the materials and will notify You within 14 days whether it approves or rejects them. Franchisor may not withhold its approval unreasonably. Franchisor may withdraw its approval of previously approved advertising if necessary to make the advertising conform to changes in the System (including changes to Standards) or to correct unacceptable features of the advertising and You must immediately cease to use the disapproved materials. Franchisor may require You to submit a tear sheet of any advertisement You run.

Copyrights to all advertising and promotional materials that contain any of the Marks are owned by Franchisor, regardless of the party that created the materials. You will execute all documents required by Franchisor to confirm this ownership. Franchisor may require that any third party assisting You with advertising efforts sign a license agreement governing the third party's use of the Marks.

- 8.6 **CK Intranet.** Franchisor may establish and/or discontinue the CK Intranet without liability to You. Franchisor will establish Standards for the use of the CK Intranet with which You will comply. As administrator of the CK Intranet, Franchisor can access all posted communications which are Franchisor's property. If You are not in Good Standing or if You fail to comply with any Standards governing the CK Intranet, Franchisor may suspend Your access to all or any aspect of the CK Intranet until You fully cure the breach. Information on the CK Intranet is Confidential Information and subject to Your confidentiality obligations under this Agreement.

8.7 **Websites and Electronic Media.**

- (a) Franchisor has established the CK Website and will control its design and contents, except that Franchisor will configure the site to accommodate the pages described in Sections 8.7(b) and 8.7(c). Franchisor may discontinue the CK Website without liability to You.
- (b) Franchisor will establish a Franchised Business locator page on the CK Website and will post the address, telephone number and email address of each Franchised Business on the locator page.
- (c) At Your request, Franchisor will include on the CK Website one or a series of interior pages devoted to information about You and Your Franchised Business. You must develop the pages at Your expense in accordance with Franchisor's specifications and subject to Franchisor's approval. Franchisor may also require You to use a designated or approved supplier of website services to design Your interior pages. You may not modify Your pages except in coordination with Franchisor's Webmaster and in compliance with the Standards. Franchisor may assign a sub-domain name to the interior pages for Your Franchised Business; Franchisor will own and control the sub-domain name and any other URLs incorporating any of the Marks (or the letters "CK") that it may permit You to use and may change the sub-domain name and those URLs at any time.

You may, with Franchisor's prior written approval, create and maintain a separate landing page for pay-per-click advertising that exists on a separate domain. This page may not be visible to search engines so that it does not compete with the main Comfort Keepers website, the Franchised Business website or any other website maintained by Franchisor. You may develop your landing pages at your expense, using one of Franchisor's designated vendors and in accordance with the Standards.

You may not to create separate profiles on any of Franchisor's properties owned by third-party companies such as Google My Business or any other similar listing and directory services. You or your vendor may seek permission from Franchisor to gain access to only manage these profiles.

- (d) You may not establish any Websites, blogs, social networking sites or social media sites, file a tradename designation or register any domain names that use or create any association with the Marks, System or Network without Franchisor's prior written consent. You may not post any advertisements, material, or content on the Internet or Worldwide Web that depict or display the Marks or create an association with the System or Network without Franchisor's prior written consent. Franchisor may, in its sole judgment and on those terms as it may establish, permit You to own domain names or URLs for Websites or social media sites that have content related to, or creating an association with, the System or the Network.
- (e) If You are not in Good Standing or You fail to comply with the Terms of Use governing the CK Website, Franchisor may remove Your interior pages from the CK Website and remove Your Franchised Business from the Franchised Business locator page until You fully cure the breach.

#### **8.8 Electronic Communication.**

- (a) During the Term, You will establish and continually maintain electronic connection with the CK Intranet via a computer system, a technology platform (as described in Section 7.2.8) or by those other means as Franchisor periodically may specify.
- (b) You acknowledge that electronic communication is a rapidly developing field and that, to maintain the competitive position of the System, Franchisor may modify the way Franchisees are required to use the Internet and may communicate these modifications which shall be at Franchisees' expense, through amendments to the Manual.
- (c) You may not use any of the Marks on or in connection with the Internet, except as permitted by Section 8.7(c). You may not use any part of the Marks (including the initials "CK") in an email address.
- (d) You must identify Your Franchised Business by the email address which Franchisor may periodically designate. You may not use any other email address, any Website or any similar electronic address or location to identify or communicate on behalf of Your Franchised Business without Franchisor's prior written consent. Franchisor may at any time change the email address it has assigned to Your Franchised Business. You and

Franchisor will use that email address, and no other, to communicate via email. Franchisor owns all email addresses it assigns to Franchisees.

## **9. RELATIONSHIP OF PARTIES**

- 9.1 **Interest in Marks and System.** You may not take any action that contests or impairs Franchisor's interest in its Marks or the System. You have no rights in the System or the Marks except the right to use them as expressly permitted by this Agreement. Franchisor and its Affiliates retain the right to grant other Franchises or licenses to use the Marks and System upon any terms and conditions.
- 9.2 **Improvements.** All Improvements that You, any of Your Related Parties or any of Your employees or agents makes or suggests is the property of Franchisor, regardless of Your or their participation in developing the Improvement. Upon their creation, you hereby waive all moral rights the Improvements, all of which shall be deemed assigned to Franchisor, and will, at Franchisor's option, become part of the System. You will, and You will cause Your employees and Related Parties to, execute any documents Franchisor requests and give Franchisor assistance to perfect or protect all of its intellectual property rights in any Improvement without compensation.
- 9.3 **Independent Status.**
- (a) You are an independent legal entity and must make this fact clear in Your dealings with suppliers, lessors, government agencies, employees, clients and others. You will rely on Your own knowledge and judgment in making business decisions, subject only to the requirements of this Agreement.
  - (b) You: (i) will not hold Yourself out as an employee, partner, shareholder, joint venturer or representative of Franchisor; (ii) will not state or suggest that You have the right or power to bind Franchisor or to incur any liability on Franchisor's behalf; (iii) will at all times provide the highest quality service to each of Your Clients and Care Recipients; (iv) are solely responsible for providing Services and Products to Clients and Care Recipients; and (v) agree that Franchisor will not, and has no ability to, oversee or supervise any aspect of Your provision of Services and Products to Clients, Care Recipients, Subscribers and Customers.
- 9.4 **Display of Disclaimers.** You will identify Yourself as the Franchisee for the Franchised Business in conjunction with any use of the Marks, including on business cards, payroll records, bank accounts, invoices, order forms, stationery, receipts, contracts and other business forms, as well as at those conspicuous locations in Your Office designated by Franchisor. The identification will specify that the Marks are used by You under license from the owner of the Marks, and provide Your name, followed by the phrase "DBA Comfort Keepers®" or such other identification that Franchisor approves.
- 9.5 **Indemnification.**
- (a) You agree to defend, indemnify, and hold the Indemnified Parties harmless from and against, and to reimburse the Indemnified Parties for, any and all Losses and Expenses that the Indemnified Parties may sustain or incur in connection with any claim, demand, investigation, or formal or informal inquiry (regardless of whether the same is reduced to judgment) or any settlement of any of the foregoing that arises directly or indirectly from, as

a result of, or in connection with: (i) any act or failure to act by You, any of Your Related Parties, any of Your employees or any person controlled by You or under contract with You; (ii) the operation of Your Franchised Business; (iii) any breach of this Agreement or any document executed pursuant to this Agreement, in connection with this Agreement, or concurrently with it; (iv) any breach of Your representations and warranties or those of any of Your Related Parties; (v) any death or personal injury or property damage occurring at, or related to the operation of, Your Franchised Business; and (vi) any violation of any law, rule, regulation or by-law relating to the Franchised Business by You, any of Your Related Parties or any of Your employees. Each of the foregoing is an "Event." Your obligation to indemnify applies regardless of whether any claim resulted from any strict or vicarious liability imposed by law on any of the Indemnified Parties. You have no obligation to indemnify an Indemnified Party for any liability arising from that party's gross negligence unless there is a finding of joint liability, in which case Your indemnification obligation will extend to any finding of comparative negligence or contributory negligence attributable to You or any of Your Related Parties, employees or agents. You must give Franchisor notice within 5 days of any Event of which You are aware for which indemnification is required.

- (b) You must immediately undertake the defense of any legal action against or involving any of the Indemnified Parties and must retain reputable, competent and experienced counsel to represent the interests of the Indemnified Parties. You must notify Franchisor of the identity of counsel not less than 48 hours before retaining counsel and Franchisor will have the right to approve or disapprove counsel. You may not settle any legal action without the prior written consent of each Indemnified Party named in the action and Franchisor. At Your expense and risk, Franchisor may elect to assume (but under no circumstance is Franchisor obligated to undertake) the defense and settlement of the Event, provided that Franchisor will seek Your advice and counsel. Any such assumption by Franchisor will not modify Your indemnification obligation. Franchisor may take those actions Franchisor deems necessary and appropriate to investigate, defend or settle any Event or take other remedial or corrective actions with respect to the Event as may be, in Franchisor's sole judgment, necessary for the protection of the Indemnified Parties, the System and the Network. In addition, any of the Indemnified Parties will have the right to retain independent counsel and to participate in the defense, compromise or settlement of the action. Neither Franchisor nor any other Indemnified Party will be required to seek recovery from third parties or otherwise mitigate their Losses and Expenses to recover the full amount of their respective indemnified Losses and Expenses from You.

## 10. TRANSFER

- 10.1 **Conditions for Approval of Transfer.** Franchisor's grant of this Franchise is made in reliance upon Your integrity, ability, experience and financial resources, and those of Your Related Parties. No Transfer may be made unless You have first obtained Franchisor's written consent. Franchisor will consent to a Transfer only if Franchisor has met with the prospective transferee, received and accepted the terms and conditions of the proposed Transfer and You and the transferor, as required by Franchisor, have complied with the

provisions of Sections 10.2, 10.3, 10.4 and 10.7 as determined by Franchisor in its sole judgment.

- 10.2 **Notice of Proposed Transfer.** For any proposed Transfer, You must submit to Franchisor: (a) the then-current form of franchisee application, including any required attachments, completed by the prospective transferee; (b) a written notice describing the terms and conditions of the proposed Transfer; and (c) any other information Franchisor may request in order to evaluate the proposed Transfer and the proposed transferee.
- 10.3 **Consent by Franchisor.** The prospective transferee may be required to travel to Franchisor's headquarters (which may be outside Canada) as part of the consent to Transfer process. Unless a prospective transferee's travel schedule requires a longer time, Franchisor will respond in writing to Your written notice: (a) within 30 days after receiving it; or (b) if Franchisor requests additional information, within 15 days after receipt of the additional information. Franchisor may either consent to the Transfer, tell You the reason for refusing consent or exercise its right of first refusal as set forth in Section 10.7. Silence will not be construed as consent. If Franchisor consents to the Transfer, then, upon payment of the Transfer Fee and execution of documents evidencing the Transfer as Franchisor requires, You may Transfer the interest described in the notice only to the named transferee and only upon the terms and conditions stated in the notice. Consent by Franchisor to a particular Transfer will not constitute consent to a subsequent Transfer and Franchisor's consent does not constitute a waiver of any claims it may have against the transferring party or a waiver of Franchisor's right to demand full compliance by the transferee with this Agreement.
- 10.4 **Conditions for Consent to Transfer.** Franchisor's consent will be subject to certain conditions, including but not limited to:
- (a) Satisfaction of Franchisor that the proposed transferee meets the character, business experience, financial responsibility, net worth and other standards that Franchisor customarily applies to new Franchisees at the time of Transfer and that the proposed transferee and its affiliates are not competitors of Franchisees or Franchisor.
  - (b) Payment of all Your accrued and pending financial obligations to Franchisor and to Your trade creditors.
  - (c) Cure of all defaults under this Agreement and any other agreements between Franchisor or its Affiliates or Related Parties and You or Your Related Parties and, if Franchisor deems it advisable, Your submission to a desk audit to assure that You have met all of Your financial and other obligations to Franchisor.
  - (d) At Franchisor's option, the transferee will execute: (i) the then-current form of Franchise Agreement (which may include different terms, including higher fees and other amounts payable), revised to reflect the fact that the business is operational and those other agreements Franchisor may require (including, for example, an Agreement and Guaranty and Confidentiality Agreement and Covenants Not to Compete in the forms then required by Franchisor to be signed by those Persons identified in Section 12.16); or (ii) an agreement assuming all liabilities and benefits of this Agreement in a form prescribed by Franchisor, together with an Agreement and Guaranty and Confidentiality Agreement and Covenants

Not to Compete in the forms then required by Franchisor to be signed by those Persons identified in Section 12.16, and those ancillary agreements as Franchisor may require.

- (e) Payment of a Transfer Fee by the transferor as provided below:
- (i) The greater of \$7,500 or 2% of all consideration of any kind payable to the transferor, to You or to any of Your or the transferor's relatives, Affiliates or Related Parties in connection with the Transfer of 10% or more of Beneficial Ownership in You, in the Franchised Business or in this Agreement. If the Transfer is to a Person who does not already have Beneficial Ownership Interest in You and that Transfer, together with all simultaneous, contemporaneous, or previous Transfers (regardless of whether the Transfers are related or are to the same Person), results in a cumulative change in Beneficial Ownership of 10% or more in You, in the Franchised Business or in this Agreement, the Transfer Fee will not exceed \$27,500 ("**Cap**"). For the simultaneous or concurrent Transfer of all or the majority of Beneficial Ownership in You or in this Agreement and in one or more other Franchisees or Franchised Businesses, the Transfer Fee will not exceed the Cap. Franchisor may, following notice to You, annually change the Cap by up to the change in the CPI.
  - (ii) No Transfer Fee is payable if: (a) The Transfer is of less than 10% of Beneficial Ownership in You, the Franchised Business or in the rights and obligations under this Agreement; (b) the Transfer is between existing holders of Beneficial Ownership in You, the Franchised Business or this Agreement, none of whom will cease to have, as a result of the Transfer, Beneficial Ownership in You, in this Agreement, and in the Franchised Business; (c) the Transfer is to a member of the Immediate Family of the transferor, is of less than a majority of Beneficial Ownership in You, the Franchised Business or in the rights and obligations under this Agreement, and takes place at the time of renewal of this Agreement; or (d) the Transfer is to a retirement vehicle where one or more of the existing holders of Beneficial Ownership in You, the Franchised Business or this Agreement are the only beneficiaries and the Beneficial Ownership of the Entity immediately following the assignment is the same and in the same proportions as the Beneficial Ownership in the Franchised Business immediately before the assignment.
  - (iii) The Transfer Fee is \$500 if: (a) the Transfer is to a member of the Immediate Family of the transferor, unless otherwise provided in this Section; or (b) the Transfer involves only the Transfer of ownership interests to one or more existing owners in You, this Agreement or the Franchised Business by one or more transferors who will cease to have, as a result of the Transfer, Beneficial Ownership in You, in this Agreement and in the Franchised Business.

- (iv) In addition to the Transfer Fee, the transferor must pay the amount of any broker, referral agent or similar fee or commission that Franchisor must pay in connection with the Transfer ("**Broker Amount**"), regardless of whether Franchisor or the broker/referral agent provided the name of the Person to whom the Transfer was made. The Broker Amount is not included in and is additional to the Cap. The transferor is responsible for confirming with Franchisor whether a Broker Amount is payable in connection with a Transfer. Failure to do so will not relieve the transferor of its obligation to pay the Broker Amount.
- (f) Completion by the transferee of the required initial training program to Franchisor's satisfaction and payment of our then-current Training and On Boarding fee for transferees, which, as of the date of this Agreement, is \$8,500.
- (g) You and all Persons that have any Beneficial Ownership interest in You or in the Franchise or have signed a guaranty of Your obligations have executed a release of claims (except for claims which cannot be released pursuant to an applicable franchise law statute) in favor of Franchisor and its Related Parties and Affiliates.

**10.5 Changes of Ownership Considered Not To Be Transfers.** An assignment to an Entity will not be considered a Transfer if: (a) the Beneficial Ownership of the Entity immediately following the assignment is the same and in the same proportions as the Beneficial Ownership in the Franchised Business immediately before the assignment; (b) at least 10 days before the assignment, You submit to Franchisor the information it requires on the identity of the shareholders or other interest holders and officers of the Entity, the percentage of Beneficial Ownership, other organizational documents requested by Franchisor, and the address where Entity records are maintained; and (c) You execute a document, in the form required by Franchisor, evidencing the assignment and the Entity's assumption of this Agreement. No such assignment will relieve You or any other assigning Persons of any of their respective obligations under this Agreement or any related agreements.

**10.6 Transfer Upon Death or Disability.** If You or any of Your Related Parties that holds any Beneficial Ownership interest in You dies or becomes Permanently Disabled, the applicable heirs, beneficiaries or other personal representatives will have 60 days to demonstrate to Franchisor's satisfaction that he or she meets the criteria that Franchisor then requires of new Franchisees. If Franchisor approves the Transfer, Franchisor will waive the Transfer Fee; however, all other requirements of Sections 10.2, 10.3, and 10.4 will apply. If Franchisor does not approve the Transfer, the heirs, beneficiaries or other personal representatives will have an additional 120 days to find a qualified transferee and notify Franchisor of a proposed Transfer to that transferee as required by Sections 10.2, 10.3, and 10.4. If they do not advise Franchisor of a proposed Transfer to a qualified transferee in that period, this Agreement will automatically terminate at the end of that period. If the parties disagree as to whether a person is "Permanently Disabled," the determination will be made by a licensed practicing physician, selected by Franchisor, following examination of the person. If the person refuses to submit to an examination, the person automatically will be considered Permanently Disabled as of the date of refusal.



- 10.7 **Right of First Refusal.** If You or any of Your owners' desire to Transfer a controlling interest in You, in this Agreement or in the Franchised Business, You or that owner must first obtain a written bona fide offer from a legitimate purchaser and provide an exact copy of that written offer to Franchisor. Franchisor may request further information concerning the offer and the proposed transferee. Franchisor has the right to acquire that interest on the same terms and conditions contained in the bona fide offer within 15 days after Franchisor's receipt of all requested information, and may assign its right to a Franchisor Affiliate or another Person. If Franchisor cannot reasonably be required to furnish the same consideration, terms and conditions, then Franchisor may purchase, for the reasonable equivalent in cash, the interest that is proposed to be transferred. If the parties cannot agree within a reasonable time on the reasonable equivalent, the parties will use an independent appraiser selected by Franchisor and that appraiser's determination will be binding. Closing will take place within 90 days following the later of Franchisor's notice or receipt of the appraiser's determination.

If Franchisor does not exercise its right of first refusal, the proposed transferor may Transfer its interest only in compliance with Sections 10.2, 10.3, and 10.4. If the proposed Transfer does not take place within 3 months, then Franchisor will again have a right of first refusal. If there is a material change in the terms of an offer prior to closing, Franchisor may, at its sole option, treat the change as a new offer subject to Franchisor's right of first refusal. Failure by Franchisor to exercise its right of first refusal is not a waiver of any provision of this Agreement.

- 10.8 **Public and Private Offerings.** You and anyone holding Beneficial Ownership interest in You may make a public or private offering of ownership or financial interests in You only with Franchisor's prior written consent. Prior to the time that any public or private offering is made available to potential investors, You, at Your expense, must deliver to Franchisor a copy of the offering documents. You, at Your expense, also must deliver to Franchisor an opinion of Your legal counsel (addressed to Franchisor and in a form acceptable to Franchisor) that the offering documents properly use the Marks and accurately describe your relationship with Franchisor and its Affiliates. The indemnification provisions of Section 9.5 will also include any Losses and Expenses incurred by Franchisor and Franchisor's Affiliates in connection with any statements made by or on behalf of You in any public or private offering.
- 10.9 **Assignment by Franchisor.** Franchisor may assign its interest in this Agreement, any rights or obligations created by it, any or all ownership interests in Franchisor and all or substantially all of the Franchisor's assets at any time without Your consent. To the extent that the purchaser or assignee shall assume the covenants and obligations of Franchisor under this Agreement, Franchisor shall thereupon and without further agreement, be freed and relieved of all liability with respect to such covenants and obligations.
- 10.10 **Security Interests.** You may not grant any security interest in any of Your assets unless You have Franchisor's prior written consent and unless the secured party agrees that, in the event of any default by You under any documents related to the security interest, Franchisor will have the right to purchase the rights of the secured party upon payment of all sums then due to the secured party.

## 11. TERMINATION OF FRANCHISE

- 11.1 **Termination by Franchisor.**

**11.1.1 Notice of Default.** You will be in default under this Agreement and Franchisor may terminate this Agreement upon the occurrence of any of the defaults set forth in Section 11.1.2. Termination will be effective 30 days after Your receipt of written notice of default if any of the defaults described in subsections (a) through (f) below has not been cured; termination will be effective 5 days after Your receipt of written notice of default if any of the defaults described in subsection (g) below has not been cured; termination will be effective 10 days after Your receipt of written notice of default if any of the defaults described in subsections (h) through (j) below have not been cured; and termination will be effective immediately upon Your receipt of written notice of default if any of the defaults described in subsections (k) through (u) below occurs.

**11.1.2 Events of Default.**

- (a) You fail to submit to Franchisor in a timely manner any information or report You are required to submit; You fail to provide Franchisor a signed copy of a Confidentiality Agreement and Ancillary Covenants Not to Compete in the form specified by Franchisor for each of Your Related Parties, directors, officers, and Designated Managers, within 10 days after each assumes that status with You; or You fail to obtain signed confidentiality agreements from Your employees who will have access to Confidential Information.
- (b) You (and, as applicable, Your Designated Manager) do not successfully complete initial training, do not attend additional required training or You fail to commence operations pursuant to Section 7.2.2. of this Agreement or to operate Your Franchised Business in accordance with this Agreement and the Manual.
- (c) You fail to offer all Core Services or You offer or provide services or sell products that have not been authorized by Franchisor.
- (d) You fail to attend the minimum required number of Franchisee meetings per year as required by Section 7.10.
- (e) You fail to perform required background checks on Your employees, as specified in the Manual.
- (f) You and any of Your Related Parties defaults in the performance of any other material obligation, or breach any material provision, under this Agreement or any other agreement (including any other Franchise Agreement) with Franchisor or its Related Parties or Affiliates.
- (g) You fail to timely make any payment to Franchisor or a Franchisor Affiliate or Related Party or You fail to maintain the insurance required by Section 7.6.
- (h) You fail to obtain, or lose, any license or permit required by any governmental agency in connection with any Core Service and you continue to offer that Core Service in Your Franchised Business.
- (i) You remain in default beyond the applicable cure period, if any, under any agreement with any vendor or supplier to Your Franchised Business.

- (j) Any Person who has signed the Agreement and Guaranty of Related Parties becomes insolvent, files for bankruptcy, or has filed against him/her/it a petition in bankruptcy or similar proceeding and, within 10 days thereafter, a substitute guarantor acceptable to Franchisor has not signed the Agreement and Guaranty of Related Parties.
- (k) You or any of Your Related Parties misuses the Marks or the System or engages in conduct that reflects negatively and unfavorably on the goodwill associated with them or uses any of the Marks (or any part of them) in connection with a business that is not a Franchised Business; You use in Your Franchised Business any names, marks, systems, logotypes or symbols that Franchisor has not authorized You to use; or You fail to relocate Your Office within 60 days after Franchisor notifies You that the location or condition of Your Office damages the goodwill associated with the Marks.
- (l) You or any of Your Related Parties, directors, or officers violate the confidentiality covenants contained in Section 7.9.
- (m) You or any of Your Related Parties, directors, or officers violates Section 7.11(a) or You or any of Your Related Parties effects, or makes any attempt to effect, a Transfer not authorized by this Agreement.
- (n) You or any of Your Related Parties has made a material misrepresentation in connection with the acquisition of Your Franchised Business or to induce Franchisor to enter into this Agreement, knowingly has submitted a false report or information to Franchisor or any of its Related Parties, knowingly maintains false books or records relating to Your Franchised Business or You, or breaches Section 7.8.
- (o) You act without Franchisor's prior written consent in regard to any matter for which Franchisor's prior written consent is required by this Agreement.
- (p) You abandon Your Franchised Business, disconnect the business telephone service for Your Franchised Business, or You otherwise cease to actively operate Your Franchised Business for a period of 3 consecutive Business Days.
- (q) You fail to correct a breach of this Agreement (including failure to satisfy the Standards) after twice being requested in writing (regardless of whether the request is a formal notice of default) by Franchisor to correct the same breach in any 12-month period.
- (r) You fail to correct a breach of this Agreement (including failure to satisfy the Standards) after Franchisor has given You notice of default under this Agreement (regardless of whether the breaches are under the same or different provisions) twice in any 12-month period or 3 times in any 24-month period, even if the prior breaches were cured.
- (s) Franchisor determines that the operation of Your Franchised Business poses a threat to public health or safety.
- (t) You or any of Your Related Parties are convicted of a felony, offense, a crime or offense of moral turpitude or any criminal misconduct that may, in

Franchisor's sole opinion, negatively impact the operation of Your Franchised Business or damage the goodwill associated with the System or the Marks.

- (u) You or any of Your Related Parties is party to a Franchise Agreement that has been terminated for default.
- (v) You, more than once during the Term, breach this Agreement by agreeing to provide, or by providing, Services to a Client or Care Recipient or leasing or selling Equipment or Products in another Franchisee's Territory without that Franchisee's prior written permission or without Franchisor's prior written consent.

This Agreement will automatically terminate if You become insolvent, are unable to pay Your debts as they become due, make any assignment for the benefit of creditors, are adjudicated a bankrupt, or file or have filed against You a petition in bankruptcy, reorganization or similar proceeding that is not dismissed within 30 days.

**11.2 Rights and Obligations Upon Termination.** Upon Termination, the parties will have the following rights and obligations:

- (a) In order to assure Client safety and continuity of care and Services for Clients, Care Recipients, Customers and Subscribers, You must work with Franchisor to arrange for the orderly transition of Your Clients, Care Recipients, Customers and Subscribers to other Franchisees, or, if there are no other Franchisees in Your market area, to providers identified to and approved by Franchisor. Franchisor's approval will be based solely on its determination that the proposed transition of one or more Clients, Care Recipients, Customers and Subscribers is not an attempt to circumvent the transfer or non-competition covenants of this Agreement.
- (b) You must immediately and permanently stop using the System, the Marks or any confusingly similar marks and any advertising, signs, stationery or forms that bear identifying marks or colors that might give others the impression that You are operating a Franchised Business or that You have been affiliated with Franchisor. You irrevocably appoint Franchisor Your attorney-in-fact to cancel any such advertising, in any format or medium, should You not do so within 7 days after Termination.
- (c) You must immediately and permanently stop using the Client Information and retain no copies, regardless of the format or medium, of the Client Information except as otherwise required by law or this Section 11.2 and You must destroy in accordance with applicable law all copies of Client Information that You are not required by law to retain. Notwithstanding the foregoing, You must immediately transmit to Franchisor historical accounting information on Client and Customer billing and Client and Customer contact information. In connection with the transition of Clients, Customers and Care Recipients in accordance with Section 11.2(f), Franchisor will control transmission of Client Information to subsequent providers. After Termination, You may not use or transfer Client Information for any purpose except to meet government audit requirements, licensing or other requirements.

- (d) You must promptly execute any documents and take any steps that in Franchisor's judgment are necessary to delete Your listings from classified telephone directories, disconnect or, at Franchisor's option, assign to Franchisor all telephone numbers that have been used in Your Franchised Business, assign to Franchisor any URLs, domain names and social media and social networking names that You have used in connection with Your Franchised Business and terminate all other references that indicate You were affiliated with Franchisor. You irrevocably appoint Franchisor Your attorney-in-fact to take the actions described in this paragraph if You do not do so within 2 days after Termination. If Franchisor chooses not to have You assign the telephone numbers to it, You may not assign the telephone number to any Competitive Business, use automatic forwarding to the telephone number of any Competitive Business or otherwise make the telephone number directly or indirectly available to any Competitive Business.
- (e) You must promptly cancel any fictitious business registration, trade name or similar registration. You irrevocably appoint Franchisor Your attorney-in-fact to take the actions described in this paragraph if You do not do so Yourself within 7 days after Termination.
- (f) You and Your Related Parties must immediately comply with the restrictions in Section 7.11.
- (g) During the 12 months following expiration or termination of this Agreement, You must refrain from selling, assigning or otherwise transferring to a Competitive Business any of the assets used in the Franchised Business, including the lease for the premises where Your Office was operated.
- (h) You must give Franchisor a final accounting for Your Franchised Business, pay Franchisor and its Affiliates and Related Parties all payments due to them within 30 days after Termination and immediately return to Franchisor the Manual, all Confidential Information, and any other property belonging to Franchisor.
- (i) You must maintain all accounts and records for Your Franchised Business for a period of not less than 7 years after final payment of any amounts You owe to Franchisor, its Affiliates, and Related Parties, but You may not sell, disclose or otherwise transfer any of the information contained in those accounts and records to, or for use by, any Competitive Business.

**11.3 Lost Revenue Damages.** If Franchisor terminates this Agreement because of Your breach, or if You attempt to terminate this Agreement, Franchisor and You agree that it would be difficult, if not impossible, to determine the amount of damages that Franchisor would suffer due to the loss or interruption of the revenue stream Franchisor otherwise would have derived from Your continued payment of the Royalty Fee, the Brand Fund fee and the Cooperative Advertising Program fee (if applicable) through the remainder of the Term. Therefore, You agree to pay Franchisor Lost Revenue Damages within 15 days after the Commencement Date, or on any later date that Franchisor determines. Franchisor and You acknowledge and agree that (a) the agreement on the calculation of Lost Revenue Damages is a reasonable determination of actual damages that will be suffered by Franchisor as a result of foregone Royalty Fee, Brand Fund fee and the

Cooperative Advertising Program fee (if applicable) payments by You in the event of a termination as described above, is not a penalty, and is instead a genuine and bona fide pre-estimate of Lost Revenue Damages, and (b) Lost Revenue Damages represent only lost Royalty Fees, Brand Fund fees and Cooperative Advertising Program fees, and the right to recover such damages is not exclusive of and does not replace any other rights Franchisor has under this Agreement or applicable laws if this Agreement is terminated as described above, including the right to seek other damages or pursue other remedies for anything other than Lost Revenue Damages, including injunctive or equitable relief.

## 12. MISCELLANEOUS PROVISIONS

- 12.1 **Construction.** All captions in this Agreement are intended solely for the convenience of the Parties and none will be deemed to affect the meaning or construction of any provision of this Agreement. Each word may be considered to include any number or gender that the context requires. If there is any conflict between this Agreement and the Manual, this Agreement will control. Whenever this Agreement gives Franchisor discretion to take an action or make a decision, Franchisor may take or make (or refrain from taking or making) that action or decision based on its business judgment. Even if Franchisor has motives for a particular action or decision or there are other reasonable or arguably preferable alternatives to a particular action or decision, so long as at least one motive is a reasonable business justification, the action or decision will not be subject to challenge for abuse of discretion.
- 12.2 **Governing Law.** This Agreement and the relationship between the parties is governed by and will be construed in accordance with the laws of the province where the Territory is located.
- 12.3 **Notices.** Except as otherwise provided in this Agreement, the parties will direct any notices to the other party at the address provided on the Summary Page or at another address if advised in writing that the address has been changed. Notice may be delivered by: (a) facsimile (with simultaneous mailing of a copy by first class mail); (b) recognized courier service; (c) first class mail. Notice will be effective on receipt or first rejection. Where this Agreement permits notice by email, Franchisor may give written notice by sending an email message to You at the email address maintained by Franchisor for You and the notice will be deemed received on the day sent.
- 12.4 **Amendments.** Except for changes to the Manual, for changes specified in this Agreement relating to Equipment and Technology Services (which Franchisor may make unilaterally and which will be binding on You), and except as otherwise specifically provided in this Agreement, no amendment, change or variance from this Agreement will be binding on either party unless set forth in a writing signed by all of the parties to this Agreement or by their authorized officers or agents.
- 12.5 **Waiver.** Either of the parties to this Agreement may waive in writing any obligations of, or restriction upon, the other under this Agreement. No acceptance by Franchisor of any payment by You and no refusal, neglect or failure of Franchisor to exercise any right under this Agreement or to insist upon full compliance by You with Your obligations under it or with any Standards will constitute a waiver of any provision of this Agreement or of any subsequent breach of this Agreement.
- 12.6 **Integration.** This Agreement and any other agreement (including any promissory note) executed in connection with this Agreement, the Attachments and the Manual constitute the complete Agreement between You and Franchisor concerning the subject matter of

this Agreement and supersede all prior understandings and agreements, whether written or oral. Nothing in this Agreement is intended to disclaim the representations Franchisor made solely in the franchise disclosure document it furnished to You.

## 12.7 **Dispute Resolution.**

### 12.7.1 **Dispute Resolution Process.**

- (a) Except as otherwise provided in this Agreement, the parties must attempt to resolve a Dispute by following the ADR Process in this Section 12.7 before, and as a condition to, either party's initiating a legal action. All aspects of the ADR Process must be treated as confidential, must not be disclosed to others, and may not be offered or admissible in any other proceeding or legal action. The ADR Process is not intended to alter or suspend the rights or obligations of the parties, but is intended to furnish the parties an opportunity to resolve disputes amicably, expeditiously and in a cost-effective manner on mutually acceptable terms.
- (b) The Complainant will initiate the ADR Process by sending a certified or registered letter to the Respondent setting forth the particulars of the Dispute, the terms of the Agreement that are involved, a proposed resolution of the Dispute and identifying one or more Authorized Representatives with authority to settle the Dispute for the Complainant. The Respondent has 14 days to designate by written notice to the Complainant one or more Authorized Representatives with authority to settle the Dispute on the Respondent's behalf.

**12.7.2 Direct Negotiations.** The Respondent's Authorized Representatives may investigate the Dispute as they consider appropriate, but will meet to discuss resolution of the Dispute in person at a place determined by Franchisor, by prearranged teleconference or by videoconference, with the Authorized Representatives of the Complainant within 30 days after the date of the Complainant's written notice. The Authorized Representatives may meet as often as they agree, subject to the time limits in this Section 12.7.

### 12.7.3 **Mediation.**

- (a) If the Dispute has not been resolved within 60 days after the initial meeting of the Authorized Representatives, the Dispute must be submitted to non-binding mediation by a third-party mediator. The parties will attempt to agree upon a mediator within 120 days after the Complainant's letter unless otherwise agreed by the parties. If the parties are unable to mutually agree upon a mediator within this time period, the Complainant may seek the appointment of a mediator through JAMS, Inc. (or a comparable mediation service designated by Franchisor). If there are pending mediations involving the same or similar issues, Franchisor may prevent the mediator from serving in that capacity in more than one mediation. The mediation must take place in the city where Franchisor's principal offices are then located or if required by applicable law, in such other city in the province in which the Territory is located as Franchisor shall designate.
- (b) Non-binding mediation under the ADR Process must be concluded within 60 days after the date the mediator is agreed upon (or selected by JAMS,

Inc. or the comparable mediation service) or that longer period as may be agreed by the parties in writing. The Complainant and the Respondent will each bear their own costs of mediation and will share the cost of the mediator, including any mediation service fees.

#### **12.7.4 Arbitration.**

- (a) If the Dispute is not resolved through mediation, then, except as otherwise provided in this Agreement, the Dispute (including the enforceability of this arbitration provision and the arbitrability of any Dispute) must be settled by binding arbitration through JAMS, Inc. (or a comparable arbitration service designated by Franchisor). The arbitration must be brought in the city where Franchisor's principal offices are then located or if required by applicable law, in such other city in the province in which the Territory is located as Franchisor shall designate. Only disputes brought by the parties to this Agreement may be resolved in the arbitration and no claims brought by a class or claims by Persons other than the parties to this Agreement will be heard, except as provided for in this Section 12.7. The parties will jointly select one arbitrator from the panel of arbitrators maintained by JAMS, Inc. (or the comparable arbitration service). If the parties are not able to agree on the arbitrator within 30 days after notice of arbitration has been provided, then the parties must apply to JAMS, Inc. (or the comparable arbitration service) to designate and appoint the sole arbitrator.
- (b) If proper notice of any hearing has been given, the arbitrator will have full power to take evidence or to perform any other acts necessary to arbitrate the matter in the absence of any party who fails to appear and the arbitrator may render a decision. The arbitrator will have no power to: (i) stay the effectiveness of any pending Termination of this Franchise Agreement; (ii) assess punitive damages against either party; or (iii) make any award that extends, modifies or suspends any lawful provision of this Agreement or any of the standards of business conduct, performance, or operations established by Franchisor. All expenses of arbitration must be paid by the party against which the arbitrator renders a decision; if each party prevails on one or more claims, the arbitrator will apportion the expenses of arbitration.
- (c) The decision in writing of the arbitrator will be: (i) in English; (ii) final and binding; and (iii) reasonably detailed and will include the arbitrator's findings. Either party may apply to any court having jurisdiction for an order confirming, or to enforce, the award. A notice of arbitration will not operate to stay, postpone or rescind the effectiveness of any demand for performance or notice of termination under this Agreement.

#### **12.8 Exceptions to ADR Process Requirement.**

- (a) Section 12.7 does not bar the right of either party to seek and obtain injunctive relief from a court of competent jurisdiction in accordance with applicable law against threatened conduct that may cause loss or damage.
- (b) Neither You nor Franchisor is required to follow the ADR Process with respect to: (i) any claim or Dispute involving actual or threatened disclosure or misuse of Confidential Information or any other intellectual property of



Franchisor; (ii) any claim or Dispute involving the ownership, validity or use of the Marks; (iii) any claim or Dispute related to monies You owe to Franchisor or to the Brand Fund; (iv) any claim or Dispute involving the insurance or indemnification provisions of this Agreement; (v) any action to enforce the covenants in Section 7.11; or (vi) any claim or Dispute involving a proposed or actual transfer.

- (c) Any provision in any applicable arbitration statute that seeks to limit the effect of Section 12.7 to any Dispute on the basis that the Dispute is proper for summary judgment shall not be applicable.

- 12.9 **Non-Exclusive Remedy.** No right or remedy conferred upon or reserved to You or to Franchisor by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy provided in this Agreement or permitted by law or by equity, but each shall be cumulative of every other right or remedy.
- 12.10 **Exclusive Jurisdiction and Venue.** Any action brought in connection with or related to this Agreement in any court, shall be brought in the City of Toronto, Ontario, or if required by applicable law, in such other city in the province in which the Territory is located as Franchisor shall designate. You consent to the personal jurisdiction of those courts over You and to venue in those courts.
- 12.11 **Limitation of Actions.** Neither party may bring an action or maintain an arbitration against the other party unless the party files the action or arbitration within one year after the initial occurrence of any act or omission that is the basis of the action, regardless of when discovered. The preceding limitation period does not apply: (a) with respect to payments owed by one party to the other; (b) if prohibited by applicable law; or (c) if applicable law provides for a shorter limitations period.
- 12.12 **Legal Fees and Costs.** You must pay to Franchisor all damages, costs and expenses (including reasonable legal fees) that Franchisor incurs subsequent to the termination or expiration of the Franchise in: (a) obtaining injunctive or other relief for the enforcement of any provisions of this Agreement; or (b) successfully defending a claim that Franchisor defrauded You into signing this Agreement, that the provisions of this Agreement are not fair, were not properly entered into, or that the terms of this Agreement do not govern the parties' relationship.
- 12.13 **Severability.** Each provision of this Agreement is severable from the others. If, for any reason, any provision is determined by a court to be invalid, the invalidity will not impair the operation of the remaining provisions of this Agreement. The latter will continue to be given full force and effect and bind You and Franchisor and the invalid provisions will be deemed not to be a part of this Agreement.
- 12.14 **Survival of ADR Process.** The agreement to arbitrate provided for in Section 12.7 shall continue in full force and effect subsequent to and notwithstanding the expiration, termination, non-renewal or purported rescission of this Agreement, for any reason.
- 12.15 **Individual Dispute Resolution.** Any proceeding to resolve a Dispute between the parties or any of their Related Parties will be conducted on an individual basis and not as part of a consolidated, common, representative, group or class action. Provided, however, that the ADR Process is intended to bind and shall apply to any third party non-signatory related or otherwise connected to any Dispute, including You and Franchisor (and/or any affiliates of You, or Franchisor, and/or any of their respective shareholders, directors,

partners, officers, agents, attorneys, accountants, associates or guarantors, and/or any of their successors or assigns).

- 12.16 **Approval and Guaranties.** All Persons, including all of Your Related Parties (without regard to the percentage of Beneficial Ownership interests noted in the definition of Related Parties), having at least a direct or indirect 10% or greater interest in You ("10% Owner") must approve this Agreement, permit You to furnish the financial information required by Franchisor and agree to the restrictions placed on them, including restrictions on the transferability of their interests in the Franchised Business and in You and limitations on their rights to compete.

Each of those Persons must execute the Agreement and Guaranty in the form of Attachment 4 to this Agreement or in the form required by Franchisor at the time the Person becomes a 10% Owner. It is Franchisor's intent to have individuals (and not Entities) execute the Guaranty. Accordingly, if any 10% Owner is not an individual, Franchisor will have the right to have the Guaranty executed by individuals who have only an indirect ownership interest in You. (By way of example, if one of Your owners is a corporation, Franchisor has the right to require that the Guaranty be executed by individuals who have an ownership interest in that corporation.)

- 12.17 **Acceptance by Franchisor.** This Agreement will not be binding on Franchisor unless and until it has been signed by an authorized officer of Franchisor.
- 12.18 **Counterparts and Electronic Signatures.** This Agreement may be executed in counterparts, and each copy so executed and delivered will be deemed an original. This Agreement may be signed using electronic signatures, and those signatures will have full legal force and effect.
- 12.19 **Disclaimer of Representations.** No representations or promises have been made by Franchisor to induce you to execute this Agreement except those specifically stated in the franchise disclosure document that has been delivered to you. You acknowledge that neither Franchisor nor any other Person has guaranteed that you will succeed in the operation of your Franchised Business or has provided any sales or income projections of any kind to you. You have made an independent investigation of all important aspects of the Franchise. You understand that Franchisor is not a fiduciary and has no special responsibilities beyond the normal responsibilities of a seller in a business transaction.

**IN WITNESS WHEREOF**, the parties have executed this Franchise Agreement as of the Effective Date set forth in the Summary Page.

**FRANCHISOR:**  
**KANKARE HOME SERVICES INC.**

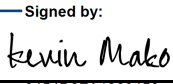
By:   
4A1079040FC34EA...

Name: Natalie Black  
Title: CEO, Elevate Care International (ECI)

**FRANCHISEE:**  
**2633339 Ontario Inc.**

By:   
89C7993BB5F94BA...

Name: Brenda Rosati  
Title: Director

By:   
0454D8FA1368450

Name: Kevin Mako  
Title: Director

Address:

5 Brisdale Drive, Unit 202  
Brampton, Ontario L7A 0S9

ATTACHMENT 1

FRANCHISE INFORMATION

1. **Territory.** The Territory is a geographic area in the province of Ontario, as outlined on the map attached to and forming part of this Attachment 1, and/or consisting of the following postal codes or forward sortation areas as of the Effective Date: October 31, 2024

L4T, L4V, L4W, L4X, L4Y, L4Z, L5A, L5B, L5C, L5E, L5G, L5H, L5J, L5K, L5L, L5M, L5N, L5P, L5R, L5S, L5T, L5V, L5W

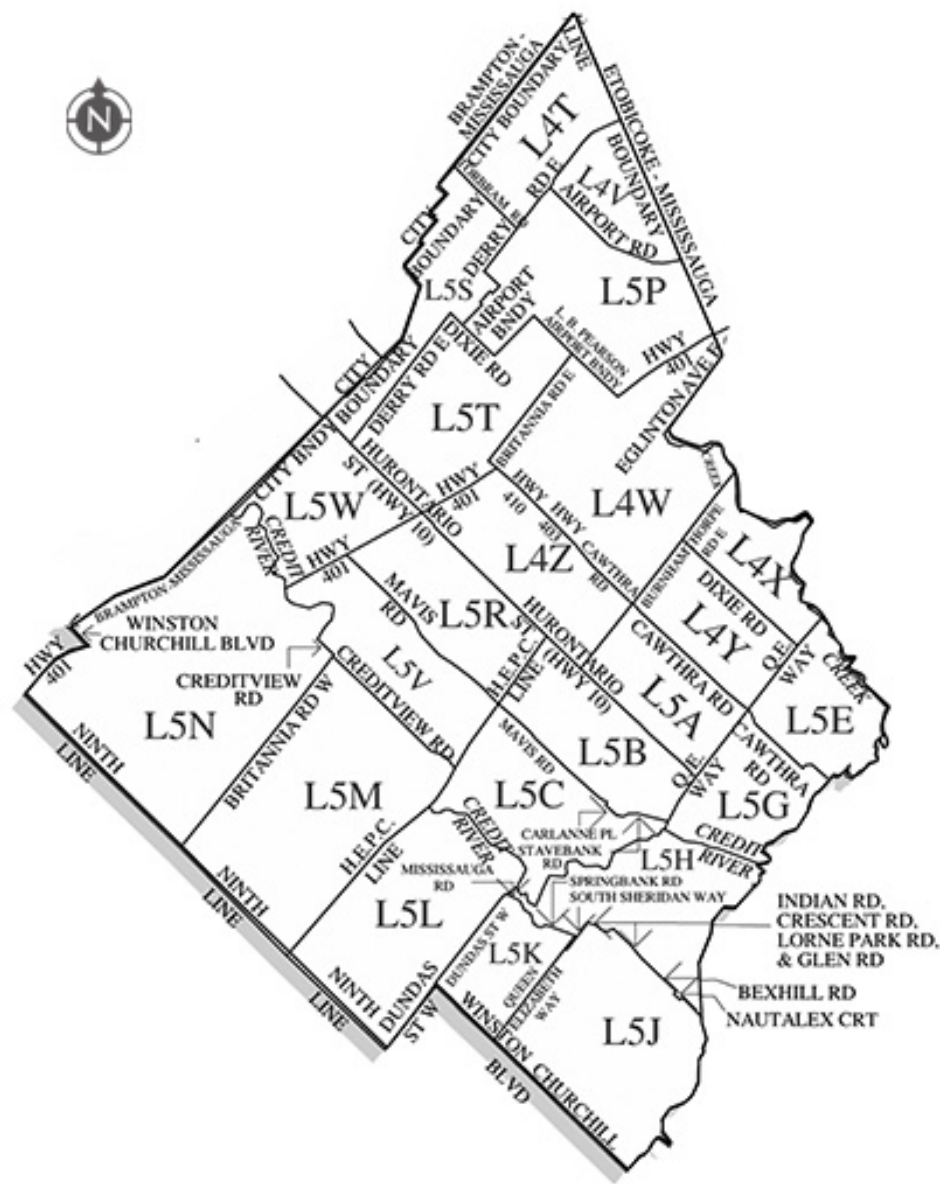
2. **Franchisee's Owners.** The following is a list of shareholders, partners, or other investors in Franchisee, including all investors who own or hold a direct or indirect interest in Franchisee, and a description of the nature of their interest:

Name	Ownership Percentage	Nature of Interest
Kevin Mako	51	Direct
Brenda Rosati	49	Direct

3. **Franchisee's Related Parties.** The following is a list of Franchisee's Related Parties, each of whom will execute the Agreement and Guaranty substantially in the form set forth in Attachment 4 and/or a Confidentiality Agreement and Ancillary Covenants Not to Compete, as determined by Franchisor in its sole judgment.

Name	Interest

ATTACHMENT 1 (CONTINUED) – TERRITORY MAP



## ATTACHMENT 2

## PRE-AUTHORIZED DEBIT AGREEMENT

<b>Franchisee's Name: 2633339 Ontario Inc.</b>			
<b>Franchisee's Address: 5 Brisdale Drive, Unit 202 Brampton Ontario L7A 0S9</b>			
<b>Franchisee's Email: b.rosati@comfortkeepers.ca</b>		<b>Franchisee's Phone Number: 905-671-4004</b>	
<b>Date of Franchise Agreement: October 31, 2024</b>			
<b>Deposit Account particulars - Customer must attach a voided cheque for the Deposit Account</b>			
*Name of Canadian Financial Institution		*Telephone Number	
*Account Number		*Transit Number	
*Branch Address			
(Street Address)	(City)	(Province)	(Postal Code)

In this Pre-Authorized Debit Agreement ("PAD Agreement") "Franchisee" refers to the Franchisee identified above; "Deposit Account" refers to the chequing account identified above or such other deposit account that Franchisee may identify to Franchisor from time to time; "Agreement" refers to the franchise agreement identified above; "PAD" refers to a pre-authorized debit issued against the Deposit Account; and "Franchisor" refers to KanKare Home Services Inc., its successors and assigns.

1. PRE-AUTHORIZED DEBITS (FOR BUSINESS PURPOSES)

The Franchisee authorizes and directs Franchisor to debit the Deposit Account: (a) on the **seventh(7<sup>th</sup>)** business day after the end of each **month, in respect of** amounts to be paid for the previous month; and, (b) **from time to time**, in respect of amounts to be paid at any other time or times, and in either case, on account of any amounts that Franchisee owes in connection with payments required to be paid pursuant to the Agreement, whether for fees or expenses payable, or acts or omissions from time to time committed by Franchisee. Franchisee agrees to waive pre-notification of (a) the date and the amount of the first PAD to be debited from my Account, (b) each PAD (in the case of variable amount payments) and (c) any changes in the amount of a PAD.

In addition, Franchisee may authorize Franchisor to debit the Deposit Account from time to time to pay amounts that Franchisee owes in connection with the Agreement. Franchisor must obtain authorization from Franchisee for the amount(s) and time(s) of each such other debit. In order for Franchisee to provide Franchisor with instructions by telephone or electronic communication, Franchisee agrees to establish and use a password or secret code to enable Franchisor to identify Franchisee. Franchisor may treat as valid authorization, any instruction purporting to be given by Franchisee or on Franchisee's behalf that is accompanied by the use of such password, secret code or other agreed signature equivalent. This PAD Agreement authorizes business PADs.

2. ADDITIONAL TERMS AND CONDITIONS

- (a) **Changes:** Franchisee agree to inform Franchisor promptly, in writing, of any change in the information provided in this PAD Agreement.
- (b) **Cancellation:** Franchisee may cancel an authorization at any time by giving Franchisor ten (10) days prior written notice. Franchisee understands that it may obtain a sample cancellation form, or more information about its right to cancel this PAD Agreement, from Franchisor or its financial institution or by visiting [www.payments.ca](http://www.payments.ca). This PAD Agreement applies only to the method of payment of Franchisee's indebtedness pursuant to the Agreement and does not otherwise affect Franchisee's obligations to Franchisor.
- (c) **Dishonour, disputes and recourse:** If any PAD is dishonoured for any reason, Franchisor may resubmit that PAD in accordance with the rules of the Payments Canada. Franchisee has certain recourse rights if any debit does not comply with this PAD Agreement. For example, Franchisee has the right to receive reimbursement for any debit that is not authorized or is not consistent with this PAD Agreement. To obtain more information on its recourse rights, Franchisee may contact its financial institution or visit [www.payments.ca](http://www.payments.ca).
- (d) **Consent:** Franchisee consents to the disclosure of personal information contained in this PAD Agreement, and any debit issued pursuant to this authorization, to financial institutions as necessary in order to give effect to this PAD Agreement, subject to the rules of the Payments Canada and applicable privacy laws.
- (e) **Contact:** Franchisee may contact Franchisor by mail at 401-245 Fairview Mall Dr., Toronto, Ontario Canada M2J 4T1.

**SIGNATURE PAGE TO FOLLOW**

ATTACHMENT 2

The Franchisee warrants and guarantees that all persons whose signatures are required to authorize transactions on the Deposit Account have signed this PAD Agreement. **Franchisee attaches a VOID cheque for the Deposit Account.**

**AUTHORIZATION OF CUSTOMER**

PRINT DATE: October 31, 2024

PRINT NAME: Brenda Rosati

Signed by:

SIGNATURE:

*b.rosati*

89C7993BB5F94BA...

**SECOND AUTHORIZATION IF TWO SIGNATURES ARE REQUIRED TO WITHDRAW FROM THE ACCOUNT**

PRINT DATE

PRINT NAME:

SIGNATURE:

### ATTACHMENT 3

#### CONDITIONAL ASSIGNMENT

In exchange for valuable consideration provided by KanKare Home Services Inc. ("Assignee"), 2633339 Ontario Inc. ("Assignor"), doing business at 5 Brisdale Drive, Unit 202 Brampton Ontario L7A 0S9 assigns to Assignee all telephone numbers and listings, facsimile numbers, email addresses, social media and social networking addresses and URLs used by Assignor now or in the future in the operation of Assignee's COMFORT KEEPERS® franchise. Assignor will provide Assignee with administrator access and passwords to all email, social media, social network, and other accounts used in connection with the Assignor's franchised business.


This assignment will become automatically effective upon termination or non-renewal of Assignor's COMFORT KEEPERS® Franchise Agreement. Upon expiration or termination of the Franchise Agreement, Assignor promises to do whatever is necessary: (a) to cause the telephone company providing local service to Assignor to promptly transfer all of Assignor's numbers and associated listings to Assignee or its designee; (b) to cause the company providing email service to Assignor to promptly transfer all of Assignor's email addresses, social media and social networking addresses, and associated listings to Assignee or its designee; and (c) if applicable, to cause the company providing website hosting service to the Assignor to promptly transfer all of Assignor's URL addresses and associated listings and social media and social networking addresses, and associated listings to Assignee or its designee.

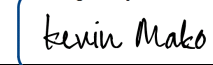
Assignor agrees to pay the above-referenced service providers ("Providers") on or before the effective date of assignment all amounts it owes those Providers in connection with the use of the telephone number or numbers, the facsimile number or numbers, the email and social media and social networking account or accounts or the URL address or addresses, including, but not limited to, payment for advertisements in the classified telephone directory or current domain registration fees. Assignor further agrees to indemnify Assignee for any sums Assignee must pay the Providers to carry out the Franchise Agreement and agrees to cooperate fully with Assignee in making the necessary arrangements to carry out the assignment.

Dated: October 31, 2024

#### ASSIGNOR:

2633339 Ontario Inc.

By:  Signed by:  
89C7993BB5F942A...  
Brenda Rosati

By:  Signed by:  
0454D8FA1369450...  
Kevin Mako

ATTACHMENT 3



## ATTACHMENT 4

### AGREEMENT AND GUARANTY OF RELATED PARTIES

Each of the undersigned (a “guarantor” or the “guarantors”) acknowledges and agrees as follows:

1. Each has read the terms and conditions of the attached COMFORT KEEPERS® Franchise Agreement (“Franchise Agreement”) and acknowledges that the execution of this Agreement and Guaranty of Related Parties (“Guaranty”) and the undertakings of the Related Parties in the Franchise Agreement are in partial consideration for, and a condition to, the granting of the Franchise, and that Franchisor would not have granted the Franchise without the execution of this Agreement and Guaranty and the other undertakings by each of the undersigned;
2. Each is included in the term “Related Parties”;
3. Each, jointly and severally, makes and agrees to perform all of the covenants, representations, warranties and agreements of the Franchisee and its Related Parties set forth in the Franchise Agreement, including, without limitation, the covenants against competition and the dispute resolution process; and
4. Each, jointly and severally, absolutely and unconditionally guarantees to Franchisor and its successors and assigns:
  - (a) The payment in full when due of all fees and costs, including, but not limited to, Franchise Fees, Royalty Fees, other contractual obligations and trade accounts payable to Franchisor by Franchisee under the Franchise Agreement; and
  - (b) The payment in full when due of any and all amounts for which Franchisee may become obligated pursuant to the Franchise Agreement.

The monetary obligations described in clauses (a) and (b) are called “Debts”.

This is a continuing Guaranty and applies to all Debts and other obligations (regardless of whether the obligations are monetary) for or with respect to which any guarantor or the Franchisee may become obligated, whether during the Term of the Franchise, any renewals or extensions thereof, or, with respect to Debts described in clause (b) above, after the expiration, termination or cancellation of the Franchise. This Guaranty will be binding on the heirs, executors, administrators, guardians, successors and assigns of each guarantor, and under no circumstances will any guarantor’s obligations under this Guaranty be released or extinguished without Franchisor’s written consent and release, whether or not a guarantor’s interest in the Franchise is transferred, sold or otherwise surrendered.

Each of the guarantors expressly waives demand and diligence on the part of Franchisor in the collection of any of the Debts and agrees to all extensions that may be granted to Franchisee by Franchisor. Franchisor will be under no obligation to notify the guarantors of any sales or extensions of credit to Franchisee in reliance on this Guaranty, or Franchisee’s failure to pay any of the Debts when due, or to use diligence in preserving the liability of any person on the Debts or in bringing suit or in taking other action to enforce collection of the Debts.

If Franchisee’s status should change through merger, consolidation or otherwise, this Agreement and Guaranty will cover Franchisee’s Debts under its new status, according to the terms of this Agreement and Guaranty.

Franchisor will not be required to pursue or exhaust any remedies against any guarantor, to foreclose Franchisor’s interest in any collateral now or hereafter held by Franchisor as security for the payment of the Debts, to terminate the Franchise Agreement or to take any other action before requiring

payment under this Guaranty. Without impairing or diminishing the obligations of the guarantors under this Guaranty, Franchisor may elect to pursue any legal or equitable remedy available against any guarantor (without being obligated to pursue any remedy against all guarantors) or against any collateral held by Franchisor, even if the exercise by Franchisor of that remedy results in loss to any one or more of the guarantors of any right of subrogation or right to proceed against the other guarantors for reimbursement.

If Franchisee is determined not to be liable on any of the Debts because the act of their creation is ultra vires, or if the Persons incurring any of the Debts acted in excess of their authority, and therefore the Debts cannot be enforced against Franchisee, the guarantors will nevertheless be liable under this Guaranty.

If for any reason Franchisor is required to return a payment received from Franchisee because the payment is deemed in any legal proceeding to be a preference, fraudulent transfer or conveyance or the like, that payment by Franchisee will not constitute a discharge of guarantors from any liability under this Guaranty and the guarantors jointly and severally agree to pay that amount to Franchisor upon demand.

Each guarantor represents that he or she owns a substantial equity interest in Franchisee or is otherwise associated with Franchisee in a material fashion and that each guarantor is receiving consideration from the Debts and from the Franchise that is a material, direct benefit to that guarantor.

Each guarantor (if an individual, on behalf of him/herself and his/her heirs, representatives, successors and assigns, and if a business entity, on behalf of itself and its parent, subsidiaries and affiliates) (collectively, "Releasers"), freely and without any influence, forever releases and covenants not to sue Franchisor, its parent, subsidiaries and affiliates and their respective past and present officers, directors, managers, members, shareholders, agents and employees, in their corporate and individual capacities, with respect to any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected (collectively, "Claims"), that any Releaser now owns, has or claims to have or holds, or may in the future own or hold, or at any prior time owned, held, had or claimed to have, based on, arising out of or relating to, in whole or in part, any fact, event, conduct or omissions occurring on or before the date of this Guaranty, including, without limitation, Claims arising out of, or relating to this Guarantee, the Agreement and all other agreements between any Releaser and Franchisor or its parent, subsidiaries or affiliates, the sale of any franchise to any Releaser, the development and operation of the Franchised Business and the development and operation of all other COMFORT KEEPERS® businesses operated by any Releaser that are franchised by Franchisor or its parent, subsidiaries or affiliates, provided, however, that the Claims shall not include any claims which cannot be released pursuant to an applicable franchise law statute. Releasers expressly agree that fair consideration has been given by Franchisor for this release, and they fully understand that this is a negotiated, complete and final release of all claims.

Any capitalized terms used but not defined in this Guaranty will have the meanings they are given in the Franchise Agreement. This Guaranty will be governed by and construed in accordance with the laws which govern the Franchise Agreement.

The guarantors jointly and severally agree to pay Franchisor's legal fees and costs incurred if this Guaranty is placed in the hands of a lawyer for collection, or if it is collected through a proceeding in any court.

***[SIGNATURE PAGE FOLLOWS]***

Dated: October 31, 2024

**GUARANTORS:**

Name: Brenda Rosati

Name: Kevin Mako

**Virtual:**

**GUARANTEES ACKNOWLEDGMENT ACT**

(Section 3.1)

**CERTIFICATE**

I HEREBY CERTIFY THAT:

1. Brenda Rosati, the guarantor in the guarantee dated October 31, 2024, made between 2633339 Ontario Inc. and KanKare Home Services Inc., which this certificate is attached to or noted on, appeared before me by two-way video-conference and acknowledged that the guarantor had executed the guarantee.

2. I satisfied myself by examination of the guarantor that the guarantor she is aware of the contents of the guarantee and understands it.

CERTIFIED by Matthew Levine, Lawyer at the City of Toronto, in the Province of Ontario, this 31<sup>st</sup> day of October, 2024.

Signed by:  
Matthew Levine  
E8CEA25F9BD64AA...  
(Signature)

**STATEMENT OF GUARANTOR**

I am the person named in this certificate.

Signed by:  
b.rosati  
89C7993B53F94BA...  
Signature of Guarantor

**Virtual:**

**GUARANTEES ACKNOWLEDGMENT ACT**

(Section 3.1)

**CERTIFICATE**

I HEREBY CERTIFY THAT:

1. Kevin Mako, the guarantor in the guarantee dated October 31, 2024, made between 2633339 Ontario Inc. and KanKare Home Services Inc., which this certificate is attached to or noted on, appeared before me by two-way video-conference and acknowledged that the guarantor had executed the guarantee.

2. I satisfied myself by examination of the guarantor that the guarantor she is aware of the contents of the guarantee and understands it.

CERTIFIED by Matthew Levine, Lawyer at the City of Toronto, in the Province of Ontario, this 31<sup>st</sup> day of October, 2024.

Signed by:  
Matthew Levine  
\_\_\_\_\_  
(Signature) E8CEA25F9BD64AA...

**STATEMENT OF GUARANTOR**

I am the person named in this certificate.

Signed by:  
Kevin Mako  
\_\_\_\_\_  
Signature of Guarantor 0454D8FA1369450...

## ATTACHMENT 5

### CONSENT TO RECORD

#### Individual Franchise Owner

I am an individual beneficial owner of 2633339 Ontario Inc. ("Franchisee") dba CK# 3043.

In order for KanKare Home Services Inc. ("Franchisor") to provide Franchisee with information intended to help improve Franchisee's business operations or to ascertain compliance with Comfort Keepers® standards and in order for Franchisee to receive calls forwarded in response to advertising or other related matters, I agree that my business conversations on the telephone lines and cell phones relating to or used in Franchisee's business may be recorded by Franchisor and third parties acting at the behest of Franchisor. I represent that Franchisee has obtained the consent to recording of their Franchisee-related business conversations by all of Franchisee's employees and others who may receive or make business calls on Franchisee's business telephone lines and cell phones and will obtain the consents of all such persons in the future become new employees or newly associated with Franchisee. I understand, and intend, that Franchisor and any such third parties may rely on this consent and representation.

Dated: October 31, 2024

Printed Name: Brenda Rosati

Signed by: *b.rosati*  
Signature: 89C7993B83F945A...

**ATTACHMENT 6**  
**CONFIDENTIALITY AGREEMENT AND**  
**ANCILLARY COVENANTS NOT TO COMPETE**

This Agreement is made and entered into as of October 31, 2024, among KanKare Home Services Inc. ("**Franchisor**"), 2633339 Ontario Inc., ("**Franchisee**"), and Brenda Rosati and Kevin Mako ("**Recipient**").

**RECITALS**

Franchisor, as the result of the expenditure of time, skill, effort and money, developed and owns a unique System ("**System**") for the development and operation of a business providing care to seniors and others in need of assistance in daily living and home care technology equipment and related services.

The System includes, but is not limited to, certain registered and unregistered trade names, trademarks, symbols, logos, emblems and indicia of origin, including, but not limited to, the mark "Comfort Keepers" and those other trade names, trademarks, symbols, logos, emblems and indicia of origin as Franchisor or its Affiliates may develop in the future to identify for the public the source of services and products marketed under those marks ("**Marks**") and under the System and representing the System's high Standards of quality, appearance and service; uniform standards, specifications and procedures for operations; quality and uniformity of products and services offered; procedures for management and financial control; training and assistance; and advertising and promotional programs; all of which may be changed, improved and further developed by Franchisor or its Affiliates from time to time and are used by Franchisor in connection with the operation of the System ("**Trade Secrets**").

The Marks and Trade Secrets provide economic advantages to Franchisor and are not generally known to, and are not readily ascertainable by proper means by, Franchisor's competitors who could obtain economic value from knowledge and use of the Marks and Trade Secrets.

Franchisor has taken and intends to take all reasonable steps to maintain the confidentiality and secrecy of the Trade Secrets.

Franchisor and Franchisee have agreed, as evidenced by the terms of the Franchise Agreement, dated as of October 31, 2024 for the operation of a Comfort Keepers® business ("**Franchised Business**") on the importance to Franchisor and to Franchisee and other licensed users of the System of restricting the use, access and dissemination of the Trade Secrets.

It will be necessary for certain agents, independent contractors, officers, directors and interest holders of Franchisee, or any entity having an interest in Franchisee, to have access to and to use some or all of the Trade Secrets in the management and operation of Franchisee's Franchised Business.

Franchisee has agreed to obtain from recipients of Trade Secrets written Agreements protecting the Trade Secrets and the System against unfair competition Recipient wishes to remain, or wishes to become associated with Franchisee and wishes and needs to receive and use the Trade Secrets in the course of his or her association in order to effectively perform services for Franchisee and protect his interest in Franchisee.

Recipient acknowledges that receipt of and the right to use the Trade Secrets constitutes independent valuable consideration for the representations, promises and covenants made by Recipient herein.

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

Confidentiality Agreement

1. Franchisor and Franchisee will disclose to Recipient some or all of the Trade Secrets relating to the System. All information and materials, including, without limitation, any manuals, business plans, marketing plans, financial information, drawings, specifications, techniques and compilations of data which Franchisor provides to Franchisee or Recipient will be deemed confidential Trade Secrets for the purposes of this Agreement. In addition, Recipient specifically acknowledges that all information relating to persons purchasing, leasing or receiving services or products from Franchisee (collectively, "**Clients**") is proprietary information belonging to Franchisor or its Affiliates and constitutes part of the Trade Secrets.
2. Recipient will receive the Trade Secrets in confidence and will maintain them in confidence and use them only in the course of his or her association with Franchisee and then only for so long as Franchisee is licensed by Franchisor to use the System. Recipient will also take reasonable steps to preserve the confidentiality of the Confidential Information.
3. Recipient will not make copies of any documents or compilations containing the Trade Secrets without Franchisor's express written permission.
4. Recipient will not disclose or permit the disclosure of any Trade Secrets except to other employees of Franchisee who have signed an agreement similar to this Agreement and only to the limited extent necessary to train or assist other employees of Franchisee in the operation of, or provision of services by, Franchisee's Franchised Business.
5. Recipient will surrender all material (regardless of whether electronic, written, or otherwise) containing Trade Secrets to Franchisee or Franchisor, upon request, or upon termination of association with Franchisee, or upon conclusion of the use for which that information or material may have been furnished to Recipient.
6. Recipient will not at any time, directly or indirectly, do any act or omit to do any act that would or would likely be injurious or prejudicial to the goodwill associated with the Trade Secrets and the System.
7. All manuals are loaned by Franchisor to Franchisee for limited purposes, remain the property of Franchisor and may not be reproduced, in whole or in part, without Franchisor's written consent.

Covenants Not to Compete or Solicit

1. In order to protect the goodwill and unique qualities of the System and the confidentiality and value of the Trade Secrets, and in consideration for the disclosure to Recipient of the Trade Secrets, Recipient further agrees and covenants as follows during the term of this Agreement:
  - (a) Not to divert, or attempt to divert, directly or indirectly, any business, business opportunity, or customer of any Franchised Business or any prospective or



current Client of any Franchised Business to any competitor of any Franchised Business or of the network of Franchised Businesses.

- (b) Not to directly or indirectly, for himself or through, on behalf of, or in conjunction with any person, partnership or corporation, without the prior written consent of Franchisor, own, maintain, operate, engage in or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any business that: (i) derives any revenues from providing any of the following services relating to the health or care of the elderly or infirm: geriatric care management services, skilled nursing services, any service that Franchisor has under a pilot or test program, or adult day care; or (ii) offers franchises or provides support services for any business described in this paragraph (collectively, (i) and (ii), the "Authorized Services/Products").
- 2. In further consideration for the disclosure to Recipient of the Trade Secrets and to protect the uniqueness of the System and the goodwill associated with the Marks, Recipient agrees and covenants that for an uninterrupted 2-year period beginning on the Commencement Date (as defined below), Recipient will not without the prior written consent of Franchisor:
  - (a) Divert or attempt to divert, directly or indirectly, any business, business opportunity, prospective or current Client of any Franchised Business to any competitor, including Recipient.
  - (b) Directly or indirectly, for himself or through, on behalf of, or in conjunction with any person, partnership, corporation or other legal entity, without the prior written consent of Franchisor, own, maintain, operate, advertise, engage in or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any business that offers or provides any of the Authorized Services/Products: (1) within the protected territory granted to Franchisee under the Franchise Agreement; and (2) within 10 miles of that protected territory.
  - (c) Directly or indirectly, for himself or through, on behalf of, or in conjunction with any Person, contact or solicit: (i) any former Client of the Franchised Business to which the Franchise Agreement pertained for the purpose of offering to provide any Authorized Services/Products; and (ii) any referral source with which the Recipient had contact during the term of the Franchise Agreement for the purpose of obtaining a referral for providing Authorized Services/Products.
- 3. The "Commencement Date" means the earlier of the date of expiration or termination of the Franchise Agreement (regardless of the reason for termination) or the date that Recipient ceases all association with Franchisee. Recipient agrees that the length of time specified in Section 2 will be tolled for any period during which Recipient is in breach of the covenants or any other period during which Franchisor or Franchisee seeks to enforce this Agreement.
- 4. These restrictions do not apply to the ownership of 5% or less of stock in a publicly held corporation, or to ownership by Recipient of a Franchised Business.

### Sale or Transfer of Assets

During the 12 months following the Commencement Date, Recipient will not sell, assign, or otherwise transfer to a business of the type described in Section 2(c) any of the assets used in connection with the Franchised Business, including the lease for the premises from which the Franchised Business operated.

### Miscellaneous

1. Franchisee will take all commercially reasonable efforts to ensure that Recipient acts as required by this Agreement.
2. Recipient agrees that in the event of a breach of this Agreement, Franchisor would be irreparably injured and be without an adequate remedy at law. Therefore, in the event of a breach, or threatened breach, Franchisor will be entitled to enforce the provisions of this Agreement and will be entitled, in addition to any other remedies which are made available to it, to a temporary and permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.
3. If Recipient owns a beneficial ownership interest in Franchisee or is an officer or director of Franchisee, Recipient expressly agrees that the existence of any claims Recipient or Franchisee may have against Franchisor will not constitute a defense to the enforcement by Franchisor of the covenants in this Agreement.
4. Recipient agrees to pay all expenses (including court costs and reasonable legal fees and costs) incurred by Franchisor and Franchisee in the successful enforcement (in whole or in part) of this Agreement.
5. Any failure by Franchisor or Franchisee to object to or take action with respect to any breach of any provision of this Agreement by Recipient will not operate or be construed as a waiver of or consent to that breach or any subsequent breach by Recipient.
6. This Agreement will be governed by and construed and enforced in accordance with the laws of the province where the Franchised Business is located, without reference to choice of law principles. Recipient irrevocably agrees that service of process may be made upon him or her in any proceeding relating to or arising under this Agreement or the relationship created by this Agreement by any means allowed by applicable law. Recipient further agrees that venue for any proceeding relating to or arising out of this Agreement will be the courts sitting in the city where Franchisor's principal offices are located or in the city as the Franchisor shall select in the province where the Franchised Business is located; provided, however, with respect to any action which includes injunctive relief or other extraordinary relief, Franchisor or Franchisee may bring that action in any court that has jurisdiction.
7. The parties agree that these covenants are reasonable limitations as to time, geographical area and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor. The parties also agree that each of the foregoing covenants will be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any final decision to which Franchisor is a party, Recipient expressly agrees to be bound by any lesser covenant subsumed within the terms of

such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement. Franchisor may reduce the scope of any covenant in this Agreement, effective immediately upon notice to Recipient.

8. This Agreement contains the entire Agreement of the parties regarding the subject matter hereof. This Agreement may be modified only by a duly authorized writing executed by all parties.
9. The parties to this Agreement must direct any notices to the other party at the address set forth below or at another address if advised in writing that the address has been changed. Notice may be delivered by email (with simultaneous mailing of a copy by first class mail), courier, or first-class mail. Notice will be effective on receipt or first rejection.

If directed to Franchisor, the notice will be addressed to:

KanKare Home Services Inc.  
245 Fairview Mall Drive, Suite 401  
Toronto, Ontario  
Canada M2J 4T1  
Email:  
SVassos@corpcomfortkeepers.ca

If directed to Franchisee, the notice will be addressed to:

2633339 Ontario Inc.  
5 Brisdale Drive, Unit 202  
Brampton, Ontario L7A 0S9

Attention: Brenda Rosati  
Email: b.rosati@comfortkeepers.ca

If directed to Recipient, the notice will be addressed to:

2633339 Ontario Inc.  
5 Brisdale Drive, Unit 202  
Brampton, Ontario L7A 0S9

Attention: Brenda Rosati  
Email: b.rosati@comfortkeepers.ca

The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and will inure to the benefit of its respective Affiliates, successors and assigns. The respective obligations of Franchisee and Recipient hereunder may not be assigned by Franchisee or Recipient without the prior written consent of Franchisor.

**IN WITNESS WHEREOF**, the undersigned have entered into this Agreement as witnessed by their signatures below.

**KANKARE HOME SERVICES INC.**

By:   
Name: Natalie Black  
Title: CEO, Elevate  
Care International  
(ECI)

**2633339 Ontario Inc.**

By:   
Name: Brenda Rosati  
Title: Director

By:   
Name: Kevin Mako  
Title: Director

**RECIPIENT**

By:   
Name: Brenda Rosati  
Title: Director

By:   
Name: Kevin Mako  
Title: Director

ATTACHMENT 7

ADDITIONAL SERVICES ADDENDUM

This Additional Services Addendum ("**Addendum**") is made by and between KanKare Home Services Inc. ("**Franchisor**") and 2633339 Ontario Inc. ("**You**") and modifies the Franchisor Franchise Agreement dated as of October 31, 2024 between Franchisor and You.

Unless otherwise defined in this Addendum, capitalized terms used in this Addendum have the meanings assigned to them in the Franchise Agreement.

You have been authorized as of the dates set forth below to provide the following Additional Services strictly in accordance with the Standards and terms and conditions of the Franchise Agreement:

Service	Date Authorized

You agree and acknowledge that Your authorization to offer and provide Additional Services is limited (as set forth above), that You are not authorized to provide any services that have not been authorized and that Franchisor may, at its option, withdraw or revoke Your authorization to provide any or all Additional Services at any time and for any reason, upon notice to You.

**IN WITNESS WHEREOF**, the parties have executed this Additional Services Addendum as of the date set forth above.

KANKARE HOME SERVICES INC.

Signed by:  
By: *Natalie Black*  
Name: Natalie Black  
Title: CEO, Elevate  
Care International  
(ECI)

2633339 Ontario Inc.

Signed by:  
By: *b.rosati*  
Name: Brenda Rosati  
Title: Director

**ATTACHMENT 8**

**PRIVATE DUTY NURSING SERVICES ADDENDUM**

See Schedule "F-3" of this disclosure document.

## ATTACHMENT 9

### DATA PROCESSING AGREEMENT

This Data Processing Agreement ("**DPA**") is entered into as of October 31, 2024, by and between KanKare Home Services Inc. ("**Franchisor**"), and 2633339 Ontario Inc., ("**Franchisee**"). Franchisee and Franchisor may be referred to individually as a "**Party**" and collectively as the "**Parties**".

#### RECITALS

Franchisee is a franchisee of Franchisor and operates a Comfort Keepers® franchised business (known as Comfort Keepers Office # 3043) under a franchise agreement dated as of October 31, 2024 ("**Franchise Agreement**") with Franchisor.

Franchisee and Franchisor desire to enter into this DPA because Franchisee will supply certain Personal Health Information (defined below) to Franchisor: (a) for processing and storage by Franchisor; or (b) as Franchisor may otherwise require under the terms of the Franchise Agreement.

Franchisor agrees to accept and utilize any such information pursuant to the terms set forth below.

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

#### ARTICLE 1 DEFINITIONS

- A.** "**Personal Health Information**" means with respect to an individual, whether living or deceased, information received by Franchisor from Franchisee that: (a) concerns the physical or mental health of the individual; (b) concerns any health service provided to the individual; (c) concerns the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual; (d) is collected by the Franchisee in the course of providing health services to the individual, including the individual's government-issued health card number; and (e) is collected incidentally by the Franchisee to the provision of health services to the individual.

#### ARTICLE 2 OBLIGATIONS OF FRANCHISOR

- A.** Franchisor agrees not to use or disclose Personal Health Information other than as permitted or required by this DPA or applicable law.
- B.** Franchisor agrees to use appropriate safeguards designed to prevent use or disclosure of the Personal Health Information in its possession or control.
- C.** Franchisor agrees to report to the Franchisee any unauthorized use or disclosure of the Personal Health Information of which it becomes aware.
- D.** Franchisor agrees to require any agent, including a subcontractor, to whom it provides Personal Health Information, to substantially similar restrictions and conditions that apply under this DPA to Franchisor with respect to such information.

- E.** Franchisor agrees to provide access to Personal Health Information to the applicable data subject to the extent required by applicable law.
- F.** Franchisor agrees to make any amendments to Personal Health Information as required by applicable law.
- G.** Franchisor agrees to document its disclosures of Personal Health Information as would be required for Franchisee to respond to a request by an individual permitted under applicable law.
- H.** Franchisor will report to the Franchisee any security incident affecting Personal Health Information in its custody or control of which it becomes aware.
- I.** Franchisor will perform its obligations under this Agreement in accordance with applicable law.

### **ARTICLE 3 PERMITTED USES AND DISCLOSURES BY FRANCHISOR**

Except as otherwise limited in this DPA, Franchisor may use or disclose Personal Health Information for the following purposes:

- A.** For the performance of data processing and storage functions, activities, or services for, or on behalf of, Franchisee.
- B.** For any lawful purpose permitted by the Franchise Agreement or the Manual (as defined in the Franchise Agreement).
- C.** For the proper management and administration of Franchisor (including its management and administration of the network of Comfort Keepers® franchises) or to carry out the legal responsibilities of Franchisor.

### **ARTICLE 4 OBLIGATIONS OF FRANCHISEE**

- A.** Franchisee shall obtain informed consent from all individuals from whom it collects any Personal Health Information for the disclosure of such Personal Health Information to Franchisor and for the use and disclosure of such Personal Health Information by Franchisor as described in this DPA. Franchisee shall implement and publish a privacy policy that complies with applicable law (including all Canadian privacy laws) and that clearly describes the uses and disclosures of all Personal Health Information by Franchisee and Franchisor.
- B.** Franchisee will notify Franchisor of any limitations in its notice of privacy practices of Franchisee to the extent that such limitations may affect Franchisor's use or disclosure of Personal Health Information.
- C.** Franchisee will immediately notify Franchisor of any changes in, or revocation of, permission by any data subject to use or disclose Personal Health Information, to the extent that such changes may affect Franchisor's use or disclosure of Personal Health Information.
- D.** Franchisee will immediately notify Franchisor of any restriction to the use or disclosure of Personal Health Information by any data subject, to the extent that such restriction may affect Franchisor's use or disclosure of Personal Health Information.



- E. Franchisee acknowledges and agrees that any breach of this DPA by Franchisee is an Event within the meaning of the Franchise Agreement for which the Franchisee indemnifies the Indemnified Parties (as defined in the Franchise Agreement).

## **ARTICLE 5 TERM AND TERMINATION**

- A. **Term.** The Term of this DPA will be effective as of the Effective Date, and will terminate on the earlier of the date that: (i) all of the Personal Health Information provided by Franchisee to Franchisor, or created or received by Franchisor on behalf of Franchisee is destroyed or returned to Franchisee; or (ii) the Franchise Agreement is terminated or expires. Franchisee and Franchisor acknowledge that anonymized data is not Personal Health Information and will not be destroyed.
- B. **Effect of Termination.**
1. Except as provided below, upon termination of this DPA, Franchisor will return or destroy all Personal Health Information received from Franchisee within 30 days after termination. This provision also will apply to Personal Health Information that is in the possession of subcontractors or agents of Franchisor. Franchisor may retain and continue to use any Personal Health Information that Franchisor is entitled to obtain under the terms of the Franchise Agreement and other Personal Health Information it reasonably needs in connection with its business as franchisor of the Comfort Keepers® franchise system.
  2. If Franchisor determines that returning or destroying Personal Health Information is not feasible, Franchisor will extend the protections of this DPA to such Personal Health Information for so long as Franchisor maintains such Personal Health Information.

## **ARTICLE 6 MISCELLANEOUS**

- A. **Amendment.** This DPA may be amended only upon the mutual written agreement of the Parties, provided that the Parties agree to take such action to periodically amend this DPA as is necessary for the Parties to comply with applicable law.
- B. **Survival.** The rights and obligations of Franchisor under Article 4 Section B of this DPA will survive the termination or expiry of this DPA.
- C. **Interpretation.** If any provision of this DPA is deemed to be unlawful or otherwise unenforceable, it will be automatically stricken from this DPA, and this DPA will otherwise remain in full force and effect, to be construed as closely as possible under the circumstances to effectuate the original intent of the Parties.
- D. **Assignment.** This DPA will be binding upon and inure to the benefit of the respective legal successors of the Parties. Neither this DPA nor any rights or obligations hereunder may be assigned by Franchisee, in whole or in part, without the prior written consent of Franchisor.
- E. **Property Rights.** Except for client information (which belongs to Franchisor under the terms of the Franchise Agreement and as part of the good will associated with Franchisor's proprietary marks and system), all Personal Health Information shall be and remain the exclusive property of the Franchisee. Except as provided in this Section,

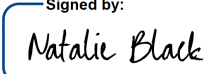
Franchisor agrees that it acquires no title or rights to the Personal Health Information as a result of this DPA.


- F.** Injunctive Relief. Franchisor agrees that a breach of the terms and conditions of this DPA will cause irreparable harm to Franchisee for which there exists no adequate remedy at law. Franchisee retains all rights to seek injunctive relief to prevent or stop any breach of the terms of this DPA, including but not limited to the unauthorized use or disclosure of Personal Health Information by Franchisor or any agent, contractor or third party that received Personal Health Information from Franchisor.
- G.** Governing Law; Dispute Resolution. This DPA will be governed and construed in accordance with the laws of the province where the franchised business governed by the Franchise Agreement is located, without regard to the choice of law provisions thereof. In the case of any dispute between the Parties, the Parties shall resolve it in accordance with the dispute resolution procedures set forth in the Franchise Agreement. Notwithstanding the foregoing, the Parties acknowledge that Franchisor and its employees, agents and contractors remain subject to all federal, provincial and local laws applicable to the actual performance of services in their respective jurisdictions.
- H.** Entire Agreement. This DPA and the Franchise Agreement contain the entire understanding between the Parties with respect to its subject matter and supersedes any and all other agreements and understandings between them, whether oral or written. No waiver, alteration or modifications of any of the provisions of this DPA or the Franchise Agreement will be binding unless in writing and signed by a duly authorized representative of the Parties.
- I.** Independent Contractors. The Parties are separate and independent entities. Nothing in this DPA will be construed or be deemed to create a relationship of employer and employee, principal and agent, partnership, joint venture, or any relationship other than that of independent entities that have entered into this DPA solely for the purposes provided.
- J.** Notices. All notices under this DPA must be in writing, will be deemed given on receipt or first rejection and may be sent by prepaid certified or registered mail or overnight courier to the address of the Party to be noticed as set forth herein, or such other address as such Party has last designated in a written notice to the other Party. The addresses for notices under this DPA will be the address for notices under the Franchise Agreement.
- K.** Severability. The invalidity or unenforceability of any provision of this DPA, or any terms hereof, will not affect the validity of this DPA as a whole, which will at all times remain in full force and effect. To this end, in the event that any provision of this DPA will be determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this DPA will otherwise remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement of the Effective Date.

KANKARE HOME SERVICES INC.

2633339 Ontario Inc.:

By:   
Name: Natalie Black  
Title: CEO, Elevate Care International (ECI)

  
By:   
Name: Brenda Rosati  
Title: Director