

AU-MADfrn02

Franchise agreement: retail business

Contents

1. Definitions
2. Interpretation
3. Warranties for authority
4. Relationship of parties
5. Entire agreement
6. Grant of Franchise
7. Preparing the Franchise Premises
8. Early obligations of the Company
9. Initial Training
10. Ongoing Company provision
11. Franchisee payments
12. Payment terms
13. Right to renewal
14. Data Protection law Compliance
15. Franchisee's undertakings
16. Exclusive purchase arrangements
17. Transfer on death of Franchisee
18. Company's right of pre-emption
19. Terms for transfer to a third party
20. Franchise operated by a partnership
21. Franchise operated by a company
22. Insurance
23. Risk and retention of title
24. Intellectual Property
25. New Intellectual Property
26. Intellectual Property / software
27. Termination by the Company on notice
28. Automatic or immediate termination
29. Consequences of termination
30. Confidentiality
31. Confidentiality of Know-how
32. Cooling Off Period
33. Time is of the essence
34. Limitation of liability
35. Limitation of liability for defects
36. Publicity / Announcements
37. Irrevocable power of attorney
38. Indemnity
39. Damages not adequate
40. Uncontrollable events
41. Dispute resolution
42. Miscellaneous matters

Schedule 1 Intellectual Property

Schedule 2 Branded Supplies
Schedule 3 Press release

This agreement is dated: [date]

It is made between:

[Home Robots]Pty Limited, a company incorporated in Australia [under ACN [number] and] whose [] (“ ”).

And

[DEF], whose address is [full] (“ ”).

It is now agreed as follows:

1. Definitions

In this agreement, the following words shall have the following meanings, :

“Branded Equipment” means [equipment, plant and machinery] specified .

“Branded Supplies” means the consumable goods and semi-disposable goods listed in the Manual as Branded Supplies and provided , .

“HR Undertaking” means the whole of the business carried on by the Company, part of which is intended .

“Close Relative” means in relation to a deceased Franchisee: spouse, life partner of , .

“Termination Date” means the date when this agreement ends.

“Confidential Information” means all information about the Company. It includes information about businesses, methods of doing business, future plans, policies, suppliers and customers, agents, distributors and customers, , .

“Software”	means the software which operates and controls any [Home Robot] and all other software used in [REDACTED].
“Territory”	means the area covered by [post code / [REDACTED] / [REDACTED] / [REDACTED]].
“Transferee”	any person to whom the Franchisee wishes to sell or charge or make some other voluntary [REDACTED], [REDACTED], [REDACTED].

2. Interpretation

In this agreement unless the context otherwise requires:

- 2.1 any agreement by any party not to do or omit to do something is deemed to include an obligation not to allow [REDACTED];
- 2.2 [except where stated otherwise], any obligation of any person arising from this [REDACTED];
- 2.3 In this agreement references to a party include references to a person: to whom those rights and obligations are transferred or pass as a result of [REDACTED].
- 2.4 the headings to the paragraphs and schedules (if any) of [REDACTED];
- 2.5 all money sums mentioned in this agreement are calculated net of GST, which [REDACTED].
- 2.6 a requirement for reasonableness shall not imply that reasons shall be given [REDACTED].
- 2.7 in any indemnity, a reference to costs or expenses shall be construed as including the estimated cost of management time of the indemnified party, such cost calculated as, [REDACTED].

.....

2.8 this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or

3. Warranties for authority

3.1 Each of the parties warrants that it has power to enter into this agreement [and

3.2 The Franchisee warrants and undertakes that it is not aware as at the date of this agreement of anything within his reasonable control which might

3.3 The Franchisee warrants that he is not at the time of entering into this agreement insolvent and knows of no circumstance which would entitle any creditor to appoint a receiver or

4. Relationship of parties

4.1 Nothing in this agreement shall create a partnership or agency or the relationship of employer and employee, or other relationship between any of the

4.2 Neither party shall have, nor represent that it has, any authority to make any commitment on the other party's behalf, except joint marketing

.....] [.....
.....].

13. Right to Renewal

13.1 The Franchisee may renew the Franchise
..... [5], ..:

13.1.1 gives written notice to
.....;

13.1.2 has achieved the
.....;

13.1.3 is not
.....;

13.1.4 signs the then current version of the Franchise agreement of
the Company, which may be different
.....,
....., ,
.....
.....
.....
.....;

13.1.5 is not affected by any circumstance (.....
.....)
..... .

13.1.6 pays the renewal fee of \$ [5000].

14. Data Protection law compliance

The Manual and the operation of the Software require that
.....;
.....
■

15. Franchisee's undertakings

The Franchisee now undertakes to:

- 15.1 participate personally in the operation of the Franchise Business for at least [30] hours [48] [];
- 15.2 make certain that every [] ;
- 15.3 make certain that the Franchise ;
- 15.4 comply in all respects with the procedures and , ;
- 15.5 not conduct any aspect of ;
- 15.6 not do anything which may harm ;
- 15.7 employ suitably ;
- 15.8 maintain high standards of ;
- 15.9 to use only the Company's , ;
- 15.10 obtain and maintain all the licences, , ;
- 15.11 maintain accounting, employment and other ;
- 15.12 make available to the Company ;
- 15.13 pay tax as due;
- 15.14 maintain a relationship with every ,

17. Transfer on death of Franchisee

- 17.1 In the event of the death of the Franchisee, the Franchisee shall, within [30] days of the death of the Franchisee, transfer the Franchise to a Close Relative of the deceased Franchisee, provided that such Close Relative is qualified to take over the Franchise Business. If no such Close Relative is qualified to take over the Franchise Business, the Franchise shall be transferred to the Company.
- 17.2 A Close Relative of the deceased Franchisee may take over the Franchise provided he is qualified to take over the Franchise Business. If no such Close Relative is qualified to take over the Franchise Business, the Franchise shall be transferred to the Company.
- 17.3 No transfer fee shall be payable to the Franchisee or his estate in respect of the transfer of the Franchise to a Close Relative of the deceased Franchisee.
- 17.4 The grant of a new franchise will be subject to the Franchisee's consent.
- 17.5 A transfer to any other person shall be subject to the Franchisee's consent.
- 17.6 If the quality of management of the Franchise Business is reduced in the judgement of the Franchisee, the Franchisee may, at his discretion, terminate the Franchise Agreement if the Franchisee is not satisfied with the performance of the Franchisee for a period of [12] months, or such longer period as the Franchisee may determine in writing, but not exceeding 20 %].

18. Company's right of pre-emption

- 18.1 The procedure set out in Clause 17.1 shall apply to the Franchisee's right of pre-emption.
- 18.2 If and whenever the Franchisee wishes to assign, sub-contract, or otherwise dispose of the Franchise Business, the Franchisee shall first offer the Franchise Business to the Company on the same terms and conditions as those offered to the Franchisee. If the Company does not exercise its right of pre-emption, the Franchisee may then assign, sub-contract, or otherwise dispose of the Franchise Business.
- 18.3 The Franchisee must give notice in writing to the Company, within [30] days of the Franchisee's decision to assign, sub-contract, or otherwise dispose of the Franchise Business, of the Franchisee's intention to do so.

.....,

18.3.1 the name of Transferee;

18.3.2 information relating to the Transferee of the
.....
.....
.....;

18.3.3 the proposed transfer price,
..... -

18.3.4 a draft
.....

18.4 The Company may make
.....

18.5 All of the information given to the Company (“.....”)
.....
.....

18.6 The Company must, within [28] days of the date it was notified of the
possibility of a transfer by the Franchisee,
..... -
.....,
..... [28]
.....
.....

18.7 If the Company elects not to buy
.....
.....:

18.7.1 the Transferee is
.....;

18.7.2 the Transferee is
.....;

18.7.3 the Transferee is disqualified by his or its failure
.....
.....
.....

.....
.....

20. Franchise operated by a partnership

20.1 If the Franchisee wishes to enter into
..... ,
..... :

20.1.1 the new partner (or, if a)
.....
..... .

20.1.2 the Transferee signing -
..... .

20.1.3 payment to the Company of a contribution to the cost
.....
..... ,
..... \$ [.....].

20.1.4 payment to the
..... \$ [5000].

20.1.5 payment to the
..... .

20.2 in the event of any of:

20.2.1 the death of one of the partners,

20.2.2 the purported or actual
..... ;

20.2.3 the bankruptcy or proven insolvency of a partner;

the partner(s) remaining may
..... ,
..... :

20.2.4 give notice of their wish [60]
..... ;

20.2.5 obtain the approval of the Company to
.....
..... ;

.....
..... \$ [500 , 000] [.....].

39. Damages not adequate

.....
..... ,
.....
..... , [.....]
..... , ,
..... ,
..... [..... /
.....]

40. Uncontrollable events

.....
.....
..... , [.....
.....] .

41. Dispute resolution

.....
..... :

41.1
.....
..... [.....] .

41.2 The report shall include:

41.2.1 the nature of the dispute,

41.2.2 the outcome the party wants, and

41.2.3 proposed action that will settle the dispute.

41.3
21

Signed by / on behalf of the first named party by his representative who personally accepts liability for the proper authorisation to enter into this agreement and by the second party personally / as a partner in [name of partnership]

For, and on behalf of []

print name

For, and on behalf of []

print name

Schedule 1: Intellectual Property

Schedule 2: Branded Supplies

Schedule 3: Press release

