



**FRANCHISE DISCLOSURE  
DOCUMENT**

**FRANCHISOR:**

**Harcourts Pacific LLC**

**3 Monarch Bay Plaza, Suite 100**

**Dana Point, CA 92629**

**Telephone: 949.632-8995**

The franchise offered is for the operation of Harcourts real estate brokerage offices, which offers general real estate services, relating to the buying, selling, leasing, development, and management of real estate to the general public.

The total investment necessary to begin operation of a Harcourts franchise ranges from one hundred fifty one thousand dollars (\$151,000.00) to three hundred sixty thousand dollars (\$360,000.00). This includes the initial franchise fee of twenty five thousand dollars (\$25,000.00) for a franchise, in which initial franchise fee must be paid to Harcourts Pacific LLC.

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

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

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

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

Issuance Date: February 25, 2024

## How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit F.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit B and B-1 includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Harcourts real estate brokerage in my area?</b>	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What's it like to be a Harcourts franchisee?</b>	Item 20 or Exhibit F lists current and former franchisees. You can contact them to ask about their experiences
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

## **What You Need To Know About Franchising *Generally***

**Continuing responsibility to pay fees.** You may have to pay royalties and other fees even if you are losing money.

**Business model can change.** The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

**Supplier restrictions.** You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

**Operating restrictions.** The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

**Competition from franchisor.** Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

**Renewal.** Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

**When your franchise ends.** The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

### **Some States Require Registration**

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit C.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

## Special Risks to Consider About *This Franchise*

Certain states require that the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by litigation only in California. Out-of-state litigation may force you to accept a less favorable settlement for disputes. It may also cost more to litigate with the franchisor in California than in your own state.
2. **Mandatory Minimum Payments.** You must make minimum royalty or advertising fund payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.
3. **Sales Performance Required.** You must maintain minimum sales performance levels. Your inability to maintain these levels may result in loss of any territorial rights you are granted, termination of your franchise, and loss of your investment.
4. **Personal Guaranty:** Franchisees and all owners must sign a personal guaranty, making you and your spouse individually liable for your financial obligations under the agreement if you are married. The guaranty will place your and your spouse's marital and personal assets at risk if your franchise fails.

Certain states may require other risks to be highlighted. Check the "State Specific Addenda" (if any) to see whether your state requires other risks to be highlighted.

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## **Item 1**

### **THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

#### **The Franchisor**

Harcourts Pacific LLC is the franchisor, who shall be referred to as “franchisor,” “Harcourts,” “HPAC,” “Harcourts Pacific,” “we,” “our” or “us” throughout this disclosure document. Any prospective franchise purchaser shall be referred to as “franchisee,” “you,” or “your.” This shall be the case regardless of whether a prospective franchisee is an individual, group of individuals, or a business entity.

Harcourts Pacific LLC has been organized as a limited liability company in the State of California, effective June 7, 2010. Our principal place of business is 3 Monarch Bay Plaza, Suite 100, Dana Point, California 92629.

Harcourts is in the business of offering and selling residential real estate brokerage franchises in California, Hawaii, and Nevada. These real estate brokerage franchises operate under the Harcourts brand.

Harcourts real estate brokerages are fully integrated real estate offices, focusing upon technology, training, marketing, and communication. The unique aspects of Harcourts real estate brokerage offices include the non-exclusive use of a worldwide brand, proprietary marketing and promotional materials, a training program offered through Harcourts Academy (training center), and a global referral system.

The real estate brokerage business is a competitive business. There are many factors that go into the success of any business, which include but are not limited to, the market and your management abilities. Currently, due to market conditions, there may be large amounts of unsold home inventory, fierce competition for real estate agents by other brokerages, and decreasing pressure on home prices. Additionally, there are many other real estate brands, both franchised and independent, that are brokerages and that are competing for the same real estate agents you might want, and for market share that you might want to obtain. You should be aware of the cyclical nature of the real estate industry. Harcourts cannot guarantee your success, but offers you a wide variety of marketing and promotional materials, as well as training and technology to assist in positioning you to operate your real estate brokerage office as effectively as possible.

While Harcourts has been selling franchises since 2010 in California, Hawaii and Nevada, its affiliates have done so since April of 1989.

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

Harcourts is owned by Brady-Sanchez-HIL Holdings, LLC, whose principal place of business is located at 3 Monarch Bay Plaza, Suite 100, Dana Point, California 92629.

Brady-Sanchez-HIL Holdings, LLC. was formed as a California limited liability company, organized on September 23, 2020. Brady-Sanchez-HIL Holdings, LLC has not nor does it currently offer franchises, nor operate real estate brokerage offices.

#### **Parents**

Harcourts International USA, Inc. was incorporated on June 23, 2010, and up until approximately September 30, 2020 was the majority unit holder of Harcourts Pacific, LLC. Harcourts International USA, Inc. is a wholly owned subsidiary of Harcourts International Limited, a corporation incorporated under the laws of the country of New Zealand and formed April 7, 1993, with a principal business address of 31 Navigator Place, Hendra, QLD 4011, Australia. Harcourts International Limited, operating under the Harcourts brand, does not operate real estate brokerage offices, but it has been selling franchises of real estate brokerage offices in New Zealand since 1989 (originally under the name Harcourts Group Limited, with the name changed to Harcourts International Limited in 1993) and in Australia since 1997.

In addition to New Zealand and Australia, Harcourts International Limited has franchise relationships in Fiji, South Africa, China, Hong Kong and Indonesia (see below in this Item 1).

### **Predecessors**

On July 5, 2010, Harcourts acquired the assets of Altera Real Estate Operating, LLC, who offered licenses to individuals or companies to use the Altera brand name in connection with such individual or company's real estate brokerage office. These licenses existed in California and Hawaii. Until July 5, 2010 when Harcourts acquired the assets. Prior to the acquisition by Harcourts, Altera Real Estate Operating, LLC offered real estate licenses until March of 2010. Altera Real Estate Operating, LLC did not offer nor sell franchises; however, Altera Real Estate Operating, LLC's two affiliates have operated real estate brokerage offices in California since 1980 and 1985, respectively.

However, effective March 27, 2012, Harcourts no longer has any relationship whatsoever to Altera Real Estate Holding, LLC or the Altera brand name. As will be more fully described in Item 13 of this Franchise Disclosure Document, Harcourts International Limited owns the rights to the Harcourts® as a federally registered trademark. Harcourts International Limited has licensed the rights to the Harcourts brand to Brady-Sanchez-HIL Holdings, LLC, who in turn has licensed it to Harcourts.

As part of a restructuring effort in late 2020, Harcourts International USA, Inc. converted its majority interest in Harcourts to a minority interest in Brady-Sanchez-HIL Holdings, LLC, while key individuals in the franchise, Mr. Benjamin Brady and Mr. Kevin Sanchez, by and through themselves or their trusts have acquired an equal remaining interest in Brady-Sanchez-HIL Holdings, LLC, which again owns Harcourts Pacific, LLC.

### **Affiliates**

Brady-Sanchez-HIL Holdings, LLC does not have any interest in any franchised real estate offices; however, its principals do or are about to: Mr. Benjamin Brady and Mr. Kevin Sanchez. Mr. Sanchez is the majority owner of Preferred Group Properties, Inc. which is a franchisee of Harcourts with multiple real estate offices and has been since 2011. Mr. Benjamin Brady is in the process of becoming an equal owner with Mr. Kevin Sanchez in Preferred Group Properties, Inc and possible affiliated businesses of Preferred Group Properties, Inc., such as title and escrow.

Brady-Sanchez-HIL Holdings, LLC does have an ownership interest in a franchisor domestically, that currently operates in Oregon and Washington.:

#### USA: Harcourts Northwest, LLC:

- Harcourts Northwest LLC – 300 S.W. Columbia Street, Suite 101, Bend, OR 97702 – offering franchises since April of 2014.

#### USA: Maine

- Brady-Sanchez Northeast Holdings, LLC operating as Harcourts Northeast (Maine and South Carolina) - 3 Monarch Bay Plaza, Suite 100, Dana Point, California 92629 offering franchises since May of 2021.

Brady-Sanchez-HIL Holdings, LLC and Brady-Sanchez Mexico Holdings, LLC do have an ownership interest in a franchisor internationally, that operates in Canada and Mexico:

Canada:

- Harcourts Canada – 109-267 Esplanade W, North Vancouver, BC Canada- offering franchises since August of 2016.

Mexico:

- Harcourts Mexico – 3 Monarch Bay Plaza, Suite 100, Dana Point, California 92629 offering franchises since May of 2021.

Harcourts International Limited does have franchisors internationally. They include:

New Zealand and Fiji:

- Harcourts Group Limited – New Zealand and Fiji Franchisor – 7-9 Alpers Avenue, Newmarket, Auckland, NZ – offering franchises since April 1989.

Australia:

- Harcourts Queensland Pty Ltd (AUS state) – 31 Navigator Place, Hendra, QLD Australia 4011 – offering franchises since March 1997.
- Harcourts New South Wales Pty Ltd. (AUS state) – Suite W2BB 75-85, O’Riordan Street, Alexandria, NSW Australia – offering franchises since November 2002.
- MPRE Harcourts Victoria Pty Ltd. (AUS state) – 347 Bay Road, Cheltenham VIC 3192 – offering franchises since February 2007.
- M&M Harcourts Tasmania Pty Ltd. (AUS state) – 187 Brisbane Road, Launceston, TAS Australia 7250 – offering franchises since October 2004.
- Brock Harcourts South Australia Pty Ltd. (AUS state) - 29 Young Street, Adelaide, SA Australia 5000 – offering franchises since May 2004.
- Harcourts WA Pty Ltd. (AUS state) – 125 Cambridge Street, West Leederville, WA Australia 6007 – offering franchises since February 2004.

South Africa:

- Property Referral Network Ltd., trading as Harcourts South Africa – 2 Silverton Road, Musgrave, Durban, South Africa, 2001 - offering franchises since October 2008.

China:

- Harcourts China (Properties) Limited – Building 6,3900 Hongmei Road, Shanghai, China – offering franchises since March 2008.

Indonesia:

- PT. Roy Western Indonesia – Komp Permata Senayan Unit E No. 59-90, Patal Senayan, Jakarta, Indonesia, 12210 – offering franchises since February 2003.

Hong Kong:

- Harcourts Properties Limited: Units 1107-08, 11/F., Tower A, New Mandarin Plaza, 14 Science Museum Road, Tsim Sha Tsui, Kowloon, Hong Kong – offering franchises since December 2010.

Other than the names mentioned in this Item 1, Harcourts does not operate under any other names.

**Laws or Regulations Specific to the Real Estate Industry**

The real estate industry is regulated. Most states have specific laws governing licensing of brokers, sales agents or anyone who lists or sells real estate. You should become familiar with them in order to properly operate your real estate brokerage office and to be in compliance. Further, there may be local ordinances or laws affecting your real estate brokerage office. You should also become familiar with them. Finally, there may be federal laws impacting your real estate brokerage office and you should also become familiar with them. Some examples include, but are not limited to Fair Housing Act and Real Estate Settlement and Procedures Act (RESPA). Any of these local, state and federal laws may affect you and your business, so it’s important for you to identify and understand them. Therefore, it is highly advisable that you consult your attorney on these matters prior to entering into a franchise relationship.

## **Item 2**

### **BUSINESS EXPERIENCE**

The following is a list of Harcourts' directors, principal officers and other executives who will have management responsibility relating to the sale or operation of franchises offered by this disclosure document. The past five years of experience is listed below.

#### **Officers or Directors or Key Executives:**

##### **Executive Consultant: Michael Green**

Since June of 2010, Mr. Green has served as a member of the Board of Directors of Harcourts. In addition, since 2003, Mr. Green has been the Managing Director of Harcourts International Limited, located in Brisbane, Australia, where he is currently located. As of September 2020, as part of the restructuring of ownership of Harcourts, Mr. Green is an executive consultant with Harcourts.

##### **Executive Consultant: Kevin Sanchez**

In the spring of 2011, Mr. Sanchez signed a Franchise agreement with Harcourts. In addition, in 2004, Mr. Sanchez formed Preferred Group Properties, Inc. and subsequently formed a Joint Venture with Prime Lending Ventures out of Texas. He currently serves on the Board of Directors of Harcourts. As part of the restructuring of ownership of Harcourts, Mr. Sanchez is an executive consultant with Harcourts.

##### **Regional Director: Benjamin Brady**

In 2018, Mr. Brady became the Regional Director of Harcourts Pacific overseeing the growth and operations of the company. Mr. Brady is also a shareholder in the Harcourts Auction company, overseeing its growth and operations. He previously built brokerages offices and an auction company in Australia. As of September 2020, as part of the restructuring of ownership of Harcourts, Mr. Brady is also the Manager of Harcourts and continues to oversee all aspects of growth and operations of Harcourts Pacific, LLC, Harcourts Northwest, LLC and Harcourts Canada.

##### **Head of Growth: Joshua Procopis**

In 2019, Mr. Procopis became the Head of Growth, facilitating Harcourt Pacific's growth. Previously he had been a Sales Manager and a Sales Agent for a real estate brands in Australia since 2012.

## **Item 3**

### **LITIGATION**

There is no litigation that must be disclosed in this item.

## **Item 4**

### **BANKRUPTCY**

There is no bankruptcy information that must be disclosed in this disclosure document.

**Item 5**

**INITIAL FEES**

There is no application fee for applying to become a franchisee. If approved, the initial franchise fee for the first franchise is \$25,000.00. The fee for a second franchise is \$7,500.00, and the fee for the third or more franchises is \$2,500.00.

In addition, if you are a franchisee and you request to open a Satellite Office, you must pay a fee of \$1,000.00 for such office, if Harcourts approves the request.

Satellite Office means an office, only located within franchisee's territory, registered as a branch office with the appropriate real estate regulatory body and in compliance with Harcourts's guidelines then in effect for a Satellite Office. The purpose of a Satellite Office, if approved, will only be for your top producing real estate agents or a team of real estate agents who want their own physical location, as opposed to operating out of your primary office.

You must pay these fees listed in Item 5, either prior to or upon execution of any Franchise Agreements, and they are non-refundable. There is no financing of any of these fees by the Franchisor.

Periodically, based upon our discretion and unique business opportunities that may arise, we may offer initial franchise fees for one office or more, from \$0.00 to \$25,000.00.

These are the only initial fees associated with Harcourts franchises.

**Item 6**

**OTHER FEES**

<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Monthly Franchise Fee	2%-6% of monthly Gross Revenues <sup>1</sup>	Due by the 14 <sup>th</sup> day of each month for the preceding month's Gross Revenues.	There are different percentages that you will owe based upon Gross Revenues. <sup>2</sup>  Please see footnote #2
Minimum Franchise Fee <sup>3</sup>	\$0-1,500.00 per month	Due by the 14 <sup>th</sup> day of each month for the	This is not in addition to the Monthly Franchise

<sup>1</sup> Gross Revenue means the total gross receipts in connection with the operation your franchise, including but not limited to revenues received, or those that should have been received in the normal course of operations, such as commissions from any type of sales, leases, and property management.

<sup>2</sup> If Gross Revenue in the month is between \$0-\$149,999.00, then franchisee shall pay six percent (6%) of the Gross Revenue to Harcourts. For any Gross Revenue in the month that is between \$150,000.00-\$299,999.00, then franchisee shall pay four percent (4%) of the Gross Revenue to Harcourts. For Gross Revenue in the month is \$300,000.00 or greater, then franchisee shall pay two percent (2%) of the Gross Revenue to Harcourts

<sup>3</sup> If you don't reach a minimum Gross Revenue amount that is set collectively between Harcourts and you at the beginning of your franchise (which may change over time depending upon market conditions in the discretion of Harcourts), then you will be required to pay a minimum franchise fee based upon the following schedule:

\*From the Commencement Date of your Franchise Agreement until the end of month 3: \$0.00 per calendar month

\*From month 4 until the end of month 6: \$750.00 per calendar month

\*From month 7 going forward: \$1,500.00 per calendar month

		preceding month's Gross Revenues.	Fee. You pay the minimum fee if you do not hit the minimum Gross Revenue amount. Please see footnote #3
Advertising Fund Fee	1% of Gross Revenues	Due by the 14 <sup>th</sup> day of each month for the preceding month's Gross Revenues.	This is currently not being instituted; however, it may during the life of your Franchise Agreement.
Assignment Fee	\$1,500.00	Before assignment takes place.	This fee is for your approved request to assign your franchise to a third party.
Renewal Fee	\$2,500.00	Before signing a new Franchise Agreement to renew.	This fee is for each franchise that we approve for a renewal term.
Ongoing Franchisee Training Fees	Varies	Five days prior to any scheduled training	Currently, there are no fees for the initial training, which is conducted at your franchised office.
Conferences or Conventions	Varies	Prior to the conference or convention date or any earlier date set by Harcourts	You will be responsible for any registration fees and all associated costs with travel (hotel, airfare, meals, etc.)
Technology Platform Fee <sup>4</sup>	\$2,892.00 per year, payable each month at	Due by the 14 <sup>th</sup> day of each month for the	Please see footnote #4.

Note: Beginning in month 7 going forward, if you do not have any closings in a month associated with your office, resulting in zero Gross Revenue being earned, your minimum fee shall be \$1,000.00 for each such month.

Note: If your franchise is voluntarily terminated, you agree that the minimum Franchise Fee for the remaining months existing on the term of your Franchise Agreement, shall be based upon a \$2,500.00 per month minimum Franchise Fee due and payable to the Franchisor.

You will pay the greater of the fees listed in footnote #3, or those listed in footnote #2.

<sup>4</sup> Technology Platform means the Domain Name, the website at the Domain Name, intranet, and other software made available by Harcourts or to which Harcourts grants you access from time to time, including all associated Intellectual Property Rights, including without limitation all technology components of the Operations Manual and the System, as improved, modified and updated from time to time by Harcourts in its absolute discretion. As part of the Technology Platform and monthly Technology Platform fee, you are required to use "Blue", a customer relationship management application and "Connect" a transaction management platform. Blue has add on segments for email hosting at \$5.00 per user per month, an expired listings platform available for a one time set up

	\$241.00 per month. There are optional add on fees for any optional technology services that you might choose.	preceding month's Gross Revenues.	
Audit/Inspection	Actual cost of audit	Upon request as it is incurred.	You must pay the actual cost of the audit if the audit shows you have underpaid any fee by 1% or more, plus the understated amount, plus any accrued late fees and interest.
Attorneys' Fee and Costs	Actual fees and costs billed by attorneys	Upon request as they are incurred.	You must pay this if we incur legal expenses as a result of your failure to comply with the Franchise Agreement.
Indemnification	Varies	Upon request as incurred.	You will have to reimburse Harcourts for any liabilities that arise to Harcourts, or its related companies, from anything you do as a result of running your franchise.
Late Payments and Interest	10% or maximum rate allowed by law. In California, 10% is the maximum rate permitted.	Upon request as incurred.	You will have to pay a late charge equal to 10% or more, as permitted by law, when you fail to pay any fee on time or if you underpay any fee by 1% or more.

**Item 7**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
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fee of \$1,000.00 plus ongoing monthly subscription rates, and a recruitment platform option that is available for various fee options that you would pay if you choose it. The license agreement is attached as Exhibit I to this Franchise Disclosure Document.

Initial franchise fee <sup>5</sup>	\$25,000	Lump Sum	Upon signing the Franchise Agreement	Harcourts
Office Build Out (Tenant Improvements) <sup>6</sup>	\$20,000-\$110,000	As charged by third parties	As agreed with third parties	Third Parties
Furnishings and Equipment <sup>7</sup>	\$40,000-\$80,000	As charged by third parties	As agreed with third parties	Third Parties
Supplies and Inventory <sup>8</sup>	\$5,000-\$15,000	As charged by third parties	As agreed with third parties	Third Parties
Security Deposits, Licenses and other prepaid expenses <sup>9</sup>	\$10,000-\$20,000	Lump Sum	As agreed with third parties	Third Parties
Training	There are no fees or travel costs for training, as Harcourts will come to your office to	N/A	N/A	N/A

<sup>5</sup> The initial franchise fee is \$25,000.00 for the first franchise, \$7,500.00 for the second, and \$2,500 for a third or subsequent franchise. The fee for a Satellite Office is \$1,000.00. These fees are described in Item 5 and are non-refundable. Most of the fees in Item 7 are non-refundable. You would need to check with third parties to determine which are and which are not (if any). These fees are not financed by Harcourts.

<sup>6</sup> Depending on the size and condition of the space that you will use as your office, your costs for an office build out may vary. We do not require any particular amount of square footage, nor a particular floor plan or build out, but do require that your office meet our image and standards that we highlight in our Operations Manual. You may be able to negotiate some or all of these costs to be paid by a landlord of the space that you occupy to run your franchise (if you do not have an existing location. This is strictly between you and the landlord to negotiate. If you have an existing location, you may be required to remodel your existing location. If you are converting an existing office to Harcourts, your costs may be lower.

<sup>7</sup> While we don't require any particular furnishings or equipment, you will need to have necessary computers, fax machines, photocopiers, internet access, and any other office furniture that is customarily used in the operations of real estate brokerage businesses. If you have such furnishings or equipment already, your costs may be lower. We do require that you have exterior signage that complies with the parameters of our trademark. It is important that your signage be created by a professional sign company and in compliance with our standards. This includes any interior signage that you may choose to place within your office.

<sup>8</sup> These expenditures include items such as stationery, business cards, for sale/rent and other signage if you purchase them on behalf of your real estate agents, printed materials for marketing your franchise, postage, or any other office related type of expense. These estimates are based upon a real estate brokerage office with 15-20 real estate agents.

<sup>9</sup> These expenditures include items such as your security deposit and/or first month's rent, utility deposits, telephone or telecommunications deposits or fees, insurance premiums, any local board memberships, and any associations' dues. You are required to have Workers' Compensation insurance, a \$1 million dollar Errors and Omissions policy, a \$1 million dollar General Commercial Liability policy, and a \$1 million Hired and Non Owned Auto policy (all of which are defined in Section 10.14 of the Franchise Agreement). These policies may require deposits and/or full payment of premiums as determined by the carriers. Depending on the size of your office, any of these expenditures in this item can vary.

	conduct training as described in Item 11.			
Miscellaneous <sup>10</sup>	\$1,000-\$10,000	As charged by third parties	As agreed with third parties	Third Parties
Additional Funds for 3 months <sup>11</sup>	\$50,000-\$100,000	As charged by third parties	As agreed with third parties	Third Parties
<b>Total:</b>	\$151,000-\$360,000			

Purchasing a franchise is a major investment. You should investigate all costs you may incur prior to signing a Franchise Agreement.

### Item 8

#### **RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

You must operate your franchise in accordance with Harcourt's policies and procedures, which are in the Operations Manual and may change periodically. You must also strictly adhere to the standards surrounding the use of the Harcourts brand name.

While we may identify sign companies or other types of vendors for your use, we do not recommend or require any particular vendors, if whomever you use complies with Harcourts' trademarks and policies and procedures. Part of these policies and procedures may include setting guidelines on the types of stationery, business cards, yard and other signage, and marketing materials using the Harcourts' trademarks, which you may use in the operation of your franchise. These trademarks and any guidelines surrounding their use are to protect these valuable intellectual property assets.

Additionally, since 2014, Harcourts has been facilitating auctions of real estate by working with brokers and agents on the sale of real property. This is not something that you would receive any compensation for; however, if you are in any involved in the auction of real property, you will be required to use Harcourts or its designee as the auctioneer, providing whatever then current auction services Harcourts or its designee is then providing. Furthermore, you are not obligated to use auction services, but if you do, then all auction must be conducted through Harcourts or its designee.

<sup>10</sup> These expenditures include items that may arise unexpectedly in the course of opening your new office or converting your existing one. Such items may include the costs of legal, business and/or accounting advisors. They may also include additional office supplies

<sup>11</sup> For the first three months after the franchise opens, and possibly prior to the franchise opening, you may need additional funds. These funds would be to provide for working capital to cover rent/mortgage, payroll and other business expenses. Each office is different, so Harcourts cannot provide you with exact information as to how much you might need or if you will need additional funds. Everything provided in this Item 7 is estimated, so there are no guaranties that your actual expenses will fall within these ranges. Harcourts makes no guaranties that you will not require additional funds beyond what is estimated in this disclosure document. If you are converting an office, your needs for additional funds may be lower. Also, depending upon economics in your marketplace, how many real estate agents you have, your management abilities, your recruiting and retention skills, the size of your office, competition in your marketplace, you may have higher or lower needs for additional funds. The amounts listed in this Item 7 are based upon a 1,500 square foot office that is brand new, with 10 producing real estate agents. Since this category is subjective, it is advisable that you consult your legal, business and accounting advisors to plan your cash flow needs accordingly.

Harcourts does not require that you use any particular types of computers, printers, or other office essentials. However, Harcourts does require that you have a functioning computer and high speed access to the internet and that you use what's called "Connect" for reporting your transactions and other related data to us. This data, in turn, helps us generate invoices, reflecting your monthly franchise fees due to us. The fee for this technology is included as part of the Technology Platform Fee, which is \$241.00 per month per office. This technology also includes use of a Harcourts intranet website. Also, included in your Technology Platform Fee is the use of "Blue", a customer relationship management system. You are required to use Blue's functions; however, it's an add on components of expired listings and recruiting of real estate agents is optional. If you choose either or both of these add on components, you will pay then current subscription fees to Harcourts or the vendor. Benjamin Brady and Kevin Sanchez, either individually or through their business entities own the intellectual property rights to Blue and Connect. As such, they may earn a profit on the Technology Platform Fee over time.

In addition, you must have Workers' Compensation insurance, a \$1 million dollar Errors and Omissions policy, a \$1 million dollar General Commercial Liability policy, and a \$1 million Hired and Non Owned Auto policy (all of which are defined in Section 10.14 of the Franchise Agreement).

Currently, Harcourts does not have any supplier programs. Therefore, we do not derive any revenues from any such programs. Nor does Harcourts provide any material benefits, such as having your office renewed or having additional franchises granted, based upon using a particular product or service from any supplier.

### Item 9

### **FRANCHISEE'S OBLIGATIONS**

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

Obligation	Section in Agreement	Disclosure Document Item
a. Site selection and acquisition/lease	Sections 2.1, 2.3 and 2.4	Items 7, 11 and 12
b. Pre-opening purchase/leases	Sections 6.1 and 10.2	Items 7 and 8
c. Site development and other pre-opening requirements	Sections 9 (if a corporate entity), 10.1, 10.3, 10.5, 10.6,10.7, 10.13, 10.14, 11.1, 11.2, 11.3, 11.4	Items 6, 7, 11 and 12
d. Initial and ongoing training	Sections 10.13 and 11.2	Items 6, 7 and 11
e. Opening	Sections 10.1 and 11.1	Items 7 and 11
f. Fees	Sections 10.3 and 10.4	Items 5, 6, and 7
g. Compliance with standards and policies/operating manual	Sections 5 (5.1-5.7) and 10.6, 10.7, 10.10 and 10.11	Items 8, 11, 13 and 16
h. Trademarks and proprietary information	Section 5 (5.1-5.7)	Items 13 and 14
i. Restrictions on products/services offered	Sections 6.1 and 10.8	Items 8, 11, and 16

j.	Warranty and customer service requirements	Section 2.5	Items 11
k.	Territorial development and sales quotas	Sections 2.1, 2.2, 2.3, 2.4, and 10.9	Item 12
l.	Ongoing product/service purchases	Sections 6.1 and 10.2	Item 8
m.	Maintenance, appearance, and remodeling requirements	Section 2.4	Items 6, 7, 11 and 12
n.	Insurance	Section 10.14	Items 7 and 8
o.	Advertising	Sections 10.8 and 11.5	Items 6 and 11
p.	Indemnification	Sections 15.1 and 15.2	Item 6
q.	Owner's participation/management/staffing	Sections 10.5, 10.15 and 10.16	Item 11 and 15
r.	Records and reports	Sections 10.10 and 10.11	Item 8
s.	Inspections and audits	Sections 12.1, 12.2, 12.3, 12.4 and 12.5	Item 6
t.	Transfer	Sections 13.1 and 13.2	Item 17
u.	Renewal	Section 3.2	Item 17
v.	Post-termination obligations	Sections 17.1, 17.2, 17.3 and 17.4	Item 17
w.	Non-competition covenants	Sections 18.1, 18.2 and 18.3	Item 17
x.	Dispute resolution	Sections 14(a) (i-vi)	Item 17

#### **Item 10**

#### **FINANCING**

We do not offer any direct or indirect financing. We do not guarantee your note, lease or obligations.

#### **Item 11**

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

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

#### **Prior to opening your office, and after signing the Franchise Agreement, we will:**

1. Assist you in properly using our trademarks by giving you our standards for using the marks in any signage or promotional materials (Franchise Agreement, Section 5);

2. Permit you to use a copy of the confidential Operations Manual while you are a franchisee (Franchise Agreement, Section 10.6 and 11.3);
3. Travel to your office in order to conduct Initial Training, at our expense, which is stated in more detail in this Item 11 (Franchise Agreement, Sections 10.13 and 11.2).

From the time you sign your Franchise Agreement, you will have three months upon which to open your office and conduct business from it. Section 16.2 of the Franchise Agreement provides that if you fail to open your office within this three month time frame, we can terminate the Franchise Agreement. Therefore, it is suggested that you begin locating an office, which we must approve, and planning what you need to open that office immediately after we sign the Franchise Agreement. There are many variables involved with opening an office that may include things such as finding a location, financing, building permits, weather conditions, zoning and local ordinances, shortages or delays in obtaining and/or installing equipment, furnishings, or signs, and contractor delays in construction.

**During the operation of your office, we will:**

1. Continue to assist you in properly using our trademarks (Franchise Agreement, Section 5);
2. Permit you to use the confidential Operations Manual and any updates to it while you are franchisee (Franchise Agreement, Section 10.6 and 11.3);
3. Consult with you on your franchise as needed, including visits to your office, which may be at your expense, on business management, marketing or merchandising (Franchise Agreement, Section 11.1 and 11.4);
4. After Initial Training, we may conduct Ongoing Franchisee Training periodically on various real estate or brokerage related subject matter we decide to offer (Franchise Agreement, Section 11.2);
5. Assist you with complying with the Blue and Connect, in order to generate reports and other data to us relating to your franchise (Franchise Agreement, Section 6.1).

**Advertising:**

Currently, we do not have any Advertising Fund or any Advertising Cooperative or Council. However, we do reserve the right to institute any of these, which may be during the term of your franchise agreement. If we institute an Advertising Fund, Cooperative, or Council, we would give you six months written notice prior to it taking effect.

Additionally, here are some of the basic provisions of our future Advertising Fund, which are subject to change upon actual implementation (Franchise Agreement, Section 11.5):

The fee to you for the Advertising Fund would be 1% of your Gross Revenues, due each month. We would take all Advertising Fund money and in our discretion, use it for either local, state, or national advertising in any format that we believe benefits all franchisees, and not one or several particular offices.

We may combine your Advertising Fund Contributions with advertising fund contributions from some or all other Harcourts Franchisees. If we start an Advertising Fund, we will deposit your Advertising Fund Contributions and all interest earned on them on behalf of you (together with Other Franchisees' Contributions) in a separate interest bearing account that holds only your Advertising Fund Contributions and Other Franchisees' Contributions. We are not responsible for ensuring that the amount paid by you or any Harcourts Franchisee is proportionate to any amount spent by us on you or any Harcourts Franchisee, as the intent of this Advertising Fund is for the greater good of the Network. We are not responsible for paying any interest to you for any reason at any time and will use your Advertising Fund Contributions and all interest:

- only for advertising, sales promotions and public relations relating to some or all Harcourts franchises;

- to pay the salaries (including reasonable travel and associated expenses) of people employed and the fees of professional advisors engaged, at our discretion, to assist us in carrying out our obligations for advertising;
- to pay any other costs incurred by us in carrying out our obligations for advertising such as all expenses to operate the separate bank account for the Advertising Fund and all taxes payable by us on or in respect of your Advertising Fund Contributions or Interest; and

We may accumulate a reasonable reserve in the Advertising Fund should total contributions not be spent in the period in which such contributions were received; however, we will submit to you an annual statement of your Advertising Fund Contributions and interest for the previous year and of the payments made from those amounts, if you so request.

We are entitled to administer any to be created Advertising Fund, as we deem appropriate and we are not obligated to spend any part of the Advertising Fund on your or your franchise. You will not be entitled to any refund of any Advertising Fund Contributions upon the expiration, termination or assignment of your Franchise Agreement, for any reason.

These are the basic provisions of any Advertising Fund we may create. Since we do not have any Advertising Cooperative or Council, we do not have any information to disclose regarding them.

As of now, you can advertise your office in any media format that you choose, if your advertisements comply with the Operations Manual and trademark standards (Franchise Agreement, Section 10.8).

### **Computer Systems:**

While we do not require any particular type of computer system, we do require that you have at least one computer, a printer and high speed access to the internet. Your computer should be PC compatible and have certain memory and hard drive storage amounts that we may specify periodically. Your computer and its operating system should have whatever is deemed necessary for you to operate it in the normal course of business, accessing whatever you need to conduct your email, property listings, MLS or local board website access, or anything else that powers your computer to perform these and related functions.

In order to buy or lease a computer system, we recommend you check computer retailers as costs can range from several hundred dollars to several thousand dollars. Any maintenance, repairs, upgrades, or updates to your computer are your responsibility and your expense.

As disclosed in Items 6 and 8, you will need a computer to access Blue and Connect (Franchise Agreement, Section 6.1). Harcourts does require that you have high-speed access to the internet and that you use Blue and Connect for your reporting your transactions and other related data to us. This data, in turn, helps us generate invoices, reflecting your monthly franchise fees due to us. The fee for this technology is \$241.00 per month per office. This technology also includes use of a Harcourts intranet website. Blue and Connect are third party systems licensed by Harcourts and Harcourts has the right to use these applications and require franchisees to use these applications.

We will have access to data relating to the operation of your franchise, as you must upload various reports to us and this information will be stored and/or saved by us.

### **Operations Manual:**

We provide you with a copy of our confidential Operations Manual. A copy of the Table of Contents is included in this Franchise Disclosure Document as Exhibit D.

**Training Program:**

We conduct an Initial Training at your office. This is a one-time training that occurs after we sign the franchise agreement, and should be prior to you opening your office (Franchise Agreement, Section 10.13). The chart below describes the topics and hours of on the job training. There is no classroom training included in the Initial Training and some or all of your initial training may be done virtually through online applications.

**Item 11 Table TRAINING PROGRAM**

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On-the-Job Training</b>	<b>Location</b>
Harcourts Way and Branding Compliance	0	1	Franchisee's Office or Online (at Franchisor's choice)
Harcourtshub.com: Reporting and Compliance	0	3	Franchisee's Office or Online (at Franchisor's choice)
Harcourts Award Structure	0	.5	Franchisee's Office or Online (at Franchisor's choice)
Harcourts Marketing, Media and Advertising	0	1	Franchisee's Office or Online (at Franchisor's choice)
Harcourts Recruiting and Retention	0	2	Franchisee's Office or Online (at Franchisor's choice)
Harcourts Operation Manual	0	2	Franchisee's Office or Online (at Franchisor's choice)

Initial Training is held for you at your office and/or online at Franchisor's choice, for you and your key staff and various materials are given to you relating to the training topics specified in the chart above. You or any of your key staff will be required to be present during this Initial Training. There is no cost to you for this training and we do not pay any wages to your, your staff, or anyone for the time spent on the job training.

You must complete this Initial Training to our satisfaction and this must be done before you open your office.

There may Ongoing Franchisee Training that we may require periodically. This may be at your office or some other site that we select or online. Any costs or travel expenses related to such training will be your responsibility.

Various executives of the company provide training services. In this role, they oversee all Harcourts training. Initial Training and Ongoing Franchisee Training may be taught by various staff, or others supervised by those listed in Item 2. Please see more details as listed in Item 2.

**Franchisee Council:**

Harcourts has instituted a Franchisee Council. Its purpose is strictly advisory and is to serve as a voice for Franchisees in terms of identifying issues, problems, opportunities, and strategies so that Harcourts and its Franchisees have an open line of communication and can seek input from Franchisees. The Franchisee Council has no voting rights or any authority other than being an advisor. The Franchisee Council consists of at least two to three franchisees who are voted in by Franchisees, and once voted to volunteer their services, those Franchisees on the Franchise Council serve a term of 2 years. There is no pay or any concession or remuneration for service on the Franchisee Council. If any Franchisee elected to the Council resigns or is asked to leave due to lack of attendance or participation, such Franchisee is replaced by Franchisor having another Franchisee voted by the majority of Franchisees to serve. There is no need for a quorum on any election, initial or replacement, as the majority of those voting shall result in Franchisees being elected.

#### Optional Assistance by Franchisor for Percentage Fees:

Harcourts has two unique programs available to facilitate your business in its growth and operations. These options are not required. You may choose whether or not to participate in them and pay the associated fees.

1. **Harcourts Growth and Management Partner Program:** Harcourts will offer management services that include but may not be limited to file management, bookkeeping, marketing and new agent onboarding, commonly known as back office functions. These services will be detailed in the agreement set forth as Exhibit H. You must qualify for participation in this program by having a financial analysis completed by the Franchisor to determine your financial strength and Franchisor's interest in offering this service to you. Franchisor, in its sole reasonable discretion, may deny your participation. If Franchisor approves you, Franchisor and you must agree upon monthly expenses in order for the program to take effect. Harcourts will attempt to help you grow your business, without any guaranty of it growing at all and with no guaranty that your franchises revenues and/or profits may reduce. The fee for this Harcourts Growth and Management Partner Program is thirty percent (30%) of gross profits. Additionally, you must subscribe and pay for the add on components of Blue (expired listings and recruitment). This program is in addition to any other fees that you pay us and is optional to apply.

### **Item 12**

#### **TERRITORY**

##### **Exclusivity and Office Location:**

You will receive an exclusive territory that is based upon zip codes. You may be granted one or more zip codes in which to open your office. A map will be included with your Franchise Agreement that will show the zip code or zip codes in which you may operate your franchise. Any office opened in a territory must be approved in writing by us and you should not sign any leases for office space until your Franchise Agreement has been signed by us.

Any approved office also must comply with the Operations Manual and the use of the trademarks. If you would like to relocate your office within your territory, you must get our permission prior to doing so. If you would like to open additional offices within your territory or in a new territory, you must get approval from us first. If you are default on any Franchise Agreement that you may have with us, it is unlikely that we will approve any additional offices for you. It is also unlikely that we would renew any Franchise Agreements with you if you are in default on any Franchise Agreement with us.

##### **Key Performance Indicator and Removal of Exclusivity if Not Met:**

In order for you to maintain the exclusivity of your territory you must meet performance standards. We call this your Key Performance Indicator, and this means that you must achieve certain minimum Gross Revenues each month for your office. The amount will be determined in our discretion, but in conjunction with your input, since the amount will be based upon factors within the territory such as average sales prices, volume of sales, and

competition. We will place this amount on Exhibit 1 to the Franchise Agreement. There may be additional factors we take into consideration in determining what the minimum Gross Revenues should be for your office or offices.

If you fail to meet the Key Performance Indicator for three consecutive months or for any three months within a twelve month period, we will have the right to either terminate your Franchise Agreement or to take away any exclusivity within your territory. If we take away exclusivity within your territory, this would mean that we will be able to immediately sell additional franchises, which could be located right next to your office or anywhere else within that territory.

#### **Additional Offices in Additional Territories:**

If you are not in default with respect to any provision in your Franchise Agreement and you are continuing to meet or exceed your Key Performance Indicator, we may evaluate whether or not we may sell you additional territory beyond your current territory. If we decide to sell you additional territory(ies), based upon our sole reasonable discretion, you must notify us in writing within forty-eight hours (48 hours) from the date on any such offer we make to you regarding any such territory(ies). If you fail to accept our offer timely, the offer will immediately expire. If you choose to purchase and timely notify us in writing of your acceptance within the forty-eight hour period (48 hours), you must open your office within three months from the time we receive written acceptance from you of our offer to purchase such territory(ies). If you do not open your office(s) that we must approve within such three month time frame, you will lose any right to such additional territory(ies) and risk losing any investment you made for failing to timely open.

Notwithstanding the foregoing, from time to time, we may give some franchisees a first right of refusal on purchasing additional territories before anyone else can purchase such territory(ies). While we aren't required to do so for any franchisee, we may grant a first right of refusal on purchasing additional territories in our sole reasonable discretion. If we decide to grant a particular franchisee a first right of refusal on purchasing additional territories, we may take into account various factors in our decision that may include the size of territory actually purchased or about to be purchased by you, the size of the territory that would be purchased based upon the first right of refusal given to you, your reputation and business experience, your financial strength and ability to develop any additional territories. There may be other factors involved in our decision to grant or not a first right of refusal to you. All first right of refusals granted would be subject to a time frame upon which you must open the number of offices agreed to when such first right of refusal is granted. If you fail to exercise any first right of refusal or you fail to open the agreed upon number of offices within an agreed upon time frame, you may lose all exclusive rights to such territory. All factors would be based upon our business judgment to protect and grow our brand.

#### **Sales by Other Franchisee's Agents in the Territory:**

While no other Harcourts franchisee can operate an office located in your territory, other Harcourts franchisees and their real estate agents may conduct business in your territory, at any time and may compete with you, if such Harcourts franchisee and its real estate agents have a license to do so and on the condition that conducting such business does not include instituting any general real estate or related advertising or marketing programs promoting the Harcourts brand, their office, or anything related to the Harcourts brand. This means that other Harcourts franchisees or their real estate agents may periodically be listing or selling specific properties in your territory. As a result, that may involve such franchisees or their real estate agents advertising or marketing such specific properties.

#### **Satellite Offices:**

If we approve in writing, you may establish a Satellite Office within your territory. The current fee is \$1,000.00 per Satellite Office. We have the right, in our discretion, to approve any Satellite Office. A Satellite Office must only be located within your territory, registered as a branch office with the appropriate real estate regulatory body and comply with the Operations Manual and any of our other guidelines then in effect for Satellite Offices. The purpose of establishing a Satellite Office concept is for a Franchisee to accommodate a top producing real estate agent or a team of real estate agents who want their own physical location, as opposed to operating out of your primary office. These offices are subject to all the terms of your Franchise Agreement.

### **Commercial Sales in the Territory:**

You may conduct commercial transactions within your territory; however, we reserve the right to sell commercial real estate franchises in the future. If a commercial real estate franchise is sold in the future, you can continue to conduct commercial transactions, but such transactions must not be more than twenty percent (20%) of your Gross Revenues; otherwise, you will have to sign a commercial real estate franchise on terms then being offered by us.

### **Item 13**

### **TRADEMARKS**

#### **Harcourts**

The primary mark that you will be licensing to use in the operation of your real estate brokerage office is the Harcourts mark. This mark is a service mark registered with the United States Patent and Trademark Office ("USPTO"). It was first registered on the Principal Register with the USPTO on October 20, 2009 under registration number 3,697,604, which was later canceled and re-registered on the Principal Register with the USPTO on June 13, 2017 under registration number 5,220,179. The mark is owned by Harcourts International Limited, a New Zealand corporation. Currently, no affidavits or renewals have been filed since they are not yet timely. Any other affidavits that may have previously been required have been filed with the USPTO.

There are no pending material determinations by the USPTO, the Trademark Trial and Appeal Board, nor any state trademark administrator or court, or any pending infringement, opposition, or cancellation proceeding regarding the Harcourts mark.

There is no pending material federal or state court litigation regarding Harcourts use or Harcourts International Limited's ownership rights in the Harcourts mark.

Currently, there are no agreements in effect that significantly limit Harcourts right to use or license the use of the Harcourts marks in a manner that would materially affect you.

The licensing agreements for use of the Harcourts mark are between the following entities. Harcourts International Limited, who owns this "Harcourts" mark, has licensed its non-exclusive use to Harcourts International USA, Inc., who in turn has licensed its non-exclusively to Harcourts, the franchisor, for use in the franchising of real estate brokerage offices. You would have the non-exclusive right to use the Harcourts mark in the operation of your real estate brokerage office, subject to the terms of your Franchise Agreement, provisions of which are summarized in Item 9 of this disclosure document.

The licensing agreement between Harcourts International Limited to Brady-Sanchez-HIL Holdings, LLC has a twenty five (25) year term, starting from October 1, 2020 and the licensing agreement between Brady-Sanchez-HIL Holdings, LLC. and Harcourts Pacific LLC both have fifteen (15) year terms, starting from July, 2010 with an option for one fifteen (15) year renewal upon the expiration of the initial term. Except for these agreements, there are no other agreements in place that would materially affect your rights to use the Harcourts mark.

#### **All Marks**

You must use any of the marks as required by Harcourts and you may not use them in association with anything other than the operation of your real estate brokerage office, subject to the terms of your Franchise Agreement and any other limitation that Harcourts may impose periodically in furtherance of protecting the marks.

You must immediately notify Harcourts of any third party challenge or any type of infringement regarding any of the marks. This includes any type of claim made by anyone regarding any alleged rights in any of the marks or any similar marks. You will not be able to communicate with anyone regarding any such challenges or infringements or claims, but rather direct all matters to Harcourts or Harcourts' attorneys.

Harcourts, in connection with its license agreement with Brady-Sanchez-HIL Holdings, LLC., has discretion and control over the disposition of any challenges, infringements, or claims, whether litigated or not, in order to protect the marks and fulfill its obligations under any of the license agreements. You agree that you will fully cooperate with Harcourts and Harcourts' attorneys in any matter, whether in litigation or not, if reasonable and lawful, to assist Harcourts in defending and protecting the marks. This may include signing any relevant documents, render such assistance and do such acts and things as may, in Harcourts' attorneys' opinion, be necessary and advisable to protect and maintain Harcourts' interest in any litigation or proceeding, or to otherwise protect and maintain Harcourts' interests in the marks.

Except as stated in this disclosure document, Harcourts is not obligated to protect any rights granted to you by way of your non-exclusive right to use the marks, subject to the Franchise Agreement and any other terms Harcourts may impose to protect the marks. This includes that Harcourts will not be obligated to protect or defend you from any claims of infringement or unfair competition concerning the marks. Nonetheless, even though Harcourts is not contractually obligated, Harcourts will vigorously defend and protect the marks and its rights to set guidelines governing the use of the marks.

You may not use the Harcourts marks in any business entity formed. The marks should only be used in connection with a Fictitious Business Name (also known as "doing business as" or "DBA"). In all advertising, you must also indicate that "Each Office is Independently Owned and Operated," in a manner that is conspicuous.

You have no rights in the marks to use them in connection with the internet, unless expressly so stated by Harcourts in writing or in its confidential Operations Manual. You cannot use any domain name in a format that is not approved by Harcourts. You must follow all guidelines set forth by Harcourts in connection with use of the marks on the internet.

If any modifications or discontinued use of any of the marks become necessary for whatever reason, you may be required to use any such new, amended, or substituted trademarks, servicemarks, logos, emblems, indicia, or any other intellectual property rights that Harcourts may institute. Harcourts shall have sole discretion to institute such modification or discontinued use as Harcourts believes will benefit the overall franchise system. You may be required to comply with this at your own expense and within a reasonable time frame.

In order to protect the marks, Harcourts may reserve the right to visit your office to ensure the marks are being properly used. You must cooperate with such visits and any corrective action set forth by Harcourts as a result of such visit.

Harcourts does not actually know of either any superior rights or infringing uses that could materially affect the franchisee's use of the principal trademarks in the state where the franchised business will be located, other than what has been disclosed in this document.

#### **Item 14**

#### **PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION**

There are no patents, pending or otherwise, that are material to the franchise.

Harcourts claims copyrights in various materials used in the operation of your real estate brokerage office. This includes items such as the confidential Operations Manual, training materials, marketing or promotional pieces, and other CDs, DVDs, or internet based applications. None of these items have been registered with the United States Copyright Office.

You may use these items while a franchisee and while in compliance with your Franchise Agreement, subject to Harcourts' terms and conditions.

The confidential Operations Manual contains Harcourts' proprietary policies and procedures for operating your Harcourts franchise. You must not use these materials in an unauthorized manner and you must reasonably protect them from being disclosed to unauthorized persons or businesses.

You must use any of the copyrights as required by Harcourts and you may not use them in association with anything other than the operation of your real estate brokerage office, subject to the terms of your Franchise Agreement and any other limitation that Harcourts may impose periodically in furtherance of protecting the copyrights.

You must immediately notify Harcourts of any third party challenge or any type of infringement regarding any of the copyrights. This includes any type of claim made by anyone regarding any alleged rights in any of the copyrights. You will not be able to communicate with anyone regarding any such challenges or infringements or claims, but rather direct all matters to Harcourts or Harcourts' attorneys.

Harcourts has sole discretion and control over the disposition of any challenges, infringements, or claims, whether litigated or not, in order to protect the copyrights and fulfill its obligations under any of the license agreements. You agree that you will fully cooperate with Harcourts and Harcourts' attorneys in any matter, whether in litigation or not, if reasonable and lawful, to assist Harcourts in defending and protecting the copyrights. This may include signing any relevant documents, render such assistance and do such acts and things as may, in Harcourts' attorneys' opinion, be necessary and advisable to protect and maintain Harcourts' interest in any litigation or proceeding, or to otherwise protect and maintain Harcourts' interests in the copyrights.

Except as stated in this disclosure document, Harcourts is not obligated to protect any rights granted to you by way of your non-exclusive right to use the copyrights, subject to the Franchise Agreement and any other terms Harcourts may impose to protect the copyrights. This includes that Harcourts will not be obligated to protect or defend you from any claims of infringement or unfair competition concerning the copyrights. Nonetheless, even though Harcourts is not contractually obligated, Harcourts will vigorously defend and protect the marks and its rights to set guidelines governing the use of the copyrights.

If any modifications or discontinued use of any of the copyrights become necessary for whatever reason, Harcourts shall have sole discretion to institute such modification or discontinued use as Harcourts believes will benefit the overall franchise system. You may be required to comply with this at your own expense and within a reasonable time frame.

There are currently no material determinations of the United States Copyright Office or a court regarding any copyright of Harcourts. Harcourts does not know of any infringement of any copyright that could materially affect the franchisee.

## **Item 15**

### **OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

We do not require that you exercise personal on premise supervision of your franchise. If you do not do so, you must have Key People (that you identify and we list on Exhibit 1 to the Franchise Agreement-included in this Franchise Disclosure Document as Exhibit A-1 "Franchise Details") employed by you who will supervise the day to day operations of your franchise.

Most states have licensing requirements, and require that a licensed real estate broker supervise all real estate activities conducted within your office. You will need to ensure you have someone who can perform the functions of a licensed real estate broker, whether it is you or someone you designate. Any of the Key People that you employ must agree to keep our confidential Operations Manual confidential, as well as any other proprietary information of ours, to which they have access.

You and/or your Key People must devote full time efforts to your franchise and must attend the Initial Training described in Item 11, and possibly Ongoing Franchisee Training described there too.

**Item 16**

**RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

Your franchise is for the operation of a real estate brokerage office. You will be permitted to conduct transactions that primarily deal in residential property sales or lease transactions and/or property management.

You may also have additional businesses in the areas of mortgage brokerages, escrow companies, title or home warranty relationships, or insurance services. These are not deemed to be competing businesses with the Harcourts real estate brokerage offices, but we reserve the right to approve your operation of any such businesses.

We also reserve the right to expand or reduce the type or scope of any businesses or services that we may permit you to operate while a franchisee. If you are in any involved in the auction of real property, you will be required to use Harcourts or its designee as the auctioneer, providing whatever then current auction services Harcourts or its designee is then providing. Furthermore, you are not obligated to use auction services, but if you do, then all auctions must be conducted through Harcourts or its designee.

**Item 17**

**RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION**

**THE FRANCHISE RELATIONSHIP**

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

a. Length of the franchise term	3.1	The Initial Term of the franchise is to be five (5) years.
b. Renewal or extension of the term	3.2	No right of renewal except as provided in Section 3. Franchisee may request in writing to Franchisor that the Agreement be renewed for the Renewal Term. If Franchisee is not in breach of the Agreement, the Renewal Term will be five (5) years.
c. Requirements for franchisee to renew or extend	3	No right of renewal except as provided in Section 3. The Franchisee cannot be in breach of the terms of the Agreement, and the Renewal Fee must be paid to the Franchisor.  New Agreement may contain materially different terms.
d. Termination by franchisee	None	
e. Termination by franchisor without cause	None	
f. Termination by franchisor with cause	10.9(d)(i– iii) 16.2	Failure to meet Key Performance Indicator constitutes an Event of Default.  Franchisor may terminate the Agreement in any of the Events of Default, as defined in Section 16.2: <ul style="list-style-type: none"><li>• Franchisee made any material misrepresentations to Franchisor.</li><li>• Franchisee’s failure to open the Office within three (3) months from Commencement Date.</li><li>• Franchisee threatens to cease or ceases operation for more than five (5) consecutive business days without</li></ul>

		<p>Franchisor's prior written approval, unless closure is a result of force majeure.</p> <ul style="list-style-type: none"> <li>• Franchisee, Key People or Staff fail to keep confidentiality of Confidential Information.</li> <li>• Any transfer of any interest of the Franchisee which results in the effective control of the Franchisee being transferred to anyone other than the Franchisee.</li> <li>• Franchisee, Key Person, Staff or any other principal causes any negative impact upon the Franchised Business, the Franchisor, or otherwise damage or adversely affect the Network in any way.</li> <li>• Inability of Franchisee to ensure continued operation of Franchise due to ill health or incapacity.</li> <li>• Franchisee's failure to meet Key Performance Indicator for three (3) consecutive months or for any three (3) months in a twelve month period.</li> <li>• Franchisee understates Gross Revenues by one percent (1%) or more on at least three (3) occasions during the Term.</li> <li>• Franchisee breaches the Agreement or any other Franchise-related agreement on three (3) separate occasions within a twelve (12) month period, regardless of whether cured or not cured.</li> <li>• Franchisee's License is suspended or revoked as relates to the Franchise.</li> <li>• Franchisee or anyone affiliated with Franchisee's Office violates or becomes convicted of any Law, or adversely impacts the goodwill, image and reputation of the Office or any Harcourts Franchisee.</li> <li>• One of Key People or Staff required to hold a License ceases to hold that License and Franchisee knowingly or unknowingly allows such unlicensed person to continue in activities requiring licensure.</li> <li>• If Franchisee is a partnership which is dissolved not in accordance with the Agreement, or any dispute between the partners which Franchisor judges may adversely affect the interests of Franchisor or the Franchisee.</li> <li>• If any of the following occurs to Franchisor who is a corporation or limited liability company: <ul style="list-style-type: none"> <li>▪ Trustee, receiver or liquidator is appointed by bankruptcy or other court to take control of Office or any of its assets.</li> <li>▪ An application is made, proceedings initiated, or a meeting called for purpose of dissolving Franchisee or declaring it insolvent.</li> <li>▪ An involuntary or voluntary petition is filed by or against Franchisee.</li> <li>▪ It is charged or convicted of a criminal offense.</li> </ul> </li> </ul> <p>If Franchisee is an individual:</p> <ul style="list-style-type: none"> <li>▪ Franchisor becomes bankrupt by filing a petition for bankruptcy, or having a trustee, receiver or liquidator appointed to possess or control the Office or any of its assets.</li> </ul>
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		<ul style="list-style-type: none"> <li>• Franchisee is charged or convicted of a criminal offense.</li> </ul>
g. "Cause" defined – curable defaults	16.1, 16.3	<p>Cause means any material breach by Franchisee of its obligations, including non-payment of fees.</p> <p>Franchisor to provide written notice (Default Notice) to Franchisee detailing the Event of Default. Notice gives Franchisee thirty (30) calendar days to cure the Event of Default. If not cured within this time, will invoke immediate termination of the Agreement.</p>
h. "Cause" defined – non-curable defaults	16.1, 16.2 (a–q)	<p>Events of Default under the Agreement give the Franchisor the immediate right to terminate the Agreement.</p> <p>Events of Default as defined in Section 16.2 (a-q):</p> <p>See <b>Section f</b> of this Table 17</p>
i. Franchisee's obligations on termination/non-renewal	17.1, 17.2, 17.4	<p>Cease using all Harcourts brand materials and trade dress, return all Manuals and instructional materials, permit an exit audit, continue to provide Reports for three (3) months, transfer or assign all telephone and facsimile numbers, email address and domain names used by the Franchisee, pay all monies due pursuant to the Agreement, change all public records to de-identify with the Franchisor, provide evidence of "tail coverage" insurance for three (3) years from termination, and to cooperate with all other reasonable requests of the Franchisor.</p> <p>All obligations of the Franchisee which survive the expiration or termination, including payment of monies to the Franchisor, will continue in full force and effect after expiration or termination of the Agreement.</p> <p>Obligations of Franchisee:</p> <ul style="list-style-type: none"> <li>• Cease operation under the Business Name.</li> <li>• Stop all use of the Franchisor Intellectual Property.</li> <li>• Return to Franchisor or destroy if requested, all material including electronic material which comprises any and all of the Franchisor Intellectual Property and confirm such action in writing to the Franchisor.</li> <li>• Continue to provide the Reports to Franchisor for three (3) months following termination of Agreement.</li> <li>• Transfer all telephone/facsimile numbers, email address and domain names used by Franchisee in connection with Franchise.</li> <li>• Pay Franchisor all monies payable under the Agreement.</li> <li>• Change all public records to de-identify any association with the Franchisor.</li> <li>• Provide Franchisor with written evidence of "tail coverage" insurance for a three (3) year period following termination of the Agreement.</li> <li>• Conduct no further business indicating that the Franchisee is a franchisee of or is in any way affiliated with the Franchisor.</li> <li>• Cooperate with all other reasonable requests of the Franchisor.</li> </ul>

j. Assignment of contract by franchisor	13.1	No consent of Franchisee is required. Franchisor may assign the Agreement.
k. "Transfer" by franchisee – defined	2.2 and 13.2	Includes any transfer of interest that results in Franchisee no longer maintaining the controlling interest.
l. Franchisor approval of transfer by franchisee	13.2, 20.1	<p>Subject to Franchisor's written approval, which shall not be unreasonably withheld, the Franchisee may propose to assign its Franchise to any legal entity or person, provided that the following terms of Section 13.2 are fulfilled:</p> <ul style="list-style-type: none"> <li>• Franchisee is not in breach of the Agreement, or any other related agreement with Franchisor.</li> <li>• Franchisor approves Assignment in writing.</li> <li>• Franchisor approves proposed Assignment, transfer or sale documents and terms.</li> <li>• Franchisee assumes all obligations under the Agreement.</li> <li>• All amounts due to Franchisor are paid before the date of the Assignment.</li> <li>• Proposed Franchisee provides all information requested by Franchisor.</li> <li>• Proposed Franchisee has completed all training.</li> <li>• Proposed Franchisee and all officers/directors/owners, shareholders, members or any other associated person have executed the then-current Franchise Agreement.</li> <li>• Franchisee cooperates with all other reasonable requests of Franchisor.</li> <li>• Except where the Agreement expressly states otherwise, the Franchisor may, in its sole discretion, give conditionally or unconditionally, or reasonably withhold approval or consent under the Agreement.</li> </ul>
m. Conditions for franchisor approval of transfer	13.2	See <b>Section I</b> of this Table 17.
n. Franchisor's right of first refusal to acquire franchisee's business	None	
o. Franchisor's option to purchase Franchisee's business	None	
p. Death or disability of franchisee	16.6	<p>Franchisor will serve notice on Franchisee of suspected breach (death or disability of Franchisee) and Franchisee will have five (5) days to refute the claims.</p> <p>Franchisee or Key People will provide Franchisor written assurance that one of Key People will be able to operate the Franchised Business in compliance with the Agreement; or</p> <p>Franchisor will assist Franchisee or one of Key People in identifying new proposed franchisee or new key people to successfully effectuate transfer of the Franchise. All subject to Franchisor's approval.</p>

q. Non-competition covenants during the term of the franchise	18.1, 18.2, 18.3	Franchisee must not participate in any Competing Business during the term of the Agreement without the prior written consent of Franchisor.  Under no circumstances shall Franchisee have any involvement in any other real estate brokerage or independent office while a party to the Agreement.  Most non-competition agreements are void in California. (B&P §§16600, 16606, 16607)
r. Non-competition covenants after the franchise is terminated or expires.	None	Franchisee shall not compete with Franchisor for six months following termination or expiration of the Franchise Agreement.  Most non-competition agreements are void in California. (B&P §§16600, 16606, 16607)
s. Modification of the Agreement	None	
t. Integration/merger clause	20.5 and 20.6	The rights and obligations of the parties under the Agreement do not merge on completion of any transaction contemplated by the Agreement. Nothing in this Agreement is meant to disclaim any representation made in the Franchise Disclosure Document or its attachments or addenda.
u. Dispute resolution by arbitration or mediation	14	Neither Mediation nor Arbitration is required by this Agreement. The Agreement is governed by the laws of the State of California. Any action shall be filed either in Orange County or Los Angeles County jurisdictions.  Any action relating to Harcourts' marks or intellectual property may be brought in any State or Federal Court having jurisdiction over the matter. Franchisee waives any objections relating to the jurisdiction of the court or venue.  Franchisee and Franchisor mutually waive any right to any punitive damage claim against each other. Recovery will be limited to actual proven damages.  Franchisor and Franchisee waive any right to jury trial.  Franchisee bears its own costs, and agrees to reimburse Franchisor for such attorneys' fees and costs ensuring compliance with the Agreement.  This Section shall survive expiration or termination of the Agreement.
v. Choice of forum	14(a)(i)	The Agreement is governed by the laws of the State of California. Venue is in either Orange or Los Angeles counties. Intellectual Property disputes may be resolved in any State or Federal Court having jurisdiction. Franchisee waives any objections relating to the jurisdiction of the court or venue.
w. Choice of law	14(a)(ii)	California law applies.

**Item 18**

**PUBLIC FIGURES**

We do not use public figures to promote our franchise.

**Item 19**

**FINANCIAL PERFORMANCE REPRESENTATIONS**

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

We do not make any representations about a franchisee’s future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor’s management by contacting Benjamin Brady at 3 Monarch Bay Plaza, Suite 100, Dana Point, CA 92629, Tel: 949.632-8995, the Federal Trade Commission, and the appropriate state regulatory agencies.

**Item 20**

**OUTLETS AND FRANCHISEE INFORMATION**

**If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system. Please see Exhibit F for a detailed list.**

During the last three (3) fiscal years, no current or former franchisees have signed confidentiality clauses that restrict them from discussing with you their experiences as franchisees in our system.

**Item 20 Table No. 1**

**Systemwide Outlet Summary**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
<b>Franchised</b>				
	2021	19	20	1
	2022	20	18	-2
	2023	19	24	5
<b>Company-Owned</b>				
	2021	0	0	0
	2022	0	0	0
	2023	0	0	0

<b>Total Outlets:</b>				
	2021	19	20	1
	2022	20	18	-2
	2023	19	24	5

**Item 20 Table No. 2**

**Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
<b>California</b>		
	2021	0
	2022	0
	2023	0
<b>Hawaii</b>		
	2021	0
	2022	0
	2023	0
<b>Nevada</b>		
	2021	0
	2022	0
	2023	0
<b>Totals:</b>		
	2021	0
	2022	0
	2023	0

**Item 20 Table No. 3**

**State of Franchised Outlets**

State	Year	Outlets at the Start of the Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations -Other Reasons	Outlets at End of the Year
<b>California</b>								
	2021	16	1	1	0	0	0	16
	2022	16	0	1	0	0	0	15
	2023	16	8	3	0	0	0	21
<b>Hawaii</b>								
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<b>Nevada</b>								
	2021	2	1	0	0	0	0	3
	2022	3	0	1	0	0	0	2
	2023	2	0	0	0	0	0	2
<b>Totals:</b>								
	2021	19	2	0	0	0	1	20
	2022	20	0	2	0	0	0	18
	2023	19	8	3	0	0	0	24

**Item 20 Table No. 4**

**Status of Company-Owned Outlets**

State	Year	Outlets at the Start of the Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
<b>California</b>							
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0

<b>Hawaii</b>							
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0
<b>Nevada</b>							
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0
<b>Totals:</b>							
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0

**Item 20 Table No. 5**

**Projected Openings as December 31, 2024**

<b>State</b>	<b>Franchise Agreements Signed But Outlet Not Opened</b>	<b>Projected New Franchised Outlet in the Next Fiscal Year</b>	<b>Projected New Company-Owned Outlet In the Next Fiscal Year</b>
<b>California</b>	0	10	0
<b>Hawaii</b>	0	0	0
<b>Nevada</b>	0	0	0
<b>Total:</b>	0	10	0

**Item 21**

**FINANCIAL STATEMENTS**

Included and attached as Exhibit B to this Franchise Disclosure Documents are:

- Independent Auditors' Report and Audited Balance Sheet as of December 31, 2023.
- Statement of Operations and Members' Capital
- Statement of Cash Flows
- Notes to Financial Statements

**Item 22**  
**CONTRACTS**

The following agreements are included for you to carefully review and they are attached as exhibits to this Franchise Disclosure Document, as set forth below:

<u>Exhibit A:</u> Franchise Agreement	<u>Exhibit C:</u> List of State Agencies / Agents for Service of Process
<u>Exhibit A-1:</u> Franchise Details	<u>Exhibit D:</u> Operations Manual Table of Contents
<u>Exhibit A-2:</u> Territory	<u>Exhibit E:</u> Disclosure Addenda for California and Hawaii
<u>Exhibit A-3:</u> Independent Legal Advice	<u>Exhibit F:</u> List of Current and Former Franchisees
<u>Exhibit A-4:</u> Independent Business Advice	<u>Exhibit G:</u> Personal Guaranty
<u>Exhibit A-5:</u> Independent Accounting Advice	<u>Exhibit H:</u> Growth and Management Partner Agreement
<u>Exhibit A-6:</u> Direct Debit Authority Form	<u>Exhibit I:</u> Technology License Agreement
<u>Exhibit A-7:</u> Right of First Refusal	<u>Exhibit J:</u> Receipts
<u>Exhibit A-8:</u> Harcourts Auctions	
<u>Exhibit A-9:</u> Release in Connection with Franchise Renewal or Termination	
<u>Exhibit B:</u> Financial Statements	

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**Item 23**  
**RECEIPTS**

Attached, as the last two (2) pages of this disclosure document (**Exhibit J**) are identical pages acknowledging receipt of this entire disclosure document (including the exhibits). Please sign and return one copy to us. Please keep the other duplicate copy along with this disclosure document.

**EXHIBIT A**

**FRANCHISE AGREEMENT**



# Harcourts Pacific LLC Franchise Agreement

Harcourts Pacific LLC

(Franchisor)

[Insert]

(Franchisee)

# Harcourts Pacific LLC Franchise Agreement

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# Franchise Agreement

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## Parties and Basic Recitals:

This Franchise Agreement, hereinafter referred to as “Agreement” and further defined in Section 1.1 below, is effective as of \_\_\_\_\_, 2024, which shall be deemed the “Commencement Date”.

The parties to this Agreement are:

**Harcourts Pacific LLC**, a California limited liability company as the “**Franchisor**,” and

\_\_\_\_\_, a \_\_\_\_\_, as the “**Franchisee**.”

Franchisor has developed a proprietary and confidential system that facilitates brokers or real estate sales associates in the operation of real estate brokerage offices. Additionally, Franchisor has created important intellectual property that is associated with such real estate brokerage offices. Franchisee represents that Franchisee has sufficient business and management experience in the real estate industry, and is desirous of purchasing Franchisor’s real estate brokerage franchise, based solely upon all of the terms and conditions set forth in this Agreement.

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## 1. Defined Terms & Interpretation

### 1.1 **Defined Terms**

In this Agreement:

**Accounting Records** includes:

- (a) invoices, receipts, records of payment of monies, checks, promissory notes and other documents supporting and substantiating transactions;
- (b) books of accounts, ledgers, check stubs, bank statements, payroll records, inventory records and other accounting records or financial information which may be in hard copy format or may be computerized or otherwise stored electronically;
- (c) any record that records or explains transactions or financial positions and from which Accounts can be prepared; and
- (d) any record that explains the methods or calculations used in preparing Accounts.

**Accounts** includes:

- (a) profit and loss statements;
- (b) balance sheets;
- (c) statement of cash flows; and

- (d) statements, reports and notes attached to, or intended to be read with, any document referred to in this section, including any auditors' reports.

**Advertising Fund** means the fund (or collection of funds) established by the Franchisor for marketing, advertising and promotional purposes.

**Advertising Fund Contribution** means one percent of Gross Revenue.

**Agreement** means this agreement and all exhibits to this agreement, all of which are incorporated herein by reference.

**Assignment** means each of the following:

- (a) any sale, transfer or relinquishment by the Franchisee of the rights, or any part of them, conferred on the Franchisee under this Agreement, whether legal or beneficial, whether conditional or otherwise, which shall include but not be limited to any partial or whole sale, transfer or relinquishment of segments of Franchisee's business or related businesses such as property management, that would have the effect of reducing Gross Revenues of the Franchise or Office;
- (b) the passing by operation of law or by any court order, to any other party or parties of the Franchisee's interest in this Agreement or any part thereof;
- (c) placing or causing to place Franchisee's interest in the Franchised Business in any type of trust document, whether revocable or irrevocable; and
- (d) any other act or omission by the Franchisee whereby control of the Franchised Business is directly or indirectly altered or transferred to any other person or entity.

**Business Day** means:

- (a) for the purpose of receiving a notice under this Agreement, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is sent;
- (b) for the purpose of Office opening days, a day that is not a Sunday, bank holiday or public holiday; and
- (c) for all other purposes, a day that is not a Saturday, Sunday, bank holiday or public holiday.

**Business Hours** means:

- (a) for the purpose of receiving a notice under this Agreement, between 9:00am and 5:00pm on a Business Day;
- (b) for the purpose of Office opening times, between 9:00am and 5:00pm Monday to Friday, and between 9:00am and 12:00pm Saturday and Sunday.

**Business Name** means the business name set out in Exhibit A-1.

**Business Week** means one Monday to the following Sunday inclusive.

**Calendar Year** means each consecutive period of 12 months beginning on January 1<sup>st</sup> and ending on December 31<sup>st</sup>.

**Commencement Date** means the date set out in “Parties and Basic Recitals” section of this Agreement.

**Confidential Information** means the following information, regardless of its form and whether disclosed to the Franchisee before or after the date of this Agreement:

- (a) the Operations Manual;
- (b) the Harcourts Brand Tools;
- (c) all information and know-how relating to the System, the Franchisor and its business and the Approved Services;
- (d) all Records relating to the operation of the Franchise;
- (e) all other information treated by the Franchisor as confidential; and
- (f) the terms of this Agreement,

The following information is not considered Confidential Information:

- (a) information the Franchisee creates independently of the Franchisor (whether alone or jointly with any other person), other than in connection with the Franchise; or
- (b) information that is public knowledge (otherwise than as a result of a breach of confidentiality by the Franchisee or by any other person to whom the Franchisee discloses Confidential Information to in accordance with this Agreement).

**Document** includes:

- (a) paper or other material on which there is writing or printing or on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (b) any material or device from which sounds, images, writing or messages can be reproduced.

**Domain Name** means [www.harcourtsusa.com/your franchise name here](http://www.harcourtsusa.com/your franchise name here), or such further or other domain names as shall be required by the Franchisor, for the Franchisee to use in connection with the Franchised Business.

**Email Address** means any email address used by the Franchisee in relation to the Franchised Business or otherwise containing any Harcourts Name.

**Event of Default** means the events of default described in Section 16 of this Agreement.

**Expiration Date** means:

- (a) the later of the end of the Initial Term or the end of the Renewal Term (if applicable); or
- (b) the date on which this Agreement is terminated in accordance with its terms,

This applies to (a) and (b) above, whichever is earlier.

**Fees** mean all fees payable by the Franchisee to the Franchisor periodically pursuant to this Agreement.

**Franchise** means the rights granted by the Franchisor under this Agreement to operate the Franchised Business.

**Franchise Disclosure Document Package** means the Franchise Disclosure Document, along with the accompanying exhibits, which the Franchisor is required to provide to the Franchisee prior to execution of this Agreement, in accordance with Federal Trade Commission guidelines and state law. This also includes, Item 23, entitled "Receipt."

**Franchise Fee** means for each calendar month in the Term, six percent of Gross Revenue as defined in Section 10 of this Agreement.

**Franchised Business** means the conduct of a Real Estate Business from the Office in accordance with the System.

**Franchisor** means Harcourts Pacific LLC.

**Franchisor Intellectual Property** means the following, including all associated Intellectual Property Rights and goodwill:

- (a) the Marks;
- (b) the Business Name;
- (c) the Image;
- (d) the System;
- (e) the Operations Manual;
- (f) the Harcourts Brand Tools;
- (g) the Confidential Information;
- (h) the Technology Platform and Email Address including software, source and object codes, domain names, scripts, records, documents, specifications, plans, calculations or drawings;
- (i) any advertising and promotional materials provided to the Franchisee in relation to the Franchise;
- (j) any database of customer details created by the Franchisee or used by the Franchisee in the operation of the Franchise; and
- (k) all other material disclosed or provided by the Franchisor to the Franchisee.

**Gross Revenue** means the total gross receipts in connection with the operation of the Franchised Business, including but not limited to revenues received, or those that should have been received in the normal course of operations, such as commissions from any type of sales, leases, and property management. Additionally, Franchisee must pay Franchise Fees based upon Gross Revenue for transactions related to the foregoing that close post termination of the Franchise Agreement, but are opened or incurred prior to termination of the Franchise Agreement.

**Harcourts Brand Tools** means the manual set out on the Harcourts' website, HarcourtsHub.com, and such other policies, procedures, rules, standards, instructions, templates, formatting, images and colors as prescribed by the Franchisor periodically, describing appropriate use of the Marks and the Image.

**Harcourts Franchisee** means any franchisee operating a Harcourts Franchise anywhere in the world.

**Harcourts Franchise** means a Real Estate Business operated by a Harcourts Franchisee.

**Harcourts Name** means the name 'Harcourts' and any other name, brand, trade mark or commercial symbol set out in the Harcourts Brand Tools or notified by the Franchisor to the Franchisee periodically and includes, without limitation, any abbreviation of 'Harcourts'.

**Harcourts Blue and Connect, or simply Blue or Connect** means the technology platform required to be used by the Franchisee and networked to the Franchisor for recording the details of all property and other transactions by the Franchisee, in accordance with the Operations Manual and/or other training set forth by the Franchisor.

**Image** means the distinctive appearance prescribed by the Franchisor for the operation of a Harcourts franchise, including but not limited to the names, Marks, presentation, slogans, signage, color schemes, design, layout, fittings and fixtures of a Harcourts Office, as well as website content, promotional material, standard documentation and paperwork, corporate stationery, and all modifications to that appearance as prescribed by the Franchisor periodically.

**Independent Advice Forms** means each of the Independent Advisor Form – Accounting, Independent Advisor Form – Business and Independent Advisor Form – Legal.

**Independent Advisor Form – Accounting** means the form attached as Exhibit 5.

**Independent Advisor Form – Business** means the form attached as Exhibit 4.

**Independent Advisor Form – Legal** means the form attached as Exhibit 3.

**Initial Term** means the initial term of five years.

**Initial Training** means the training for the Franchisee, Key People and Staff, in respect of operating the Franchised Business, as required by the Franchisor and specified in the Operations Manual.

**Injury** means bodily injury, mental injury, illness, disease or death.

**Intellectual Property Rights** means all intellectual property rights, including without limitation:

- (a) patents, copyright, registered designs, registered and unregistered trademarks, circuit layout rights, know-how, trade secrets, and any right to have confidential information kept confidential; and
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
- (c) the technology platforms known as Blue and Connect

**Interest Rate** means the rate of interest charged by the Franchisor on any Fee or unpaid balance in the amount of 10% per annum or the maximum interest rate permitted by law, which shall be calculated daily.

**Key People** means the persons more specifically identified in Exhibit 1.

**Key Performance Indicator** means those minimum Gross Revenue standards set out in Section 10.9 of this Agreement and identified in Exhibit 1 to this Agreement, as may be amended periodically.

**Law** means any local, state, or federal statute or regulation, as applicable to franchisees, real estate brokers or sales associates, property managers, and employees or contractors of the foregoing, as well as any directive from a state agency with respect to the starting, maintaining, or termination of the Franchise Business. In addition to the foregoing, Law shall include compliance with the United States Patriot Act (Public Law 107-56).

**Licenses** means all licenses, permits or approvals required by the Franchisee to operate the Franchised Business from the Office, including, without limitation, a broker's or sales associate's license, a corporate real estate license (if applicable), a business license, or any other licenses or approvals that may be described in the Operations Manual.

**Marks** means each trade mark specified in the Franchise Disclosure Document, registered or not, and all trademarks, business names, domain names, logos, trade dress and insignia authorised or prescribed by the Franchisor for use by the Franchisee in connection with the Franchised Business.

**Network** means the Harcourts International Limited and all related entities of the Franchisor, Franchisee and all other Harcourts Franchisees and their respective officers, directors, employees and staff.

**Office** means the Franchisee's premises where Franchisee operates the Franchised Business, including the interior and exterior of the building, all signage, any associated land and landscaping, as specified in Exhibit 1.

**Ongoing Franchisee Training** means the training programs to be undertaken by the Franchisee, Key People and Staff in relation to the operation of the Franchise, or such other matters as the Franchisor directs.

**Ongoing Franchisee Training Fee** means the amount associated with Ongoing Franchisee Training that Franchisor may direct periodically.

**Operations Manual** means the manual and all updates, improvements and amendments to that manual periodically, prescribed by the Franchisor (and made available to the Franchisee) for the establishment and operation of a Harcourts franchise.

**Privacy Legislation** means any legislation and regulations which regulate the collection, use, storage, disclosure, or handling of information or data, including information or data about individuals.

**Real Estate Business** means a business which has the primary purpose of dealing in residential, property sales or lease transactions and/or property management. While commercial sales are permitted, commercial sales are not the primary purpose since Franchisor reserves the right to later sell separate commercial real estate franchises.

**Records** includes Accounts, Accounting Records, client databases, client information, request for quote and order information, business correspondence and documents, employment contracts, employee payroll records, tax returns, stock records, registers and other records, however compiled, recorded or stored and whether or not they are in electronic form.

**Renewal Fee** means in respect of each renewal of this Agreement for a Renewal Term, the amount set out as \$2,500.00.

**Renewal Term** means an additional term of five years.

**Reports** means each of the reports required in accordance with this Agreement, as directed by the Franchisor, or as more particularly described in the Operations Manual.

**Satellite Office** means an Office, only located within Franchisee's Territory, registered as a branch office with the appropriate real estate regulatory body and in compliance with the Operations Manual, this Agreement, Laws, and any other Franchisor guidelines then in effect for a Satellite Office. A Satellite Office, if approved, will only be for a Franchisee's top producing real estate agent or a team of real estate agents who want their own physical location, as opposed to operating out of the Franchisee's primary Office.

**Staff** means all employees, contractors and any agents of the Franchisee in relation to the Franchise, including without limitation, real estate agents and any other independent contractors.

**Staff Entitlements** includes all wages, salaries, bonuses, staff related insurances, staff related taxes, and related entitlements under all Laws and any other agreements or arrangements between the Franchisee and its Staff periodically.

**System** means the manuals (including without limitation the Harcourts Brand Tools and the Operations Manual), systems, policies, know-how and trade secrets authorized by the Franchisor for carrying on business as a Harcourts franchise and for providing the Approved Services, including IT systems and concepts and procedures for marketing, advertising, training, staff recruitment, accounting, reporting and delivery of Approved Services.

**Technology Platform** means the Domain Name, the website at the Domain Name, intranet, and other software or applications made available by the Franchisor or to which the Franchisor grants the Franchisee access periodically, including all associated Intellectual Property Rights, including without limitation all technology components of the Operations Manual and the System, as improved, modified and updated periodically by the Franchisor in its absolute discretion, but excluding value add technology products developed and offered by the Franchisor on a subscription basis (for additional payment) periodically. Blue and Connect are deemed to be part of this definition.

**Technology Platform Fee** means the fee for the Technology Platform, currently at \$241.00 per month, per Office.

**Term** means the period commencing on the Commencement Date and expiring on the Expiry Date.

**Territory** means the geographical area specified by zip code(s) and attached as Exhibit 1.

**Training** means the Initial Training and the Ongoing Franchisee Training provided to the Franchisee pursuant to this Agreement.

## **1.2 Interpretation**

In this Agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, or exhibit is to a clause or paragraph of, exhibit to, this Agreement, and a reference to this Agreement includes any exhibit;

- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced periodically;
- (e) a reference to “\$” or “dollar” is to the currency of the United States of America;
- (f) a reference to time is to the time at the Office;
- (g) a reference to a month means a period starting at the beginning of a day and ending:
  - (A) immediately before the beginning of the corresponding day of the next month; or
  - (B) if there is no corresponding day in the next month, at the end of the last day of that next month;
- (h) a reference to a party or parties is to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (i) a reference to a person includes a natural person, partnership, corporation, limited liability company, association, governmental or local authority or agency or other entity;
- (j) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it as well as any amendments or replacements of any of them;
- (k) a word or expression defined in any law has the meaning given to it in such law;
- (l) the meaning of general words is not limited by specific examples introduced by including, for example, or similar expressions;
- (m) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (n) any agreement, representation, warranty or indemnity in favor of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (o) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it; and
- (p) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.
- (q) unless another provision of this Agreement specifies otherwise:
  - (i) the Franchisor may give any approval under this Agreement, conditionally or unconditionally, or may withhold that approval in its absolute discretion; and
  - (ii) to be valid, an approval given by the Franchisor must be in writing.

## 2. Grant of Franchise

### 2.1 **Grant**

The Franchisor grants to the Franchisee and the Franchisee accepts, for the Term, a non-exclusive license to use the Franchisor Intellectual Property for the sole purpose of establishing and operating the Franchised Business at the Office in accordance with the terms, conditions and restrictions contained in this Agreement.

### 2.2 **Personal Rights and Responsibilities**

The Franchisee acknowledges and agrees that the grant of the Franchise and the license to use the Franchisor Intellectual Property granted by the Franchisor under this Agreement, are personal to the Franchisee and that the Franchisee must not assign, sub-franchise, sub-license, sub-contract, sub-lease, or otherwise dispose of any of its rights under this Agreement (or purport to do so) without the express written permission of the Franchisor.

### 2.3 **Exclusivity of Territory**

- (a) The Territory is exclusive to the Franchisee, based upon a zip code(s), as indicated on the attached map, shown as Exhibit 2 to this Agreement. Franchisor agrees that it will not sell nor authorize any other Harcourts Franchisee to operate its Harcourts Franchise from any premises physically located in the Territory, unless Franchisee is in breach of this Agreement and not cured or does not have the right to cure as specified in this Agreement, or if Franchisee so consents in writing.
- (b) Notwithstanding paragraph (a) the Franchisee acknowledges that:
  - (i) while no other Harcourts Franchisee can operate an Office from premises located in the Territory, other Harcourts Franchisees and their real estate agents may conduct business in the Territory at any time and may compete with the Franchised Business, if such Harcourts Franchisee and its real estate agents have a license to do so; and
  - (ii) other Harcourts Franchisees or their real estate agents may be advertising or marketing specific properties within the Territory, but Harcourts Franchisees nor their real estate agents will not be permitted to directly or indirectly, institute general real estate or related advertising or marketing programs promoting the Harcourts Brand, their Office, or anything related to the real estate industry. Franchisee agrees that it shall not, directly or indirectly, institute general real estate or related advertising or marketing programs in any other territory outside of its own Territory, unless written approval is obtained from that Harcourts Franchisee and Franchisor.
  - (iii) Franchisee may request to open additional offices in additional territories so long as Franchisee is not in default of any provision of this Agreement, including not being in default with respect to the Key Performance Indicator. Nothing shall be deemed to require or obligate Franchisor to sell additional territories to Franchisee, even if Franchisee is not in default of any provision of this Agreement and has met or exceeded the Key Performance Indicator. Additionally, if Franchisor, in its sole reasonable discretion, decides to offer

Franchisee additional territory(ies), Franchisee must notify Franchisor in writing of its decision to accept such offer within forty-eight hours (48 hours) from the date on any such offer Franchisor makes to you regarding any such territory(ies). Failure by Franchisee to timely accept such offer will result in such offer being permanently terminated. If Franchisee chooses to accept such offer and timely notifies Franchisor in writing of such acceptance within the forty-eight hour (48 hour) period, then Franchisee must open such office(s) within that new Territory within three months (3 months) from the date Franchisor receives such notification of acceptance of Franchisor's offer. If Franchisee does not open Franchisee's office(s) that Franchisor must approve within such three month time frame, Franchisee will lose any right to such additional territory(ies) and risk losing any investment Franchisee made for failing to timely open.

- (iv) Franchisor may give some franchisees a first right of refusal on purchasing additional territories before anyone else can purchase such territory(ies), under specific terms ("First Right of Refusal"). If Franchisor, in its sole reasonable discretion grants Franchisee the First Right of Refusal, Franchisee and Franchisor will execute Exhibit A-7 to this Agreement, which will detail the territory included in the First Right of Refusal, the number of offices to be opened in that territory, the time frame for the opening of each office within that territory, and the time frame upon which the First Right of Refusal will expire if Franchisee doesn't notify Franchisor in writing of its exercising of the First Right of Refusal. The granting of any First Right of Refusal is in the sole reasonable discretion of Franchisor and based upon Franchisor's own business judgment, taking into account many factors, including but not limited to the size of territory actually purchased or about to be purchased by Franchisee, the size of the territory that would be purchased based upon the First Right of Refusal if given to Franchisee, Franchisee's reputation and business experience, Franchisee's financial strength and ability to develop any additional territories. If Franchisee fails to exercise any First Right of Refusal or fails to comply with the details listed on Exhibit A-7 to this Agreement, Franchisee may lose all exclusive rights to such territory.
- (v) Franchisee may conduct commercial transactions within the Territory; however, Franchisor reserves the right to sell commercial real estate franchises in the future. If a commercial real estate franchise is sold in the future, Franchisee agrees that Franchisee may continue to conduct commercial transactions, but such transactions must not be more than twenty percent (20%) of the Gross Revenue of Franchisee; otherwise, Franchisee will have to execute a commercial real estate franchise on terms then being offered by Franchisor.

## 2.4 Office

- (a) The Franchisee is authorized to establish and operate the Office only at the Office for the Term; and must:

- (i) Obtain, in the Franchisee's name and at the Franchisee's expense, a lease or sub-lease to occupy the Office for the Initial Term;
  - (ii) comply with all Laws and the Operations Manual relating to the construction, build out, renovation and remodelling of the Office;
  - (iii) construct the Office and otherwise set up the Office in accordance with the Operations Manual at the Franchisee's expense;
  - (iv) comply with all reasonable directions of the Franchisor, its agents and representatives; and
  - (v) obtain the written approval of the Franchisor prior to operating any aspect of the Franchise other than from the Office.
- (b) If Franchisor approves in writing, Franchisee may establish a Satellite Office within the Territory. A Satellite Office must only be located within Franchisee's Territory, registered as a branch office with the appropriate real estate regulatory body and comply with the Operations Manual, this Agreement, Laws, and any other Franchisor guidelines then in effect for Satellite Offices. The purpose of establishing a Satellite Office concept is for a Franchisee to accommodate a top producing real estate agent or a team of real estate agents who want their own physical location, as opposed to operating out of the Franchisee's primary Office.

## 2.5 Warranties

The Franchisee warrants that:

- (a) it received the Franchise Disclosure Document Package at least 14 days prior to executing this Agreement;
- (b) before entering into this Agreement the Franchisee read and had reasonable opportunity to understand the contents of the Franchise Disclosure Document Package;
- (c) it has carefully read and understands the provisions of this Agreement;
- (d) it knows that Franchisor cannot make any guarantees as to the whether or not the Office or Franchised Business will be successful under any definition of successful.
- (e) before entering into this Agreement, the Franchisee was told by the Franchisor that the Franchisee should seek legal, business and accounting advice from advisers who are independent of the Franchisor;
- (f) it has either:
  - (i) obtained independent legal advice, business advice and accounting advice; or
  - (ii) has elected not to obtain one or more of these types of advice,
- (g) it has entered into this Agreement after making an independent investigation as to possible revenues that may or may be generated, or which the Franchisee may expect to realize, and acknowledges that the success of the Franchised Business is speculative and depends to a large extent upon the ability of the Franchisee as an independent businessperson, as well as other factors; and

- (h) at the time of entering into this Agreement, Franchisee is not incapacitated or restrained in any way from fulfilling its obligations under this Agreement.

## **2.6 Conditions Precedent**

- (a) The following obligations of the Franchisee are conditions precedent to this Agreement, of which the Franchisee has the responsibility of ensuring their complete fulfilment:
  - (i) paying the Initial Fees to the Franchisor;
  - (ii) delivering to the Franchisor the following forms and documents, each duly completed, signed and (unless otherwise specified) dated:
    - (A) Franchise Disclosure Document (FDD) Receipt (Item 23 of the FDD);
    - (B) Independent Advice Forms (each signed at least 14 days after the date of the signed Franchise Disclosure Document Receipt- Item 23);
    - (C) Direct Debit Authority Form;
  - (iii) providing evidence that is satisfactory to the Franchisor that the Franchisee has received finance approval sufficient to commence operation of the Franchise under this Agreement.
  - (iv) providing copies to the Franchisor (or other evidence satisfactory to the Franchisor) of each of the Licenses and the Insurance Policies;
  - (v) ensuring that the Franchisee, Key People and Staff complete all Initial Training, relevant to their role, to the satisfaction of the Franchisor;
  - (vi) registering the Business Name as a fictitious business name (also known as “DBA”) in the county in which the Office is located, for use in accordance with and for the purposes of this Agreement;
  - (vii) completing all tasks outlined in the Operations Manual in relation to the establishment and launch of a new Franchise; and
  - (viii) obtaining the right to occupy the Office for the Initial Term under a lease, if not occupying premises owned by Franchisee.
- (b) This Agreement has no effect unless or until the Franchisee fulfils the conditions precedent to this Agreement, as set forth above.

## **2.7 Satisfaction of Conditions Precedent**

Upon satisfaction (or waiver in writing, if applicable) of the conditions precedent to commencement, the Franchisor must issue written notice to the Franchisee confirming that:

- (a) the conditions precedent have been satisfied (or waived, if applicable); and
- (b) the Commencement Date will be the date set out in “Parties and Basic Recitals,” section to this Agreement, or such other date as notified in writing by the Franchisor to the Franchisee.

## 2.8 Relationship Between Parties: Independent Contractor

- (a) At all times prior, during and after this Agreement, the relationship between Franchisee and Franchisor is that of independent contractor. Nothing shall be construed to give rise to any employee, agency, fiduciary, joint venture, or any other type of relationship.
- (b) Franchisee agrees that in any marketing, promotional, stationery, internet, signage or other situations where the Harcourts Marks are used, Franchisee will conspicuously state in reasonable font, that “Each Office is Independently Owned and Operated.”
  - (i) Notwithstanding this provision, Franchisee is not required to place “Each Office is Independently Owned and Operated” on the primary exterior signage identifying the Office.

## 3. Term

### 3.1 Initial Term

This Agreement commences on the Commencement Date and continues until the end of the Initial Term, or earlier as a result of any uncured breaches or anything that gives Franchisor the immediate right to terminate, in accordance with this Agreement. The Initial Term shall be for a period of five years.

### 3.2 Option to Renew

- (a) The Franchisee may, not more than nine months and not less than six months prior to the expiration of the Initial Term, request in writing to the Franchisor, that this Agreement be renewed for the Renewal Term.
- (b) Upon receiving a notice from Franchisee, and provided that the Franchisee, at the time of its request:
  - (i) is not in breach of any provision of this Agreement; and
  - (ii) pays the Renewal Fee, as listed in the Fees section of this Agreement, to the Franchisor prior to Franchisor executing any renewal franchise agreement,the Franchisor will renew this Agreement for the Renewal Term, subject to the conditions set out in the then current franchise agreement.
- (c) A decision by the Franchisor to renew this Agreement will be conditional upon:
  - (i) the Franchisee demonstrating that they have the financial capacity, ability, management resources and staff required, in the reasonable opinion of the Franchisor, to continue to operate the Franchised Business;
  - (ii) the Franchisee obtaining the right to occupy the Office for the Renewal Term;
  - (iii) the Franchisee building out or upgrading the Office in accordance with the then current Operations Manual and Harcourts Brand Tools to the reasonable satisfaction of the Franchisor;
  - (iv) the Franchisee not being in breach, and not having breached this Agreement at the time of entering into the franchise agreement described in paragraph (vi),

including, but not limited to, having paid all Fees due and payable under this Agreement;

- (v) the Franchisee having met the Key Performance Indicator during the Term and not having breached this Agreement by not meeting it for three consecutive months or any three months in a twelve month period;
  - (vi) the Franchisee executing and delivering to the Franchisor, a then current franchise agreement (which may differ from this Agreement as to material and non-material terms and conditions);
  - (vii) the Franchisee executing and delivering to the Franchisor a release of the Franchisor, its officers and employees from all claims, demands, proceedings, liabilities, obligations or damages arising out of or in connection with this Agreement.
- (d) The Franchisee acknowledges and agrees that the Franchisee will not be entitled to any payment or compensation if that the Franchisor decides not to renew this Agreement.
  - (e) If a Franchisee continues to operate the Office after the end of the Initial Term or any Renewal Term, without a proper renewal in accordance with this Agreement or any future agreement, Franchisee shall be deemed to operate on a month to month basis upon terms of Franchisor's then current franchise agreement. Notwithstanding this provision, if Franchisor has not already done so, Franchisor retains the absolute right to terminate this Agreement in accordance with the termination provisions of this Agreement, upon 30 days written notice to Franchisee.
  - (f) Except as provided in this Section 3, the Franchisee shall have no right of renewal of this Agreement or the Franchise.

## 4. Business Name

### 4.1 Authorized Use

The Franchisee must only use the Business Name in connection with the Franchise and will not conduct the Franchised Business under any other name, unless previously approved in writing by the Franchisor.

### 4.2 Registration

- (a) The Franchisor will register the Business Name as a fictitious business name (also known as "DBA") in the county in which the Office is located, for use in accordance with and for the purposes of this Agreement. The first name of the Business Name shall be "Harcourts." The Franchisor must approve, in writing, all names used after "Harcourts" that Franchisee must register as described herein. The Franchisee shall not incorporate, organize, or otherwise form an entity using the "Harcourts" name.

### 4.3 Franchisee Agreement Relating to Business Name Use

The Franchisee agrees:

- (a) to only use the Business Name in connection with the Franchise;

- (b) not to license or transfer the Business Name without the Franchisor's prior written consent;
- (c) not to change the Business Name in any manner, without the Franchisor's prior written consent;
- (d) not to use the Business Name, the Marks or any part of the Business Name or the Marks as part of any other business name, company name, partnership name, domain name or trade mark, or consent to any other person doing so;
- (e) to engage only those printers or sign makers who strictly comply with the requirements for the reproduction of the Business Name and the Marks as specified by the Franchisor periodically; and
- (f) to display the Business Name in accordance with the Harcourts Brand Tools or as otherwise directed by the Franchisor periodically;
- (g) to place, in a reasonably conspicuous font, whenever using the Business Name in any marketing or advertising, the following statement, "Each Office is Independently Owned and Operated."

## 5. Intellectual Property

### 5.1 Ownership

The Franchisee acknowledges and agrees that:

- (a) the Franchisor has the licensed right to all Franchisor Intellectual Property, which are licensed to Franchisor by Brady-Sanchez-HIL Holdings, LLC, who in turn has licensed such rights from Harcourts International Limited, the owner of all Franchisor Intellectual Property; and
- (b) the Franchisee will not contest the rights of the owner, any licensor, or the Franchisor in or to the Franchisor Intellectual Property, in any legal proceedings or otherwise, nor assist any other person to do so.

### 5.2 Authorized Use

The Franchisee acknowledges and agrees that the Franchisee must use the Franchisor Intellectual Property strictly in accordance with the terms of this Agreement. Franchisee must not modify any aspect of the Franchisor Intellectual Property, without the prior written approval of the Franchisor. In addition, Franchisee agrees, in its Independent Contractor or other written agreements with its real estate agents, to include provisions that Franchisee's real estate agents and Franchisor have no relationship between them, and that real estate agents have no rights in Franchisor Intellectual Property, and only have the right to use Franchisor Intellectual Property while affiliated with Franchisee's Office, under Franchisee's supervision, in accordance with Franchisor's guidelines. Franchisee also agrees to have a provision that addresses that real estate agent shall agree not use the Marks in any manner upon any termination of the relationship between Franchisee and real estate agent.

### **5.3 Goodwill**

All goodwill arising out of the use of the Franchisor Intellectual Property or the operation of the Franchise by the Franchisee will be owned by, and for the benefit of, the Franchisor.

### **5.4 Modification and improvements**

The parties acknowledge and agree that, in respect of any modification, improvement or development of any Franchisor Intellectual Property (collectively referred to as "Improvements"), the Intellectual Property Rights in those Improvements will automatically vest in the Franchisor immediately upon creation, such that those original works are deemed to be part of the Franchisor Intellectual Property upon creation.

### **5.5 Infringement**

The Franchisee must notify the Franchisor immediately, in writing, if the Franchisee becomes aware of any actual, potential or suspected infringement of the Franchisor's Intellectual Property Rights in the Franchisor Intellectual Property by the Franchisee, Key People, Staff or any third party.

### **5.6 Assignment**

The Franchisee:

- (a) presently assigns all existing and future:
  - (i) goodwill arising out of the Franchisee's use of the Franchisor Intellectual Property or the conduct of the Franchise; and
  - (ii) Intellectual Property Rights in any Improvements;
- (b) acknowledges that no additional documentation is necessary to complete the assignment under Section 5.6, paragraph (a) and, by virtue of that paragraph, all existing and future goodwill and Improvements will vest in the Franchisor; and
- (c) must do, at its own cost, all things reasonably requested by the Franchisor to register, enforce or further assure its title to the goodwill and Improvements assigned under Section 5.6, paragraph (a).

### **5.7 Domain Names and Internet Usage**

- (a) Franchisee will be able to register domain names for use in the Franchised Business, if such domain name(s) comply with Franchisor's format for using domain names and all terms and conditions then set forth by Franchisor.
- (b) Franchisee will have no rights or interests in any domain name using the Harcourts Name and shall assign all rights it might otherwise have or acquire in such domain names to Franchisor.
- (c) Franchisee further agrees to effectuate any necessary documents and to assist Franchisor in any infringement relating to Franchisee or any third party utilizing domain names with the Harcourts Name without Franchisor's written consent.
- (d) Franchisee agrees to give Franchisor a non-exclusive royalty free license to use any property listings of Franchisee on Franchisor's website, during the Initial Term and any

Renewal Term of this Agreement. Franchisee's specific consent to a particular listing or listings in general is not required.

## 6. Blue and Connect Technology Platforms

### 6.1 Required Use

- (a) The Franchisee must record all property listings and settled sales transactions in the Connect, or such other system as may be approved, in writing by the Franchisor. Additionally, the Franchisee must subscribe to Blue and use its features related to customer relationship management, including but not limited to email marketing and comparative market analyses.
- (b) The Franchisee must:
  - (i) enter all property listings into the Connect within 5 working days of securing each property listing; and
  - (ii) comply with all directions of the Franchisor periodically in relation to the Blue and Connect, including operating the Blue and Connect or any required maintenance or upgrades to be undertaken by the Franchisee periodically, at Franchisee's expense.
- (c) The Franchisor:
  - (i) may inspect the Franchisee's use of Blue or Connect at any time by remote access to review data or upload or download information; and
  - (ii) owns all Intellectual Property Rights in the Blue and Connect to the degree they are not owned by third party vendors.

## 7. Privacy

### 7.1 Compliance

The Franchisee and its employees must:

- (a) comply with all policies, procedures and directions of the Franchisor, as notified in writing to the Franchisee periodically, relating to the collection, storage, use or disclosure of personal information; and
- (b) notify persons from whom personal information is collected:
  - (i) that the Franchisee may disclose that personal information to the Franchisor;
  - (ii) of the Franchisor's contact details, including the address, telephone number and email address of the Franchisor's privacy officer, as notified to the Franchisee periodically;
  - (iii) that the Personal Information collected may be used, in the case of a customer or client, to contact the person in connection with any product or service offered by the Franchisor, or to discuss their experience relating to any services provided to them by the Franchisee; and

- (iv) that the Franchisor will provide them with details of the personal information held about them upon request.

## **7.2 Non-compliance complaints**

- (a) The Franchisee must immediately notify the Franchisor of any privacy related complaint that it receives, or any breach or alleged breach of any Privacy Legislation of which it becomes aware, in connection with the Franchise.
- (b) The Franchisee will provide all assistance reasonably requested by the Franchisor to investigate and resolve any privacy related query or complaint.

# **8. Confidentiality**

## **8.1 Use**

The Franchisee agrees to:

- (a) use all Confidential Information solely in relation to, and for the purposes of operating, the Franchise; and
- (b) keep confidential all of the Confidential Information, subject to disclosure permitted under Section 8.2.

## **8.2 Disclosure**

The Franchisee may disclose the Confidential Information to persons who have:

- (a) a need to know (but only to the extent that they need to know in order to carry out their duties in connection with the Franchise); and
- (b) agreed with the Franchisee in writing to keep the Confidential Information confidential in a form approved by the Franchisor.

## **8.3 Obligations**

The Franchisee must:

- (a) ensure, at its own expense, that all persons to whom it discloses Confidential Information in accordance with Section 8.2 keep the Confidential Information confidential;
- (b) immediately notify the Franchisor of, and take all steps to prevent or stop, any suspected or actual unauthorized disclosure of Confidential Information by the Franchisee or by a third party to whom the Franchisee disclosed Confidential Information; and
- (c) immediately notify the Franchisor of any suspected or actual unauthorized disclosure of Confidential Information by any other third party of which the Franchisee becomes aware.

## **8.4 Exclusions**

If the Franchisee or any person to whom the Franchisee discloses Confidential Information to in accordance with Section 8.2 is required by law to disclose any Confidential Information, then before doing so that person must:

- (a) notify the Franchisor, and give the Franchisor reasonable opportunity to take any steps that the Franchisor considers necessary to protect the confidentiality of that information; and
- (b) notify the third person that the information is confidential information of the Franchisor.

## **8.5 Survival**

All provisions of this Agreement in relation to the protection of the Franchisor Intellectual Property, including all Confidential Information of the Franchisor, shall continue and survive, notwithstanding expiration or termination of this Agreement.

## **9. Corporate Authority**

If the Franchisee is a corporate entity, including but not limited to a corporation or limited liability company:

- (a) the Franchisee warrants that:
  - (i) it is a recognized entity incorporated or organized under the law of the place of its incorporation or organization;
  - (ii) it has the power and authority to execute this Agreement and to perform all of its terms;
  - (iii) all necessary meetings have been held and all necessary resolutions have been passed to authorize it to enter into this Agreement and to perform its terms;
  - (iv) the execution of this Agreement, and the performance of its terms will not violate:
    - (A) its Articles of Incorporation or Articles of Organization, Bylaws, Operating Agreements; or
    - (B) any other agreement or document which is binding on it, its members or shareholders, or its assets; and
  - (v) the rights attaching to the membership units or shares owned by the Franchisee are those authorized by the Franchisee's articles of Incorporation or Articles of Organization, Bylaws, Operating Agreement, or any other related document.
- (b) the Franchisee must:
  - (i) provide a copy of its Articles of Incorporation or Organization, Bylaws, or Operating Agreement (if requested by the Franchisor) to the Franchisor prior to, or at any time thereafter, execution of this Agreement;
  - (ii) not during the Term amend its Bylaws or Operating Agreement or any other related document in any manner that causes any change in ownership of the Franchisee, or any other act or omission that results in any change to Franchisee relating to either the units, shares, or assets of the Franchisee being directly or indirectly, voluntarily or involuntarily, sold, assigned, pledged, leased, encumbered, or otherwise changed, without the prior written consent

of the Franchisor. Any attempt or actual change as contemplated herein shall be void and cause for termination in accordance with the Termination section of this Agreement;

- (iii) notify the Franchisor, in writing, within 10 business days of any change of Franchisee's business structure, corporate name, Key People, Staff, or operations.
- (c) the Franchisee gives full permission to the Franchisor to conduct any of the following on the Franchisee or Key People:
- (i) to obtain a credit report in compliance with current laws regulating such; and
  - (ii) to perform a background or criminal check;
  - (iii) to do any other investigation if it relates any impact upon the Marks, Harcourts Name, or operation of the Franchised Business, during the Term of this Agreement or any Renewal Term, plus one year following any Expiration Date.

## 10. Franchisee obligations

### 10.1 General

The Franchisee agrees:

- (a) to conduct the Franchised Business (and to ensure that each of its Directors, Key People and Staff also act) in a businesslike manner and in strict conformity with Operations Manual and the Harcourts Brand Tools (as updated periodically by the Franchisor);
- (b) to promote the mutual business interests of the Franchisor and Franchisee;
- (c) to operate the Franchised Business at all times in a manner that will reflect favorably upon, and avoid any conduct that might be detrimental to, the reputation or goodwill of the Franchisor or any member of the Franchise Network;
- (d) to abide by the rules and code of ethics of the National Association of Realtors® at all times and require that all Key People and Staff do the same; and
- (e) to not do anything that will or could diminish the value of the Franchisor Intellectual Property in any way.

### 10.2 Supplies and Services

The Franchisee:

- (a) must promptly pay all amounts owing to the Franchisor periodically in respect of goods and services supplied to the Franchisee in the course of the business of the Franchisee, as and when such amounts fall due;
- (b) must promptly pay to third parties all amounts owed to them as when such amounts fall due; and
- (c) acknowledges and agrees that if the Franchisor determines that the Franchisee's failure to pay an amount due to a third party will or may detrimentally affect the Franchisor's

reputation or goodwill associated with the Franchisor Intellectual Property then the Franchisor:

- (i) may give written notice to the Franchisee requiring payment to be made; and
- (ii) may, if the Franchisee fails to make that payment within 24 hours from receipt of the notice from Franchisor, pay the amount to the third party and then invoice the Franchisee, who must then reimburse the Franchisor that amount upon such demand.

### **10.3 Fees**

- (a) The Franchisee must pay to the Franchisor the following fees:
  - (i) Initial franchise fee of twenty five thousand dollars (\$25,000.00) upon execution of this Agreement, for the first Franchise.
    - (A) Subsequent franchise fee of seven thousand five hundred dollars (\$7,500.00) for the second Franchise (if granted), upon execution of a franchise agreement for that Office, regardless if such Office is located in Franchisee's current Territory or a new territory.
    - (B) Subsequent franchise fee of two thousand five hundred dollars (\$2,500.00) for any Franchise after the second Franchise (if granted), upon execution of a franchise agreement for that Office, regardless if such Office is located in Franchisee's current Territory or a new territory.
    - (C) The fee for any Satellite Office, which must be approved by Franchisor in writing, shall be one thousand dollars (\$1,000.00).
  - (ii) the monthly Franchise Fee, by checks, bank transfers, credit cards (with a surcharge to the extent permitted by law), or other approved means by the Franchisor, by the fourteenth (14<sup>th</sup>) day of each Month in respect of the preceding Month, for all Gross Revenue generated during the Franchise Agreement, and for all Gross Revenue generated from transactions opened or incurred prior to any termination of the Franchise Agreement that close after the termination of the Franchise Agreement, as specified below:
    - (A) If Gross Revenue in the Month is between \$0-\$150,000.00, then Franchisee shall pay six percent (6%) of the Gross Revenue to Franchisor;
    - (B) For any Gross Revenue in the Month that is between \$150,000.01-\$300,000.00, then Franchisee shall pay four percent (4%) of the Gross Revenue to Franchisor;
    - (C) For Gross Revenue in the Month is \$300,000.01 or greater, then Franchisee shall pay two percent (2%) of the Gross Revenue to Franchisor.
      - (I) Notwithstanding any of the above, Franchisee agrees that based upon the Key Performance Indicator, Franchisee will pay a minimum fee set forth on Exhibit 1. Should Franchisee fail to reach the Key Performance Indicator, the provisions of Section 10.9 of this Agreement shall govern.

- (II) For illustration purposes only, if a Franchisee generates \$700,000.00 dollars of Gross Revenue, in a calendar month, then the first \$150,000.00 shall be charged at 6%, the next \$150,000.00 shall be charged at 4%, the remaining \$400,000.00 shall be charged at 2%.
- (iii) Technology Platform Fee (currently at \$241.00 per month, per Office). The payment will be made by checks, bank transfers, credit cards (with a surcharge to the extent permitted by law or other approved means by the Franchisor, on or before the fourteenth day of each Month in respect of the preceding Month;
- (iv) Advertising Fund Contribution by checks, bank transfers, credit cards (with a surcharge to the extent permitted by law or other approved means by the Franchisor, each on or before the fourteenth day of each Month in respect of the preceding Month, if such fee is in effect, which will be one percent (1%) of Gross Revenue;
- (v) Ongoing Franchisee Training Fees within five Business Days prior to the commencement of any scheduled training as notified by the Franchisor to the Franchisee periodically;
- (vi) Renewal Fee (if a Renewal is granted) in the amount of two thousand, five hundred dollars (\$2,500.00); and
- (vii) Assignment Fee (if an Assignment is approved) in the amount of one thousand, five hundred dollars (\$1,500.00).
- (viii) Early Termination Fee: If your franchise is voluntarily terminated, you agree that the minimum Franchise Fee for the remaining months existing on the term of your Franchise Agreement, shall be based upon a \$2,500.00 per month minimum Franchise Fee due and payable to the Franchisor.

#### **10.4 Late and incorrect Payments**

If the Franchisee fails to pay any Fee as the Fee falls due in accordance with this Agreement, or underpays the Fee for any period by 1% or more, the outstanding Fees must be immediately paid to the Franchisor with accrued interest on any underpayment at the Interest Rate.

#### **10.5 Office**

The Franchisee must:

- (a) open the Office during Business Hours on Business Days;
- (b) maintain and operate the Office to the standards specified in the Operations Manual;
- (c) directly oversee operation of the Office, or ensure that one of the Key People do so;
- (d) employ sufficiently trained Staff as is necessary at the absolute discretion of the Franchisee to service the Franchised Business;

- (e) ensure that the Key People and Staff are familiar with the terms of provisions of the Operations Manual, as applicable to them; and
- (f) comply at all times with the lease or sub-lease to occupy the Office.

## **10.6 Operations Manual**

- (a) The Franchisee acknowledges and agrees that the Operations Manual and the Harcourts Brand Tools (as updated periodically by the Franchisor) constitute part of this Agreement and that the Franchisee must comply, and must ensure that the Key People and Staff comply, with the Operations Manual and the Harcourts Brand Tools at all times.
- (b) If there is any inconsistency between the provisions of the Operations Manual (or the Harcourts Brand Tools) and those of this Agreement, the terms of this Agreement will prevail to the extent of the inconsistency.
- (c) The Franchisee acknowledges and agrees that the Franchisee must:
  - (i) only use the Operations Manual and the Harcourts Brand Tools in connection with the Franchised Business and not for any other purpose;
  - (ii) maintain secure storage of the Operations Manual and the Harcourts Brand Tools at the Office at all times;
  - (iii) not hold more than one copy of the Operations Manual or the Harcourts Brand Tools;
  - (iv) not copy the Operations Manual or the Harcourts Brand Tools;
  - (v) update and maintain its copy of the Operations Manual and the Harcourts Brand Tools with the replacement pages provided by the Franchisor periodically;
  - (vi) immediately destroy all superseded pages of the Operations Manual and the Harcourts Brand Tools; and
  - (vii) immediately discontinue use of the Operations Manual and the Harcourts Brand Tools and return these to the Franchisor upon request by the Franchisor, or upon expiration or termination of this Agreement.
- (d) The Franchisee acknowledges and agrees that:
  - (i) the Franchisor may prescribe a new Operations Manual and/or Harcourts Brand Tools, or make modifications to the Operations Manual and the Harcourts Brand Tools, at its sole discretion during the Term;
  - (ii) some modifications may require significant capital investment by the Franchisee, for which the Franchisor will provide the Franchisee with 180 Business Days written notice; and
  - (iii) the Franchisee must comply with all modifications to the Operations Manual and the Harcourts Brand Tools within the time frame specified by the Franchisor.

## **10.7 Compliance Laws and Licensing Requirements**

- (a) The Franchisee must comply with all Laws at all times in relation to its conduct of the Franchised Business.
- (b) The Franchisee warrants that at the time of entering into this Agreement, the Franchisee and all relevant Key People and Staff hold the necessary Licenses and will continue to hold those Licenses at all times during the Term.

## **10.8 Advertising**

- (a) The Franchisee agrees to strictly comply with the terms of and actively participate in, all advertising and promotional campaigns and activities conducted by the Franchisor, at Franchisee's expense. This includes special offers, loyalty programs, or other promotions for the benefit of the Harcourts Name and Network.
- (b) The Franchisee, as an independently owned and operated Franchise, can advertise, market or promote as Franchisee chooses, if such materials conform with the Law, Operating Manual, and Franchisor's Intellectual Property Rights.
- (c) The Franchisee must not participate in any media segment, story or event (including all forms of electronic and print media) in which the Franchisee seeks to represent, or could be perceived as seeking to represent, the views of the Franchisor, other Harcourts Franchisees or the Network without the prior written approval or consent of the Franchisor.
- (d) The Franchisee will participate in any market research conducted by the Franchisor in the Territory and agrees to contribute all relevant data collected from such research.

## **10.9 Key Performance Indicator-Minimum Gross Revenue**

- (a) In order to allow for the benefit of the System's growth, Franchisee acknowledges that it is material for Franchisee to achieve certain Gross Revenue, since this affects Franchisor's Marks and the System and Network. Franchisor and Franchisee will work together to set an initial minimum Gross Revenue amount, which Franchisor shall have the sole right to approve. This minimum Gross Revenue amount will be the Key Performance Indicator, as listed on Exhibit 1, upon which Franchisee agrees to achieve.
- (b) The Franchisee must meet the Key Performance Indicator at all times during the Term, which such amount shall be listed on Exhibit 1, incorporated by reference to this Agreement.
- (c) The Franchisee acknowledges and agrees that:
  - (i) failure to meet the Key Performance Indicator in any consecutive three month period is a material breach of this Agreement and will constitute an Event of Default;
  - (ii) failure to meet the Key Performance Indicator for any three months in a consecutive 12 month period is a material breach of this Agreement and will constitute an Event of Default; and
  - (iii) the Key Performance Indicator may change over time due to competition, market, economic conditions, and/or regulatory factors, and as a result of this;

- (iv) the Franchisor may change the Key Performance Indicator, in its discretion and if reasonable, by giving Franchisee written notice of such at least 180 business days prior to such change taking effect.
- (d) After an Event of Default occurs by Franchisee not meeting the Key Performance Indicator as set forth in this Section, Franchisor may elect to either:
  - (i) accept a payment of in the amount of the Minimum Franchisee Fee, as listed on Exhibit 1 to this Agreement then due, plus any costs incurred by Franchisor related to collection of this fee; and
  - (ii) deliver to Franchisee an amendment to this Agreement, strictly for the purpose of making the Territory a non-exclusive Territory, giving Franchisor the unconditional right to sell additional franchises within the Territory without Franchisee's approval nor consent; or
  - (iii) terminate this Agreement.
- (e) The Franchisor is not obligated to choose either of these three remedies over the other, but may choose which to exercise in its discretion, including more than one.

#### **10.10 Records**

- (a) The Franchisee must maintain accurate and up-to-date Records in sufficient detail to create accurate Reports, to maintain accurate history of all sales of Approved Services and to reflect the financial performance of the Franchised Business and the amounts payable by the Franchisee to the Franchisor under this Agreement.
- (b) The Franchisee must retain the Records for the Initial Term and any Renewal Term of the Franchise, and after expiration or termination of this Agreement, for an amount of time as would be required by Law.
- (c) The Franchisee acknowledges and agrees that in addition to the rights of the Franchisor herein, the Franchisor may by written notice request that any of the Records or Reports be audited, by an auditor nominated by the Franchisor, at its sole discretion. The expense of such audit will be met by the Franchisor, unless the audit reveals:
  - (i) any attempt to deliberately falsify any Records or Reports, in the auditor's opinion; or
  - (ii) any errors or discrepancies equal to or more than 1% in any Records or Reports, in which case the Franchisee will reimburse the Franchisor for the cost of the audit and all associated expenses, within 14 days of receiving written notice from the Franchisor to do so.

#### **10.11 Reporting Obligations**

- (a) The Franchisee must deliver the Reports to the Franchisor, each month or at any other time intervals specified by the Franchisor, and must do so electronically or in any other manner specified by the Franchisor.

- (b) The Franchisee acknowledges and agrees that the Franchisor may change the type, content, format and delivery options in respect of the Reports periodically at its sole discretion, by written notice to the Franchisee.
- (c) The Franchisor may request other information in addition to the Reports, which the Franchisee must provide within 7 days of such a request, including but not limited to profit and loss statements, balance sheets, annual financial statements, gross commission income statements, listing and sale reports, sales associates productivity statements, or any other statements relating to the Franchise Business.

### **10.12 Referrals**

- (a) Where the Franchisee has an opportunity to refer a customer to a real estate agent outside of the Territory, the Franchisee will use best efforts to refer any customer to a Harcourts Franchisee, unless there is no Harcourts Franchisee available to accept such a referral in that area.

### **10.13 Training**

- (a) The Franchisee must ensure that the Franchisee, Key People and Staff complete the:
  - (i) Initial Training prior to the Commencement Date (or where starting with the Franchise after the Commencement Date, before commencing employment); and
  - (ii) Ongoing Franchisee Training, as required by the Franchisor,
 to the satisfaction of the Franchisor.
- (b) The Franchisor may conduct the Ongoing Franchisee Training online, at its principal place of business, or at any other Office, which may be outside of the Territory and to be determined by the Franchisor based upon business needs.
- (c) The Franchisee must pay the Franchisor the Ongoing Franchisee Training Fee for each Ongoing Franchisee Training program that Franchisee and its Key People and Staff maybe be required to take, at least five Business Days before commencement of each program.
- (d) The Franchisee must pay for the travel, accommodation and living expenses of the Franchisee, Key People and Staff in relation to all training.

### **10.14 Insurance**

- (a) The Franchisee must, at its own expense, hold and maintain, at the minimum, the following Insurance Policies during the Term of this Agreement, which must be obtained from insurance companies with a current A.M Best rating of a minimum of "A-" and an A.M Best financial size category of at least XII:

**Insurance Policies** means:

- (i) Workers Compensation Policy: a workers compensation insurance policy as required by Law, and as the Franchisor may instruct periodically;
- (ii) Comprehensive General Commercial Liability Policy: a general commercial liability policy (including without limitation, theft, flood, fire extended coverage, lightening, explosion, storm, water, riots and strikes, vandalism, hail

damage and malicious mischief) for the full replacement value of the Office, contents of the Office including any Equipment, and all other insurable assets of the Franchisee, in an amount of at least \$1,000,000.00 combined single limit per occurrence;

- (iii) Hired and Non-Owned Automobile Policy: a commercial policy either as a stand alone policy or as part of your Comprehensive General Commercial Liability Policy in the amount of at least \$1,000,000.00 worth of coverage;
- (iv) Errors and Omissions Policy: an errors and omissions insurance policy in an amount of at least \$1,000,000.00 per occurrence, and what's known as "tail coverage" to account for any claims that may arise after the expiration or termination of this Agreement, for a period of three years commencing from when this Agreement expires or terminates (also naming Franchisor and Brady-Sanchez-HIL Holdings, LLC as an additional insureds);

Franchisor reserves the right to require additional insurance policies that Franchisor may prescribe, periodically, by giving Franchisee written notice.

- (b) The Franchisee must list the Franchisor as an additional insured for all Insurance Policies and prior to opening Franchisee's Office, Franchisee must deliver to Franchisor declaration pages of all Insurance Policies evidencing current coverage in the proper types and amounts required by Franchisor.
- (c) The Franchisee must, upon renewal of each Insurance Policy, or at any other time upon request by the Franchisor, make available for inspection the Insurance Policy (including the endorsements, extensions and schedules).
- (d) The Franchisee must ensure that all Insurance Policies have provisions stating that Franchisor must receive 30 days prior written notice of any expiration, modification, or cancellation of the policy.
- (e) The Franchisee must take all reasonable steps to ensure that it does not, by any act or omission:
  - (i) cause an increase in the cost of any Insurance Policies held by the Franchisor under the terms of this Agreement; or
  - (ii) adversely affect any claim for indemnity by either the Franchisee or the Franchisor under any Insurance Policies, or which renders one or more of those policies void or voidable.
- (f) If the Franchisee fails to take out or maintain any of the Insurance Policies, the Franchisor may effect and maintain any such Insurance Policies and pay the premiums and other costs associated with those Insurance Policies, including any broker's fees, all of which will be recoverable from the Franchisee as a debt due to the Franchisor. The right of the Franchisor to effect and keep in force the Insurance Policies will not in any way reduce the Franchisee's responsibility to insure as provided in this Agreement. Notwithstanding this provision, Franchisor is not obligated to effectuate nor maintain any Insurance Policies on Franchisee's behalf.

### **10.15 Staff**

- (a) The Franchisee must directly employ or contract all Staff and will not hold out to an employee, contractor or prospective employee or contractor that they are or will be employed by the Franchisor.
- (b) The Franchisee must procure the agreement in writing of each of its Staff, which must be signed by the relevant Staff member (and retained by the Franchisee), in which the Staff member must undertake and agree to:
  - (i) only use the Franchisor Intellectual Property for the purposes of the Franchised Business and in accordance with all reasonable directions of the Franchisee; and
  - (ii) keep the Confidential Information confidential.
- (c) The Franchisee is solely responsible for all of its Staff, including their acts or omissions, training, management and all payments of Staff Entitlements.
- (d) The Franchisee acknowledges and agrees that for the purposes of this Agreement (but without limiting any statute or regulation) any act or omission of a Staff member or by anyone having an ownership interest in the Franchisee, in their capacity as a Staff member or owner, shall be taken to be an act or omission of the Franchisee.

### **10.16 Key People**

The Key People will be directly and personally involved in the day-to-day management of the Franchised Business on the Franchisee's behalf and in this respect:

- (a) any change to the Key People must first be approved in writing by the Franchisor;
- (b) the Franchisee must ensure that the Key People devotes best efforts to the Franchised Business; and
- (c) if for any reason the Franchisee and the Key People are each unable to perform their usual role in the Franchised Business for a period of five consecutive Business Days, then the Franchisee must appoint a further Key Person to do so.

### **10.17 Conferences**

The Franchisee must use its best efforts to attend and ensure that the Key People attend, at the Franchisee's cost any annual conferences that Franchisor may hold. Franchisee will be responsible for all costs associated with the conference, including, but not limited to travel, accommodation, meals, and conference attendance fees.

### **10.18 Notification of Reportable Events**

The Franchisee must provide to the Franchisor written notice of any events, claims, investigations, legal action or threatened legal action:

- (a) pertaining to the Franchised Business or any of the activities of any of the owners, officers, directors, Key People or Staff, which has the potential to adversely impact on, or negatively affect, any of the Network, the Franchisor or the Marks; or

against the Franchisor or any officer, director, or employee of the Franchisor, by the Franchisee, its owners, officers, directors, Key People, Staff or any third party, within 48 hours of the Franchisee becoming aware of the existence of such an event.

### **10.19 Legal Costs**

The Franchisee shall bear all costs and expenses, including legal costs and any other professional fees and disbursements incurred by the Franchisor in connection with:

- (a) any enforcement of the Franchisor's rights and remedies, powers and privileges under this Agreement;
- (b) any extension or renewal of this Agreement;
- (c) any variation or amendment of this Agreement that is proposed, initiated or requested by the Franchisee or otherwise required as the result of any act or omission by the Franchisee;
- (d) defending any claim or proceeding arising out of the Franchisee's failure to perform any obligation of the Franchisee under this Agreement; and
- (e) any termination of this Agreement other than as a result of a material breach by the Franchisor.

## **11. Franchisor obligations**

### **11.1 Grand Opening and Subsequent Visits**

The Franchisor or its nominated representatives and agents may attend the Office, and Franchisor reserves the right to charge Franchisee a fee for actual expenses incurred,:

- (a) on as many occasions prior to the Commencement Date as reasonably required by the Franchisor, for the purpose of managing and assisting with the Office build-out or other pre-opening activities; and
- (b) on or after the Commencement Date to assist the Franchisee launch the Franchise.

### **11.2 Training**

The Franchisor will provide the Initial Training and the Ongoing Franchisee Training, as determined by the Franchisor, to the Franchisee, Key People and Staff after payment of the relevant Ongoing Franchisee Training Fees, as set forth in section 10.13 of this Agreement.

### **11.3 Operations Manual**

The Franchisor will provide, on loan to the Franchisee for the duration of this Franchise, either electronically or in hard copy:

- (a) the Operations Manual;
- (b) updates and modifications to the Operations Manual periodically; and
- (c) all other materials relating to the operation of the Franchise that the Franchisor considers necessary or desirable.

## 11.4 Other Services

The Franchisor will use reasonable efforts to:

- (a) provide the Franchisee with:
  - (i) access to the systems and services specified in the Operations Manual, and to improvements, modifications and developments to those system and services as relevant to the Franchisee periodically;
  - (ii) business, management, marketing, merchandising and day to day operations advice;
  - (iii) training in relation to new products and services as deemed necessary by the Franchisor, at the Franchisee's expense;
  - (iv) merchandising, marketing and advertising research data as developed by the Franchisor periodically;

## 11.5 Advertising Fund

- (a) The Franchisor may maintain an Advertising Fund during this Term; however, the Franchisor may or may not have such Advertising Fund in existence when Franchisee's Commencement Date starts. If an Advertising Fund is not in existence when Franchisee's Commence Date starts, Franchisor will give Franchisee at least six months prior notice of such Advertising Fund commencing.
- (b) When and if an Advertising Fund is created by the Franchisor, the Franchisee irrevocably directs the Franchisor to use the Franchisee's Advertising Fund Contribution and any interest earned, in accordance with the Franchisor's marketing plan for the Network. The Franchisee acknowledges that the Franchisor may determine the timing, selection and placement of advertising, sales promotions and public relations in its absolute discretion.
- (c) The Franchisor:
  - (i) may combine the Franchisee's Advertising Fund Contributions with advertising fund contributions from some or all other Harcourts Franchisees (**Other Franchisees' Contributions**);
  - (ii) will deposit the Franchisee's Advertising Fund Contributions and all interest earned on them (**Interest**) on behalf of the Franchisee (together with Other Franchisees' Contributions) in a separate interest bearing account that holds only the Franchisee's Advertising Fund Contributions and Other Franchisees' Contributions;
  - (iii) is not responsible for ensuring that the amount paid by Franchisee or any Harcourts Franchisee is proportionate to any amount spent by Franchisor on Franchisee or any Harcourts Franchisee, as the intent of this Advertising Fund is for the greater good of the Network;
  - (iv) is not responsible for paying any interest to any Franchisee or any of the Key People or Staff for any reason at any time;

- (v) will use the Franchisee's Advertising Fund Contributions and all Interest only:
  - (A) for advertising, sales promotions and public relations relating to some or all Harcourts Franchises in the Territory in the manner determined by the Franchisor periodically;
  - (B) to pay the salaries (including reasonable travel and associated expenses) of people employed and the fees of professional advisors engaged, at the Franchisor's discretion, to assist the Franchisor in carrying out its obligations under this section;
  - (C) to pay any other costs incurred by the Franchisor in carrying out its obligations under this section, including but not limited to, all expenses, fees and charges to operate the separate bank account for the Advertising Fund and all taxes payable by the Franchisor on or in respect of the Franchisee's Advertising Fund Contributions or Interest; and
- (vi) may accumulate a reasonable reserve in the Advertising Fund should total contributions not be spent in the period in which such contributions were received; and
- (vii) will submit to the Franchisee an annual statement (which will be conclusive evidence of the matters stated in it except for any manifest error) of the Franchisee's Advertising Fund Contributions and Interest for the previous year and of the payments made from those amounts, if the Franchisee so requests.
- (d) The Franchisee acknowledges and agrees that:
  - (i) the Franchisor is entitled to administer the Advertising Fund, as the Franchisor deems appropriate and the Franchisor is not obliged to expend any part of the Advertising Fund on the Franchisee or the Franchise; and
  - (ii) on the expiration, termination or assignment of this Agreement, for any reason, the Franchisee is not entitled to any refund of any part of the Advertising Fund or the Franchisee's Advertising Fund Contributions.

## 12. Inspection

### 12.1 Right of Inspection

The Franchisor and its agents or representatives:

- (a) may conduct an annual Office inspection on or about the anniversary of the Commencement Date after giving at least five Business Days written notice; and
- (b) may conduct other inspections of the Office at any time, during Business Hours without prior notice to the Franchisee, or outside Business Hours after providing the Franchisee with 24 hours written notice.

### 12.2 Purpose of Inspection

The purpose of any inspection carried out by the Franchisor in accordance with this section is to enable the Franchisor to determine the Franchisee's compliance with the Operations Manual,

the Harcourts Brand Tools, the Franchisor Intellectual Property, the requirement to meet the Key Performance Indicator, and the other terms and conditions of this Agreement.

### **12.3 Scope of Inspection**

During an inspection carried out in accordance with this section:

- (a) The Franchisor may without limitation:
  - (i) inspect the Office;
  - (ii) review, audit and make copies of the Franchisee's Records and any information on the Harcourts One Sales System ;
  - (iii) conduct an audit of the services that have been or are currently on offer to the Franchisee's customers and clients;
  - (iv) remove or make copies of unauthorized marketing, advertising, products or other material used in connection with the Office;
  - (v) interview and survey the Franchisee's Key People, Staff, customers and clients;
  - (vi) take films, videos and photographs of the Office;
  - (vii) inspect, review and audit any other aspect of the Franchise deemed necessary by the Franchisor to ensure compliance.
- (b) The Franchisee must cooperate fully with the reasonable directions and requests of the Franchisor (and its agents and representatives) during the inspection and must direct its Key People and Staff and any other relevant third party to do the same.

### **12.4 Audit Reports**

- (a) If as a result of an inspection, the Franchisor determines that the Franchisee has not complied with any aspect of the Operations Manual, Harcourts Brand Tools, the Franchisor Intellectual Property, or the terms and conditions of this Agreement:
  - (i) the Franchisor will issue the Franchisee with an audit report setting out the matters to be remedied; and
  - (ii) the Franchisee must, upon receipt of the audit report, immediately take steps to remedy the non-compliance, which must be corrected or rectified to the satisfaction of the Franchisor within 48 hours where reasonable, or as promptly as possible thereafter.

### **12.5 Late or Incorrect Payments**

- (a) If an inspection or audit discloses any under payment of Fees, for any period, by 1% or more, then the Franchisee must comply with Section 12 of this Agreement and pay the Franchisor the costs of the inspection and audit, as well as the amount of the underpayment, with any associated late charges or applicable interest.
- (b) A report, completed and signed by or on behalf of the Franchisor, regarding results of an audit or inspection, and any underpayment and the total amount then due by the

Franchisee to the Franchisor, shall be final and binding on the parties. Any such amounts shall be immediately payable to the Franchisor.

## 13. Assignment

### 13.1 Franchisor

The Franchisor may, by providing 7 days notice to the Franchisee, assign any rights under this Agreement to another entity or person that assumes all or part of the Franchisor's obligations under this Agreement. Franchisee consents to any Assignment, even though Franchisee's consent is not required for Franchisor to assign any rights under this Agreement.

### 13.2 Franchisee

- (a) Subject to Franchisor's written approval, which shall not be unreasonably withheld, the Franchisee may propose to assign its Franchise to any legal entity or person, provided that:
- (i) the Franchisee is not in breach of this Agreement or any other franchise or related agreement Franchisee has with Franchisor;
  - (ii) the Franchisor approves, in writing, of any such Assignment, which approval shall not be unreasonably withheld if the proposed franchisee has the requisite business experience and financial resources to operate a Harcourts franchise, which shall be determined in our sole judgment.
  - (iii) the Franchisee supplies Franchisor with any proposed Assignment or transfer or sale documents, as part of the process for Franchisor to evaluate its approval or not.
  - (iv) the proposed franchisee assumes all of the Franchisee's obligations under this Agreement;
  - (v) the Franchisee pays all amounts owed to the Franchisor on or before the date of Assignment;
  - (vi) the Franchisee provides the Franchisor with all other information that the Franchisor may require to assess whether the proposed assignee satisfies the Franchisor's criteria for being appointed as a franchisee;
  - (vii) the proposed franchisee has satisfactorily completed any training required by the Franchisor;
  - (viii) the proposed franchisee and each officer, director, owner, shareholder, members, and any other person associated with the proposed franchisee (as required by the Franchisor) execute the Franchisor's then current franchise agreement (which may have a term equal to the remaining part of the Initial Term or any remaining part of any Renewal Term, as determined by whichever term the Franchisee is currently in, and may also contain material terms and a Key Performance Indicator substantially different from those contained in this Agreement);

- (ix) the Franchisee executes and delivers to the Franchisor a release of the Franchisor, its officers, directors, shareholder, members, agents and employees from all claims, demands, proceedings, liabilities, obligations or damages arising out of or in connection with this Agreement or the Franchise;
  - (x) if required by the Franchisor, the Franchisee and proposed franchisee enter into an Assignment Agreement in a form approved by the Franchisor (the Franchisee must reimburse the Franchisor for all costs that the Franchisor incurs as part of this approval process, including, without limitation, legal fees), which may provide that the Franchisee remain liable to the Franchisor for payment of the Franchise Fee notwithstanding any Assignment, until the Expiration Date of the Initial Term or the Renewal Term, whichever is current at the time of the Assignment; and
- (b) If the Assignment is approved, the Franchisee pays the Assignment Fee, as listed in the Fees section of this Agreement, to Franchisor upon request of the Franchisor.
  - (c) If the Franchisee breaches this Section on Assignment and the Franchisor does not terminate this Agreement, the proposed Assignment of this Agreement will be void and the rights and obligations of the Franchisor and the Franchisee will continue.

## 14. Dispute Resolution and Jurisdiction/Governing Law

- (a) Disputes between the parties under this Agreement will be resolved in accordance with the following provisions:
  - (i) JURISDICTION OF THE COURT AND VENUE FOR ACTIONS: **THIS AGREEMENT IS GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA. THEREFORE, ANY ACTION ARISING OUT OF THIS AGREEMENT OR A BREACH OF IT SHALL BE FILED EITHER ORANGE COUNTY OR LOS ANGELES COUNTY AND FRANCHISEE AGREES TO SUBMIT TO THESE JURISDICTIONS; WAIVING ANY OBJECTIONS RELATING TO THE JURISDICTION OF THE COURT OR VENUE.**
  - (ii) ACTIONS RELATING TO HARCOURTS' MARKS OR FRANCHISOR INTELLECTUAL PROPERTY: **FOR ANY ACTION RELATING TO HARCOURTS' MARKS OR FRANCHISOR INTELLECTUAL PROPERTY, FRANCHISOR RESERVES THE RIGHT TO BRING AN ACTION FOR ANY TYPE OF RELIEF (INJUNCTIVE OR OTHERWISE) IN ANY STATE OR FEDERAL COURT HAVING JURISDICTION OVER THE MATTER. FRANCHISEE WAIVES ANY OBJECTIONS RELATING TO THE JURISDICTION OF THE COURT OR VENUE.**
  - (iii) WAIVER OF PUNITIVE DAMAGES: **FRANCHISEE AND FRANCHISOR BOTH WAIVE ANY RIGHT TO ANY PUNITIVE DAMAGE CLAIM AGAINST EACH OTHER. FRANCHISEE AND FRANCHISOR AGREE THAT IN ANY ACTION BETWEEN THEM, RECOVERY WILL BE LIMITED TO ACTUAL DAMAGES PROVEN BY THEM.**
  - (iv) WAIVER OF JURY TRIAL: **FRANCHISEE AND FRANCHISOR COMPLETELY WAIVE ANY RIGHT EITHER OF THEM MAY HAVE OR HAVE HAD TO A TRIAL BY JURY IN**

**ANY ACTION CLAIM, CROSS CLAIM, OR COUNTER CLAIM ON ANY MATTER ARISING OUT OF THIS AGREEMENT.**

- (v) ATTORNEYS' FEES AND COSTS: If the Franchisor incurs and attorneys' fees and costs in ensuring that Franchisee complies with the terms of this Agreement, Franchisee agrees to reimburse Franchisor for such fees and costs. Franchisee shall bear its own costs.
- (vi) SURVIVAL OF THIS SECTION AFTER EXPIRATION OR TERMINATION OF THE AGREEMENT. This Section 14 shall survive expiration or termination of this Agreement.

## 15. Indemnity and liability

### 15.1 Indemnity

The Franchisee agrees to indemnify the Franchisor, its directors, officers, employees, agents, contractors, successors and assigns against all causes of action, claims, demands, damages, interest, losses, costs, liabilities and expenses arising from:

- (a) any breach of this Agreement by the Franchisee, its Staff, Key People, officer, directors or owners, or which arises from or is connected with the Franchisee's conduct of the Franchised Business, whether it shall relate to injury of any person, damage to any property or anything causing the Franchisor, its owners, affiliates, employees, officers, directors potential or actual liability;
- (b) any breach of any of the Insurance Policies required by this Agreement;
- (c) any negligent act or breach of Law by the Franchisee, its Staff or Key People; or
- (d) the Franchisee's relations with its clients or other third parties at the Office or otherwise in the conduct of the Franchised Business by the Franchisee; or
- (e) any lawsuit or other action instituted against the Franchisor, as a result of or in connection with, the Franchise Business, regardless if Franchisee is named in such action or not. If Franchisor is not covered for its defense under any of the Insurance Policies, then Franchisee agrees to reimburse Franchisor for all reasonable legal fees and costs associated with such lawsuit or action.

All indemnity by the Franchisee shall survive the expiration or termination of this Agreement and any possible Renewal Terms.

### 15.2 Limitation of Liability

The Franchisor's liability to the Franchisee resulting from breach of this Agreement by the Franchisor or the Franchisor's conduct towards the Franchisee, shall be limited to the re-supply of goods or services, or the replacement or repair of goods.

## 16. Termination

### 16.1 Breach by Franchisee

The Franchisor may terminate this Agreement in accordance with this Section if:

- (a) the Franchisee is in breach of this Agreement and the breach constitutes an Event of Default as defined in this Agreement;
- (b) the Franchisor has provided written notice to the Franchisee detailing the Event of Default (**Default Notice**) and has notified Franchisee that such Event of Default is resulting in immediate termination or it is the type of Event of Default, as set forth herein that allows the Franchisee 30 calendar days to completely cure the Event of Default; and
- (c) the Franchisee has failed to completely cure the Event of Default within that 30 calendar day period, unless it is the type of Event of Default invoking immediately termination of this Agreement.

## 16.2 Events of Default-Immediate Right of Franchisor to Terminate

Franchisee agrees that the following events are Events of Default under this Agreement, which are material breaches, giving the Franchisor the immediate right to terminate this Agreement:

- (a) the Franchisee misrepresented any information or failed to provide any material information to the Franchisor.
- (b) the Franchisee fails to open the Office within three months of the Commencement Date of this Agreement or the Franchisee or any of the Key People or Staff fail to complete any required Initial Training.
- (c) the Franchisee threatens to cease or ceases for more than five consecutive business days, to operate the Franchise at the Office, without the Franchisor's approval, unless such closure is a result of a natural disaster such as a flood, fire, hurricane, earthquake or volcano;
- (d) the Franchisee assigns or attempts to effectuate an Assignment, without having first obtained the written consent of the Franchisor;
- (e) the Franchisee, Key People or Staff fail to keep any of the Confidential Information confidential in accordance with this Agreement.
- (f) the transfer of any interest in any share or unit of the Franchisee results, in the Franchisor's reasonable opinion, in the effective control of the Franchisee being transferred to anyone other than Franchisee;
- (g) the Franchisee, Key People, Staff or any, officer, director, shareholder, or member of the Franchisee does anything to:
  - (i) cause a negative impact upon the Franchised Business, the Franchisor, another Harcourts Franchise or Harcourts Franchisee, the Network or the Marks or otherwise damage the Network in any way; or
  - (ii) adversely affect the Franchisor's operation, or cause actual or potential financial loss to the Franchisor, another Harcourts Franchise or Harcourts Franchisee or the Network.
- (h) the Franchisee is unable to ensure the continued operation of the Franchised Business due to the ill health or incapacity of the Franchisee (if a natural person) or of an officer, director, shareholder, member, Staff and/or one of the Key People of the Franchisee, to

the extent such ill health or incapacity of any of these parties prevents the continued operation of the Franchised Business, as determined by the Franchisor;

- (i) the Franchisee fails to meet the Key Performance Indicator for three consecutive Months or any three months in one year;
- (j) the Franchisee understates Gross Revenue by 1% or more on at least three occasions during the Term;
- (k) the Franchisee has breached this Agreement (or any other franchise agreement or related agreement that Franchisee may have with Franchisor) on three separate occasions within a twelve month period (regardless if such breaches were cured or not);
- (l) the Franchisee's License is suspended or revoked by the authority granting such, as such License relates to the operation of the Franchised Business;
- (m) the Franchisee or anyone affiliated with your Office or Office violate or become convicted of any Law (whether real estate related or not) that actually, or has the likelihood to, adversely impact the goodwill, image, and reputation of the Office, Office, the Network, or any Harcourts Franchisee.
- (n) one of the Key People or Staff member required to hold a License, ceases to hold that License, at any time during the Term, and the Franchisee knowingly or unknowingly allows such unlicensed Key People or Staff member to continue to carry on their normal duties that require the License;
- (o) if the Franchisee is a partnership, it is dissolved otherwise than in accordance with this Agreement, or an application to a court for its dissolution is made, or if there is any dispute, disagreement or controversy between the partners, which in the opinion of the Franchisor, may adversely affect the Franchised Business or the interests of the Franchisor;
- (p) if any of the following occurs to Franchisee who is a corporation or limited liability company;
  - (i) a trustee, receiver or liquidator is appointed by bankruptcy or other court to take possession or control of the Office or any of its assets;
  - (ii) an application is made, proceedings are initiated or a meeting (whether of shareholders, members, directors, or creditors) is called for the purpose of dissolving Franchisee or having it declared insolvent;
  - (iii) an involuntary or voluntary petition is filed by or against Franchisee; or
  - (iv) it is charged or convicted of a criminal offense;
- (q) if the Franchisee is an individual, and any of the following occur:
  - (i) a Franchisee becomes a bankrupt by filing a petition for bankruptcy and/or having a trustee, receiver or liquidator appointed to possess or control the Office or any of its assets;
  - (ii) a Franchisee is charged or convicted of a criminal offense;

### **16.3 Events of Default-30 Calendar Days for Franchisee to Cure**

Franchisee agrees that the following events are also Events of Default under this Agreement, which are material breaches, giving the Franchisee thirty (30) calendar days to completely cure [except Section 16.3(a)], or if not completely cured, Franchisor has the right to immediately terminate this Agreement:

- (a) the Franchisee has failed to pay to the Franchisor any money that is due and payable under the terms of this Agreement within 10 Business Days of the applicable due date, including any Interest payable to the Franchisor in accordance with this Agreement;
- (b) the Franchise Fee payable to the Franchisor for each calendar month is no greater than the Key Performance Indicator in any period of three consecutive calendar months during the Term or for three months within a twelve month period;
- (c) the Franchisee fails to maintain any Insurance Policies required under this Agreement or as otherwise required by the Law;
- (d) if there is any dispute, disagreement or controversy amongst the persons who control or direct the Franchisee, which in the opinion of the Franchisor may adversely affect the Franchised Business or the interests of the Franchisor, and such dispute, disagreement or controversy cannot effectively be resolved;
- (e) any event occurs entitling the Franchisor to terminate this Agreement under any other provision of this Agreement.

### **16.4 Notice of an Event of Default**

The Franchisee must immediately notify the Franchisor of the occurrence or likely occurrence of any Event of Default.

### **16.5 Prevention of an Event of Default**

The Franchisee must use their respective best efforts to prevent the occurrence of an Event of Default.

### **16.6 Termination because of Death or Incapacity**

- (a) If the Franchisor believes that the Franchisee (if a natural person) or one of the Key People is in breach of this Agreement due to the incapacity of Franchisee or one of the Key People, the Franchisor will serve notice on the Franchisee detailing this actual or suspected breach. Franchisee will have the opportunity to refute such claims within 5 days on the date of the notice.
- (b) Upon receipt of such notice, the Franchisee agrees:
  - (i) that the Franchisee, or one of the relevant Key People, will provide Franchisor with written assurances that one of the Key People will be able to operate the Franchised Business in compliance with this Agreement; or
  - (ii) that Franchisor will assist Franchisee, or one of the relevant Key People, in identifying a new proposed franchisee or new key people, in order to effectuate a sale or Assignment of the Franchise, all subject to Franchisor's

approval and the terms and conditions of this Agreement, including but not limited to those on Assignment.

### **16.7 Appointment of Authorized Manager**

- (a) The Franchisor may appoint a person, chosen at the Franchisor's sole discretion, as Authorized Manager of the Franchised Business if:
  - (i) the Franchisee or any of the Key People are unable to operate the Franchise and meet the Franchisee's obligations under this Agreement as a result of incapacity or death.
- (b) The Authorized Manager will, on behalf of the Franchisor:
  - (i) manage the Franchise and operate for and on behalf of and as the agent of the Franchisee and generally do all such things as may be required (including directing Key People and Staff) to operate the Franchised Business until Franchisee or any of the Key People's heirs or executors identify a new proposed franchisee or key people, that Franchisor approves, or until this Agreement expires, or the Franchisor terminates this Agreement, whichever occurs first; and
- (c) If the Franchisor appoints an Authorized Manager to manage the Franchise in accordance with this section:
  - (i) it will be without any liability whatsoever to the Franchisor arising out of anything done or not done by the Franchisor in respect to the running of the Franchise;
  - (ii) it will be without prejudice to any right or remedy the Franchisor may have against the Franchisee pursuant to this Agreement; and
  - (iii) the Franchisee must pay to the Franchisor the reasonable fees prescribed by the Franchisor for managing the Franchise (whether itself or its designee), together with any reasonable travelling, accommodation and other expenses.

### **16.8 Limited Power of Attorney**

The Franchisee irrevocably and for valuable consideration appoints each of the Franchisor, and the Franchisor's officers or directors as its attorney or attorneys in fact, with full power either in the name of the Franchisee or in the name of the Franchisor to:

- (a) complete, execute and/or file any forms, including but not limited to the Business Name, so as to protect its Marks; and
- (b) recover possession of the Franchisor's Property in the possession of the Franchisee, without liability for trespass; and
- (c) do anything required by way of the provisions of this Agreement requiring the Franchisor to exercise its limited power of attorney for the purpose of protecting its Marks.

### **16.9 No Compensation**

The Franchisee acknowledges and agrees that the Franchisee will not receive any payment or compensation if of termination by the Franchisor.

## 17. Consequences of Expiration or Termination

### 17.1 General

- (a) Upon expiration or termination of this Agreement, the Franchise ceases and all licenses, rights and privileges granted to the Franchisee under this Agreement will immediately cease and terminate.
- (b) All obligations of the Franchisee which are to survive the expiration or termination of this Agreement (whether indicated expressly or impliedly), including but not limited to the obligations for the payment of monies to the Franchisor, will continue in full force and effect after expiration or termination of this Agreement.

### 17.2 Obligations of Franchisee

Immediately upon expiration or termination of this Agreement the Franchisee must:

- (a) cease operating under the Business Name;
- (b) stop all use of the Franchisor Intellectual Property;
- (c) return to the Franchisor, or destroy if requested by the Franchisor, all material (including electronic material) which comprises, contains, displays or refers to any of the Franchisor Intellectual Property and confirm in writing to the Franchisor that all such material has been returned or destroyed, as applicable;
- (d) continue to provide the Reports to the Franchisor for three months following termination of this Agreement;
- (e) transfer or assign to the Franchisor all telephone numbers, facsimile numbers, email addresses and domain names used by the Franchisee in connection with the Franchise;
- (f) pay to the Franchisor all monies payable pursuant to this Agreement;
- (g) change all public records de-identifying any association with the Franchisor, including but not limited to any local boards, state licensing agencies or other regulatory bodies;
- (h) deliver to the Franchisor a Declaration Page from the Errors and Omission carrier evidencing "tail coverage" insurance for a period of three years, starting when this Agreement expires or terminates, as set forth with this Agreement.
- (i) not conduct business in a manner that may indicate that the Franchisee is a franchisee of the Franchisor, or otherwise associated or affiliated with the Franchisor; and
- (j) cooperate with all other reasonable requests of the Franchisor.

### 17.3 Franchisor Rights

- (a) If the Franchisee fails to comply with any of its obligations upon expiration or termination, then the Franchisor or its representatives or agents are authorized by the Franchisee to enter the Office and remove, destroy or arrange for the removal or destruction of all material (including electronic material) which comprises, contains, displays or refers to any of the Franchisor Intellectual Property, at the cost of the Franchisee, without notice and without any liability to Franchisor.

- (b) The Franchisor may conduct an Audit of the Franchise in response to, and to determine the accuracy of, the Reports provided by the Franchisee following expiration or termination of this Agreement, the scope of which will be as set forth in this Agreement, and any late or incorrect payments will be subject to the terms and conditions set out in Section entitled "Inspection."
- (c) The Franchisor may continue to use all information provided to the Franchisor by the Franchisee during the Term of this Agreement, including but not limited to information the Franchisee, about customers and clients, without any payment or compensation to the Franchisee. Further, Franchisee agrees to its name and contact information being used in any Franchise Disclosure Document prepared by Franchisor, indicating Franchisee is no longer with the Network.
- (d) The Franchisor may contact any of Franchisee's real estate agents in any manner, either thirty (30) calendar days prior to any expiration of this Agreement, or at any time on or after termination of this Agreement.

#### 17.4 **Accrued Rights and No Refund**

- (a) The right of termination conferred by this Agreement does not affect any accrued rights or remedies that the Franchisor has, including but not limited to rights regarding any previous, uncured breaches of this Agreement by the Franchisee, which have not been remedied at the time of termination. Franchisor reserves the right to seek remedies for such previous breaches, particularly if they relate to unpaid monies or infringements of Franchisor Intellectual Property.
- (b) If of a termination by the Franchisor, the Franchisor is not required to refund any money to the Franchisee.

### 18. Commitment to Not Compete with Franchised Business

#### 18.1 **General**

- (a) The Franchisee must not, without the prior written consent of the Franchisor, participate in any Competing Business with the Franchised Business.
- (b) The Franchisee acknowledges and agrees that:
  - (i) any mortgage, escrow, insurance, title, or home warranty relationship will not be deemed to be a competing business of Franchisor.
  - (ii) under no circumstances shall Franchisee own or operate another real estate brokerage franchise or independent office while a party to this Agreement.

#### 18.2 **Definitions**

- (a) **"Competing Business"** means any business that is the same as or substantially similar to the business of:
  - (i) the Franchised Business;
  - (ii) the Network; or
  - (iii) any other Harcourts Franchisee.

- (b) **“Restricted Period”** mean the period of time that the Franchisee shall not participate in any Competing Business, which shall be during the Term of this Agreement, and for a period of six months following the Term of this Agreement (if a Renewal is not granted).
- (c) **“Restricted Way”** means acting or working in any of the following capacities: contractor, director, employee, employer, franchisee, franchisor, officer, consultant, adviser (formal or informal), agent, licensee, equity holder, lender, partner, unit holder, member, shareholder (except as a shareholder legally or beneficially entitled to less than 5% of the shares in a listed company), principal, beneficial owner, trustee, joint venturer, or other in any way that would entitle the Franchisee or an associate or nominee of the Franchisee to receive any benefit or reward because of the Franchisee's association with a Competing Business.

### 18.3 Agreed Restrictions

- (a) The Franchisee warrant that at the time of entering into this Agreement the Franchisee, nor any Key People are already involved, or preparing to be involved in, any Competing Business, or otherwise acting in a Restricted Way.
- (b) During the Restricted Period the Franchisee must not, and the Franchisee must require that the Key People and Staff are not:
  - (i) prepare to be, or be, involved in any Competing Business;
  - (ii) canvass, solicit, induce or encourage any person who was an employee or franchisee of the Franchisor at any time during the Term of this Agreement to leave the Franchisor;
  - (iii) allow the Office to be used for any activity of a Competing Business;
  - (iv) interfere in any way with the relationship between the Franchisor and its clients, clients, franchisees, employees or suppliers; or
  - (v) otherwise act in any Restricted Way.
- (c) The Franchisee:
  - (i) acknowledges that the Franchisee will have ongoing access to the Franchisor Intellectual Property and as a result each restriction specified herein, is in the circumstances reasonable and necessary to protect the goodwill of the Franchisor; and
  - (ii) acknowledges that damages are not an adequate remedy if the Franchisee breaches this section; and
  - (iii) acknowledges that the Franchisor may apply for injunctive relief if:
    - (A) the Franchisee breaches or threatens to breach this section; or
    - (B) the Franchisor believes the Franchisee is likely to breach this section.
- (d) Each party agrees that if a court of competent jurisdiction finds that any of the provisions of this section are not enforceable at law or in equity; but that an unenforceable provision would be enforceable if:

- (i) one or more restricted ways included in the definition of 'Restricted Way' were deleted;
- (ii) one or more of the alternate periods referred to in the definition of 'Restricted Period' were deleted; and/or

then the unenforceable provision must be made enforceable by making those deletions.

## 19. Notices

### 19.1 Requirements

Each Party notifying or giving notice under this Agreement must do so:

- (a) in writing; and
- (b) addressed to the address, facsimile number or by email address of the recipient specified in this Agreement, or as amended by written notice of any changes in such information to the other party to this Agreement.

### 19.2 Delivery

A notice given in accordance with this Agreement is received:

- (a) if hand delivered, on the date of delivery;
- (b) if sent by regular United States mail, 7 days after the date of the postmark;
- (c) if sent by facsimile transmission, on the day the transmission is sent (but only if the sender has a confirmation report specifying a facsimile number of the recipient, the number of pages sent and the date of transmission); and
- (d) if sent by email, at the time that would be the time of receipt as indicated on the email itself.

## 20. Miscellaneous

### 20.1 Approvals and Consents

Except where this Agreement expressly states otherwise, the Franchisor may, in its discretion, give conditionally or unconditionally, or reasonably withhold any approval or consent under this Agreement.

### 20.2 Survival

Any indemnity or any obligation of confidentiality or payment under this Agreement is independent and survives termination of this Agreement. Any other term which by its nature intended to survive termination of this Agreement survives termination of this Agreement.

### 20.3 Counterparts

This Agreement may be executed in counterparts. All executed counterparts constitute one document.

#### **20.4 Use of Information**

The Franchisor accepts no responsibility with respect to the use by the Franchisee of any information or advice provided to it by the Franchisor and the Franchisee indemnifies and agrees to keep indemnified the Franchisor against the claims of third parties caused by or arising out of the use or misuse of such information and advice.

#### **20.5 No Merger**

The rights and obligations of the parties under this Agreement do not merge on completion of any transaction contemplated by this agreement.

#### **20.6 Entire Agreement**

This Agreement and all exhibits to this Agreement constitute the entire agreement between the parties and supersede any and all prior negotiations, understandings, representations, and agreements. Nothing in this or in any related agreement; however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished you.

You acknowledge that you are entering into this Agreement as a result of your own independent investigation of our franchise business and not as a result of any representations about us made by our shareholders, officers, directors, employees, agents, representatives, independent contractors, or franchisees that are contrary to the terms set forth in this Agreement, or in any disclosure document, prospectus, or other similar document required or permitted to be given to you pursuant to applicable law.

#### **20.7 Knowledge**

The Franchisee acknowledges that it has entered into this Agreement with full knowledge of the contents, has made its own investigations, and is not relying upon any verbal or written representation or inducement by the Franchisor or its employees or agents which in any way relate to the Franchised Business.

#### **20.8 Further Action**

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Agreement and the transactions contemplated by it.

#### **20.9 Severability**

A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the term of this Agreement continue in force.

#### **20.10 Waiver**

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver, and does not constitute a continuing waiver.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**20.11 Further Action**

Each party must do or cause to be done all things necessary or desirable to give effect to, and refrain from doing things that would hinder performance of, this Agreement.

**20.12 Time of the Essence**

Time is of the essence for all obligations required to be performed under this Agreement.

**20.13 Joint and Several Liability**

Franchisee (if multiple companies or individuals) are joint and severally liable for all obligations and responsibilities set forth or arising out of this Agreement.

**20.14 Force Majeure**

If any natural disaster, war, terrorist attack, government regulation, or something similar to the foregoing, each party shall either be temporarily suspended from performance under this Agreement, for a reasonable time, or shall be excused from performance as a result of any of the items mentioned in this section, if such item directly impacts the operation of the Franchised Business. Any virus or other pathogen, whether deemed a pandemic by health authorities or any government officials, including but not limited to COVID-19, shall not be deemed to be a reason to invoke this section and such virus or other pathogen shall not be grounds to suspend or excuse either parties performance of this Agreement.

**//////////END//////////**

# Franchise Agreement Signature Page: Harcourts Pacific LLC

Franchisor:

\_\_\_\_\_  
Harcourts Pacific LLC



\_\_\_\_\_  
Signature

By: Benjamin Brady, As its Regional  
Director

\_\_\_\_\_

\_\_\_\_\_, 2024

\_\_\_\_\_  
Date

**Franchisee: BUSINESS ENTITY OR INDIVIDUAL (PLEASE CIRCLE). IF BUSINESS ENTITY, MUST SIGN PERSONAL GUARANTY**

**Franchisee Name:**

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Printed Name of Officer ←

\_\_\_\_\_, 2024  
Date

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Printed Name of Officer ←

\_\_\_\_\_, 2024  
Date

**EXHIBIT A-1**

**FRANCHISE DETAILS**

## Exhibit 1 - Franchise Details

---

Item 1:      **Franchisee: Business Entity or Individual (please circle)**

Name:

Business Address:

Telephone:

Facsimile:

Email Address:

Item 2:      **HARCOURTS Business Name**

[Enter Business Name]

Item 3:      **Key Performance Indicator**

**Minimum Gross Revenue** amount to be met throughout the Term of the Agreement:  
**\$INSERT AMOUNT** per month, and the **Minimum Franchise Fee** shall be:

\*From the Commencement Date until the end of month 3: \$0.00 per calendar month

\*From month 4 until the end of month 6: \$750.00 per calendar month

\*From month 7 going forward: \$1,500.00 per calendar month

Note: Beginning in month 7 going forward, if you do not have any closings in a month associated with your office, resulting in zero Gross Revenue being earned, your minimum fee shall be \$1,000.00 for each such month.

Note: If your franchise is voluntarily terminated, you agree that the minimum Franchise Fee for the remaining months existing on the term of your Franchise Agreement, shall be based upon a \$2,500.00 per month minimum Franchise Fee due and payable to the Franchisor.

\*

Item 4:      **Corporate Franchisee Details (In California, must not be a LLC)**

(i)      **Directors:**

Name:

Address:

(ii)      **Officers:**

Name:

Address:

(iii)      **Shareholders or Members:**

Name:

Address:

Amount or Percentage of Shares/Units Held:

Item 5: **Key People**

[List Name, Address, Telephone and Email for each]

***Add attachments as necessary.***

**EXHIBIT A-2**

**TERRITORY**

## Exhibit A-2 - Territory

---

Franchisor shall grant Franchisee the following Territory, evidenced by the following zip code(s), on the attached or inserted map of the Territory:

**EXHIBIT A-3**

**INDEPENDENT LEGAL ADVICE**

Exhibit 3 - INDEPENDENT ADVICE – LEGAL

Statement to Harcourts Pacific LLC (**Franchisor**):

by, [insert]

(print full name of franchisee)

of [insert]

(print business address of franchisee)

I am a proposed new franchisee of the Franchisor.

I have received, read and had a reasonable opportunity (at least 14 days) to understand the Franchise Disclosure Document and all attachments, including the actual proposed Franchise Agreement.

I agree that I have been told that independent legal advice should be sought.

I have been provided with a reasonable opportunity to obtain independent legal advice.

If applicable, I have set out below the details of the attorney that has provided me with independent legal advice:

.....

(Print full name of attorney)

of .....

(Print business address of attorney)

Unless otherwise filled out with my attorney's name above, I confirm that I have elected not to obtain independent legal advice.

**Executed by** [insert]

\_\_\_\_\_  
Signature of Franchisee



\_\_\_\_\_  
Signature of Franchisee

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A-4**

**INDEPENDENT BUSINESS ADVICE**

Exhibit 4- INDEPENDENT ADVICE – BUSINESS

Statement to Harcourts Pacific LLC (**Franchisor**):

by, [insert]

(print full name of franchisee)

of [insert]

(print business address of franchisee)

I am a proposed new franchisee of the Franchisor.

I have received, read and had a reasonable opportunity (at least 14 days) to understand the Franchise Disclosure Document and all attachments, including the actual proposed Franchise Agreement.

I agree that I have been told that independent business advice should be sought.

I have been provided with a reasonable opportunity to obtain independent business advice.

If applicable, I have set out below the details of the business advisor that has provided me with independent business advice:

.....

(Print full name of business advisor)

of .....

(Print business address of business advisor)

Unless otherwise filled out with my business advisor’s name above, I confirm that I have elected not to obtain independent business advice.

**Franchisee:**  
**Executed by** [insert]

\_\_\_\_\_  
Signature of Franchisee



\_\_\_\_\_  
Signature of Franchisee



\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A-5**

**INDEPENDENT ACCOUNTING ADVICE**

Exhibit 5 - INDEPENDENT ADVICE – ACCOUNTING

Statement to Harcourts Pacific LLC (**Franchisor**):

by, [insert]

(print full name of franchisee)

of [insert]

(print business address of franchisee)

I am a proposed new franchisee of the Franchisor.

I have received, read and had a reasonable opportunity (at least 14 days) to understand the Franchise Disclosure Document and all attachments, including the actual proposed Franchise Agreement.

I agree that I have been told that independent accounting advice should be sought.

I have been provided with a reasonable opportunity to obtain independent accounting advice.

If applicable, I have set out below the details of the accounting advisor that has provided me with independent accounting advice:

.....

(Print full name of accounting advisor)

of .....

(Print business address of accounting advisor)

Unless otherwise filled out with my accounting advisor's name above, I confirm that I have elected not to obtain independent accounting advice.

**Franchisee:**

**Executed by** [insert]

\_\_\_\_\_  
Signature of Franchisee

\_\_\_\_\_  
Signature of Franchisee

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A-6**

**CREDIT CARD AUTHORITY FORM**

## Exhibit 6 – Credit Card Authorization Form

**TO:**

**Franchisor:** Harcourts Pacific LLC

I/ we request that all moneys payable in relation to our Harcourts Franchise Agreement be paid through automatic monthly billing to the designated credit/debit card:

**Franchisee Credit/Debit Card Details:**

Card Type: Visa \_\_\_\_\_ MasterCard \_\_\_\_\_ American Express \_\_\_\_\_

Cardholder's Name: \_\_\_\_\_

Card Account Number: \_\_\_\_\_

Card Expiration Date: \_\_\_\_\_

Billing Zip Code: \_\_\_\_\_

Process the charge on or about the: 5<sup>th</sup> \_\_\_\_\_ 10<sup>th</sup> \_\_\_\_\_ 15<sup>th</sup> \_\_\_\_\_ of each month

I/we acknowledge that this monthly billing arrangement is for all moneys payable in relation to our Harcourts Franchise Agreement with the Franchisor.

I/we will notify the Franchisor in advance of any changes to the card account information.

I/we must give the Franchisor 25 days' written notice to stop the charges or to change my card account information.

To the extent permitted by law, I/we agree to a payment of 3.75% of any balance charged.

By completing this form, I hereby authorize Harcourts Pacific, LLC and the card company identified on this authorization to process the charges authorized herein.

**Dated** this ..... day of ..... 2024

**Executed** by [insert]

\_\_\_\_\_  
Signature of Franchisee



\_\_\_\_\_  
Signature of Franchisee

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A-7**

**FIRST RIGHT OF REFUSAL**

## EXHIBIT A-7: FIRST RIGHT OF REFUSAL

In the event, Franchisor has agreed to offer Franchisee a First Right of Refusal as set forth pursuant to the Franchise Disclosure Document and the Franchise Agreement, Section 2.3 (b) (iv), incorporated by reference, Franchisee agrees to the following provisions:

**TERRITORY BASED UPON ZIP CODES:**

---

---

**TIME FRAME FOR EXERCISING FIRST RIGHT OF REFUSAL FROM THE DATE THAT FRANCHISOR OFFERS SUCH FIRST RIGHT:**

**NUMBER OF OFFICES REQUIRED TO BE OPENING WITHIN TERRITORY LISTED ABOVE:**

---

**SCHEDULE OF MAXIMUM TIME FRAMES FOR OPENING OFFICES WITHIN TERRITORY LISTED ABOVE:**

Number or Location of Offices: \_\_\_\_\_  
Date or time frame by which Office(s) must open: \_\_\_\_\_

Number or Location of Offices: \_\_\_\_\_  
Date or time frame by which Office(s) must open: \_\_\_\_\_

Number or Location of Offices: \_\_\_\_\_  
Date or time frame by which Office(s) must open: \_\_\_\_\_

In the event Franchisee fails to comply to any of the requirements listed throughout the entire Franchise Agreement, including this Exhibit, Franchisee acknowledges that Franchisee may lose all rights to any First Right of Refusal and all rights to any exclusivity within such Territories listed above.

**Executed by** [insert]

---

Signature of Franchisee

---

Name of Franchisee (print)

---

Date

**EXHIBIT A-8**

**HARCOURTS AUCTIONS**

# EXHIBIT A-8: HARCOURTS AUCTIONS

## AGREEMENT FOR USE OF HARCOURTS AUCTIONS DIVISION OR ITS DESIGNEE

As part of the brand equity in Harcourts, and the services it provides, Franchisee agrees that in the event Franchisee conducts, in any manner, any auctions of real property, that Franchisee must conduct such real property auctions through Harcourts or its designee, pursuant to whatever then current terms are put into effect by Harcourts and pursuant to the Harcourts Auctions Policies and Procedures. Harcourts agrees that it shall be competitive in any fees or pricing based upon market forces, but this does not mean that Harcourts may be the cheapest. Notwithstanding this Franchisee shall conduct any auctions of real property through Harcourts or its designee.

Franchisee is under no obligation to auction any real property; however, if Franchisee so chooses to engage in any real property auctions in any manner, Franchisee agrees that such auctions must be conducted under the Harcourts brand by Harcourts or its designee. Franchisee agrees to comply all terms set forth by Harcourts, including any then current Harcourts Auctions Policies and Procedures. Franchisee further agrees to ensure that all licensees, brokers, and their assistants comply with all terms set forth by Harcourts, including any then current Harcourts Auctions Policies and Procedures. Failure of any of the foregoing parties to comply with such terms, including the Harcourts Auctions Policies and Procedures may result in you and your licensees, brokers, or assistants not being able to use, or otherwise be involved in, Harcourts Auction services.

**Dated** this ..... day of ..... 20\_\_\_\_

**Executed** by [insert]

\_\_\_\_\_  
Signature of Franchisee ←

\_\_\_\_\_  
Signature of Franchisee

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A-9:**

**RELEASE IN CONNECTION WITH FRANCHISE RENEWAL OR  
TERMINATION**

## **EXHIBIT A-9: RELEASE IN CONNECTION WITH FRANCHISE RENEWAL OR TERMINATION**

### **RELEASE**

1. INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT, now and forever releases and discharges Harcourts Pacific LLC and its successors, attorneys, insurers, brokers, principals, officers, directors, members, partners, agents, employees, and contractors "**collectively Releasees**", from any and all claims, demands, losses, expenses, damages, liabilities, actions, and causes of action of any nature, **except non-waivable statutory claims or claims arising from the representations in the applicable franchise disclosure document**, that in any manner arise from or relate to the franchise relationship described above, **except** those obligations that are still outstanding as set forth in this document and/or are contained in Section 17 and Section 18 of the Franchise Agreement regarding Termination and Commitment Not to Compete with the Franchised Business.

This release extends to and includes any and all claims, liabilities, injuries, damages, and causes of action, **except non-waivable statutory claims or claims arising from the representations in the applicable franchise disclosure document**, that the parties do not presently anticipate, know, or suspect to exist, but that may develop, accrue, or be discovered in the future.

INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT EXPRESSLY WAIVES ALL RIGHTS UNDER CALIFORNIA [CIVIL CODE SECTION 1542](#), WHICH PROVIDES: "**A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**"

INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT represents and warrants that INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT has considered the possibility that claims, liabilities, injuries, damages, and causes of action that INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT does not presently know or suspect to exist in INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT's favor may develop, accrue, or be discovered in the future, and that INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT voluntarily assumes that risk as part of the consideration received for this release.

INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT covenants and agrees that INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT will not make, assert, or maintain any claim, demand, action, or cause of action that is discharged by this release against any Releasee named or described in this agreement. INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT agrees to indemnify, defend, and hold each Releasee named or described in this release, and their successors in interest, harmless against any claim, demand, damage, liability, action, cause of action, cost, or expense, including attorney fees, resulting from a breach of the covenant contained in this paragraph.

INSERT FRANCHISEE'S NAME(S) AS SET FORTH ON THE FRANCHISE AGREEMENT, the undersigned, have read this release and understand all of its terms, and sign it voluntarily and with full knowledge of its significance.

**Dated** this ..... day of ..... 20\_\_

**Executed** by [insert]

\_\_\_\_\_  
Signature of Franchisee ←

\_\_\_\_\_  
Signature of Franchisee

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Name of Franchisee (print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT B**

**FINANCIAL STATEMENTS**



**MARK W. DEAZELEY CPA**  
certified public accountant

Mark W. Deazeley, CPA, a licensed certified public accountant, consents to the use in the Franchise Disclosure Document issued by Harcourts Pacific, LLC, and Subsidiary, on February 25, 2024, as it may be amended, of our report dated February 26, 2024, relating to the consolidated financial statements of Harcourts Pacific, LLC, and Subsidiary, for the period ended December 31, 2023.

By: *Mark Deazeley, CPA*

**Mark W. Deazeley, CPA**

A Licensed Certified Public Accountant

Signature Date: February 26, 2024

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY**  
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**AS OF AND FOR THE YEARS DECEMBER 31, 2023, AND 2022**

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**MARK W. DEAZELEY CPA**

certified public accountant

To the Member of  
Harcourts Pacific, LLC and Subsidiary

## INDEPENDENT AUDITOR'S REPORT

### Qualified Opinion

We have audited the accompanying consolidated financial statements of Harcourts Pacific, LLC, and Subsidiary ("The Company"), which comprise the balance sheets as of December 31, 2023, and 2022, and the related statements of operations, changes in members' equity, and cash flows for the years then ended, and the related notes to the consolidated financial statements.

In our opinion, except for the effects of the matter described in the Basis for Qualified Opinion section of our report, the accompanying financial statements present fairly, in all material respects, the financial position of Harcourts Pacific, LLC, and Subsidiary as of December 31, 2023, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America. For the year ended December 31, 2022, we issued an unqualified opinion.

### Basis for Qualified Opinion

As discussed in Note 5, accounting principles generally accepted in the United States of America require that most leased assets be capitalized as either finance or operating leases based on satisfying certain criteria, and that disclosures related to those leases be included in the financial statements. The Company has not capitalized a certain office lease in the accompanying balance sheet and did not include the related lease disclosures in the accompanying financial statements. The effects of the departure from accounting principles generally accepted in the United States on financial position, results of operations, and cash flows have not been determined.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Consolidated Financial Statements section of our report. We are required to be independent of Harcourts Pacific, LLC, and Subsidiary and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our qualified audit opinions.

### Responsibilities of Management for the Consolidated Financial Statements

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

In preparing the consolidated financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Harcourts Pacific, LLC, and Subsidiary's ability to continue as a going concern for the year ended December 31, 2023, and 2022.

### Auditor's Responsibilities for the Audit of the Consolidated financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not

detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users made on the basis of these consolidated financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Harcourts Pacific, LLC, and Subsidiary internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the consolidated financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Harcourts Pacific, LLC, and Subsidiary's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

*Mark Deazeley, CPA*

Mark W. Deazeley, CPA  
Costa Mesa, California

February 26, 2024

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
CONSOLIDATED BALANCE SHEETS  
DECEMBER 31, 2023, AND 2022**

ASSETS

	<u>2023</u>	<u>2022</u>
Current Assets:		
Cash	\$ 178,867	132,567
Accounts Receivable - Net	175,276	144,359
Other Current Assets	127,759	126,416
Total Current Assets	481,902	403,342
Other Non - Current Assets	6,230	-
Property And Equipment - Net	1,983	1,791
Total Assets	\$ 490,115	\$ 405,133

The accompanying notes are an integral part of these consolidated financial statements.

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
CONSOLIDATED BALANCE SHEETS (CONTINUED)  
DECEMBER 31, 2023, AND 2022**

LIABILITIES AND MEMBERS' EQUITY

	<u>2023</u>	<u>2022</u>
Current Liabilities:		
Accounts Payable	\$ 82,379	\$ 63,067
Accrued Expenses	7,279	39,432
Deferred Revenue	51,725	94,430
	141,383	196,929
Total Current Liabilities	141,383	196,929
	141,383	196,929
Total Liabilities	141,383	196,929
Members' Equity	348,732	208,204
	348,732	208,204
Total Liabilities And Members' Equity	\$ 490,115	\$ 405,133
	\$ 490,115	\$ 405,133

The accompanying notes are an integral part of these consolidated financial statements.

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
CONSOLIDATED STATEMENTS OF OPERATIONS  
FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

	<u>2023</u>	<u>2022</u>
Revenues:		
Net Franchise Fees	\$ 1,466,378	\$ 1,685,915
Technology Revenue	102,041	118,007
Marketing Revenue	2,100	10,965
Other Revenue	245,979	265,024
Total Revenues	1,816,498	2,079,911
Expenses:		
Personnel	699,699	634,513
Marketing	57,489	146,092
Training and Development	21,936	44,954
Other Operating Expenses	533,734	513,228
Total Expenses	1,312,858	1,338,787
Income Before Provision For Taxes	503,640	741,124
Provision For Income Taxes	6,800	1,400
Net Income	\$ 496,840	\$ 739,724

The accompanying notes are an integral part of these consolidated financial statements.

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
CONSOLIDATED STATEMENTS OF CHANGES IN MEMBERS' EQUITY  
FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

Balance at December 31, 2021	\$ 234,453
Net Income	739,724
Capital Distributions	(765,973)
Balance at December 31, 2022	<u>\$ 208,204</u>
Net Income	496,840
Capital Distributions	<u>(356,312)</u>
Balance at December 31, 2023	<u>\$ 348,732</u>

The accompanying notes are an integral part of these consolidated financial statements.

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

	<u>2023</u>	<u>2022</u>
<b>Cash Flow From Operating Activities:</b>		
Net Income	\$ 496,840	\$ 739,724
Adjustments To Reconcile Net Loss To Net Cash Used In Operating Activities:		
Depreciation and Amortization	3,151	896
Changes in Operating Assets And Liabilities:		
Accounts Receivable	15,027	(707)
Other Current Assets	(1,343)	(43,945)
Other Non-Current Assets	(6,230)	-
Accounts Payable	(26,632)	100,382
Accrued Expenses	(32,153)	3,549
Deferred Revenue	<u>(42,705)</u>	<u>41,755</u>
Net Cash Provided By Operating Activities	405,955	841,654
<b>Cash Flows From Investing Activities:</b>		
Purchase of Property and Equipment	<u>(3,343)</u>	<u>(2,687)</u>
Net Cash Used In Investing Activities	(3,343)	(2,687)
<b>Cash Flows From Financing Activities:</b>		
Distributions to Member	<u>(356,312)</u>	<u>(765,973)</u>
Net Cash Used In Financing Activities	<u>(356,312)</u>	<u>(765,973)</u>
Net Increase In Cash	46,300	72,994
Cash At Beginning Of Year	<u>132,567</u>	<u>59,573</u>
Cash At End Of Year	\$ <u>178,867</u>	\$ <u>132,567</u>
Supplemental Cash Flow Disclosures:		
Income Taxes Paid	\$ <u>6,800</u>	<u>1,400</u>

The accompanying notes are an integral part of these consolidated financial statements.

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

**1. DESCRIPTION OF BUSINESS**

*Nature of Business*

Harcourts Pacific, LLC (“the Company”) or (“HPAC”) was established for the purpose of operating as a franchisor of Real Estate brokerage operations and other Real Estate related services in the State of California, Oregon, Nevada and Hawaii. Harcourts Northwest, LLC or (“HNOR”) was established to provide Real Estate selling and buying services in Oregon, and Washington.

*Organization*

The Company was formed on June 18, 2010, under the laws of the state of California as a Limited Liability Company. The Company’s sole owner of HPAC and HNOR is Harcourts North American. Harcourts Northwest, LLC was formed on March 28<sup>th</sup>, 2014, under the laws of the State of Oregon.

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

*Basis of Presentation*

The accompanying financial statements have been prepared in accordance with generally accepted accounting principles (“GAAP”) as promulgated in the United States of America.

*Principles of Consolidation*

The consolidated financial statements include the financial statements Harcourts Pacific LLC, and Harcourts Northwest, LLC. Harcourts Pacific, LLC is a 100% owner of the Limited Liability Company organized under the laws of the State of Oregon known as Harcourts Northwest, LLC. All intercompany transactions are eliminated through consolidation.

*Use of Estimates*

Consolidated financial statements prepared in accordance with accounting principles generally accepted in the United States require management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Among other things, management has estimated the useful lives of licenses, property and equipment, the completeness of the allowance for doubtful accounts, and the completeness and accuracy of the accrued liabilities and franchise fees. Actual results could differ from those estimates.

See Independent Auditor’s Report

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

*Cash and Cash Equivalents*

Cash equivalents are comprised of certain highly liquid investments with maturities of three months or less when purchased. The Company maintains its cash in bank deposit accounts which at times may exceed federally insured limits. The Company does not have any cash equivalents outstanding as of December 31, 2023, and 2022. The Company has not experienced any losses related to this concentration of risk.

*Trade receivables*

Trade receivables are recorded at cost less an allowance for credit losses, which is the net amount expected to be collected.

The Company's policy is not to charge interest on customer accounts with balances that are past due more than 90 days.

Accounts are considered past due once the unpaid balance exceeds payment terms extended to the customer. When an account balance is past due and attempts have been made to collect the receivable, the amount is considered uncollectible and is written off against the allowance for uncollectible accounts.

*Allowance for credit losses- trade receivables*

As of December 31, 2023, and 2022, the allowance for credit losses had a balance of \$0.

With respect to trade receivables, the Company's policy is to measure its allowance for credit losses based on an evaluation of historical internal and external information and past experience of the receivable aging, adjusted for current economic conditions, and reasonable and supportable forecast about future events that affects the collectability of receivables. Specific factors considered in measuring the expected amount of trade receivables collected including the current customer-specific risk characteristics, current and forecasted future financial condition, credit rating of each customer relative to the Company's underwriting standards, the customer's past payment history and forecasted payment ability, and other factors such as changes in the economy due to interest, inflation and unemployment levels.

In measuring expected credit losses for trade receivables, the Company considers the entire population of trade receivables to be a single pool because the assets have similar risk characteristics in terms of customer creditworthiness, customer industry and geographic location, and the impact of the current and forecasted direction of the economic and business environment on collectability of such receivables. In situations in which customers have risk characteristics that are outside those of the customer pool as a whole, those customers are evaluated for credit losses using criteria independent of the remainder of the trade receivable pool.

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**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

In measuring expected credit losses for trade receivables, the Company considers the entire population of trade receivables to be a single pool because the assets have similar risk characteristics in terms of customer creditworthiness, customer industry and geographic location, and the impact of the current and forecasted direction of the economic and business environment on collectability of such receivables. In situations in which customers have risk characteristics that are outside those of the customer pool as a whole, those customers are evaluated for credit losses using criteria independent of the remainder of the trade receivable pool.

From time to time, there may be changes in current economic conditions, such as rates of interest, inflation, and unemployment, among others, that may impact the overall economic outlook and change the forecast of the expected amount of receivables to be collected. In those situations, the Company factors in those changes into its computation of expected losses.

In 2023, there were no changes in the Company's accounting policies, methodology, in measuring credit losses related to its trade receivables.

There were no significant changes in the amount of accounts written off in 2023. There was no rollforward activity with the collection of receivables in 2023.

***Property and Equipment, Net***

Property and equipment are stated at cost. Major improvements and betterments are capitalized. Maintenance and repairs are expensed as incurred. For the sale of fixed assets, the fixed asset and associated accumulated depreciation is removed and any gain or loss from the sale of fixed assets. Property and equipment are depreciated over their estimated lives which range from 3 to 5 years. Depreciation and amortization is computed using the straight-line method. Depreciation expense for the years ended December 31, 2023, and 2022 totaled \$3,151 and \$896, respectively.

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**HARCOURTS PACIFIC, LLC AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

***Intangible and Long-Lived Assets***

In accordance with ASC 350-30, the Company evaluates long-lived assets for impairment whenever events or changes in circumstances indicate that their net book value may not be recoverable. When such factors and circumstances exist, the Company compares the projected undiscounted future cash flows associated with the related asset or group of assets over their estimated useful lives against their respective carrying amount. Impairment, if any, is based on the excess of the carrying amount over the fair value, based on market value when available, or discounted expected cash flows, of those assets and is recorded in the period in which the determination is made. There can be no assurance, however, that market conditions will not change or demand for the Company's products under development will continue. Either of these could result in additional future impairment of long-lived assets. For the years ended December 31, 2023, and 2022, no impairment of long-lived assets was identified.

***Fair Value of Financial Instruments***

ASC 820-10 requires entities to disclose the fair value of financial instruments, both assets and liabilities recognized and not recognized on the balance sheet, for which it is practicable to estimate fair value. ASC 820-10 defines the fair value of a financial instrument as the amount at which the instrument could be exchanged in a current transaction between willing parties. As of December 31, 2023, and 2022, the carrying value of certain financial instruments such as cash, accounts receivable, accounts payable and accrued expenses approximates fair value due to the short-term nature of such instruments.

***Revenue Recognition***

Revenue earned as a Harcourts franchisor will include initial franchise fees or admission fees, training and marketing fees, and royalties. Training and marketing fees and royalties will be recognized in the period in which they are earned. Franchise fee, or initial admission fee revenue is recognized and fully earned upon the signing and acceptance of the franchise agreement and franchise fee by both parties. FASB ASC 952-605-25 stipulates that initial franchise fee revenue from a franchise sale should be recognized when the franchisor has substantially performed or satisfied all material services or conditions relating to the sale. Substantial performance has occurred when the franchisor has: (a) no remaining obligations or intent to refund any cash received or to forgive any unpaid notes or receivables; (b) performed substantially all of the initial services required by the franchise agreement (such as providing assistance in site selection, obtaining facilities, advertising, training, preparing operating manuals, or quality control); and (c) met all other material conditions or obligations. Initial franchise fee or admission fee revenue earned for the years ended December 31, 2023, and 2022 totaled \$125,000 and \$50,000, respectively.

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**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

*Deferred Revenue*

The Company had deferred revenue in the amount of \$51,725 and \$94,430 as of December 31, 2023, and 2022, respectively. Deferred revenue for the company represents payments from vendors to sponsor their Company's annual conference held in February. This deferred revenue amount is recognized as revenue after the conference. Deferred revenue is not a significant portion of the Company's operations.

*Income Taxes*

The net income, loss, capital gains and cash distributions pertaining to Harcourts Pacific, LLC, and Harcourt's Northwest, LLC are allocated to its members in accordance with the provisions of the Company's operating agreements. The operating agreements provide that all items of net income, loss, capital gain and cash distributions be allocated among the members based upon their respective percentage interest. There is only one class of members' interest, whose rights are governed and set forth in the operating agreements.

In accordance with the generally accepted method of presenting limited liability company financial statements, the financial statements do not include the personal assets and liabilities of the members, including their obligation for income taxes on their distributive shares of net income of the LLCs, or any provision for federal income taxes.

The Company is taxed as a limited liability company ("LLC") under the provisions of federal and state tax codes. Under federal laws, taxes based on income of a limited liability company are payable by the LLC members individually. Accordingly, no provision for federal income taxes has been made in the accompanying consolidated financial statements. A provision for minimum California franchise tax has been recorded in costs and expenses in the accompanying financial statements at a statutory amount based on gross receipts under California laws.

On January 1, 2009, the Company adopted Accounting for Uncertainty in Income Taxes – ASC 740, which clarified the accounting and disclosure for uncertainty in tax positions, as defined. ASC 740 seeks to reduce the diversity in practice associated with aspects of the recognition and measurement related to accounting for income taxes.

The Company has analyzed filing positions in the Federal and State jurisdictions as well as all open tax years in these jurisdictions. The federal and state returns subject to examination are for years 2018 through 2023. The implementation of ASC 740 had no effect on the financial statements of the company.

*Advertising and Promotional Costs*

Advertising and promotional costs are charged to operations when incurred. Advertising and promotional costs totaled approximately \$58,000 and \$146,000 for the years ended December 31, 2023, and 2022, respectively, and is included in marketing expense in the accompanying consolidated statements of operations.

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**HARCOURTS PACIFIC, LLC AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

*Recent Accounting Pronouncements*

The Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2014- 09, “Revenue from Contracts with Customers (Topic 606)”. The ASU and all subsequently issued clarifying ASUs replaced most existing revenue recognition guidance in U.S. GAAP. The ASU also required expanded disclosures relating to the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers. The Company adopted this new accounting standard. As part of the adoption of the ASU, the Company elected the following transition practical expedients: (i) to reflect the aggregate of all contract modifications that occurred prior to the date of initial application when identifying satisfied and unsatisfied performance obligations, determining the transaction price, and allocating the transaction price; and (ii) to apply the standard only to contracts that are not completed at the initial date of application. Because contract modifications are minimal, there is not a significant impact as a result of electing these practical expedients.

**3. CONCENTRATIONS, RISKS AND UNCERTAINTIES**

The Company is engaged in the Real Estate industry in California; while market conditions are closely monitored by management, such activity is sensitive to fluctuations in prevailing interest rates and underlying economic conditions in the real estate market.

The Company earned revenues from two major customers which accounted for 26 and 14 percent of the Company’s total net revenue for the year ended December 31, 2023. These two customers’ accounts receivable balance totaled approximately \$33,000, or approximately 19 percent of outstanding receivables as of December 31, 2023.

The Company earned revenues from one major customer which accounted for 30 percent of the Company’s total net revenue for the year ended December 31, 2023. This one customer’s accounts receivable balance totaled approximately \$22,000, or approximately 15 percent as of December 31, 2022.

Credit is extended for all customers based on financial condition, and generally, collateral is not required. Credit losses are provided for in the financial statements and consistently have been within management’s expectations. The Company performs ongoing credit evaluations of its customers and has not experienced any significant bad debts.

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**HARCOURTS PACIFIC, LLC AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

**4. RELATED PARTY TRANSACTIONS**

The Company had the following related party transactions for the years ended December 31, 2023, and 2022:

As of December 31, 2023, HPAC has an accounts payable balance owed to a related party in the amount of \$23,532.

As of December 31, 2022, HPAC has an accounts receivable balance owed by a related party in the amount of \$14,592. As of December 31, 2023, HPAC has an accounts payable balance owed to the owner of the Company in the amount of \$25,532.

As of December 31, 2022, the Company has loaned the sole owner \$5,602. This balance is included in other current assets on the Company's balance sheet. This loan is unsecured.

**5. COMMITMENTS AND CONTINGENCIES**

*Litigation*

The Company is subject to claims and contingencies related to lawsuits and other matters arising out to the normal course of business. Management believes the ultimate liabilities associated with such claims and contingencies, if any, is not likely to have material adverse effect on the financial position or results of the Company.

Rent expense included in the accompanying consolidated statements of operations totaled approximately \$33,000 for the years ended December 31, 2023, and 2022, respectively.

In November 2023, the Company signed a three-year lease for office space. Monthly payments are approximately \$10,500. The Company is obligated to make the following annual payments over the next three years.

2024	\$	126,984
2025		131,313
2026		124,603
Total	\$	<u>382,900</u>

See Independent Auditor's Report

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

Management has informed us that it has not capitalized lease assets and obligations related to its office lease, and has not included most of the required lease disclosures. Instead, the Company’s policy is to record lease payments as rent expense as incurred.

The effects of this departure from accounting principles generally accepted in the United States on the Company’s financial position, results of operations, and cash flows have not been determined.

**6. CONDENSED FINANCIAL INFORMATION**

Condensed financial information for Harcourts Northwest, LLC. is as follows as of December 31, 2023, and for the year then ended:

Current Assets	\$	57,653
Total Assets	<u>\$</u>	<u>57,653</u>
Current Liabilities	\$	33,333
Total Liabilities	<u>\$</u>	<u>33,333</u>
Members’ Equity	<u>\$</u>	<u>24,320</u>
Total Liabilities and Members’ Equity	<u>\$</u>	<u>57,653</u>
Revenues	<u>\$</u>	<u>593,917</u>
Net income	<u>\$</u>	<u>138,812</u>

**7. MEMBERSHIP UNITS**

During 2023, the member of the Company did not contribute any additional capital. During 2023 there were no ownership changes.

See Independent Auditor’s Report

**HARCOURTS PACIFIC, LLC AND SUBSIDIARY**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2023, AND 2022**

**8. INITIAL FRANCHISE FEE REVENUE**

In accordance with 952-606-55-1, HPAC and HNOR enter into contracts with a customer and promises to grant a franchise license to open a Real Estate Sales and Brokerage office. The franchise license term is 5 years. In addition to the license, the entity has obligations related to the opening of the franchise location—site selection and training. The Company receives a fixed fee of \$25,000, as well as a sales-based royalty of 5 percent of the customer’s commissions for the term of the license. The fixed consideration of \$25,000 is payable on or before the opening of the office. Company Management has elected to fully recognize initial franchise fee revenue based upon the value of the initial obligations provided to the franchisee on or before an office opening, and franchise agreement. Initial franchise fee revenue is not a significant percentage of total revenues. Any deferment of initial franchise fee revenue would not have a material impact on the consolidated financial statements.

As of, and for the years ended December 31, 2023, and 2022, initial franchise fee revenue was allocated in the following manner:

	<u>2023</u>	<u>2022</u>
Initial Franchise Fee	\$ 125,000	\$ 50,000
Grand Opening	12,500	5,000
Training	50,000	20,000
Operations Manual	31,250	12,500
Other Services	25,000	10,000
Advertising Fund	6,250	2,500
Fees to recognize over life of franchise agreement	\$ -	\$ -

**9. SUBSEQUENT EVENTS**

The Company evaluated subsequent events through February 26, 2024, which is the day the consolidated financial statements were available for issuance.

See Independent Auditor’s Report

**EXHIBIT C**

**LIST OF STATE AGENCIES / AGENTS FOR SERVICE OF PROCESS**

**EXHIBIT C**

**LIST OF STATE AGENCIES / AGENTS FOR SERVICE OF PROCESS**

We intend to register this disclosure document as a “franchise” in some or all of the following states, in accordance with the applicable state laws. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, the following are (i) the state administrators responsible for the review, registration and oversight of franchises in such states, and (ii) our agents for service of process in such states:

<p><b>CALIFORNIA</b></p> <p><b>Commissioner of Department of Financial Protection and Innovation</b> <b>Department of Financial Protection and Innovation</b> <b>2101 Arena Blvd.</b> <b>Sacramento, California 95834</b> <b>916.445.7205</b> <b>866.275.2677 or 866.ASK.CORP</b></p>
<p><b>HAWAII</b></p> <p><b>Commissioner of Securities of the State of Hawaii</b> <b>Department of Commerce &amp; Consumer Affairs</b> <b>Business Registration Division</b> <b>Securities Compliance Branch</b> <b>335 Merchant Street, Room 203</b> <b>Honolulu, Hawaii 96813</b> <b>808.586.2722</b></p>
<p><b>NEVADA</b></p> <p><b>Secretary of State</b></p> <p><b>Nevada State Capitol Building</b></p> <p><b>101 North Carson Street, Suite 3</b></p> <p><b>Carson City, NV 89701</b></p> <p><b>775.684.5708</b></p>

**EXHIBIT D**

**OPERATIONS MANUAL  
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**OPERATIONS MANUAL  
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**EXHIBIT E**

**DISCLOSURE ADDENDA FOR CALIFORNIA AND HAWAII**

## EXHIBIT E

### DISCLOSURE ADDENDA FOR CALIFORNIA AND HAWAII

#### CALIFORNIA DISCLOSURE

In recognition of the requirements of the California Franchise Investment Law, Cal. Corp. Code §§ 31000-31516, and the California Franchise Relations Act, Cal. Bus. & Prof. Code §§ 20000-20043, the Uniform Franchise Disclosure Document for Franchisor in connection with the offer and sale of franchises for use within the State of California shall be amended to include the following:

1. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT.

2. SECTION 31125 OF THE CALIFORNIA CORPORATIONS CODE REQUIRES US TO GIVE YOU A DISCLOSURE DOCUMENT, IN A FORM CONTAINING THE INFORMATION THAT THE COMMISSIONER MAY BY RULE OR ORDER REQUIRE, BEFORE A SOLICITATION OF A MATERIAL MODIFICATION OF AN EXISTING FRANCHISE.

3. YOU MUST SIGN A GENERAL RELEASE IF YOU RENEW OR TRANSFER YOUR FRANCHISE. CALIFORNIA CORPORATIONS CODE 31512 VOIDS A WAIVER OF YOUR RIGHTS UNDER THE FRANCHISE INVESTMENT LAW (CALIFORNIA CORPORATIONS CODE §§ 31000 THROUGH 31516). BUSINESS AND PROFESSIONS CODE § 20010 VOIDS A WAIVER OF YOUR RIGHTS UNDER THE FRANCHISE RELATIONS ACT (BUSINESS AND PROFESSIONS CODE §§ 20000 THROUGH 20043).

SECTION 31512 OF THE FRANCHISE INVESTMENT LAW ("FIL") AND SECTION 20100 OF THE CALIFORNIA FRANCHISE RELATIONS ACT ("CFRA") PROVIDE THAT ANY CONDITION, STIPULATION OR PROVISION PURPORTING TO BIND YOU TO WAIVE COMPLIANCE WITH ANY PROVISION OF THESE LAWS IS VOID. THEREFORE, ANY RELEASE OF CLAIMS THAT YOU MUST SIGN AS A CONDITION OF RENEWAL OR TRANSFER MAY NOT APPLY TO CLAIMS ARISING UNDER THE FIL OR THE CFRA.

California Business and Professions Code §§ 20000 through 20043 provide rights to the Franchisee concerning termination, transfer or non-renewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.

The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C. §101, *et seq.*).

The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The Franchise Agreement contains a liquidated damages clause. Under California Civil Code § 1671, certain liquidated damages clauses are unenforceable.

The maximum interest rate the Franchisor can charge in California is 10%.

**OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE**

CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT  
[WWW.DFPI.CA.GOV](http://WWW.DFPI.CA.GOV).

## HAWAII DISCLOSURE

THESE FRANCHISES HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE AT LEAST FOURTEEN (14) DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE, OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST FOURTEEN (14) DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, WHICHEVER OCCURS FIRST, A COPY OF THE FRANCHISE DISCLOSURE DOCUMENT, AND THIS ADDENDUM, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

THIS ADDENDUM AND THE FRANCHISE DISCLOSURE DOCUMENT CONTAIN A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND FRANCHISEE.

**No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.**

**The name and address of the Franchisor's agent in this state authorized to receive service of process is:**

**Commissioner of Securities of the State of Hawaii  
Department of Commerce and Consumer Affairs  
Business Registration Division  
Securities Compliance Branch  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813.**

**EXHIBIT F**

**LIST OF CURRENT AND FORMER FRANCHISEES INCLUDING AFFILIATES  
OUTSIDE OF CALIFORNIA, NEVADA AND HAWAII**

Office	Broker/Owner	Manager Email Contact	Address	Office Number
Harcourts Beverly Hills	Glen Coutinho, Brooke Coutinho	<a href="mailto:glen.coutinho@harcourtsusa.com">glen.coutinho@harcourtsusa.com</a> , <a href="mailto:brooke.coutinho@harcourtsusa.com">brooke.coutinho@harcourtsusa.com</a>	409 North Canon Dr, Beverly Hills CA 90210	424 245 9700
Harcourts Blue Water	Kathy Clark & Brenna Van Hoogenstyn	<a href="mailto:kathy@harcourtsbluewater.com">kathy@harcourtsbluewater.com</a> , <a href="mailto:brenna@harcourtsbluewater.com">brenna@harcourtsbluewater.com</a>	1500 W. Balboa Boulevard, Suite 103, Newport Beach, CA 92663	949-283-2833
Harcourts Century City	Glen Coutinho	<a href="mailto:glen.coutinho@harcourtsusa.com">glen.coutinho@harcourtsusa.com</a>	2029 Century Park East Ste 400N, Los Angeles CA 90067	310-418-9443
Harcourts Desert Homes	Scott Palermo & James Sanak	<a href="mailto:jim@scottandjimdeserthomes.com">jim@scottandjimdeserthomes.com</a>	119 N. Indian Canyon Drive Palm Springs, CA 92262	760-567-1550
Harcourts Encino	Glen Coutinho, Anthony Crea, Cheryl Espinoza, Arlene Macpherson, Monica Rocha	<a href="mailto:glen.coutinho@harcourtsusa.com">glen.coutinho@harcourtsusa.com</a> , <a href="mailto:cheryl.espinoza@harcourtsusa.com">cheryl.espinoza@harcourtsusa.com</a> , <a href="mailto:monica.rocha@harcourtsusa.com">monica.rocha@harcourtsusa.com</a> , <a href="mailto:arlene.macpherson@harcourtsusa.com">arlene.macpherson@harcourtsusa.com</a>	17046 Ventura Blvd, Encino CA 91313	424-343-6008
Harcourts Hunter Mason Realty	Courtney Self	<a href="mailto:courtney@huntermason.com">courtney@huntermason.com</a>	1617 S. Pacific Coast Highway, Suite D, Redondo Beach, CA 90277	310-373-3331
Harcourts Hunter Mason Realty - Las Vegas	Tony Self	<a href="mailto:tony@huntermason.com">tony@huntermason.com</a>	9575 West Tropicana Ave Ste 7, Las Vegas NV 89147	
Harcourts Island Real Estate	David Buck	<a href="mailto:david@hawaiihome listings.com">david@hawaiihome listings.com</a>	4614 Kilauea Ave. Suite 206 Honolulu, HI 96816	808-777-4880
Harcourts JADE Properties	Virginia Dent	<a href="mailto:virginia.dent@harcourtsusa.com">virginia.dent@harcourtsusa.com</a>	90 N. Coast Highway 101 #205 Encinitas, CA 92024	760-753-5233
Harcourts Newport Properties	Ernie Caponera	<a href="mailto:ernie@newport-properties.com">ernie@newport-properties.com</a>	2721 East Coast Highway Unit 200, Corona Del Mar, CA 92625	714-606-0926
Harcourts Place	Drew Teicheira	<a href="mailto:drew@teicheirateam.com">drew@teicheirateam.com</a>	2431 W. Coast Hwy, Ste 202, Newport Beach CA 92663	949-244-7438
Harcourts Prime Properties - Aliso Viejo	Kevin Sanchez	<a href="mailto:kevin@harcourtsprime.com">kevin@harcourtsprime.com</a>	3 Monarch Bay Plaza, Suite #103 Dana Point, CA 92629	949-599-1700
Harcourts Prime Properties - Canyon Lake	Dawna Thibodeau	<a href="mailto:dawna@harcourtsprime.com">dawna@harcourtsprime.com</a>	31570 Railroad Canyon Dr Ste 102, Canyon Lake, CA 92587	818-790-6101

Harcourts Prime Properties - La Jolla	Maddox Sripetch, Drew Lyon and Jesse Salas	<a href="mailto:maddox@maddoxsteph.com">maddox@maddoxsteph.com</a> , <a href="mailto:drew@avantihome.com">drew@avantihome.com</a> , <a href="mailto:jesse@sandiegorealestatehunt.com">jesse@sandiegorealestatehunt.com</a>	1000 Torrey Pines Rd, La Jolla CA 92037	
Harcourts Prime Properties - Monarch Beach	Bob Wolff, Justin Green, Chad Widtfeldt	<a href="mailto:bob@bobwolff.com">bob@bobwolff.com</a> , <a href="mailto:Chad.Widtfeldt@harcourtsprime.com">Chad.Widtfeldt@harcourtsprime.com</a> , <a href="mailto:justin@greengroupe.com">justin@greengroupe.com</a>	3 Monarch Bay Plaza, Dana Point, CA 92629	949-248-1888
Harcourts Prime Properties - Newport Beach	Westley Williams	<a href="mailto:westley@westleywilliams.com">westley@westleywilliams.com</a>	170 Newport Center, Ste 120, Newport Beach, CA 92660	949-599-1700
Harcourts Prime Properties - San Diego	Maddox Sripetch, Drew Lyon and Jesse Salas	<a href="mailto:maddox@maddoxsteph.com">maddox@maddoxsteph.com</a> , <a href="mailto:drew@avantihome.com">drew@avantihome.com</a> , <a href="mailto:jesse@sandiegorealestatehunt.com">jesse@sandiegorealestatehunt.com</a>	437 S Highway 101, Ste 116, Solana Beach, CA 92075	760-729-2300
Harcourts Prime Properties - Studio City	Dawna Thibodeau	<a href="mailto:dawna@harcourtsprime.com">dawna@harcourtsprime.com</a>	22741 Blue Teal Dr, Canyon Lake, CA 92587	818-790-6101
Harcourts Prime Properties - Temecula	Shane & Michelle Stevenson	<a href="mailto:shanestevensonrealty@gmail.com">shanestevensonrealty@gmail.com</a> , <a href="mailto:MichelleStevensonRealtor@gmail.com">MichelleStevensonRealtor@gmail.com</a>	28693 Old Town Front St #300G, Temecula CA 92590	951-760-1968
Harcourts SG Properties (Irvine)	Sam Wu	<a href="mailto:Sam.Wu@harcourtsusa.com">Sam.Wu@harcourtsusa.com</a>	15375 Barranca Parkway Suite A-215, Irvine, CA 92618	
Harcourts Signature Properties	Greg Babakhanian	<a href="mailto:greg.babakhanian@harcourtssp.com">greg.babakhanian@harcourtssp.com</a>	31706 South Coast Hwy Suite 202, Laguna Beach CA 92651	949-307-6322
Harcourts Vanguard	Mario Dominquez & Moises Flores	<a href="mailto:mario@vanguardnvre.com">mario@vanguardnvre.com</a>	5050 Vista Blvd, Ste 104, Sparks NV 89436	775-200-3307
Harcourts Prime Properties - Westlake Village	Steve Simmons	-		
Harcourts Westside	Ty Cueva	<a href="mailto:tycueva@icloud.com">tycueva@icloud.com</a>	620 Santa Monica Blvd B, Santa Monica CA 900401	<a href="tel:3104984111">310 498 4111</a>

**EXHIBIT G**

**PERSONAL GUARANTY**

## PERSONAL GUARANTY OF HARCOURTS FRANCHISE OBLIGATIONS

This Personal Guaranty of Harcourts Franchise Obligations (“Guaranty”) shall be effective as of \_\_\_\_\_, 20\_\_ by and between **INSERT NAME OF GUARANTOR** (“Guarantors”) and HARCOURTS PACIFIC, LLC (“Franchisor”) and is made with reference to the following facts:

- A. Guarantors are all the members or shareholders of **INSERT NAME OF COMPANY THAT HAS OR WILL EXECUTE FRANCHISE AGREEMENT**, (“Franchisee”) who is going to or has already executed a Franchise Agreement for the operation of real estate brokerage office(s) under the Harcourts brand name. That franchise agreement has an effective date of **INSERT FRANCHISE EFFECTIVE DATE** and hereinafter such franchise agreement shall be known as (the “Franchise Agreement”).
- B. In accordance with the terms of the Franchise Agreement, Franchisee is obligated to various financial and other terms affecting Harcourts’ brand and the initial sale and ongoing operation of the Harcourts real estate brokerage franchise, including extension and renewals; and
- C. As an essential part of the consideration for entering into the Franchise Agreement, Franchisor requires that Guarantors personally guarantee all of the obligations of Franchisee owed to the Franchisor pursuant to the terms of the Franchise Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

- 1. For valuable consideration, receipt of which is hereby acknowledged, Guarantors hereby unconditionally and irrevocably guarantee to Franchisor, the due performance of all the indebtedness, obligations and liability, whether now existing or hereafter arising during and after (as applicable pursuant to the Franchise Agreement), of Franchisee to Franchisor pursuant to the terms of the Franchise Agreement. This shall be a continuing Guaranty, and shall continue in full force and effect until Franchisee’s liabilities are fully paid, performed, and discharged, and Franchisor give Guarantors written notice of that fact at Guarantors’ address specified below. The liability of the Guarantors, if more than one, under this Guaranty shall be joint and several.
- 2. Guarantors’ obligations hereunder shall not be impaired by any new agreements or obligations of Franchisee with or to Franchisor, or by any amendments, extensions, modifications, renewals, compromises, releases or waivers of default as to any existing or future agreements or obligations of Franchisee to Franchisor.

3. Guarantors agree, without demand, to reimburse Franchisor for all expenses, including attorney fees, incurred in the enforcement of this Guaranty or the collection of the indebtedness or obligations.
4. Guarantors waive any right they may have to require Franchisor:
  - a. To proceed against Franchisee or any other person liable on the indebtedness or obligation.
  - b. To pursue any other remedy in the Franchisor's power.

Guarantors waive all presentments, demands for performance, notices of performance, protests, notice of protest, notices of dishonor and notices of acceptance of this Guaranty.

5. Guarantors assume responsibility for being and remaining informed of the financial condition of Franchisee and of all other circumstances bearing on the risk of nonpayment of the indebtedness or any obligation, that diligent inquiry would reveal. Franchisor has no duty to advise Guarantors of information known to it regarding that condition or any such circumstances.
6. At its election, Franchisor may exercise, or elect not to exercise, any right it may have against Franchisee or any security held by Franchisor, without affecting or impairing Guarantors' liability under this Guaranty, except to the extent that any part of the indebtedness is paid, or obligation satisfied, as a result of such action.
7. Guarantors waive any defense arising from the absence, impairment, or loss of any right of reimbursement, contribution, or subrogation, or any other right of the Guarantors against Franchisee or any security, whether resulting from the election by Franchisor or otherwise. Guarantors waive any defense arising from any cause whatsoever, including without limitation the Franchisor' act or omission, which such act or omission shall not result in the cessation of Franchisee's liability to Franchisor for the indebtedness or any obligation, either in whole or in part.
8. Guarantors waive, to the fullest extent permitted by law, all rights and benefits:
  - a. Under any state law, to the extent these provisions, if they exist, have any application to this Guaranty or to Guarantors.
  - b. Any defense arising as a result of Franchisor's application of 11 United States Code §1111(b)(2) in any proceeding instituted under Title 11 of the United States Code.

- c. Any defense based on any borrowing or grant of a security interest under 11 United States Code §364.
9. Guarantors are members or shareholders or persons in control of Franchisee and, as such, may be deemed an “insider” as defined in 11 United States Code §101. Guarantors expressly waive and agree not to assert any claim that Guarantors have or may have against Franchisee for any payment or transfer that Guarantors are obligated to make to Franchisor under this Guaranty or under any other agreement with a creditor of Franchisor.
10. Guarantors acknowledge that in entering into this Guaranty they have been represented and advised by an attorney of their own choosing and has not relied upon any advice or representation of Franchisor or Franchisor’s counsel.
11. Until the indebtedness has been paid in full, including any part of the indebtedness that exceeds Guarantors’ liability under this Guaranty, and all obligations arising from the Franchise Agreement have been satisfied, Guarantors do not have and waive to the fullest extent permitted by law:
  - a. Any right of subrogation to any right that Franchisor now have or may have later against Franchisee in connection with the indebtedness or obligations, and
  - b. Any benefit of, and any right to participate in, any security now or later held by Franchisor for the indebtedness or any obligation.
12. This Guaranty shall be deemed to be a contract made under the laws of the State of California and shall be construed and enforced in accordance with the laws of said State without regard to the principles of conflicts of laws.
13. The provisions of this Guaranty are severable, and if any provision shall be held invalid or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall not in any manner affect such provision in any other jurisdiction or any other provisions of this Guaranty in any jurisdiction.
14. No failure on the part of Franchisor to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise by Franchisor of any right hereunder preclude any other or further exercise thereof or the exercise of any other rights.
15. This Guaranty shall inure to the benefit of Franchisor’s successors and assigns, and shall be binding upon the successors and assigns of Guarantors. The legal rights and obligations

of the parties hereto shall be determined in accordance with the laws of the State of California. The parties agree that any disputes to enforce or interpret the terms of this Guaranty shall be brought only in accordance with the laws of the State of California.

**SIGNATURE TO PERSONAL GUARANTY FOR HARCOURTS FRANCHISEE:**

**INSERT NAME OF HARCOURTS FRANCHISEE**

IN WITNESS WHEREOF, Guarantor executes this Guarantee this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Executed by [insert]**

\_\_\_\_\_  
Signature of Guarantor ←

\_\_\_\_\_  
Signature of Guarantor

\_\_\_\_\_  
Name of Guarantor (print)

\_\_\_\_\_  
Name of Guarantor (print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT H**

**GROWTH AND MANAGEMENT PARTNER AGREEMENT**

## GROWTH AND MANAGEMENT PARTNER AGREEMENT

### HARCOURTS PACIFIC

THIS GROWTH AND MANAGEMENT PARTNER AGREEMENT (the “Agreement”) is made and entered and effective as of \_\_\_\_\_, 20\_\_\_\_, between Harcourts Pacific LLC (“HPAC”) and **INSERT NAME OF CORPORATE OR INDIVIDUAL FRANCHISEE, Inc. (a California corporation – OR an individual (“Franchisee”))** who is a Harcourts Franchisee. HPAC and Franchisee are sometimes hereinafter referred to as a “Party” and collectively referred to as the “Parties.”

WHEREAS, Franchisee is a franchisee of the Harcourts real estate brokerage office system and has requested consideration by HPAC to have HPAC work with Franchisee, as set forth herein, to manage and try to facilitate growth (with no guaranties) of Franchisee’s Harcourts franchised real estate brokerage offices, all pursuant to the terms herein:

WHEREAS, HPAC and its franchisee, Preferred Group Properties, f/b/n Harcourts Prime Properties, is and has been since 2011, a franchisee of the Harcourts real estate brokerage office system, running several real estate brokerage offices in southern California;

WHEREAS, HPAC and Franchisee believe, with no guaranties, that entering into this Agreement, Franchisee’s business can possibly grow with HPAC’s assistance as set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Services Provided. HPAC shall perform the following services through the duration of this Agreement, with the assistance of Preferred Group Properties, Inc. f/b/n Harcourts Prime Properties, (the “Services”):
  - a. To open, maintain, and close bank accounts and to draw checks and other orders for the payment of money; and
  - b. To take any action and to incur any expenses on behalf of the Franchisee that may be necessary or advisable in connection with the conduct of the Franchisee’s affairs or purposes; and
  - c. To enter into, make, and perform any contracts, agreements, and other undertakings that may be deemed necessary or advisable by HPAC for the conduct of the affairs or purpose of the real estate brokerage office; and
  - d. To ensure that Franchisee’s office(s) must be subscribed to the expired listing feature and recruitment module of the Blue technology platform;
  - e. To manage and operate all aspects of finance, trust and operating account bookkeeping, recording keeping, marketing, office operations, transaction management, agent recruitment and retention, and any other aspect of what typically constitutes part of the management and operation of a real estate brokerage office.
2. Services Not Provided. HPAC shall not:
  - a. Execute or have had executed a lease for office space of Franchisee’s Harcourts real estate brokerage office; and

- b. Hire, fire or supervise any of Franchisee's employees.
3. Term. The term of this Agreement shall begin on the date hereof and shall continue until termination of the Franchise Agreement for each of any office of Franchisee that is part of this Agreement, that is between Franchisee and Harcourts Pacific, LLC, as renewed, unless sooner terminated as specifically provided in this Agreement.
  4. Fees. In addition to the Franchise Fee structure stated in the Franchise Agreement, Franchisee agrees to pay HPAC an amount equal to thirty percent (30%) of net profit before taxes. This amount shall be calculated and paid upon a monthly basis. HPAC shall issue a monthly Profit and Loss financial statement, on or before the 15<sup>th</sup> of the following monthly. If there is a profit showing on such Profit and Loss Statement, Franchisee agrees that HPAC shall be entitled to 30% of such profit, payable on or before the 25<sup>th</sup> of the following month. In the event any unauthorized expenses are incorporated into the Profit and Loss Statement, the Parties shall discuss the matter and adjust the Profit and Loss Statement to deduct such expense. All of Franchisee's real estate brokerage office expenses must be as detailed herein.
  5. Expenses. All of Franchisee's Harcourts real estate brokerage office expenses shall be agreed upon in advance and incorporated by reference into this Agreement as Exhibit 1. In the event the Parties wish to add, delete or otherwise change any of the expenses as listed on Exhibit 1, they must do so in writing, and both Parties must sign an amended Exhibit 1 to this Agreement..
  6. Relationship between HPAC and Franchisee. Under this Growth and Management Partner Agreement, the intent of the Parties is not to be deemed one of employer/employee, joint venturers, agents, or owners, but that of contractor/contractee as any third-party vendor would be.
  7. Indemnification. In the event that any liabilities arise that are outside of any of the Services provided by HPAC, Franchisee agrees to indemnify HPAC for such claims.
  8. Books and Records. Proper books and records shall be kept with respect to the Services, and both Parties shall have equal access to such books and records at all reasonable times during business hours. The books shall be kept using the method of accounting that shall properly reflect the financial status of Franchisee's Harcourts real estate brokerage office. Franchisee gives HPAC any needed power of attorney to execute documents relating to completing any of the Services.
  9. Termination. The following events shall terminate this Agreement:
    - a. Mutual written agreement of a termination signed by both Parties; or
    - b. The expiration of the Franchise Agreement(s) of Franchisee, if not renewed; or
  10. Attorney's Fees. In the event that it should become necessary for any Party entitled hereunder to bring suit against any other Party to this Agreement for enforcement of the covenants herein contained, the prevailing Party shall be entitled to recoup all reasonable attorney's fees and costs of court incurred by such Party hereto.
  11. Benefit. All the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto, and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns.
  12. Notices. All notices, requests, demands, and other communications hereunder shall be in writing and delivered personally, by email, by facsimile transmission, or sent by registered or certified United States mail, return receipt requested with postage prepaid, to the Parties

- at their respective addresses on file. Any Party hereto may change its address upon 10 days' written notice to any other Party hereto.
13. Construction. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. In addition, the pronouns used in this Agreement shall be understood and construed to apply whether the party referred to is an individual, partnership, joint venture, corporation or an individual or individuals doing business under a firm or trade name, and the masculine, feminine and neuter pronouns shall each include the other and may be used interchangeably with the same meaning.
  14. Waiver. No course of dealing on the part of any Party hereto or its agents, or any failure or delay by any such party with respect to exercising any right, power or privilege of such Party under this Agreement or any instrument referred to herein shall operate as a waiver thereof, and any single or partial exercise of any such right, power or privilege shall not preclude any later exercise thereof or any exercise of any other right, power or privilege hereunder or thereunder.
  15. Cumulative Rights. The rights and remedies of any party under this Agreement and the instruments executed or to be executed in connection herewith, or any of them, shall be cumulative and the exercise or partial exercise of any such right or remedy shall not preclude the exercise of any other right or remedy.
  16. Invalidity. In the event any one or more of the provisions contained in this Agreement or in any instrument referred to herein or executed in connection herewith shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions of this Agreement or any such other instrument.
  17. Time of the Essence. Time is of the essence of this Agreement.
  18. Headings. The headings used in this Agreement are for convenience and reference only and in no way define, limit, simplify or describe the scope or intent of this Agreement, and in no way effect or constitute a part of this Agreement.
  19. Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
  20. Law Governing. This Agreement shall be construed and governed by the laws of the State of California, and all obligations hereunder shall be deemed performable in Orange County, California.
  21. Perfection of Title. The Parties hereto shall do all other acts and things that may be reasonably necessary or proper, fully or more fully, to evidence, complete or perfect this Agreement, and to carry out the intent of this Agreement.
  22. Entire Agreement. This instrument contains the entire Agreement of the Parties and may not be changed orally, but only by an instrument in writing signed by the Party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.

END

**GROWTH AND MANAGEMENT PARTNER AGREEMENT**

**SIGNATURE PAGE**

**FRANCHISEE:**

**INSERT NAME OF CO OR INDIVIDUAL**



\_\_\_\_\_  
Signature

By: **INSERT NAME, As its INSERT TITLE**

**HARCOURTS PACIFIC, LLC:**



\_\_\_\_\_  
Signature

By: Benjamin Brady, Regional Director

**EXHIBIT 1**

**TO GROWTH AND MANAGEMENT PARTNER AGREEMENT:**

**AGREED UPON MONTHLY EXPENSES FOR FRANCHISEE'S**

**HARCOURTS REAL ESTATE BROKERAGE OFFICE:**

<b>FIXED OR VARIABLE EXPENSE</b>	<b>MONTHLY AMOUNT OF SUCH EXPENSE</b>	<b>COMMENTS.</b>

**EXHIBIT I**

**TECHNOLOGY LICENSE AGREEMENT**

# TECHNOLOGY LICENSE AGREEMENT

THIS TECHNOLOGY LICENSE AGREEMENT (“**Agreement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between **Harcourts Pacific LLC**, a California limited liability company (“**Sub-Licensor**”), and \_\_\_\_\_ (**INSERT NAME OF FRANCHISEE CORPORATION-IF NONE, INDIVIDUAL**) (“**Sub-Licensee**”) in connection with the requirements of that certain Franchise Agreement(s) between the parties.

WHEREAS, Sub-Licensor has a license from KB Software, LLC, a California limited liability company (“**Master Licensor**”) who owns all proprietary and intellectual property rights, title, and interest, including rights to all source and object code, to the technology platforms commonly known as Blue and Connect. Blue and Connect are transaction management and customer relationship management platforms used in real estate brokerage offices; and

WHEREAS, Sub-Licensor desires to license Blue and Connect to Sub-Licensee under the terms of this Agreement, and any related terms in Sub-Licensee’s Franchise Agreement;

**NOW, THEREFORE**, in consideration of the premises and the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## 1. DEFINITIONS

1.1. “**Derivative Technology**” means any and all proprietary processes, inventions, discoveries, technology, apparatus, tools, drawings, designs, prototypes, plans, specifications, materials, trade secrets, works of authorship, know-how, standards, documentation, applications, programs, methods, techniques, formulae, protocols, analyses, information and data in any form (whether or not patentable or copyrightable), and any and all other intellectual property or proprietary information discovered, derived or developed from or based upon the Licensor Technology, or as a result of Sub-Licensee’s use of the Licensor Technology.

1.2. “**Licensor Technology**” means any and all proprietary processes, inventions, discoveries, technology, apparatus, tools, drawings, designs, prototypes, plans, specifications, materials, trade secrets, works of authorship, know-how, standards, documentation, applications, programs, methods, techniques, formulae, protocols, analyses, information and data in any form (whether or not patentable or copyrightable), and any and all other intellectual property or proprietary information, that presently exists or is developed prior to, on, or after the date of execution of this Agreement relating in any way to Master Licensor’s real estate brokerage transaction management and customer relationship management platforms and technology known as Blue and Connect.

1.3. “**Person**” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or other entity, or a government or any branch, department, agency, political subdivision or official thereof.

## 2. GRANT OF LICENSE

2.1 Effective as of the date of this Agreement, Sub-Licensor hereby grants to Sub-Licensee a revocable, non-exclusive, limited, restricted right to use the Licensor Technology and Derivative Technology (collectively, the “**Technology**”) in any and all franchised real estate offices that Sub-Licensee owns and operates in its Territory (as defined in the Franchise Agreement) under the “Harcourts” brand name, so long as Sub-Licensor is a franchisee of the Harcourts franchise and pays the fees listed in this Agreement and the Franchise Agreement timely. Sub-Licensee agrees to use the Technology pursuant to requirements set forth by Sub-Licensor and Master Licensor.

### **3. OWNERSHIP OF DERIVATIVE TECHNOLOGY**

3.1 Sub-Licensee acknowledges and agrees that Master Licensor is and will at all times remain the sole and worldwide owner of (i) any and all Derivative Technology made or developed by Sub-Licensee, alone or jointly with others, and (ii) any and all intellectual property and proprietary rights, title, and interest in such Derivative Technology, including without limitation the worldwide patents for such Derivative Technology and all subsidiary rights in such Derivative Technology. Sub-Licensee hereby assigns, and upon creation of said Derivative Technology does assign, to the Sub-Licensor, who in turn will assign to Master Licensor, all of Sub-Licensee’s right, title and interest in and to such Derivative Technology, whether made or developed solely by Sub-Licensee or jointly with others.

3.2 To the extent any Derivative Technology is made or developed by Sub-Licensee, alone or joint with others, Sub-Licensee agrees to execute all documents requested by the Sub-Licensor or Master Licensor, and provide assistance to the Sub-Licensor or Master Licensor, to secure all rights in and to the Derivative Technology. Sub-Licensee’s obligations include the disclosure of all pertinent information and data, the execution of all applications, specifications, oaths, assignments and all other instruments that the Sub-Licensor or Master Licensor deems necessary to apply for and obtain such rights, and to assign and convey to the Sub-Licensor or Master Licensor, and its respective successors and assigns, any patents or other intellectual property and proprietary rights.

3.3 Sub-Licensee has no proprietary or intellectual property rights, title, or interest in or to the Technology except as explicitly granted under this Agreement.

### **4. TERM AND ROYALTY FEE**

4.1 This Agreement and the license granted under this Agreement shall become effective as of the date of this Agreement and shall continue so long as Sub-Licensee remains a franchisee of the Harcourts real estate brokerage franchise system. If, for whatever reason, Sub-Licensee’s Franchise Agreement(s) is terminated, whether voluntarily or involuntarily, then this Agreement shall also terminate and all fees then due shall be immediately payable to Sub-Licensor.

4.2 The royalty fees paid in exchange for Sub-Licensee’s rights under this Agreement will be paid as part of the Technology Platform Fee (as defined in Sub-Licensee’s Franchise Agreement). In addition, Sub-Licensee shall pay any other royalty fee or optional add on fees described in Sub-Licensee’s Franchise Agreement. Such fees are due and payable monthly as set forth in Sub-Licensee’s Franchise Agreement.

## **5. REPRESENTATIONS AND WARRANTIES**

5.1 Sub-Licensors hereby represents and warrants to Sub-Licensee that, as of the date of execution of this Agreement, (i) Sub-Licensors is a duly licensed sub-licensor of Master Licensor, who is the sole and exclusive owner of all worldwide right, title and interest in and to the Licensor Technology, free and clear of any liens, claims, security interests, encumbrances or demands of third parties, (ii) Sub-Licensors has the full right and authority to enter into and grant to Sub-Licensee all rights granted under this Agreement, (iii) Sub-Licensors is not a party to any agreement and has not granted to any Person any right, license, or privilege that conflicts with this Agreement, (iv) the Licensor Technology is not being infringed and does not infringe the intellectual property or proprietary rights of any Person, and (v) Sub-Licensors has not received written notice of any judicial, administrative, or other proceeding or claim pending, or to Sub-Licensors's knowledge threatened, against or otherwise affecting or relating to any of the Licensor Technology, or which calls into question (expressly or by implication) the right of Sub-Licensee to exercise any rights granted to it under this Agreement.

## **6. INDEMNIFICATION; LIMITATION OF LIABILITY**

6.1 IN NO EVENT SHALL THE SUB-LICENSOR OR MASTER LICENSOR, THEIR SUBSIDIARIES OR AFFILIATES, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, MEMBERS, EMPLOYEES, AGENTS, TRANSFEREES, SUCCESSORS OR ASSIGNS BE LIABLE TO SUB-LICENSEE FOR INCIDENTAL, PUNITIVE, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE (AND WHETHER OR NOT ADVISED OF THE POSSIBILITY THEREOF), ARISING FROM ANY CLAIM OR CAUSE OF ACTION WHATSOEVER, INCLUDING CONTRACT, WARRANTY, STRICT LIABILITY, OR NEGLIGENCE, ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE LIMITATION OF LIABILITY SHALL INCLUDE, IF LIABILITY IS PROVEN, THAT DAMAGES SHALL BE NO GREATER THAN FEES PAID TO THE SUB-LICENSOR BY THE SUB-LICENSEE UNDER THIS AGREEMENT.

## **7. INFRINGEMENT**

7.1 In the event that Sub-Licensee learns of any claim or act of any Person that constitutes or may constitute or result in an infringement or other violation of any Technology, Sub-Licensee shall promptly notify Licensor in writing and provide any available evidence of such infringement.

7.2 Sub-Licensors shall have the first right, at its own expense, to institute and prosecute all actions, suits or proceedings against any violation of Sub-Licensors's rights to the Technology, subject to Master Licensor's direction. The Sub-Licensors or Master Licensor shall keep any recovery or damages for infringement derived from any such actions, suits or proceedings, as reasonably determined by Master Licensor.

7.3 Sub-Licensee shall, at the request of the Sub-Licensors or Master Licensor, and at their expense, render all reasonable assistance, including without limitation joining as a party, providing testimony, providing all information and documents in its possession, custody or control, and making available any witnesses, in support of any actions, suits or proceedings referred to in this Article 7.

7.4 Notwithstanding anything contained in this Agreement, under no circumstances may Sub-Licensee enter into any settlement or agreement or make any admissions that would affect the rights of the Sub-Licensor or Master Licensor with respect to any Technology without first obtaining the informed written consent of the Sub-Licensor.

## **8. GENERAL**

8.1 Governing Law. This Agreement is made pursuant to and shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflict of laws principles that would cause the substantive law of another jurisdiction to apply. The venue for any suit or proceeding arising out of or relating to this Agreement shall be as defined in the Franchise Agreement between Sub-Licensor and Sub-Licensee, as shall the provisions affecting the awarding of attorneys' fees and costs.

8.2 Notices. Any notice required or permitted to be given by either party hereto shall be given in accordance with the notice provision(s) set forth in the Franchise Agreement between Sub-Licensor and Sub-Licensee.

8.3 Assignment. This Agreement, the license granted under this Agreement, and Sub-Licensee's rights and obligations under this Agreement may not be assigned, delegated, sold or transferred by Sub-Licensee, in whole or in part, without the prior written consent of the Sub-Licensor (any attempt to do so shall be void), which may not be unreasonably withheld.

8.4 Survival. The terms and conditions set forth in Articles 3, 5, 6 and 7 shall survive any termination of this Agreement.

8.5 Miscellaneous. This Agreement (and the portions of the Franchise Agreement expressly incorporated into this Agreement) constitutes the entire agreement between the parties concerning the subject matter of this Agreement, and supersedes all prior negotiations, understandings, undertakings or agreements (whether oral or written) between the parties relating to the subject matter of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties and their respective transferees, successors and permitted assigns. The waiver or failure of a party to require performance of any provision of this Agreement will not be construed as a waiver of that party's right to insist on performance of that same provision, or any other provision, at some other time. Any amendment or modification of this Agreement, or any waiver of its terms, in order to be binding, must be written and signed by both Sub-Licensor and Sub-Licensee. If any provision of this Agreement is deemed invalid or unenforceable, in whole or in part, or as applied to any circumstance, then such provision shall be deemed to be modified or restricted to the extent and in the manner necessary to render the same valid and enforceable, or shall be deemed excised from this Agreement, as the case may require, and this Agreement shall then be construed and enforced to the maximum extent permitted by law. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same agreement, but no counterpart will be binding unless an identical counterpart has been executed and delivered by each of the other parties. Signatures to this Agreement delivered by facsimile or electronic means, including by portable document format (.pdf), will have the same force, validity, and effect as original signatures.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

**SUB-LICENSOR:**

\_\_\_\_\_  
**Harcourts Pacific LLC**

**SUB-LICENSEE:**

\_\_\_\_\_  
**INSERT NAME OF COMPANY OR  
INDIVIDUAL(S)**



\_\_\_\_\_  
Signature

By: Benjamin Brady, As its Regional  
Director

\_\_\_\_\_

\_\_\_\_\_  
Signature

By: \_\_\_\_\_, As its

\_\_\_\_\_

\_\_\_\_\_

## State Effective Dates

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

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration, as of the Effective Date stated below:

<b>State</b>	<b>Effective Date</b>
California	Pending
Hawaii	Pending
Nevada	Pending

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

**EXHIBIT J**

**RECEIPTS**

**RECEIPT**

(THIS DISCLOSURE DOCUMENT SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS DISCLOSURE DOCUMENT AND ALL AGREEMENTS CAREFULLY.

IF WE OFFER YOU A FRANCHISE, WE MUST PROVIDE THIS DISCLOSURE DOCUMENT TO YOU BY THE EARLIER OF:

1. THE FIRST PERSONAL MEETING TO DISCUSS THE FRANCHISE; OR
2. FOURTEEN (14) CALENDAR DAYS BEFORE YOU SIGN A BINDING AGREEMENT WITH US OR OUR AFFILIATE(S) IN CONNECTION WITH THE PROPOSED FRANCHISE SALE; OR
3. FOURTEEN (14) CALENDAR DAYS BEFORE ANY PAYMENT TO US OR OUR AFFILIATE(S).

IF WE DO NOT DELIVER THIS DISCLOSURE DOCUMENT ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL LAW AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON DC, 20580 AND THE STATE AGENCIES LISTED IN **EXHIBIT C**.

The issuance date for this disclosure document is February 25, 2024.

Your franchise has been offered to you by **Harcourts Pacific LLC, and contacts are Benjamin Brady and Joshua Procopis** at:

**3 Monarch Bay Plaza, Suite 100  
Dana Point, California 92629  
Telephone: 949.632-8995**

We authorize the agents listed in **Exhibit C** to receive service of process for us.

On \_\_\_\_\_, 2\_\_\_\_. I received a disclosure document dated \_\_\_\_\_ 2\_\_\_\_ that included the following Exhibits:

<u>Exhibit A:</u>	Franchise Agreement	<u>Exhibit B:</u>	Financial Statements
<u>Exhibit A-1:</u>	Franchise Details	<u>Exhibit C:</u>	List of State Agencies / Agents for Service of Process
<u>Exhibit A-2:</u>	Territory	<u>Exhibit D:</u>	Operations Manual Table of Contents
<u>Exhibit A-3:</u>	Independent Legal Advice	<u>Exhibit E:</u>	Disclosure Addenda for California and Hawaii
<u>Exhibit A-4:</u>	Independent Business Advice	<u>Exhibit F:</u>	List of Current and Former Franchisees
<u>Exhibit A-5:</u>	Independent Accounting Advice	<u>Exhibit G:</u>	Personal Guaranty
<u>Exhibit A-6:</u>	Direct Debit Authority Form	<u>Exhibit H:</u>	Growth and Management Partner Agreement
<u>Exhibit A-7:</u>	Right of First Refusal	<u>Exhibit I:</u>	Technology License Agreement
<u>Exhibit A-8:</u>	Harcourts Auctions	<u>Exhibit J:</u>	Receipts
<u>Exhibit A-9:</u>	Release in Connection with Franchise Renewal or Termination		

Date: \_\_\_\_\_, 2\_\_\_\_

Prospective Franchisee: \_\_\_\_\_

Print or Type: \_\_\_\_\_

**RECEIPT**

THIS DISCLOSURE DOCUMENT SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS DISCLOSURE DOCUMENT AND ALL AGREEMENTS CAREFULLY.

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Date: \_\_\_\_\_, 2\_\_\_\_

Prospective Franchisee: \_\_\_\_\_

Print or Type: \_\_\_\_\_