

TERMS AND CONDITIONS TO THE FRANCHISE AGREEMENT

Definitions

“**FLT**” shall mean in the context of this agreement, the concrete unpainted structure, its floor, door and the roof;

“**Franchise**” shall mean in the context of this agreement, the Franchisor’s branding, the squat plate, the collection services and all other affiliated services and/or products offered at the discretion of the Franchisor on lease to a Franchisee paying the stipulated monthly fee for the duration of this Franchise Agreement;

“**Franchisor**” shall mean in the context of this agreement, Fresh Life Initiative;

“**Franchisee**” shall mean in the context of this agreement the lessee of the Franchise and the FLT.

“**Term**” shall mean in the context of this agreement two (2) years from the date of launch of the Franchise and thereafter renewing in tacit.

1. Service Fee

1.1. Failure to pay Service Fee

The Franchisee shall endeavor to make timely and full payments of the service fee. Failure of the Franchisee to make such payments shall give the Franchisor the right to declare this Agreement void and retain all paid up fees remitted by Franchisee, repossess the FLT and the Franchisee and simultaneously be relieved of any obligations to Franchisee under this Agreement.

1.2. Service fee is Non-refundable

The Service fee is non-refundable.

2. Location of the FLT

2.1. Site Selection

The Franchisee shall identify, select and secure an Authorized area(s) within the designated area of operation. The Franchisee shall take responsibility for all financial obligations associated with obtaining authorization from local authorities to operate the Franchise in the area selected by the Franchisee. If, for any reasons, the Franchisee is unable to secure authorization, The Franchisor may, upon consideration of the circumstances at hand and forfeiture of installation fee of five thousand shillings only per FLT or such other sums as may be revised from time to time and communicated by the Franchisor to cancel the installation of such FLT.

2.2. Relocation

The Franchisee under extraneous circumstances such as threats of demolition of the franchise or a legitimate request by any government entity to relocate the franchise notify the Franchisor by giving a fourteen (14) days’ notice, to the Franchisor of such relocation and the Franchisor shall relocate the structure to another site at a cost of two thousand shillings only per FLT.

3. Assigning and Transfer of FLTs

3.1. Franchisee appointed operators

The Franchisee remains at liberty for the duration of the Agreement to appoint an operator at their own costs and notify the Franchisor of the same to facilitate the mandatory Franchisee training to ensure compliance in maintaining the standards set by the Franchisee for running of the FLT. The Franchisor shall not be liable for any acts of omission or commission by the operator nor the welfare of the operator.

3.2. Transfer

The Franchisor and Franchisee have entered into this Agreement relying on the Franchisee’s eligibility to be enrolled on this model and individual skills essential to the satisfactory operation of the FLT franchise. As a result, the Franchisee shall not under any circumstances transfer or assign this Agreement to any other third party without the Franchisor’s prior written consent and completion of the notice of assignment for proposed new franchisee.

4. Franchisor’s obligations

The Franchisor will provide the Franchisee with collection services, training from time to time, the Franchisor’s “*business in a box*” which may contain an initial supply of toilet accessories, including a hand washing stand, tank and sawdust container.

5. Franchisee’s obligations

The Franchisee shall at all times, exclusively operate the Franchise at the Authorized Location/s in compliance with the terms and conditions of this Agreement, including the following:

- 5.1. Devote the best efforts to the operation of the Franchise and at all times ensure compliance with all obligations set out in this Agreement as well as any other requirements of local and government authorities as far as erection and operation of the Franchise is concerned;
- 5.2. The Franchisee shall endeavour to make timely and full payments of the service fee owing for the duration of the Franchise failure to which the Franchisor, shall, in accordance with its internal policies be at liberty to exercise all options available to it to remedy a default in payments or breach of terms of usage up to and including repossession of the FLT/s and/or franchise.
- 5.3. The Franchisee or the Franchise operator shall have to undertake and complete the initial ten (10) hour Franchisee training sessions to the satisfaction of the Franchisor before being permitted to open and operate a Franchise.
- 5.4. At all times ensure that the FLT remains operational 24/7 once it is fully installed and accessible to all users.
- 5.5. Ensure that the squat plates and containers (“the unit”) are not disposed, damaged or vandalized and that at all times they are kept in usable condition save for normal wear and tear as this unit is on lease and shall be returned to the Franchisor on demand or at the end of the Franchise period if the same terminates for any reason.
- 5.6. Without fail, obtain and maintain any legally required consents, permits, certificates and/or licences required to operate the Franchise and comply with all applicable laws, regulations, by-laws, codes, and health, safety and sanitary requirements relating to the operation of the FLI franchise.
- 5.7. Allow Franchisor representatives to carry out waste collection services.
- 5.8. Give access to Franchisor representatives to the FLT/s to inspect and evaluate FLT/s and use of the Franchisor’s intellectual property at such times as the Franchisor may request. All negative evaluations or feedback should be remedied within seven (7) days, failure to which the Franchisor shall treat the same as breach of the terms of the

- Franchise and exercise all options available to it under its internal policies.
- 5.9. To not solicit Franchisor's agents, employees or authorized personnel or compete by carrying out or engaging in business by itself or via third parties that would be seen to be similar to the Franchisor's for the term of the Franchise agreement and upon its lapse.
 - 5.10. To solely use the Franchisor's trademark for the sole purpose of operating the FLT franchise.
 - 5.11. To not in any way, manner or form commit any act/s of commission or omission which, in the opinion of the Franchisor, is likely to negatively affect the Franchisor's Trademarks, goodwill and/or reputation.
 - 5.12. To not at any time share or cause to be shared through the operator or any unauthorized persons the contents of the Fresh Life Operator's Manual or any other Franchisor material during the term and after the termination of this agreement.
 - 5.13. Shall at all times during the franchise undertake all reasonably proximal responsibilities which may arise in connection with the operation of the Franchise and the provisions of this Agreement.
- 6. Termination**
- The Franchisor will terminate this Agreement in the following circumstances:
- i. if it is determined that the Franchisee is in default or have breached any of the terms of this Agreement or the payment of service fee and if such default or breach is not remedied within seven (7) days after issuance of notice, or if such default or breach cannot be remedied, then the Franchisor has the right to terminate this Agreement; and/or
 - ii. if it is determined, on the basis of a force majeure event that the Fresh Life franchise network can no longer operate in the Franchisee's location, then the Franchisor shall automatically terminate this agreement with no notice;
 - iii. For no cause by issuing a thirty (30) day notice.
- b. In the event this Agreement is terminated for any of the above reasons:
- i. The Franchisee shall no longer be a Franchisee;
 - ii. The Franchisee shall immediately cease all use of Fresh Life intellectual property in any way, form or manner on the FLT structure (*where such Franchisor is on a pay-to-own model*) and shall additionally not under any circumstances operate or transact under the same trademarks or any other that may be deceptively similar to the Franchise model;
 - iii. The Franchisor shall immediately access the FLT/s to repossess the FLT structure and the Unit (*comprised of the waste containers and squat plate*);
- 7. Communications Consent**
- The Franchisee consents to the use of their name, biography and photograph by the Franchisor and/or its affiliates, partners and agents on their respective websites, marketing materials, presentations or other forms of media for marketing purposes during and after the Term. The Franchisee may issue a thirty (30) day notice to the Franchisor requesting that their information no longer be shared.
- 8. Data Privacy**
- Personal data means any information related to or by which a natural person can be identified or located directly or

- indirectly (including, without limitation, name, address, e-mail address, telephone number, photos, video images and ID/Passport Number, location of the toilet).
- 3.1. All Franchisee's personal data that is collected and processed by the Company, its affiliates, and authorized third parties shall be processed in accordance with the provisions of the Data Protection Act and the Company's data protection policies for all purposes relating to the performance of this Agreement and other lawful purposes.
 - 8.2. By signing this Agreement, the Franchisee acknowledges and consents to such lawful processing.
 - 8.3. Each Party shall take prompt remedial action against any unauthorized use, storage, reproduction or redistribution of the Personal Data and shall immediately notify the Client of any Personal Data breaches and no later than seventy-two (72) hours after it has become aware of the breach. Each party shall keep records of Personal Data breaches, indicating the relevant facts, their effects and the remedial actions taken.
 - 8.4. The personal information shall be used for:
 - Conducting phone and Short Message Service(SMS) surveys on quality of service and ways to improve service delivery.
 - Providing information on better services by offering access to products and services that may be complementary to Franchisee's which may include, financial, technology and renewable energy
 - Providing information on support of projects which serve to further improve access to sanitation including: partnerships with organization who wish to utilize the leased Fresh Life Toilets superstructures
 - Aiding in research purposes: The personal data shall be used to assist in conducting surveys on impact of the Franchise on total household savings, impact on quality of life and other topics of research designed to enable Fresh Life Initiative Limited improve its products and service offerings for its consumers.

The Franchisee may exercise the right to withdraw their consent at any point during the term of the aforementioned agreement.
- 9. Intellectual Property**
- Fresh Life's Trademarks shall remain at all times during and after the Term, the property of Franchisor and/or its affiliates. Nothing in this Agreement gives the Franchisee any proprietary rights in any Trademarks or any other intellectual property or any such claim to the same. Additionally, all goodwill in the Trademarks or other intellectual property belongs to the Franchisor. The Franchisee shall be required to indemnify the Franchisor for any use of intellectual property otherwise than as permitted by this Agreement. The Franchisor reserves the right to change, modify and/or discontinue any of the Trademarks or other intellectual property at any time.
- 10. Amendments**
- This Agreement and its provisions may only be amended by Franchisor at its own discretion provided that such amendment is communicated to the Franchisee prior to its effective date.
- 11. Force Majeure**
- Neither party shall be responsible for any breach of its obligations resulting from causes or events beyond its

reasonable control including but not limited to fires, strikes, riots, civil commotion, Floods, earthquakes and/or war, which may affect the performance of its obligations under this Agreement, provided that: a) It shall immediately notify the other party of the occurrence of the event in question, b) It shall do everything that could be reasonably expected of it in order to overcome the effects of the event; and c) It shall be entitled at the other's discretion to defer carrying out its obligations for a reasonable period, until it is satisfied that it is safe to continue, or indefinitely if Franchisor determines it to be necessary. This however excludes any breach of obligations arising directly or indirectly out of negligence, wilful default or fraud.

12. **Indemnification**

All risk of damage, liability or loss shall pass to the Franchisee once the Structure/s have been installed. The Franchisee shall indemnify and at all times keep the Franchisor and its affiliates indemnified in respect of all and any claims, loss, costs, damage or liability arising in any manner, directly or indirectly, out of or in connection with information shared to third parties or incidental to the operation of the Franchise which it may incur (including legal fees and costs).

13. **Not Withhold Payment**

The Franchisee shall not at any time withhold payment of any amounts owed to the Franchisor on any grounds unless such action is expressly allowed in writing by the Franchisor at least seven (7) days before the fee falls due.

14. **No Agency or Partnership**

The Franchisor and the Franchisee shall for the term of this Agreement be deemed solely independent contractors. Neither party is the agent, legal representative, partner, subsidiary, joint venture or employee of the other. Neither party may obligate the other or represent any right to do so. Neither party will be responsible for the intentional, unintentional, or negligent tortious activity of the other.

15. **Dispute Resolution**

Any dispute on matters involving this Agreement shall be settled amicably through negotiation between the parties. If the dispute is not resolved within **twenty-one (21) days** after a written complaint is raised in writing by either party, the matter shall be referred to a court of competent jurisdiction within the Republic of Kenya.

16. **Notices.**

All notices from either party must either be in writing and delivered personally or by registered post of the receiving party or via text to such number as is communicated at the signing of this Franchise Agreement. All notices to the Franchisee shall be directed to the attention of the landlord and shall be deemed to be duly received by tenants.

17. **Miscellaneous**

17.1. **Applicable Law.** This Agreement, and the relationship between the parties is governed by, and will be interpreted in accordance with, the laws (statutory and otherwise) of Kenya.

17.2. **Entire Agreement.** This Agreement, together with all schedules, contains the entire agreement between the parties and supersedes any previous agreement between the parties.

17.3. **Severability.** If one or more sections or parts thereof of this Agreement are held void or unenforceable for any reason by

any court of competent jurisdiction, such section or part will be deemed to be separable and the remainder of this Agreement is valid and in full force and effect.

17.4. **Waiver.** No failure, neglect or delay in enforcing the terms of this Agreement may be construed as a waiver of Franchisor's rights.

17.5. **Survival.** All obligations of the parties which expressly or by their nature survive termination, expiration or transfer of this Agreement shall continue in full force and effect subsequent to and notwithstanding such termination, expiration or transfer and until they are satisfied or by their nature expire.

17.6. **Successors and Assigns.** This Agreement is binding upon and inure to the benefit of the parties, their administrators, executors, heirs, successors and approved assigns.

