



TERMS AND CONDITIONS 2009

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IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 In the Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

"Confidential Information"	means the details of the Terms and Conditions, all of the technical information, managerial information, marketing information, and sales, promotional and proprietary information relating to the Franchised Business including, but not limited to, any and all information relating to the Trade Marks, Intellectual Property, and the products and services of the Franchised Business;
"Effective Date"	means the date of execution of this Agreement.
"Financial Year"	means the accounting period between 1 st April and 31 st March of each calendar year;
"Franchised Business"	means the business of Surepass Ltd as described in Schedule 1 hereto and which is to be franchised under these Terms and Conditions;
"Intellectual Property"	means the Manual, the System, the Trade Marks,, distinctive marks, symbols, logos, trade colour, trade dress, trade names, copyright protected material and goodwill belonging to Surepass Ltd and provided to the Driving instructor to be used by the Driving instructor in the operation of the Franchised Business including those particularised in Schedule 2.
"License"	means the license given by Surepass Ltd to the Driving Instructor under these Terms and Conditions for the use of the Franchisor's Trade Marks, the System and the Intellectual Property;
"Manuals"	means the manual containing all of the rules, regulations and guidance notes to be followed by the Driving instructor in the operation of the Franchised Business, to be provided by Surepass Ltd to the Franchisee along with any additions, alterations or modifications made to from time to time;
"Products"	means all products or services sold or performed by or for the Driving Instructor, through the Franchised Business including, but not limited to, the products and/or services listed in The Franchise Agreement hereto;
"Site"	means the home address on the Franchise Agreement used by the Driving Instructor to conduct the Franchised Business, or as varied in accordance with Clause 3;
"System"	means the distinctive and proprietary system, as more specifically described in the Manual, of operating and managing the franchises granted by Surepass Ltd.
"Territory"	means the geographical area within a 15 mile radius of the site and not exclusively purchased by other persons under the rights of their respective Agreement.
"Trainee Licence"	means the provisional licence issued by The Driving Standards Agency for the purposes of teaching practice.
"Pupil/Referral"	means a person who is taught by another; the action of referring someone for consultation or review.

1.2 Unless the context otherwise requires, each reference in the Terms and Conditions to:-

- 1.2.1 "writing", and any cognate expression, includes a reference to any communication effected by telex, facsimile transmission or similar means;
- 1.2.2 "the Terms and Conditions" is a reference to the Terms and Conditions and each of the Schedules, as amended or supplemented at the relevant time;
- 1.2.3 a Schedule is a schedule to the Terms and Conditions; and
- 1.2.4 a clause or paragraph is a reference to a Clause of the Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule.
- 1.2.5 the parties includes a reference to their respective personal representatives, heirs, successors in title and permitted assignees;
- 1.2.6 any reference to a person includes any body corporate, unincorporated association, partnership or any other legal entity;
- 1.2.7 words importing the singular number include the plural and vice versa;
- 1.2.8 words importing any gender include any other gender.

1.3 The headings in the Terms and Conditions are for convenience only and shall not affect its interpretation.

2. Grant of Franchise

- 2.1 Surepass Ltd grants to the Driving Instructor, the right and privilege to establish and operate the Franchised Business at the Site, and operate within the Territory, on the terms and conditions contained hereto. The rights and terms include :
 - a) to operate the Franchised Business
 - b) to use the Trade Name, "Surepass"
 - c) to operate the system
 - d) to use the Trade Marks
 - e) the Driving Instructor shall not itself operate or licence any other person to operate a Driving School or Driver Training School within a 15 mile radius of the Site.
 - F) to exclusively use a vehicle suitable for the provision of driving lessons.
- 2.2 The Driving Instructor acknowledges that Surepass Ltd has and will continue, from time to time, to grant rights to various other persons to own and operate other franchises under the name and using the System and Intellectual Property of Surepass Ltd within the Territory. This right will be forfeited if the Driving Instructor has purchased the right to exclusivity in the Site. The agreements with these other Driving Instructors may contain provisions, conditions and obligations that differ from those contained in the Terms and Conditions and The Franchise

Agreement. The existence of any different Agreements and the fact that Surepass Ltd and other Driving Instructors rights and obligations thereunder does not affect the Parties' obligation to comply with the terms of this Agreement.

3. Relocation

The Driving Instructor may, with the prior written consent of Surepass Ltd relocate the Franchised Business to another location within the Territory, provided that there is adequate reason for such relocation. Surepass Ltd agrees that its consent to the relocation of the Franchised Business shall not be unreasonably withheld.

4. Term and Renewal

This Agreement shall come into force on the Effective Date and shall expire, along with all rights, privileges, obligations, and restrictions pertaining thereto, after the Agreed term as defined in The Franchise Agreement, unless the instructor has renewed or extended the Franchise Agreement or has received a brand new vehicle, supplied by Surepass Ltd or sourced a vehicle from a third party or the instructor intends to use their own vehicle, for a 12 or 24 month period as defined in clause 35.3 or provided that the Driving Instructor has given Surepass Ltd written notice of its intention to leave the Franchised Business no less than one calendar month prior to the expiry of this Agreement. A vehicle sourced from a third party will require adherence to its Terms for car hire which are separate from the Franchised Terms of Surepass Ltd.

- 4.1 Surepass Ltd shall grant a new Agreement for a further period of 12 or 24 months provided that prior to entering into the new Agreement :
 - a) there have been no material breaches of the Terms and Conditions and there are no breaches of the Terms and Conditions outstanding at the date that the notice referred to in clause 4 is served or at any time thereafter up to and including the expiry of the term.
 - b) The Driving Instructor has substantially performed its obligations under the Agreement to the satisfaction of Surepass Ltd.

5. Fees and Payment

- 5.1 In consideration of the rights granted to the Driving Instructor for the Franchised Business, the Driving Instructor shall pay to Surepass Ltd the following fees:
 - 5.1.1 "Initial Fee": A Driving Instructor who has not received training from Surepass Ltd shall pay to Surepass Ltd a one-time non-refundable fee of £250 as a surety of intention, which shall be due on or before upon the execution of this Agreement. This fee is waived if the Driving Instructor has undertaken a Surepass Driving Instructor Training Course.
 - 5.1.2 "Franchise Fee": The Driving Instructor shall pay to Surepass Ltd a monthly Franchise Fee as listed in The Franchise Agreement, for the Franchise services provided by Surepass Ltd to the Driving Instructor. The Franchise Fee is linked to the Lesson Price for the Territory. Surepass Ltd may increase the Franchise Fee providing the provisions of Clause 8.5 and sub clause 8.5.1 are met and providing the Franchise Fee increase is not more than a 50% increase to the hourly rate Lesson Price multiplied by 160 per month.

- 5.1.3 The Franchise Fee shall become due and payable by the last working day of every month.
- 5.1.4 "Administration Fee". The Driving Instructor, whilst operating under the terms of The Trainee Licence, shall pay to Surepass Ltd a monthly Administration Fee as defined in The Franchise Agreement for the sponsorship of the Trainee Licence. The Administration Fee shall become due and payable by the last working day of every month until the Trainee Driving Instructor has qualified. Thereafter payments for the Administration Fee will cease from the subsequent month after the date of qualification.
- 5.1.5 "Additional Services". The Driving Instructor shall pay to Surepass Ltd a monthly fee for Additional Services as listed in The Franchise Agreement for the Additional Services provided by Surepass Ltd to the Driving Instructor.
- 5.2 Late payments on any amount set forth in this Clause shall bear an annual interest rate of 18% on the amount due and shall be calculated from the date on a daily basis until payments are received by Surepass Ltd. A Late payment will also forfeit the Franchise Discounts as defined in The Franchise Agreement.
- 5.3 It is agreed that any and all expenses incurred by Surepass Ltd in obtaining the payments due from the Driving Instructor, such as reasonable legal or other charges and fees, shall be paid to Surepass Ltd by the Driving Instructor.

6. Obligations of Surepass Ltd

Surepass Ltd shall:

- 6.1 provide the Driving Instructor with a copy of the Operating Manual, Franchise Agreement, Terms and Conditions and ATS Manual (Trainee Instructors only), and STM Terms and Conditions (if required);
- 6.2 provide the Driving Instructor with any Confidential Information that is essential for operation of the Franchised Business;
- 6.3 conduct training and any subsequent refresher training programs for the benefit of the Driving Instructor, in accordance with Clause 13;
- 6.4 provide assistance to the Driving Instructor in adhering to standards of quality;
- 6.5 keep the Driving Instructor informed about all of the promotional and advertising activities carried out by Surepass Ltd in accordance with Clause 14 for the Franchised Business and shall furnish the Driving Instructor with promotional and endorsement material from time to time;
- 6.6 upon request by the Driving Instructor, provide a periodic quarterly review of the performance of the Franchised Business to the Driving Instructor;
- 6.7 provide the Driving Instructor with strategic and general advice reasonably required by the Driving Instructor for the successful running of the Franchised Business;
- 6.8 endeavour to maintain high and uniform standards of quality and service at all the other franchises granted by Surepass Ltd, to protect and enhance the reputation of the Franchised Business.

7. Obligations of the Driving Instructor

The Driving Instructor shall:

- 7.1 assume the primary responsibility for running the Franchised Business and shall devote such effort, time and energy to the running of the Franchised Business as is required. The Driving Instructor, to that extent, shall not be actively involved in or associated with any other Driving School or Driving Instructor Training School during the term of this Agreement;
- 7.2 conduct the Franchised Business according to the Operating Manual, Terms and Conditions, Franchise Agreement, ATS Manual (Trainee Instructors only), STM Manual (if applicable) and shall comply with all Operational and Training instructions contained therein;
- 7.3 operate the Franchised Business within the Territory in accordance with all the local and municipal laws and ordinances applicable;
- 7.4 deal with all customer complaints efficiently and promptly. In the event that the Driving Instructor is unable to handle any customer complaint adequately, such matter shall promptly be referred to Surepass Ltd;
- 7.5 co-operate with and assist Surepass Ltd or its authorised agents, by participating in any consumer surveys and market research programs devised by Surepass Ltd or its authorised agents with respect to Surepass Ltd's overall business, and shall provide Surepass Ltd or its authorised agents with timely reports and other relevant information regarding the same;
- 7.6 acquire and preserve the necessary licenses, registrations and authorisations fundamental to carrying out the Franchised Business from the relevant agencies and will furnish Surepass Ltd on request with copies thereof;
- 7.7 use in Surepass Ltd's Franchised Business only the stationery and a suitable vehicle for the purposes of driving instruction. No other stationery or other type of vehicle can be used unless the Franchisor has the written approval of Surepass Ltd;
- 7.8 not permit a third party to use the Driving School Vehicle supplied by Surepass Ltd, other than Learner Drivers under instruction by the Driving Instructor of the Franchised Business, or Provisional Driving Instructors taking DSA exams as authorised by Surepass Ltd;
- 7.9 not maintain, directly or indirectly, any financial interest in the competitors of Surepass Ltd; and
- 7.10 not commit any offence or take any action which can undermine or devalue the reputation of the Franchised Business or Surepass Ltd;
- 7.11 allow Surepass Ltd and its authorised agents to inspect the Driving School Vehicle at all reasonable times and on reasonable notice;
- 7.12 proactively source pupils using the Driving Instructors own will, initiative and resources. This includes but is not limited to distribution of authorised promotional material, authorised adverts in newspapers, magazines and local directories, customer satisfaction calls, car branding, prominent display of vehicle and use of roof sign;
- 7.13 agree to use the Trade Mark and Intellectual property at all times in referring to the Franchised Business;
- 7.14 use a liveried vehicle at the discretion of Surepass Ltd;

- 7.15 not use the vehicle for illegal activities or teach whilst under the influence of drugs or alcohol.

8 General

- 8.1 The Driving Instructor, at the request of Surepass Ltd, shall provide potential Driving Instructors with such information concerning the Franchised Business as such prospective Driving Instructors may reasonably require and at all times be courteous and co-operative to such prospective Driving Instructors
- 8.2 The Driving Instructor shall use best endeavours to maintain the highest standards in all matters connected with the Franchised Business and to comply with all instructions given to it by Surepass Ltd with regard to standard or quality of service and display Branding and/or a Surepass branded Roof Sign when in or about the Franchised Business.
- 8.3 The Driving Instructor shall consult with Surepass Ltd as to the prices to be charged in the Franchised Business
- 8.4 The Driving Instructor shall not enter into any arrangement with any other Driving Instructor concerning any alteration to the prices to be charged
- 8.5 The Driving Instructor shall not unreasonably refuse work referrals within a 15 mile radius of the Site. The System of Surepass Ltd shall be used to determine the distance from the Site to the pupil. Any work refused within the provision of this clause may render any guarantees of pupils made by Surepass Ltd in the Franchise Agreement, as null and void. No remedies are available to the Driving Instructor for breach of the guarantee.
- 8.5 The Lesson Prices prevailing at the execution of the Agreement are fixed. Surepass Ltd will periodically conduct market surveys pertaining to lesson prices in the Territory at the request of the Driving Instructor. Lesson Prices will only be increased:
- 8.5.1 if the majority of Driving Instructors in the Territory give their written consent to the proposed increase.

9 Use of Intellectual Property

- 9.1 The grant of any necessary Licences are to be used in accordance with, and for the purposes of, the Franchised Business during the term of this Agreement. The Licence shall remain the property of Surepass Ltd.
- 9.2 The Driving Instructor must clearly indicate the following for any use of the Intellectual Property:
- 9.2.1 that the Intellectual Property is registered where applicable;
- 9.2.2 that Surepass Ltd is the owner thereof;
- 9.2.3 that the Driving Instructor is using the Intellectual Property under the License granted by Surepass Ltd.
- 9.3 The Driving Instructor shall take all reasonable care to protect the Intellectual Property from infringement by any third party and shall promptly notify Surepass Ltd of any suspected infringement by any third party
- 9.4 The Driving Instructor shall not use the Intellectual Property in any of the following ways:

- 9.4.1 in such manner that would diminish the value of the Intellectual Property;
 - 9.4.2 the Driving Instructor shall not apply and/ or register any mark, design, logo or name which, in the sole opinion of Surepass Ltd, is identical, similar or confusingly similar to any mark, design, logo or name owned by Surepass Ltd.
- 9.5 The Driving Instructor, shall not divulge, communicate or use for the benefit of any third party, during the term of this Agreement, information relating to the Intellectual Property, except in accordance with and under the instructions and/or supervision of Surepass Ltd.

10 Procurement and Services

In order to maintain the distinctiveness and high quality attributed to the name of Surepass Ltd, the Driving Instructor shall stock the Products as set out below:

- 10.1 Business cards
- 10.2 Appointment cards
- 10.3 Missed appointment cards
- 10.4 Colourfile Professional
- 10.5 Miscellaneous stationery, pens
- 10.6 Receipts books
- 10.7 Surepass Ltd shall require the Driving Instructor to stock the Products in such proportion and quantities as Surepass Ltd may reasonably, deem fit and notify the Driving Instructor, from time to time.

11 Records and Accounts

- 11.1 The Driving Instructor shall maintain proper books of accounts of the Franchised Business, determined in accordance with generally accepted accounting principles, on a monthly basis. Such books and records shall be maintained to clearly and separately identify details with respect to revenues, costs, assets, liabilities reserves, losses with respect of the Franchised Business.
- 11.2 Surepass Ltd reserves the right to audit the books of accounts of the Franchised Business through an independent accountant and retain copies of such accounts that are maintained by the Driving Instructor.
- 11.3 Such accounts and records may be kept in either written form or electronic form, or both. The Driving Instructor must ensure that at least one backup copy of all accounts and records is also maintained.
- 11.4 The Driving Instructor shall maintain proper pupil training records on a lesson by lesson basis. Such records shall be maintained to clearly identify a pupils progress.

12 Training and Quality Control

- 12.1 The Driving Instructor shall follow the quality benchmarks as listed in the Brand Policy, and ensure that it meets the minimum standards as specified in Schedule 3.
- 12.2 Surepass Ltd shall provide Training to the Driving Instructor on request with regard to:
 - 12.2.1. the minimum standards and Training Required to pass a Check Test Inspection, ORDIT Inspection or any other Training required to meet the minimum standard as required to pass the Driving Instructors qualifying exam as specified in the Surepass Instructor Training Course. Such training will be provided as arranged by Surepass Ltd at the Driving Instructors expense as listed in The ATS Manual.
- 12.3 Surepass Ltd may from time to time decide that it is necessary for the Driving Instructor to undergo further Training for example, Check Test failure. Such Training will be provided or arranged by Surepass Ltd at the Driving Instructors expense as listed in The ATS Manual.
- 12.4 The Driving Instructor shall notify Surepass Ltd of any improvement or modification of or to the Surepass Database and task system which may be beneficial to the operation of the Business and the Driving Instructor may introduce such improvement or modification without any obligation to make any payment to the Driving Instructor.

13 Advertising and Marketing

- 13.1 Surepass Ltd shall be responsible for directing the national, regional and local advertising and marketing for all of its franchises, including the Franchised Business.
- 13.2 The Driving Instructor will not publish or distribute any advertising or promotional material unless it has been approved in writing by Surepass Ltd or it complies exactly with the art work already supplied by Surepass Ltd. The Driving Instructor will immediately cease the use of any advertising or promotional material upon receipt of a request from Surepass Ltd to do so.
- 13.3 The Driving Instructor shall, as and when requested by Surepass Ltd, distribute any promotional material supplied by Surepass Ltd.
- 13.4 The Driving Instructor will participate in and comply with the terms of any special advertising promotion or activity as Surepass Ltd may reasonably direct.
- 13.5 The Driving Instructor may, with the prior written consent of Surepass Ltd, at its own cost undertake additional advertising and promotional strategies in addition to that of Surepass Ltd provided however that such additional advertising or marketing is not in conflict with or contrary to the overall marketing policy and strategy of Surepass Ltd

14 Insurance

The Driving Instructor shall maintain such insurance cover as is specified in the Operations Manual.

15 Confidentiality

15.1 The Driving Instructor shall keep the Confidential Information confidential and secret and shall not use or disclose or make the Confidential Information available, directly or indirectly, to any person other than its officers and employees who need the Confidential information to enable the Driving Instructor to perform its obligations under this Agreement and provided that such officers and employees are also obliged to keep such Confidential Information confidential and secret. The foregoing obligations shall not apply to any information acquired by the Driving Instructor which:

15.1.1 at the time of its acquisition was in the public domain; or

15.1.2 at a later date comes into the public domain through no fault of the Driving Instructor.

15.2 The Driving Instructor hereby agrees and undertakes:

15.2.1 that all Confidential Information shall be and shall remain at all times the sole and exclusive property of Surepass Ltd;

15.2.2 that its right to use Confidential Information shall wholly cease upon the termination of this Agreement; and

15.2.3 to return to Surepass Ltd on termination of this Agreement all material embodying Confidential Information (including information stored on computer disks) or any part thereof and all copies thereof.

15.2.4 The provisions of this Clause shall continue in force in accordance with their terms, notwithstanding the termination of this Agreement for any reason.

16 Non Solicitation

The Driving Instructor shall not employ or retain any person who is or who has been previously employed by Surepass Ltd if the application for employment is made to the Driving Instructor forthwith upon the termination of such person's services by Surepass Ltd.

17 Termination

17.1 The Franchise Agreement shall forthwith be terminated by Surepass Ltd in the event that the Driving Instructor goes into liquidation or if the Driving Instructor ceases to carry on its business for a period of three months. This includes the Driving Instructor becoming personally insolvent and having a bankruptcy order made against him.

17.2 In addition to the right to terminate under the provisions of clause 18.1 below, the Franchise Agreement may be terminated by Surepass Ltd by giving seven days written notice to the Driving Instructor in the event that:

17.2.1 the Driving Instructor fails or refuses to pay any amount due and payable to Surepass Ltd under the provisions of this Agreement;

17.2.2 the Driving Instructor fails to perform any of its duties as contained in this Agreement;

- 17.2.3 the Driving Instructor fails or refuses to submit the prescribed accounts and records to Surepass Ltd or, furnishes inaccurate details of these accounts and records.
 - 17.2.4 in the event of the Driving Instructor ceasing or threatening to cease to carry on the Franchisee's Business
 - 17.2.5 the Driving Instructor becomes a patient as defined by the Mental Health Act 1983 or is convicted of any criminal offence (other than a road traffic offence not involving a custodial sentence)
 - 17.2.6 the Driving Instructor hasn't purchased Incapacity Cover and is at any time incapacitated as defined in the Operations Manual or in the reasonable opinion of Surepass Ltd is unable to a material degree to operate the Franchised Business for a continuous period of ninety working days in any period of twelve (12) months, Surepass Ltd may by notice to that effect require the individual to terminate the Franchised Business and pay the Buy Out Fee.
 - 17.2.7 the Driving Instructor fails to attend, without reasonable notice, the Additional Training Days, as described in the ATS Manual, whilst operating the Franchised Business on a Trainee Licence.
- 17.3 In addition to the right to terminate under the provisions of clause 18.1 below and subject to Sub-clauses 18.2, this Agreement may be terminated by the Driving Instructor by giving one calendar months notice to Surepass Ltd in the event that:
- 17.3.1 Surepass Ld fails to promptly provide necessary Training to the Driving Instructor as per the provisions of the Terms and Conditions;
 - 17.3.2 there is a materially adverse change in the business of Surepass Ltd such that it is no longer commercially viable for the Driving Instructor to carry on the Franchised Business within the Territory;
 - 17.3.3 the Driving Instructor does not intend to renew the Agreement after the expiry date.
 - 17.3.4 it is clarified that either party can terminate the Agreement if a material breach is not remedied within a period of seven days of a written notice of default from the non-defaulting party;
 - 17.3.5 it is clarified that where Surepass Ltd has exercised its right to terminate the Agreement under the provision of clause 18.1, 18.2 and 18.3 a Buy Out fee will apply as detailed in Schedule 4 of the Agreement.

18 Effect of Termination or Expiry

- 18.1 The termination of this Agreement shall be without prejudice to the rights and remedies of either Party existing against the other at the time of such termination. On the expiry or the termination of this Agreement:
 - 18.1.1 the License shall expire and the Driving instructor shall immediately cease to trade under the Brand Name;
 - 18.1.2 the Driving instructor shall return all of the Confidential Information provided by Surepass Ltd to the Driving Instructor.

- 18.1.3 the Driving Instructor shall not represent any affiliation with Surepass Ltd;
- 18.1.4 the Driving Instructor shall pay to Surepass Ltd all monies owing within one calendar month from the date of termination of the Agreement;
- 18.1.5 the Driving Instructor shall pass to Surepass Ltd the names of all persons enquiring about and/or requesting the service of the Business;
- 18.1.6 the Driving Instructor shall not divulge or use any Confidential Information relating to the Business, the Driving Instructor's Business or Surepass Ltd;
- 18.1.7 deliver up to Surepass Ltd all current pupils names and addresses and full details of lessons within 48 hrs notice of the termination of the Agreement;
- 18.1.8 pay all debts owing to the creditors of the Franchisee's Business;
- 18.1.9 the Driving Instructor shall return the Driving School vehicle, provided by Surepass Ltd, to the registered office within 48 hrs from the date of termination of the Agreement unless otherwise agreed in writing;
- 18.1.10 the Driving Instructor shall pay to Surepass Ltd any charges for the collection of its Vehicle to the registered office at the rate of £1.50 per mile there and back. The distance to be charged is verified using the AA Route planner current at the time of collection;
- 18.2 On the expiry or the termination of this Agreement, the vehicle sourced from Surepass Ltd must be returned by the Driving Instructor to the registered office of Surepass Ltd during normal business hours. Vehicles leased to the Driving Instructor by a third party whose Terms of hire are set out separately from the Franchise Agreement may require the Driving Instructor to continue the lease of the Vehicle until the expiry date of its Agreement.
- 18.3 In the event the Driving Instructor fails to return the vehicle leased from Surepass Ltd in the manner described in clause 18.2 then a collection charge will prevail as described in Schedule 5.

19 Liability

- 19.1 The Driving Instructor hereby agrees to indemnify Surepass Ltd against any and all damages or loss suffered by Surepass Ltd as a result of the conduct of the Driving instructor.
- 19.2 The Driving Instructor hereby agrees to indemnify Surepass Ltd against any claims, damages or loss brought by a pupil of a Driving Instructor.
- 19.3 Surepass Ltd and the Driving Instructor shall indemnify each other against any direct damages suffered by either Party on account of fraud, personal injury or death caused by the negligence of the other Party's employees.
- 19.4 Surepass Ltd shall not be liable to the Driving Instructor for any indirect damages suffered by the Driving Instructor, whether actual or reasonably foreseen.
- 19.5 Any liability not expressly assumed in this Agreement is excluded.

- 19.6 The Parties agree that the exclusions and limitations of liability in this Agreement are reasonable.
- 19.7 The Driving Instructor hereby agrees to refund any fees charged to Surepass Ltd (plus VAT) for damage to or missing items from the Vehicle.
- 19.8 Surepass Ltd reserve the right to charge the Franchised Business a reasonable fee for valeting a returned vehicle, if in the sole opinion of Surepass Ltd the returned vehicle is likely to incur a charge relating to cleanliness and appearance.

20 Notices and Services

- 20.1 All notices to be given under this Agreement by either party to the other shall be in writing and shall either be delivered personally or sent by first class prepaid post, facsimile transmission or e-mail and shall be deemed duly served:
- 20.1.1 in the case of a notice delivered personally, at the time of delivery;
- 20.1.2 in the case of a notice sent inland by first class prepaid post, 2 Business Days after the date of dispatch;
- 20.1.3 in the case of facsimile transmission or e-mail, if sent during normal Business Hours than at the time of transmission and if sent outside normal Business Hours then on the next following Business Day provided (in each case) that a copy of confirmation is sent by first class prepaid post or by hand by the end of the next Business Day.
- 20.2 All notices to be given under Clause 21.1 shall be delivered to the Driving Instructor at the address registered on the database of Surepass Ltd:
- 21.2.1 in the case of the Company, to its registered or principal office; and or to such other address as may be notified to either party by the other party in writing from time to time.

21 Force Majeure

Neither party shall be liable to the other party insofar as it is prevented from performing its obligations under this Agreement for any reason beyond its control including (but not limited to) war, civil disorder, strikes, lockouts or other industrial disputes and shortage of labour or materials.

22 Waiver

No delay, neglect or forbearance on the part of either Party in enforcing any term or condition of this Agreement against the other Party shall be, or be deemed to be, a waiver or in any way prejudice any right of that Party under this Agreement. No right, power or remedy conferred upon or reserved for either Party in this Agreement is exclusive of any other right, power or remedy available to that Party.

23 No Partnership

Nothing contained herein shall be deemed to form or create any partnership relationship between the Parties.

24 Assignment

The Driving Instructor shall not assign any or all of its rights or obligations under the Terms and Conditions without prior written consent of Surepass Ltd.

25 Entire Agreement

25.1.1 This Agreement, together with any documents referred to herein, constitutes the entire agreement between the Parties relating to its subject matter and supersedes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.

25.1.2 No variation of this Agreement shall be effective unless made in writing.

26 Severance

If any provision of the Terms and Conditions are prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect the validity or enforcement of this Agreement as a whole.

27 Expenses

Subject to any provisions to the contrary, each Party to this Agreement shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of the Terms and Conditions.

28 Governing Law and Jurisdiction

This Agreement shall be governed by the laws of England and Wales and any dispute concerning it or its interpretation shall be adjudicated in that jurisdiction.

29 The Operating Manual & ATS Manual

- 29.1 Surepass Ltd will provide the Driving Instructor with full written details of any alterations to the Operations Manual and ATS Manual to enable the Driving Instructor to keep its copy up to date. The changes will not materially or adversely affect the Driving Instructor.
- 29.2 Surepass Ltd shall keep at its registered office an up to date copy of the Operations Manual and ATS Manual revised from time to time which shall be the authentic text of the Operations Manual and ATS Manual.
- 29.3 The Driving Instructor shall conduct the Franchise Business strictly in accordance with the Operations Manual, the terms of which shall be deemed incorporated into and shall form part of this Agreement. In the event of any conflict between the terms of this Agreement and the terms of the Operations Manual, the terms of the Agreement shall prevail.
- 29.4 The Operations Manual and ATS Manual shall at all times remain the sole and exclusive property of Surepass Ltd and the Driving Instructor hereby acknowledges that the copyright in the Operations Manual, ATS Manual and any copies thereof vests in Surepass Ltd and that it will not take and will procure that no other person will take copies of the Operations Manual and ATS Manual without the prior written consent of Surepass Ltd.

30 Surepass' Right To Communicate with Customers & Data Protection Act

In order to protect the reputation of Surepass Ltd and its Driving Instructors and to maintain satisfactory public relations, Surepass Ltd reserves the right to communicate with any of the Driving Instructors customers at any time during the term of this Agreement to ascertain the quality of the service provided by or on behalf of the Driving Instructor and for the promotion generally of the Products and the Driving Instructor shall upon request furnish Surepass Ltd with such particulars of its customers as Surepass Ltd shall reasonably require and provide such reasonable assistance as may be necessary for this purpose.

- 30.1 Surepass Ltd is a registered Data Processor under the Data Protection Act 1998. It requires the Driving Instructor to comply with the Data Protection Act regarding the handling, use and security of personal information of its customers. See Schedule 6.

31 Right To Sell

- 31.1 The Driving Instructor can only sell the Franchised Business and assign its rights under this agreement to another party with the prior written consent of Surepass Ltd. Such consent shall not be unreasonably withheld upon the Driving Instructor fully complying with the following terms and conditions:
- 31.1.1 the Driving Instructor shall at all times during the currency of this Agreement have complied with all material terms and conditions on their part to be performed;
 - 31.1.2 any proposed buyer or in the case of a limited liability company, its shareholders and directors shall meet the standards of Surepass Ltd with respect to prior related financial standing and compatibility and satisfy the current recruitment criteria;
 - 31.1.3 the Driving Instructor shall procure that the proposed buyer, subject to compliance with sub-clause 32.1.2, shall if required by Surepass Ltd enter into a new agreement in such form as is currently offered by Surepass Ltd to new Driving Instructors save that the term of the new agreement shall be equal to the unexpired term granted by this Agreement;
 - 31.1.4 the Driving Instructor shall with every application for consent to assign pay Surepass Ltd its current expenses of investigating such application whether or not the Franchised Business is eventually sold;
 - 31.1.5 the proposed buyer shall undertake initial training as is required to be undertaken by new Driving Instructors and shall meet the then minimum standards of Surepass Ltd during such training;
 - 31.1.6 prior to the sale of the Franchised Business, the Driving Instructor shall pay or procure the payment to Surepass Ltd of such sum as represents the total cost to Surepass Ltd of providing ,training to the proposed buyer and supervising (including the payment of any reasonable legal costs) the sale of the Franchised Business.
- 31.2 The Driving Instructor shall submit to Surepass Ltd a copy of the proposed buyer's written offer to purchase the Franchised Business together with a copy of the proposed buyers green badge.

32 Death or Incapacity of the Driving Instructor

If the individual shall die during the currency of this Agreement, the personal representatives of the individual shall inform Surepass Ltd within a period of three months from the date of the death of the individual.

- 32.1 On receiving written notice or hearing of the death of the Driving Instructor, Surepass Ltd shall be entitled to terminate the Agreement by written notice to the Driving Instructors representative.

33 Indemnity

The Driving Instructor shall indemnify and keep indemnified Surepass Ltd from and against any and all loss, damage, liability and legal fees and costs incurred by Surepass Ltd arising from:

- 33.1 any act, neglect or default of the Driving Instructor

34 Acknowledgements

The Driving Instructor acknowledges that in giving advice and assisting the Driving Instructor to establish the Franchised Business, recommending study material, training aids and assessing the suitability of the Driving Instructor, Surepass Ltd has based its recommendations on experience actually obtained in practice but that Surepass Ltd does not give any guarantee or warranty with regard to such matters or generally in connection with profitability or any other aspect of the Franchised Business.

- 34.1 that the decision to enter into this Agreement has been taken solely on the basis of the personal judgement and experience of the Driving Instructor having taken independent advice. Accordingly no representation, warranty, inducement or promise, express or implied, has been made by Surepass Ltd or relied upon by the Driving Instructor in entering into this Agreement save such as may have been notified to the Driving Instructor by Surepass Ltd as part of its Driving Instructor Training Course.

35 The Vehicle

- 35.1 The Driving School Vehicle, regardless of source, shall be serviced and maintained by the Driving Instructor to meet the requirements set out in the manufacturers warranty and, in the case of a vehicle supplied by Surepass Ltd, its Operations Manual, and Surepass Ltd shall provide to the Driving Instructor the requisite procedures and other specifications for service and maintenance.
- 35.2 The Driving Instructor shall complete all servicing for vehicles supplied by Surepass Ltd at the required intervals as specified in The Operations Manual.
- 35.3 If required Surepass Ltd will provide the Driving Instructor with a brand new Vehicle on an annual basis. It is understood between the Parties;
 - 35.3.1 the actual replacement date is subject to delivery dates from the manufacturer and may not coincide with the actual anniversary date of the Agreement;
 - 35.3.2 there are no material breaches outstanding at the date of delivery;

35.3.3 the Driving Instructor is not actively involved in or associated with any other Driving School or Driving Instructor Training School during the term of the Agreement;

35.3.4 the Driving Instructor operates the Franchised Business on a full time basis as defined in Annex 1.

35.4 If required, the Driving Instructor may source a suitable driving school vehicle from a third party as defined in the Operations Manual. It is understood between the parties that the vehicle, its servicing, maintenance and insurance are the responsibility of the Driving Instructor.

36 Cooling Off Period

36.1 The Driving Instructor has the right to cancel the Agreement within 14 days after the date of execution providing;

36.1.1 the vehicle has been returned to the registered office;

36.1.2 the Driving Instructor has informed Surepass Ltd in writing of its intention to cancel the Agreement.

36.2 Surepass Ltd reserve the right to charge a daily hire rate for the use of the vehicle as described in Schedule 5.

37 Pupil guarantee

Surepass Ltd agree to provide an agreed minimum number of pupils or referrals appropriate to the Franchise Fee as listed in the Franchise Agreement. Should this guarantee fail then Surepass Ltd will refund £20 per failed pupil or referral subject to a satisfactory claim being made against Surepass Ltd in line with the procedures in the Operating Manual. If the guarantee fails to the degree where the allocated number of pupils or referrals would warrant a lower Franchise Fee being charged then the lower Franchise Fee will prevail and Surepass Ltd will refund the Franchised Business the excess paid during the term of the Agreement.

SCHEDULE 1

DEFINITION OF THE FRANCHISED BUSINESS

Surepass Ltd is a Driving School and Instructor Training establishment. The majority of our Instructors begin their career by going through our training. We're interested in creating a long term relationship with our Driving Instructors, providing them with the support and management services of an established franchise.

Surepass Ltd grants the Driving School the right to use its Trademark and Brand Name. The Driving Instructor receives Advertising, Marketing and Operational support for a monthly Franchise Fee.

SCHEDULE 2

INTELLECTUAL PROPERTY & TRADE MARKS

Trade Marks

The Trade Marks have been registered as a series of four marks under No. 2454810 as of 8th May 2007. The Marks have been registered in respect of;

Class 41: Training of Car Drivers; Training of Motorcycle Riders; Training of large goods vehicle drivers; Training of passenger vehicle drivers; Training of driving instructors. In the name of Surepass Ltd.

SCHEDULE 3

THE BRAND POLICY

The policy contains important information which reflects the standard of service a pupil is entitled to expect from their Instructor. The purpose of the policy is to facilitate Instructors in providing a minimum service level. It is anticipated that Instructors who provide this level of service can expect a higher volume of referrals and the opportunity to increase their earnings.

1. The Driving Instructor arrives on time for a lesson. If the Driving Instructor expects to be late then the pupil will receive a courtesy telephone call ideally before the lesson start time to advise of the estimated time of arrival. If a call is not possible beforehand then the pupil must be contacted no later than 30 mins after the start time;
2. Driving lessons will not be for less than the duration of the price paid, unless by prior agreement with the pupil or in the event of an emergency where the Driving Instructor has curtailed the lesson ;
3. The Vehicle will be clean and the interior kept in reasonable condition. Any unsightly damage to the vehicle must be reported to Surepass Ltd within 2 working days.
4. The Vehicle will be strictly a non smoking vehicle in line with legislation;
5. The Vehicle will have a pleasant odour. Any pungent foodstuffs and litter will be removed;
6. The Driving Instructor will not consume food during a lesson unless by prior agreement with the pupil;
7. The Surepass branded roof sign must be displayed at all times during a lesson. (excluding pass plus & motorway tuition);
8. The branding on the Vehicle must not be removed;
9. Any missing wheel trims will be replaced by the Driving Instructor within 48 hrs;
10. The Driving must be of clean and smart appearance ie gents - casual trousers, shirt, shoes. Ladies - skirt, dress or casual trousers, shirt/blouse, shoes;
11. The Driving Instructor has signed and agreed to the DSAs code of practice;
12. The Driving Instructor will use a hands free set, in line with legislation, when answering a call in the Vehicle;
13. The Driving Instructor will give the pupil at least 48 hrs notice of an intention to cancel a lesson. In situations where this is not possible and the Driving Instructor has charged the pupil for missed lessons beforehand then the Driving Instructor will provide a free lesson or equivalent, agreed by the pupil, as compensation;
14. If a pupil cancels a lesson without giving 48 hrs notice then the Driving Instructor must advise the pupil either at the time of cancellation or as

soon as possible thereafter of their intention to charge for the missed lesson.

SCHEDULE 4

THE BUY OUT FEE

The Buy Out Fee is a pre-estimated loss of revenue to Surepass Ltd and is charged to the Franchised Business when:

- (i) the Agreement is terminated before its expiry date by either Party

The Buy Out Fee consists of a standard charge of £600 in lieu of the one month notice period and a £100 charge for every complete month outstanding, up to the expiry date of the Franchise Agreement.

SCHEDULE 5

CHARGES

Admin. Items	Charge To Driving Instructor
Use of Company Solicitor	£220 per hr
Returned cheque admin. fee	£10.00 per cheque
Statutory Access Fee for Documents	£10.00
Bespoke Letters	£25.00
Accident excess	£50.00
Accident excess with non nominated driver	£1,500.00
Car hire	£35 per day
Car collection	£1.50 per mile there and back

SCHEDULE 6

Data Protection Act

The Data Protection Act contains 8 Principles. These state that all data must be:

- Processed fairly and lawfully
- Obtained & used only for specified and lawful purposes
- Adequate, relevant and not excessive
- Accurate, and where necessary, kept up to date
- Kept for no longer than necessary
- Processed in accordance with the individuals rights (as defined)
- Kept secure
- Transferred only to countries that offer adequate data protection

The legislation underpinning these principles is complex and not really suitable for direct devolution to all the staff who may have responsibility for personal data. Nor does it provide a measure of compliance. Hence the need for supporting products and information.