



CUSTOMER LICENSE AGREEMENT

This License Agreement (this "Agreement") is dated as of July 12, 2018 (the "Effective Date"),

BETWEEN: **Shelter Management Pty Ltd** Australian Company Number 107 488 620 ("**SMPL**"),
109 Wacol Station Road, Wacol, Qld, 4076, Australia ("**Licensor**")

AND: **Newton County**
210 Lower River Road, Covington, GA 30016 USA ("**Licensee**");

(Together the "parties")

Recitals:

- A. The Licensor is a proprietry limited company owned by RSPCA Qld Inc a charitable organization, registered in the State of Queensland, Australia and charged with the responsibility, amongst other things, of promoting the welfare of animals in that State. The Licensor has the rights to certain software, as described in annexure 1 ("Software"), which it supplies to users for the administration and management of animal shelters, and provides certain services related thereto, as described in annexure 2 ("Services").
- B. The Licensee wishes to be licensed by the Licensor to use the Software and for Licensor to provide the Services, which the Licensor has agreed to do subject to the terms and conditions set out in this Agreement.
- C. The Licensor is not able to license the Software and supply the Services to the Licensee on the terms and conditions set out herein unless the Licensee is a customer of Home Again.

The Licensor and Licensee shall each be referred to herein as a "**Party**", and collectively, as the "**Parties**".

THE PARTIES AGREE AS FOLLOWS:

1. Definitions and Interpretation

1.1 For the purposes of this Agreement, unless the context otherwise requires -

"**Chief Executive Officer**" means the most senior executive officer, by whatever name called;

"**Confidential Information**" includes all business, commercial, technical and other information of a confidential or private nature, in whatever form. In the case of the Licensee, the term includes any and all information that is not in the public domain concerning its customers, operations, procedures, suppliers, officers, employees, contractors, benefactors, revenue, costs of carrying on its operations and assets and liabilities;

"**Contract Consideration**" means the amount payable to the Licensor under this Agreement;

"**Contract Price**" means the amount to be paid by the Licensee to the Licensor for the provision of the Software and, where applicable, for Services, as specified or described in annexure 2;

"Home Again" means the company that conducts a lost pet recovery service in the United States of America, including by means of implantation of microchips in animals covered by the service, and a suite of ancillary member benefits surrounding pet wellness and safety.

"Intellectual Property Rights" includes copyright, trademark, design, patent, semiconductor and circuit layout rights;

"Services" means the services (if any) specified in annexure 2, which are to be provided by the Licensor to the Licensee;

"Software License" means the license granted hereunder by the Licensor to the Licensee to use the Software;

"Term" means the period (if any) specified in annexure 2 for the provision by the Licensor of the Services.

1.2 In this Agreement:

- (a) headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:
- (b) a reference to any Party includes that Party's executors, administrators, successors, substitutes and assigns, including any person taking by way of novation;
- (c) a reference to this Agreement or to any other agreement or document includes, respectively, this Agreement or that other agreement or document as amended, novated, supplemented, varied or replaced from time to time;
- (d) the term "including" means "including without limitation";
- (e) words importing the singular include the plural (and vice versa), words denoting a given gender include all other genders, and words denoting individuals include corporations (and vice versa);
- (f) a reference to a clause or an annexure is a reference to a clause of or annexure to this Agreement; and
- (g) references to currency are references to currency of the United States of America unless otherwise specifically provided.

2. Intellectual Property

2.1 The Licensor will upon payment therefor by the Licensee (as specified elsewhere in this Agreement) supply the Software to the Licensee in the form and subject to the limitations specified in Annexure 1 to this Agreement. The Parties acknowledge and agree that:

- (a) the Licensor will remain the sole owner of the Software and all Intellectual Property Rights associated with the Software;
- (b) subject to the other provisions of this Agreement, the Licensor hereby will in supplying the Software grant to the Licensee a non-exclusive worldwide perpetual license to use the Software for the number of concurrent users and in the manner specified in Annexure 2;
- (c) the License does not extend to, and the Licensee will not receive, any source code;
- (d) the Licensee must not assign or sublicense the Software or any part thereof without the prior written approval of the Licensor, which may be withheld or granted, with or without conditions, in the absolute discretion of the Licensor.

2.2 The Licensor will own the Intellectual Property Rights in any training materials supplied by it but the Licensee will have the perpetual right to use that material for the purpose of further training its personnel.

- 2.3 All work processes, procedures and methodologies introduced and developed by the Licensor in carrying out the Services will be proprietary to the Licensor but the Licensor grants to the Licensee a non-exclusive worldwide perpetual royalty free license to use the same.
- 2.4 In the event that the Licensor makes any general modifications or improvements to the Software, it will offer to make such general modifications or improvements to the Licensee for no additional consideration (except for the Licensor's actual costs incurred in making the same available to the Licensee). This does not affect the Licensor's right to charge an agreed consideration for modifications or improvements to the Software made at the request of the Licensee. The Licensee is not permitted to make any amendments or changes to the Software except for that allowed via the Administration module (as described in Annexure 1).
- 2.5 The Licensor warrants that the Software does not infringe the Intellectual Property Rights of any Person. The Licensor must fully indemnify the Licensee against any loss, costs, expenses, demands or liability, whether direct or indirect, which arise out of a claim by any Person that the Software infringes any Intellectual Property Rights of that Person. In the event of such a claim –
- (a) without prejudice to the Licensee's right to defend a claim alleging infringement of the Intellectual Property Rights of any person, the Licensor will if requested by the Licensee conduct the defence of a claim alleging an infringement at the Licensor's expense;
 - (b) the Licensee will observe the reasonable directions of the Licensor relating in any way to that defense or to negotiations for settlement of the claim; and
 - (c) the Licensee will provide the Licensor with reasonable assistance in conducting the defence of a claim if requested to do so, at the Licensor's expense.

3. Services

- 3.1 The Licensor will provide the Services in accordance with that degree of diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced Australian, Canadian or American recognized operations engaged in the same type of undertaking under the same or similar circumstances and conditions.
- 3.2 The Licensor will consult as reasonably necessary with the Licensee in order to provide the Licensee with such information as it reasonably requires concerning the current and anticipated future performance of the Software.
- 3.3 The Licensee will make available to the Licensor all third party software licenses, and supporting documents if such material is necessary, for the Licensor to perform its obligations under this Agreement.

4. Other things to be supplied by the Licensor

- 4.1 The Licensor will in conjunction with the supply of the Software supply to the Licensee such other items or things as are specified in annexure 2.

5. Assignment by the Licensor

- 5.1 The Licensor may by written notice to the Licensee at any time, assign both its rights and its obligations under this Agreement, in which case the assignee will be novated to this Agreement in place of the Licensor. Any such assignment without such written notice shall be null and void.

6. No implied warranties

- 6.1 Except as expressly provided in this Agreement, the Licensor gives no warranty whatsoever in respect of the Software or its suitability for the Licensee's use, and except to the extent otherwise required by applicable law, all implied warranties are hereby excluded.

6.2 The Licensor will under no circumstances whatsoever be liable for consequential or indirect loss or damage of any kind arising out of or in any way connected with the Software or the Services or the performance of or failure to perform the provisions of this Agreement.

7. Payments

7.1 The Licensee must pay to the Licensor the Contract Price upon receipt of duly issued invoices therefor. Such payments must be made the amount within thirty (30) days of receipt of an invoice.

7.2 If the Licensee disputes the whole or any portion of the amount claimed in an invoice submitted by the Licensor, the Licensee must pay the portion of the amount stated in the invoice which is not in dispute and notify the Licensor in writing within seven (7) days of becoming aware of such dispute, of the reasons for disputing the remainder of the invoice. The Licensee must pay the remainder of the invoice (or such other amount as is determined to be the correct amount) within seven (7) days of the settlement of the dispute by agreement of the Parties or otherwise in accordance with this Agreement.

7.3 If any withholding tax must be withheld from the Contract Consideration or if value added tax or other tax (other than a tax that relates to income) is payable on the Contract Consideration, then the Licensor may increase the Contract Consideration or the relevant part thereof by the amount of such withholding tax or value added or other tax which must be withheld by the Licensee or paid by the Licensor.

7.4 Notwithstanding the other provisions of this clause 7, in the event that the Licensee is unable during the Term for a period of not less than five (5) consecutive days to operate the Software substantially in the manner described in Annexure 1, and such inability is the direct result of the non-performance by the Licensor of its obligations to provide the Software or the Services (whether or not arising from Force Majeure, as described in clause 11), then the Licensor must refund a percentage of the Contract Price, calculated as being 10% of the Contract Price (excluding any part of the Contract Price that relates to the ongoing provision of Services) for each period of five (5) consecutive days of non-performance by the Licensor of its obligations to provide the Software and the Services. The monthly monitoring and maintenance fees will also be waived for the corresponding period.

8. Confidentiality

8.1 Neither Party may access or have possession or control of the Confidential Information of the other unless and to the extent that this is necessarily required for the purposes of this Agreement. Each Party acknowledges that it there may be times where access to or possession or control of Confidential Information of the other is necessarily required for the purposes of this Agreement, and the provisions of this clause 8 will apply thereto.

8.2 Neither Party will at any time before or after the termination of this Agreement disclose, furnish or make accessible to any person, firm or corporation in any manner whatsoever or use for its own benefit, except in accordance with the terms and conditions of this Agreement, Confidential Information of the other or any part thereof unless the other Party has given its prior written consent or unless required by applicable law. Where one Party has possession or control of Confidential Information of the other, it must ensure that it does not violate, or cause the other Party to violate, applicable privacy legislation in respect of the Confidential Information in its possession or under its control.

8.3 Each Party will cause its employees, agents and any other persons permitted access to any Confidential Information for the purposes of this Agreement to observe and comply with the confidentiality and non-disclosure requirements of the Agreement as if in each case they were the Party concerned. If required by the other Party, a Party that has possession or control of Confidential Information of the other will cause any of its employees, agents or other persons that

it permits to have access to such Confidential Information to execute and deliver an acknowledgment and undertaking for the purposes of this clause reasonably acceptable to the other Party.

- 8.4 Each Party must ensure all Confidential Information and materials of the other Party that are in its custody for purposes concerned with this Agreement will be:
- (a) protected at all times from unauthorized access or use by any Person, or misuse, damage or destruction by any person; and
 - (b) to the extent that they are not authorized by, or required to be retained for the purposes of, this Agreement, returned, upon request, to the other Party, along with evidence reasonably acceptable to the other Party that it no longer has any of such Confidential Information in its possession or control.

9. Disputes

- 9.1 Any dispute arising in connection with this Agreement, which cannot be settled by negotiation between the Parties or their representatives, must be referred to the Parties' Chief Executive Officers for consideration and attempted resolution.
- 9.2 If the Parties' Chief Executive Officers cannot resolve the dispute after five (5) business days (or such other period as is agreed between the Parties) from the date of referral, the Parties may only commence legal proceedings.
- 9.3 Nothing in this clause will prevent a Party from seeking urgent equitable relief before any appropriate court.

10. Termination

- 10.1 Where Services are to be provided by the Licensor (as specified in annexure 2), they will be supplied for the Term.
- 10.2 Without prejudice to any other rights either Party may have under this Agreement or at law, and notwithstanding any other provision herein, either Party ("Non-Defaulting Party") may terminate this Agreement immediately by notice in writing, if the other Party ("Defaulting Party") is in breach of any material term and every endeavour is not made to ensure such breach is remedied to the reasonable satisfaction of the Non-Defaulting Party within 30 days of receipt of written notice by the Defaulting Party.
- 10.3 Either Party may terminate this Agreement as follows:
- (a) upon the other Party becoming insolvent, bankrupt, or making an assignment, proposal or an arrangement for the benefit of its creditors or becoming the subject of liquidation or winding up proceedings (other than for the purposes of re-organization or amalgamation); or
 - (b) upon a receiver, trustee, liquidator, administrator or custodian being appointed over the undertaking or assets of the other Party.
- 10.4 This Agreement may be terminated at any time by the express mutual written agreement of both Parties.
- 10.5 Notwithstanding any other provision in this Agreement, it is acknowledged and agreed by the Licensee that the Licensor has entered into this Agreement on the express understanding that the Licensee is a party to a contract with Home Again, as more fully described in Annexure 2 and that the Licensor may terminate this Agreement at any time in the event that the Licensee is not a party to such a contract.
- 10.6 The termination of this Agreement for whatever cause will not affect any obligations or rights that have been incurred or accrued at the time of the termination or the provisions of clauses 2.1, 2.2, 2.3, 2.5, 6, 8 and 10.6, which will continue in operation.

11. Force Majeure

- 11.1 Subject to the provisions of clause 11.2, except for circumstances of its own negligence neither Party will be liable for its failure to perform any of its obligations under this Agreement due to a cause beyond its reasonable control (except those caused by a lack of funds) including, but not limited to Acts of God, fire, flood, explosion, strikes, lock outs or other industrial disturbances, laws, rules and regulations or orders of any duly constituted government authority or non-availability of materials or transportation (each a "**Force Majeure Event**").
- 11.2 All time limits imposed by this Agreement will be extended by a period equal to the period of delay resulting from a Force Majeure Event.


12. General

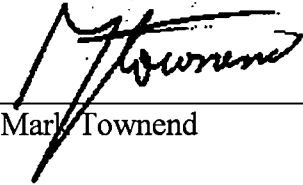
- 12.1 The Parties must sign all documents and do all things necessary or desirable to give effect to this Agreement and will procure its officers, employees and agents to declare, make or sign all documents and do all things necessary or desirable to give full effect to this Agreement.
- 12.2 This Agreement constitutes the entire Agreement and supersedes all previous understandings, expectations, communications, representations and agreements, whether verbal or written, between the Parties with respect to the subject matter.
- 12.3 Any modification to this Agreement to be effective must be in writing and signed by the Parties.
- 12.4 If any provision of this Agreement is for any reason declared or held invalid under any applicable statute or rule of law, that provision is to be severed from this Agreement and its invalidity will not affect the validity of any remaining portion of this Agreement.
- 12.5 This Agreement will enure to the benefit of and be binding upon the Licensor and the Licensee and their respective successors.
- 12.6 No consent or waiver, expressed or implied, by either Party to or of any other breach or default by the other Party in the performance by the other Party of its obligations hereunder is to be deemed or construed to be a consent or waiver to or if any other breach or default in the performance by the other Party hereunder.
- 12.7 All notices, requests, demands or directions to one Party by another must be in writing indicating that such notice, request, demand or direction is being given pursuant to this Agreement and delivered or sent by registered second day mail or receipted courier service.

simultaneously execute and bind the party to the terms of this Agreement.

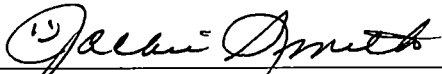
Newton County, Georgia

Shelter Management Pty Ltd.



By: Marcello Banes, Chairman

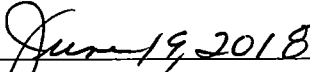

Mark Townend

Attest:


County Clerk

Approved as to form:


County Attorney


Date



ANNEXURE 1 – SOFTWARE

- The software is a relational database designed specifically for the Animal Welfare and Animal Management Industries.
- The software has been developed by people within the animal industry from two of the largest Animal Welfare organizations in Australia.
- The software uses latest Internet technology to display information stored on servers to any computer with Internet access, a web browser and required security access. ASP.Net security ensures only people with a username and password can use the system. If a person attempts to login without these necessary details, they will be locked out of the system. By using cookies the user is tracked and the IP address of the terminal is logged, allowing the user to be tracked.
- The database is a Microsoft SQL Server database and is designed to operate on Microsoft SQL Server.
- Users can access the system via a Web Browser, and uses online webforms to send information to the web server. The ASP.Net form then uses SQL / Entity Framework to connect to the database and make the required changes or perform the requested action.
- The fact that the SQL based database has a web front end means the database can utilise any number of other Browser based applications. It is this technology that provides the web-enabled capacity of the software allowing it to integrate in real-time with such applications as a public access Lost and Found website.
- The package includes the following Department modules:
 - Shelter Operations
 - Cruelty Complaint Investigation
 - Veterinary Services
 - Fundraising and Membership
 - Human Resource Management
 - Volunteers
 - Foster Care and Wildlife
 - Dog Obedience
 - Licensing
- The software is also provided preloaded with:
 - A minimum of 150, department specific, Reports as well as numerous various Forms and Printable Histories.
 - A section for generating Receipts
 - A section for Administrator access and control, referred to as the Administration module.
 - A link to support for an online Help center.
- The client is offered 24 hours of training with the choice between online or onsite. If the client chooses onsite training, the training is carried out over 3 consecutive days - Tuesday through Thursday .

ANNEXURE 2 – CONTRACT SPECIFICATIONS

Software configuration: .The Software will be deployed at the ISP of the Licensor ("Host ISP"), being an ISP having the expertise and capability to provide a hosting service reliably and professionally.

The hosting fee will be \$378.00 per month.

If the Customer is using ShelterBuddy in conjunction with Home Again, there are no hosting fees.

The maintenance fee will be \$197.00 per month. If the Customer is using Shelter Buddy in conjunction with Home Again, there are no maintenance fees.

Provided that if the Software was supplied to the Licensee in conjunction with services or products supplied by Schering Plough Home Again LLC ("Home Again"), then the Charges will not be payable by the Licensee while it continues to receive such services or products from Home Again.

Contract with HomeAgain:

The Licensee is under contract to HomeAgain for the supply by HomeAgain of microchips and related services.

a) Services to be provided by Licensor:

The Licensor must carry out the services described in Section 4 of this agreement.

b) Other things to be provided by Licensor:

The Licensor must supply the ShelterBuddy Information and Training Materials.

The Licensor must ensure access to a toll free phone number for support, with support to be provided via telephone and the internet.

The Licensor must procure (using third party contractors supplied by the Licensor at its expense) the online training of all staff at Licensee's site, as set out in Annexure 1.

The Licensor must procure (using third party contractors supplied by the Licensor at its expense) the online training for all staff that have full administrative access at Licensee's site, as set out in Annexure 1.

c) Contract Price:

The purchase price for the Software and initial set up is

\$5,000.00 – If dealing directly with ShelterBuddy and is payable within 14 days of going live.

Or

\$0.00 – If part of the Home Again collaboration with \$5,000.00 being payable by Home Again to Shelter Buddy

These figures are net of any local taxes or charges.

Provided that if the Software was supplied to the Licensee in conjunction with services or products supplied by Schering Plough Home Again LLC ("Home Again"), then the Charges will not be payable by the Licensee while it continues to receive such services or products from Home Again.

d) Term:

The agreement runs for 1 year from the date both Parties have signed this Agreement.

For the purposes of clause 7.4, the Term runs from the date agreed as the commissioning date ("Commissioning Date"), being the date the Parties agree that the Software should be installed and operating according to agreed parameters, being as follows:

The Commissioning Date is xxx, provided that the Parties must consult together and amend this date where circumstances beyond the Licensor's control reasonably require.

The License for use of the Software is perpetual.

e) Nominated details for notices-

Licensor: Mark Townend, CEO, ShelterManagement Pty Ltd

Licensee: Marcello Banes, Chairman, Board of Commissioners, Newton County


Agreement Supplement – Shelter Management Software License

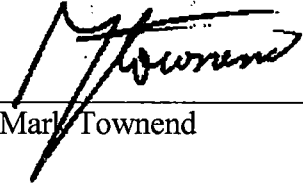
1. **Priority of Supplement:** This Supplement is attached to the Customer License Agreement (“Agreement”) between Newton County, Georgia (“Licensee”) and Shelter Management Pty Ltd (“SMPL”). The provisions of the Supplement control over any contrary provisions found in the Agreement and any other document that is incorporated by reference into the Agreement.
2. **Financial Provisions:** Licensee’s participation in the Agreement is conditioned on the existence of a partnership with Intervet, Inc. d/b/a HomeAgain, wherein the software fee, hosting fee and maintenance fees (including any taxes, if applicable) will be paid exclusively by HomeAgain. In the event of a failure to receive such fees, SMPL’s sole remedy is to terminate the Services. Licensee will not be financially obligated for any payments under the Agreement. In light of these provisions and Licensee’s ability to terminate the Agreement for convenience, the parties agree that the Agreement is not a multi-year purchase agreement contemplated by O.C.G.A. § 36-60-13.
3. **Term:** After expiration of the initial one-year term of the Agreement, the Agreement shall continue to automatically renew for successive one-year terms. Either party may cancel the agreement for convenience at any time, provided that following cancellation by either party SMPL shall continue to provide access to the Software for a reasonable period of time in order for Licensee to download its data stored on the Software.
4. **E-Verify Requirements:** The parties acknowledge that, in light of the limited services to be performed in person pursuant to the Agreement, the Agreement does not involve the “physical performance of services” as defined by O.C.G.A. § 13-10-90.
5. **Nondiscrimination:** Solely to the extent of its operations within the United States, and in accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of federal law, SMPL agrees that, during performance of this Agreement, for itself, its assignees and successors in interest, it will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed, national origin, gender, age or disability. In addition, SMPL agrees to comply with all applicable implementing regulations and shall include the provisions of this paragraph in every subcontract for services contemplated under this Agreement.
6. **Confidentiality:** Licensee is a municipal corporation of the State of Georgia and as such is subject to the requirements of the Georgia Open Records Act. Licensee will not be required to comply with any confidentiality obligations set forth in the Agreement to the extent inconsistent with its obligations under the Georgia Open Records Act. SMPL acknowledges that if it receives any public records through the Software, such records may be subject to disclosure under the Act.
7. **Venue, Jurisdiction and Choice of Law:** The provisions of the Agreement providing for Australia venue, jurisdiction and choice of law are hereby deleted.
8. **Authority to Contract:** The individual executing the Agreement on behalf of each party covenants and declares that he/she has obtained all necessary approvals of the necessary board of directors, stockholders, board of commissioners, general partners, limited partners or similar authorities to

simultaneously execute and bind the party to the terms of this Agreement.

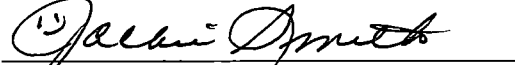
Newton County, Georgia

Shelter Management Pty Ltd.

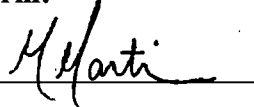

By: Marcello Banes, Chairman

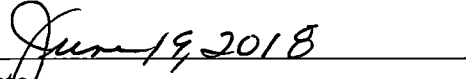

Mark Townend

Attest:


County Clerk

Approved as to form:


County Attorney


Date

