



SEAL KING PROFESSIONAL DRIVEWAY SEALCOATING

Seal King, Incorporated
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Seal King, Incorporated offers franchised Seal King® businesses, which apply seal coating material to driveways and parking areas and provide asphalt repair.

The total investment necessary to begin operation of a Seal King® franchised business is from \$58,050 to \$107,900. This amount includes a \$20,000 initial franchise fee that must be paid to us or our affiliate and \$22,800 to \$28,000 that must be paid to us or our affiliate for the purchase of a customized Seal King Trailer, your initial supply of sealer and other supplies, and your initial supply of advertising supplies.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Benjamin Nelson at Seal King, Incorporated, 21720 Hamburg Avenue, Lakeville, MN 55044 (952) 469-6639.

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

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

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

Issuance Date: May 3, 2023

How to Use This Franchise Disclosure Document

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

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

What You Need To Know About Franchising *Generally*

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

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

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

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

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

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

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

Some States Require Registration

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

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

Special Risks to Consider About *This Franchise*

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Minnesota. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Minnesota than in your own state.

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

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1. THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

A. The Franchisor.

Seal King, Incorporated, the franchisor, is referred to in this disclosure document as “we,” “us” or “Seal King.” “You” means the person or entity that buys a franchise. If the franchisee is a corporation, partnership or other entity, “you” also may mean its owners.

We are a Minnesota corporation, with principal business offices at 21720 Hamburg Avenue, Lakeville, MN 55044. We began as a sole proprietorship in 1991 and incorporated as Seal King, Incorporated on April 17, 1997.

This disclosure document relates to the sale of Seal King® franchises (“Seal King Businesses”). Seal King Businesses provide asphalt driveway repair, seal coating and related preventative maintenance services for residences and parking areas. We conduct business under our corporate name and under our trademark SEAL KING.

B. Predecessors and Affiliates.

We began offering Seal King franchises in 1997. As of the date of this disclosure document, our business is limited to franchising the Seal King Business System. We have one affiliate, Seal King–Lakeville, Inc., which operated a Seal King Business similar to the franchise offered, serving the municipalities of Lakeville, Burnsville and Apple Valley, Minnesota, until 2022 when that business was sold to a franchisee. Seal King–Lakeville, Inc. has common owners to us and shares the same principal business address. Seal King–Lakeville, Inc. has never offered franchises in any line of business. We have no other affiliate and we have no predecessors. We have not offered and do not intend to offer franchises in any other line of business, though we may do so in the future.

Our agents for service of process are disclosed in Exhibit E to this disclosure document.

C. The Franchised Business.

Seal King Businesses provide asphalt driveway repair, seal coating and related preventative maintenance services to residences and businesses. These services include seal coating, crackfilling, oil spot treatment, grass edging, and patching. We have developed and trademarked a unique 10-point maintenance system providing customers with full service at a flat rate. You are required to operate your Business according to the methods, standards, designs, trademarks, specifications and requirements that we designate and maintain for Seal King Businesses (the “Business System”). Seal King Businesses operate in a well-developed market and you will compete with other seal coating businesses, including local, regional and national providers of seal coating services, national franchise systems and other regional or local chains. Sales are typically seasonal in areas which receive snow and rain or where temperatures consistently fall below 50 degrees Fahrenheit. The minimum temperature for application of our products is 50 degrees. There are no local, state or federal regulations specific to your Seal King Business, although your Business will have to comply with various governmental regulations of general applicability.

2. BUSINESS EXPERIENCE

Benjamin Nelson: President and CEO

Benjamin Nelson is our President, CEO and sole shareholder. Mr. Nelson created and founded Seal King in 1991 and has operated the business since that time. Mr. Nelson also owns and operates Seal King-Lakeville, Inc.

3. LITIGATION

No litigation is required to be disclosed in this Item.

4. BANKRUPTCY

No bankruptcies are required to be disclosed in this Item.

5. INITIAL FEES

All franchisees must pay an initial franchise fee of \$20,000. This amount is due and payable prior to the opening of your Seal King Business, once you have successfully completed our training program. Prior to signing a Franchise Agreement, we will review your financial information, and your application. We reserve the right to reject you as a franchisee. In the event your application is not approved, or you fail to complete the required initial training, you will not be required to pay the initial franchise fee, however, you may be responsible for any reasonable costs incurred by us in the preparation or review of your application and Franchise Agreement, including legal, administrative, or accounting fees and costs. Once paid, the initial franchise fee is not refundable.

After we have accepted your franchise application and granted you a franchise, you must purchase from us a customized trailer unit, which includes a hot-melter and tank (the "Seal King Trailer"). You must also purchase from us your initial supply of sealer, crack-filler and other sealcoating supplies. You must arrange for and pay all costs associated with initial outside advertising for your business and conduct grand opening advertising, which will consist primarily of purchasing advertising mailers, banners and yard signs from us and distributing them in your area. Combined, the Seal King Trailer, the initial sealcoating supplies and your initial advertising supplies that you purchase from us will cost between \$22,800 and \$28,000. These amounts are payable in a lump sum to us and are not refundable. You will also incur postage costs in distributing Seal King advertising mailers for your grand opening.

6. OTHER FEES

Type of Fee ¹	Amount	Date Due	Remarks
Continuing Fee ²	7% of Gross Revenues; subject to annual minimum ³	1st and 15th day of each month	Gross Revenues include all amounts received by your business, less sales taxes. See Note (4)
System Advertising Fee	\$1,000 per year	May 1 st of each calendar year during the term of the Franchise Agreement	We have the right to increase or decrease the System Advertising Fee on an annual basis up to the greater of 3% of Gross Revenues or the previous year's System Advertising Fee plus 10%.
Local Advertising Expenditure ⁵	\$500 per month	On or before the last day of each month (between April and October)	Used for the promotion and advertisement of business.

Type of Fee ¹	Amount	Date Due	Remarks
Additional Training Fee	\$500 per person	Prior to commencement of training	Training of you or your manager is provided with the Initial Franchise Fee.
Additional Assistance Fee	\$75 per hour, plus actual expenses	Within 5 days of receipt of invoice	We will provide opening assistance for 2 weeks after initial opening. Additional assistance requested by you after this 2-week period may result in the Additional Assistance Charge.
Transfer Fee	\$10,000	Before you transfer the Franchise Agreement, the assets of your Seal King Business, or ownership interests in the Franchisee that result in a change of control	You must obtain our prior approval for any transfer.
Audit Fee	Actual cost of audit plus 18% annual interest on underpayment	Within 5 days following receipt of invoice	Payable only if audit discloses understatement of Gross Revenues of 2% or more for any particular month, or \$500 for any year.
Territory Violation Fee	\$250 to \$1,000	Upon demand by us	You may be required to pay us a fee if you perform services outside of your Territory. We may impose a fee of up to \$250 for your first violation and up to \$1,000 for subsequent violations. (See Item 12 for more information.)
Late Fee, Service Fee	\$50	Within 10 days of accrual	Late fee payable if any amount due under the Franchise Agreement is not paid when due.

Notes:

- (1) Unless otherwise specified, each fee is imposed by and payable to us. All fees are nonrefundable, except that the initial franchise fee may be refundable in the event you are rejected by us as a franchisee.
- (2) We require Continuing Fees to be automatically debited by credit card on a weekly basis.
- (3) The term “Gross Revenues” is defined in Section 1.9 of the Franchise Agreement. (See Exhibit A.)
- (4) The Continuing Fee is subject to an annual minimum requirement as follows: For your 1st year of operations, the minimum Continuing Fee is \$3,850, for your 2nd year of operations the minimum is \$4,200, and for your 3rd and each subsequent year of operations, the minimum is \$4,550. If you fail to reach the applicable minimum during the course of the year, you must pay the difference between the minimum and the Continuing Fees actually paid during the year, upon invoice from us.
- (5) Advertising expenditures are paid to us or a third-party advertising supplier or suppliers.

7. ESTIMATED INITIAL INVESTMENT

The following chart provides an estimate of your initial investment for a standard Seal King Business. This is only an estimate – your actual expenses may be higher. The estimated range assumes that you will operate your Seal King Business out of your residence and, therefore, does not include real estate costs. If you lease commercial or industrial space for your Business, you will incur greater start-up

expenses including pre-paid rent, security deposits, furniture, fixtures, signs, equipment and leasehold improvements.

YOUR ESTIMATED INITIAL INVESTMENT

Type of Expense	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Initial Franchise Fee (1)	\$20,000	Lump Sum	Upon execution of Franchise Agreement	Us
Initial Advertising	\$2,000 to \$5,000	Lump Sum	Upon execution of Franchise Agreement	Us
Travel and Living Expense While Training	\$300 to \$600	As arranged	During Training	Airlines, hotels, or provider of service
Truck (Lease or Purchase; Your Truck must be in new or near-new condition)	\$3,000 to \$40,000	As arranged	Prior to Opening	Supplier or Leasing company
Tools & Equipment for Application of Sealer and other product	\$3,000 to \$5,000	Lump Sum	Prior to Opening	Us or other approved suppliers
Custom Seal King Trailer (with hot-melter and tank) (2)	\$20,000 to \$22,000	Lump Sum	Prior to Opening	Us
Initial Supply of Sealer, Crack Filler and Other Seal King Supplies	\$800 to \$1,000	Lump Sum	Prior to Opening	Us
Cellular Telephone	\$50 to \$200 plus monthly charge	As arranged	As Incurred	Supplier or Provider of Service
Office Supply and Equipment, including forms, invoice documents, and cards	\$400 to \$600	As arranged	As Incurred	Supplier or Provider of Service
Computer	\$500 to \$1,500	As arranged	As Incurred	Supplier
Working Capital (3)	\$8,000 to \$12,000		During First 3 months of operation	Suppliers, Provider of Service, employees, etc.
TOTAL	\$58,050 to \$107,900 (Does not include real estate costs)			

(1) If you purchase and open 1 or more additional Seal King Businesses after the date of this disclosure document, the initial franchise fee payable to us and your initial investment requirements will be stated in our then-current franchise disclosure document, and may vary from the amounts stated above.

(2) Estimates for the Seal King Trailer are as of the Issuance Date of this disclosure document. Prices for these items may vary, however, as the price of steel or other raw materials fluctuates.

(3) This amount estimates the expenditures you will make for employee wages and miscellaneous expenses, supplies, utilities, Continuing Fees, System Advertising Fees, local advertising, truck payments, gasoline, internet, phone and other operating costs and expenses during the first 3 months of operation. These figures are estimates only, and you may have additional or greater expenses depending on the size

of your Business, you employ a separate General Manager, market conditions, competition, wage rates, sales levels attained, and other economic factors.

8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

In order to ensure a uniform image and uniform quality of products and services throughout the Seal King network of Businesses, you must maintain and comply with our quality standards. You must equip your Business in accordance with our then-current approved specifications, vehicle decorating designs and color schemes. It is your responsibility to ensure that any building plans you utilize comply with the Americans with Disabilities Act and all other federal, state and local laws.

You also must use equipment, signage, fixtures, furnishings, products, supplies and marketing materials that meet our specifications and standards.

Approved Supplies and Suppliers

We provide you with a list of approved manufacturers, suppliers and distributors (“Approved Suppliers List”) and approved inventory products, fixtures, furniture, equipment, signs, stationery, supplies and other items or services necessary to operate the Business (“Approved Supplies List”). The Approved Suppliers List may specify the manufacturer of a particular product or piece of equipment. From time to time we, an affiliate or a third-party vendor or supplier may be the only approved supplier for certain products. The lists also may include other specific products without reference to a particular manufacturer, or they may set forth the specifications and/or standards for other approved products. We may revise the Approved Suppliers List and Approved Supplies List. We give you the approved lists as we deem advisable.

With the exception of Seal King Products (described below), if you want to use any brand of materials or supplies that is not then approved by us in the operation of the Business, or to purchase any product from a supplier that is not then designated by us as an Approved Supplier, you must, prior to using or purchasing any such product, seek and obtain our approval in writing. If requested by us, you must submit samples and other information as we require for testing or to otherwise enable us to determine whether the product, material or supply, or the proposed supplier meets our specifications and quality standards. We generally will notify you of supplier approval or disapproval within 45-60 days of our receipt of all the information and samples we request. The supplier also may be required to sign a supplier agreement. We may re-inspect the facilities and products of any supplier of an approved supplier or item and revoke our approval of any supplier or item that fails to continue to meet any of our criteria. We will send written notice of any revocation of an approved supplier or item.

We apply the following general criteria in approving a proposed supplier: 1) ability to make product in conformity with our specifications; 2) willingness to protect the secrets behind the uniqueness of a product without dissemination to others; 3) production and delivery capability; 4) reputation and integrity of the supplier; and 5) financial condition and insurance coverage of the supplier.

We are the only Approved Supplier for Seal King Raw Products, Seal King Sealer, Seal King Crack Filler, Sand and Edging Stakes, (collectively, the “Seal King Products”). We are an Approved Supplier for other products that you will need in the operation of your Seal King Business, such as squeegees, brushes, and other items, although you may purchase these items from alternative suppliers if we approve of them in the manner described above. We are also an Approved Supplier for the Seal King Trailer necessary for the application of the Seal King Products. You must purchase the Seal King Trailer directly from us or from another vendor specifically approved by us in the manner described above. We may derive revenue from the sale of Seal King Products and Seal King Trailers, and other items sold to franchisees by charging

more than our wholesale purchase price from the manufacturers. In some instances, the cost to you of the Seal King Products and other items may be higher than the cost of other similar products on the market. During our most recently concluded fiscal year, we received approximately \$1,266,181 in revenue from the sale of Seal King Products, sales and advertising materials, Seal King Trailers and other equipment to franchisees, or 68% of our total revenues of \$1,856,476. We also reserve the right to receive rebates or other consideration from suppliers in connection with your purchase of goods, products and services as described in this Item 8, and to retain and use any such payments as we deem appropriate or as required by the vendor. During our most recently concluded fiscal year, we did not receive revenue from supplier rebates. We may negotiate prices and try to receive volume discounts on products for the collective benefit of all Seal King franchised and affiliate-owned Businesses, but we do not do so on behalf of individual franchisees. There is no purchasing or distribution cooperative. We do not provide material benefits to you because of your use of Approved Suppliers.

Our President and CEO, Ben Nelson, owns an interest in us. In addition, our officers may own an interest in a supplier that: (1) is held indirectly through a mutual fund, 401(k) plan or similar investment vehicle; or (2) represents fewer than 1,000 shares or units of a supplier entity and less than 1% of the total outstanding equity interest in that supplier.

You must carry insurance policies protecting you, us, our officers, directors, agents and employees. The insurance policies must include, at a minimum: (i) general liability insurance insuring you, us, our affiliates and all of their respective officers from any loss, liability, claim, or expense of any kind, including errors and omissions, bodily injury, personal injury, death, property damage, products liability, and all other occurrences resulting from the condition, operation, use, business, or occupancy of the Seal King Business or its location, with minimum coverage of \$1,000,000; (ii) automobile liability insurance, including coverage of at least \$50,000 per occurrence; (iii) workers’ compensation and employer’s liability insurance covering all of your employees as required by the State in which your Business is located; (iv) “all risks” property insurance for the property at which your business is located; (v) umbrella liability insurance which also includes employers liability and automobile liability, with minimum limits of \$1,000,000 and (vi) any other such insurance coverages or amounts as required by law or other agreement related to the Business.

You can expect items purchased or leased in accordance with our specifications will represent approximately 50% of your total initial cost and approximately 25% of the total day-to-day operating costs of your business.

9. FRANCHISEE’S OBLIGATIONS

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

Obligation	Sections in Agreement	Disclosure Document Item
a. Site selection and acquisition or lease	No Obligation	No Obligation
b. Pre-opening purchases or leases	Section 11.11	Items 5, 6, and 7 of this disclosure document
c. Site development and other pre-opening requirements	No Obligation	No Obligation
d. Initial and Ongoing Training	Section 9	Items 6 and 11 of this disclosure document
e. Opening	Section 7.5	Item 11 of this disclosure document
f. Fees	Sections 5 through 7	Items 5 and 6 in this disclosure document

	Obligation	Sections in Agreement	Disclosure Document Item
g.	Compliance with standards and policies	Section 11	Item 11 in this disclosure document
h.	Trademark and proprietary information	Sections 4 and 8.	Items 13 and 14 of this disclosure document
i.	Restrictions on products or services offered	Sections 11.1, 11.3, 11.10	Item 16 of this disclosure document
j.	Warranty and customer service requirements	Section 11.3	Item 11 in this disclosure document
k.	Territorial development and sales quotas	None	None
l.	Ongoing product or services purchases	Section 11.12	Item 8 in this disclosure document
m.	Maintenance, appearance and remodeling requirements	Section 11.15	Item 11 in this disclosure document
n.	Insurance	Section 12	Item 8 of this disclosure document
o.	Advertising	Sections 7, 11.13	Items 6 and 11 of this disclosure document
p.	Indemnification	Section 20	
q.	Owner's participation, management, staffing	Section 11.25	Items 11 and 15 of this disclosure document
r.	Records and reports	Section 13	
s.	Inspections and audits	Sections 11.9, 13.5	Item 6 of this disclosure document
t.	Transfer	Section 15	Item 17 of this disclosure document
u.	Renewal	Sections 3.2, 3.3	Item 17 of this disclosure document
v.	Post Termination obligations	Section 18	Item 17 of this disclosure document
w.	Non-competition covenants	Section 19	Item 17 of this disclosure document
x.	Dispute resolution	Section 21	Item 17 of this disclosure document

10. FINANCING

Neither we, our agents, nor any affiliate offer financing arrangements or guarantee any note, lease or obligation. We do not receive any payments or other consideration from any company for the placement of financing. We have no existing practice or intention of selling, assigning or discounting to a third party all or any part of any financing arrangement.

11. FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING

Except as disclosed below, Seal King is not required to provide you with any assistance.

Assistance Before Opening

Before you commence your new business, we will designate your Territory (Franchise Agreement Section 2.1 and Exhibit A) and provide you with a written schedule of initial supplies and equipment for use in your business (Franchise Agreement Section) and a list of approved suppliers of furniture, fixtures, supplies, products, items, goods and services (Franchise Agreement Section 11.12). You must operate your business only within the area designated as your Territory, which, in most cases, will consist of 1 municipality with an approximate population of up to 50,000. Municipalities with a population greater than 50,000 people may, at our option, be divided into 2 or more Seal King Territories. The boundaries of your Territory are the city limits of the municipality designated, or, in the case of a municipality that has been

divided by us, the area that we designate. Because you are not required to obtain or maintain a particular type of space for your Business, we do not provide any assistance to you in this regard.

Training

We will provide our initial training program to you and to 1 employee of your Seal King Business that you designate (Franchise Agreement Section 9.1). Training tuition for up to 2 people is included within the initial franchise fee, however you must pay for all travel and living expenses, wages, benefits, and other expenses for yourself and any other training attendee associated with you throughout the training period. The purpose of the training program is to provide you and your managers with information on the Business System and brand standards, and not to control the day-to-day operation of your Business or to supervise your employees.

TRAINING PROGRAM
(Business Franchises)

Subject (1)(2)	Hours Of Classroom Training	Hours On-Site/Field Training	Location
Accounting and Business Processes and Procedures	1	0	Lakeville, Minnesota or another location we designate
Advertising Methods	2	0	Lakeville, Minnesota or another location we designate
Estimating, Scheduling, and Administration	2	0	Lakeville, Minnesota or another location we designate
Equipment Operation and Product Application	0	4	In the field or at our Headquarters in Lakeville, Minnesota
TOTAL	5	4	

- (1) The instructional materials include the Operations Manual, sample business forms, and various advertising and marketing materials.
- (2) Our training program is administered by our President and CEO, Ben Nelson. Mr. Nelson’s background and experience is described in Item 2. Additional employees or franchisees who have experience in some facet of the operation of a Seal King Business may assist in providing training.

Operations Manual

We will loan to you a copy of the Operations Manual, which will serve as the textbook for the initial training program and provide guidance and information useful throughout the operation of your business. The Operations Manual contains both mandatory and suggested standards and procedures that we develop to ensure the brand standards for Seal King Businesses and information relating to your obligations as a franchisee. The Operations Manual is confidential and shall remain our property. You may not make copies of the Operations Manual and it must be returned to us when your franchise expires or terminates. You have a right to view and examine the Operations Manual before agreeing to purchase a franchise, although you may be asked to sign a Confidentiality Agreement prior to doing so. Upon request, the Operations Manual will be made available to you at our headquarters in Lakeville, Minnesota.

Ongoing Assistance

We may from time to time, conduct inspections and review the operation of your Seal King Business and provide consultation to you regarding marketing, advertising and promotional issues, accounting matters, personnel issues and other business matters or special projects relating to your Seal King Business, as we deem necessary. Any visits with you or inspection of your Business by us are to protect our interest in the Marks and the Business System and not to control the day-to-day operation of your Business or for supervision of your employees. We will provide you with suggestions for any improvement we deem advisable (Franchise Agreement Section 11.9).

Advertising

You must spend a minimum of \$500 per month on advertising in your Territory between the months of April and October during each calendar year that you are in business (Franchise Agreement Section 7.6). All advertising materials that you use must be approved, in advance, by us (Franchise Agreement Section 7.1). We will review advertising materials that you submit to us for use in the advertisement your Seal King Business.

You will pay us an annual System Advertising Fee in the amount specified in your Franchise Agreement (See Item 6.) The System Advertising Fee is \$1,000 for 2022. The Seal King business that our affiliate operates contributes the same amount in System Advertising Fees as Seal King franchisees.

We will deposit the System Advertising Fees collected from franchisees into a marketing fund, which is kept separate from our other funds. We use a portion of the System Advertising Fees for purchase of production materials, brochures, radio and televisions commercials, services provided by advertising agencies, market research and development costs, advertising and promotion development and production, creative costs, product research costs and all the costs of administering and conducting the advertising program. All Seal King Business franchisees will contribute the same amount into the marketing fund. The marketing fund does not receive contributions from outside vendors or suppliers.

The marketing fund is not a trust or escrow account and we have no fiduciary duty to you with respect to the collection or expenditure of System Advertising Fees. We are not required to spend any particular amount on marketing, advertising or promotion in the area in which your Business is located. During our fiscal year ended December 31, 2022, we collected \$21,000 into the marketing fund from System Advertising Fees (including fees paid by our affiliate, Seal King-Lakeville, Inc.) and we made \$17,577 in expenditures. Of the amount expended in 2022, 85% was spent on search engine optimization (SEO) marketing expenses, and 15% was spent on radio advertising. In 2022, we did not spend any of the marketing fund for advertising that was primarily a solicitation for the sale of franchises, nor do we intend to do so in 2023.

Other than spending the System Advertising Fees paid to us as described above, we are not obligated to conduct any additional advertising, marketing or promotion.

We will prepare an unaudited accounting of expenditures made from the marketing fund to franchisees and it will be available to you for review on request. Marketing fund monies not spent in a given fiscal year are retained in the fund for use during the following fiscal year. We do not use advertising fund monies to solicit franchise sales. As of the date of this disclosure document, there is no advertising council for the Business System. We have the power, however, to form, change, or dissolve any advertising council. In addition, any advertising council we form will serve in only an advisory capacity.

12. TERRITORY

You receive the right to operate a Seal King Business within a specified geographic area (your “Territory”), which is described in the Franchise Agreement. We will not, during the term of your franchise, operate or grant others the right to operate any other Seal King Business within your Territory, except as generally described in this Item 12 and more fully set forth in the Franchise Agreement.

A Territory will generally consist of 1 municipality, although a municipality with a population in excess of 50,000 residents may, at our option, be divided between 2 separate Seal King Territories, in which case your Territory will consist of the Area we designate. The geographic boundaries of a municipality are generally set by that municipality’s governing body, and may change over time. You may operate your Business and solicit customers only within your Territory. You may not relocate your business to another municipality or area without our prior written consent. You have no option or right of first refusal to acquire additional franchises contiguous to your Territory.

We and our affiliates have the right outside of your Territory to grant other franchises or operate company or affiliate owned Seal King Businesses or to offer, sell or distribute any products or services associated with the Business System under the Trademarks or any other trademarks or through any distribution channel or method, all without compensation to you or any franchisee.

You must refer all requests for service outside of your Territory to us or to the Seal King franchisee for that Territory, if applicable. You may be required to pay us a fee if you violate the terms of your Franchise Agreement and our Inter-Territory Referral Policy by advertising or operating outside of your Territory. Specifically, your first such violation may result in a fine of up to \$250. Your second and ensuing violations may result in a fee of up to \$1,000. Furthermore, we will consider multiple violations of your Territory restrictions to be a material default under the Franchise Agreement, which may lead to the termination of your franchise. Our current Inter-Territory Referral Policy is included in our Operations Manual will be made available to you for your review, upon request.


Continuation of your Territory does not depend on the achievement of a certain sales volume, market penetration or other contingency, although you will be required to pay us Minimum Continuing Fees, as described in Item 6.

Except as described above, you will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution.

13. TRADEMARKS

The Franchise Agreement licenses you to operate your Business under the service mark “SEAL KING” as well as other trademarks, service marks, trade names and commercial symbols (collectively, the “Marks”). We also authorize you to use the logo that appears on the cover page of this disclosure document. You may only use our trademarks and service marks in the manner authorized in writing by us. You may not use the words “Seal King” in your company, partnership or sole proprietorship name. You may not use the Marks on your employment applications, employee evaluation forms, benefits statements, payroll checks or other documents or materials relating to your employees.

The following is a list of Marks that are registered or are the subject of a currently pending application with the United States Patent and Trademark Office:

Trademark	Principal/ Supplemental Register	Registration Date	U.S. Registration No.
SEAL KING®	Principal	December 19, 2006 (Renewed March 9, 2016)	3,187,031
SEAL KING and DESIGN	Principal	February 26, 2013	4,295,093
	Principal	April 16, 2019	5726244

Your use of the Marks and any goodwill is to our and our affiliates' exclusive benefit and you retain no rights in the Marks. You also retain no rights in the Marks upon expiration or termination of the Franchise Agreement. You are not permitted to make any changes or substitutions of any kind in or to the use of the Marks unless we direct you to in writing. We may make changes to the Business System presently identified by the Marks including the adoption of new Marks, new products, new equipment or new techniques and you must adopt the changes in the Business System, as if they were part of the Franchise Agreement at the time of signing. You must comply within a reasonable time if we notify you to discontinue or modify your use of any Mark. We will have no liability or obligation as to your modification or discontinuance of any Mark.

There are no presently effective determinations of the United States Patent and Trademark Office, the Trademark Trial and Appeal Board, or the trademark administrator in any state or any court, no pending infringement, opposition or cancellation proceedings, and no pending material litigation involving the Marks which have limited or restricted the use of the Marks in any state.

To our knowledge, there are no infringing uses which could materially affect your use of the Marks or other related rights in any state. We will protect your rights to use the Marks and protect you against claims of infringement and unfair competition relating to the Marks. You must notify us immediately of any infringement or unauthorized use of the Marks that you become aware of and cooperate with any action we undertake. We will control and conduct all litigation involving the Marks. If anyone establishes to our satisfaction that its rights are, for any legal reason, superior to any of the Marks then you must use the variances or other service marks, trademarks or trade names as may be required by us to avoid conflict with the superior rights.

14. PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION

We do not own any patents.

We have copyrighted advertising copy and design, training materials, workbooks, the Operations Manual, and items relating to the operation of the franchised business. We have not applied to the United States Copyright Office to register these copyrights, with the exception of the brochure and flyer that we use to promote and advertise all Seal King Businesses. This application is recorded in the United States Copyright office of the United States Library of Congress as Tx(5-610-846). The Operations Manual that we loan to you and other information relating to the operation of a Seal King Business is proprietary to us and must be kept confidential by you and your employees. You may not copy or alter any copyrighted or

proprietary materials without our written consent, and may not use these materials except in operating your Seal King Business.

There are no infringing uses actually known to us that could materially affect your use of any copyrighted material supplied by us. There are no presently effective determinations of the Copyright Office or any court, no pending interference, opposition or cancellation proceedings, or any pending material litigation involving our copyrighted or proprietary materials that are relevant to their use in any state. There are no agreements currently in effect which significantly limit our right to use or license the use of the copyrighted or proprietary materials in any manner material to the franchise.

We also own the following internet domain names: sealking.com, sealking.net, sealking.info, sealking.org, sealking.cc, sealking.biz, sealking.us, sealking.tv, sealking.bz.

15. OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

You are not required to participate “on premises” in the operation of the Business, but we strongly recommend that you actively participate in its day-to-day operation. In the event you do not actively participate in the day-to-day operations of your Business, you must employ a General Manager to supervise the day-to-day operations of your Business. We must approve your General Manager and your General Manager must complete our initial training program (and any other training that we require) in advance and at your expense. You and your General Manager (if you have one) must attend and successfully complete our training program before managing or operating your Seal King Business. You, your General Manager and other employees may be required sign a confidentiality agreement, agreeing to maintain the confidentiality of our confidential and proprietary information. You or your General Manager must devote a minimum of 20 hours per week to the day-to-day operation of the Business, between April 1st and November 1st of each year during the term of the Franchise Agreement.

You must personally guarantee all of your obligations under the Franchise Agreement. You may not have an interest in or relationship with any competitor of ours and you must agree not to compete with us or our affiliates or franchisees for 24 months following the termination or expiration of your Franchise Agreement within an area of 50 miles.

16. RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You are required to offer and sell only those products and services approved, in writing, by us. Moreover, you must offer all products and services designated in writing by us. We have the right to add additional authorized services or products that the franchisee is required to offer during the term of the Franchise Agreement. There are no limits on our right to add such products or services.

17. RENEWAL TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

THE FRANCHISE RELATIONSHIP

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

Provision	Section in Franchise Agreement	Summary
a. Length of the Franchise Term	3.1	3 years
b. Renewal or Extension of Term of Franchise	3.2, 3.3	3 years
c. Requirements for Extension or Renewal of Franchise	3.2	Must provide us with notice not less than 90 days prior to the termination of current Franchise Agreement, must have complied with all terms and conditions of Franchise Agreement and Standard Operating Procedures, including Gross Revenue Requirement, must have complied with all monetary obligations, must participate in any required additional training, and must agree to terms of most current Franchise Agreement
d. Termination by Franchisee	17	You may terminate the Franchise Agreement, if you have complied with all terms of the Franchise Agreement, Franchisor has materially breached the Agreement, you provide notice of default, such default is not cured within 60 days of such notice, and you provide a separate notice of termination.
e. Termination by Franchisor without “cause”	Not applicable	Not applicable
f. Termination by Franchisor with “cause”	16.1-16.5	For any breach of the Franchise Agreement, or the Operations Manual, or any other document.
g. “Cause” defined – curable defaults	16.1	You fail to commence operations within 30 days of executing the Franchise Agreement, violate any material term of the Franchise Agreement, fail to pay amounts owed, or fail to meet the standards for operation of a Seal King Business.
h. “Cause” defined – Non-curable defaults	16.4	You are convicted of any offense involving fraud, deceit, or misrepresentation, or a crime directly related to the business, you are deemed insolvent or make an assignment for the benefit of creditors, or file a petition in bankruptcy; or you refuse to allow Franchisor to access or inspect your records, you abandon the Business or engage in any activity that materially impairs the Franchisor’s trademarks.
i. Your obligations on termination/ non-renewal	18.1	You must cease operating as a Seal King Business, de-identify, pay all amounts due to us, notify all suppliers, and any other related parties that you are no longer authorized to conduct business as Seal King franchisee, return the Operations Manual and all materials and documents and other confidential papers related to the Seal King Franchise; comply with non-competition and confidentiality provisions of your Franchise Agreement.
j. Assignment of contract by Franchisor	15.1	We may assign this or any other agreement without restriction.

Provision	Section in Franchise Agreement	Summary
k. "Transfer" by Franchisee – Defined	15.2-15.8	Definition does not include assignment to a corporation that is owned and controlled (51% or more) by You.
l. Franchisor approval of transfer by franchisee	15.4	We have the right to approve or disapprove of any assignment or transfer, but may not unreasonably withhold such consent. We have the right to place reasonable restrictions on the advertisement of the sale of your Seal King Business.
m. Conditions for Franchisor approval of transfer	15.4	Franchisee is not in default, Franchisee and Assignee execute a release of past claims, transferee assumes all obligations, transferee completes training program, transferee pays then-current transfer fee; all transferee shareholders sign a personal guarantee of all obligations of the Franchise Agreement, none of the shareholders may operate a competing business, must furnish proof of ability to comply with all obligations of Franchise Agreement.
n. Franchisor's right of first refusal to acquire franchisee's business	8	You must first offer your business to us, on the same terms as the proposed sale. We must respond to the sale within 15 days.
o. Franchisor's option to purchase Franchisee's business	Not applicable	Not applicable
p. Death or disability of Franchisee	Not applicable	Not applicable
q. Non-Competition covenants during the term of the Franchise	19.1	You may not participate in or own any business that competes with us, our affiliates, or franchisees.
r. Non-Competition covenants after the Franchise is terminated or expires	19.2	For a period of 2 years following the termination of any Franchise, you may not operate in, own, control, or participate in any way with any business that is competitive with a Seal King Business.
s. Modification of the Agreement	22.8	Modified only by written agreement between the parties.
t. Integration / merger clause	22.8	The Franchise Agreement is the entire Agreement between the parties.
u. Dispute resolution by arbitration or mediation	21	Expect for certain claims and as provided by law, all claims must be arbitrated in Minnesota.
v. Choice of Forum	22.1	All litigation must be conducted in Dakota County, Minnesota. All arbitration must be commenced and maintained in Minnesota.
w. Choice of Law	22.1	All disputes or interpretations must be in accordance with Minnesota law.

18. PUBLIC FIGURES

We do not use any public figure to promote the franchise.

19. FINANCIAL PERFORMANCE REPRESENTATIONS

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance

information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

The financial performance representation below lists the unaudited Gross Revenues for the 21 franchised Seal King Businesses that had been operated by our franchisees for at least 12 months as of our most recent fiscal year ends, December 31, 2022, December 31, 2021, and December 31, 2020. The performance figures are for the 2022, 2021 and 2020 fiscal years, which are the 12-month periods ended December 31, 2022, 2021 and 2020. The term “Gross Revenues,” as used in this financial performance representation, means the total dollar income resulting from all sales made to customers or clients of the franchised Seal King Business listed below for the performance of seal coating and related services in 2022, 2021 and 2020. “Gross Revenues” does not, however, include any sales, use or gross receipts taxes.

**UNAUDITED GROSS REVENUES
FOR FRANCHISED BUSINESSES**

Unit #	2022 Gross Revenues	2021 Gross Revenues	2020 Gross Revenues
1	\$66,185	\$72,157	\$76,160
2	\$96,171	\$103,800	\$93,966
3	\$138,171	\$126,171	\$120,013
4	\$270,800	\$65,871	\$73,040
5	\$163,242	\$134,900	\$146,449
6	\$49,800	\$67,414	\$70,938
7	\$208,542	\$220,871	\$199,346
8	\$42,914	\$35,100	\$150,246
9	\$287,127	\$273,728	\$189,606
10	\$396,085	\$297,657	\$140,195
11	\$810,694	\$818,157	\$160,510
12	\$224,214	\$184,028	\$497,619
13	\$273,371	\$360,342	\$121,535
14	236,857	\$312,757	\$123,585
15	\$165,200	\$188,571	\$110,093
16	\$18,671	\$222,472	\$146,857
17	\$139,657	\$99,500	\$112,742
18	\$224,671	\$232,100	\$232,262
19	\$30414	\$560,971	\$467,428
20	\$240,214	\$243,512	\$216,414
21	\$282,657	\$309,442	\$285,642

The above Businesses sold these amounts. Your individual results may differ. There is no assurance that you will sell as much.

We will, upon reasonable demand, provide to prospective franchisees the supporting data for all information illustrated in this financial performance representation. Outside of this financial performance representation, we do not otherwise furnish to prospective franchisees any oral or written information concerning the actual or potential sales, income or profits of a Seal King Business, although if you are purchasing an existing outlet, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the our management by contacting Ben Nelson, 21720 Hamburg Avenue, Lakeville, MN 55044, (952) 469-

6639, the Federal Trade Commission, and the appropriate state regulatory agencies. Actual results vary from unit to unit and we cannot estimate the results of any particular franchise.

You will incur costs in connection with the operation of your franchised Seal King Business, such as labor costs, the purchase of seal coating products and supplies, equipment costs, fuel costs, advertising, overhead, etc. In addition to these costs, your franchised business will be required to pay an Initial Franchise Fee, Continuing Fees, and System Advertising Fees, which will affect the profitability of your business and are not included in the financial performance representation. We encourage you to consult with your own accounting, business, and legal advisors to assist you to identify the expenses you likely will incur in connection with your business, to prepare your budgets, and to assess the likely or potential financial performance of your business. We also encourage you to contact existing Seal King operators to discuss the Seal King business.

20. OUTLETS AND FRANCHISEE INFORMATION SEAL KING BUSINESSES

System-Wide Outlet Summary For years 2020 to 2022

Outlet Type (Note 1)	Year (Note 2)	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2020	22	22	0
	2021	22	22	0
	2022	22	23	+1
Company-Owned	2020	1	1	0
	2021	1	1	0
	2022	1	0	-1
Total Outlets	2020	23	23	0
	2021	23	23	0
	2022	23	23	0

- (1) An “Outlet” means 1 Territory operated under a distinct Franchise Agreement, regardless of how many Territories a single Franchise entity may operate within.
- (2) All numbers are as of December 31 of each calendar year.

Transfers of Outlets From Franchisee to New Owners (Other than the Franchisor) For years 2020 to 2022

State	Year(1)	Number of Transfers
Minnesota	2020	0
	2021	0
	2022	3
Wisconsin	2020	0
	2021	0
	2022	0
TOTAL	2020	0
	2021	0
	2022	3

**Status of Franchised Outlets
For years 2020 to 2022**

State	Year	Outlets at the Start of the Year (Note 1)	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations / Other Reasons	Outlets at the End of the Year
Minnesota	2020	19	0	0	0	0	0	19
	2021	19	0	0	0	0	0	19
	2022	19	1	0	0	0	0	20
Wisconsin	2020	3	0	0	0	0	0	3
	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
TOTAL	2020	22	0	0	0	0	0	22
	2021	22	0	0	0	0	0	22
	2022	22	1	0	0	0	0	23

(1) All numbers are as of December 31 of each calendar year.

**Status of Company-Owned Outlets
For years 2020 to 2022**

State	Year	Outlets at the Start of the Year (Note 1)	Outlets Opened	Outlets Reacquired From Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at the End of the Year (Note 2)
Minnesota	2020	1	0	0	0	0	1
	2021	1	0	0	0	0	1
	2022	1	0	0	0	1	0
TOTAL	2020	1	0	0	0	0	1
	2021	1	0	0	0	0	1
	2022	1	0	0	0	1	0

(1) All numbers are as of December 31 for each calendar year.

(2) The outlets listed in this table are owned and operated by our subsidiary, Seal King–Lakeville, Inc., which operates a single Seal King Business similar to the franchise offered. That business was sold to a franchisee in 2022.

Other than as described above in this Item 20, as of December 31, 2022, neither we nor any other affiliate have offered franchises, nor owned and operated, any businesses that are substantially similar to the business being franchised.

Projected Openings as of December 31, 2022

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company-Owned Outlets in the Current Fiscal Year
Minnesota	0	1	0
Wisconsin	0	1	0
TOTAL	0	2	0

Included in this disclosure document as Exhibit B is a list of the operational franchised Seal King franchises as of December 31, 2022.

Included in this disclosure document as Exhibit C is a list of franchisees that have terminated, cancelled, not renewed, transferred their interests in their Business, or who have otherwise voluntarily or involuntarily ceased doing business under their Seal King Franchise Agreement between January 1, 2022 and December 31, 2022.

No franchisee has failed to communicate with us within 10 weeks of the issuance date of this disclosure document.

In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the Seal King Business System. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you. The Franchise Agreement requires franchisees to keep confidential our Operations Manual and other proprietary and trade secret information. We may also require franchise applicants to sign a confidentiality agreement, requiring them to keep confidential any proprietary and trade secret information of ours.

If you buy a Seal King franchise, your contact information may be disclosed to other buyers when you leave the system.

21. FINANCIAL STATEMENTS

Attached as Exhibit D are our audited Financial Statements of for the periods ending December 31, 2022, December 31, 2021, and December 31, 2020.

22. CONTRACTS

Attached as Exhibit A is a copy of the Franchise Agreement, with Appendices and Addenda, including:

1. Personal Guaranty
2. Franchisee Questionnaire
3. Confidentiality Agreement

23. RECEIPTS

Attached as Exhibit H is a detachable Acknowledgement of Receipt.

EXHIBIT A

Franchise Agreement

**SEAL KING
FRANCHISE AGREEMENT**

between

SEAL KING, INCORPORATED

21720 Hamburg Avenue
Lakeville, MN 55044
www.sealking.com

and

Name(s) of **Franchisee**

INITIAL BUSINESS ADDRESS:

Street

City State Zip Code

()

Area Code Telephone

()

Area Code Fax

DATE OF FRANCHISE AGREEMENT

_____, 20____

SEAL KING

FRANCHISE AGREEMENT

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Exhibit A – TERRITORY

SIGNATURE PAGE and PERSONAL GUARANTY

SEAL KING, INCORPORATED

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (this “Agreement”) is made and entered into to be effective as of this _____ day of _____, 20____ (the “Effective Date”) by and between Seal King, Incorporated, a Minnesota corporation, hereinafter referred to as the “Franchisor”, and _____, a _____ hereinafter referred to as the “Franchisee.”

RECITALS:

A. The Franchisor has developed a business concept for operating asphalt repair businesses of a distinctive character and quality under the name “Seal King” (hereinafter referred to as the “Business System” as defined in Section 1.2 below) and has publicized the name Seal King to the public and other businesses as an organization of businesses operating under the Business System; and

B. The Franchisor represents that it has the right and the authority to license the use of the name Seal King, and certain other trademarks, trade names, service marks, slogans, logos and commercial symbols (hereinafter referred to as the “Marks”) for use in connection with the businesses operated in conformity with the Business System to selected persons, businesses or entities who will comply with the Franchisor’s uniformity requirements and quality standards; and

C. The Franchisee desires to operate a business using the name Seal King and the other Marks within the Territory set forth in Section 1 in conformity with the Business System and the Franchisor’s uniformity requirements and quality standards as established and promulgated from time to time by the Franchisor (hereinafter referred to as a “Seal King Business” or the “Business”); and

D. The Franchisee has had a full and adequate opportunity to read and review this Agreement and to be thoroughly advised of the terms and conditions of this Agreement by an attorney or other personal advisor, and has had sufficient time to evaluate and investigate the Business System, the financial requirements and the economic and business risks associated with the Business System; and

E. The Franchisor is willing to provide the Franchisee with marketing, advertising, operational and other business information and “know-how” about the Business that has been developed by the Franchisor over time and at a significant cost and investment to the Franchisor; and

F. The Franchisee acknowledges that it would take substantial capital and human resources to develop a business similar to the Business and as a result, desires to acquire from the Franchisor the right to use the Marks and the Business System and to own and operate a Seal King Business subject to and under the terms and conditions set forth in this Agreement; and

G. The Franchisee acknowledges that the Franchisor would not grant the Franchise to the Franchisee or provide the Franchisee with any business information or operational know-how about the Business and the Business System unless the Franchisee agreed to comply in all respects with the terms and conditions of this Agreement and to pay the Initial Franchise Fee, the Continuing Fees and System Advertising Fees, all as defined below, and the other fees and payments specified in this Agreement and any other agreements executed in connection with this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement and for other good and valuable consideration, the parties hereby contract as follows:

SECTION 1 **DEFINITIONS**

For purposes of this Agreement, the following words will have the following definitions:

1.1. ABANDON. “Abandon” will mean the conduct of the Franchisee, including acts of omission as well as commission, indicating the willingness, desire or intent of the Franchisee to discontinue operating the Franchisee’s Business in accordance with the quality standards, uniformity requirements and the Business System as set forth in this Agreement and the Manuals.

1.2. BUSINESS SYSTEM. “Business System” will mean the distinctive products and services which are associated with the Franchisor’s trademarks, trade names, service marks, copyrights, decor, slogans, signs, logos and commercial symbols. “Business System” will include all of the uniformity requirements, standards of quality, procedures, specifications and instructions promulgated by the Franchisor.

1.3. COMPETITIVE BUSINESS. “Competitive Business” will mean a business that provides the public with residential and/or commercial seal coating, asphalt repair, or similar products or services.

1.4. CONTROL OR CONTROLLED. “Control” or “controlled” will mean the record ownership of ownership interests in an entity equal to not less than 51% of all ownership interests in such entity.

1.5. FINANCIAL STATEMENTS. “Financial statements” will mean a balance sheet, profit and loss statement, statement of cash flows and footnotes prepared in accordance with generally accepted accounting principles applied on a consistent basis.

1.6. FRANCHISE. “Franchise” will mean the right granted by the Franchisor to the Franchisee authorizing the Franchisee to operate a Seal King Business in conformity with the Business System using the name “Seal King” and the other Marks.

1.7. GENERAL MANAGER. “General Manager” will mean that individual, designated by the Franchisee, who will be responsible on a full-time basis for the overall management of the Franchisee’s business, including responsibility for operations and sales. The General Manager may be, but is not required to be, a Shareholder of the Franchisee.

1.8. MARKS. “Marks” will include the name “Seal King” and such other trademarks, trade names, service marks, logos and commercial symbols as the Franchisor has or may develop for use in connection with the Businesses operated in conformity with the Business System, including the Franchisor’s uniformity requirements and quality standards.

1.9. GROSS REVENUES. “Gross Revenues” will mean the total dollar income resulting from all sales made to customers or clients of the Franchisee’s Seal King Business, and of any other business of the Franchisee or any entity owned or controlled by or under common control with the Franchisee, for all products and services including, without limitation, residential and commercial seal coating and/or asphalt repair services, whether made for cash or credit. “Gross Revenues” will not include any sales, use or gross receipts tax imposed by any federal, state, municipal or governmental authority directly upon sales, if: (A) the amount of the tax is added to the selling price and is expressly charged to the customer; (B) a specific record is made at the time of each sale of the amount of such tax; and (C) the amount of such tax is paid to the appropriate taxing authority.

1.10. SHAREHOLDER. “Shareholder” will mean any individual or entity who owns shares of capital stock in the Franchisee, if the Franchisee is a corporation.

1.11. HALF-MONTH. A “half-month” shall mean either the 1st through the 15th day of the calendar month or the 16th day through the last day of the calendar month, as applicable.

1.12. PERSONAL GUARANTORS. “Personal Guarantors” will mean any persons executing the Personal Guaranty and Agreement to be Bound Personally by the Terms and Conditions of the Franchise Agreement, attached to this Agreement, which would include all holders of ownership interests any entity which is the Franchisee, any spouse of any individual that is the Franchisee, and any other individual guaranteeing the obligations of the Franchisee under this Agreement.

SECTION 2

GRANT OF FRANCHISE; TERRITORY

2.1. FRANCHISED TERRITORY. The Franchisor hereby grants to the Franchisee the personal right to operate 1 Seal King Business in conformity with the Business System using the name “SEAL KING” and the other Marks in the specific Territory described on Exhibit A to this Agreement, hereinafter referred to as the “Territory.” If the Franchisee chooses to maintain physical premises for its Business, such premises must be located within the Territory. The Franchisor’s review and/or consent to a location or a Territory shall in no event be deemed to be a warranty, representation or guaranty by the Franchisor as to the success of a Seal King Business.

2.2. NO EXCLUSIVITY; RESERVATION OF RIGHTS. During the term of this Agreement, neither the Franchisor, its affiliate(s) nor any other Seal King franchisee shall have the right to own or operate a Seal King Business located in the Territory or the right to market seal coating and other Seal King services under the name Seal King within the Territory, without the prior consent of the Franchisee. The right granted under this Agreement to perform seal coating and other Seal King services within the Territory is not, however, exclusive. The Franchisor and its affiliate(s) will have the right to use, or to grant franchisees the right to use, the name “SEAL KING,” and the other Marks and the Business System outside of the boundaries of the Territory. Additionally, the Franchisor, its affiliate(s), and franchisees will have the right to locate a business, sell products, and perform services (including seal coating services and related products and services) within the Territory under any name or trademark other than the Marks. The franchisee is at all times required to comply with the then-current Seal King Inter-Territory Referral Policy, which may include a requirement that the Franchisee pay a fee to the Franchisor in the event the Franchisee violates this Agreement by performing services outside of the Territory. A copy of the current Seal King Inter-Territory Referral Policy is included in the Manual, and Franchisee acknowledges having been given the opportunity to review the current Seal King Inter-Territory Referral Policy in advance of signing this Agreement. The Franchisor has the right to modify the Seal King Inter-Territory Referral Policy from time to time.

2.3. CONDITIONS. The Franchisee hereby undertakes the obligation to operate a Seal King Business using the Business System within the Territory in strict compliance with the terms and conditions of this Agreement for the entire term of this Agreement. The rights and privileges granted to the Franchisee by the Franchisor under this Agreement are personal in nature and, subject to the provisions of Sections 2.1 and 2.2 above, are applicable only in the Territory and may not be used elsewhere or at any other location or within any other territory by the Franchisee without the permission of the Franchisor.

2.4. PERSONAL LICENSE. The Franchisee will not have the right to franchise, subfranchise, license or sublicense its rights under this Agreement. The Franchisee will not have the right to assign or transfer this Agreement or its rights under this Agreement, except as specifically provided in this Agreement.

SECTION 3
TERM OF FRANCHISE;
FRANCHISEE'S RIGHT OF FIRST REFUSAL

3.1. TERM. The term of this Agreement will be for 3 years, and will commence on the Effective Date. This Agreement will not be enforceable until it has been signed by both the Franchisee and the Franchisor, and until the signed Agreement has been delivered to the Franchisee.

3.2. CONDITIONS TO RIGHT OF FIRST REFUSAL. At the end of the term of this Agreement, the Franchisee will have a right of first refusal to reacquire the Franchise for the Territory for additional terms of 3 years, provided that the Franchisee has agreed to and has complied in all respects with the following conditions:

- (A) The Franchisee has given the Franchisor written notice at least 90 days prior to the end of the term of this Agreement of its intention to reacquire the Franchise for the Territory;
- (B) The Franchisee has complied with all of the terms and conditions of this Agreement and has complied with the Franchisor's operating and quality standards and procedures;
- (C) The Franchisee has met or exceeded the Gross Revenue Requirements specified in Section 6.7.
- (D) All monetary obligations owed by the Franchisee to the Franchisor and any affiliate of the Franchisor have been paid or satisfied prior to the end of the term of this Agreement and have been timely met throughout the term of this Agreement;
- (E) The Franchisee agrees to execute and comply with the then-current standard Franchise Agreement then being offered to new franchisees by the Franchisor, subject further to the provisions of Section 3.3 of this Agreement, and executes such agreement at least 30 days prior to the expiration of this Agreement;
- (F) At the time of the exercise of such right of first refusal and prior to the end of the term of this Agreement, the Franchisee has not received 3 or more notices of default from the Franchisor during any 12-month period during the term of this Agreement; and
- (G) The Franchisee agrees to complete and does successfully complete to the Franchisor's reasonable satisfaction, prior to commencement of the renewal term, any training program the Franchisor may prescribe, attendance at such training program to be at the sole expense of the Franchisee including, but not limited to, all expenses of transportation and lodging.

3.3. TERMS OF RIGHT OF FIRST REFUSAL. The Franchisee will have a right of first refusal to reacquire the Franchise for the Territory under the same terms and conditions then being offered to other franchisees by the Franchisor under the Franchisor's then-current standard Franchise Agreement. If the Franchisee exercises its right of first refusal to reacquire the Franchise for the Territory and executes the then-current standard Franchise Agreement, then the Franchisee will not be required to pay the Initial Franchise Fee, if any, specified in the then-current standard Franchise Agreement. The Franchisee will, however, be required to pay the Continuing Fees, System Advertising Fees and all other fees at the rates specified in the then-current standard Franchise Agreement, and to pay any additional fees not specified or provided in this Agreement but which are required to be paid to the Franchisor or others by the terms of the then-current standard Franchise Agreement. The Franchisor will not offer to sell the Franchise for the Territory at the end of the term of this Agreement to any other person or entity on more favorable terms or conditions than those being offered to the Franchisee. The Franchisee acknowledges that the terms, conditions, capital requirements, equipment costs and economics of subsequent Franchise Agreements and the then-current standard Franchise Agreement of the

Franchisor may, at that time, vary in substance and form from the terms, conditions and economics of this Agreement.

SECTION 4
LICENSING OF MARKS AND
BUSINESS SYSTEM TO FRANCHISEE

4.1. FRANCHISOR'S RIGHT TO LICENSE MARKS. The Franchisor warrants that it has the right to grant the Franchise and, except as provided herein, to license the Marks and the Business System to the Franchisee. Any and all improvements made by the Franchisee relating to the Marks or the Business System will be the sole and absolute property of the Franchisor who will have the exclusive right to register and protect all such improvements in its name in accordance with applicable law. The Franchisee's right to use and identify with the Marks and the Business System will exist concurrently with the term of this Agreement and such use by the Franchisee will inure exclusively to the benefit of the Franchisor.

4.2. CONDITIONS TO LICENSE OF MARKS. The Franchisor hereby grants to the Franchisee the nonexclusive personal right to use the Marks and the Business System in accordance with the provisions of this Agreement. The Franchisee's nonexclusive personal right to use the name "Seal King" as the name of the Franchisee's Business and its right to use the Marks and the Business System applies only to the Franchisee's Seal King Business within the Territory and such rights will exist only so long as the Franchisee fully performs and complies with all of the conditions, terms and covenants of this Agreement. The Franchisee will not have or acquire any rights in any of the Marks or the Business System other than the right of use as provided herein. The Franchisee will have the right to use the Marks and the Business System only in the manner prescribed, directed and approved by the Franchisor in writing. The Franchisor has the right to determine if the acts of the Franchisee infringe upon or demean the goodwill, uniformity, quality or business standing associated with the Marks or the Business System, and if the Franchisor makes such a determination, then the Franchisee will, upon written notice from the Franchisor, immediately modify its use of the Marks or the Business System in the manner prescribed by the Franchisor in writing. Any and all goodwill associated with the Marks and the Business System will inure exclusively to the Franchisor's benefit, and upon the expiration or termination of this Agreement, no monetary amount will be assigned as attributable to any goodwill associated with the Franchisee's use of the Marks and the Business System. The Franchisee will at no time take any action whatsoever to contest the validity or the ownership of the Franchisor's Marks and Business System and the goodwill associated therewith.

4.3. RESTRICTIONS ON INTERNET AND WEBSITE USE. The Franchisor retains the exclusive right to advertise the Business System on the internet and to create, operate, maintain and modify, or discontinue the use of, a website using the Marks. The Franchisee has the right to personally access the Franchisor's website. Except as the Franchisor may authorize in writing, however, the Franchisee will not: (1) link or frame the Franchisor's website; (2) conduct any business or offer to sell or advertise any products or services on the internet (or other existing or future form of electronic communications); and (3) create or register any internet domain name in connection with the Franchisee's Seal King Business. The Franchisee will not register, as internet domain names, any of the Marks now or hereafter owned by the Franchisor or any abbreviation, acronym or variation of the Marks, or any other name that could be deemed confusingly similar.

4.4. ADVERSE CLAIMS TO MARKS. If there are any claims by any third party that its rights to any or all of the Marks are superior to those of the Franchisor, then the Franchisor has the right to determine whether such claims may have merit. If there occurs any such third-party claim and if the Franchisor determines that such claim may have merit, or if there is an adjudication by a court of competent jurisdiction that any party's rights to the Marks are superior to those of the Franchisor, then upon written notice from the Franchisor, the Franchisee will, at its sole expense, immediately adopt and use the changes and amendments to the Marks that are specified by the Franchisor in writing. In that event, the Franchisee will immediately cease using the Marks specified by the Franchisor, and will, as soon as reasonably possible, commence using the new trademarks, trade names,

service marks, logos, designs and commercial symbols designated by the Franchisor in writing in connection with all advertising, marketing and promotion of the Franchisee's Business. The Franchisee will not make any changes or amendments whatsoever to the Marks or the Business System unless specified or approved in advance by the Franchisor in writing.

4.5. DEFENSE OR ENFORCEMENT OF RIGHTS TO MARKS OR BUSINESS SYSTEM. The Franchisee will have no right to and will not defend or enforce any rights associated with the Marks or the Business System in any court or other proceedings for or against imitation, infringement, prior use or for any other claim or allegation. The Franchisee will give the Franchisor prompt and immediate written notice of any and all claims or complaints made against or associated with the Marks and the Business System and will, without compensation for its time and at its expense, cooperate in all respects with the Franchisor in any lawsuits or other proceedings involving the Marks and the Business System. The Franchisor will have the right to determine whether it will commence any action or defend any litigation involving the Marks and/or the Business System, and the cost and expense of all litigation incurred by the Franchisor, including attorneys' fees, specifically relating to the Marks or the Business System will be paid by the Franchisor.

4.6. TENDER OF DEFENSE. If the Franchisee is named as a defendant or party in any action involving the Marks or the Business System and if the Franchisee is named as a defendant or party solely because the plaintiff or claimant is alleging that the Franchisee does not have the right to use the Marks or the Business System licensed by the Franchisor to the Franchisee within the Territory pursuant to this Agreement, then the Franchisee will have the right to tender the defense of the action to the Franchisor and the Franchisor will, at its expense, defend the Franchisee in the action providing that the Franchisee has tendered the action to the Franchisor within 10 days after receiving service of the summons and complaint involving the action. The Franchisor will indemnify and hold the Franchisee harmless from any damages assessed against the Franchisee in any actions resulting solely from the Franchisee's use of the Marks and the Business System within the Territory if the Franchisee has tendered the defense of the action to the Franchisor.

4.7. FRANCHISEE'S RIGHT TO PARTICIPATE IN LITIGATION. The Franchisee may, at its expense, retain an attorney to represent it individually in all litigation and court proceedings involving the Marks or the Business System, and may do so with respect to matters involving only the Franchisee (i.e. not involving the Franchisor or its interests); however, the Franchisor and its attorneys will control and conduct all litigation involving the Marks or the Business System. Except as provided for herein, the Franchisor will have no liability to the Franchisee for any costs that the Franchisee may incur in any litigation involving the Marks or the Business System, and the Franchisee will pay for all costs, including attorneys' fees, that it may incur in any litigation or proceeding arising as a result of matters referred to under this Section, unless it tenders the defense to the Franchisor in a timely manner as provided for herein.

SECTION 5

INITIAL FRANCHISE FEE; APPROVAL OF FRANCHISEE

5.1. INITIAL FRANCHISE FEE; USE OF INITIAL FRANCHISE FEE. The Franchisee will pay the Franchisor an Initial Franchise Fee of \$20,000, all of which will be due and payable on the date this Agreement is executed by the Franchisee. The Initial Franchise Fee payable by the Franchisee is payment, in part, to the Franchisor for the costs incurred by the Franchisor to operate its business, including costs for general sales and administrative expenses, market research, travel, long distance telephone calls, training, marketing and promotion, legal and accounting fees, compliance with federal and state franchising and other laws, and the initial services rendered by the Franchisor to the Franchisee as set forth in this Agreement. The Initial Franchise Fee is fully earned upon execution of this Agreement and is nonrefundable, except as set forth in Section 5.3 below.

5.2. FRANCHISOR'S UNILATERAL RIGHT TO REJECT FRANCHISEE. The Franchisor has the right to reject or disapprove the Franchisee and to cancel this Agreement at any time within 60 days after the date

of this Agreement if the Franchisor determines, in the exercise of the Franchisor's absolute judgment which shall not be subject to any limitation or review, that: (A) any required or other financial, personal or other information provided by the Franchisee to the Franchisor is materially false, misleading, incomplete or inaccurate; or (B) the Franchisee or the Franchisee's General Manager is not qualified or competent to properly manage or operate the Franchisee's Seal King Business because such person has failed to successfully complete the Franchisor's training program, or because the Franchisee or the Franchisee's General Manager is deemed by the Franchisor to be incapable of successfully completing the Franchisor's training program. If the Franchisee's General Manager fails to complete training, the Franchisee will have 30 days to hire and schedule the new General Manager for training.

5.3. REFUND OF INITIAL FRANCHISE FEE. If the Franchisee is rejected by the Franchisor pursuant to Section 5.2, then the Initial Franchise Fee paid by the Franchisee pursuant to Section 5.1 will be refundable to the Franchisee after the Franchisor deducts all reasonable administrative and out-of-pocket expenses incurred by the Franchisor including, but not limited to, executives' and employees' salaries, costs for salespersons' commissions, attorneys' fees, accountants' fees, travel expenses, training costs, marketing costs and long distance telephone calls. The Franchisee will be notified by the Franchisor in writing if the Franchisee is disapproved by the Franchisor pursuant to Section 5.2, and the Franchisor will provide the Franchisee with a written accounting of the administrative and out-of-pocket expenses that were incurred by the Franchisor and deducted from the Initial Franchise Fee paid by the Franchisee.

SECTION 6 **CONTINUING FEES**

6.1. AMOUNT OF CONTINUING FEES. In addition to the Initial Franchise Fee payable by the Franchisee and subject to the annual minimum Continuing Fee requirement described in Section 6.7 below, the Franchisee will, for the entire term of this Agreement, pay the Franchisor Continuing Fees equal to 7% of the Franchisee's total Gross Revenues, as defined in Section 1.9 above, which are received, billed or generated by, as a result of, in connection with or from the Franchisee's Seal King Business operated pursuant to this Agreement and any other residential and/or commercial seal coating service business owned or controlled by, or under common control with, the Franchisee. The Continuing Fees paid by the Franchisee to the Franchisor will not be refundable to the Franchisee under any circumstances.

6.2. FRANCHISEE'S OBLIGATION TO PAY. The Continuing Fees payable to the Franchisor under this Section will be calculated and paid to the Franchisor by the Franchisee on a semi-monthly basis during the entire term of this Agreement. The Franchisee's obligation to pay the Franchisor the Continuing Fees pursuant to the terms of this Agreement will be absolute and unconditional, and will remain in full force and effect until the term of this Agreement has expired or is terminated pursuant to its terms. The Franchisee will not have the "right of offset" and, as a consequence, the Franchisee will timely pay all Continuing Fees due to the Franchisor under this Agreement regardless of any claims or allegations the Franchisee may allege against the Franchisor.

6.3. GROSS REVENUE REPORTS/PAYMENT OF CONTINUING FEES. The Franchisee shall maintain an accurate record of the daily Gross Revenues of the Business. On or before the 1st and the 15th day of each month, the Franchisee shall report the daily and total Gross Revenues of the Business for the preceding half-month in the form and format prescribed by the Franchisor, and shall submit along with the report, payment of the Continuing Fees for the applicable period. Payment must be in the form of check or money order, or as otherwise permitted or required by the Franchisor in writing. Failure to pay the Continuing Fees will be deemed to be a material breach of this Agreement, and Franchisor will be entitled to terminate this Agreement pursuant to Section 16, below.

6.4. INTEREST ON UNPAID FEES. If the Franchisee fails to remit the Continuing Fees or any other fees or payments due to the Franchisor as provided in this Agreement, then the amount of the unpaid and past due

Continuing Fees or other fees or payments will bear simple interest at the rate equal to the lesser of (A) the maximum legal interest rate allowable in the state in which the Franchisee's Business is located, or (B) 18% per annum. If the Franchisee does not submit a report of gross revenues pursuant to Section 13, then the Franchisor will have the right to estimate the amount of the Continuing Fees and System Advertising Fees payable by the Franchisee, and to take and collect such estimated amounts from the Franchisee, together with interest accrued thereon, and the estimated unpaid Continuing Fees and System Advertising Fees will bear interest at the rate set forth above.

6.5. SERVICE CHARGE. In the event that any payment by or on behalf of the Franchisee to the Franchisor by check, electronic funds transfer (EFT), or any other method of payment fails for any reason, including but not limited to insufficient funds on the part of the payor, the Franchisee must pay Franchisor a service charge of \$50.

6.6. COLLECTION COSTS. The Franchisee will pay the Franchisor for any and all costs incurred by the Franchisor in the collection of unpaid and past due Continuing Fees and any other fees or payments due under this Agreement, including, but not limited to, the amount of actual attorneys' fees paid by the Franchisor, deposition costs, expert witness fees, investigation costs, accounting fees, filing fees, travel expenses, and interest on such costs, fees, and expenses.

6.7. GROSS REVENUE REQUIREMENTS AND MINIMUM CONTINUING FEES. The Franchisee must achieve a minimum level of Gross Revenues for each calendar year during the term of this Agreement (the "Gross Revenue Requirement"). If the Franchisee is renewing an existing Seal King franchise, the minimum Gross Revenue Requirement is \$65,000 for each calendar year during the term of this Agreement. If the Franchisee is a new franchisee beginning the operation of a Seal King Business for the first time, the Gross Revenue Requirement is as follows: (a) \$55,000 for the Franchisee's first calendar year of operations, (b) \$60,000 for the second calendar year of operations, and (c) \$65,000 for the third calendar year of operations and for each calendar year thereafter. If the Franchisee does not meet the Gross Revenue Requirement for the calendar year under consideration, then, among all other rights and remedies available to the Franchisor upon a default by the Franchisee, the Franchisee shall be required to pay to the Franchisor the difference between the applicable Gross Revenue Requirement and the Franchisee's actual Gross Revenues for the applicable period, multiplied by the then-current Continuing Fee percentage. In addition, in the event the Franchisee does not meet the Gross Revenue Requirement in any two consecutive calendar years, then, among all other rights and remedies available to the Franchisor, the Franchisor may terminate this Agreement without any further opportunity of the Franchisee to cure. Notwithstanding the foregoing, this Section 6.7 shall not apply if the Franchisee is in its first year of operations of the Business and is not required by this Agreement to begin business operations until after April 1 of the first calendar year of the term of this Agreement.

SECTION 7

ADVERTISING; SYSTEM ADVERTISING FEES

7.1. APPROVAL OF ADVERTISING. The Franchisee will use its best efforts to advertise and promote its Seal King Business. With the exception of the advertising materials provided to the Franchisee by the Franchisor, all concepts, materials or media proposed by the Franchisee for any advertising, promotion, marketing or public relations program or campaign must have the prior written approval of the Franchisor. The Franchisee will not permit any third party to advertise its business, services or products through the Franchisee's Business without obtaining the prior written approval of the Franchisor.

7.2. SYSTEM ADVERTISING FEE. Each year during the term of this Agreement, the Franchisee will pay the Franchisor a fee relating to system-wide advertising in an amount to be determined by the Franchisor on an annual basis pursuant to this Section (the "System Advertising Fee"). The System Advertising Fee for the first and each subsequent calendar year during which this Agreement is in effect is \$1,000. The Franchisor has the right to increase the System Advertising Fee during the term of this Agreement up to a maximum of either:

(a) 3% of the Gross Revenues of the Business or (b) the previous calendar year's System Advertising Fee plus 10%, whichever is greater, effective immediately upon written notice to the Franchisee. The System Advertising Fees paid by the Franchisee to the Franchisor will not be refundable to the Franchisee under any circumstances. The System Advertising Fee is due and payable in full on or before May 1 of each calendar year during the term of this Agreement. Any System Advertising Fees not received by the Franchisor on or before due date specified in this Section will be deemed to be past due and will bear interest and will be subject to service charges and collection costs as provided in Section 6.4, 6.5 and 6.6 above.

7.3. USE OF FUNDS. System Advertising Fee payments by the Franchisee and any other Seal King Franchisees will be accounted for separately from other Franchisor funds and used by the Franchisor to purchase and pay for product research and development, production materials, ad slicks, brochures, services provided by advertising agencies, market research, customer retention and incentive programs, radio and television commercials, internet and other advertising, promotions, marketing, public relations, telemarketing, communication and education, or for any other purpose deemed beneficial by the Franchisor, in the exercise of its sole judgment which shall not be subject to any limitation or review, to the general recognition and public awareness of the Marks and the Business System, and any administrative costs and expenses related to the foregoing System Advertising Fee funds may be used to pay for long distance telephone charges, office rental, furniture, fixtures and equipment, leasehold improvements, personnel, salaries, travel costs, office supplies, collection costs (including without limitation attorneys' fees) incurred in attempting to collect System Advertising Fees from Franchisees and all other administrative costs associated with and incurred in connection with system-wide advertising. System Advertising Fee funds will be administered and controlled exclusively by the Franchisor. The Franchisor will have the right to determine when, how and where any System Advertising Fee funds will be spent. The Franchisor will have the right to retain and pay agency fees to an advertising agency which is owned by, or is an affiliate of, the Franchisor or any of its principals. The Franchisor will have no fiduciary duty to the Franchisee with respect to collection or expenditure of the System Advertising Fees, and any advertising fund will not be a trust or escrow account. Any Seal King Businesses owned and operated by the Franchisor will be required to contribute System Advertising Fees in the same manner as Franchisees.

7.4. OBLIGATION TO PAY. The Franchisee's obligation to pay the Franchisor the System Advertising Fees pursuant to the terms of this Agreement will be absolute and unconditional, and will remain in full force and effect until the term of this Agreement has expired or terminated pursuant to its terms. The Franchisee will not have the "right of offset" and, as a consequence, the Franchisee will timely pay all System Advertising Fees due to the Franchisor under this Agreement regardless of any claims or allegations the Franchisee may allege against the Franchisor.

7.5. GRAND OPENING ADVERTISING. In addition to other marketing and advertising expenditures required by this Agreement, the Franchisee will be required to spend, at least 14 days prior to the opening of the Franchisee's Business, \$1,500 for grand opening advertising, marketing, public relations and promotional programs for its Seal King Business, all of which must be approved (in advance) by the Franchisor. In the event that the Franchisee has not obtained approval of its Grand Opening Advertising expenditures at least 10 days prior to the scheduled opening of its Business, the Franchisor has the right to require the Franchisee to pay the required amount to the Franchisor and, in such event, the Franchisor has the right to determine how to spend such funds on marketing efforts in the Territory.

7.6. LOCAL ADVERTISING. In addition to the System Advertising Fees, during the term of this Agreement the Franchisee must spend a minimum of \$500 per month on approved advertising and promotion within the Franchisee's Territory, during the calendar months of April through October. Upon the Franchisor's reasonable request, the Franchisee will furnish to the Franchisor, in a form prescribed by the Franchisor, an accurate accounting of the Franchisee's monthly expenditures during the preceding month for approved advertising and promotion in the Territory. If the Franchisee has failed to spend such required minimum amounts for approved advertising and promotion in any year, then, in addition to any other remedies available to the

Franchisor under this Agreement, the Franchisor may require the Franchisee to deposit with the Franchisor the difference between the minimum and what was actually spent for approved advertising and promotion. Such amount will be utilized by the Franchisor in the Franchisee's Territory for advertising or promotion that the Franchisor deems, in the exercise of its absolute judgment which shall not be subject to any limitation or review, to be in the best interests of the Franchisee's Seal King Business.

7.7. ACKNOWLEDGMENTS REGARDING SYSTEM ADVERTISING FEE FUNDS. The Franchisee acknowledges and agrees that the System Advertising Fee funds are intended to maximize general recognition of the Marks and patronage of all of Seal King Businesses, including without limitation the Franchisee's Business. The Franchisee further acknowledges and agrees that the Franchisor has no obligation to ensure that the expenditures of System Advertising Fee funds in or affecting any Territory or area will be proportionate to contributions by Seal King Franchisee or owners operating in that Territory or area or that any Seal King Franchisee benefit directly or in proportion to its contributions. The Franchisee further acknowledges and agrees that the Franchisor is not required to spend any amount on advertising in the Territory, that the Franchisor may use the System Advertising Fees Funds to develop advertising materials which are made available to the Franchisee, and that the Franchisee may be responsible for the costs of personalization, printing and shipping of such advertising materials as it chooses to use.

SECTION 8 **CONFIDENTIAL STANDARD OPERATION MANUALS** **AND OTHER INFORMATION**

8.1. COMPLIANCE WITH MANUALS. In order to protect the reputation and goodwill of the Franchisor, and to maintain uniform operating standards under the Marks and the Business System, the Franchisee will at all times during the term of this Agreement conduct its Seal King Business in accordance with the Franchisor's confidential standard operation manuals, any compact disks, audio and video tapes (and any other media) and all supplemental bulletins and notices from the Franchisor, all of which are deemed a part of the operations manuals (collectively referred to as the "Manuals"), 1 copy of which the Franchisee acknowledges having received as a loan from the Franchisor. The Manuals will contain mandatory and suggested standards and processes that Franchisor develops for the Business System and the operation of Seal King Businesses.

8.2. CONFIDENTIALITY OF MANUALS. The Franchisee will at all times during the term of this Agreement and thereafter treat the Manuals, any other materials created for or approved for use in the operation of the Franchisee's Seal King Business, and the information contained therein as secret and confidential, and the Franchisee will use all reasonable means to keep such information secret and confidential, including keeping the manuals under lock and key when not in use. Neither the Franchisee nor any employees of the Franchisee will: (A) make any copy, duplication, record or reproduction of the Manuals, or any portion thereof, available to any unauthorized person (except as specifically permitted by the Manual itself); or (B) use the Manuals or any information contained therein in connection with the operation of any other business or for any purpose other than in conjunction with the operation of the Franchisee's Seal King Business.

8.3. REVISIONS TO MANUALS. The Manuals and all supplements, changes and modifications to the Manuals will remain the sole and exclusive property of the Franchisor. The Franchisor may from time to time revise the Manuals and the Franchisee expressly agrees to operate its Seal King Business in accordance with all such revisions. The Franchisee will at all times keep the Manuals current and up-to-date, and in the event of any dispute regarding the Manuals, the terms of the master copy of the Manuals maintained by the Franchisor will be controlling in all respects. The Franchisee will promptly return to the Franchisor all versions of the Manuals and Supplements that have been revised by the Franchisor.

8.4. CONFIDENTIALITY OF OTHER INFORMATION. The Franchisor will be disclosing and providing to the Franchisee certain confidential and proprietary information concerning the Business System and

the procedures, operations and data used in connection with the Business System. The Franchisee will not, during the term of this Agreement or thereafter, communicate, divulge or use for the benefit of any person or entity any such confidential and proprietary information, knowledge or know-how concerning the methods of operation of Seal King Business which may be communicated to the Franchisee, or of which the Franchisee may be apprised by virtue of this Agreement. The Franchisee will divulge such confidential and proprietary information only to its employees who must have access to it in order to operate the Franchisee's Seal King Business. Any and all information, knowledge and know-how including, without limitation, drawings, client lists, materials, brochures, marketing materials, equipment, technology, methods, procedures, specifications, techniques, teaching methods, computer software programs, systems and other data which the Franchisor copyrights or designates as confidential or proprietary will be deemed confidential and proprietary for the purposes of this Agreement ("Confidential Information"). Neither the Franchisee nor any employees of the Franchisee will make any copy, duplication, record or reproduction or any of the Confidential Information available to any unauthorized person. Any client lists developed by either the Franchisor or the Franchisee and any information designated as Confidential Information by the Franchisor will be and remain the sole and exclusive property of the Franchisor.

8.5. CONFIDENTIALITY AGREEMENTS. All of the Franchisee's employees must sign agreements in a form satisfactory to the Franchisor agreeing to maintain the confidentiality, during the course of their employment and thereafter, of all information copyrighted or designated by the Franchisor as confidential and proprietary. Copies of all confidentiality agreements executed by the Franchisee's employees will be promptly submitted to the Franchisor.

8.6. REMEDIES. The Franchisee acknowledges that the provisions of this Section are reasonable and necessary for the protection of the Franchisor and the Franchisor's franchisees. If the Franchisee violates any of the provisions contained in this Section, then the Franchisor will have the right to: (A) terminate this Agreement as provided for in Section 16 below; (B) seek injunctive relief from a court of competent jurisdiction; (C) commence an action or lawsuit against the Franchisee for damages; and (D) enforce all other remedies or take such other actions against the Franchisee that are available to the Franchisor under this Agreement, common law, in equity and any federal or state laws.

SECTION 9 **TRAINING PROGRAM**

9.1. TRAINING PROGRAM. The Franchisor will provide a training program for the Franchisee and the Franchisee's General Manager (if one is employed) at its offices in Lakeville, Minnesota or another location designated by the Franchisor, to educate, familiarize and acquaint them with the operations of a Seal King Business. The training program will consist of: (a) approximately 8 hours of classroom training to be held over the course of 2 days, prior to the opening of the Franchisee's Business, and (b) between 2 and 5 business days (of between 4 and 10 hours each) of supervised field training. The training program must be attended by the Franchisee (or the Franchisee's General Manager, if applicable), and may also be attended by 1 other manager or crew leader involved in the Business. The training program will include instruction in the Business System and basic operating skills such as daily operational procedures, inventory control, scheduling and other topics selected by the Franchisor. The Franchisee and the Franchisee's General Manager (if any) must successfully complete the training program prior to commencing any business operations. The Franchisor may, in its judgment, waive all or part of the training program if the Franchisee is an existing Seal King franchisee in good standing. The training program will be scheduled by the Franchisor. In the event the Franchisee, or the Franchisee's General Manager (if any) fails to successfully complete the Franchisor's training program, he or she will not be permitted or authorized to manage or operate the Franchisee's Seal King Business and the Franchisor will have the right to reject the Franchisee pursuant to Section 5.2 of this Agreement.

9.2. HIRING OF NEW GENERAL MANAGER. In the event the Franchisee hires a General Manager who has not successfully completed the training program(s) prescribed by the Franchisor, and if the Franchisor determines, in its absolute, exclusive and unrestricted judgment, that the new General Manager does not have sufficient knowledge or experience relating to the management of the Franchisee's Seal King Business, then the Franchisor will require the individual to successfully complete the prescribed training prior to the time he or she will be allowed to manage or operate the Franchisee's Seal King Business, and the Franchisee will be required to pay the Franchisor the then-current training fee charged by the Franchisor.

9.3. PAYMENT OF SALARIES AND EXPENSES DURING TRAINING. The Franchisee will pay the salaries, fringe benefits, payroll taxes, unemployment compensation, workers' compensation insurance, lodging, food, automobile rental, travel costs, and all other expenses for the Franchisee, the Franchisee's General Manager and all other persons sent to the training program by the Franchisee, and the Franchisee will comply with all applicable state and federal laws pertaining to all employees who attend the Franchisor's training program.

9.4. REQUIRED ONGOING TRAINING. The Franchisor may, during the term of this Agreement, require Franchisee to attend up to 30 hours of ongoing training on topics chosen by the Franchisor, at a location designated by the Franchisor. All expenses incurred by the Franchisee or any employees of the Franchisee in traveling to and attending ongoing training sessions will be paid for by the Franchisee.

9.5. OPTIONAL ADDITIONAL TRAINING. The Franchisor may, during the term of this Agreement, provide optional additional training and instruction to the Franchisee on topics determined by the Franchisor in its absolute, exclusive and unrestricted judgment. The Franchisor reserves the right to add or delete additional training topics at any time without notice to the Franchisee. The Franchisee will be required to pay the Franchisor the greater of \$500 and the then-current training fee charged by the Franchisor for any additional training attended by the Franchisee or its employees. All expenses incurred by the Franchisee or any employees of the Franchisee in traveling to and attending optional additional training will be paid for by the Franchisee.

SECTION 10 **FRANCHISOR'S OBLIGATIONS**

10.1. BUSINESS SYSTEM. Consistent with the Franchisor's uniformity requirements and quality standards, the Franchisor or its authorized representative will: (A) provide the Franchisee with a list of approved suppliers and sources for the goods and services necessary and required for the Franchisee's Business; (B) make available to the Franchisee basic accounting and business procedures for use by the Franchisee in its Business; (C) make advertising and marketing recommendations; (D) review the Franchisee's Business as often as the Franchisor deems necessary and render written reports to the Franchisee as deemed appropriate by the Franchisor; (E) legally protect and enforce the Marks and the Business System for the benefit of all Seal King franchisees in the manner deemed appropriate by the Franchisor; (F) loan to the Franchisee the Manuals and any supplements and modifications to the Manuals that may be published by the Franchisor from time to time; (G) provide the training set forth in Section 9 above; and (H) upon the reasonable written request of the Franchisee, render reasonable advisory services by telephone or in writing pertaining to use of the Business System and the operation of the Franchisee's Business as deemed appropriate, reasonable and necessary by the Franchisor.

SECTION 11 **QUALITY CONTROL UNIFORMITY AND** **STANDARDS REQUIRED OF FRANCHISEE**

11.1. QUALITY AND SERVICE STANDARDS. The Franchisor will promulgate, from time to time, uniform standards of quality and service regarding the business operations of the Franchisee's Seal King Business

so as to protect and maintain (for the benefit of all Seal King franchisees and the Franchisor) the distinction, valuable goodwill and uniformity represented and symbolized by the Marks and the Business System. Accordingly, to ensure that all Seal King franchisees will maintain and adhere to the uniformity requirements and quality standards for the products and services associated with the Marks and the Business System, the Franchisee agrees to maintain the uniformity and quality standards required by the Franchisor for all products and services associated with the Marks and the Business System and agrees to the following terms and conditions to assure that all Seal King Businesses will be uniform in nature and will sell and dispense quality products and services to the public. The Franchisee will operate its Seal King Business and use the Marks and the Business System in strict compliance with the highest business and ethical practices and standards and the quality standards, operating procedures, policies, specifications, requirements and instructions required by the Franchisor, which may be amended and supplemented by the Franchisor from time to time.

11.2. COMPLIANCE WITH QUALITY AND SERVICE STANDARDS AND SPECIFICATIONS.

The Franchisee will obtain and pay for the vehicles, supplies and equipment required by the Franchisor and used by the Franchisee for the operation of its Seal King Business. The vehicles, supplies and equipment used in the Franchisee's Business must comply with then-current prescribed color schemes, display the Marks as designated by the Franchisor, and conform to the quality standards and uniformity requirements established by the Franchisor from time to time. As of the date of this Agreement, the Franchisee is required to utilize in the operation of its Seal King Business vehicles painted white that display the Seal King logo. All replacement vehicles, supplies, equipment and other items used in the Business by the Franchisee must comply with the Franchisor's then-current standards and specifications.

11.3. COMPLIANCE WITH MANUALS. The Franchisor will loan to the Franchisee 1 copy of its Manuals. The Franchisee will conform to the common image and identity created by the products and services associated with Seal King Business which are portrayed and described by the Manuals and the Franchisee will conform to all changes and modifications to the Manuals made by the Franchisor and provided to the Franchisee that are deemed necessary by the Franchisor to: (A) improve the standards of service or the products offered for sale under the Business System; (B) protect the goodwill associated with the Marks; or (C) improve the operation or efficiency of the Franchisee's Business. The Franchisor reserves the right to revise the Manuals at any time during the term of this Agreement.

11.4. MODERNIZATION OR REPLACEMENT. From time to time as the Franchisor requires, the Franchisee must upgrade, modernize and/or replace the equipment, signage, and other assets of the Business, as may be necessary for the Business to conform to the standards for a similarly situated new Seal King Business. The maximum cumulative amount (the "Maximum Modernization Amount") that the Franchisee may be required to spend during the initial 3-year term of this Agreement is \$5,000.

In addition, the Franchisor has the right to inspect, from time to time upon reasonable notice to the Franchisee, the vehicle(s), trailer(s) or truck mount(s) and any other equipment used by the Business in the performance of seal coating and other Seal King services ("Service Equipment"). If the Franchisee's Service Equipment fails to meet the Franchisor's then-current standards for appearance and operability, the Franchisee must upgrade, modernize, repair and/or replace such Service Equipment as directed by the Franchisor. Costs associated with upgrading, modernization and/or replacement of the Franchisee's Service Equipment shall not count toward the Maximum Modernization Amount.

11.5. FRANCHISEE'S NAME. The Franchisee will not use the words "SEAL KING" in its corporate, partnership or sole proprietorship name. The Franchisee will hold itself out to the public as an independent contractor operating its Seal King Business pursuant to a franchise from the Franchisor. Whenever practical, the Franchisee will clearly indicate on its business checks, stationery, business cards, invoices, receipts, video tapes, advertising, public relations and promotional materials, website, and other written materials that the Franchisee is a franchisee of the Franchisor. The Franchisee will display signs on the Franchisee's vehicles which are clearly

visible to the general public indicating that the Franchisee's Seal King Business is independently owned and operated as a franchised business. The Franchisee will file for a certificate of assumed name in the manner required by applicable state law so as to notify the public that the Franchisee is operating its Seal King Business as an independent business pursuant to this Agreement. Prior to adoption of an assumed name, the Franchisee's owner must submit such name to, and obtain the written approval of such name by, the Franchisor.

11.6. BUSINESS IDENTIFICATION. The Franchisee will operate the Business so that it is clearly identified and advertised as a Seal King Business. The style and form of the words "SEAL KING" and the Marks used in any advertising, marketing, public relations, telemarketing or promotional program or campaign must have the prior written approval of the Franchisor. The Franchisee will use the name "Seal King", the approved logo and all graphics commonly associated with the Business System and the Marks which now or hereafter may form a part of the Franchisor's Business System, on all vehicles, equipment, uniforms, advertising, public relations and promotional materials, signs, business cards and other materials only as authorized by the Franchisor and in the identical combination and manner prescribed by the Franchisor in writing. The Franchisee may not use the Marks on any employment applications, employee evaluation forms, benefits statements, payroll checks or other documents or materials relating to the Franchisee's employees. The Franchisee will, at its expense, comply with all legal notices of registration required by the Franchisor or its attorneys and will, at its expense, comply with all trademark, trade name, service mark, copyright, patent and other notice markings that are required by the Franchisor or by applicable law.

11.7. STANDARD ATTIRE. The Franchisee will require its employees to wear only the standard attire or uniforms which have been established and approved by the Franchisor and will wear the safety or protective clothing or equipment designated by the Franchisor. All employees of the Franchisee will wear clean and neat attire and will practice good personal hygiene.

11.8. SMOKING, DRUG AND ALCOHOL USE. The Franchisee will prohibit its employees from smoking in the Franchisee's vehicles and the Franchisee's customers' premises. The Franchisee will prohibit its employees from using, possessing or being under the influence of alcohol or any controlled substance (except as prescribed by a physician) during all times that the employee is on duty. The Franchisee will adopt and enforce employee policies requiring discharge of any employee who violates the above policies.

11.9. FRANCHISOR'S INSPECTION RIGHTS. The Franchisor will have the right to interview the Franchisee's employees, to take photographs and videotapes of the Franchisee's vehicles and of the work being performed by the Franchisee's employees on the Franchisee's customers' premises at all times during normal business hours, to examine the Franchisee's vehicles and equipment, to examine representative samples of the goods and products sold or used in the Franchisee's Business and to evaluate the quality of the services provided by the Franchisee to its customers and clients. The Franchisor will have the right to use all interviews, photographs and videotapes of the Franchisee's Seal King Business for such purposes as the Franchisor deems appropriate including, but not limited to, use in training, advertising, marketing and promotional materials, and as evidence in any court or other proceeding. The Franchisee will not be entitled to, and hereby expressly waives, any right that it may have to be compensated by the Franchisor, its advertising agencies, or other Seal King franchisees for the use of such interviews, photographs or videotapes for training, advertising, marketing, promotional and/or litigation purposes.

11.10. LIMITATIONS ON PRODUCTS AND SERVICES. The Franchisee will promote and sell only those products and services approved by the Franchisor in writing and will offer for sale all products and services prescribed by the Franchisor. The Franchisee will conform to all customer service standards and policies prescribed by the Franchisor in writing. The Franchisee will have the right to sell all products and services to its customers and clients at whatever prices and on whatever terms it deems appropriate.

11.11. INITIAL INVENTORY OF EQUIPMENT AND SUPPLIES. The Franchisee is required to purchase an initial inventory of equipment and supplies from Approved Supplier(s) prior to the opening of the Business. The specific items required for the initial inventory of equipment and supplies will be set forth in writing by the Franchisor.

11.12. APPROVED SUPPLIERS. The Franchisee will purchase from suppliers, approved in writing by the Franchisor, those products, goods, machinery, signs, vehicles, supplies, equipment and services (sometimes referred to in this Agreement as “goods and services”) which are to be used or sold by the Franchisee and which the Franchisor determines meet the standards of quality and uniformity required to protect the valuable goodwill and uniformity symbolized by and associated with the Marks and the Business System. The Franchisee will have the right and option to purchase these goods and services from other suppliers provided that such goods and services conform in quality to the Franchisor’s standards and specifications. If the Franchisee desires to purchase any goods or services from such other suppliers, then the Franchisee must, at its expense, submit samples and specifications to the Franchisor for review and/or testing to determine whether the goods and services comply with the Franchisor’s standards and specifications. The written approval of the Franchisor must be obtained by the Franchisee prior to the time that any previously unapproved goods and services are sold by or used by the Franchisee. The Franchisor may also require any such supplier to enter into a written supplier agreement with Franchisor. Regardless of whether the Franchisor approves the request, the Franchisee must reimburse the Franchisor for all costs and expenses it incurs in reviewing the alternative supply or supplier, including an hourly rate (not to exceed \$150 per hour) for the Franchisor’s staff time spent on the review of the alternative supply or supplier. **ALTHOUGH APPROVED BY FRANCHISOR, FRANCHISEE ACKNOWLEDGES AND AGREES THAT WITH RESPECT TO ANY SEAL COATING PRODUCTS, SEALER, ADDITIVES, FORMULAS, INSTRUCTIONS OR ANY OTHER GOODS OR SERVICES (COLLECTIVELY, “SEAL COATING PRODUCTS”) SUPPLIED OR SOLD BY APPROVED SUPPLIERS OTHER THAN FRANCHISOR, NOW AND IN THE FUTURE, FRANCHISOR MAKES NO WARRANTY AND EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE.**

ANY SEAL COATING PRODUCTS SUPPLIED OR SOLD BY FRANCHISOR OR ITS AFFILIATES ARE SUBJECT TO A LIMITED WARRANTY. IF ANY FRANCHISEE OR ITS CUSTOMER EXPERIENCES A PROBLEM WITH OR DEFECT IN ANY SEAL COATING PRODUCTS SUPPLIED BY FRANCHISOR OR ITS AFFILIATE, THE FRANCHISEE OR CUSTOMER MUST REPORT THE PROBLEM OR DEFECT TO FRANCHISOR BEFORE THE EARLIER OF DECEMBER 1 OF THE CALENDAR YEAR IN WHICH THE PRODUCT WAS APPLIED OR 90 DAYS AFTER THE PRODUCT WAS APPLIED. IF SUCH PRODUCT IS DETERMINED TO BE DEFECTIVE BY FRANCHISOR IN ITS REASONABLE JUDGMENT, THE SOLE REMEDY TO FRANCHISEE OR ITS CUSTOMER IN SUCH CASE WILL BE THE REPAIR OR REPLACEMENT OF THE PRODUCT (AT FRANCHISOR’S OPTION) AT FRANCHISOR’S EXPENSE. NO WARRANTY IS MADE, AND FRANCHISOR SHALL NOT BE RESPONSIBLE, WITH RESPECT TO ANY PRODUCT THAT IS MODIFIED, MISUSED, OR INCORRECTLY MIXED, PREPARED OR APPLIED BY FRANCHISEE OR ITS CUSTOMER OR FOR WHICH AN ALLEGED PROBLEM OR DEFECT IS REPORT LATER THAN DECEMBER 1 OF THE CALENDAR YEAR IN WHICH THE PRODUCT WAS APPLIED OR LATER THAN 90 DAYS AFTER THE PRODUCT WAS APPLIED. FRANCHISOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL FRANCHISOR BE LIABLE FOR ANY LOST PROFITS, LOST REVENUES, OR ANY CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND.

11.13. APPROVED ADVERTISING AND PROMOTION. The Franchisee will not conduct any media advertising, promotion, marketing, public relations or telemarketing programs or campaigns for its Seal King Business unless or until the Franchisor has given the Franchisee prior written approval for all concepts, materials

or media proposed for any media advertising, promotion, marketing, public relations or telemarketing program or campaign. The Franchisee will not permit any third party to advertise its business, services or products through the Franchisee's Business without obtaining the prior written approval of the Franchisor. The Franchisee will only display signs that have been approved by the Franchisor in writing, and the Franchisee will not use or display any other signs of any kind or nature on the Franchisee's vehicles without obtaining the written approval of the Franchisor prior to their installation or use.

11.14. SALES TO OTHERS. The Franchisee hereby acknowledges and agrees that the Franchisor has the right to directly or indirectly sell any proprietary or other products or merchandise under the name "Seal King," or any other name that has been or may be developed by the Franchisor, to other persons, businesses or entities, including without limitation those that are not Seal King franchisees, through any method of distribution anywhere in the world, including in the Franchisee's Territory.

11.15. MAINTENANCE OF VEHICLES AND EQUIPMENT. The Franchisee will, at its expense, repair and keep in good working order at all times all vehicles and equipment used in the Franchisee's Business in accordance with the Franchisor's quality standards. The Franchisee will replace all equipment, supplies and vehicles as such items become worn-out or in disrepair as determined in the Franchisor's reasonable judgment. All replacement equipment, supplies, vehicles and other items used in the Business by the Franchisee must comply with the Franchisor's then-current standards and specifications.

11.16. ACCESS TO INFORMATION. The Franchisee will, at its sole expense, obtain and maintain at all times during the term of this Agreement, such computer equipment, electronic telephone facsimile, and other equipment as may from time to time be required by the Franchisor for use in the operation of the Franchisee's Seal King Business. The Franchisor shall have no obligation to update, upgrade, or otherwise modify any computer software utilized in the Seal King Business System. All such equipment must meet the then-current standards and specifications established by the Franchisor. The Franchisee acknowledges and agrees that the Franchisor has the right to access, both electronically and through hard copy of printed data, all data and other information maintained by the Franchisee on such computer equipment for purposes of monitoring compliance by the Franchisee with its obligations under this Agreement and for any other purpose deemed beneficial by the Franchisor to the Seal King Business System and all Seal King Franchisees. The failure of the Franchisee to provide or allow such access to the data and other information maintained on the Franchisee's computer equipment will give the Franchisor the right, among all other remedies hereunder or at law, to immediately terminate all computer support provided by the Franchisor. The Franchisee must comply with all laws and regulations relating to privacy and data protection, and must comply with any privacy policies or data protection and breach response policies the Franchisor periodically may establish. The Franchisee must notify the Franchisor immediately of any suspected data breach at or in connection with the Business.

11.17. INTRANET SYSTEM; ACCESS TO INFORMATION. The Franchisee will participate in any system-wide Seal King intranet communications site and other online communications system that the Franchisor may in the future develop, although the Franchisor will retain all rights to any intranet site and online communications system. The Franchisee's general conduct on any Seal King intranet site will be subject to the provisions of this Agreement and the Franchisee agrees to comply with the intranet terms of use posted on the Seal King intranet site, which terms of use are incorporated herein by reference. The Franchisee acknowledges and agrees that the Franchisor has the right to access, both electronically and through hard copy, all data and other information maintained by the Franchisee on the Franchisor's intranet site for purposes of monitoring compliance by the Franchisee with its obligations under this Agreement and for any other purpose deemed beneficial by the Franchisor to the Seal King Business System and all Seal King franchisees.

11.18. TELEPHONE EQUIPMENT AND NUMBER. In addition to standard telephone equipment at the office for the Franchisee's Business, the Franchisee will, at its sole expense, obtain and maintain at all times during the term of this Agreement either a telephone answering machine, voice mail system or mobile cellular

telephone equipment as may be required for the Franchisee's Seal King Business. The Franchisee's telephone answering machine, voice mail system or mobile cellular telephone equipment must meet the then-current standards and specifications established by the Franchisor. The Franchisee must obtain new telephone numbers for the conduct of the Franchisee's Seal King Business and must assign, in writing, on instruments approved in advance by the Franchisor, all rights to each of such numbers to the Franchisor, such assignment to be effective upon termination of this Agreement. Assignment of such phone numbers must occur when representatives of the Franchisee attend the Franchisor's training program. The Franchisee must, at all times during the term of this Agreement, subscribe to an internet service provider and an electronic mail service provider and install and maintain a separate, dedicated telephone line or high speed internet connection for such service. The Franchisee is solely responsible for protecting itself from disruptions, internet access failures, internet content failures, and attacks by hackers and other unauthorized intruders and the Franchisee waives any and all claims the Franchisee may have against the Franchisor as the direct or indirect result of such disruptions, failures or attacks.

11.19. PAYMENT OF OBLIGATIONS. The Franchisee will timely pay all of its uncontested and liquidated obligations and liabilities due and payable to the Franchisor and its affiliates and other Seal King franchisees, and to the suppliers, lessors and creditors of the Franchisee.

11.20. PAYMENT OF TAXES. The Franchisee will be absolutely and exclusively responsible and liable for the prompt filing and payment of all federal, state, city and local taxes including, but not limited to, individual and corporate income taxes, sales and use taxes, franchise taxes, gross receipts taxes, employee withholding taxes, F.I.C.A. taxes, unemployment taxes, inventory taxes, personal property taxes, real estate taxes and other taxes payable in connection with the Franchisee's Business (hereinafter referred to as "Taxes"). The Franchisor will have no liability for the Taxes which arise or result from the Franchisee's Business and the Franchisee will indemnify the Franchisor for any such Taxes that may be assessed or levied against the Franchisor which arise or result from the Franchisee's Business. It is expressly understood and agreed by the Personal Guarantors, as defined in Section 1.13, to this Agreement that their personal guaranty applies to the prompt filing and payment of all Taxes which arise or result from the Franchisee's Business.

11.21. REIMBURSEMENT OF FRANCHISOR FOR TAXES. In the event any "franchise" or other tax which is based upon the Gross Revenues, receipts, sales, business activities or operation of the Franchisee's Business is imposed upon the Franchisor by any taxing authority, then the Franchisee will reimburse the Franchisor in an amount equal to the amount of such taxes and related costs imposed upon and paid by the Franchisor. The Franchisee will be notified in writing if the Franchisor is entitled to reimbursement for the payment of such taxes and, in that event, the Franchisee will pay the Franchisor the amount specified in the written notice within 10 days of the date of the written notice.

11.22. COMPLIANCE WITH APPLICABLE LAWS. The Franchisee will, at its expense, comply with all applicable federal, state, city, local and municipal laws, ordinances, rules and regulations pertaining to the operation of the Franchisee's Seal King Business, including, but not limited to, health and safety regulations, all environmental laws, all laws relating to employees and compensation of employees, all discrimination laws, all sexual harassment laws and all laws relating to the disabled. The Franchisee will, at its expense, consult an attorney to obtain advice with regard to the Franchisee's compliance with all federal and state environmental laws, OSHA laws, licensing laws and all other laws relating to the application, storage and disposal of products used by the Franchisee in its Seal King Business. The Franchisee will, at its expense, be absolutely and exclusively responsible for determining the licenses and permits required by law for the Franchisee's Seal King Business, for filing, obtaining and qualifying for all such licenses and permits, and for complying with all applicable laws.

11.23. SECURITY INTEREST. This Agreement and the Franchise granted to the Franchisee hereunder may not be the subject of a security interest, lien, levy, attachment or execution by the Franchisee's creditors or any financial institution, except with the prior written approval of the Franchisor.

11.24. NOTICES OF DEFAULT, LAWSUITS OR OTHER CLAIMS. The Franchisee will immediately deliver to the Franchisor a copy of any notice of default received from any mortgagee, trustee under any deed of trust, contract for deed holder, lessor or any other party with respect to the Franchisee's Seal King Business, and copies of all written notifications of any lawsuits, consumer claims, employee claims, federal or state administrative or agency proceedings or investigations or other claims, actions or proceedings relating to the Franchisee's Business. Upon request from the Franchisor, the Franchisee will provide such additional information as may be required by the Franchisor regarding the alleged default, lawsuit, claim, action, investigation or proceeding, and any subsequent action or proceeding in connection with the alleged default, lawsuit, claim, action, investigation or proceeding.

11.25. OPERATION OF SEAL KING BUSINESS. The General Manager of the Franchisee shall devote a minimum of twenty (20) hours per week to the day-to-day operation of the Business, between April 1st and November 1st of each year. The Franchisor shall have the right to modify or increase this requirement in the Manual. The Franchisee will be totally and solely responsible for the operation of its Seal King Business. The Franchisee will hire a sufficient number of suitable employees for the operation of its Seal King Business and Franchisee will be exclusively responsible for terms of employment, work hours and compensation. All personnel decisions shall be made by Franchisee, without any influence or advice from Franchisor. The Franchisee will supervise and manage any agents and independent contractors who work for or with the Franchisee. The Franchisee will be responsible for the acts of its employees, agents and independent contractors, and will take all reasonable business actions necessary to ensure that its employees, agents and independent contractors comply with all federal, state and local laws, rules and regulations including, but not limited to, all employment laws, discrimination laws, sexual harassment laws and laws relating to the disabled. The Franchisor will not have any right, obligation or responsibility to control, supervise or manage the Franchisee's employees, agents or independent contractors. The Franchisor will not be deemed to be the employer, or joint employer, of the Franchisee or any employee of the Franchisee.

11.26. OPERATION BY THE FRANCHISOR IN EVENT OF MATERIAL DEFAULT. In the event that the Franchisee abandons the Business or materially fails to operate the Business in accordance with the Seal King Business System (unless such failure to operate is due to fire, flood, earthquake, an unforeseen act of government authority beyond Franchisee's control, or other similar causes beyond Franchisee's control), the Franchisor and the Franchisee agree that the Franchisor or its designee may, at the Franchisor's option (but not obligation), operate the Franchised Business on the Franchisee's behalf. In such event, the Franchisee shall pay the Franchisor its reasonable costs and expenses of operating (or arranging for operation of) the Franchised Business. Franchisee's failure to operate the Franchise Location may constitute abandonment of the Franchised Business under this Agreement.

11.27. DATA POLLING. The Franchisee will participate in any data polling system developed by the Franchisor for purposes of collecting, evaluating and distributing financial data in connection with the operation of Seal King businesses on an individual and system-wide basis. The Franchisee will purchase, install and utilize in its Business, at the Franchisee's expense, all hardware, software and monthly data polling services required by the Franchisor to provide access to such data and to participate in the data polling system.

SECTION 12 **INSURANCE**

12.1. REQUIRED INSURANCE. The Franchisee will purchase and maintain in full force and effect, at its sole cost and expense, insurance that insures both the Franchisee and the Franchisor, and their respective officers, directors, agents, employees and affiliates, and any other persons designated by the Franchisor by name. The insurance policies must cover any and all loss, liability, claim or expense whatsoever related to the insurance and must include, at a minimum:

- (A) **GENERAL LIABILITY.** The Franchisee must acquire and maintain in full force and effect, at its sole cost and expense, a general liability insurance policy insuring the Franchisee, the Franchisor, Seal King and their respective officers, directors, governors, managers and employees from and against any loss, liability, bodily injury, personal injury, death, damage, claim or expense of any kind whatsoever including claims for bodily injury, personal injury, death, property damage, products liability resulting from the condition, operation, use, business or occupancy of the Franchisee’s Seal King business, with minimum coverage limits of \$500,000 for each occurrence, \$1,000,000 annual aggregate, or such higher amounts as designated in writing from time to time by the Franchisor.
- (B) **VEHICLE INSURANCE.** The Franchisee must acquire and maintain in full force and effect, at its sole cost and expense, automobile liability coverage insuring the Franchisee, the Franchisor, and their respective officers, directors, governors, managers and employees from any and all loss, liability, damage, claim or expense of any kind whatsoever resulting from the use, operation or maintenance of any automobile or vehicle used by the Franchisee or any of its employees in connection with the Franchisee’s Seal King business, with minimum coverage limits of \$250,000 for each occurrence, or such higher amounts as designated in writing from time to time by the Franchisor.
- (C) **UMBRELLA POLICY.** The Franchisee must acquire and maintain in full force and effect, at its sole cost and expense, an “umbrella” policy insuring the Franchisee, the Franchisor, and their respective officers, directors, governors, managers and employees with minimum coverage limits of \$1,000,000 for each occurrence.
- (D) **OTHER INSURANCE.** The Franchisee will, at its sole cost and expense, procure and maintain workers’ compensation insurance and all other insurance prescribed by the Franchisor from time to time or as required by state or federal law, together with all insurance required under any lease, mortgage, deed of trust or other legal contract in connection with the Franchisee’s Seal King business. The Franchisor reserves the right to modify the insurance requirements at any time.

12.2. INSURANCE COMPANIES; EVIDENCE OF COVERAGE. All insurance companies providing coverage to the Franchisee and the Franchisee’s Business must be acceptable to and approved by the Franchisor, and must be licensed in the state where coverage is provided. The Franchisee will provide the Franchisor with certificates of insurance evidencing the insurance coverage required of the Franchisee pursuant to this Section prior to the date the Franchisee’s representatives attend the Franchisor’s training program, and the Franchisee will immediately provide, upon expiration, change or cancellation, a new certificate of insurance to the Franchisor. The Franchisee will also provide copies of the insurance policies upon the Franchisor’s request.

12.3. DEFENSE OF CLAIMS. All liability insurance policies procured and maintained by the Franchisee will require the insurance company to provide and pay for attorneys to defend any legal actions, lawsuits or claims brought against the Franchisee, the Franchisor, and their respective officers, directors, employees and agents.

12.4. FRANCHISOR’S RIGHTS. All insurance policies procured and maintained by the Franchisee pursuant to this Section will name the Franchisor as an additional insured, will contain endorsements by the insurance companies waiving all rights of subrogation against the Franchisor, and will stipulate that the Franchisor will receive copies of all notices of cancellation, nonrenewal, or coverage reduction or elimination at least 30 days prior to the effective date of such cancellation, nonrenewal or coverage change.

12.5. BREACH. The Franchisee’s failure to comply with the provisions of this Section 12 will give the Franchisor the right, but not the obligation, to procure on behalf of the Franchisee and the Franchisee’s Business,

any and all insurance required under this Agreement with the agent and insurance company of the Franchisor's choice. The Franchisor will invoice the Franchisee for all costs and expenses incurred by the Franchisor to procure the required insurance coverage on behalf of the Franchisee and the Franchisee's Business. Within 10 days of receipt of an invoice from the Franchisor, the Franchisee must pay all amounts owed to the Franchisor for costs and expenses to procure insurance coverage on behalf of the Franchisee and the Business.

SECTION 13
FINANCIAL STATEMENTS, REPORTS OF GROSS REVENUES;
FORMS AND ACCOUNTING

13.1. ANNUAL FINANCIAL STATEMENTS. The Franchisee will, at its expense, provide the Franchisor with annual financial statements for the Franchisee's Business which will consist of a balance sheet, profit and loss statement, statement of cash flows and explanatory footnotes. All financial statements provided to the Franchisor for the Franchisee's Business will be presented in the exact form and format prescribed by the Franchisor in writing, and will be categorized according to the standard chart of accounts developed and approved by the Franchisor.

13.2. VERIFICATION OF FINANCIAL STATEMENTS. If the Franchisee's annual financial statements are not audited by an independent certified public accountant, then, if the Franchisee is a corporation, the Franchisee's annual financial statements must be certified in writing as accurate by the Franchisee's principal officer, or if the Franchisee is a partnership, then by the Franchisee's Partners, or if the Franchisee is an individual, then by the Franchisee.

13.3. DUE DATE. The Franchisee's annual financial statements will be delivered to the Franchisor within 60 days after the end of each calendar year.

13.4. TAX RETURNS. Upon the Franchisor's written request the Franchisee will provide the Franchisor with a signed copy of each of the Franchisee's and each Personal Guarantors' annual federal and state income tax returns, sales tax returns, and a copy of any other federal, state and local tax returns filed by the Franchisee including, but not limited to, any amended tax return filed by the Franchisee for a preceding year or other period, together with written proof that the Franchisee has paid all taxes due, for any tax year during which the Franchisee was a franchisee of the Franchisor. The Franchisor will not disclose any such tax returns to persons not employed by the Franchisor except as may be reasonably necessary in the conduct of the Franchisor's business.

13.5. FRANCHISOR'S AUDIT RIGHTS. The Franchisee and the Franchisee's accountants will make all of their records, ledgers, work papers, books, accounts and financial information ("financial records") available to the Franchisor during regular business hours and at all other reasonable times for review and audit by the Franchisor or its designee. To the extent the financial records are computerized, the Franchisor will have the right to access the Franchisee's computer and software programs containing the financial records and to copy the financial records to a computer disk or to any portable or other computer owned or controlled by the Franchisor. The Franchisee's financial records for each fiscal year will be kept in a secure place by the Franchisee and will be available for audit by the Franchisor for at least 5 years. If an audit by the Franchisor results in a determination that the Franchisee's Gross Revenues were understated by more than 2% for any month, or that the Franchisee has underpaid the monthly Continuing Fees by more than \$500 during any 12-month period, then the Franchisee will pay the Franchisor for all costs and expenses (including salaries of the Franchisor's employees, travel costs, room and board, and audit fees) that the Franchisor incurred as a result of the audit of the Franchisee's financial records. If the Franchisee has underpaid the Franchisor, then the Franchisee will, within 10 days of receipt of an invoice from the Franchisor indicating the amounts owed, pay to the Franchisor any deficiency in Continuing Fees or other amounts owed to the Franchisor, together with interest as provided for herein. The Franchisee's failure or refusal to produce the books and financial records for audit by the Franchisor in accordance with this Section 13.6 will be grounds for the immediate termination of this Agreement by the Franchisor.

13.6. ELECTRONIC REPORTING. The Franchisee acknowledges and agrees that the Franchisor may require that all financial statements, returns, reports and other information required be provided to the Franchisor by the Franchisee pursuant to this Section 13 or otherwise pursuant to this Agreement be provided to the Franchisor in electronic format.

SECTION 14 **FRANCHISOR'S RIGHT OF FIRST REFUSAL TO PURCHASE**

14.1. RESTRICTIONS. The Franchisee will not sell, assign, trade, transfer, lease, sublease, or otherwise dispose of any interest in or any part of the Franchisee's Seal King Business or the Business Assets, as defined in this provision, to a third party without first offering the same to the Franchisor in writing, at the same price and on the same terms as the Franchisee proposes to accept from such third party. "Business Assets" shall mean (A) the Franchisee's Seal King Business; (B) the lease for the Franchisee's office (if applicable); (C) the land and building for the Franchisee's office (if applicable); (D) this Agreement; and (E) the vehicles, supplies and equipment used in the Business, except for transactions involving the sale of the items listed in this Section 14.1 to the extent such sales occur in the normal course of business. The Franchisee's written offer to the Franchisor must contain all material terms and conditions of the proposed sale or transfer, including but not limited to the name, address, business experience and financial condition of the proposed third-party transferee. Upon receipt by the Franchisor of written notice specifying such material terms and conditions of the proposed sale or transfer, the Franchisor will have the right (but not the obligation), exercisable by written notice to the Franchisee within 15 business days thereafter, to (1) accept such offer, (2) waive its right of first refusal to purchase, or (3) state an interest in negotiating to purchase the Business Assets. If the Franchisor elects to commence negotiations to purchase the Franchisee's Business Assets as set forth herein, the Franchisee may not sell the Business Assets to such third party for at least 30 days or until the Franchisor and the Franchisee agree in writing that the negotiations have terminated, whichever comes first. If the Franchisor waives its right to purchase, the Franchisee shall have the right to complete the sale or transfer of the Business Assets according to the terms set forth in the written notice to the Franchisor; however, any such sale, transfer or assignment to such third party is expressly subject to the terms and conditions set forth in Section 15 below and any material variation in the terms of the sale from those set forth in the original notice to the Franchisor, including but not limited to a change to the identity of such third party, shall constitute a new offer to purchase that shall be submitted to the Franchisor in the manner provided above. If the Franchisor elects to accept the offer from the Franchisee, the sale shall be consummated in accordance with the terms and conditions of the offer. The Franchisee's obligations under this Agreement including, but not limited to, its obligations to pay the Continuing Fees and to operate the Business Assets as a Seal King Business shall not be affected or changed because of the Franchisor's non-acceptance of the Franchisee's written offer.

14.2. ACKNOWLEDGMENT OF RESTRICTIONS. The Franchisee acknowledges and agrees that the restrictions imposed by the Franchisor on the transfer of the Business Assets and the Ownership Interests are reasonable and necessary to protect the goodwill associated with the Business System and the Marks, as well as the Franchisor's reputation and image, and are for the protection of the Franchisor, the Franchisee and all other franchisees that own and operate Seal King Businesses. Any assignment or transfer of the Business Assets or the Ownership Interests permitted by this Section 14 will not be effective until the Franchisor receives fully executed copies of all documents relating to the assignment or transfer, and the Franchisor has consented in writing to the assignment or transfer.

14.3. SELLING HOLDERS SUBJECT TO COVENANT NOT TO COMPETE. Any holder of Ownership Interests in the Franchisee that sells, assigns, trades, bequeaths, transfers or disposes of any Ownership Interests in the Franchisee will be subject to the provisions of Section 19 of this Agreement after the sale or assignment.

14.4. RIGHT OF FRANCHISOR TO PURCHASE FRANCHISE ASSETS. If this Agreement expires or is terminated by either the Franchisor or the Franchisee for any reason whatsoever, if the Franchisee wrongfully terminates this Agreement by failing to comply with Section 17 or otherwise, or if the Franchisee at any time ceases to do business within the Territory as a Seal King Business, then the Franchisor will have the right, but not the obligation, to purchase the Franchisee’s Seal King Business, including the then-usable vehicles, supplies, inventory and equipment, and all other assets that are required by the Franchisor for a standard Seal King Business and owned by the Franchisee in its Business and to acquire any lease or other contract rights of the Franchisee (hereinafter referred to in this provision as the “Franchise Assets”). The Franchisor will not purchase any assets from the Franchisee that are not part of the standard Seal King Business. Within 2 business days after this Agreement expires or is terminated by either party, wrongfully terminated by the Franchisee or the Franchisee ceases to do business as a Seal King Business, the Franchisee must give the Franchisor written notice of the Franchisee’s asking price for the Franchise Assets. If the Franchisee fails to give the Franchisor this notice and/or if the Franchisor and the Franchisee cannot agree on the price of the Franchise Assets, then, without considering any value for goodwill associated with the name “Seal King,” the Assets will be valued at book value (cost less depreciation). The Franchisor will have the right, but not the obligation, to purchase any or all of the Franchise Assets from the Franchisee for cash within 20 days after the fair market value of the Franchise Assets has been established and delivered to the parties in writing. Nothing in this provision may be construed to prohibit the Franchisor from enforcing the terms and conditions of this Agreement, including the covenants not to compete contained in Section 19.

SECTION 15 **ASSIGNMENT**

15.1. ASSIGNMENT BY FRANCHISOR. This Agreement may be unilaterally assigned and transferred by the Franchisor without the approval or consent of the Franchisee, and will inure to the benefit of the Franchisor’s successors and assigns. The Franchisor will give the Franchisee written notice of any such assignment or transfer, and the assignee will be required to fully perform the Franchisor’s obligations under this Agreement.

15.2. ASSIGNMENT BY THE FRANCHISEE TO CONTROLLED ENTITY. If the Franchisee is an individual or a partnership, this Agreement may be transferred or assigned by the Franchisee, without first offering it to the Franchisor pursuant to Section 14 above, to a corporation, limited liability company or other similar entity which is owned or controlled (controlled, for purposes of this Agreement, means ownership of at least 51% of the issued and outstanding capital stock, membership interests or other similar ownership interests) by the Franchisee.

15.3. TRANSFER OF OWNERSHIP INTERESTS. If the Franchisee is a corporation, limited liability company or other similar entity, then ownership interests of the Franchisee owned by the Franchisee’s owners (“ownership interests”) may not be sold, pledged, assigned, traded, transferred or otherwise disposed of by the Franchisee’s owners until the ownership interests have been first offered to the Franchisor in writing under the same terms and conditions offered to any third party as provided for in Section 14 above and the conditions of Section 15.4 below are satisfied.

15.4. APPROVAL OF TRANSFER. Subject to the provisions of Section 15.2 and 15.3, this Agreement or the Business Assets, as defined in Section 14.1, may be sold, assigned or transferred by the Franchisee only with the prior written approval of the Franchisor. The Franchisor will not unreasonably withhold its consent to any sale, assignment or transfer under this Agreement, provided the Franchisee and the transferee comply with the following conditions:

- (A) The Franchisee has complied in all respects with the applicable provisions of Section 14 of this Agreement;

- (B) All of the Franchisee's monetary obligations due to the Franchisor have been paid in full, and the Franchisee is not otherwise in default under this Agreement or any other agreement with the Franchisor;
- (C) The Franchisee and its owners have executed a written agreement in a form satisfactory to the Franchisor in which they agree to release the Franchisor of all claims to observe all applicable obligations and covenants (including noncompete covenants) contained in this Agreement;
- (D) The transferee and its owners have executed a written agreement in a form satisfactory to the Franchisor to be personally liable and discharge all of the Franchisee's obligations under this agreement;
- (E) The transferee has demonstrated to the Franchisor's satisfaction that he, she or it meets the Franchisor's managerial, financial and business standards for new franchisees, possesses a good business reputation and credit rating, and possesses the aptitude and ability to operate a Seal King Business in an economic and businesslike manner (as may be evidenced by prior related business experience or otherwise);
- (F) The transferee must successfully complete the training program prescribed by the Franchisor, at the transferee's expense;
- (G) The Franchisee has paid the transfer fee required under Section 15.7;
- (H) None of the transferee and its owners owns, operates, franchises, develops, manages or controls any business that is in any way competitive with or similar to a Seal King Business;
- (I) The transferee and all parties having a legal or beneficial interest in the transferee, including, if applicable, the holders of all ownership interests in the transferee and the transferee's personal guarantors as required by the Franchisor, execute the Franchisor's then-current standard Franchise Agreement and such other ancillary agreements as the Franchisor may require for the transfer of the Franchisee's Business;
- (J) The transferee will not be required to pay the Initial Franchise Fee; however, the transferee will be required to pay the Continuing Fees and the System Advertising Fees to the Franchisor at the rate specified in the Agreement; and
- (K) If the transferee does not meet the Franchisor's financial requirements for operations of the Seal King Business, then the Franchisee, its owners and the Personal Guarantors will execute a written agreement in a form satisfactory to the Franchisor agreeing to remain liable to the Franchisor for the obligations of the transferee hereunder.

15.5. TRANSFER TO COMPETITOR PROHIBITED. The Franchisee will not sell, assign or transfer this Agreement to any person, partnership, corporation or entity that owns, operates, franchises, develops, consults with, manages, is involved in, or controls any business that is in any way competitive with a Seal King Business. If the Franchisor refuses to permit a transfer of this Agreement under this Section 15.5, the Franchisee's only remedy will be to have a court of competent jurisdiction determine whether the proposed transferee is a competitor of the Franchisor.

15.6. ADVERTISEMENT FOR THE SALE OF THE BUSINESS. The Franchisee shall not market, advertise, or list any offer for the sale of the Business without first having complied with Section 14, nor in a manner that disparages, is detrimental to, or in any way detracts from the value of the Business System or the

Marks. The Franchisor may, at any time, place reasonable restrictions on the manner in which the Franchisee's Business is advertised, marketed or listed for sale, and such restrictions shall be effective immediately.

15.7. ACKNOWLEDGMENT OF RESTRICTIONS. The Franchisee acknowledges and agrees that the restrictions imposed by the Franchisor pursuant to this Section 15 are reasonable and necessary to protect the goodwill associated with the Business System and the Marks, as well as the Franchisor's reputation and image, and are for the protection of the Franchisor, the Franchisee and all other franchisees that own and operate Seal King Businesses. Any assignment or transfer permitted by this Section 15 will not be effective until the Franchisor receives fully executed copies of all documents relating to the assignment or transfer, and the Franchisor has consented in writing to the assignment or transfer.

15.8. TRANSFER FEE. If, pursuant to the terms of this Section 15, this Agreement is assigned, transferred or sold to another person or entity, or if the holders of Ownership Interests in the Franchisee representing more than 50% of the voting power in the Franchisee transfer their interests in the Franchisee to a third party, then the Franchisee will pay the Franchisor a transfer fee in an amount equal to \$10,000, which will help defray the costs incurred by the Franchisor for training, attorneys' fees, accountants' fees, out-of-pocket expenses, long distance telephone calls, administrative costs and the time of its employees and officers. The transfer fee must be paid by the Franchisee to the Franchisor prior to the date of transfer. The Franchisor shall waive the transfer fee in the event of a transfer to an Immediate Family Member; although the Immediate Family Member, if such a person has not already successfully completed the Franchisor's training program, must pay to the Franchisor the then-current training fee.

SECTION 16 **FRANCHISOR'S TERMINATION RIGHTS; DAMAGES**

16.1. CONDITIONS OF BREACH. In addition to its other rights of termination contained in this Agreement, the Franchisor will have the right to terminate this Agreement if:

- (A) The Franchisee fails to open and commence operations of its Seal King Business within 30 days from the date of this Agreement;
- (B) The Franchisee violates any material provision, term or condition of this Agreement or any other agreement between the Franchisee and the Franchisor or an affiliate of the Franchisor, including, but not limited to, failure to timely pay any Continuing Fees, System Advertising Fees or any other monetary obligations or fees due to the Franchisor or its affiliates;
- (C) The Franchisee fails to conform to the Business System, the standards of uniformity and quality for the goods and services or the policies and procedures promulgated by the Franchisor in connections with the Business System, or is involved in any act or conduct which materially impairs the goodwill associated with the Marks or the Business System including, but not limited to, the application of non-approved products or false warranty representations;
- (D) The Franchisee fails to timely pay any of its uncontested obligations or liabilities due and owing to its employees, suppliers, banks, purveyors and other creditors, or the Franchisor;
- (E) The Franchisee is determined to be insolvent within the meaning of any state or federal law, files for bankruptcy or is adjudicated bankrupt under any state or federal law;
- (F) The Franchisee makes an assignment for the benefit of creditors or enters into any similar arrangement for the disposition of its assets for the benefit of creditors;

- (G) Any check issued by the Franchisee is dishonored because of insufficient funds (except where the check is dishonored because of an error in bookkeeping or accounting) or closed accounts.
- (H) The Franchisee or any of its managers, partners, directors, officers or majority stockholders are convicted of, or plead guilty to or no contest to, a charge of violating any law relating to the Business, or any felony;
- (I) The Franchisee fails to pay for the vehicles, supplies and equipment required for its Business prior to commencing business;
- (J) The Franchisee voluntarily or otherwise “abandons” (as defined in Section 1.1 above) the Business;
- (K) The Franchisee is involved in any act or conduct which materially impairs the goodwill associated with the name “Seal King”, any other Marks or the Business System; or
- (L) The Franchisee fails to file any required federal, state or other income or sales tax return or fails to timely pay any federal, state or other income or sales taxes when due.

16.2. NOTICE OF BREACH. Except as provided for in Section 16.4 of this Agreement, the Franchisor will not have the right to terminate this Agreement unless and until written notice setting forth the alleged breach has been given to the Franchisee by the Franchisor and, after having been given such written notice of breach, the Franchisee fails to correct the alleged breach within the period of time specified by applicable law. If applicable law does not specify a time period to correct an alleged breach, then the Franchisee will have 30 days after having been given such written notice to correct the alleged breach, except for nonpayment of amounts owed to the Franchisor, in which case the Franchisee will have 10 days after having been given such written notice to correct the alleged breach. If the Franchisee fails to correct the alleged breach set forth in the written notice within the applicable period of time, then this Agreement may be terminated by the Franchisor as provided for in this Agreement.

16.3. NOTICE OF TERMINATION. If the Franchisee has not corrected the alleged breach set forth in the written notice within the time period specified in this Section, then the Franchisor will have the right to terminate this Agreement by giving the Franchisee written notice stating to the Franchisee that this Agreement is terminated, and in that event, unless applicable law provides to the contrary, the effective date of termination of this Agreement will be the day such written notice is given.

16.4. NOTICE OF IMMEDIATE TERMINATION. The Franchisor will have the right and privilege, unless prohibited by applicable law, to immediately terminate this Agreement, without any opportunity to cure, if:

- (A) The Franchisee or any of its partners, directors, officers, governors, managers or majority stockholders is convicted of, or pleads guilty or no contest to, a charge of violating any law relating to the Franchisee’s Seal King Business or any felony;
- (B) The Franchisee voluntarily or otherwise abandons, as defined herein, the Franchisee’s Seal King Business;
- (C) The Franchisee is involved in any act or conduct which materially impairs the goodwill associated with the Franchisor’s Marks or Business System, and the Franchisee fails to correct such act or conduct within 24 hours of receipt of written notice from the Franchisor;

- (D) The Franchisee fails to allow or provide to the Franchisor electronic access to the Franchisee's data or information as required under 11.15 above;
- (E) The Franchisee fails or refuses to permit the Franchisor to audit the Franchisee's financial records, or fails or refuses to produce its financial records for audit by the Franchisor in accordance with Section 13.6;
- (F) The Franchisee is determined to be insolvent within the meaning of any state or federal law, files for bankruptcy or is adjudicated bankrupt under any state or federal law;
- (G) The Franchisee makes an assignment for the benefit of creditors or enters into any similar arrangement for the disposition of its assets for the benefit of creditors; or
- (H) The Franchisee's default is its third default within the last 24 months.

16.5. DAMAGES. In the event this Agreement is terminated by the Franchisor pursuant to this Section, or if the Franchisee breaches this Agreement by a wrongful termination or a termination that is not in accordance with the terms and conditions of Section 17 of this Agreement, then the Franchisor will be entitled to seek recovery from the Franchisee for all of the damages that the Franchisor has sustained and will sustain in the future as a result of the Franchisee's breach of this Agreement, which will include damages based upon the Continuing Fees, System Advertising Fees, and other fees that would have been payable by the Franchisee for the remaining term of this Agreement.

SECTION 17 **FRANCHISEE'S TERMINATION RIGHTS**

17.1. GROUNDS FOR TERMINATION. The Franchisee will have the right and privilege to terminate this Agreement, as provided for herein, if the Franchisor violates any material provision, term or condition of this Agreement.

17.2. NOTICE OF BREACH. The Franchisee will not have the right to terminate this Agreement unless and until written notice setting forth the alleged breach in detail has been given to the Franchisor by the Franchisee and the Franchisor fails to correct the alleged breach within 60 days after having been given such written notice. If the Franchisor fails to correct the alleged breach within 60 days after having been given such written notice, then this Agreement may be terminated by the Franchisee; provided that the Franchisee complies with the post-term obligations described in Section 18.

17.3. WAIVER. The Franchisee must give the Franchisor immediate written notice of an alleged breach or violation of this Agreement after the Franchisee has knowledge of, determines or is of the opinion that there has been an alleged breach or violation of this Agreement by the Franchisor. If the Franchisee fails to give written notice to the Franchisor of an alleged breach or violation of this Agreement within 1 year from the date that the Franchisee has knowledge of, determines, is of the opinion that, or becomes aware of facts and circumstances reasonably indicating that the Franchisee may have a claim under any state law, federal law or common law, then the alleged breach or violation will be deemed to be condoned, approved and waived by the Franchisee, and the Franchisee will be barred from commencing any legal or other action against the Franchisor for that alleged breach or violation.

SECTION 18
FRANCHISEE'S OBLIGATIONS UPON
TERMINATION OR EXPIRATION

18.1. OBLIGATIONS UPON TERMINATION. Upon expiration or termination of this Agreement for any reason, the Franchisee's right to use the service mark SEAL KING and the other Marks and the Business System will terminate immediately and revert back to the Franchisor. In addition, the Franchisee will: (A) within 5 days after expiration or termination, pay all Continuing Fees, System Advertising Fees, and other amounts due and owing to the Franchisor or its affiliates under this Agreement, or any other contract, promissory note or other obligation payable by the Franchisee to the Franchisor or its affiliates; (B) immediately return to the Franchisor by first class prepaid United States mail all copies of the Manual, advertising materials and all other printed materials containing the Marks or pertaining to the Franchisee's Seal King Business; (C) immediately inform its suppliers in writing of the termination of the Franchisee's rights to operate a franchised Seal King Business; (D) immediately discontinue use of all confidential and proprietary information; (E) immediately deliver all customer lists and records to the Franchisor; (F) cease participation in any Seal King website; (G) discontinue use of the Marks in any online communications; (H) alter its business as specified in Section 18.2; (I) comply with the post-term covenant not to compete described in Section 19.2 and all other applicable post-term obligations; and (J) not use any of the Marks in a derogatory, negative, or other inappropriate manner in any media, including but not limited to, print or electronic media.

18.2. ALTERATION OF VEHICLES AND OFFICE. If this Agreement expires or is terminated for any reason or if the Seal King Business office ever ceases to be used as a Seal King Business, then the Franchisee will, at its expense, remove the Seal King signs and decals from, and change the colors and décor of, all vehicles and other equipment and any business office used by the Franchisee in its Seal King Business.

18.3. TRANSFER OF TELEPHONE DIRECTORY LISTINGS. Upon termination or expiration of this Agreement, the Franchisor will have the right to notify the telephone company and all listing agencies of the termination or expiration of the Franchisee's right to use all telephone numbers and all classified and other directory listings for the Franchisee's Seal King Business or otherwise placed under the name Seal King, and to authorize the telephone company and all listing agencies to transfer to the Franchisor or its assignee all telephone numbers and directory listings for the Franchisee's Seal King Business. The Franchisee acknowledges that the Franchisor has all rights, title and interest in and to all telephone numbers and directory listings associated with the Marks, and the Franchisee hereby authorizes the Franchisor to direct the telephone company and all listing agencies to transfer all of the Franchisee's telephone numbers and directory listings to the Franchisor or its assignee if this Agreement expires or is terminated for any reason whatsoever. The telephone company and all listing agencies will accept this Agreement as evidence of the exclusive rights of the Franchisor to such telephone numbers and directory listings. This Agreement will constitute the Franchisee's authorization for the telephone company and listing agencies to transfer the telephone numbers and directory listings for the Franchisee's Seal King Business to the Franchisor, and will constitute a release of the telephone company and listing agencies by the Franchisee from any and all claims, actions and damages that the Franchisee may at any time have the right to allege against them in connection with this provision.

SECTION 19
FRANCHISEE'S COVENANTS NOT TO COMPETE

19.1. IN-TERM COVENANT NOT TO COMPETE. The Franchisee, the Franchisee's owners and the Personal Guarantors will not, during the term of this Agreement, on their own account or as an employee, agent, consultant, partner, officer, director, governor, manager or owner of any other person, firm, entity, partnership, limited liability company or corporation: (A) seek to employ or retain any employee or independent contractor who is at that time employed or retained by the Franchisor or any entity affiliated with the Franchisor or by any other Seal King franchisee, or induce any such employee or independent contractor

to terminate his or her employment or relationship; or (B) own, operate, lease, franchise, conduct, engage in, be connected with, have any interest in or assist any person or entity engaged in any business that is in any way competitive with or similar to the Seal King Businesses operated by the Franchisor, any entity affiliated with the Franchisor or the Franchisor's franchisees, except with the prior written consent of the Franchisor.

19.2. POST-TERM COVENANT NOT TO COMPETE. The Franchisee, the Franchisee's owners and the Personal Guarantors will not, for a period of 24 months after the termination or expiration of this Agreement, on their own account or as an employee, independent contractor, agent, consultant, partner, officer, director, governor, manager or owner of any other person, firm, entity, partnership, limited liability company or corporation:

- (A) Own, operate, lease, franchise, conduct, engage in, be connected with, have any interest in or assist any person or entity engaged in any or other related business that is in any way competitive with (including, but not limited to, over the Internet) or similar to the Seal King Business or a facet thereof, which is located (i) within the Territory, (ii) within the territories of any other Seal King businesses operated by the Franchisor or any of its affiliates or franchisees, or (iii) within 50 miles of any of the areas described in (i) or (ii) above.
- (B) Divert or attempt to divert any existing or potential business or customers of the Franchisor, any of the Franchisor affiliates, or any Seal King franchisee;
- (C) Employ, or seek to employ, any person who is employed by the Franchisor or an affiliate of the Franchisor or by another Seal King franchisee, or induce or attempt to induce any such person to leave such employment; or
- (D) Solicit or perform residential and/or commercial seal coating or other Seal King services for any customer for whom or which such services were performed by the Franchisee under the Seal King service marks, trademarks, and Business System during the term of this Agreement.

The Franchisee, the holders of all Ownership Interests in the Franchisee and the Personal Guarantors expressly agree (i) that the time and the geographical limitations set forth in this provision are reasonable and necessary to protect the Franchisor and the Franchisor's franchisees if this Agreement expires or is terminated by either party for any reason, (ii) that the time period expressed above shall be extended by an amount of time equal to the time the Franchisee, the holders of all Ownership Interests in the Franchisee or the Personal Guarantors are in breach of the provisions of this Section 19.2, and (iii) that this covenant not to compete is necessary to permit the Franchisor the opportunity to resell and/or develop a new Seal King Business at or in the area near the Territory.

SECTION 20 **INDEPENDENT CONTRACTORS**

20.1. INDEPENDENT CONTRACTORS. The Franchisor and the Franchisee are each independent contractors and, as a consequence, there is no employer-employee, principal-agent or fiduciary relationship between the Franchisor and the Franchisee. The Franchisee will not have the right to and will not make any agreements, representations or warranties in the name of or on behalf of the Franchisor or represent that their relationship is other than that of franchisor and franchisee. Neither the Franchisor nor the Franchisee will be obligated by or have any liability to the other under any agreements or representations made by the other to any third parties. Each of the parties agrees to file its own tax, regulatory and payroll reports with respect to its employees and operations, saving and indemnifying the other party from any liability of any nature whatsoever.

20.2. INDEMNIFICATION. The Franchisor will not be obligated to the Franchisee or any other person or entity for damages arising out of, from, in connection with, or as a result of the Franchisee's negligence or the operation of the Franchisee's Seal King Business. The Franchisee will indemnify, defend and hold the Franchisor and its affiliates harmless against all claims, lawsuits, damages, obligations, liability, actions and judgments of any nature whatsoever (regardless of cause or any concurrent or contributing fault or negligence of the Franchisor) (collectively, "Claims") arising out of, from, as a result of, or in connection with the Franchisee's negligence or the operation of the Franchisee's Seal King Business or any business conducted by the Franchisee pursuant to this Agreement, including, without limitation, any Claims arising from or relating to: (A) any personal injury, property damage, commercial loss or environmental contamination resulting from any negligence or act or omission of the Franchisee or its employees, independent contractors, agents or representatives; (B) any failure on the part of the Franchisee to comply with any requirement of any governmental authority; (C) any failure of the Franchisee to comply with any requirement or condition of this Agreement or any other agreement with the Franchisor or any affiliate of the Franchisor. Further, the Franchisee will indemnify and reimburse the Franchisor and its affiliates for all costs reasonably incurred by the Franchisor in the defense of any such Claims brought against it or in any action in which it is named as a party, including, without limitation, attorneys' fees. Notwithstanding the Franchisee's obligation to defend the Franchisor as described above, the Franchisor will have the right to defend any claim made against it that results from or arises out of the Franchisee's Seal King Business.

20.3. CONTINUATION OF OBLIGATIONS. The indemnification and other obligations contained in this Section will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

SECTION 21 **DISPUTE RESOLUTION**

21.1. DISPUTES SUBJECT TO ARBITRATION. Except as expressly provided in Section 21.4 below, all disputes and controversies between the Franchisor and the Franchisee and their officers, directors, governors, managers and owners or partners and the Personal Guarantors, including allegations of fraud, misrepresentation or violation of any state or federal laws or regulations, arising under, as a result of, or in connection with this Agreement, the Territory or the Franchisee's Seal King Business will be submitted to binding arbitration under the authority of the Federal Arbitration Act. All arbitration hearings will take place exclusively in Minneapolis, Minnesota.

21.2. POWERS OF ARBITRATOR. The authority of the arbitrator(s) will be limited to making a finding, judgment, decision and award relating to the interpretation of or adherence to the written provisions of this Agreement. The arbitrator(s) will not have the authority or right to add to, delete, amend or modify in any manner the terms, conditions and provisions of this Agreement. All findings, judgments, decisions and awards of the arbitrator(s) will be limited to the dispute set forth in the written demand for arbitration, and the arbitrator(s) will not have the authority to decide any other issues. The arbitrator(s) will not have the right or authority to (A) stay the effectiveness of any pending termination of this Agreement; (B) make any award which extends, modifies or suspends any lawful term of this Agreement; or (C) award punitive damages to the Franchisor or the Franchisee or their officers, directors, owners or partners and the Personal Guarantors, and the Franchisor and the Franchisee and their officers, directors, owners or partners, and the Personal Guarantors expressly waive their rights to plead or seek punitive damages. All findings, judgments, decisions and awards by the arbitrator(s) will be in writing and will be final and binding on the Franchisor and the Franchisee. The written decision of the arbitrator(s) will be deemed to be an order, judgment and decree and may be entered as such in any court of competent jurisdiction by either party.

21.3. NO COLLATERAL ESTOPPEL OR CLASS ACTIONS. All arbitration findings, conclusions, orders and awards made by the arbitrator will be final and binding on the Franchisor and the Franchisee and

their officers, directors, governors, managers, owners or partners, and the Personal Guarantors; however, such arbitration findings, conclusions, orders and awards may not be used to collaterally estop either party from raising any like or similar issues, claims or defenses in any other or subsequent arbitration, litigation, court hearing or other proceeding involving third parties or other Franchisees. No party except the Franchisor, the Franchisee, and their officers, directors, governors, managers, owners or partners, and the Personal Guarantors will have the right to join in any arbitration proceeding arising under this Agreement, and, therefore, the arbitrator will not be authorized to permit or approve class actions or to permit any person or entity that is not a party to this Agreement to be involved in or to participate in any arbitration hearings conducted pursuant to this Agreement.

21.4. INJUNCTIVE AND OTHER RELIEF. Notwithstanding Section 21.1 above, the Franchisee recognizes that the Business is one of a large number of Businesses identified by the Marks and similarly situated and selling to the public similar products, and hence the failure on the part of a single franchisee to comply with the terms of its franchise agreement could cause irreparable damage to the Franchisor and/or to some or all other franchisees of the Franchisor. Therefore, it is mutually agreed that in the event of a breach or threatened breach of any of the terms of this Agreement by the Franchisee, the Franchisor shall forthwith be entitled to seek an injunction restraining such breach and/or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining said equitable relief, until such time as a final and binding determination is made by the arbitrators. Similarly, it is mutually agreed that in the event of a breach or threatened breach of any of the terms of this Agreement by the Franchisor, the Franchisee shall forthwith be entitled to seek an injunction restraining such breach and/or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining said equitable relief, until such time as a final and binding determination is made by the arbitrators. The foregoing equitable remedies shall be in addition to, and not in lieu of, all other remedies or rights which the parties might otherwise have by virtue of any breach of this Agreement by the other party. Finally, the Franchisor and its affiliates reserve the right to commence a civil action against the Franchisee or take other appropriate action for the following reasons: to collect sums of money due to the Franchisor or its affiliates; to compel the Franchisee's compliance with trademark standards and requirements to protect the goodwill of the Marks; to compel the Franchisee to compile and submit required reports to the Franchisor; or to permit evaluations or audits authorized by this Agreement.

21.5. PAYMENT OF COSTS AND EXPENSES. The non-prevailing party will pay all costs and expenses, including attorneys' fees, deposition costs, expert witness fees, investigation costs, accounting fees, filing fees and travel expenses actually incurred by the prevailing party in any arbitration or court proceeding arising under, out of, in connection with, or in relation to this Agreement or the Business conducted hereunder, and interest on such costs, expenses, and fees.

SECTION 22

GENERAL PROVISIONS

22.1. APPLICABLE LAW; VENUE AND JURISDICTION. Subject to the Franchisor's rights under the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §1051 et seq.) and the parties' rights under the Federal Arbitration Act, this Agreement and the relationship between the parties shall be governed by and interpreted in accordance with the laws (statutory or otherwise) of the State of Minnesota. The Franchisee waives, to the fullest extent permitted by law, the rights and protections that may be provided through the franchise or business opportunity laws of any state other than Minnesota. This Agreement shall be deemed to be amended from time to time as may be necessary to bring any of its provisions into conformity with valid applicable laws or regulations. Any cause of action, claim, suit or demand allegedly arising from or related to the terms of this Agreement or the relationship of the parties that is not subject to arbitration under Section 21 hereof, shall be brought in the Federal District Court for the District of Minnesota or in Hennepin County District Court, Minneapolis, Minnesota. Both parties hereto irrevocably submit themselves to, and consent to, the jurisdiction of

such courts. The provisions of this Section 22.1 shall survive the termination of this Agreement. The Franchisee is aware of the business purposes and needs underlying the language of this Section 22.1, and with a complete understanding thereof, agrees to be bound in the manner set forth.

22.2. THE FRANCHISOR'S RIGHTS. Whenever this Agreement provides that the Franchisor has a certain right, that right is absolute and the parties intend that the Franchisor's exercise of that right will not be subject to any limitation or review. The Franchisor has the right to operate, administrate, develop, and change the Business System in any manner that is not specifically precluded by the provisions of this Agreement.

22.3. THE FRANCHISOR'S REASONABLE BUSINESS JUDGMENT. Whenever the Franchisor reserves or is deemed to have reserved discretion in a particular area or where the Franchisor agrees or is deemed to be required to exercise its rights reasonably or in good faith, the Franchisor will have satisfied its obligations whenever the Franchisor exercises reasonable business judgment in making its decision or exercising its rights. A decision or action by the Franchisor will be deemed to be the result of reasonable business judgment, even if other reasonable or even arguably preferable alternatives are available, if the Franchisor's decision or action is intended, in whole or significant part, to promote or benefit the Business System generally even if the decision or action also promotes a financial or other individual interest of the Franchisor. Examples of items that will promote or benefit the Business System include enhancing the value of the Marks, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization, and improving the competitive position of the Business System. Neither the Franchisee nor any third party (including, a trier of fact) may substitute its judgment for the Franchisor's reasonable business judgment.

22.4. SEVERABILITY. All provisions of this Agreement are severable and this Agreement will be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein and partially valid and enforceable provisions will be enforced to the extent valid and enforceable. If any applicable law or rule of any jurisdiction requires a greater prior notice of the termination of or refusal to renew this Agreement than is required hereunder or the taking of some other action not required hereunder, or if under any applicable and binding law of any jurisdiction, any provision of this Agreement or any specification, standard or operating procedure prescribed by the Franchisor is invalid or unenforceable, the prior notice or other action required by such law or rule will be substituted for the notice requirements hereof, or such invalid or unenforceable provision, specification, standard or operating procedure will be modified to the extent required to be valid and enforceable. Such modifications to this Agreement will be effective only in such jurisdiction and will be enforced as originally made and entered into in all other jurisdictions.

22.5. WAIVER. The Franchisor and the Franchisee may, by written instrument signed by the Franchisor and the Franchisee, waive any obligation of or restriction upon the other under this Agreement. Acceptance by the Franchisor of any payment by the Franchisee and the failure, refusal or neglect of the Franchisor to exercise any right under this Agreement or to insist upon full compliance by the Franchisee of its obligations hereunder including, without limitation, any mandatory specification, standard or operating procedure, will not constitute a waiver by the Franchisor of any provision of this Agreement. The Franchisor will have the right to waive obligations or restrictions for other franchisees under their franchise agreements without waiving those obligations or restrictions for the Franchisee and, except to the extent provided by law, the Franchisor will have the right to negotiate terms and conditions, grant concessions and waive obligations for other franchisees of the Franchisor without granting those same rights to the Franchisee and without incurring any liability to the Franchisee whatsoever.

22.6. THE FRANCHISOR'S RIGHTS CUMULATIVE. The rights of the Franchisor hereunder are cumulative and no exercise or enforcement by the Franchisor of any right or remedy hereunder will preclude the exercise or enforcement by the Franchisor of any other right or remedy hereunder or which the Franchisor is entitled by law to enforce.

22.7. NOTICES. All notices to the Franchisor will be in writing and will be made by personal service upon a governor or manager of the Franchisor or sent by prepaid registered or certified United States mail addressed to the Franchisor at 21720 Hamburg Avenue, Lakeville, Minnesota, 55044 or such other address as the Franchisor may designate in writing. All notices to the Franchisee will be by personal service upon the Franchisee or any officer, director, governor or manager of the Franchisee, or sent by prepaid registered or certified United States mail addressed to the Franchisee at the Seal King Business office or such other address as the Franchisee may designate in writing, or by delivery to any employee of the Franchisee by a recognized overnight delivery service (such as Federal Express or UPS) which requires a written receipt of delivery from the addressee. Notice by mail is effective upon depositing the same in the mail in the manner provided above, notice by personal service is effective upon obtaining service and notice by overnight delivery service is effective upon delivery by such delivery service.

22.8. ENTIRE AGREEMENT. This Agreement supersedes and terminates all prior agreements relating to the operation of a Seal King Business by the Franchisee in the Territory, either oral or in writing, between the parties and therefore, any representations, inducements, promises or agreements between the parties related to such subject matter, but not contained in this Agreement or not in writing signed by the President or a Vice President of the Franchisor and by the Franchisee will not be enforceable. The preambles are a part of this Agreement, which constitutes the entire agreement of the parties, and there are no other oral or written understandings or agreements between the Franchisor and the Franchisee relating to the subject matter of this Agreement. No modification, change, addition, rescission, release, amendment or waiver of this Agreement and no approval, consent or authorization required by any provision of this Agreement may be made except by a written agreement subscribed to by duly authorized officers, partners or representatives of the Franchisee and the President or a Vice President of the Franchisor. The Franchisor and the Franchisee will not have the right to amend or modify this Agreement orally or verbally, and any attempt to do so will be void in all respects.

22.9. AGREEMENT BINDING ON HEIRS AND ASSIGNS. This Agreement is binding upon the parties hereto and their respective executors, administrators, heirs, assigns and successors in interest.

22.10. JOINT AND SEVERAL LIABILITY. If the Franchisee consists of more than 1 person, their liability under this Agreement will be joint and several.

22.11. HEADINGS; TERMS. The headings of the Sections and the provisions thereof are for convenience only and do not define, limit or construe the contents of such Sections. The term “the Franchisee” as used herein is applicable to one or more individuals, a corporation, a partnership, a limited liability company or other entity, as the case may be, and the singular usage includes the plural, and the masculine usage includes the neuter and the feminine, and the neuter usage includes the masculine and the feminine. References to “the Franchisee,” “assignee” and “transferee” which are applicable to an individual or individuals will mean the principal owner or owners of the equity or operating control of the Franchisee or any such assignee or transferee if the Franchisee or such assignee or transferee is a corporation, partnership, limited liability company or other entity. If the Franchisee consists of more than one individual, then all individuals will be bound jointly and severally by the terms and conditions of this Agreement.

22.12. EFFECT OF WRONGFUL TERMINATION. If either the Franchisor or the Franchisee takes any action to terminate this Agreement or to convert the Franchisee’s Seal King Business to another business, and if such action was taken without first complying with the applicable terms and conditions (including the notice and opportunity to cure provisions) of this Agreement, then such action will not relieve either party of, or release either party from, any of its obligations under this Agreement, and the terms and conditions of this Agreement will remain in full force and effect and the parties will be obligated to perform all terms until such time as this Agreement expires or is terminated in accordance with the provisions of this Agreement and applicable law, as determined by an arbitration or a court of competent jurisdiction.

22.13. TERMS OF OTHER FRANCHISES MAY DIFFER. The Franchisee acknowledges that other franchisees of the Franchisor have or will be granted franchises at different times and in different situations, and further acknowledges that the terms and conditions of such franchises and the resulting franchise agreements may vary substantially in economics, form and in substance from those contained in this Agreement.

22.14. WAIVER OF PUNITIVE DAMAGES.

THE FRANCHISEE AND THE FRANCHISOR AND THEIR AFFILIATES AGREE TO WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO OR A CLAIM FOR ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT IN THE EVENT OF ANY DISPUTE BETWEEN THEM, EACH WILL BE LIMITED TO THE RECOVERY OF ACTUAL DAMAGES SUSTAINED BY IT.

22.15. WAIVER OF JURY TRIAL.

THE FRANCHISOR AND THE FRANCHISEE IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.

22.16. ADDITIONAL TERMS. The Franchisor and Franchisee hereby agree that the following additional provisions (if any) shall govern the Franchisee's operation of the Business and/or the parties relationship:

<Remainder of Page Blank>

Exhibit A

TERRITORY

Territory. The Franchisee's Territory in which Franchisee must operate its Seal King Business, as described in Section 2.1 of the Franchise Agreement, shall, subject to the terms and conditions of the Franchise Agreement, be as set forth below (or as indicated on the attached map):

The Territory is considered fixed as of the date of the Franchise Agreement.

<Remainder of Page Blank, Signatures on Following Page>

IN WITNESS WHEREOF, the Franchisor, the Franchisee and the owners of the Franchisee have respectively signed this Agreement to be effective as of the day and year first above written.

“The Franchisor”

“The Franchisee”

SEAL KING, INCORPORATED

By: _____

By: _____

Its: _____

Its: _____

and

By: _____

Its: _____

PERSONAL GUARANTY

The undersigned owner(s) of the Franchisee and spouse(s) of the Franchisee or its owners (the “Guarantors”), in consideration of the execution of this Franchise Agreement by the Franchisor, individually and jointly agree to be personally bound by each and every condition and term contained in this Franchise Agreement and each agrees that this Personal Guaranty should be construed as though each Guarantor has executed an agreement containing the identical terms and conditions of this Franchise Agreement, and each agrees to become surety and guaranty for the payment of all amounts and the performance of the covenants, terms and conditions in this Franchise Agreement, to be paid, kept and performed by the Franchisee.

If any default should at any time be made by the Franchisee under this Franchise Agreement, then the Guarantors, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to pay to the Franchisor all monies due and payable to the Franchisor, and to comply with all other terms and conditions of this Franchise Agreement, for and on behalf of the Franchisee.

In addition, should the Franchisee at any time be in default on any obligation to pay monies to the Franchisor or any subsidiary or affiliate of the Franchisor, whether for merchandise, products, supplies, furniture, fixtures, equipment or other goods purchased by the Franchisee from the Franchisor or any subsidiary or affiliate of the Franchisor, or for any other indebtedness of the Franchisee to the Franchisor or any subsidiary or affiliate of the Franchisor, then the Guarantors, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to pay all such monies due and payable from the Franchisee to the Franchisor or any subsidiary or affiliate of the Franchisor upon default by the Franchisee. It is further understood and agreed by the Guarantors that the provisions, covenants and conditions of this Personal Guaranty will inure to the benefit of the successors and assigns of the Franchisor.

IN WITNESS WHEREOF, each of the undersigned has signed this Personal Guaranty on the same day and year as the Franchise Agreement was signed.

Owner/Guarantor

Spouse (if applicable)

_____	_____ %	_____	_____ %
_____	_____ %	_____	_____ %
_____	_____ %	_____	_____ %
_____	_____ %	_____	_____ %

EXHIBIT B

List of Current Franchisees

EXHIBIT B
LIST OF CURRENT SEAL KING FRANCHISEES
AS OF DECEMBER 31, 2022

TERRITORY	FRANCHISEE	ADDRESS	PHONE
MINNESOTA			
Anoka County	Blaine Schmit	472 Meadow Lane Somerset, WI 54025	715-247-6073
Blaine	Blaine Schmit	472 Meadow Lane Somerset, WI 54025	715-247-6073
Bloomington, Edina, and Richfield	Cody Ryan	17427 Falcon Ave. Farmington, MN 55024	952-564-9542
Chaska, Eden Prairie, and Victoria	Marcus Halverson Jared Brittenfeldt	1340 McAndrews Blvd. Burnsville, MN 55337	952-707-0900
Eagan	Cole Engstrom Jacob Stewart	21720 Hamburg Ave Lakeville Mn 55044	
Elk River, Sherburne County	Dale Kowalczyk	7292 Lambert Ave NE Otsego, MN 55301	763-494-3493
Hastings, Cottage Grove	Michael Vallevand	2233 Sycamore Tr. Woodbury, MN 55125	651-485-1121
Lakeville, Burnsville and Apple Valley	Cole Engstrom Jacob Stewart	21720 Hamburg Ave Lakeville Mn 55044	
Maple Grove	Marcus Halverson Jared Brittenfeldt	1340 McAndrews Blvd Burnsville, MN 55337	952-707-0900
Owatonna, Southwest MN	Marcus Halverson Jared Brittenfeldt	1340 McAndrews Blvd Burnsville, MN 55337	952-707-0900
Plymouth	Dale Kowalczyk	7292 Lambert Ave NE Otsego, MN 55301	763-494-3493
Rice County	Marcus Halverson Jared Brittenfeldt	1340 McAndrews Blvd Burnsville, MN 55337	952-707-0900
Scott County	Marcus Halverson Jared Brittenfeldt	1340 McAndrews Blvd Burnsville, MN 55337	952-707-0900
Saint Croix County	Chad Schmit	2103 62nd Street Somerset, WI 54025	651-210-1745
Shoreview	Chad Schmit	2103 62nd Street Somerset, WI 54025	651-210-1745
White Bear Lake	Chad Schmit	2103 62nd Street Somerset, WI 54025	651-210-1745
Farmington, Rosemount	Mason Ondich	19248 Castle Ct. Farmington, MN 55024	952-334-2036
Eagan, Mendota Heights	Mason Ondich	19248 Castle Ct. Farmington, MN 55024	952-334-2036
Duluth St. Louis County	Shawn Hopwood Tiffany Hopwood	W 7674 Hwy 70 Spooner, WI 54801	715-416-0471
Wright County	Marcus Halverson Jared Brittenfeldt	1340 McAndrews Blvd Burnsville, MN 55337	952-707-0900
Woodbury	Michael Vallevand	2233 Sycamore Tr. Woodbury, MN 55125	651-485-1121
WISCONSIN			
Eau Claire	Ramish Casey Cassandra Casey	1220 Evans Lane Menomonie, WI 54751	651-380-3982
Shell Lake	Shawn Hopwood Tiffany Hopwood	1800 Swiss Chalet Rd Shell Lake, WI 54871	715-416-0471
Somerset	Chad Schmit & Tanya Schmit	2103 62nd Street Somerset, WI 54025	651- 210-1745

If you buy a Seal King franchise, your contact information may be disclosed to other buyers when you join and leave the system.

EXHIBIT C

List of Former Franchisees

EXHIBIT C
LIST OF FORMER FRANCHISEES
From January 1, 2022 through December 31, 2022

The following former individuals or entities have had one or more SEAL KING Franchise Agreements, terminated, cancelled, not renewed, or have transferred their interests in their Business(es), or have otherwise voluntarily or involuntarily ceased doing business under one or more SEAL KING Franchise Agreements between January 1, 2022 and December 31, 2022.

Mason Ondich	19248 Castle Ct. Farmington Mn 55024	952-334-2036	Sold Business
Dale Kowalczyk	7292 Lambert Ave NE Otsego, MN 55301	763-494-3493	Sold Business (Two Territories)

If you buy a SEAL KING franchise, your contact information may be disclosed to other buyers when you leave the system.

EXHIBIT D

Audited Financial Statements of Franchisor

SEAL KING, INC.

FINANCIAL STATEMENTS TOGETHER WITH

ACCOUNTANT'S AUDIT REPORT

DECEMBER 31, 2022, 2021 AND 2020



LINDA M. MUHLENHARDT, LTD
Certified Public Accountants
www.lmmcpa.net

LINDA M. MUHLENHARDT, CPA, CVA
Certified Public Accountant
Certified Valuation Analyst

Independent Auditor's Report

Board of Directors
Seal King, Inc.
Lakeville, MN

Opinion

I have audited the financial statements of Seal King, Inc., which comprise the balance sheets as of December 31, 2022, 2021 and 2020, and the related statements of income, changes in stockholders' equity, and cash flows for the years then ended, and the related notes to the financial statements.

In my opinion, the accompanying financial statements present fairly, in all material respects, the financial position of Seal King, Inc. as of December 31, 2022, 2021 and 2020, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

I conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). My responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. I am required to be independent of Seal King, Inc. and to meet my other ethical responsibilities, in accordance with the relevant ethical requirements relating to my audits. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Responsibilities of Management for the Financial Statements

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

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Seal King, Inc.'s ability to continue as a going concern.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but not absolute assurance, and therefore is not a guarantee that an audit conducted in accordance with Generally Accepted Auditing Standards (GAAS) will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users made on the basis of these financial statements.

In performing an audit in accordance with GAAS, I:

Exercise professional judgment and maintain professional skepticism throughout the audit.

Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.

Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Sea King Inc.s' internal control. Accordingly, no such opinion is expressed.

Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.

Conclude whether, in my judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Seal King, Inc.'s ability to continue as a going concern for a reasonable period of time.

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

A handwritten signature in black ink, appearing to read "Linda M. Muhlenhardt, LTD". The signature is written in a cursive style and includes a circular mark at the end.

Linda M. Muhlenhardt, LTD
Savage, MN

May 1, 2023

Seal King, Inc.
Balance Sheets
As of December 31, 2022, 2021 and 2020

	2022	2021	2020
ASSETS			
Current Assets			
Checking/Savings	\$100,599	\$31,116	\$65,681
Prepaid Income Tax	5,494	1,792	0
Total Current Assets	106,093	32,908	65,681
Long Term Assets			
Due from Seal King Lakeville, Inc.	0	0	109,098
Total Long Term Assets	0	0	109,098
Fixed Assets			
Fixed Assets			
Right of Use Asset	69,071	0	0
Office Equipment	5,157	5,157	5,157
Equipment	333,741	338,912	328,045
Vehicles	55,920	0	0
Leasehold Improvements	17,625	17,625	17,625
Accumulated Depreciation	(271,503)	(234,562)	(201,756)
Total Fixed Assets	210,011	127,132	149,071
TOTAL ASSETS	\$316,104	\$160,040	\$323,850
LIABILITIES & EQUITY			
Current Liabilities			
Accounts Payable	\$0	\$22,502	\$540
Accrued Payroll Tax	0	0	378
Accrued Minimum Tax	0	0	210
Right of Use Liability	26,587	0	0
Current Portion of Long Term Debt	13,928	12,731	19,448
Total Other Current Liabilities	40,515	35,233	20,576
Long Term Liabilities			
Right of Use Liability	28,084	0	0
Equipment Note Wells Fargo	11,738	16,993	22,018
Equipment Note Gem Seal	0	14,951	22,954
Note Payable - Bank	43,642	0	0
Equipment Note JD Financial	0	0	35,986
Less Current Portion of Long Term Debt	(13,928)	(12,731)	(19,448)
Total Long Term Liabilities	69,536	19,213	61,510
Equity			
Common Stock (10,000 shares authorized, 1,000 shares issued)	1,000	1,000	1,000
Additional Paid In Capital	17,537	17,537	17,537
Retained Earnings	87,057	223,228	100,366
Distributions	(141,915)	(505,906)	(136,818)
Net Income	242,374	369,735	259,680
Total Equity	206,053	105,594	241,765
TOTAL LIABILITIES & EQUITY	\$316,104	\$160,040	\$323,851

See Accompanying Notes to Financial Statements

Seal King, Inc.

Statement of Operations and Stockholder's Equity For the Years Ending December 31, 2022, 2021 and 2020

	Jan-Dec22	Jan-Dec21	Jan-Dec20
Ordinary Income/Expense			
Income			
Sales	\$1,550,778	\$1,361,302	\$1,061,911
Franchise Commissions	305,698	345,078	262,154
Total Income	<u>1,856,476</u>	<u>1,706,380</u>	<u>1,324,065</u>
Cost of Goods Sold			
Materials & Trucking	1,268,912	1,018,910	787,233
Sales Tax Expense	83,968	76,839	79,907
Total COGS	<u>1,352,880</u>	<u>1,095,749</u>	<u>867,140</u>
Gross Profit	<u>503,596</u>	<u>610,631</u>	<u>456,925</u>
Expense			
Advertising	19,681	15,577	22,100
Bank Service/Credit Card Charges	6,619	182	834
Charitable Contributions	100	300	200
Depreciation Expense	36,976	38,036	31,803
Entertainment	962	0	0
Equipment Rental	389	131	440
Insurance	14,039	10,844	7,413
Interest	2,105	1,306	8,242
Lease Expense	14,400	0	0
Legal Fees	6,714	8,099	7,633
Meals	137	2,360	1,476
Office Supplies	11,351	232	0
Payroll Processing	1,025	360	209
Payroll Taxes	5,598	2,999	4,183
Printing and Reproduction	6,186	4,639	1,552
Professional Fees	15,943	19,452	19,147
Rent	0	28,800	28,800
Repairs	23,961	21,950	17,426
Salary-Officer	35,000	35,000	49,000
State Minimum Tax	220	295	210
Salaries and Wages	24,921	0	0
Telephone	5,894	4,169	2,429
Utilities	12,958	13,413	11,647
Total Expense	<u>245,179</u>	<u>208,144</u>	<u>214,744</u>
Net Ordinary Income	258,417	402,487	242,181
NonTaxable PPP Loan	0	0	17,499
Gain (Loss) on Sale of Asset	35	(4,764)	0
State PTE income Tax	(16,078)	(27,988)	0
Net Income	<u>242,374</u>	<u>369,735</u>	<u>259,680</u>
Balance of Stockholder's Equity, Beginning	87,057	223,228	100,366
Shareholder's Distributions	(141,915)	(505,906)	(136,818)
Balance of Stockholder's Equity, Ending	<u>\$187,516</u>	<u>\$87,057</u>	<u>\$223,228</u>

See Accompanying Notes to Financial Statements

Seal King, Inc.
Statement of Cash Flows
Years Ending December 31, 2022, 2021 and 2020

	<u>Jan - Dec 22</u>	<u>Jan - Dec 21</u>	<u>Jan - Dec 20</u>
OPERATING ACTIVITIES			
Net Income	\$242,374	\$369,735	\$259,680
Adjustments to reconcile net income to net cash provided by operations:			
Depreciation	36,976	38,036	31,803
Prepaid Income Tax	(3,702)	(1,792)	0
Due from Seal King Lakeville, Inc.	0	109,098	(51,929)
Payroll Liabilities	0	(378)	378
Accounts Payable	(22,502)	21,962	(2,100)
Right of Use Liability	26,587	0	0
Accrued Minnum Tax	0	(210)	0
Net cash provided by Operating Activities	<u>279,733</u>	<u>536,451</u>	<u>237,832</u>
INVESTING ACTIVITIES			
Right of Use Asset	(69,071)	0	0
Equipment Purchases and Sales, net	(50,781)	(16,096)	(92,709)
Net cash provided by Investing Activities	<u>(119,852)</u>	<u>(16,096)</u>	<u>(92,709)</u>
FINANCING ACTIVITIES			
Right of Use Liability	28,084	0	0
Equipment Note Wells Fargo	(5,255)	(5,025)	(4,309)
Equipment Note Bank	43,642	0	(51,848)
Equipment Note Gem Seal	(14,954)	(8,003)	(8,495)
Equipment Note JD Financial	0	(35,986)	35,986
Shareholder Distributions	(141,915)	(505,906)	(136,818)
Net cash provided by Financing Activities	<u>(90,398)</u>	<u>(554,920)</u>	<u>(165,484)</u>
Cash at beginning of period	31,116	65,681	86,042
Cash at end of period	<u>\$100,599</u>	<u>\$31,116</u>	<u>\$65,681</u>

Supplemental information:

Pass Thru Entity Taxes Paid	\$20,000	\$27,988	\$0
Interest Paid	\$2,105	\$1,306	\$8,242

See Accompanying Notes to Financial Statements

SEAL KING, INC.
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2022, 2021 AND 2020

(See Accountant's Audit Report)

NOTE A - NATURE OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Nature of Business - Seal King, Inc. began operations March 1, 1997. The corporation was established in Minnesota and provided the service of asphalt seal coating and sold franchise interests. The corporation had split off its seal coating operations as of July 1st 2003, it continues with the sale of franchises and servicing the franchise operations. Seal King, Inc. also sells seal coating materials to the franchisees. The corporation's office is located in Lakeville, Minnesota.

Basis of Accounting- Transactions are recorded on an accrual basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. The accompanying financial statements are prepared on the accrual basis of accounting.

Revenue Recognition Franchise revenue is recognized as required by the Accounting Standards providing provisions for Accounting for Franchise Fee Revenue. Accounting standards require that franchise fee revenue be recognized only when all material services or conditions relating to the sale have been substantially performed or satisfied by the franchisor agreement. Franchisees are billed monthly for materials and seal coating purchased. Commissions due from franchisees are billed monthly.

Accounts Receivable

All amounts invoiced for product and commissions were collected during 2022, 2021 and 2020 and thus no accounts receivable remain open at December 31, 2022, 2021 and 2020. Company policy provides for an allowance for doubtful accounts, which is based upon review of outstanding receivable, historical collection information and existing economic conditions. Normal accounts receivable are due net 30 days from invoice date. Receivables past due more than 90 days are considered delinquent. Company policy is that delinquent receivables are written off based on results of collection efforts. Recoveries of amounts previously written off are recorded as reductions of bad debt expense when received.

Franchise Operations - Franchisor will provide advertising materials to franchisees. There are currently 24 franchise operations in the metro area of Minneapolis and St. Paul, Minnesota and Wisconsin.

Cash and Cash Equivalents - The Corporation considers all highly liquid cash investments with an average maturity of three months or less.

Use of Estimates - The preparation of the financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Fixed Assets - Fixed assets are valued at cost and are depreciated on the straight line method over their estimated useful lives of the individual assets. Right of use assets were recorded as of January 1st 2022 at \$79,000.

Advertising - The Company expenses advertising costs as incurred. Advertising costs for the years ending December 31, 2022, 2021 and 2020 were \$19,681, \$15,577 and \$22,100; respectively.

Inventory - Inventory is valued at the lower of cost or market value. Obsolete items are removed from inventory as the items are determined to be of no market value. The inventory balances at December 31, 2022, 2021 and 2020 were \$0.

SEAL KING, INC
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2022, 2021 AND 2020

(See Accountant's Audit Report)

(Continued)

Concentration Risk– All revenues are generated from the existing 24 franchisees. Risk assessed due to this customer concentration. Seal coating material purchases are concentrated with a local supplier. A concentration risk would arise if the supplier would be unable to fulfill product orders.

Income Taxes - Seal King, Inc. is recognized as an S corporation under the Internal Revenue Code. In lieu of corporate income taxes, the stockholder of an S corporation is taxed on the corporation's taxable income. Therefore, no provisions or liability for federal income taxes has been included in these financial statements.

MN Pass Through Entity Tax - The shareholder has elected to pay MN income taxes at the entity level. State income taxes deducted as a federal expense were in the amount of \$16,078.

Leases

The Company assesses whether a contract is or contains a lease, at the beginning of a contract. The Company recognizes a Right of Use ("ROU") asset and a corresponding lease liability with respect to all lease arrangements in which the lessee, at the commencement of the lease, with the following exceptions: (i) the Company has elected not to recognize the ROU assets and liabilities for leases where the total lease term is less than to equal to 12 months, or (ii) for leases of low value. The payments for short-term leases or leases of low value are recognized in the statement of operations and comprehensive loss on a straight-line basis over the lease term. The ROU asset is initially measured based on the present value of the lease payments, lease payments made at or before the commencement date, and any initial direct costs. They are subsequently measured at cost less accumulated depreciation and impairment losses. The ROU asset is depreciated over the shorter of the lease term or the useful life of the underlying assets. The ROU asset is subject to testing for impairment if there is an indicator for impairment. The lease liability is initially measured at the present value of lease payments that are not paid at the commencement date, discounted by using the rate implicit in the lease. If this rate cannot be readily determined, the Company uses its incremental borrowing rate. Lease payments include fixed payments less any lease incentives, and any variable lease payments where variability depends on an index or rate. When the lease contains an extension or purchase option that the Company considers reasonably certain to be exercised, the cost of the option is included in the lease payments. ROU assets are included in property and equipment, and the lease liability is presented as a separate line in the statement of financial position. Variable lease payments that do not depend on an index or rate are not included in the measurement of the ROU asset and lease liability. The related payments are recognized as an expense in the period in which the triggering event occurs and are included in the statement of operations and comprehensive loss. The Company did not incur any variable lease payments and there were no leases with residual value guarantees or no leases not yet commenced to which the Company is committed.

NOTE B -RELATED PARTIES

The Company had an operating lease with the stockholder's LLC (Hamburg Ave LLC) during the twelve months ending December 31, 2022, 2021 and 2020 (see Note C). The corporation (Seal King, Inc.) is not a guarantor of any of the debt of Hamburg Ave, LLC. The building debt of Hamburg Ave LLC is secured by property and is personally guaranteed by the owner. The sole stockholder of Seal King, Inc. is the sole member of Hamburg Avenue, LLC.

SEAL KING, INC
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2022, 2021 AND 2020

(See Accountant's Audit Report)

NOTE C - LEASES AND LEASE COMMITMENTS

The Corporation is leasing the office and warehouse facility located in Lakeville, Minnesota. Terms of the lease are 3 years beginning January 1, 2022 and ending December 31, 2024. The property is leased from a related party.

A summary of rent expense for office and warehouse facilities for the years ended December 31, 2022, 2021 and 2020 is as follows:

Years 2021 and 2020 Rent paid to a related party	<u>\$28,800</u>
Year 2022	
Operating Lease paid to related party	\$14,400
Operating Cash Flow Lease	\$28,800

The corporation has renewed the lease to December 31, 2024.

<u>Due in the Year Ending December 31, 2023</u>	
Right of Use Liability	\$28,084
Right of Use Current Liability	<u>\$13,928</u>
Total Right of Use Liability	<u>\$42,012</u>

NOTE D- LONG TERM DEBT:

Note with a bank, monthly payments of \$852 including interest at 4.5% per annum. The outstanding balance as of December 31, 2022 is \$43,642. The note is secured by equipment. The note has a 5 year term and matures September 23, 2027.

Note with a bank, monthly payments of \$493 including interest of 4.5% per annum. The outstanding balance at December 31, 2021 is \$11,738. The note is secured by equipment. The note commenced on December 31, 2019. The note has a 5 year term and matures February 1st, 2025.

The following is a summary of the current (due in one year or less) and the long term (due in more than one year) portions of long-term obligations as of December 31, 2022:

Current Portion	\$13,928
Long-Term Portion	<u>41,542</u>
Total Debt	<u>\$55,380</u>

SEAL KING, INC
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2022, 2021 AND 2020

(See Accountant's Audit Report)

(Continued)

The annual debt service requirements are as follows:

Year	Principal	Interest	Total
2023	\$13,928	\$2,207	\$16,135
2024	14,569	1,566	16,135
2025	9,714	1,001	10,715
2026	9,647	575	10,222
2027	7,522	138	7,660
	\$55,380	\$5,487	\$60,867

NOTE E – EVALUATION OF SUBSEQUENT EVENTS

The Company has evaluated subsequent events through May 1, 2023, the date which the financial statements were available to be issued.

EXHIBIT E

List of State Administrators/Agents for Service of Process

STATE	STATE ADMINISTRATOR/AGENT	ADDRESS
Minnesota	Commissioner of Commerce Minnesota Department of Commerce	85 7 th Place East, Suite 280 St. Paul, MN 55101-2198
Wisconsin	Commissioner of Securities	Department of Financial Institutions Division of Securities 201 W Washington Avenue, Suite 300 Madison, WI 53703

EXHIBIT F

State Specific Addenda

MINNESOTA ADDENDUM TO
SEAL KING, INCORPORATED
DISCLOSURE DOCUMENT

The following applies to franchisees and franchisees subject to Minnesota statutes and regulations. Item numbers correspond to those in the main body.

Item 5 and Item 7.

Your obligation to pay the initial franchise fee will be deferred until we have completed our pre-opening obligations to you under the Franchise Agreement and you have opened your business.

Item 6.

NSF checks are governed by Minnesota Statute 604.113, which puts a cap of \$30 on service charges.

Item 13.

1. We will indemnify you for damages for which you are held liable in any proceeding arising out of the use of the “SEAL KING” mark, provided you have used the Mark properly and have notified Seal King of any claim against you within 10 days of your knowledge of the claim. We will have sole control of any litigation involving the Marks. Our indemnification obligation will not apply to any franchisee residing outside the state of Minnesota who purchases a franchise to be located outside of Minnesota.

Item 17.

1. With respect to franchises governed by Minnesota law, we will comply with Minn. Stat. Sec. 80C.14, Subds. 3, 4 and 5 which require, except in certain specified cases, that a franchisee be given 90 days’ notice of termination (with 60 days to cure) and 180 days’ notice for non-renewal of the franchise agreement.

2. Minnesota Statutes, Section 80C.21 and Minnesota Rule 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce any of franchisee’s rights as provided for in Minnesota Statutes, Chapter 80C, or franchisee’s rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

MINNESOTA ADDENDUM TO
SEAL KING, INCORPORATED
FRANCHISE AGREEMENT

In consideration of the execution of the Franchise Agreement, Franchisor and Franchisee agree to amend the Franchise Agreement as follows:

1. Section 5.1 of the Franchise Agreement is amended as follows:

The Franchisee's obligation to pay the initial franchise fee will be deferred until the Franchisor has completed its pre-opening obligations to the Franchisee under the Franchise Agreement and the Franchisee has opened its business.

2. Section 6.5 of the Franchise Agreement is amended as follows:

NSF checks are governed by Minnesota Statute 604.113, which puts a cap of \$30 on service charges.

3. Notwithstanding anything to the contrary in the Franchise Agreement, Minnesota law provides franchisees with certain termination and nonrenewal rights. As of the date of this Franchise Agreement, Minn. Stat. Sec. 80C.14, Subd. 3, 4 and 5 require, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for nonrenewal of the Franchise Agreement.

4. Notwithstanding anything to the contrary in Sections 8.6 and 21.4 of the Franchise Agreement, those Sections shall not be construed as limiting Franchisor's obligation to post a bond, as required by a court of competent jurisdiction, in connection with Franchisor's pursuit of injunctive relief under the terms of the Franchise Agreement.

5. Minnesota Statutes, Section 80C.21 and Minnesota Rule 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce any of franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

6. Construction. In all other respects, the Franchise Agreement will be construed and enforced with its terms.

Franchisor's Initials

Franchisee's Initials

EXHIBIT G
Franchisee Questionnaire

FRANCHISEE QUESTIONNAIRE

As you know, Seal King, Incorporated and you are preparing to enter into a Franchise Agreement for the operation of one SEAL KING® Professional Sealcoating franchise. The purposes of this Questionnaire are to determine whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate or misleading, to be certain that you have been properly represented in this transaction, and to be certain that you understand the limitations on claims you may make by reason of the purchase and operation of your franchise. **You cannot sign or date this Questionnaire the same day as the Receipt for the Franchise Disclosure Document but you must sign and date it the same day you sign the Franchise Agreement and pay your initial franchise fee.** Please review each of the following questions carefully and provide honest responses to each question. If you answer “No” to any of the questions below, except for questions 11(C) through 17, please explain your answer on the back of this sheet.

- Yes ___ No ___ 1. Have you received and personally reviewed the Franchise Agreement and each Attachment or schedule attached to it?
- Yes ___ No ___ 2. Have you received and personally reviewed the Franchise Disclosure Document we provided?
- Yes ___ No ___ 3. Did you sign a receipt for the Franchise Disclosure Document indicating the date you received it?
- Yes ___ No ___ 4. Do you understand all the information contained in the Franchise Disclosure Document and Franchise Agreement?
- Yes ___ No ___ 5. A) Have you reviewed the Franchise Disclosure Document and Franchise Agreement with a lawyer?
- Yes ___ No ___ B) Have you discussed the benefits and risks of operating a SEAL KING® Professional Sealcoating franchise with your professional advisor?
- Yes ___ No ___ C) Did you discuss the benefits and risks of operating a SEAL KING® Professional Sealcoating franchise with an existing SEAL KING® Professional Sealcoating franchisee?
- Yes ___ No ___ 6. Do you understand the risks of operating a SEAL KING® Professional Sealcoating franchise?
- Yes ___ No ___ 7. Do you understand the success or failure of your franchise will depend in large part upon your skills, abilities and efforts and those of the person you employ, as well as many factors beyond your control such as weather, competition, interest rates, the economy, inflation, labor and supply costs, lease terms, and the marketplace?
- Yes ___ No ___ 8. A) Do you understand all disputes or claims you may have arising out of or relating to the Franchise Agreement must be brought in the judicial district in which our principal place of business is located, if not resolved informally?

- Yes___ No ___ B) Do you understand the Franchise Agreement provides you can only collect compensatory damages on any claim under or relating to the Franchise Agreement and not any punitive, exemplary or multiple damages?
- Yes___ No ___ 9. Do you understand that you must successfully complete our initial training program?
- Yes___ No ___ 10. Do you understand that we do not have to sell you a franchise or additional franchises or consent to your purchase of existing franchises?
- Yes___ No ___ 11. Do you understand that the Franchise Agreement contains the entire agreement between us and you concerning the franchise for a SEAL KING® Professional Sealcoating, meaning any prior oral or written statements not set out in the Franchise Agreement will not be binding?
- Yes___ No ___ 12. Do you understand that the Initial Franchise Fee is fully earned upon receipt and is non-refundable?
- Yes___ No ___ 13. A) Do you understand that we will not approve your purchase of a SEAL KING® Professional Sealcoating franchise if you are a suspected terrorist or associated directly or indirectly with terrorist activity?
- Yes___ No ___ B) Is it true that you are purchasing a SEAL KING® Professional Sealcoating franchise with a just intent, and not for the purpose of violating any anti-terrorism law or for obtaining money to be contributed to a terrorist organization?
- Yes___ No ___ 14. Has any employee or other person speaking on our behalf made any statement or promise regarding the costs involved in operating a SEAL KING® Professional Sealcoating franchise that is not contained in the Franchise Disclosure Document or that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
- Yes___ No ___ 15. Has any employee or other person speaking on our behalf made any statement or promise regarding the actual, average or projected profits or earnings, the likelihood of success, the amount of money you may earn, or the total amount of revenue a SEAL KING® Professional Sealcoating franchise will generate, that is not contained in the Franchise Disclosure Document or that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
- Yes___ No ___ 16. Has any employee or other person speaking on our behalf made any statement or promise or agreement, other than those matters addressed in our Franchise Agreement, concerning site selection, advertising, marketing, media support, marketing penetration, training, support service or assistance that is contrary to, or different from, the information contained in the Franchise Disclosure Document?

You understand that Seal King, Incorporated is acting in reliance on the truthfulness and completeness of your responses to the questions above in entering into the Franchise Agreement with you. **YOU ACKNOWLEDGE AND AGREE THAT IN THE EVENT THAT ANY DISPUTE ARISES, THIS**

QUESTIONNAIRE SHALL BE ADMISSIBLE AS EVIDENCE IN ANY LEGAL ACTION, AND YOU HEREBY WAIVE, TO THE FULLEST EXTENT PERMISSIBLE UNDER THE LAW, ANY OBJECTION TO SUCH ADMISSION OF THIS QUESTIONNAIRE.

NOTE: IF THE FRANCHISEE IS A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY, EACH OF ITS OWNERS MUST EXECUTE THIS ACKNOWLEDGEMENT.

FRANCHISEE

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

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

EXHIBIT H

State Effective Dates & Receipts

State Effective Dates

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

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

State	Effective Date
Minnesota	_____, 2023
Wisconsin	_____, 2023

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

Receipt

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Seal King, Incorporated (“SKI”) offers you a franchise, SKI must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, SKI or our affiliate in connection with the proposed franchise sale. Iowa and New York require that SKI give you this disclosure document at the earlier of the first personal meeting or 10 business days (or 14 calendar days in Iowa) before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If SKI does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and those state administrators listed on Exhibit E.

The franchisor is Seal King, Incorporated located at 21720 Hamburg Avenue, Lakeville, MN 55044. Its telephone number is (952) 469-6639.

Issuance Date: May 3, 2023

SKI’s franchise seller involved in offering and selling the franchise to you is Ben Nelson, 21720 Hamburg Avenue, Lakeville, MN 55044, (952) 469-6639. Information for any other franchise sellers (with address and telephone number), will be provided to you separately before you sign a franchise agreement.

SKI authorizes the respective state agencies identified on Exhibit E to receive service of process for SKI in the particular state.

I have received a disclosure document dated May 3, 2023, that included the following Exhibits:

- A. Franchise Agreement
- B. List of Current Franchisees
- C. List of Former Franchisees
- D. Audited Financial Statements of Franchisor
- E. List of State Administrators/Agents for Services of Process
- F. State Specific Addenda
- G. Franchisee Questionnaire
- H. State Effective Dates & Receipts

Date: _____
(Do not leave blank)

Signature of Prospective Franchisee

Print Name

Copy for Franchisee

Receipt

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- F. State Specific Addenda
- G. Franchisee Questionnaire
- H. State Effective Dates & Receipts

Date: _____
(Do not leave blank)

Signature of Prospective Franchisee

Print Name

Copy for Seal King, Incorporated

Please sign and date both copies of this receipt, keep one copy (the previous page) for your records, and mail one copy (this page) to the address listed on the front page of this disclosure document or send to Benjamin Nelson by email to ben@sealking.com or by fax to (952) 469-3103.