

**BIO**  **WEEP**®

FRANCHISE DISCLOSURE DOCUMENT



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As a BIOSWEEP® franchisee, you will offer odor removal and indoor air and surface decontamination services using BIOSWEEP® technology.

The initial investment necessary to begin operation of a BIOSWEEP Franchise ranges from \$137,823.68 to \$162,303.68. This includes \$119,828.68 to \$120,028.68 that must be paid to the franchisor or affiliates.

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, 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 to you. To discuss the availability of disclosures in different formats, contact Mark Brodowicz at 160 W. Carmel Drive, Suite 204, Carmel, IN 46032, or at 1-317-525-0982, [m.brodowicz@biosweep.com](mailto:m.brodowicz@biosweep.com).

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 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](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

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

Issuance Date: March 17, 2022

## 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:

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

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

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

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

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

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

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

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

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

### Some States Require Registration

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

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 Risk(s) to Consider About *This* Franchise**

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

1. **Out-of-State Dispute Resolution**. The franchise agreement requires you to resolve disputes with the franchisor by litigation only in Indiana. Out-of-state litigation may force you to accept a less favorable settlement for disputes. It may also cost more to litigate with the franchisor in Indiana than in your own state.
2. **Mandatory Minimum Payments**. You must make minimum royalty or advertising payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.

Certain states may require other risks to be highlighted. If so, check the “State Specific Addenda” pages for your state.

## FOR THE STATE OF MICHIGAN

THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU.

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) The term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.
- (e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
  - (i) The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.
  - (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

If our most recent financial statements are unaudited and show a net worth of less than \$100,000.00, you may request that we arrange for the escrow of initial investment and other funds you paid until our obligations, if any, to provide real estate, improvements, equipment, inventory, training or other items included in the franchise offering are fulfilled. At our option, a surety bond may be provided in place of escrow.

THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENFORCEMENT BY THE ATTORNEY GENERAL.

Any questions regarding this notice should be directed to:

State of Michigan  
Department of Attorney General  
Consumer Protection  
Attention: Franchise Section  
525 West Ottawa Street  
G. Mennen Williams Building, 1<sup>st</sup> Floor  
Lansing, MI 48933  
(517) 335-7567

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## **ITEM 1 - THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS, AND AFFILIATES**

### **THE FRANCHISOR**

The name of the franchisor is Phocatox Technologies, LLC. In this Franchise Disclosure Document, Phocatox Technologies, LLC is referred to as “we”, “us”, “our”, or “Phocatox.” In this Franchise Disclosure Document, the Franchisee is referred to as “you”, “your”, “Franchisee”, “Franchise Owner” or the person or legal entity who is buying the BIOSWEEP franchise (such “legal entity” includes a corporation, partnership, LLC or other type of organization and its owners, officers and directors). We do business under the name “Phocatox.” We do not do business under any other names. We maintain our principal business address at 160 W. Carmel Drive, Suite 204, Carmel, IN 46032. We are an Indiana limited liability company organized on February 16, 2007.

### **OUR BUSINESS**

We are in the odor removal and indoor air and surface decontamination business. We developed and manufacture a specialized device called the BIOSWEEP to eradicate odors from fire smoke, cigarette smoke, skunk oil, animal urine, sewage and other odor nuisances. The BIOSWEEP is also used for surface decontamination of viruses and bacteria. The BIOSWEEP is based on an advanced version of a technology called photocatalytic oxidation (PCO).

We first introduced the BIOSWEEP in 2007. We developed operational procedures to deploy the BIOSWEEP in residential homes, multifamily housing, commercial buildings and automobiles.

We began selling the BIOSWEEP Service Provider Franchise in October 2009. We sell the BIOSWEEP device exclusively to our BIOSWEEP Service Provider franchises who provide BIOSWEEP services to their own residential and commercial customers within protected geographic territories.

In 2015, we expanded our business by offering BIOSWEEP services directly to the insurance industry for fire smoke odor removal on insurance claims. We offer nationwide services to insurance companies for residential, commercial and industrial fire losses. This business program was formerly known as the BIOSWEEP Restoration Services Program but has been changed to the BioSweep Service Provider Insurance Program and is governed by the BioSweep Service Provider Insurance Program Agreement (“IPA”), which is Franchise Agreement, Exhibit D. The IPA was developed with the input from our franchisee network through our Franchise Advisory Council. Each franchisee will be required to sign the IPA when signing the Franchise Agreement, or sign a document that states the franchisee has opted out of participating. If a franchisee opts out of participation in the IPA, that franchisee will not be eligible to receive national account business, which can be assigned to other franchisees, or we can choose to do it ourselves, whether or not the work will be performed in a franchisee’s Exclusive Territory. We process all insurance losses through our 24/7 national call center. We directly manage large commercial fire and catastrophic losses and include field service participation from our BIOSWEEP Service Provider franchisees. We directly assign residential losses to our BIOSWEEP Service Provider franchises who perform these services on our behalf.

We franchise the right to provide odor removal and indoor air and surface decontamination services using our technology, proprietary operational methods, trademarks, procedures and sales and marketing techniques we have developed over the past 14 plus years.

### **OUR OTHER BUSINESS ACTIVITIES**

We do not have any other business activities and we have conducted no other business, nor have we offered franchises in any other line of business.

## **OUR PREDECESSORS AND PARENTS**

We have no Predecessors or Parents.

## **OUR AFFILIATES**

We have no affiliates that are selling franchises or that will provide products or services to you.

## **OUR AGENT FOR SERVICE OF PROCESS**

Our agents for service of process in all states are listed on Exhibit A.

## **DESCRIPTION OF THE EXCLUSIVE BIOSWEEP SERVICE PROVIDER FRANCHISE**

Each BIOSWEEP franchise offers odor removal and indoor air and surface decontamination services to individuals and businesses using methods and techniques specified by Phocatox within a specified area. These services are performed by using the Phocatox BIOSWEEP process and equipment, which equipment bears the distinctive BIOSWEEP trademark. Your primary markets may consist of many different market segments including but not limited to: multi-family housing and property management; residential real estate and home inspection; automotive vehicle dealerships; trauma/crime scene cleanup sites; cleaning and restoration contractors; schools and athletic facilities; commercial property including hotels, restaurants and office space; and healthcare facilities.

Phocatox will also operate a National Accounts Program, and contract with businesses such as, but not limited to, insurance companies and government entities to provide service on a nationwide basis. The IPA, Exhibit D to the Franchise Agreement will enable you to opt into the program. The program is voluntarily. Phocatox, may however, contract with any national account inside or outside your Exclusive Territory, as more fully set forth in Item 12 in this Disclosure Document.

You must conduct your BIOSWEEP Franchise business (1) with the BIOSWEEP equipment you are required to purchase from us, and (2) in accordance with our confidential Operations Manual and other instructional materials as we may create subsequent to your franchise grant. The BIOSWEEP equipment uses an advanced form of PCO to produce simultaneous and inter-related forms of oxidation (purified trivalent oxygen and vapor-phase hydrogen peroxide) to destroy airborne and surface contaminants within an indoor space that is temporarily uninhabited and sealed-off during treatment.

The Franchise Agreement grants you the right to use the trademarks, trade name, marketing strategies, and promotional materials in the operation of the BIOSWEEP Franchise business. In addition, we, from time-to-time at our discretion, commission third-party testing to demonstrate the efficacy of the BIOSWEEP equipment as to certain targets, such as the pathogens Methicillin-resistant Staphylococcus aureus (commonly known as “MRSA”) and Clostridium difficile (commonly known as “C. diff”). You are entitled to the use of these testing results as well to assist your marketing efforts to the subject markets.

Recent media attention to:

- the health effects of toxic mold,
- the outbreak of bacterium such as Methicillin-resistant Staphylococcus aureus (MRSA) and Clostridium difficile (C. diff), and

- the increase in chronic respiratory diseases such as asthma

resulted in an increased awareness of indoor air quality and the need for increased surface disinfection in homes, commercial buildings, schools, and hospitals. The indoor air quality industry (“IAQ”) (1) is a developing industry (not a mature, settled marketplace), (2) is marked by several new entrants (none of whom have secured a substantial market share and some of whom - - for example, carpet and duct cleaners - - do not possess in-depth IAQ or infection control expertise), and (3) has not adopted a clear performance standard.

Current competition to the BIOSWEEP Franchise business comes primarily from ozone-generator and chemical fogging equipment in the hands of restoration and commercial cleaning contractors and other maintenance personnel.

- There are several competitors that offer odor removal services similar to ours using ozone and/or chlorine dioxide.
- Several companies offer fogging equipment and related services.
- There is a wide range of odor removal products (chemicals) on the market.

#### **REFERRAL PROGRAM FOR EXISTING FRANCHISEES**

We offer a program whereby you can receive a referral fee in cash or credit for referring a third party franchise prospect to us, who ultimately becomes a BIOSWEEP Franchisee. You must only present a prospect with our informational brochure and to identify the prospect to our sales staff. You must not act as our agent or franchise broker and are instructed not to provide any information to prospects other than our information brochure. If you are entitled to receive a referral fee, notice will be given to the prospective franchisee receiving the Franchise Disclosure Document, together with the same type of information reported in ITEMS 2 and 3 of this Franchise Disclosure Document about you. We retain the right in our sole discretion to modify or terminate this referral program at any time with or without notice.

#### **INDUSTRY SPECIFIC REGULATIONS**

A BIOSWEEP business is subject to numerous laws and governmental regulations that apply to businesses generally. You must comply with all local, state and federal laws that apply to your ownership and operation of your BIOSWEEP Franchise. We recommend that you check on the existence of any regulations in your area. We do apprise you of the following. First, BIOSWEEP operations are generally subject to occupational safety and health (OSHA) regulations, specifically including respiratory protection measures. We provide guidance as to compliance with this and other applicable federal laws in the BIOSWEEP Operations Manual. Second, we are aware that some states (including Arizona, Arkansas, California, Florida, Georgia, Michigan, and Texas) may require businesses providing air quality services to obtain a contractor’s license.

#### **ITEM 2 - BUSINESS EXPERIENCE**

##### **OFFICERS AND MANAGING MEMBERS**

##### **MARK BRODOWICZ**

Mr. Brodowicz is an Officer, Managing Member and Co-Founder of Phocatox (February 2007- present). He was Vice President of Bio-Sys, Inc., Austin, TX, a manufacturer of microbial cleaning products (January 1996-March 2010). Mr. Brodowicz is a minority owner of the Western Carolina Biosweep franchise located in Matthews, North Carolina (January 2013-present).

## **CHRISTOPHER FOYE**

Mr. Foye has been a Phocatox Officer from February 2007-present and a Managing Member from August 2018 - present. He has also been a Facilities Engineer at Eli Lilly & Co., Indianapolis, IN from January 2015-present.

## **HARPER JONES**

Mr. Jones is an Officer, Managing Member and Co-Founder of Phocatox (February 2007- present).

## **BILL MCDANIEL**

Mr. McDaniel is an Officer and Managing Member of Phocatox (May 2007 - present). At Heritage Environmental Services, Indianapolis, IN, he held many positions between May 1991 and May 2013, and was President and Chief Operating Officer ( from June 2007-May 2013).

## **TODD SCHNITZIUS**

Mr. Schnitzius is an Officer, Managing Member and Co-Founder of Phocatox (February 2007 - present). He is also President of TAS Services, Inc., Indianapolis, IN (July 2004-present), a management consulting firm.

## **ITEM 3 - LITIGATION**

No litigation is required to be disclosed in this Item, except as stated below:

Phocatox, LLC v. Jerry D. Wiersig, Todd M. Hoffman, Bioclean Remediation, LLC (AL) and Bioclean Remediation, LLC (OK) Case No. 1:18-cv-1298, Case No. 1:18-cv-1298, Southern District of Indiana, filed April 27, 2018.

Franchisor filed suit against a former franchisee and a former licensee for federal trademark infringement, common-law trademark infringement, contributory trademark infringement, breach of the franchise agreement, conspiracy and Indiana and federal unfair competition. The legal action was prompted by Franchisor learning in the first quarter of 2018 of actions taken by a former franchisee which were potentially in violation of the post-termination competition restrictions in the franchise agreement and which also included trademark violations. Defendants attempted to move the case out of Indiana; however, the court denied that motion. The defendants have answered the complaint without making counterclaims or other claims against Franchisor. The case has proceeded through discovery. Dispositive motions were filed by both parties and these motions failed to conclude the case. Therefore, the matter was prepared for trial. A trial has been set for the second quarter of 2022. Attempts at resolution, will be made, but in the event these fail, the case will proceed to trial.

PurAyr, LLC v. Phocatox Technologies, LLC, et al., Case No. CL16001405-00 (Rockingham County, VA); Case No. 5:16-cv-00047 United States District Court for the Western District of Virginia

Knowing that we had grounds for a lawsuit against it and one or more of its principals, a former franchisee/sub-licensor formed a new company and filed a preemptive lawsuit against us and our counsel, asserting claims of defamation, tortious interference with contract and business expectancies, and common law and statutory business conspiracy, related to a letter our counsel wrote stating the fact that a competing product the new company developed was not properly certified for sale in Canada. The above-captioned lawsuit, together with a motion for preliminary injunction, (a motion for which plaintiffs have taken no further action), was filed on May 27, 2016. We filed various technical and procedural motions. We have also filed counterclaims for breach of non-disclosure agreements (including trade-secret misappropriation), breach of fiduciary duties, tortious

interference with contracts, tortious interference with business expectancies, business conspiracy and trademark infringement. In August 2016, we moved to remove the action to the United States District Court for the Western District of Virginia, Case No. 5:16-cv-00047. In late 2016, the case was remanded to state court based on the federal court's interpretation of the timeliness of the removal, decided on an issue of first impression. As a result of the remand, the Federal Case No. 5-16-cv-0047 was terminated and the Rockingham County, VA Case No. CL16001405-00 is the only case that remains. Dispositive motions may be filed to move the case forward, however, the parties have made attempts to resolve the matter but have not yet been successful.

#### **ITEM 4 – BANKRUPTCY**

No bankruptcy information is required to be disclosed in this Item.

#### **ITEM 5 – INITIAL FEES**

In consideration for the license granted in Section 1, the Franchise Owner agrees to pay the Initial Franchise Fee, and to purchase the initial equipment and supplies described below in Part B.

A. Initial Franchise Fee. The Initial Franchise Fee of \$55,000 shall be paid in a lump sum in U.S. funds and is in payment for administrative and other expenses we incur in granting this franchise and territory to you and for our lost or deferred opportunity to franchise others. It is fully earned and nonrefundable, except, as we state in the Franchise Agreement:

1) If, you die, or you become physically or mentally disabled to the extent that you cannot pursue the operation of a BIOSWEEP® franchise under this Agreement, we will refund the full initial franchise fee paid to us if death or disability occurs before we have expended time and money to train you. If death or disability occurs after you have completed training, but before you open for business, the franchise fee will be refunded minus \$5,000 to reimburse us for the costs involved to grant you the franchise and provide training. Once you begin operations, the initial franchisee fee has been fully earned and is not refundable for any reason.

2) In the unlikely event you are unable to successfully complete training, after the initial training period, or at least one further training period, and it is our belief that you will not be able to follow the BIOSWEEP® System we have developed, the initial franchise fee will be refunded minus \$5,000 to reimburse us for the costs involved to grant you the franchise and provide training.

B. Initial Purchase of BIOSWEEP Machines and Related Equipment and Supplies. The Franchise Owner shall place a binding purchase order with Phocatox upon signing this Agreement for the eight (8) BIOSWEEP Model 900 and/or Model 1100 machines, and one (1) VictoryElectrostatic Sprayer as is set forth in Exhibit B, such number being determined at the signing of this Agreement, based on the schedule in Exhibit B. The purchase price for each BIOSWEEP machine is Six Thousand Five Hundred Ninety Five Dollars (\$6,595) plus sales tax where applicable. The purchase price for the Victory Electrostatic Sprayer is Four Thousand Two Hundred Seventy Nine Dollars 00/100 (\$4,279) plus sales tax where applicable. Such purchase prices shall be paid in full at such time as the machines, electrostatic sprayer (and the safety and testing equipment and application chemicals listed below in this Part B and the Operations Manual) have been received and inspected at the Franchise Owner's location in the United States (freight and insurance paid by Phocatox) and the Initial Training (see Section 4, Part J below) has been scheduled. When the Franchise Owner places the purchase order for the BIOSWEEP machines and electrostatic sprayer, the Franchise Owner shall also place a binding purchase order for the appropriate safety and testing equipment and Phocatox application chemicals in an amount to reasonably stock the Franchise Owner for 3 months of operation, the purchase price of which will be at Phocatox's standard prices, currently \$6,422.68 for safety equipment and \$367 for chemicals. The Franchise Owner acknowledges that it is Phocatox's policy to mark up the price for the equipment and supplies that it sells to the Franchise Owner so as to return to Phocatox such profit as Phocatox deems reasonable.

There is an additional cost for freight, to be paid to us, for which you are responsible. The cost of freight for one BIOSWEEP machine ranges from \$125 to \$150 in the continental U.S. For the eight units you must purchase, the cost of shipping will range from \$1,000 to \$1,200.

If the Franchise Agreement is terminated before you begin operations, and you have already purchased the machines and related equipment and supplies you are required to purchase from us, upon return of all the items you have purchased we will refund the amount you paid for those items, but we will not refund the shipping costs.

## ITEM 6 – OTHER FEES

### OTHER FEES

NAME OF FEE	AMOUNT	DUE DATE	REMARKS
Royalty Fee <sup>1</sup>	See footnote 2 below.	Within 20 days of the previous calendar month.	You may select any payment date for any month, so long as it is within such first 20 days.
Training Fees <sup>1</sup>	We do not charge for start-up training for up to 4 persons. Subsequent training, if requested, is charged at then current rates set by us (currently \$350 per person per day).	Immediately upon receipt of invoice as to subsequent training	One-time start-up training at our, or at our discretion, at your location for up to 4 persons is at no extra charge. As to any subsequent training requested by you (i.e., for a new hire, etc.) or refresher training programs or seminars we offer or require, you must pay our then current standard training fee (currently \$350 per person per day). You must pay for all travel, meals and lodging costs for your attendees.
Chemicals <sup>1</sup>	See “Remarks”	Immediately upon receipt of invoice	You must purchase from us BIOSWEEP Surface Defense, Phocatox brand Post Treatment Fragrances and Clorox 360 Disinfectant. BIOSWEEP Surface Defense concentrate costs approximately \$240 per gal., the fragrances are \$22 (8oz.) and the Clorox 360 is \$105 per case of 4 one gallon containers. Depending on your actual usage, the chemicals will need to be replenished quarterly or sooner. These fees are paid to us and are refundable. You are able to petition us to allow you to purchase chemicals from an alternate supplier, which we will approve if the supplier meets our qualifications (see Franchise Agreement Section 3, Part C.9 and Part D).
Insurance Coverage (as a back-up if you do not put	Cost of the insurance, plus interest on the monies we	Immediately upon receipt of invoice	If you fail to maintain the insurance required by the BIOSWEEP Franchise Agreement, we may obtain the required insurance and charge you the cost of the insurance, interest on the monies we advance and a

coverage in place)	advance and a reasonable fee		reasonable fee for our efforts. These amounts are not refundable.
(1)Renewal Fee <sup>1</sup> ; (2)Additional Exclusive Territory Reservation Fee	The fee for each renewal is \$5,000. The fee to reserve additional Exclusive Territory is equal to 15% of the estimated then current initial franchise fee for such area.	(1)Before renewal period begins (2) When you make known to us your election to reserve additional Exclusive Territory	See Section 12 as to the fee to reserve additional Exclusive Territory that is contiguous or near your initial Exclusive Territory. These fees are not refundable.
Transfer Fee <sup>1</sup>	\$5,000.00	At the time of transfer	Upon transfer, you or your personal representative must pay a Transfer Fee in lieu of an Initial Franchise Fee. If the transfer is to a corporation wholly owned by you, or to your spouse or child, no Transfer Fee will be charged.
Interest on Late Payments <sup>1</sup>	The lesser of: (i) 12% per annum; or (ii) the maximum rate of interest permitted by law.	Immediately upon receipt of invoice	Although each failure to pay monies when due is an Event of Default, to encourage prompt payment and to cover the costs involved in processing late payments, if any payment under the BIOSWEEP Franchise Agreement or any other agreement between us and you is overdue for any reason, you must pay to us, on demand, in addition to the overdue amount, any insufficient funds (NSF) charges we incur and interest on the overdue amount from the date it was due until paid equal to the lesser of: (i) 12% per annum; or (ii) the maximum rate of interest permitted by law.
Late Charge <sup>1</sup>	5% of the amount past due	Immediately upon receipt of invoice	You must pay a late charge for each payment overdue to cover our administrative costs in dealing with the late payment. This is in lieu of interest.
Audit Fee <sup>1</sup>	Actual cost of audit	Immediately upon receipt of invoice	See footnote 3.
Indemnification <sup>1</sup>	Actual cost to us	Immediately upon receipt of invoice	You must reimburse us if we are held liable for claims from the operation of your BIOSWEEP Franchise business (including costs to defend).
Enforcement Costs (including reasonable attorneys' fees and court costs) <sup>1</sup>	Actual cost to us	Immediately upon receipt of invoice	If take action to remedy your failure to pay when due any monies owed under your Franchise Agreement or submit when due any reports, information or supporting records, or for any failure otherwise to comply with your Franchise Agreement, you must reimburse us for all of the Enforcement Costs we incur (including reasonable attorney fees).
Additional BIOSWEEP	The current standard charge	Upon receipt of equipment	You may purchase additional BIOSWEEP machines based on your business judgment as to the needs of your



Machine Purchase	(current charge is \$6,595 per BIOSWEEP)	and invoice	operations. The costs to purchase additional machines are not generally refundable. There may be circumstances on a case by case basis when may purchase back the machines from you.
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<sup>1</sup> This fee is payable to us and, except as otherwise stated is not refundable.

<sup>2</sup> Each month you must pay a “Royalty Fee” to us based on the hourly usage of BIOSWEEP Equipment. You are required to report to us the usage readings on the BIOSWEEP units for purposes of calculating the “Royalty Fee”. The Royalty Fee will be calculated as follows:

- Initial Calendar Year of Agreement: No Royalty for the first 3 months. Then \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$1,875
- Second Calendar Year of Agreement: \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$3,000
- Third Calendar Year of Agreement: \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$3,500
- Forth Calendar Year of Agreement: \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$4,000
- Fifth Calendar Year of Agreement: \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$4,500
- Beyond the Fifth Calendar Year: \$1.45 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$5,215. These amounts will then increase annually by 3%.

Cumulative Annual Minimum: If at the end of each year, the cumulative royalty paid based on monthly hours of use is less than the Cumulative Annual Minimum, then Franchisee shall pay the difference between the cumulative hourly royalty and the Cumulative Annual Minimum. If Year 1 is less than a full year, Cumulative Annual Minimum is prorated.

Equipment use hours for Insurance work and retreats are to be included in the royalty calculation.

<sup>3</sup>The Franchise Agreement permits us to audit your BIOSWEEP equipment and your books, records and tax returns at any reasonable time during normal business hours with prior written notice. The audit is at our expense unless it discloses that you have underpaid your royalty payment by more than 5% for the period covered by the audit. In that event, you must reimburse us for reasonable expenses for the cost of the audit.

#### **UNIFORMITY**

The expenses in this Item 6 are uniform for persons currently offered a Franchise.

#### **PAYMENT SCHEDULE**

All required monthly payments must be submitted to us by the 20<sup>th</sup> day of each month. All other amounts owed to us are due as specified above. If no time is specified, these payments are due upon receipt of our invoice. All monthly payments must be effectuated by online payment via credit card or electronic check.

#### **ITEM 7 – ESTIMATED INITIAL INVESTMENT**

##### **YOUR ESTIMATED INITIAL INVESTMENT**

EXPENSE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Initial Franchise Fee <sup>1</sup>	\$55,000	Lump Sum	On signing the Franchise Agreement	Us
Training Expense <sup>2</sup>	\$1,000 to \$7,500	As Incurred	Before Opening or as statements for expenses are received	Third Parties
Initial BIOSWEEP Equipment	\$57,039 based on initial quantity of 8 BIOSWEEP machines @\$6,595 each and Victory Electrostatic Sprayer at \$4,279	Lump Sum	Upon receipt of your shipment of your initial BIOSWEEP equipment order.	Us
Freight for BIOSWEEP Machines	\$1,000-\$1,200	As Incurred	When machines are shipped before opening	Us
Safety Equipment <sup>3</sup>	\$6,422.68	Lump Sum	Upon receipt of your shipment of your initial BIOSWEEP equipment order	Us
Chemicals <sup>4</sup>	\$367	Lump Sum	Upon receipt of your shipment of your initial BIOSWEEP equipment order	Us
Insurance <sup>5</sup>	\$2,000 to \$4,000	Annual Lump Sum or Quarterly Installments	Before launch or quarterly.	Insurance Agency (See footnote 5)
Printing and Vehicle Signage <sup>6</sup>	\$500 to \$2,000	Lump Sum	Before launch	Suppliers
Office Equipment <sup>7</sup>	\$2,000 to \$3,000	Lump Sum	Before launch	Suppliers
Legal Review <sup>8</sup>	\$1,500 to \$5,000	Lump Sum	Before launch	Attorney
Licenses and Permits <sup>9</sup>	\$20 to \$300	Lump Sum	Before Launch	Governmental Agencies
Initial Marketing <sup>10</sup>	\$2,000 to \$3,500	As Incurred	As required	Trade Association/ Suppliers
Misc. Supplies <sup>11</sup>	\$300	Lump Sum	Before launch	Suppliers
Office Space <sup>12</sup>	Rent (\$2,250 to \$4,500)	See footnote	See footnote 12	Lessor; Utility

	for first 3 months) One time security deposit (\$750 to \$1,500) One time utility deposits (\$200)	12		company
Additional Funds <sup>13</sup>	\$5,000 to \$10,000	As Incurred	During the first 3 months of operation	Third Parties
Business Vehicle <sup>14</sup>	\$475	Monthly	During the first 3 months of operations	Third Party
TOTAL	\$137,823.68 to \$162,303.68 <sup>15</sup>			

**1 Initial Franchise Fee** See ITEM 5 INITIAL FRANCHISE FEE for a description of the Initial Franchise Fee.

**2 Training Expenses** The estimated expenses are for travel, food and lodging while you, and one or more of your employees are trained in Indianapolis. You may also incur payment of wages to one or more employees who are present for the training period. If training takes place at your location, this expense will be greatly reduced, since you will not have to pay for travel, food and lodging, but you may still have to pay for employee wages.

**3 Safety Equipment** You must have the mandatory safety equipment before operating the BIOSWEEP equipment. Safety equipment includes the following equipment which must be purchased from us: two ATI PortaSens C-16 Monitors @ \$1,699 each (including one ATI sensor each), one Hygiena ATP System Sure Plus @ \$1,599, one humidifier carry bag (\$9.95), one box Hygiena UltraSnaps @ \$249, one Hygrometer ExTech RH 490 @\$395, personal protective equipment consisting of one Case of Coverall (\$118.75), Nitrile Glove Pack (\$9.29), 3M Mask Filter Cartridge (\$24.95), Flashlight (\$64.95), 3M Full face Respirator(\$125.00, four (4) Can filters @ \$575.00 ea. (\$2,300) and eight BS Prefilter socks at no cost. These fees are paid to us and are usually refundable. Your training includes PortaSens and Hygiena operation, and respiratory protection. See ITEM 11 – FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING for more information on safety training.

**4 Chemicals** You must purchase from us BIOSWEEP Surface Defense®, and Phocatox brand Post Treatment Fragrances. BIOSWEEP Surface Defense® concentrate costs approximately \$240 per gallon, and the fragrances are \$22 (8 oz.) each. You must also purchase from us Clorox 360 Disinfectant, which cost \$105 for a case of 4 one gallon containers. Depending on your actual usage, the chemicals will need to be replenished quarterly or sooner. These fees are paid to us and are refundable.

**5 Insurance** As discussed in ITEM 8 and Section 6 of the Franchise Agreement, you must carry certain specified insurance with us. Phocatox offers an exclusive franchisee insurance program in conjunction with an AM Best A XV rated carrier offering combined Commercial General Liability (Occurrence), Contractors Pollution (Occurrence or CM) and a Consultants Errors and Omissions (Claims Made) policy with \$1,000,000 per occurrence, \$2,000,000 aggregate limits with a \$2,500 deductible. This program was underwritten specifically for the work done by BIOSWEEP franchisees. In addition, the insurance program provides ancillary lines of coverage for Property, Auto and Workers Compensation. Rates may vary based upon actual number of franchise owner's covered vehicles (auto) and number of employees (workers compensation). This exclusive program is administered and managed for Phocatox by Gregory & Appel Insurance, Indianapolis, Indiana.

**6 Printing, Vehicle Signage & Clothing** We will provide you our trademarks, logos and marketing materials including brochures, promotional flyers and business card templates customized with your local contact information. You may also download generic versions of all marketing materials from our website. There is no additional charge to you for these customized materials from us or for you to download or use these generic materials. You, at your own expense, must have these materials printed locally. The cost of printing will vary dependent upon your specific selection criteria but should generally cost approximately \$300 to \$500 for initial inventory including business cards. We will provide you with a BIOSWEEP automotive vinyl decal or magnetic sign package that you may select for use on your own vehicles. The cost for these vinyl decals or magnetic signs will vary slightly dependent upon vehicle type but should generally cost approximately \$200 for most types of vehicles. We also offer a vehicle wrap package that costs approximately \$1,900 installed on most vehicles including the Ford Transit Connect van. These costs are paid to suppliers, when incurred, before beginning business and are usually not refundable. We also offer embroidered shirts and other accessories for your business. The average cost for an embroidered golf shirt is \$26.00 and may be ordered from a link on our website.

**7 Office Equipment** Office Equipment consists of a laptop computer, portable printer, phone, office furniture, voice mail, fax machine, and office supplies amounting to a range of \$2,000 to \$3,000. You can expect initial cash outlays to be lower if the items can be leased rather than purchased. We recommend using small business financial software such as Intuit QuickBooks Pro (\$200) that enables you to generate and print customer invoices and track expenses.

**8 Legal Review** We estimate that the attorneys' fees, publication fees, filing fees and other costs will total \$1,500 to \$5,000 for incorporation, compliance with your state's fictitious or assumed name statute and review of this Franchise Disclosure Document, depending on the scope of legal services rendered. These fees may vary from state to state depending on each state's laws and the prevailing rate of attorneys' fees. These costs are paid to attorneys, newspapers and governmental agencies, are not refundable and usually incurred before beginning business.

**9 Licenses and Permits** Local, municipal, county and state regulations vary on what licenses and permits are required to operate a BIOSWEEP Franchise. Classification is generally commercial cleaning and janitorial services. The cost of a business license, if required in your locale, may vary but is generally \$20 to \$150. These fees are paid to governmental authorities, when incurred, before beginning business and are usually not refundable.

**10 Initial Marketing** We require you to join your state or local chapter or affiliate of the National Apartment Association (NAA) within 120 days of opening your BIOSWEEP Franchise. The cost of membership varies slightly from chapter to chapter but averages \$500 annually for an associate/vendor membership. Each NAA local chapter or region often hosts an annual trade show. Exhibitor fees are approximately \$700 to \$1,200 for a basic booth. These fees are paid to the local NAA chapter and are usually non-refundable.

**11 Misc. Supplies** The supplies include warm steam vaporizers, and other miscellaneous supplies. The approximate cost is \$300. These supplies may be purchased from various suppliers and are usually refundable.

**12 Office Space** The size of business facility you need will depend upon the size of your business area, the number of BIOSWEEP machines you have, and your business plan. If you are starting out with 8 BIOSWEEP machines, we suggest that, at least initially, your business office be housed in your personal residence. If you do not use your residence as your initial office, a small office may be leased at a cost that should range from \$750 to \$1500 per month, depending on your location. Rent would be negotiated with, and paid to, a landlord. You will likely be required to make a security deposit, generally equal to

one month's rent (\$750 to \$1,500). You will likely be required to make a deposit for utility services (estimated at \$200). If you lease office space, you may incur build-out expenses, but we recommend you not make such investment, at least not initially. We do not require you to garage your vehicle. BIOSWEEP machines (8 machines, safety equipment, and supplies) may be stored in your office space, requiring approximately 36 square feet of space.

**13 Additional Funds** The estimate for working capital is \$5,000 to \$10,000. This figure is based on an owner-operated model and does not include any salaries for employees, nor does it include any payments to you during the start-up period. Working capital requirements will be a function of your decisions regarding nearly every aspect of your BIOSWEEP Franchise, for example, the size of the operation and many other expenses that you decide to incur. In making the estimate of "Additional Funds", we relied on the experience of two of our principals as owners and operators of a prior service business that is the basis of the business model for the BIOSWEEP Franchise offered to you; our experience researching, developing, testing and manufacturing the BIOSWEEP technology; our experience developing and field testing operational procedures, marketing strategies and promotional materials; and, extensive contact and service calls with BIOSWEEP customers in the field.

We do not guarantee that you will not have greater start-up expenses than these estimates, or that you will not need more operating funds than these estimates.

**14 Business Vehicle** BIOSWEEP machines and all supplies and safety equipment may be transported in most mini vans, small pickups, SUVs or the Ford Transit Connect van. We do not require a separate vehicle for your BIOSWEEP business. However, if you choose to have a separate vehicle, we estimate the cost of the vehicle (and sales tax and licensing) at \$475 per month.

**15 Franchisor Finance** As we state in ITEM 10 below, neither we nor any affiliate offers financing for your initial investment, we only offer financing for additional BIOSWEEP machines under the terms stated in ITEM 10.

## **ITEM 8 – RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

### **GENERAL SPECIFICATIONS FOR BUSINESS OPERATIONS**

While we allow you to offer other services that are not competitive with the services capable of being performed through the BIOSWEEP equipment (and we allow such other services to be offered and delivered on terms and specifications you establish), we do require that as a BIOSWEEP franchisee that you offer all of the services we specify and that you do so in accordance with our requirements, as included in the Operations Manual and as otherwise established and published by us from time-to-time. These requirements include, but are not limited to, the requirement that all equipment, chemical and certain other supplies, and advertising materials used by you in your BIOSWEEP Franchise must meet our specifications, as established from time-to-time. The reason for these requirements is safety, to build and maintain the identification and goodwill of the BIOSWEEP business by the public, and to ensure the satisfaction of BIOSWEEP customers. Our requirements, in addition, may include minimum standards for safety, quality, appearance, size, color, design, material, and other characteristics.

### **PURCHASES FROM US OR OUR DESIGNEE**

#### **BIOSWEEP EQUIPMENT**

You must purchase from us and use in your BIOSWEEP Franchise the BIOSWEEP machines, as referenced above. We are the only supplier of the BIOSWEEP equipment. We manufacture the BIOSWEEP equipment and

charge you a price that reflects our cost and a profit margin. In the year ending December 31, 2021, our revenue from the sale of BIOSWEEP equipment and royalties through franchised or similar arrangements was \$950,635 or 26.6% of our total revenues. If your franchise term expires and is not renewed or if you desire to sell your BIOSWEEP equipment to a third party, we have a right to buy the BIOSWEEP equipment from you at a price to be determined pursuant to the table below. This price schedule assumes the BIOSWEEP machines are in good operating condition, normal wear and tear excepted.

**BIOSWEEP Model 900/1100 Purchase Price Table for Re-Purchases by Phocatox**

<b>Price Level #</b>	<b>Category I Number of Days (after original date of delivery of the subject BIOSWEEP machine)<sup>1</sup></b>		<b>Category II Number of Operating Hours The subject BIOSWEEP machine has been used<sup>2</sup></b>	<b>Purchase Price of the subject BIOSWEEP machine to be paid by Phocatox if purchase right exercised</b>
1	1 – 180 days	And	Less than 500 hrs.	\$ 3,500.00
2	181 – 360 days	And	Less than 1,200 hrs.	\$ 3,000.00
3	361 – 720 days	And	Less than 3,200 hrs.	\$ 2,500.00
4	721 – 1080 days	And	Less than 5,200 hrs.	\$ 2,000.00
5	> 1080 days	And	Less than 7,000 hrs.	\$ 1,500.00
6	(Any number of days)	And	More than 7,000 hrs.	\$ 1,000.00

**Footnotes:**

<sup>1</sup>If the subject BIOSWEEP machine exceeds “Category I Number of Days” for a certain “Price Level”, then move to the next Price Level, regardless of the “Number of Operating Hours” for the subject machine.

<sup>2</sup>If the subject BIOSWEEP machine exceeds “Category II Operating Hours” for a certain “Price Level”, then move to the next Price Level, regardless of the “Number of Days” for the subject machine.

Your purchase of the BIOSWEEP Model 900/1100 will represent approximately 32-38% of your total purchases in connection with the establishment of your BIOSWEEP Franchise.

**TREATMENT CHEMICALS AND SAFETY EQUIPMENT**

You must purchase from us the following chemical products: BIOSWEEP Surface Defense®, Phocatox Post Treatment Fragrances, as needed and Clorox 360 Disinfectant. We are the only supplier of Biosweep Surface Defense and Phocatox Post Treatment Fragrances, which are a customized blend prepared for us by a third-party manufacturer. We price these products to cover our cost of distribution and to provide us a profit margin. The Clorox product is manufactured by The Clorox Company and we sell this to the franchise at cost. The purchase of these three products is refundable.

You must purchase the ATI PortaSens II Gas Leak Detector and Hygiene ATP System Sure Plus from us. We are your only supplier of this safety equipment. We purchase this product from a third-party manufacturer. We price this product to cover our cost of distribution, the cost of value-added services we provide with respect to this equipment (see immediately below), and to provide us a profit margin (which currently includes a 16% discount from our current supplier). The reason for this purchase requirement is quality assurance and inventory control. We validate the manufacturer's calibration settings and proper device function prior to your use in operation. The purchase of this product is refundable.

We derive a small amount of revenue from the sale of treatment chemicals and safety equipment. In the

year ending December 31, 2021, our revenue from the sale of these products through franchised or similar arrangements was \$18,421, or less than 1% of our total revenues of \$3,579,234. Your purchase of this product will represent approximately 4.4 % of your total purchases in connection with the establishment of your business and less than 1% in the operation of your business. We estimate that the purchase of all required purchases and related to all purchases and leases made while operating the business will be approximately 15-20%.

#### **TOTAL FRANCHISOR REVENUE FROM SALES OF BIOSWEEP MACHINES, CHEMICALS & SAFETY EQUIPMENT**

For year ended December 31, 2021, we derived \$386,338 in revenues from the sale of BIOSWEEP machines, chemicals and safety equipment, or 10.8% of our total revenues. We have no owners or officers who own an interest in any third party supplier from whom you may be required to purchase items.

#### **PURCHASES FROM ALTERNATIVE SUPPLIERS**

##### **BIOSWEEP MODEL 900/1100 AND VICTORY ELECTROSTATIC SPRAYER**

We do not permit you to purchase an alternative product to the BIOSWEEP machines.

#### **TREATMENT CHEMICALS**

We do not permit you to purchase necessary chemical supplies for the operation of the BIOSWEEP machines or BIOSWEEP Surface Defense® products from an alternative supplier. However, you are allowed to purchase all other treatment chemicals, not used in the operation of BIOSWEEP machines or BIOSWEEP Surface Defense®, such as mold removal chemicals, surface cleaners, etc. from any source. No approval is required.

#### **SAFETY EQUIPMENT**

We do not permit you to purchase an alternative product to the ATI PortaSens II Gas Leak Detector or Hygiena ATP System Sure Plus. The reason for this is uniformity and governmental regulatory compliance as our operational and safety procedures are predicated on the specific use of this device.

The purchase of all other safety equipment is allowed from any source. No approval is required.

There are no other restrictions on sources of products and services.

#### **INSURANCE**

You must purchase your business insurance through us. We offer an exclusive franchisee insurance program in conjunction with an AM Best A XV rated carrier offering combined Commercial General Liability (Occurrence), Contractors Pollution (Occurrence or CM) and a Consultants Errors and Omissions (Claims Made) policy with \$1,000,000 per occurrence, \$2,000,000 aggregate limits with a \$2,500 deductible. This program was underwritten specifically for the work done by BIOSWEEP franchisees. In addition, the insurance program provides ancillary lines of coverage for Property, Commercial Automobile and Workers Compensation. Rates may vary based upon actual number of franchise owner's covered vehicles (auto) and number of employees (workers compensation). This exclusive program is administered and managed for Phocatox by Gregory & Appel Insurance, Indianapolis, Indiana. Franchise Owner is responsible for making all insurance premium payments directly to Gregory & Appel.

#### **ADVERTISING**

You must submit to us, for our approval, all materials to be used for local advertising, unless they have been approved before or they consist only of materials we have provided. All materials containing Proprietary Marks must comply with the specifications stated in the Operations Manual and in accordance with Section 4, Part I of the Franchise Agreement.

**PURCHASING OR DISTRIBUTION COOPERATIVES**

There are currently no purchasing or distribution cooperatives that you must join or in which you must participate.

We have negotiated purchase arrangements with some suppliers, including price terms, for the benefit of our Franchisees. We do not receive rebates from any of your required purchases or leases.

We do not discriminate among our Franchisees based upon a particular Franchisee's use of an approved supplier.

We do not provide material benefits to you based on your purchase of particular products or services or use of particular suppliers. The Franchise Agreement requires you to make these purchases.

**ITEM 9 – FRANCHISEE'S OBLIGATIONS**

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

<b>Obligation</b>	<b>SECTION IN AGREEMENT<sup>1</sup></b>	<b>ITEM IN FRANCHISE DISCLOSURE DOCUMENT</b>
a. Site selection and acquisition/lease	Not Applicable	ITEM 7
b. Pre-opening purchases/leases	Section 2, Part A	ITEMS 5, 7, and 8
c. Site development and other pre-opening requirements	Section 4, Part I; Section 2, Part A	ITEMS 5, 7, and 11
d. Initial and ongoing training	Section 4, Part J	ITEMS 5, 6, 7, and 11
e. Opening	Not Applicable	ITEM 7
f. Fees	Section 2	ITEMS 5, 6 and 7
g. Compliance with standards and policies/operating manuals	Section 3, Parts A, C.2 (and Part C in general)	ITEMS 8, 11, 14, 15, and 16
h. Trademarks and proprietary information	Section 4	ITEMS 13 and 14
i. Restrictions on products/services offered	Section 4, Part L	ITEMS 8 and 16
j. Warranty and customer service requirements	Not Applicable	ITEM 11
k. Territorial development and sales quotas	Section 2, Part F; Section 3, Part A	ITEM 12



l. Ongoing product/service purchases	Section 3, Part C.3 and C.5	ITEMS 6, 8, and 16
m. Maintenance, appearance, and remodeling requirements	Not Applicable	Not Applicable
n. Insurance	Section 6	ITEMS 6, 7, and 8
o. Advertising	Section 4, Part I	ITEMS 7, 8, and 11
p. Indemnification	Section 6	ITEM 6
q. Owner's participation/management/staffing	Section 4, Part J	ITEMS 7 and 15
r. Records and reports	Section 4, Parts M through P	ITEM 6
s. Inspection and audits	Section 3, Part E; Section 4, Part M	ITEMS 6 and 17
t. Transfer	Section 9	ITEMS 6 and 17
u. Renewal	Section 8	ITEMS 6 and 17
v. Post-termination obligations	Section 12	ITEM 17
w. Non-competition covenants	Section 12, Part B; Section 4, Part L	ITEM 17
x. Dispute resolution	Section 14, Part D	ITEMS 6 and 17

<sup>1</sup> Unless otherwise stated, all references are to the BIOSWEEP Franchise Agreement attached as Exhibit C.

## **ITEM 10 – FINANCING**

We do not offer direct or indirect financing for your Initial Franchise Fee or initial equipment order. We do not assist in providing financing for you. We do not guarantee any notes or financial obligations you may incur in setting up and operating your Franchise. We do offer in-house equipment financing for additional BIOSWEEP machine purchases after your Initial Equipment Order has been completed. Financing terms are for 24, 30 or 36 fixed monthly payments at 5.00% APR until paid in full. A 10% down payment plus freight expense are required to be paid upon receipt of goods. If you choose to finance for 24, 30 or 36 months, then we will finance 90% and none of the freight. If we finance additional BIOSWEEP machine purchases after your Initial Equipment Order has been completed, we will hold the Promissory Note (the “Note”), and will not sell, assign or discount any part of it to a third party. Our security for the Note will be the BIOSWEEP machine you purchase. There are no provisions in the Note that will require you to waive defenses or other legal rights, or that bar you from asserting a defense against us as the lender, except that jurisdiction and venue for any related legal action will be in the state courts in Hamilton County, IN. The Note requires you as a franchise owner to be jointly and severally liable with your franchise company. No other or further guarantees are required. The Note does not include a pre-payment penalty. A default on the Note will cause you to forfeit the security, which is the equipment that you purchased and we financed, and will limit a provision in the Franchise Agreement Section 3 C 1 (d)(ii) that includes a repurchase price chart. Instead of we, as your lender paying the price in the chart, the amount will be reduced to \$1.00. A copy of the Note is attached to this franchise disclosure document as Exhibit C1.

## **ITEM 11 – FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

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

## FRANCHISE AGREEMENT

### MANDATORY OBLIGATIONS BEFORE OPENING OF THE BIOSWEEP FRANCHISE

After the BIOSWEEP Franchise Agreement is signed and before opening your BIOSWEEP Franchise, we will provide you the following assistance and services under your BIOSWEEP Franchise Agreement:

(a) **Phocatox Supplied Equipment and Supplies.** Sell you the BIOSWEEP machines, Victory 3 Electrostatic Sprayer, ATI PortaSens Gas Detector & Monitor, Hygiena ATP System Sure Plus, safety and equipment, can filters and the BIOSWEEP Surface Defense®, BIOSWEEP Post Treatment Fragrances as needed. (Section 2, Part A of the Franchise Agreement)

(b) **Operations Manual; Lists, Forms and Schedules.** We will provide you our Operations Manual. Included in the Operations Manual, among other items, are a list of required equipment, supplies and materials and other items necessary to operate your BIOSWEEP Franchise and brochures and various operation forms, for example, customer service agreements and job site checklists. We will also make available to you a schedule of items that we recommended be purchased from third-party suppliers. (Section 5, Part I of the Franchise Agreement)

(c) **Use of Trademarks.** Permit you to use, in accordance with our requirements, the BIOSWEEP trademarks and the BIOSWEEP system of doing business. (Section 4 and Section 5, Part E of the Franchise Agreement)

(d) **Initial Training.** We provide, at our cost and at our location, Initial Training for up to 4 Trainees. Details of Initial Training are described below under the heading **TRAINING PROGRAM**. (Section 5, Part H of the Franchise Agreement).

(e) **Website, Website Listing and Email Addresses.** For so long as we maintain our website, we will provide a link and listing page for your BIOSWEEP Franchise on our website located at [www.biosweep.com](http://www.biosweep.com). We will provide you with a private biosweep.com email address that you may use at your discretion. We will also provide you a localized BIOSWEEP web page on our BIOSWEEP website that can be modestly customized. There is no additional cost to you for website, web hosting, website listing or email addresses with us. (Section 5, Part A of the Franchise Agreement)

### LENGTH OF TIME BETWEEN FIRST PAYMENT AND OPENING OF FRANCHISE

Your first payment to us is due upon signing your Franchise Agreement, placement of your BioSweep equipment order and scheduling of your required initial training. Your second payment to us is due upon the delivery of the BIOSWEEP machines and safety equipment. BIOSWEEP Franchisees typically commence operations immediately after Initial Training is complete. It typically takes two to four weeks to ship equipment and arrange training once you sign our Franchise Agreement. Factors that may delay opening your business, which can take place as soon as you are trained and have received the equipment, could include delays in arranging your financing, delivery of equipment, getting your insurance policy issued, printing of sales and marketing materials and vehicle signage.

We do not get involved in site selection. We approve the exclusive territory that you present to us. You can locate the franchised business anywhere in your exclusive territory. You can operate the business from your home. If you operate from your home, unless it is in your exclusive territory, which it does not have to be, you can only perform the business services, and advertise within your exclusive territory.

## MANDATORY OBLIGATIONS DURING OPERATIONS

The obligations we will perform during the operation of your BIOSWEEP Franchise are as follows as long as you are not in default under your BIOSWEEP Franchise Agreement:

(a) **Continuation of Certain Obligations.** We will continue providing the assistance and fulfilling the obligations as set forth in items (b) through (d) in the section above called “Mandatory Obligations Before Opening of the BIOSWEEP Franchise”. (Section 5 of the Franchise Agreement)

(b) **Advice and Counsel.** We will furnish such additional advice, counseling and management assistance as you may reasonably request. (Section 5, Part K of the Franchise Agreement).

(c) **Advertising and Public Relations Campaigns.** We will generally promote your business through web advertising, national trade shows and public relations campaigns at our option. (Section 5, Part A of the Franchise Agreement).

(d) **Local Advertising.** We provide a Search Engine Optimization (SEO) program for our website ([www.biosweep.com](http://www.biosweep.com)) which has a dedicated page for each Franchise Owner. We will periodically provide you with the contact information of national insurance carrier adjusters in your territory. These insurance carriers will be ones that Phocatox has developed a national relationship with which may or may not include having all Biosweep service providers included on their preferred vendor list. (Section 5, Part A of the Franchise Agreement).

(e) **Promotional Methods and Materials.** We will provide you with promotional methods and materials we may develop. We have the right to charge you for these methods and materials. (Section 5, Part A of the Franchise Agreement).

(f) **Spare Parts.** We will make available to you at our standard prices all spare parts necessary to operate and maintain the BIOSWEEP equipment. The prices we charge to all franchisees will be the same, although we may make available certain volume and similar discount programs. (Section 5, Part F of the Franchise Agreement).

(g) **Respect the Integrity of Your Exclusive Territory.** So long as you are in good standing under the Franchise Agreement, we will respect the grant of exclusiveness of your Territory and conduct our business in a manner that is consistent with your rights as a franchisee. (Section 5, Part N). We do, however, have rights to coordinate and set reasonable terms of service for national and regional accounts (that have locations within and without your Territory) and as to extra-ordinary events such as local, regional or national natural or other large-scale or specialized emergencies or large insurance loss claims events. You have the right to participate in such programs to the extent the service is delivered in your Territory. (Section 3, Part C, subparts 12 & 13 of the Franchise Agreement; see also Item 12).

(h) **Access to Our Online Services.** We will provide you access to the online communication services that we may implement. (Section 5, Part M of the Franchise Agreement).

(i) **Report Forms.** We will provide, at your request, forms to assist you in complying with your reporting obligations to us. (Section 5, Part J of the Franchise Agreement).

(j) **Trademark Protection.** We will use our commercially reasonable efforts to protect the BIOSWEEP trademark and proprietary products from infringement. (Section 5, Part E of the Franchise Agreement).

## **ADVERTISING AND MARKETING PROGRAM**

### **Local Trade Association; Franchisee Advertising Activities & Expenditures; Franchisor Advertising**

You must agree to join your state or local chapter or affiliate of the National Apartment Association (NAA) within 120 days of beginning operations. (Section 3, Part D of the Franchise Agreement ). Annual membership dues are approximately \$500 for associate or vendor level membership in most NAA chapters. Other than the requirement to join the NAA, you are not obligated to spend any funds on advertising or marketing, although we strongly encourage you to do so, including the initial marketing budget estimated in ITEM 7 above. If you do any advertising, all advertising materials and activities must be approved in advance by us, including, as noted below, the creation and maintenance of a website. (Section 4, Part I of the Franchise Agreement).

So long as you are in good standing under the Franchise Agreement, we will include a listing or reference to your business on our website (so long as we maintain a website), and will also include your business on any list or in any public relations campaign where we include other franchise owners' businesses. (Section 5, Part A of the Franchise Agreement). Other than this requirement, we do not have any other advertising obligation, and we are not required to spend any amount of funds on advertising in your territory.

You agree you will not use any advertising materials until they have been approved in advance by us. If you choose to develop your own website apart from the website we provide you, this is advertising, subject to our prior approval. Before establishing a website, you must submit to us a sample of the website format and information in the form and manner that we reasonably require. In addition to any other applicable requirements, you must comply with our standards and specifications for websites set forth in the Operations Manual. You must electronically link your website to our website or any website we establish. If you propose any material revisions to your website or any information contained in your website, you must submit each revision to us for our prior written approval. (Section 4, Part I of the Franchise Agreement)

We provide a portable, 10x10 BIOSWEEP tradeshow display that is shipped directly to you prior to your trade event. You are only responsible for roundtrip shipping charges (there is no charge for you to use the display). Roundtrip shipping (via UPS) is generally less than \$150.

### **OTHER ADVERTISING FUNDS**

Phocatox will periodically provide you with the contact information of national insurance carrier adjusters in your territory. These insurance carriers will be ones that Phocatox has developed a national relationship with which may or may not include having all Biosweep service providers included on their preferred vendor list. Phocatox will provide you with a sales and marketing presentation suitable for use with insurance carriers. Phocatox will attend regional and national conferences focused on the insurance industry. We may invite you, at your option and cost, to attend and participate along with us.

### **NO MARKETING FUND**

We have not established and do not intend to establish a Marketing Fund to which you will be required to contribute.

### **NO ADVERTISING COOPERATIVE**

We do not require that you participate in a local or regional advertising cooperative (nor do we have the

authority to require that such a cooperative be formed).

#### **COUNCIL**

We have established a council or other advisory board consisting of franchisees (or consisting, in part, of franchisees) to advise us on advertising and other policies. To date, franchisees have volunteered to serve on the council, we have no formal selection process. The council is advisory only. Once a recommendation is made, we may accept it in part or whole, or reject it. We will make the final decision related to council issues. We can change or dissolve the council, but have no plans to do that, as we welcome input from our franchisee council members.

#### **COMPUTER SYSTEMS**

- (a) Before beginning operations you must procure a computer. We require that you have internet service through your own internet service provider to be able to access the biosweep.com Web Site. You are required to obtain all equipment necessary to enable such internet usage, including modems and any necessary software. (Section 3, Part E of the Franchise Agreement). Intuit QuickBooks Pro at a cost of approximately \$200 is recommended. The cost of all computer equipment, accessories, and internet service is your responsibility. We estimate the cost of the computer and printer equipment to be from \$750 to \$1,200. Internet service cost varies depending upon service features, but we estimate a cost in the range of \$50 to \$100 monthly.
- (b) Other than the above items in this section called “Computer Systems”, we do not require any other computer equipment or system or any other cash register or similar system.
- (c) We will not have independent access to the information you store on your computer system. We rely on your compliance with your reporting requirements to us (and our rights to audit your books and records) to gain financial information regarding your operations.

#### **OPERATIONS MANUAL**

Before you sign your BIOSWEEP Franchise Agreement, you may view the entire BIOSWEEP Operations Manual provided you have signed a Non-Disclosure Agreement. We will also provide you with a username and password to access the secure SERVICE PROVIDER TOOLS section of our website where you may view, download or print individual sections of the Operations Manual. After you have signed your BIOSWEEP Franchise Agreement and shortly before Initial Training we will provide a complete copy of our BIOSWEEP Operations Manual for each person attending your Initial Training. Our Operations Manual contains proprietary information and you must keep this information confidential (even after the termination or expiration of your Franchise Agreement or even if you do not become a BIOSWEEP franchisee) as described in ITEM 14. The Operations Manual is loaned to you. You must return it to us at our request if for any reason you do not become a BIOSWEEP franchisee and you must return it to us upon the termination or expiration of your Franchise Agreement. The current Operations Manual, as of March 1, 2021 consists of approximately 330 pages and is divided into the following 15 sections and Appendix:

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**TRAINING PROGRAM**

**INITIAL TRAINING (MANDATORY)**

We will provide you with three (3) business days (approximately 24 hours) of Initial Training for up to 4 Trainees at our location in Indianapolis, IN. Unless otherwise agreed in writing, at least 1 Trainee must be the Franchise Owner. If you will not be active in the day-to-day activities of your BIOSWEEP Franchise, you may designate another person as your Manager who will be active in the day-to-day activities of your BIOSWEEP Franchise to be another Trainee. We must approve all Trainees. Initial Training includes instruction in owner-operator responsibilities, field service operations, equipment maintenance, health and safety, sales and marketing, and franchisor relations. Training programs may differ in content and length for Franchise Owners or employees depending upon their responsibilities in the BIOSWEEP Franchise business. We do not charge a fee

to provide the Initial Training to up to 4 Trainees (that cost is included in your Initial Franchise Fee). We will provide, at our expense, instructors, facilities, equipment, training materials, manuals and technical training tools for Initial Training. You must pay all expenses of the Trainees in attending Initial Training including all employee salaries, travel, lodging and meal expenses. (Section 4, Part J of the Franchise Agreement). Training includes both classroom and on-the-job training supervised by a Phocatox representative.

Initial Training is scheduled and conducted for you and your employees based on your scheduled BIOSWEEP order shipment arrival date. Your shipment arrival date is coordinated between you and us for your convenience with order lead times of generally 2 to 3 weeks. In most instances, you can commence operations immediately after Initial Training is complete, that is, you are able to schedule the Initial Training such that it is the last step to complete before commencing operations.

### TRAINING PROGRAM

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
<b>DAY 1</b>			
Introduction	.5 hrs. (8:00 am to 8:30 am)		Your Meeting Room (or meeting room at a location near to you)
Technology Overview: Advanced Photocatalytic Oxidation, PPE & Equipment – CHAPTERS 5,6,7	3.0 hrs. (8:30 am to 11:30 am)		Your Meeting Room (or meeting room at a location near to you)
BIOSWEEP Treatment Procedures Apartments, Selected Odors CHAPTERS 1,2	2.0 hrs. (11:30 am to 1:30 am)		Your Meeting Room LUNCH
Health & Safety: Respirator Protection Program & MSDS CHAPTERS 14-15	1.0 hrs. (1:30 am to 2:30 am)		Your Meeting Room (or meeting room at a location near to you)
BIOSWEEP Treatment Procedures Homes, Vehicles CHAPTERS 3-4	2.0 hrs. (2:30 pm to 4:30 pm)		Your Meeting Room (or meeting room at a location near to you)
Dinner	2.0 hrs. (4:30 pm to 6:30 pm)		Dinner
Operational Procedures: Apartment or Residential Setup Charcoal Filter Training		3.0 hrs. (6:30 pm to 9:30 pm)	Field Demonstration at scheduled location
<b>DAY 2</b>			
Operational Procedures: Apartment or Residential Set-up/ Tear Down, Charcoal Filter Training		3.0 hrs. (7:30 am to 10:30 am)	Field Demonstration at scheduled location



Manual Training During Treatment CHAPTERS 8,9	2.0 hrs. (11:00 am to 1:00 pm)		Field Demonstration at scheduled location  LUNCH
Operational Procedures: Vehicle Setup and Treatment		3.0 hrs. (1:00 pm to 4:00 pm)	Field Demonstration at scheduled location
Manual Training During Treatment CHAPTERS 11,12	2.0 hrs. (4:00 am to 6:00 pm)		Field Demonstration at scheduled location
<b>DAY 3</b>			
Operational Procedures: Apartment or Residential Set-up/ Tear Down, Charcoal Filter Training		3.0 hrs. (7:30 am to 10:30 am)	Field Demonstration at scheduled location
Manual Training During Treatment CHAPTERS 13,14	2.0 hrs. (11:00 am to 1:00 pm)		Field Demonstration at scheduled location  LUNCH
BIOSWEEP Surface Defense ElectroStatic Spraying & ATP Sampling Protocols		1.0 hrs. (1:00 pm to 2:00 pm)	Field Demo in office or at scheduled location.
Field Demo Tear down & Wrap Up		2.0 hrs. (2:00 pm to 4:00 pm)	Your Meeting Room (or field demo location)
<b>TOTAL</b>	<b>16.5 Hours</b>	<b>12 - 15 hours (based on treatment plans)</b>	

#### **FAILURE TO COMPLETE INITIAL TRAINING**

If any Trainee fails to satisfactorily complete Initial Training, as reasonably deemed by us, we may at your expense and direction, retrain the Trainee or train another Trainee. (Section 5, Part H of the Franchise Agreement).

#### **ADDITIONAL TRAINING (MANDATORY; OPTIONAL)**

We have the right to require you to attend periodic update / refresher training. We do not charge for update / refresher training programs that are mandatory. You would be responsible for salaries, travel, lodging, and meals for attendees. (Section 4, Part J of the Franchise Agreement)

We will provide additional training programs, seminars, or advanced management training at the standard per diem rates for you and your employees at either our facility in Indianapolis, Indiana or another designated BIOSWEEP Franchise location, as may be offered at our option, which you and your designated trainees may attend (but are not required to do so). Upon your acceptance to participate, you must pay for all expenses associated with these programs including the then prevailing standard training fee we may charge for

these programs (currently \$350 per day per person attending) and all salaries, travel, meals and lodging costs of your attendees. (Section 4, Part J of the Franchise Agreement).

#### **NEW MANAGER TRAINING (MANDATORY)**

If we have permitted the Manager to be an individual other than you, and the Manager fails to satisfy his or her obligations under Section 4, Part J of the Franchise Agreement due to death, disability, termination of employment or for any other reason, you must satisfy these obligations until you designate a new Manager of your BIOSWEEP Franchise acceptable to us who has successfully completed Initial Training. You must pay for the expenses associated with Initial Training, including the then prevailing standard training fee we charge for Initial Training (currently \$350 per day per person). (Section 4, Part J of the Franchise Agreement).

#### **EXPERIENCE OF INSTRUCTORS**

Mark Brodowicz is responsible for all aspects of training. The Initial Training program will be conducted by Mr. Brodowicz; or, as may be required, by other designated BIOSWEEP Franchisees, trained by Mr. Brodowicz, who have at least three years of work experience in the BIOSWEEP Franchise business and relevant BIOSWEEP training experience. Mr. Brodowicz has 30 years of experience in the environmental industry and 15 years of experience with the Franchisor. Mr. Brodowicz owns and operates a BIOSWEEP franchise and is an IICRC (Institute of Inspection Cleaning and Restoration Certification) Certified Odor Technician, and a Certified Hazardous Material Manager (CHMM).

### **ITEM 12 – TERRITORY**

#### **EXCLUSIVE TERRITORY**

Each BIOSWEEP franchisee is granted an exclusive territory within which to operate a BIOSWEEP franchised business. Your Exclusive Territory is defined in Exhibit A of the Franchise Agreement. The written boundaries of your Exclusive Territory will be based on a minimum of 750,000 and maximum of 1,600,000 population density range, with an average territory population density of 1,200,000, delineated by county lines, highway, street or landmark boundaries, and/or specific market segments within such geographic boundaries. The location of the Exclusive Territory will be designated by you and approved by us as delineated in Exhibit A of your Franchise Agreement. Once your Exclusive Territory is established in the Franchise Agreement, you retain your rights to the Exclusive Territory even if the population of the Exclusive Territory increases. We may not alter your Exclusive Territory. (See Item 5 above and the Franchise Agreement at Section 2, Part A.1).

Your franchise is not granted for a specific location. You may locate your business premises in any location within your Exclusive Territory that will allow you to adequately service your Exclusive Territory. You may relocate your business within your Exclusive Territory without our approval.

You do not receive options, rights of first refusal, or similar rights to acquire additional franchises near to or contiguous with your Exclusive Territory. If we agree, you may reserve a franchise for an area near to or contiguous with your Exclusive Territory for a period of up to 12 months by paying a non-refundable option fee not to exceed 15% of the estimated Franchise Fee for such area.

#### **MINIMUM PERFORMANCE STANDARD**

The grant of your BIOSWEEP Franchise is expressly conditioned upon your successful penetration of the market in the Exclusive Territory. You must use your best efforts to promote the services of your BIOSWEEP

Franchise within the Exclusive Territory. You will be deemed in default of this obligation if you fail to timely pay the Minimum Royalty Fee (See Item 6, footnote 2 above).

Your failure to timely pay the Minimum Royalty Fee is a material breach of the Franchise Agreement, for which we have the choice of terminating the Franchise Agreement or of converting your Exclusive Territory into a non-exclusive Territory.

Except as provided below, we will not (a) solicit or accept orders through other channels of distribution, such as through our website, telemarketing, or other direct marketing activities or contacts, (b) grant another BIOSWEEP franchise in your Exclusive Territory, or (c) create a BIOSWEEP-based business by us.

Except as provided below, you must operate your BIOSWEEP Franchise only within your Exclusive Territory.

Even though you are granted an Exclusive Territory (and despite our commitment described immediately above), we reserve the right to request you to cooperate with other franchisees and / or us with respect to accounts or customers that have multi-national or multi-regional locations such that some of the locations of the subject customer are within your Exclusive Territory and some of the locations are outside of your Exclusive Territory. To formalize this arrangement, we have attached the IPA which is Exhibit D to the Franchise Agreement. You will have the option to sign it. If you do, we will include you in the projects that result, that are in your Exclusive Territory. If you do not sign the IPA, you will be required to sign a document entitled "Franchisee Election Not to Participate" that states you have opted out of the program and you will not benefit from any of that work, and we can or another franchisee may be provided the opportunity to work on those projects in your Exclusive Territory. The National Account Program arrangements will be made on a case-by-case basis. If you agree to participate in such cooperative efforts, you agree to abide by the rules and decisions we may establish or make from time-to-time.

The National Accounts Program is expected to involve government agencies, non-profit charitable organizations, and / or private, for-profit companies (such as cleaning and restoration and remediation service organizations and insurance companies) in circumstances of local, regional or national natural disaster or other large-scale or specialized emergencies or routine insurance loss claims events. A National Account Designation may also be made for commercial customers having locations within more than one area serviced by franchisees and / or a BIOSWEEP service provider established by us. In either case, such a National Accounts Designation is likely to include, but is not limited to the following attributes.

- We could designate an emergency circumstance as a National Account Event and enter into contracts with the appropriate government agencies, insurance companies, restoration and remediation service providers to address the needs that arise out of the subject emergency circumstance, even though the location of the facilities that would be serviced by BIOSWEEP machines may be within your Exclusive Territory.
- We could designate a multi-national or multi-regional customer as a National Account Customer and enter into contracts with such a customer that applies to all of the customer's facilities, even though the location of the facilities that would be serviced by BIOSWEEP machines may be within your Exclusive Territory.
- We could designate a national, regional or local cleaning and restoration contractor as a National Account Customer and enter into contracts with such a customer that applies to all of the customer's insurance loss claim accounts, even though the location of the insurance loss claim accounts that would be serviced by BIOSWEEP machines may be within your Exclusive Territory.

- We could designate portions of the health care industry, specifically certain hospitals and surgery centers, as a National Account Customer and enter into contracts with such a customer that applies to all of the customer's facilities, even though the location of the facilities that would be serviced by BIOSWEEP machines may be within your Exclusive Territory.
- The National Account-related contracts may provide for special terms of service and a pricing schedule that differs from your normal model. However, such special terms of service and pricing will be reasonable.
- You may be provided an opportunity to participate in servicing a National Account Event or Customer, but only on the terms and for the pricing that we may establish in the contract we negotiate directly with the subject aid agencies or customer. If you opt to participate by signing the IPA, you must follow our guidelines for integrating your role into the overall package of services to be provided.

As to required cooperation in the case of a multi-territory customer on a case-by-case basis (where no National Account Designation has been formally established), in circumstances where you solicit or receive orders from customers within your Exclusive Territory for service locations owned, controlled or managed by such customers outside your Exclusive Territory, we may require you to refer such service order (or request for service) to the franchisee whose exclusive territory includes the subject facility that is outside of your Exclusive Territory (and vice-versa). In such a case, we would likely require the receiving franchisee to pay you a courtesy fee equal to 20% of the revenue generated from the subject service request (we reserve the right to adjust the amount of any such fee). If you maintain account servicing responsibilities for the extra-territorial location by virtue of the management control exerted by the customer from the office or facility located in your Exclusive Territory, we may provide that you continue to receive such a courtesy fee as to subsequent orders related to any such extra-territorial locations. If a customer within your Exclusive Territory requests service for one of its extra-Territory locations in a circumstance where such extra-Territorial facility is not located in another existing BIOSWEEP Franchisee's exclusive territory, we will consider approving you to directly provide such service. However, such a location is not protected and you are not entitled to any exclusivity with respect to such location(s). We reserve the right to revoke approval to such servicing in the event the subject location becomes part of another BIOSWEEP Franchisee's exclusive territory at a later time.

### **ITEM 13 - TRADEMARKS**

The Franchise Agreement grants a license to you for the right to use the following three trademarks owned by us (sometimes referred to as the "Proprietary Marks"), but only for use in your BIOSWEEP Franchise and only in accordance with the terms of the Franchise Agreement. These trademarks are registered on the Principal Register of the United States Patent and Trademark Office ("USPTO"). We have filed all required affidavits and renewals, where necessary for these trademarks to have currently effective registrations.

All provisions of the BIOSWEEP Franchise Agreement applicable to the Proprietary Marks apply to any other trademarks, service marks, commercial symbols, designs, artwork, and logos that we may adopt, use, authorize and license to you to use during the Term of the Franchise Agreement.

### **REGISTRATION AND APPLICATIONS**

The following trademarks are registered on the principal register of the USPTO:

Trademark Principal Register: **BIOSWEEP Class 11**

Reg. No. 3,351,509

Registered Dec. 11, 2007, Section 8 Affidavit Accepted June 11, 2013; Section 15 Affidavit

Acknowledged June 11, 2013, Section 8 and Section 9, Filed on September 26, 2017, First Renewal Accepted, October 24, 2017  
No further filings are due yet

Trademark Principal Register: **BIOSWEEP Class 40**  
Reg. No. 5,464,051  
Registered May 8, 2018  
No further filings are due yet

Trademark Principal Register: **BIOSWEEP Surface Defense Class 1**  
Reg. No. 4,211,409  
Registered Sept. 18, 2012, Section 8 Affidavit Accepted October 19, 2017; Section 15 Affidavit Acknowledged October 19, 2017  
No further filings are due yet

#### **NO PROCEEDINGS**

There are no currently effective material determinations of the USPTO, Trademark Trial and Appeal Board, or the trademark administrator of any state or any court. There are no currently pending infringement, opposition or cancellation proceedings. There is no currently pending material litigation involving the Proprietary Marks. There are no decided infringement, cancellation or opposition proceedings where we unsuccessfully fought to prevent registration of a trademark in order to protect the Proprietary Marks.

#### **NO AGREEMENTS**

There are no agreements currently in effect that limit our rights to use or license the use to you of the Proprietary Marks in any manner material to you.

#### **NO INFRINGING USES**

There are no infringing uses or superior prior rights known to us that could materially affect your use of the Proprietary Marks.

#### **PROTECTION OF TRADEMARKS**

The Franchise Agreement requires us to use commercially reasonable efforts to protect our Trademarks from infringement by unauthorized persons. In determining whether to take action to protect against infringers, we will consider the costs and other risks of doing so, and may determine action is not warranted. The Franchise Agreement does not obligate us to protect your particular use of the Trademarks or protect or indemnify you against claims of infringement or unfair competition related to your use of the Trademarks. This includes that we are not obligated to help in your defense or to indemnify you for expenses or damages if you are a party to an administrative proceeding or litigation relating to the Trademarks (or if any such proceeding or litigation is determined against you). If you become aware, you are required to inform us of any use of, or claim of right to, a trademark that is the same or confusingly similar to the Trademarks. However, you are not entitled to instigate or defend any claim or action as to the Trademarks without our prior written consent. Rather, we have the right to control any litigation or administrative proceeding relating to the Trademarks. You are required to cooperate with us in any such litigation or proceeding.

#### **MODIFICATION**

If we deem it advisable, in our sole discretion, to modify or discontinue the use of the Proprietary Marks and/or use one or more additional or substitute names or marks, we may require that you discontinue or similarly modify the use of that Trademark. Your rights under the Franchise Agreement will continue as long as you implement such modification or discontinuance of the Trademarks as noted above. If you do not follow such guidance, you will be in material default under the Franchise Agreement.

## **ITEM 14 - PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

### **PATENTS**

We do not own any patents material to the BIOSWEEP Franchise.

### **COPYRIGHTS**

The BIOSWEEP Operations Manual is registered with the United States Copyright Office.

Title of Work: BioSweep Operations Manual  
Registration Number: TX 7-215-711

Effective Date of Registration: March 16, 2010

To the best of our knowledge there has been no change in our copyright status or court determination that would affect our copyright status.

### **PROPRIETARY INFORMATION**

The BIOSWEEP Models 900/1100/1400 are proprietary pieces of equipment that we have developed especially for use in the BIOSWEEP system. Also, the BIOSWEEP Surface Defense® system, Can Filter, BIOSWEEP Post Treatment Fragrances are specially formulated products which we deem confidential and proprietary. The Operations Manual and other materials related to the BIOSWEEP franchise business or system we make available to franchisees from time-to-time contain confidential and proprietary information.

The Franchise Agreement obligates you to keep the Operations Manual and other proprietary information regarding the BIOSWEEP franchise system as confidential. You are required to adopt and implement all procedures that we prescribe to prevent unauthorized use or disclosure of, or access to, such information, including that you will not divulge such information to anyone other than your employees (or special representatives such as your attorney or accountant) and that you will not allow unauthorized persons to read or view the Operations Manual. All persons, whom you permit to have access to confidential information must first sign our form of Non-Disclosure Agreement. Nothing contained in the Franchise Agreement will be construed to prohibit you from using the confidential information in the operation of your BIOSWEEP Franchise under your Franchise Agreement.

If we discontinue or modify any of our confidential or proprietary information, we are entitled to have you so discontinue your use or make appropriate modifications, either at your expense.

If you become aware, you are required to inform us of any use of, or claim of right to, any of our confidential or proprietary information and any litigation related to such information brought by any other person against you. We are not required to take action in such cases, but may choose to do so and may choose to settle any such matters - - to the extent they pertain to our confidential and proprietary information- - on terms

we deem acceptable.

#### Effect on BioSweep Service Provider Insurance Program Agreement

If, while engaged in work under the IPA you devise a method for a procedure, or otherwise develop a technology that we have not used, but deem acceptable and would implement in dealing with indoor odor removal or air and surface decontamination issues, that is subject to any form of intellectual property right, the “work for hire” language in the IPA provides that the rights to that intellectual property will become our intellectual property.

### **ITEM 15 - OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

We encourage you to be active in the operation of your BIOSWEEP Franchise, but we do not require any personal participation by you. We do not require any personal participation of any specific person affiliated with a corporate or partnership Franchisee. Your BIOSWEEP Franchise, however, is not a "passive" investment, and you or your designated “Manager” must provide day-to-day supervision of the operation of your BIOSWEEP business. While we allow you to hire a manager rather than taking on this role yourself, we believe this will increase the cost of operation of your BIOSWEEP Franchise and may impair results.

Unless we otherwise agree in writing, you - - the individual Franchise Owner - - must be 1 of the 4 Initial Trainees (whether or not you plan on being the Manager). The manager must complete the Initial Training. Any of the Initial Trainees may act as Manager. We do not have the right to approve or disapprove of the person selected as the Manager. Your Manager need not have any equity interest in your franchise. Your Manager must sign our form of Noncompetition and Non-Disclosure Agreement before you grant access to the Operations Manual or any other BIOSWEEP confidential or proprietary information.

The Manager must devote his or her best full-time efforts to the management and operation of your BIOSWEEP Franchise. Any replacement or additional Managers that you hire must satisfactorily complete Initial Training (at your cost) before managing your BIOSWEEP Franchise, unless we otherwise agree in writing.

If the Franchise Agreement is signed by 2 or more individuals or by a business entity, you must designate in writing an individual as the Manager upon signing this Agreement. We have the right to rely solely on instructions of the Manager concerning the operation of the BIOSWEEP Franchise until we receive a duly signed written notice changing the designated Manager.

If we have permitted the Manager to be an individual other than the Franchise Owner, and the Manager fails to satisfy his or her obligations provided in the Franchise Agreement due to death, disability, termination of employment or for any other reason, you - - as the Franchise Owner - - must satisfy the management obligations until you designate a new Manager of your BIOSWEEP Franchise acceptable to us who has successfully completed Initial Training.

### **ITEM 16 - RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

#### **SALES RESTRICTIONS**

As a BIOSWEEP franchisee, you are required to offer to customers all of the services for indoor odor removal or air and surface decontamination that we specify. We have the right to add to, discontinue or modify required services, products and procedures at our discretion. There are no limits on this right to make changes. You must provide all services and operate your BIOSWEEP business in accordance with our prescribed procedures.

We allow you to offer other services that are not competitive with the services capable of being performed through the BIOSWEEP equipment (and we allow such other services to be offered and delivered on terms and specifications you establish). Currently, we view this restriction in the following manner. You are prohibited from selling any products or services for indoor odor removal or air and surface decontamination that we deem, solely at our discretion, may compete with, or potentially affect or alter in any adverse way, our BIOSWEEP technology or methods, or other technologies or applications we develop in the future. This currently includes equipment and services using equipment such as ozone generators, vaporized hydrogen peroxide systems, chlorine dioxide chemistry, organosilanes, and photocatalytic oxidation coatings and equipment. It may also include other applications, chemicals, methods, processes and technologies that, at a later date, we deem adverse, competitive, or inappropriate for use with our BIOSWEEP technology, methods, policies or procedures (and, other indoor odor removal or air and surface decontamination technologies, methods, policies or procedures we may develop in the future). You must discontinue selling and offering for sale any products or services that we reasonably disapprove on a System-wide basis in writing at any time.

Your franchise expressly excludes servicing, in any manner, any and all types of aircraft.

See Item 12 for territorial restrictions on where and to whom you may solicit and sell services.

**ITEM 17 - RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

**THE FRANCHISE RELATIONSHIP**

**THIS TABLE LISTS CERTAIN IMPORTANT PROVISIONS OF THE FRANCHISE AGREEMENT. YOU SHOULD READ THESE PROVISIONS IN THE AGREEMENT ATTACHED TO THIS FRANCHISE DISCLOSURE DOCUMENT.**

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
a. Length of the franchise term	Section 1	The initial term of the Franchise Agreement is 5 years beginning on the date you receive delivery of your initial order of BIOSWEEP equipment.
b. Renewal or extension of the term	Section 8 <sup>1</sup>	You have the right to renew for three additional terms of 5 years each if you meet the requirements for renewal and make payment of \$5,000 renewal fee.
c. Requirements for franchisee to renew or extend	Section 8 <sup>1</sup>	<ol style="list-style-type: none"> <li>1. You must provide us written notice of your intention to exercise the renewal option, 180 days before renewal.</li> <li>2. You must have complied with the Franchise Agreement during the whole term.</li> <li>3. You sign a renewal option agreement covering the renewal term which provides that you will operate under the same terms and conditions as your current Franchise Agreement, not an agreement with different terms and conditions.</li> <li>4. You must sign a general release of all claims against us and our officers, directors, members, agents and employees. <i>The "State Addenda to the FDD &amp; Franchise Agreement"</i></li> </ol>



		<i>(located at Exhibit B of this Franchise Disclosure Document) may contain additional information regarding any matters pertaining to a general release of claims.</i>
d. Termination by franchisee	Section 11	You are in substantial compliance with the Franchise Agreement and we materially breach the Franchise Agreement and fail to cure the breach within 30 days after written notice of breach is delivered to us. You may also terminate the Franchise Agreement on any grounds available under law.
e. Termination by franchisor without cause	Not Applicable	Not Applicable
f. Termination by franchisor with cause	Section 10	We may terminate the Franchise Agreement only if you fail to comply with your obligations set out in the Franchise Agreement, including if you fail to make payments to us when due.
g. "Cause" defined – curable defaults	Section 10	Payment defaults may be cured within 60 days of written notice of the default by us. Any other default under the Franchise Agreement may be cured within 30 days of written notice from us of the default.
h. "Cause" defined – defaults which cannot be cured	Section 10, Part B.1	The following defaults may not be cured: <ol style="list-style-type: none"> <li>1. You cease to operate the franchised business;</li> <li>2. You engage in fraud or misrepresentation;</li> <li>3. Unauthorized assignment of the Franchise Agreement;</li> <li>4. You made false statements in the franchise application process; and</li> <li>5. You receive three or more valid and proper notices of default for same or similar default during any 12 consecutive months.</li> </ol>
i. Franchisee's obligations on termination/nonrenewal	Section 12	You must: <ol style="list-style-type: none"> <li>1. Cease operating your BIOSWEEP Franchise business, cease identifying the business with us, and cease using the BIOSWEEP system and our proprietary information;</li> <li>2. Pay all amounts you owe to us;</li> <li>3. Return all of our manuals and advertising materials to us and continue to maintain the confidentiality of all our confidential information;</li> <li>4. Comply with our option to purchase your BIOSWEEP equipment;</li> <li>5. Cease the use of all of our online services. (See also item r. in this table below.)</li> </ol>
j. Assignment of contract by franchisor	Section 9, Part A	We have the right to assign the Franchise Agreement to any person without your consent provided the

		transfer is part of a merger or sale of the entire franchise System.
k. "Transfer" by franchisee defined	Section 9, Parts A through G	"Transfer" includes an assignment of the Franchise Agreement or any interest in the Franchise Agreement (such as a pledge or mortgage of the Franchise Agreement). "Transfer" also includes the sale or other transfer of any stock, partnership interest, member interest, or any other ownership interest in any entity or organization that owns the franchise.
l. Franchisor's approval of transfer by you	Sections 9, Parts A through G	We have the right to approve or disapprove of any Proposed transferee, based on financial, business and other quality standards.
m. Conditions for franchisor's approval of transfer	Section 9, Parts A through G	<ol style="list-style-type: none"> <li>1. We do not exercise our right of first refusal (see item n. below in this table);</li> <li>2. You are not in default under any agreement you have with us;</li> <li>3. You must sign a general release of us;</li> <li>4. The transferee must endorse your current Franchise Agreement</li> <li>5. The transferor must pay the then applicable transfer fee;</li> <li>6. Transferee must qualify;</li> <li>7. You have paid all amounts owing to us and any other creditor; and</li> <li>8. We must approve of the proposed terms of sale or other factors involved in the transfer.</li> </ol>
n. Franchisor's right of first refusal to acquire your business	Section 9, Part D; Section 3, Part C.1.d.	We have the option to purchase your business on the same terms as contained in any offer you receive. We also have the right (but not the obligation) to purchase your BIOSWEEP Model 900/1100 equipment upon expiration or termination of your franchise (at a price that reflects wear and tear on the equipment).
o. Franchisor's option to purchase your business	Section 3, Part C.1.d.	We have the right (but not the obligation) to purchase your BIOSWEEP Model 900/1100 equipment upon expiration or termination of your franchise (at a price that reflects wear and tear on the equipment).
p. Death or disability of franchisee	Section 9, Part C.	<ol style="list-style-type: none"> <li>1. You or your representative must provide a replacement manager satisfactory to us; and</li> <li>2. Upon your death, your BIOSWEEP Franchise must be transferred within 24 months of your death in accordance with the transfer provisions of the Franchise Agreement.</li> </ol>
q. Non-competition covenants during the term of the franchise	Section 4, Part L.	Subject to state law, you must not have any involvement with any competitive odor removal and indoor air and surface decontamination services business; or interfere with our business or any of our other BIOSWEEP Franchisees. This also applies to

		your designated manager during his or her employment by you.
r. Non-competition covenants after the franchise is terminated or expires	Section 12, Part B.	You must not, for 24 months after the end of your Franchise Agreement have any involvement with any competitive odor removal and indoor air and surface decontamination services business within the territory that was assigned to you in the Franchise Agreement or within any territory assigned to any BIOSWEEP Franchisee. This also applies to your designated manager for 24 months after his or her employment with you ends. <i>The “State Addenda to the FDD &amp; Franchise Agreement” (located at Exhibit B of this Franchise Disclosure Document) may contain additional information regarding any matters pertaining to non-competition restrictions.</i>
s. Modification of the agreement	Section 14, Part B; Section 3, Part C.2; Section 3, Part B.	The Franchise Agreement cannot be modified without the written consent of both you and us except: <ol style="list-style-type: none"> <li>1. We may change the contents of the Operations Manual; and</li> <li>2. We may modify the franchise system.</li> </ol>
t. Integration/merger clause	Section 14, Part E.	Subject to state law, only the terms of the Franchise Agreement are binding. Any other representations or promises, other than those made in the Disclosure Document, may not be enforceable.
u. Dispute resolution by arbitration or mediation	Not Applicable	
v. Choice of forum	Section 14, Part D.	Any legal proceeding begun with respect to the Franchise Agreement, will be filed in the courts in Indianapolis, Indiana or Hamilton County, Indiana. This may be superseded by state law. <i>The “State Addenda to the FDD &amp; Franchise Agreement” (located at Exhibit B of this Franchise Disclosure Document) may contain additional information regarding any matters pertaining to choice of forum or venue.</i>
w. Choice of law	Section 14, Part C.	Indiana law applies. <i>The “State Addenda to the FDD &amp; Franchise Agreement” (located at Exhibit B of this Franchise Disclosure Document) may contain additional information regarding any matters pertaining to choice of laws to be applied.</i>

<sup>1</sup> **REINSTATEMENTS AND EXTENSIONS.** If any termination or expiration of the Term of the Franchise Agreement would violate any applicable law, we may reinstate or extend the Term for the purpose of complying with the laws, for the duration we provide in written notice to you, without waiving any of our rights under, or otherwise modifying, the Franchise Agreement.

## ITEM 18 – PUBLIC FIGURES

We do not use any public figure to promote our BIOSWEEP Franchise, but reserve the right to do so in the future.

## ITEM 19 – FINANCIAL PERFORMANCE REPRESENTATIONS

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

We do not make any representations about a franchisee’s future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor’s management by contacting Mark Brodowicz at Phocatox Technologies, LLC, 160 W. Carmel Drive, Suite 204, Carmel, IN 46032, telephone (317) 525-0982, the Federal Trade Commission, and the appropriate state regulatory agency.

## ITEM 20 – OUTLETS AND FRANCHISEE INFORMATION

**Table No. 1**

**Systemwide Outlet Summary  
For years 2019 to 2021**

<b>Column 1 Outlet Type</b>	<b>Column 2 Year</b>	<b>Column 3 Outlets at the Start of the Year</b>	<b>Column 4 Outlets at the End of the Year</b>	<b>Column 5 Net Change</b>
Franchised	2019	29	32	3
	2020	32	38	6
	2021	38	39	1
Company-Owned	2019	0	0	0
	2020	0	0	0
	2021	0	0	0
Total Outlets	2019	29	32	3
	2020	32	38	6

	2021	38	39	1
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**Table No. 2**

**Transfers of Outlets From Franchisees to New Owners (other than the Franchisor)\*  
For years 2019 to 2021**

<b>Column 1 State</b>	<b>Column 2 Year</b>	<b>Column 3 Number of Transfers</b>
Tennessee	2019	0
	2020	1
	2021	0
Texas	2019	0
	2020	1
	2021	0
Total Outlets	2019	0
	2020	2
	2021	0

**Table No. 3**

**Status of Franchised Outlets  
For years 2019 to 2021**

<b>Col. 1 State</b>	<b>Col. 2 Year</b>	<b>Col. 3 Outlets at Start of Year</b>	<b>Col. 4 Outlets Opened</b>	<b>Col. 5 Terminations</b>	<b>Col. 6 Non- Renewals</b>	<b>Col. 7 Reacquired by Franchisor</b>	<b>Col. 8 Ceased Operations -Other Reasons</b>	<b>Col. 9 Outlets at End of the Year</b>
AL	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
AZ	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
CA	2019	3	0	0	0	0	0	3
	2020	3	0	0	0	0	0	3
	2021	3	0	0	0	0	0	3

CO	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
CT	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
FL	2019	2	1	0	0	0	0	3
	2020	3	3	0	0	0	0	6
	2021	6	0	0	0	0	1	5
GA	2019	3	0	0	0	0	0	3
	2020	3	0	0	1	0	0	2
	2021	2	0	0	0	0	0	2
IL	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
IN	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
MD	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
MA	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
NE	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
NC	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
OH	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
OK	2019	0	1	0	0	0	0	1

	2020	0	1	0	0	0	0	1
	2021	1	0	0	0	0	0	1
OR	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
PA	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
SC	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
TN	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
TX	2019	3	0	0	0	0	0	3
	2020	3	2	0	0	0	0	5
	2021	5	0	0	0	0	0	5
UT	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
VA	2019	0	0	0	0	0	0	0
	2020	0	2	0	0	0	0	2
	2021	2	0	0	0	0	0	2
WI	2019	0	0	0	0	0	0	0
	2020	0	1	0	0	0	0	1
	2021	0	0	0	0	0	0	10
Totals	2019	29	3	0	0	0	0	32
	2020	32	7	0	1	0	0	38
	2021	38	3	0	0	0	2	39

**Table No. 4**

**Status of Company-Owned Outlets  
For years 2019 to 2021**

<b>Column 1 State</b>	<b>Column 2 Year</b>	<b>Column 3 Outlets at Start of Year</b>	<b>Column 4 Outlets Opened</b>	<b>Column 5 Outlets Reacquired From Franchisee</b>	<b>Column 6 Outlets Closed</b>	<b>Column 7 Outlets Sold to Franchisee</b>	<b>Column 8 Outlets at End of the Year</b>
	2019	0	0	0	0	0	0
	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
Totals	2019	0	0	0	0	0	0
	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0

**Table No. 5**

**Projected Openings As of December 31, 2021**

<b>Column 1 State</b>	<b>Column 2 Franchise Agreements Signed But Outlet Not Opened</b>	<b>Column 3 Projected New Franchised Outlet in the Next Fiscal Year</b>	<b>Column 4 Projected New Company-Owned Outlet In the Next Fiscal Year</b>
AL	0	0	0
AZ	0	0	0
CA	0	0	0
CO	0	0	0
CT	0	0	0
FL	0	1	0
GA	0	0	0
IL	0	0	0
IN	0	0	0
KS	0	1	0
KY	0	0	0
MD	0	0	0
MA	0	0	0
MS	0	0	0



NE	0	0	0
NC	0	0	0
OH	0	0	0
OK	0	0	0
OR	0	0	0
PA	0	0	0
SC	0	1	0
TN	0	0	0
TX	0	0	0
UT	0	0	0
VA	0	0	0
WI	0	1	0
Total	0	4	0

Attached as Exhibit D is a complete list of names, addresses and telephone numbers of all outlets of a type substantially similar to that offered to you.

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

Former Outlets. Except for the one franchisee listed directly below that did not renew in 2020, no franchisees were terminated, canceled, or not renewed. Two existing franchisees purchased an additional franchise each in 2021, but due to COVID and other concerns, did not meet all obligations necessary and voluntarily terminated those additional franchises, and we refunded the fees they paid to date of voluntary termination. There have been no franchisees that have not communicated with us within 10 weeks of the effective date of this Franchise Disclosure Document.

No franchisees have sold their franchise to another during the most recently completed fiscal year and until the effective date of this Franchise Disclosure Document.

No franchisees have signed confidentiality clauses during the last three fiscal years.

There are no known trademark-specific franchisee organizations pertaining to or associated with the BIOSWEEP franchise system.

Non-renewal  
Ideal Development Concepts; dba BioSweep® of Greenville  
Brad Domonousky  
3374 Lawrenceville Suwanee Rd.  
Suwanee, Ga 30024  
864.841.5300

## **ITEM 21 – FINANCIAL STATEMENTS**

Attached as Exhibit E is our Independent Auditor's Report of audited financial statements for the periods ending December 31, 2021, December 31, 2020 and December 31, 2019.

Our next fiscal year ends December 31, 2022.

## **ITEM 22 – CONTRACTS**

The following contracts and agreements are attached as Exhibits to this Disclosure Document.

**Exhibit C      BIOSWEEP Franchise Agreement**

## **ITEM 23 - RECEIPT**

Attached at Exhibit G are the last two pages of the Disclosure Document. This is the Receipt in duplicate. You will sign one and return it to us. The duplicate is for your records.

**EXHIBIT A**

**LIST OF STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS**

If a state is not listed, we have not appointed an agent for service of process in that state in connection with the requirements of the franchise laws. There may be states in addition to those listed below in which we have appointed an agent for service of process. There may also be additional agents appointed in some of the states below.

<p><b><u>CALIFORNIA</u></b>  1-866-ASK-CORP (275-2677)  Commissioner of Financial Protection and Innovation  Department of Financial Protection and Innovation  (Los Angeles)  320 West 4th Street, #750  Los Angeles, CA 90013-2344  (213) 576-7500</p> <p>(Sacramento)  2101 Arena Boulevard  Sacramento, CA 95834  (916) 445-7205</p> <p>(San Diego)  1455 Frazee Road, Suite 315  San Diego, CA 92108  (619) 525-4233</p> <p>(San Francisco)  One Sansome Street, Suite 600  San Francisco, CA 94105-2980  (415) 972-8559</p> <p><b><u>HAWAII</u></b>  (for service of process)  Commissioner of Securities  Business Registration Division  Securities Compliance  Department of Commerce and Consumer Affairs  335 Merchant Street, Suite 205  Honolulu, HI 96813  (808) 586-2722  (state administrator for other matter)  Business Registration Division  Securities Compliance  Department of Commerce and Consumer Affairs</p>	<p><b><u>MARYLAND</u></b>  (for service of process)  Securities Commissioner at the Office of the Attorney General  Securities Division  200 St. Paul Place  Baltimore, MD 21202-2020  (410) 576-6360</p> <p>(state agency)  Office of the Attorney General  Securities Division  200 St. Paul Place  Baltimore, MD 21202  (410) 576-6360</p> <p><b><u>MICHIGAN</u></b>  Department of Attorney General  Consumer Protection  Franchise Section  525 West Ottawa Street  G. Mennen Williams Building  1<sup>st</sup> Floor  Lansing, MI 48933  (517) 335-7567</p> <p><b><u>NEW YORK</u></b>  (for service of process)  New York Department of State  Division of Corporations, State Records and Uniform Commercial Code  One Commerce Plaza  99 Washington Avenue, 6<sup>th</sup> Floor  Albany, NY 12231  (518) 474-4770</p> <p>(for other matters)   New York State Dept. of Law  Investor Protection Bureau  28 Liberty St., 21<sup>st</sup> Floor</p>	<p><b><u>NORTH DAKOTA</u></b>  (state agency)  North Dakota Securities Department  Securities Commissioner  Fifth Floor Dept. 414  600 East Boulevard  Bismarck, ND 58505-0510  (701) 328-4712</p> <p>(for service of process)  Securities Commissioner  Fifth Floor Dept. 414  600 East Boulevard  Bismarck, ND 58505-0510  (701) 328-4712</p> <p><b><u>OREGON</u></b>  Oregon Division of Finance and Corporate Securities  350 Winter Street NE, Room 410  Salem, OR 97301-3881  (503) 378-4387</p> <p><b><u>RHODE ISLAND</u></b>  Securities Division  Department of Business Regulation  1511 Pontiac Avenue  John O. Pastore Complex-Building 69-1  Cranston, Rhode Island 02920  (401) 462-9500</p> <p><b><u>SOUTH DAKOTA</u></b>  Division of Securities  445 East Capitol  Pierre, South Dakota 57501-3185  (605) 773-4823</p>
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<p>(808) 586-2722</p> <p><b><u>ILLINOIS</u></b>  Illinois Attorney General  Chief, Franchise Division  500 South Second Street  Springfield, IL 62706  (217) 782-4465</p> <p><b><u>INDIANA</u></b>  <i>(for service of process)</i>  Indiana Secretary of State  201 State House  200 West Washington Street  Indianapolis, IN 46204  (317) 232-6531</p> <p><i>(state agency)</i>  Indiana Secretary of State  Securities Division  302 West Washington Street  Room E-111  Indianapolis, IN 46204  (317) 232-6690</p>	<p>New York, NY 10005  (212) 416-8222</p>	<p><b><u>VIRGINIA</u></b>  <i>(for service of process)</i>  Clerk, State Corporation  Commission  1300 East Main Street  Richmond, VA 23219  (804) 371-9733</p> <p><i>(for other matters)</i>  State Corporations Commission  Division of Securities and Retail  Franchising  1300 East Main Street  Ninth Floor  Richmond, VA 23219  (804) 371-9051</p> <p><b><u>WASHINGTON</u></b>  <i>(for service of process)</i>  Director Department of Financial  Institutions  Securities Division  150 Israel Road SW  Tumwater, WA 98501-9033  (360) 902-8760</p> <p><i>(for other matters)</i>  Department of Financial Institutions  Securities Division  P.O. Box 9033  Olympia, WA 98507-9033  (360) 902-8760</p> <p><b><u>WISCONSIN</u></b>  Department of Financial Institutions  Division of Securities  201 W. Washington Avenue  Suite 300  Madison, WI 53703  (608) 261-9543</p>
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**EXHIBIT B TO FRANCHISE DISCLOSURE DOCUMENT – STATE ADDENDA  
FOR FRANCHISE DISCLOSURE DOCUMENT AND FRANCHISE AGREEMENT**

**FRANCHISE DISCLOSURE DOCUMENT**

**CALIFORNIA**

**Addendum Pursuant to California Franchise Investment Law**

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

2. Neither Phocatox, nor any person or franchise broker in ITEM 2 of the Franchise Disclosure Document is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78 *et seq.*, suspending or expelling such persons from membership in that association or exchange.

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

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

5. The franchise agreement contains a damage clause that fixes the amount of damages if a franchise-owner violates the non-compete provision after termination or expiration. This provision may not be enforceable under California law.

6. The franchise agreement provides that litigation, if necessary to resolve a dispute, will occur in Indianapolis, Indiana or Hamilton County, Indiana. The prevailing party is entitled to recover reasonable pre-institution and post-institution attorneys' fees, court costs and all expenses even if not taxable as court costs.

Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

7. The franchise agreement requires the application of the laws of Indiana. This provision may not be enforceable under California law.

8. Business and Professions Code § 20010 voids a waiver of your rights under the Franchise Relations Act. (Business and Professions Code §§ 2000 through 20043).

9. Our website has not been reviewed or approved by the California Department of

Financial Protection and Innovation. Any complaints concerning the content of this website may be directed to the California Department of Financial Protection and Innovation at [www.dfpi.ca.gov](http://www.dfpi.ca.gov).

10. Before the franchisor can ask you to materially modify your existing franchise agreement, Section 31125 of the California Corporations Code requires the franchisor to file a material modification application with the Department that includes a disclosure document showing the existing terms and the proposed new terms of your franchise agreement. Once the application is registered, the franchisor must provide you with that disclosure document with an explanation that the changes are voluntary.

11. You must sign a general release if you renew or transfer your franchise. California Corporations Code §31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code §§31000 through 31516). Business and Professions Code §20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code §§20000 through 20043).

12. Franchise Agreement Sections 13(a)-(d) will not apply to franchise-owners in the State of California.

**The registration of this franchise offering by the California Department of Financial Protection and Innovation does not constitute approval, recommendation, or endorsement by the commissioner.**

**HAWAII**  
**Addendum Pursuant to Hawaii Franchise Investment Law**

THE GENERAL RELEASE LANGUAGE CONTAINED IN THE FRANCHISE AGREEMENT SHALL NOT RELIEVE US OR OUR AFFILIATES FROM LIABILITY IMPOSED BY THE LAWS CONCERNING FRANCHISING OF THE STATE OF HAWAII.

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

THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER "OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, OR SUBFRANCHISOR, AT LEAST 7 DAYS BEFORE THE EXECUTION BY THE PROSPECTIVE FRANCHISEE, OF ANY BINDING AGREEMENT, OR AT LEAST 7 DAYS BEFORE THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, OR SUBFRANCHISOR, WHICHEVER OCCURS FIRST, A COPY OF THE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

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

**ILLINOIS**  
**Addendum Pursuant to Illinois Franchise Disclosure Act**

Illinois Law Governs the Franchise Agreement.

1. Notice Required by Law:

THE TERMS AND CONDITIONS UNDER WHICH YOUR FRANCHISE CAN BE TERMINATED AND YOUR RIGHTS UPON NON-RENEWAL MAY BE AFFECTED BY ILLINOIS LAW, 815 ILCS 705/19 AND 705/20.

2. Item 1 of the Disclosure Document is amended to add to the third paragraph under the heading “OUR BUSINESS”

“None of those business opportunities were located in Illinois.”

3. Item 17

17 (m). To the extent the General Release required to be executed to complete a renewal requires a waiver of compliance with the Illinois Franchise Disclosure Act, that requirement is void.

Item 17 (t). Representations made in this Franchise Disclosure Document cannot be excluded by a merger and integration section in the Franchise Agreement.

Item 17 (u) and (v). The Illinois Franchise Disclosure Act provides that any provision in the Franchise Agreement that designates jurisdiction or venue in a forum outside of Illinois is void with respect to any action that is otherwise enforceable in Illinois, except that arbitration may be held outside Illinois.

Items 17 (v) and (w) are amended to state that the provisions of the Franchise Agreement and all other agreements concerning governing law, jurisdiction, venue, choice of law and waiver of jury trials will not constitute a waiver of any right conferred upon you by the Illinois Franchise Disclosure Act. The Illinois Franchise Disclosure Act and Illinois law will govern the Franchise Agreement with respect to Illinois licensees and any other person under the jurisdiction of the Illinois Franchise Disclosure Act.

Item 17 (w). The Illinois Franchise Disclosure Act requires that Illinois law apply to any claim arising under that Act.

4. In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.”

### **INDIANA**

#### **Addendum Pursuant to Indiana Deceptive Franchise Practices Act**

1. The “Summary” column in Item 17(r) of the Disclosure Document is deleted and the following is inserted in its place:

No competing business for two (2) years within the Territory.

2. The “Summary” column in Item 17(t) of the Disclosure Document is deleted and the following is inserted in its place:

Notwithstanding anything to the contrary in this provision, you do not waive any right under the Indiana Statutes with regard to prior representations made by us.

### **MARYLAND**

#### **Addendum Pursuant to Maryland Franchise Registration and Disclosure Law**

The following provisions will supersede anything to the contrary in the Franchise Disclosure Document and will apply to all franchises offered and sold under the laws of the State of Maryland:

1. Items 17 (b), (c), (d), (e), (f), (g), (h) and (i) are amended to state that the laws of the State of Maryland may supersede the Franchise Agreement, in the areas of termination and renewal of the Franchise.

2. Item 17 (v) is amended to state that you may sue in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Laws must be brought within 3 years after the grant of the Franchise.

### **MINNESOTA**

#### **Addendum Pursuant to Minnesota Franchise Investment Law**

1. Minnesota law provides that we must indemnify you against liability to third parties resulting from claims by third parties that your use of our trademarks infringes trademark rights of the third party. We do not indemnify you against the consequences of your use of our trademarks except in accordance with the requirements of the Franchise Agreement, and, as a condition to indemnification, you must provide notice to us of any such claim and tender the defense of the



claim to us after the claim is asserted. If we accept the tender of defense, we have the right to manage the defense of the claim, including the right to compromise, settle or otherwise resolve the claim, and to determine whether to appeal a final determination of the claim.

2. Items 17 (b), (c), (d), (e), (f), (g), (h) and (i) are amended to state that Minnesota law provides you with certain termination and non-renewal rights. Minnesota Statutes, Section 80C.14, subdivisions 3, 4, and 5 require, except in certain specified cases, that you be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the Franchise Agreement.

3. Items 17 (b) and (m) are amended to state that the general release language contained in the Franchise Agreement shall not relieve us or our affiliates, from liability imposed by the Minnesota Franchise Investment Law.

4. Items 17 (i), (v) and (w) are amended to state that Minnesota Statutes, Sections 80C.21 and Minnesota Rule 2860.4400J prohibits us from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial or termination penalties. Nothing in the Franchise Disclosure Document or Franchise Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of Minnesota.

**NEW YORK**  
**Addendum Pursuant to New York Franchise Sales Act**

1. The following information is added to the cover page of the Franchise Disclosure Document:

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATOR LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SERVICES OR INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THIS FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS DISCLOSURE DOCUMENT.

2. The following is to be added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or material civil action pending against the person alleging: a felony, a violation of a franchise, antitrust or securities law, fraud,

embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of a misdemeanor or pleaded nolo contendere to a misdemeanor charge or been the subject of a civil action alleging: violation of a franchise, antitrust or securities law; fraud; embezzlement, fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of the “Summary” sections of Item 17(c), titled “**Requirement for franchisee to renew or extend,**” and Item 17 (m), entitled “**Conditions for franchisor approval of transfer**”:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687(4) and 687(5) be satisfied.

4. The following language replaces the “Summary” section of Item 17(d), titled “**Termination by franchisee**”: You may terminate the agreement on any grounds available by law.

5. The following is added to the end of the “Summary” section of Item 17(j), titled “**Assignment of contract by franchisor**”:

We will only assign to an assignee who in our good faith judgment is willing and able to assume our obligations.

6. The following is added to the end of the “Summary” section of Item 17(s), titled “**Modification of the agreement**”:

Modifications to the Operations Manual will not unreasonably affect your obligations, including economic requirements, under the Agreement.

7. The following is added to the end of the “Summary” sections of Item 17(v), titled “**Choice of forum**”, and Item 17(w), titled “**Choice of law**”:

The foregoing choice of law of the State of Indiana, and/or federal law if applicable, should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

8. Any release executed in connection with the Franchise Agreement is subject to the proviso that all rights enjoyed by you and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of Sections 687.4 and 687.5 of the General Business Law of New York State be satisfied.

## **RHODE ISLAND**

### **Addendum Pursuant to Rhode Island Franchise Investment Act**

In recognition of the requirements of the State of Rhode Island Franchise Investment Act §19-28.1 et seq. (the “Act”), the Franchise Disclosure Document for use in the State of Rhode Island is amended as follows:

Item 17 (h) is amended to state that termination of a Franchise Agreement as a result of insolvency or bankruptcy may not be enforceable under federal bankruptcy law.

Items 17 (c) and (m) are amended to state that any release signed as a condition of transfer or renewal will not apply to any claims you may have under the Rhode Island Franchise Investment Act.

Items 17 (u), (v) and (w) are amended to state that any provision in the Franchise Agreement restricting jurisdiction or venue to a forum outside Rhode Island or requiring the application of laws of a state other than Rhode Island is void as to a claim otherwise enforceable under the Rhode Island Franchise Investment Act.

## **VIRGINIA**

### **Addendum Pursuant to Virginia Retail Franchising Act**

The following provisions will supersede anything to the contrary in the Franchise Disclosure Document and will apply to all franchises offered and sold under the laws of the Commonwealth of Virginia:

Item 17(h) is amended to state that, pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If

any grounds for default or termination stated in the Franchise Agreement do not constitute “reasonable cause” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

## **WASHINGTON**

### **Addendum Pursuant to Washington Franchise Investment Protection Act**

1. The state of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with us, including areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with us, including the areas of termination and renewal of your franchise.
2. A release or waiver of rights you sign will not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the Franchise Agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.
3. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.
4. Transfer fees are collectable to the extent that they reflect our reasonable estimated or actual costs to approve and complete the transfer.
5. In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
6. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee’s earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor’s earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.
7. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the

franchise agreement or elsewhere are void and unenforceable in Washington.

8. Item 1 of the Disclosure Document is amended to add to the third paragraph under the heading “OUR BUSINESS”

“None of these business opportunities were located in Washington State or sold to Washington residents.”

Under the heading REFERRAL PROGRAM FOR EXISTING FRANCHISEES, Item 1 is amended to add the following:

Franchisees who receive financial incentives to refer franchise prospects to the Franchisor may be required to register as franchise brokers under the laws of Washington State. Due to that prospect, we reserve the right to not offer this program in Washington State.

**WISCONSIN**  
**Addendum Pursuant to Wisconsin Fair Dealership Law**

This Addendum to the Franchise Disclosure Document amends Item 17 to add the following:

The Wisconsin Fair Dealership Law Title XIV-A Ch. 135, Section 135.01-135.07 may affect the termination provision of the Franchise Agreement.

**CALIFORNIA ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between PHOCATOX TECHNOLOGIES, LLC and \_\_\_\_\_ to amend and revise the Franchise Agreement.

In recognition of the requirements of the California Franchise Investment Law, Cal. Corp. Code §§31000-3516 and the California Franchise Relations Act, Cal. Bus. and Prof. Code §§20000-20043, the Franchise Agreement for PHOCATOX TECHNOLOGIES, LLC is amended as follows:

1. The California Franchise Relations Act provides rights to Franchisee concerning termination, transfer or non-renewal of the Franchise Agreement, which may supersede provisions in the Franchise Agreement, specifically Sections 8, 9, 10 and 11.
2. Section 12 contains a covenant not to compete that extends beyond the expiration or termination of the Agreement; this covenant may not be enforceable under California Law.
3. Section 12 contains a damage clause that fixes the amount of damages if a franchise-owner violates the non-compete provision after termination or expiration. This provision may not be enforceable under California law.
4. Sections 13 (a-d) are not applicable to franchise-owners in the State of California.
5. Section 14 requires resolution of disputes to be handled by litigation to be conducted in a court located outside of the State of California, in the State of Indiana. This provision might not be enforceable for any cause of action arising under California law.
6. Section 14 requires application of the laws of Indiana. This provision might not be enforceable under California law.
7. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the California Franchise Investment Law, Cal. Corp. Code §§31000-3516 and the California Franchise Relations Act, Cal. Bus. and Prof. Code §§20000-20043 are met independently of this Addendum.

To the extent this Addendum shall be deemed to be inconsistent with any terms or conditions of the Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum shall govern.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**HAWAII ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between PHOCATOX TECHNOLOGIES, LLC and \_\_\_\_\_.

In recognition of the requirements of the Hawaii Franchise Investment Law, Hawaii Revised Statutes, Title 26, Chapter 482E *et seq.*, the Franchise Agreement is amended as follows:

1. The Hawaii Franchise Investment Law provides rights to Franchisee concerning non-renewal, termination and transfer of the Franchise Agreement. If the Franchise Agreement, and more specifically Sections 8, 9 and 10 contain a provision that is inconsistent with the Hawaii Franchise Investment Law, the Hawaii Franchise Investment Law will control.

2. Section 8 requires Franchisee to sign a general release as a condition of renewal of the franchise; such release shall exclude claims arising under the Hawaii Franchise Investment Law.

Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Hawaii Franchise Investment Law are met independently of this Addendum. To the extent this Addendum shall be deemed to be inconsistent with any terms or conditions of said Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum shall govern.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**ILLINOIS ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between PHOCATOX TECHNOLOGIES, LLC and \_\_\_\_\_.

In recognition of the requirements of the Illinois Franchise Disclosure Act, 815 ILCS 705, the Franchise Agreement for PHOCATOX TECHNOLOGIES, LLC is amended as follows:

1. Sections 8 and 9 are amended to add:

No release shall be required as a condition of renewal or transfer or as a condition to receiving a refund of a portion of the Franchise Fee following a termination of the Franchise that is intended to require Franchisee to waive compliance with the Illinois Franchise Disclosure Act, 815 ILCS 705.

2. Sections 8 and 10 are amended to add:

The conditions under which the Franchise Agreement can be terminated and Franchisee's rights upon termination or non-renewal, as well as the application by which Franchisee must bring any claims, may be governed by the Illinois Franchise Disclosure Act, 815 ILCS 705/19 and 705/20.

3. Sections 14 C and D are amended to add:

14. C Notwithstanding the foregoing to the contrary, this Agreement is subject to the Illinois Franchise Disclosure Act, and will be governed under that law.

14. D Notwithstanding the foregoing to the contrary, this Agreement is subject to the Illinois Franchise Disclosure Act, which requires that litigation must be brought in Illinois, and that the jurisdiction and venue of Illinois courts will apply.

4. No action for liability under the Illinois Franchise Disclosure Act shall be maintained unless brought before the expiration of 3 years after the act or transaction constituting the violation upon which it is based, the expiration of 1 year after the franchisee becomes aware of facts or circumstances reasonably indicating that he may have a claim for relief in respect to conduct governed by the Act, or 90 days after delivery to the franchisee of a written notice disclosing the violation, whichever shall first expire.

5. Any condition, stipulation, or provision purporting to bind any person acquiring any Franchise to waive compliance with any provision of the Illinois Franchise Disclosure Act or any other law of this State is void. This Section shall not prevent any person from entering into a

settlement agreement or executing a general release regarding a potential or actual lawsuit filed under any of the provisions of this Act, nor shall it prevent the arbitration of any claim pursuant to the provisions of Title 9 of the United States Code.

6. Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Illinois Franchise Disclosure Act are met independently of this Addendum. To the extent this Addendum shall be deemed to be inconsistent with any terms or conditions of said Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum shall govern.

To the extent this Addendum shall be deemed to be inconsistent with any terms or conditions of the Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum shall govern.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**INDIANA ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between Phocatox Technologies, LLC and \_\_\_\_\_, to amend and revise said Franchise Agreement.

In recognition of the requirements of the Indiana Deceptive Franchise Practices Law, IC 23-2.2.7 and the Indiana Franchise Disclosure Law, IC 23-2-2-2.5, the Franchise Agreement for PHOCATOX TECHNOLOGIES, LLC is amended as follows:

1. Section 6 is amended to provide that Franchisee will not be required to indemnify Franchisor for any liability imposed upon Franchisor as a result of Franchisee's reliance upon or use of procedures or products which were required by Franchisor, if such procedures or products were utilized by Franchisee in the manner required by Franchisor.
2. Sections 10 and 11 are amended to prohibit unlawful unilateral termination of a Franchise unless there is a material violation of the Franchise Agreement and termination is not in bad faith.
3. Sections 12 are amended subject to Indiana Code 23-2-2.7-1(9) to provide that post-term non-competitor covenants shall have a geographical limitation of the territory granted to Franchisee.
4. Section 14 is amended to provide that, in the event of a conflict of law, the Indiana Franchise Disclosure Law, IC 23-2-2.5, and the Indiana Deceptive Franchise Practices Law will prevail.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**MARYLAND ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between PHOCATOX TECHNOLOGIES, LLC and \_\_\_\_\_, to amend and revise said Franchise Agreement.

In recognition of the requirements of the Maryland Franchise Registration and Disclosure Law, Md. Code Ann., Bus. Reg. §§14-201-14-233, the Franchise Agreement for PHOCATOX TECHNOLOGIES, LLC is amended as follows:

1. The laws of the State of Maryland may supersede the Franchise Agreement, including Section 10, concerning termination and Section 8, concerning renewal of the Franchise Agreement.

2. The Introduction and Section 13 of the Franchise Agreement are amended as follows:

Any portion of the Franchise Agreement which requires prospective franchisees to disclaim the occurrence and/or acknowledge the non-occurrence of acts would constitute a violation of the Maryland Franchise Registration and Disclosure Law. Any such representations are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

3. Section 14 of the Franchise Agreement is amended to provide that a franchisee may sue in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Laws must be brought within 3 years after the grant of the Franchise Agreement.

4. Section 14 of the Franchise Agreement requires that the Franchise be governed by the laws of the State of Indiana; however, in the event of a conflict of laws to the extent required by the Maryland Franchise Registration and Disclosure Law, the laws of the State of Maryland shall prevail.

Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law applicable to the provisions are met independently of this Addendum. To the extent this Addendum shall be deemed to be inconsistent with any terms or conditions of said Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum shall govern.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Date

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**MINNESOTA ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between Phocatox Technologies, LLC and \_\_\_\_\_, to amend and revise said Franchise Agreement.

1. Sections 8, 10 and 11 of the Franchise Agreement are amended to provide that Minnesota law provides franchisees with certain termination and non-renewal rights. Minnesota Statutes, Section 80C.14, subdivisions 3, 4, and 5 require, except in certain specified cases, that 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. Under Minnesota law, Franchisor must indemnify Franchisee against liability to third parties resulting from claims by third parties that Franchisee's use of Franchisor's trademarks infringes trademark rights of the third party.

Section 4 of the Franchise Agreement is amended to require that Franchisor indemnifies Franchisee against liability to third parties resulting from claims by third parties that Franchisee's use of Franchisor's trademarks infringes trademark rights of the third party.

3. Section 14.D of the Franchise Agreement is amended to read as follows:

“Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act; 15 U.S.C. ¶ 1050 et seq.), as amended, this Agreement will be governed by the laws of the State of Illinois, without recourse to Minnesota choice of law or conflicts of law principles, provided, however, that this Section shall not in any way abrogate or reduce any rights of Franchisee as provided for in Minnesota Statutes 1984, Chapter 80C, including the right to submit matters to the jurisdiction of the courts of Minnesota.”

4. The following language will appear at the end of Section 14 of the Franchise Agreement:

“Minnesota Statutes, Sections 80C.21 and Minnesota Rule 2860.4400J prohibit Franchisor from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Franchise Disclosure Document or Franchise Agreement 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.”

5. Minn. Rule 2860-4400J prohibits waiver of a jury trial. To the extent Section 14 of the Franchise Agreement states that trial by jury is waived, that language is deleted.

6. Section 8 provides for a general release of any claims against Franchisor that may be subject to the Minnesota Franchise Law. Minn. Rule 2860.4400D which prohibits a franchisor from requiring a franchisee to assent to a general release.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this

Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**NEW YORK ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20 \_\_\_, by and between Phocatox Technologies, LLC and \_\_\_\_\_, to amend and revise said Franchise Agreement.

In recognition of the requirements of the General Business Laws of the State of New York, Article 33, §§ 680 through 695, the Franchise Agreement Phocatox Technologies, LLC is amended as follows:

1. Section 8 of the Franchise Agreement is amended to provide that no release language set forth in the Franchise Agreement will relieve Franchisor or any other person, directly or indirectly, from liability imposed by the laws of the State of New York concerning franchising.
2. Under Section 9 of the Franchise Agreement, Franchisor shall not transfer and assign its rights and obligations under the Franchise Agreement unless the transferee will be able to perform Franchisor's obligations under the Franchise Agreement, in Franchisor's good faith judgment, so long as it remains subject to the General Business Laws of the State of New York.
3. Section 14 of the Franchise Agreement requires that the Franchise be governed by the laws of Indiana. This requirement will not be considered a waiver of any right conferred upon Franchisee by Article 33 of the General Business Laws.

Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the New York Law applicable to the provisions are met independently of this Addendum. To the extent this Addendum shall be deemed to be inconsistent with any terms or conditions of said Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum shall govern.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**RHODE ISLAND ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between PHOCATOX TECHNOLOGIES, LLC and \_\_\_\_\_, to amend and revise said Franchise Agreement.

In recognition of the requirements of The Rhode Island Franchise Investment Act §19-28.1-34, for all Franchise Agreements offered and sold in the State of Rhode Island, the Franchise Agreement is amended as follows:

1. Sections 8 and 9 require franchise-owner to sign a general release as a condition for renewal and transfer, such release shall exclude claims arising under The Rhode Island Franchise Investment Act.
2. Subsection 14 is amended to provide that Section 19-28.1-14 of the Rhode Island Franchise Investment Act, as amended by laws of 1993, provides that “a provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.”
3. Section 14 is amended to provide that any provision in the Franchise Agreement which designates the governing law as that of any state other than the State of Rhode Island is deleted.

Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Rhode Island Law applicable to the provisions are met independently of this Addendum. To the extent this Addendum shall be deemed to be inconsistent with any terms or conditions of said Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum shall govern.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**VIRGINIA ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20 \_\_\_, by and between PHOCATOX TECHNOLOGIES, LLC and \_\_\_\_\_, to amend and revise said Franchise Agreement.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, Section 10 is amended to the extent that it includes language that permits the franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the franchise agreement do not constitute “reasonable cause,” as defined in the Virginia Retail Franchising Act or the laws of Virginia, the provision may not be enforceable.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Agreement is amended to the extent that it includes language that provides a franchisor can use undue influence to induce a franchisee to surrender any right given under the franchise, which language may not be enforceable.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**WASHINGTON ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between PHOCATOX TECHNOLOGIES, LLC and \_\_\_\_\_, to amend and revise said Franchise Agreement.

In recognition of the requirements of the Washington Franchise Investment Protection Act, Washington Rev. Code §§19.100.010 – 19.100.940, the Franchise Agreement is amended as follows:

1. Sections 4.L and 12.B of the Franchise Agreement is amended to the extent it conflicts with RCW 49.62.020, which states that a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). Sections 4.L and 12.B and any other contained in the Franchise Agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.
2. Section 8 of the Franchise Agreement is amended to provide that a release or waiver of rights executed by a Franchisee may not include rights under the Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the Franchise Agreement is in effect and where the parties are represented by independent counsel.
3. Sections 8 and 10 of the Franchise Agreement are amended to provide that if any of the provisions in the Franchise Disclosure Document or Franchise Agreement are inconsistent with the relationship provisions of RCW 19.100.180 or other requirements of the Washington Franchise Investment Protection Act (the "Act") (including areas of termination and renewal of your franchise), the provisions of the Act will prevail over the inconsistent provisions of the Franchise Disclosure Document or Franchise Agreement with regard to any franchise sold in Washington. There may also be court decisions which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.
4. Section 9 of the Franchise Agreement is amended to provide that transfer fees are collectable to the extent that they reflect Franchisor's reasonable estimated or actual costs in effecting a transfer.
5. Section 14 of the Franchise Agreement is amended to provide that in the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

6. Section 14 of the Franchise Agreement is amended to provide that provisions that unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

7. Section 14 of the Franchise Agreement requires that the Franchise be governed by the laws of the State of Indiana; such a requirement may be unenforceable in the event of a conflict with the Washington Franchise Investment Protection Act. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

8. Section 14 of the Franchise Agreement requires litigation or arbitration to be conducted in the State of Indiana; the requirement shall not limit any rights Franchisee may have under the Washington Franchise Investment Protection Act to bring suit in the State of Washington, which provides:

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

9. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the Franchise Agreement or elsewhere are void and unenforceable in Washington.

Each provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Washington Law applicable to the provisions are met independently of this Addendum. To the extent this Addendum shall be deemed to be inconsistent with any terms or conditions of said Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum shall govern.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**WISCONSIN ADDENDUM TO  
BIOSWEEP® FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between PHOCATOX TECHNOLOGIES, LLC and \_\_\_\_\_ to amend and revise said Franchise Agreement.

1. The Wisconsin Fair Dealership Law Title XIV-A Ch. 135, Sec. 135.01-135.07 shall supersede any conflicting terms of the Franchise Agreement.

2. This provision of this Addendum shall be effective only to the extent that the jurisdictional requirements of the Wisconsin Fair Dealership Law applicable to the provisions are met independently of this Addendum. To the extent this Addendum shall be deemed to be inconsistent with any terms or conditions of said Franchise Agreement, or exhibits or attachments thereto, the terms of this Addendum shall govern.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Addendum, and understands and consents to be bound by all of its terms.

**PHOCATOX TECHNOLOGIES, LLC**

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**EXHIBIT C TO FRANCHISE DISCLOSURE DOCUMENT**

**PHOCATOX TECHNOLOGIES, LLC  
FRANCHISE AGREEMENT**

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**EXHIBITS**

Exhibit A - FRANCHISE TERRITORY

Exhibit B - INITIAL PURCHASE OF BIOSWEEP MACHINES

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AGREEMENT

**PHOCATOX TECHNOLOGIES, LLC  
FRANCHISE AGREEMENT**

This Franchise Agreement (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 202\_, by and between Phocatox Technologies, LLC, an Indiana limited liability company with its principal office at 160 W. Carmel Drive, Suite 204, Carmel, Indiana 46032 ("Phocatox", "us" or "we"), and \_\_\_\_\_, with its principal office at \_\_\_\_\_ ("Franchise Owner" or "you").

**Preliminary Statement**

Phocatox owns the "BIOSWEEP®" trademark - - together with all of the associated goodwill - - which "BIOSWEEP®" trademark is used by Phocatox in promoting and otherwise commercializing various odor removal and indoor air and surface decontamination products and services (the "BIOSWEEP Trademark").

Phocatox has developed and owns the design for the BIOSWEEP Model 900 and Model 1100 machines, which is used to perform odor removal and indoor air and surface decontamination services. Any reference in this Agreement to BIOSWEEP machines shall include any subsequent generation version of a BIOSWEEP Model 900 or Model 1100 provided by Phocatox and any other machine provided by Phocatox that is intended to perform services that are generally similar to the BIOSWEEP Model 900 or Model 1100 machines.

Phocatox has developed a unique set of procedures for the establishment and operation of an odor removal and indoor air and surface decontamination business, including limiting the types of services that may be performed using the BIOSWEEP machines (to ensure quality and safety), uniform standards, specifications and procedures of operation, management, and quality and uniformity of products used and services offered (the "BIOSWEEP System").

Phocatox manufactures, and sells the BIOSWEEP machines and grants franchises to third parties to own and operate BIOSWEEP odor removal and indoor air and surface decontamination businesses, along with the right to use the BIOSWEEP trademark, the BIOSWEEP System, and other proprietary information in such businesses.

Franchise Owner desires to purchase BIOSWEEP machines and obtain the exclusive license to operate a BIOSWEEP odor removal and indoor air and surface decontamination business (the "BIOSWEEP Business") in the area described in Exhibit A to this Agreement (the "Franchise Territory").

In consideration of following promises and undertakings and terms and conditions, the parties hereby agree as follows.

**Section 1 - - Grant of License and Term of Agreement**

Subject to certain exceptions that are stated in this Agreement, Phocatox hereby grants to Franchise Owner the exclusive right to own and operate a BIOSWEEP Business for a term of five (5) years in the Franchise Territory and to use the BIOSWEEP Trademark, BIOSWEEP System, and the rights set forth in this Agreement solely in a BIOSWEEP Business in such Franchise Territory and in no other manner. The five (5) year term shall commence on such date that the Franchise Owner takes delivery of its initial order of BIOSWEEP machines pursuant to Section 2 below (provided that such term

shall commence no later than two (2) months after the date of this Agreement). For mutual planning purposes, the current projected official commencement date of the term of this Agreement is \_\_\_\_\_, 202\_\_\_. The Franchise Owner agrees to operate the BIOSWEEP Business in accordance with the terms of this Agreement on a continuous basis throughout such term and any renewal term that may be granted pursuant to Section 8 below. Any reference to the “term of this Agreement” or similar phrase describing the duration of this Agreement shall include the initial term as well as any renewal terms (if any are granted).

The Franchise Owner acknowledges that the BIOSWEEP System is structured so that each franchise owner operating as part of the system (or Phocatox, in the case of a Phocatox-owned BIOSWEEP Business, if any) is assigned a specific exclusive geographical area as to which each must utilize its best efforts to develop and service in accordance with the standards established by Phocatox, and that such exclusive territories are reasonable and necessary to maximize the ability of each franchise owner to effectively compete with its competitors in the odor removal and indoor air and surface decontamination business. The Franchise Owner acknowledges that the license granted by this Section 1 is expressly limited to the right to operate the BIOSWEEP Business within the Franchise Territory. The Franchise Owner shall not service customer locations outside of the Franchise Territory other than in compliance with the terms of Section 3, Part C.13 and Section 3, Part C.14 set out below, or as otherwise expressly consented to in writing by Phocatox, which consent may be withheld for any reason and, if given, may subsequently be revoked at any time.

The Franchise Territory, in addition to being described in Exhibit A, is classified based on the current population of such Franchise Territory. The Franchise Owner retains all rights to the Franchise Territory throughout the term of this Agreement, even if the population of such Franchise Territory grows to exceed the population range attributed to the Franchise Territory for purposes of classification in Exhibit A.

Notwithstanding any other provision in this Agreement to the contrary, the scope of the license granted under this Agreement expressly excludes the application or any use of the BIOSWEEP System and the BIOSWEEP machines to any and all types of aircraft. The National Accounts Program, more fully described in Section 3 (C) (12) may further limit Franchise Owner’s franchise rights in its exclusive territory.

## **Section 2 - - Purchase and Payment for Franchise Fee, Initial Order of BIOSWEEP Machines and Initial BIOSWEEP Supplies Package; Royalty Payments**

In consideration for the license granted in Section 1, the Franchise Owner agrees to pay the Franchise Fee, to purchase the initial equipment and supplies described below in Part B and to pay to Phocatox the royalties described below in Part C.

A. The Initial Franchise Fee of \$55,000 shall be paid in a lump sum in U.S. funds and is in payment for administrative and other expenses we incur in granting this franchise and territory to you and for our lost or deferred opportunity to franchise others. It is fully earned and nonrefundable, except, as this Agreement otherwise states:

1) If, you die, or you become physically or mentally disabled to the extent that you can not pursue the operation of a BIOSWEEP® franchise under this Agreement, we will refund the full initial franchise fee paid to us if death or disability occurs before we have expended time and money to train you. If death or disability occurs after you have completed training, but before you open for business, the franchise fee will be refunded minus \$5,000 to reimburse us for the costs involved to grant you the franchise and provide training. Once you begin operations, the initial franchisee fee has been fully earned



and is not refundable for any reason.

2) In the unlikely event you are unable to successfully complete training, after the initial training period, or at least one further training period, and it is our belief that you will not be able to follow the BIOSWEEP® System we have developed, the initial franchise fee will be refunded minus \$5,000 to reimburse us for the costs involved to grant you the franchise and provide training.

B. Initial Purchase of BIOSWEEP Machines and Related Equipment and Supplies. The Franchise Owner shall place a binding purchase order with Phocatox upon signing this Agreement for the eight (8) BIOSWEEP Model 900 and/or Model 1100 machines, and one (1) electrostatic sprayer as is set forth in Exhibit B, such number being determined at the signing of this Agreement, based on the schedule in Exhibit B. The purchase price for each BIOSWEEP machine is Six Thousand Five Hundred Ninety Five Dollars (\$6,595) plus sales tax where applicable. The purchase price for the electrostatic sprayer is Four Thousand Two Hundred Seventy Nine Dollars (\$4,279) plus sales tax where applicable. Such purchase prices shall be paid in full at such time as the machines, electrostatic sprayer (and the safety and testing equipment and application chemicals listed below in this Part A and the Operations Manual) have been received and inspected at the Franchise Owner's location in the United States (freight and insurance paid by Phocatox after building in cost Franchise Owner pays that ranges between \$1,000 and \$1,200) and the Initial Training (see Section 4, Part J below) has been scheduled. At the time the Franchise Owner places the purchase order for the BIOSWEEP machines and electrostatic sprayer, the Franchise Owner shall also place a binding purchase order for the appropriate safety and testing equipment and Phocatox application chemicals in an amount to reasonably stock the Franchise Owner for 3 months of operation, the purchase price of which will be at Phocatox's standard prices. The Franchise Owner acknowledges that it is Phocatox's policy to mark up the price for the equipment and supplies that it sells to the Franchise Owner so as to return to Phocatox such profit as Phocatox deems reasonable.

If the Franchise Agreement is terminated before you begin operations, and you have already purchased the machines and related equipment and supplies you are required to purchase from us, upon return of all the items you have purchased, we will refund the amount you paid for those items, but we will not refund the shipping costs.

C. Royalty Payments. Franchise Owner agrees to pay Phocatox a monthly "Royalty Payment" based on the hourly usage of BIOSWEEP Equipment. You are required to report to us the usage readings on the BIOSWEEP units for purposes of calculating the "Royalty Fee". The Royalty Fee will be calculated as follows:

- Initial Calendar Year of Agreement: No Royalty for the first 3 months. Then \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$1,875
- Second Calendar Year of Agreement: \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$3,000
- Third Calendar Year of Agreement: \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$3,500
- Forth Calendar Year of Agreement: \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$4,000
- Fifth Calendar Year of Agreement: \$1.25 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$4,500
- Beyond the Fifth Calendar Year: \$1.45 per hour of BIOSWEEP Equipment use. Cumulative Annual Minimum is \$5,215. These amounts will then increase annually by 3%.

Cumulative Annual Minimum: If at the end of each year, the cumulative royalty paid based on monthly

hours of use is less than the Cumulative Annual Minimum, then Franchise Owner shall pay the difference between the cumulative hourly royalty and the Cumulative Annual Minimum. If Year 1 is less than a full year, Cumulative Annual Minimum is prorated.

Equipment use hours for Insurance work and retreats are to be included in the royalty calculation.

D. Payment Due. The monthly royalty payments shall be due and payable on the 20th day of the month. Phocatox will prepare an invoice based on the above schedule and send to the Franchise Owner by the 10<sup>th</sup> of the month. Payment shall be made by the Franchise Owner by debit or credit card on file with Phocatox. Phocatox shall have the right to inspect and audit the calculation of the number of BIOSWEEP machine operating hours and the calculation of the royalty actually paid by the Franchise Owner (See Section 3, Part F).

Any errors in calculating or reporting the number of BIOSWEEP machine operating hours shall be reported by the Franchise Owner to Phocatox. Upon such reporting, there shall be a re-calculation of the monthly royalty payment for the month in which the error occurred. If such re-calculation (as received and approved by Phocatox, results in a monthly royalty payment that is different than that amount which was paid by the Franchise Owner, then, in the case of such re-calculation being a lower amount, Phocatox will issue a credit to the Franchise Owner in the appropriate amount by credit card or check. If such re-calculation is a higher amount than was paid by the Franchise Owner, then the Franchise Owner shall pay to Phocatox the difference between the re-calculated amount and the originally paid amount, plus an administration charge of ten percent (10%) of such difference (this administration charge is in addition to any late payment fees that may be owing under Section 2, Part D). At the end of the term of the Franchise Agreement, any overpayments will be refunded to the Franchise Owner. Franchise Owner shall not be liable for any administrative charge for errors by Phocatox and/or Phocatox' payment system.

E. Late Payment. If royalty payments are not fully paid on or before the date when due, Franchise Owner agrees to pay Phocatox a late charge equal to five percent (5%) of the amount not timely paid. The Franchise Owner acknowledges that this late fee of five percent (5%) shall be automatically assessed when payment of the subject royalty amount is made at the Phocatox online service center (<http://phocatox.com/members/>). Franchise Owner shall not be liable for any late payments caused by Phocatox's royalty payment system.

F. Collection Costs. Franchise Owner agrees to reimburse Phocatox for all reasonable costs of collection, including attorney's fees, of any amounts due under this Agreement. Phocatox shall reimburse Franchise Owner for all reasonable costs of collection related to overpayments, including attorney's fees and court costs.

G. Best Efforts. The Franchise Owner agrees to use his or her best efforts to promote and maintain the BIOSWEEP Business in the Franchise Territory.

### **Section 3 - - The Franchise Owner's Duties**

A. Uniformity. The Franchise Owner acknowledges that the success and safety of his or her BIOSWEEP Business and the protection of the BIOSWEEP System, the BIOSWEEP Trademark, and the related goodwill require that the unique qualities of Phocatox's (and BIOSWEEP's) image and services be maintained. The Franchise Owner acknowledges that the value of the goodwill related to such unique qualities is significant. The Franchise Owner agrees that such unique qualities can only be maintained if franchise owners strictly adhere to the BIOSWEEP System, including Phocatox's guidance,

specifications, restrictions as to, and methods of addressing odor removal and indoor air and surface decontamination service opportunities. The Franchise Owner acknowledges that the foregoing has created expectations - - and is intended to further create and maintain expectations - - on which the customers of Phocatox, the Franchise Owner and other franchise owners rely (or will rely).

B. Change. The Franchise Owner acknowledges that the success and safety of his or her BIOSWEEP Business and the protection of the BIOSWEEP System, the BIOSWEEP Trademark, and the related goodwill require that uniform changes be made from time to time in the BIOSWEEP machines, BIOSWEEP chemicals, machine usage protocols, methods of services delivery, advertising, and all other components of the BIOSWEEP System.

C. Specific Duties. In order to maintain and achieve the unique qualities of the BIOSWEEP System and to continue its success, the Franchise Owner agrees as follows:

1. BIOSWEEP Machines. The following provisions apply to the BIOSWEEP machines as referenced in Section 2, Part A above.

a. Use. The Franchise Owner shall remove odors and / or perform air and surface decontamination services as part, and in furtherance, of the BIOSWEEP Business and only in accordance with the provisions established from time-to-time in the Operations Manual or as otherwise communicated to the Franchise Owner by Phocatox in writing or at meetings or in training sessions.

b. Repairs and Maintenance. The Franchise Owner is responsible for all maintenance on equipment, and it shall maintain all BIOSWEEP machines in good operating condition according to the maintenance guidelines in the operating manual. BIOSWEEP units shall not be altered or modified in any manner. Repairs to equipment shall be made only by Phocatox or an authorized Franchise Owner who is familiar with repair procedures and technically apt. If the equipment is used in a manner not specified by the manufacturer, the electrical protection provided by the equipment may be impaired and an electrical hazard may then exist. Any unauthorized changes or alterations to BIOSWEEP equipment shall void manufacturers' warranty. However, in the event Phocatox fails to provide timely and adequate repair to an inoperable unit, Franchise Owner has the right to use other reasonable repair services through a repair business knowledgeable in the repair of electrical devices, provided that Franchise Owner deliver written notice to Phocatox of its intention to effect the subject repair itself thirty (30) days prior to such self-action (and Phocatox has not completed the subject repair or delivered a loaner machine while the subject repair is being effected).

c. Spare Parts. The Franchise Owner shall install or have installed in the BIOSWEEP machines only spare parts which are approved by Phocatox as conforming to its specifications for quality, performance, safety, durability, appearance and other characteristics incident to maintaining the Phocatox and BIOSWEEP image and standard of quality and effectiveness. d. Sale or Disposal. The Franchise Owner acknowledges that the BIOSWEEP machine is unique equipment which if used by other persons, firms or corporations would give such other person, firm or corporation a competitive advantage that is presently enjoyed by Phocatox and its franchise owners and that such use could have an adverse impact upon the BIOSWEEP System. Therefore, the Franchise Owner agrees as follows:

(i) Within thirty (30) days after the expiration of the term of this Agreement or after any termination (regardless of the reason) of this Agreement, the Franchise Owner shall offer, in writing, to sell to Phocatox all of the BIOSWEEP machines at a price that is determined pursuant to the table set out below in this Part C.1.d (with possession of such machines, if purchased, to be transferred to Phocatox at the principal place of business of the Franchise Owner). Phocatox shall have forty-five (45) days from the receipt of such offer to exercise its right to purchase all or some of the subject BIOSWEEP machines and to complete and pay for such purchase within such forty-five (45)-day period. During such forty-five (45)-day period, Phocatox may inspect such machines (and the Franchise Owner shall permit Phocatox reasonable access to the machines for this purpose). If Phocatox does not elect to purchase any such BIOSWEEP machines within such forty-five (45)-day period, the Franchise Owner may thereafter negotiate to sell or dispose of the same to any other existing BIOSWEEP Franchise Owner. However, Franchise Owner may not sell or dispose of BIOSWEEP machines otherwise.

(ii) The Franchise Owner agrees not to sell or otherwise dispose of any BIOSWEEP machine without first offering such BIOSWEEP machines for terms pursuant to the table set out below in this Part C.1.d (with possession of such machines, if purchased, to be transferred to Phocatox at the principal place of business of the Franchise Owner). The Franchise Owner shall deliver to Phocatox in writing notice of its intent to sell any of the BIOSWEEP machines. Phocatox shall thereafter have forty-five (45) days after the receipt of such notice to purchase all or any part of such BIOSWEEP machines by payment of the applicable purchase price to the Franchise Owner. During such forty-five (45) day period, Phocatox may inspect such machines (and the Franchise Owner shall permit Phocatox reasonable access to the machines for this purpose). If Phocatox does not elect to purchase any such BIOSWEEP machines within such forty-five (45) day period, the Franchise Owner may thereafter negotiate to sell or dispose of the same to any other existing BIOSWEEP Franchise Owner. However, Franchise Owner may not sell or dispose of BIOSWEEP machines otherwise.

**BIOSWEEP Machine Purchase Price Table for Re-Purchases by Phocatox**

<b>Price Level #</b>	<b>Category I Number of Days (after original date of delivery of the subject BIOSWEEP machine)<sup>1</sup></b>		<b>Category II Number of Operating Hours The subject BIOSWEEP machine has been used<sup>2</sup></b>	<b>Purchase Price Of the subject BIOSWEEP machine to be paid by Phocatox if purchase right exercised</b>
1	1 – 180 days	And	Less than 500 hrs.	\$ 3,500.00
2	181 – 360 days	And	Less than 1,200 hrs.	\$ 3,000.00
3	361 – 720 days	And	Less than 3,200 hrs.	\$ 2,500.00
4	721 – 1,080 days	And	Less than 5,200 hrs.	\$ 2,000.00
5	> 1080 days	And	Less than 7,000 hrs.	\$ 1,500.00
6	(Any number of days)	And	More than 7,000 hrs.	\$ 1,000.00

**Footnotes:**

<sup>1</sup>If the subject BIOSWEEP machine exceeds “Category I Number of Days” for a certain “Price Level”, then move to the next Price Level, regardless of the “Number of Operating Hours” for the subject machine.

<sup>2</sup>If the subject BIOSWEEP machine exceeds “Category II Operating Hours” for a certain “Price Level”, then move to the next Price Level, regardless of the “Number of Days” for the subject machine.

2. Manuals. The Franchise Owner agrees to comply with all of the requirements set forth in any manuals or other written communications from Phocatox. The Franchise Owner agrees to make any changes in methods of operation which are set forth in any modification or addition made by Phocatox to any manual, in any written communication from Phocatox or in any training sessions (All of the manuals, written communications and training session information are collectively referred to as the "Phocatox Manuals").

3. Approved Products. The Franchise Owner shall use in the BIOSWEEP Business, and in particular in and with the BIOSWEEP machines, only such products that are required for use by Phocatox (and / or as may be required to be sourced from a specified supplier), including as they may be changed from time-to-time in the Phocatox Manuals.

4. Odor Removal and Decontamination Procedures and Scope of Services. The Franchise Owner shall provide odor removal and air and surface decontamination services only in accordance with procedures prescribed in the Phocatox Manuals (as such may be changed from time-to-time). For safety and business effectiveness reasons, the Franchise Owner agrees to not provide or attempt to provide any odor removal or air or surface decontamination service of a type or nature that has not been approved in writing by Phocatox as being appropriate for the utilization of the BIOSWEEP machine and BIOSWEEP Surface Defense.

5. Additional Machinery, Equipment and Supplies. The Franchise Owner shall use in the BIOSWEEP Business only such additional machinery, equipment and supplies, and no others, as are required or approved by Phocatox, including as such may be changed from time-to-time in the Phocatox Manuals. Any such items used in the BIOSWEEP Business shall conform to Phocatox's specifications for quality, performance, safety, durability, appearance and other characteristics incident to maintaining the Phocatox and BIOSWEEP images and standard of quality.

6. Full Line of Services. The Franchise Owner shall offer customers the full line of services and products that Phocatox shall establish or approve, including as such may be changed from time-to-time in the Phocatox Manuals.

7. New Services and Products. The Franchise Owner shall offer and promote the sale of all new services and products that Phocatox develops and provides for use in the BIOSWEEP Businesses.

8. Discontinued Services and Products. The Franchise Owner shall cease all services and the sale of all products that Phocatox determines are no longer to be a part of the BIOSWEEP System (such cessation to commence upon the depletion by the Franchise Owner of its supplies and products in stock which are related to such discontinued product or service). Phocatox shall not unreasonably require Franchise Owner to upgrade to a new version of BIOSWEEP machines or new version of ancillary equipment or supplies.

9. No Alternate Suppliers. The Franchise Owner shall purchase all spare parts, chemicals, machinery, equipment, and supplies, and shall obtain repairs required for the operation of the BIOSWEEP machines, solely from Phocatox.

10. Payments to Phocatox. The Franchise Owner shall pay all sums due to Phocatox for products or services purchased or leased from Phocatox in the manner required for payment of royalty fees as set forth in Section 2, Parts C through E.

11. Payment to Others. The Franchise Owner shall pay all sums when due to any person with respect to the BIOSWEEP Business; provided that if the Franchise Owner is contesting its obligation to pay any such sum in good faith, payment may be postponed during the period of such contest.

12. National Accounts / Extra-Ordinary Events Program. Certain potential and existing commercial customers of Phocatox and the Franchise Owner may have facilities requiring odor removal or air or surface decontamination services within the Franchise Territory as well as facilities outside the Franchise Territory (with such extra-Franchise Territorial facilities being within the exclusive licensed areas of other Phocatox franchise owners and/or in areas serviced by Phocatox as Phocatox branches). Such potential and existing customers, regardless of the number of subject facilities, are referred to as "National / Regional Account Customers." The Franchise Owner acknowledges and agrees that in order to service such National / Regional Account Customers most effectively and to compete for the business of such National / Regional Account Customers against competing service providers outside of the Phocatox franchise network, it is necessary to have a program coordinated by Phocatox for providing services to National Account Customers.

In addition to National / Regional Account Customers who may need to be served on a nationally (or regionally) coordinated basis in order to provide effective and efficient service, there are also certain events, such as natural or other large-scale emergencies, extra-ordinary events, or large insurance loss claims types of events that may require a coordinated response on the part of Phocatox and its franchisees in order to deliver effective and efficient service. Such an event or circumstance, regardless of its geographic scope, is referred to as an "Extra-Ordinary Event Account".

The Franchise Owner acknowledges that Phocatox has implemented a program for providing odor removal and air and surface decontamination services to National / Regional Account Customers and to Extra-Ordinary Event Accounts upon terms and conditions as it determines in its discretion (collectively, the "National Accounts Program"), and the Franchise Owner agrees to participate in the National Accounts Program as required by Phocatox. The National Accounts Program may include, but shall not be limited to, the following:

a. Phocatox may designate an emergency circumstance as an Extra-Ordinary Event Account and enter into contracts with the appropriate government agencies, insurance companies, restoration and remediation service providers, owners of affected facilities, and others to address the needs that arise out of the subject emergency circumstance, even though the location of the facilities that would be serviced by BIOSWEEP machines (or similar equipment) may be within an existing Franchise Territory.

b. Phocatox may designate a multi-national or multi-regional or regional customer, including cleaning and restoration contractors who provide insurance loss cleaning and restoration services, and portions of the health care industry, specifically hospitals and surgery centers, as a National / Regional Account Customer and enter into contracts with such a customer that applies to all of the customer's facilities, even though the location of some of the facilities that would be serviced by BIOSWEEP machines (or similar equipment) may be within an existing Franchise Territory.

c. The Franchise Owner will be provided the opportunity to participate in the provision of services with National / Regional Account Customers and with respect to an

Extra-Ordinary Event Account. Attached to this Agreement as Exhibit D is the BioSweep Service Provider Insurance Program Agreement (the "IPA"). Participation will be voluntary. If the Franchise Owner elects to so participate, such participation shall be in accordance with the BIOSWEEP System and the requirements of Phocatox. The Franchise Owner shall service all National / Regional Account Customer locations in the Franchise Territory in accordance with the BIOSWEEP System and the requirements of Phocatox.

d. The contracts entered into by Phocatox under the National Accounts Program may provide for special terms of service and special pricing that differ from that which may normally be provided or charged by the Franchise Owner.

e. The Franchise Owner shall not charge an Extra-Ordinary Event Account customer or a National / Regional Account Customer for any product or service an amount in excess of the price for that customer as established by Phocatox, subject to such regional or territorial variations as may be agreed to by Phocatox in writing.

f. The Franchise Owner shall provide Phocatox with such reports regarding the Franchise Owner's provision of services to and revenues received from or related to the National Account Program as are requested from time to time by Phocatox.

g. The Franchise Owner shall have the right to opt out of participating in all or part of any National Accounts or Extra-Ordinary Events Accounts; provided that if the Franchise Owner opts out, it will not directly serve the clients or customers included in the subject National Accounts or Extra-Ordinary Events Program.

h. The Franchise Owner will have the opportunity, , to choose to participate by signing Exhibit D. If the Franchise Owner does not participate, the Franchisor, and other franchise owners could do work for National Account Customers within the Franchise Owner's Exclusive Territory. No compensation will be paid to the Franchise Owner.

13. Handling Extra-Territorial Service Requests / Opportunities in the Absence of a National Accounts Program. In the circumstance where the Franchise Owner solicits or receives orders from customers within the Franchise Territory for service to be provided at facilities owned, controlled or managed by such customers outside the Franchise Territory, but Phocatox has not yet established such customer as a National / Regional Account Customer, then Phocatox may, on a case-by-case basis, require the Franchise Owner to refer such service order (or request for service) to the franchise owner whose exclusive territory includes the subject facility that is outside of the Franchise Territory (the "Receiving Franchise Owner"). In such a case, Phocatox will consider requiring the Receiving Franchise Owner to pay you a courtesy fee equal to Twenty Percent (20%) of the revenue generated from the subject service request (Phocatox reserves the right to adjust the amount of any such fee). If, in such a case, the Franchise Owner has continuing account servicing responsibilities for the subject extra-territorial facility by virtue of the management control exerted by the subject customer from the office or facility located in the Franchise Territory, Phocatox may provide that the Franchise Owner continue to receive such a courtesy fee as to subsequent orders related to the subject extra-territorial facility. Phocatox reserves the right to impose a similar courtesy fee on the Franchise Owner in circumstances where another franchise owner originates - - from a customer within the exclusive territory assigned to such other franchise owner - - an order (or a request for service) with respect to a facility that is within the Franchise Territory. At any time, Phocatox may determine to designate a customer, such as the type of customer described above in this Section 3.C, Part 12, as a national / Regional Account

Customer, in which case, the requirements of the applicable National Accounts Program would govern relationships with such customer.

If a customer within the Franchise Territory requests service for one of its extra-Franchise Territory facilities in a circumstance where such extra-territorial facility is not located in another Franchise Owner's exclusive territory, Phocatox will consider approving the Franchise Owner to directly provide such service. However, such a facility is not protected and the Franchise Owner is not entitled to any exclusivity with respect to such facility. Phocatox reserves the right to revoke approval to such servicing in the event the subject facility becomes part of another franchise owner's exclusive territory at a later time.

A referral fee of up to twenty (20%) percent may be paid to the Franchise Owner by a Receiving Franchise Owner to whom the Franchise Owner made a referral that generated income.

14. Extra-Territorial Service Requests Not Attributable to a Customer Located in the Franchise Territory. If the Franchise Owner receives a request to service customer facility that is located outside the Franchise Territory, and if the provisions of Section 3.C, Parts 12 and 13 do not apply, then the Franchise Owner shall provide such request to another franchise owner(s) or to Phocatox as per procedures established by Phocatox from time-to-time.

D. Membership in National Apartment Association. Franchise Owner must join the state or local chapter or affiliate of the National Apartment Association (NAA) located nearest to the Territory within 120 days of beginning operation.

E. Computer and Internet Access. The Franchise Owner must acquire a computer for use in the business and secure internet access prior to commencing operations.

F. Inspection and Conformance.

1. Products. The Franchise Owner shall permit Phocatox or its agents at any reasonable time during normal business hours to remove from the Franchise Owner's place of business samples of products, supplies, and other items used in Franchise Owner's business, without payment therefore, in amounts reasonably necessary for testing by Phocatox to determine whether the samples meet the then current standards and specifications of Phocatox. The Franchise Owner shall bear the cost of the testing if the Franchise Owner's supplier of the items has not been approved by Phocatox or if the item fails to conform to Phocatox's specifications.

2. Premises. The Franchise Owner shall permit Phocatox to inspect the Franchise Owner's place of business during normal business hours and the BIOSWEEP machines, equipment and products used therein, and the methods of remediating air and surfaces employed in the business in order to insure the maintenance of uniform quality and standards, as well as compliance with this Agreement. In addition, at Phocatox's option, Phocatox may remove, replace, repair or remodel, at the Franchise Owner's expense, any items which do not conform with the then current standards and specifications of Phocatox; provided that Phocatox may take such action only after the Franchise Owner's delay or refusal upon request to take conforming action promptly. Phocatox shall bill the Franchise Owner for all costs and expenses reasonably incurred in so doing and the Franchise Owner shall pay the sums due no later than the date the next royalty payments are due in accordance with Section 2, Parts B through D above.

#### **Section 4 - - BIOSWEEP System and BIOSWEEP Trademark**



A. **Limitation on Use.** The license granted to the Franchise Owner to use the BIOSWEEP System and BIOSWEEP Trademark applies only to that Franchise Owner's use in connection with the operation of the business operated pursuant to this Agreement. This license includes only the right to use the BIOSWEEP System and BIOSWEEP Trademark described and represented in Exhibit C attached to, and made a part of, this Agreement (and which may hereafter be designated by Phocatox in writing as part of the BIOSWEEP System), and no other trademarks, service marks or trade names of Phocatox now existing or to be developed or acquired by Phocatox. The Franchise Owner acknowledges that such license expressly does not include the right to use the trademark or name "Phocatox".

Phocatox hereby grants Franchise Owner the right to use the name BioSweep as part of the Franchise Owner's d/b/a within the Franchise Territory; for example, "Restoration, Ltd., d/b/a BIOSWEEP". Franchise Owner may not use the name, word or Trademark BIOSWEEP as part of any business entity Franchise Owner forms to operate the business under this Agreement, such as a partnership, corporation or limited liability company.

B. **Phocatox's Rights Exclusive.** The Franchise Owner expressly acknowledges Phocatox's exclusive right to use the federally registered mark "BIOSWEEP" for odor removal and indoor air and surface decontamination and other related services and the exclusive right to use the BIOSWEEP System. The Franchise Owner agrees not to represent that he or she has any ownership in the BIOSWEEP System or the BIOSWEEP Trademark. The Franchise Owner agrees that use of the BIOSWEEP System and BIOSWEEP Trademark shall not create in his or her favor any right, title or interest in, or to, the BIOSWEEP System and the BIOSWEEP Trademark but that all of the use shall inure to the benefit of Phocatox. The Franchise Owner shall have no right to franchise or subfranchise any interest granted by this Agreement and, upon any attempt by the Franchise Owner to do so, Phocatox may thereupon terminate this Agreement as provided in Section 10 below.

C. **Infringement.** The Franchise Owner acknowledges that the use of the BIOSWEEP System or the BIOSWEEP Trademark outside the scope of this Agreement without Phocatox's prior written consent is an infringement of Phocatox's exclusive right to use the BIOSWEEP System and the BIOSWEEP Trademark. The Franchise Owner expressly promises and agrees that, during the term of this Agreement and after its expiration or termination, the Franchise Owner shall not, directly or indirectly, commit an act of infringement or contest or aid in contesting the validity or ownership of the BIOSWEEP System or BIOSWEEP Trademark, or take any other action in derogation thereof.

D. **Notice of Infringement.** The Franchise Owner shall promptly notify Phocatox of any claim, demand, or cause of action based upon or arising from any attempt by any other person, firm or corporation to use the BIOSWEEP System or the BIOSWEEP Trademark licensed hereunder, or any colorable variation thereof, in which Phocatox has or claims a proprietary interest. The Franchise Owner agrees to notify Phocatox promptly of any litigation instituted by any person, firm, corporation or governmental agency against Phocatox or the Franchise Owner involving the BIOSWEEP System or the BIOSWEEP Trademark. The Franchise Owner acknowledges that Phocatox has the right to control any administrative proceeding or litigation involving the BIOSWEEP System or BIOSWEEP Trademark. The Franchise Owner agrees to execute any and all documents and to do such acts and things as may, in the opinion of counsel for Phocatox, be necessary to carry out such defense or prosecution.

E. **Nonexclusive License.** The Franchise Owner understands and agrees that the license of the BIOSWEEP System and the BIOSWEEP Trademark is nonexclusive to the extent that Phocatox has and retains the right under this Agreement to:

1. grant other licenses for the BIOSWEEP System and the BIOSWEEP Trademark, in addition to those licenses already granted to existing franchise owners;
2. develop and establish other franchise systems for different products or services utilizing trademarks, service marks and trade names not now or hereafter designated as part of the BIOSWEEP System, and to grant licenses thereto, without providing Franchise Owner any right therein; and,
3. develop and establish other systems for the sale at wholesale or retail, of similar or different products that do not utilize the same or similar BIOSWEEP Trademark without providing Franchise Owner any right therein.

F. Goodwill. The Franchise Owner acknowledges and expressly agrees that any and all goodwill associated with the BIOSWEEP System and identified by the BIOSWEEP Trademark shall inure directly and exclusively to the benefit of Phocatox and is the property of Phocatox, and that upon the expiration or termination for whatever reason of this Agreement, no monetary amount shall be assigned as attributable to any goodwill associated with any of the Franchise Owner's activities in the operation of the license granted herein, or the Franchise Owner's use of the BIOSWEEP System or the BIOSWEEP Trademark.

G. Limit on Specific Use of BIOSWEEP Trademark. For the protection of the BIOSWEEP Trademark (and the Phocatox trademark), the Franchise Owner agrees:

1. to operate the franchise business solely under the trade name and Trademark BIOSWEEP (unless otherwise consented to by Phocatox in writing); provided, however, that if the Franchise Owner is or becomes a partnership, corporation or limited liability company (which it is entitled to do only upon the prior written consent of Phocatox), the Franchise Owner shall not utilize the name BIOSWEEP or Phocatox, or any colorable variation thereof, as part of the Franchise Owner's partnership, corporation, limited liability company, or other business entity name;
2. to adopt and use the BIOSWEEP Trademark licensed under this Agreement solely in the manner prescribed by Phocatox;
3. to observe such reasonable requirements with respect to trademark registration notices as Phocatox may from time to time direct in writing;
4. to use, promote and offer for sale only those products and services designated by Phocatox as being part of the BIOSWEEP System and which meet all standards and specifications set forth by Phocatox from time to time; provided, however, the Franchise Owner is permitted to offer services other than such that is offered through the BIOSWEEP Model 900 machines, so long as such additional service is not competitive with the services capable of being performed through the BIOSWEEP Model 900 machines. The Franchise Owner is also prohibited from selling services or products that potentially and materially adversely affect or alter the BIOSWEEP System. Phocatox, without limiting its right to make additions, currently deems the following to be competitive with or adverse to the BIOSWEEP Business and BIOSWEEP System: ozone generators, vaporized hydrogen peroxide systems, chlorine dioxide chemistry, and photocatalytic oxidation coatings and equipment.

H. Inspection. In order to preserve the validity and integrity of the BIOSWEEP System and the BIOSWEEP Trademark licensed herein and to assure that the Franchise Owner is properly employing the system and marks in the operation of the Franchise Owner's business, Phocatox or its agents shall at all times have the right to inspect the Franchise Owner's operations and premises and make periodic evaluations of the services provided and the equipment and products used therein. The Franchise Owner shall cooperate with Phocatox's representatives in such inspections and render such assistance as may be reasonably requested. Inspections shall be limited to Franchise Owner's normal business hours.

I. Advertising. The Franchise Owner understands that it is essential to the success of the Franchise Owner's BIOSWEEP Business and to the protection of the BIOSWEEP System and the BIOSWEEP Trademark (and the related goodwill) that the advertising efforts of all franchise owners (including those of the Franchise Owner) be monitored and reasonably controlled by Phocatox. To enable such monitoring and reasonable control, the Franchise Owner agrees that no advertising materials of any kind whatsoever may be used by the Franchise Owner unless all such materials have been developed, or approved in advance in writing, by Phocatox (advertising, for this purpose, includes, but is not limited to, giveaways - - to customers or prospective customers - - that bear the BIOSWEEP Trademark or related item). Phocatox shall not unreasonably withhold or delay approval of Franchise Owner's proposed advertising. The Franchise Owner further agrees to cease using any advertising materials previously developed or approved by Phocatox upon receipt of written notice from Phocatox that such materials are no longer approved for use. If Phocatox discontinues using advertising materials, the discontinuation will be phased out so that Franchise Owner does not incur unnecessary cost for new advertising materials. The Franchise Owner shall reimburse Phocatox for all costs, including attorney's fees and damages, resulting from a violation of this requirement and restriction. Phocatox hereby represents and warrants that to its actual knowledge (after reasonable inquiry), that all statements made in advertisement materials will be true and accurate.

J. Full-Time Management; Training. Either the Franchise Owner or his or her full-time manager must operate the BIOSWEEP Business. The Franchise Owner or a manager of the Franchise Owner's business, if any, shall attend the Phocatox training program at the Franchise Owner's location or a nearby convenient meeting place, prior to opening the business and at such intervals as Phocatox may require. The initial training prior to opening the business shall be at the expense of Phocatox for up to four persons as trainees; provided that the Franchise Owner shall pay the salaries, travel, food and lodging expenses for the trainees.

If a manager is replaced, the new manager must attend an initial training session prior to first discharging the duties of such office, with the Franchise Owner paying all expenses attributable thereto (including paying Phocatox its then standard charge for training).

Phocatox may require the Franchise Owner, any manager, or other personnel of the Franchise Owner's business to attend periodic update / refresher training sessions at the principal office of Phocatox or other location. Phocatox may, from time-to-time, offer additional training sessions regarding various matters pertaining to the BIOSWEEP Business, with attendance at such sessions being voluntary. All subsequent training shall be at the expense of the Franchise Owner (and other franchise owners required to participate or who so choose to participate), including the standard charge for training to be paid to Phocatox and including that the Franchise Owner shall pay all costs of travel and living expenses in connection with he or she (or a representative) attending such training.

K. Confidentiality. The Franchise Owner will not divulge to any person, other than employees, any methods of odor removal and air or surface decontamination, operations, or any other matters which could properly be considered to be part of the BIOSWEEP System, and will require each employee at the time of employment to sign an agreement, in a form supplied by Phocatox, agreeing to

maintain such secrecy as a condition of employment. The Franchise Owner will not permit persons not authorized by this Agreement to inspect or study the Phocatox Manuals loaned to the Franchise Owner by Phocatox or otherwise reveal the contents of those manuals.

L. No Competition. During the term of this Agreement, the Franchise Owner will not become a franchisee of, nor engage or assist others to engage, directly or indirectly, in the ownership or operation of another odor removal or indoor air and surface decontamination business or franchise. The Franchise Owner is able to carry other services and products in its business so long as such items do not compete with the services capable of being performed with the BIOSWEEP Model 900 machines. The Franchise Owner will require all managers of the Franchise Owner's BIOSWEEP business, at the time of employment, to sign an agreement, in a form supplied by Phocatox, agreeing to be bound by non-competition terms that are the same as are set forth above in this Part L with respect to the Franchise Owner, except that such restrictions shall apply to the manager only for so long as the manager is employed by the Franchise Owner.

M. Books and Records. The Franchise Owner shall maintain a complete and accurate written record of the number of hours each BIOSWEEP machine is operated in order to supplement the operating hours meter on each such machine. The Franchise Owner shall keep complete and accurate books and records of his or her operations in accordance with generally accepted accounting principles. The Franchise Owner shall permit Phocatox, or its agents, at Phocatox's expense to examine or audit such operating meters and logs, as well as the other books and records (and the Franchise Owner's tax returns) at any reasonable time during Franchise Owner's normal business hours; provided however, that if such examinations or audit discloses an error or errors that result in a Royalty Payment shortage that is more than five percent (5%) of the correct Royalty Payment for the subject period, the Franchise Owner then shall reimburse Phocatox for the reasonable cost of such examination or audit, and shall immediately pay any Royalty Payment due as a result of the discovery of such error or errors, plus administrative fees and late charges as required by Section 2, Parts D. and E.

N. Additional Reports. Upon notice from Phocatox, the Franchise Owner will supply to Phocatox reports on any information that Phocatox may be required to provide about all or any of its franchise owners to any government entity.

O. Governmental Regulations. The Franchise Owner will comply with all governmental statutes, ordinances and regulations affecting the conduct of the BIOSWEEP Business.

## **Section 5 - - Phocatox's Duties**

Phocatox agrees as follows:

A. Advertising Materials; Promotion of the Franchise Owner's BIOSWEEP Business. Phocatox will provide to the Franchise Owner all such advertising materials, including newspaper copy or matrices, DVDs, CDs and other advertising materials as are developed from time to time by Phocatox for use in the BIOSWEEP Businesses. Such materials will be provided to the Franchise Owner upon payment to Phocatox - - if Phocatox elects to so charge the franchise owners - - of a sum equal to the Franchise Owner's pro rata share of Phocatox's actual cost of such materials as determined from time-to-time by Phocatox.

So long as the Franchise Owner is in good standing under this Agreement, Phocatox will include a listing or reference to the Franchise Owner's BIOSWEEP Business on the Phocatox website (so long as Phocatox maintains such a website), and will include the Franchise Owner's BIOSWEEP Business on any list or in any public relations campaign where Phocatox so includes other franchise owners' BIOSWEEP

businesses.

Phocatox hereby represents and warrants that to its actual knowledge (after reasonable inquiry), that all statements made in advertisement materials will be true and accurate.

B. Cooperative Advertising. Phocatox shall participate in any media area cooperative advertising program hereafter established by the owners of BIOSWEEP Businesses in any media area in which Phocatox owns and operates a BIOSWEEP Business. Phocatox shall pay into such cooperative advertising program a sum equal to its pro rata share of the cost thereof, such share to be determined in a fair and reasonable manner. Franchise Owner shall have the right to opt out of any cooperative advertising programs.

C. Use of Trademarks. Phocatox will permit the Franchise Owner to use the BIOSWEEP Trademark described in Section 4 above; provided that the BIOSWEEP Trademark is used solely in accordance with the terms of this Agreement.

D. Use of BIOSWEEP System. Phocatox will permit the Franchise Owner to use the BIOSWEEP System; provided that the BIOSWEEP System is used solely in accordance with the terms of this Agreement.

E. Protection of BIOSWEEP Trademark and BIOSWEEP System. Phocatox will use such efforts as it deems commercially reasonable, considering the cost and other risks involved, to protect the BIOSWEEP Trademark and the BIOSWEEP System from infringement by any person.

F. Spare Parts; Supportive Products. Phocatox will make available to the Franchise Owner at the same price as it charges from time-to-time to other franchise owners the BIOSWEEP machines, all spare parts necessary to operate and maintain the BIOSWEEP and electrostatic spray equipment, BIOSWEEP Surface Defense®, Phocatox brand Post Treatment Fragrances, ATI PortaSens II Gas Detector w/03 Sensor (or similar product) as checked and calibrated by Phocatox, Hygiena ATP System Sure Plus (so long as such products or similar products are commercially available). Franchise Owner is permitted to purchase spare parts for BIOSWEEP machines or equipment from Phocatox or an alternate supplier; provided such alternate supplier meets the reasonable standards and specifications for the subject part as established by Phocatox and such supplier has been approved in writing by Phocatox for such subject part (and such supplier continues to satisfy Phocatox's reasonable standards and specifications).

G. Product/Service Recommendations. Phocatox will, upon request by the Franchise Owner, recommend to the Franchise Owner brands and manufacturers of products meeting Phocatox's specifications.

H. Training. Phocatox shall provide, at Phocatox's expense (except that the Franchise Owner shall pay for salary, travel food and lodging expense, if any, of any of its representatives attending such training sessions), initial training prior to the opening of the Franchise Owner's BIOSWEEP Business on the operation and maintenance of the BIOSWEEP machine and the operation of a BIOSWEEP Business for up to four (4) trainees of the Franchise Owner. Such initial training shall be in Indianapolis, at the Franchise Owner's facility or, at our option, a location conveniently located near such facility. Phocatox shall provide such subsequent training as Phocatox shall deem necessary for the proper operation of a BIOSWEEP Business, which such training shall be at the expense of the Franchise Owner (including the payment to Phocatox of the then standard charge for such training sessions, plus payment of all salaries, travel, food and lodging expenses of attendance at such training sessions). Training will take a minimum of three days and includes both classroom and on-the-job training supervised by a Phocatox

representative.

H.1 Additional Training for IPA. If Franchise Owner chooses to participate in Phocatox's National Accounts Program, as discussed in other sections of this Agreement, additional training may be necessary to conduct operations that are different from Franchise Owner's day to day activities. If this training becomes necessary, Phocatox may provide it in one of a number of ways. Phocatox may provide on-the-job training, should the extra work result from a natural or other type of disaster. Phocatox may provide classroom training in its headquarters based on its experience of what is necessary to deal with National Account customers; or Phocatox could provide training materials or on-line instruction. Phocatox will provide this training at Phocatox's expense (except that the Franchise Owner shall pay for salary, travel food and lodging expense, if any, of any of its representatives attending such training sessions).

I. Manuals. Phocatox will provide on loan to the Franchise Owner the use of copies of Phocatox's operations and advertising manual and/or bulletins containing information, specifications and procedures for use in operating a BIOSWEEP Business and will inform the Franchise Owner from time-to-time in writing about changes in such specifications and procedures. Such manuals and bulletins, as modified and revised from time-to-time, shall remain the sole property of Phocatox, shall be kept by the Franchise Owner as confidential, shall be kept at all times at the Franchise Owner's principal office, shall be kept current and up-to-date, may not be duplicated in whole or in part in any manner, and shall be immediately returned to Phocatox upon the termination or expiration of this Agreement for any reason. In the event of any dispute as to the contents of any manual, the master copies maintained by Phocatox at its principal place of business shall be controlling.

Phocatox represents and warrants to Franchise Owner that to the actual knowledge (after reasonable inquiry) of Phocatox, the specifications and procedures in Phocatox's manuals are complete and accurate in a material manner; provided that it is acknowledged by the parties that Phocatox does not undertake to investigate all state and local regulations and requirements that apply to the use of the BIOSWEEP machines in the Franchise Owner's business.

J. Report Forms. Phocatox will, upon request by the Franchise Owner, provide to the Franchise Owner such monthly and additional report forms as are needed by the Franchise Owner to fulfill the reporting obligations to Phocatox under this Agreement. To avoid unnecessary burdensome and duplicative paperwork, any report forms required by Phocatox to be completed by Franchise Owner shall be limited to those forms reasonably necessary.

K. Advice and Counseling. Phocatox will furnish such additional advice, counseling and management assistance as the Franchise Owner shall reasonably request.

L. Limitation. In the event Phocatox provides any additional products or services to the Franchise Owner that Phocatox is not required by this Agreement to provide, Phocatox may discontinue providing such products or services at any time without any obligation to the Franchise Owner.

M. Access to Phocatox Online Services. Phocatox may, from time-to-time in its sole discretion, create certain communication services through its internet website, or similar media, to facilitate communication between and among BIOSWEEP Franchise Owners and Phocatox. If Phocatox creates such services, if the Franchise Owner is a Phocatox Franchise Owner in good standing, and if the Franchise Owner executes an agreement ("Access Agreement") between Phocatox and the Franchise Owner setting forth the terms and conditions governing such access rights, Phocatox will provide the Franchise Owner with access rights to such communication services. Without limiting Phocatox's rights

as provided under any such Access Agreement or hereunder, in the event of any default by the Franchise Owner under this Agreement or under such Access Agreement, Phocatox may, without terminating this Agreement, by notice to the Franchise Owner, immediately terminate the Franchise Owner's access rights provided under any such Access Agreement. Phocatox shall provide its online services to Franchise Owner at no cost to Franchise Owner.

N. Respect the Integrity of the Franchise Territory. So long as the Franchise Owner is in good standing under this Agreement, Phocatox will respect the integrity of the grant of exclusiveness as to the Franchised territory and conduct its affairs in such a manner that is consistent with the rights and obligations of the Franchise Owner as set forth in Section 1 and in Section 3, Parts C.12 through 14.

### **Section 6 - - Insurance and Indemnification**

A. Types and Amounts Required. The Franchise Owner will, prior to beginning his or her BIOSWEEP Business, and thereafter at all times during the entire term of this Agreement, maintain at the Franchise Owner's expense, insurance as required under Phocatox' exclusive BIOSWEEP franchise insurance program.

B. Phocatox Insured. All policies of insurance to be maintained by the Franchise Owner shall contain a separate endorsement naming Phocatox as an additional insured, as its interest may appear. If the Franchise Owner fails to comply with these requirements, Phocatox may obtain required insurance and keep it in force and effect and the Franchise Owner shall pay Phocatox, upon demand, One Hundred Ten Percent (110%) of the premium costs expended by Phocatox.

C. Increased Coverage Required.

1. Additional Liabilities. If at any time Phocatox shall determine that the insurance coverage provided by the Franchise Owner is not adequate to protect Phocatox from any liabilities which may be imposed on Phocatox as a result of the Franchise Owner's operation of the business, Phocatox shall inform the Franchise Owner of the deficiency resulting from the current coverage and the possible liabilities which could result from the current scope of the Franchise Owner's operations. Franchise Owner shall then procure additional insurance sufficient to protect Phocatox against those liabilities and obtain Phocatox's approval of the insurance within thirty (30) days after receipt of written notice of the deficiency.
2. Additional Amounts. Phocatox may increase the amount of insurance required by this Article so that it is adequate to protect Phocatox against any liabilities that might be imposed on Phocatox and the Franchise Owner resulting from any change in circumstances. The Franchise Owner shall procure the additional insurance within thirty (30) days after receipt of written notice of the increased requirement.

D. Liability Not Relieved. Maintenance of insurance and the performance by the Franchise Owner of the obligations under this Section shall not relieve the Franchise Owner from liability under the indemnity provision set forth in Section 6, Part E below.

E. Indemnification. The Franchise Owner shall indemnify and hold harmless, to the fullest extent permitted by law, Phocatox and its directors, officers, employees and agents from all losses and expenses, including without limitation, compensatory, exemplary or punitive damages, fines, charges,

costs, expenses, lost profits, attorney fees', court costs, settlement amounts, judgments and compensation for damages to Phocatox's reputation and goodwill, incurred in connection with any action, suit, proceeding, claim, demand, investigation or inquiry (formal or informal), or any settlement thereof, arising out of or otherwise connected with the Franchise Owner's ownership, operation, construction or improvement of its BIOSWEEP Business.

Franchise Owner does not indemnify Phocatox or its related parties from their own acts or omissions. Phocatox indemnifies and holds Franchise Owner harmless from Phocatox's gross misconduct.

F. Notice to Phocatox. The Franchise Owner agrees to give Phocatox notice of any such action, suit, proceeding, claim, demand, inquiry or investigation. At the expense and risk of the Franchise Owner, Phocatox may elect to assume (but under no circumstance is obligated to undertake), the defense and/or settlement of any such action, suit, proceeding, claim, demand, inquiry or investigation. Such an undertaking by Phocatox shall, in no manner or form, diminish the Franchise Owner's obligation to indemnify Phocatox and to hold it harmless.

### **Section 7 - - Independent Contractor**

A. Independent Contractor. The Franchise Owner is an independent contractor and is not an agent, partner, joint venturer or employee of Phocatox, and no fiduciary relationship between the parties exists. The Franchise Owner shall have no right to bind or obligate Phocatox in any way nor shall any representation be made that the Franchise Owner has any right to do so. Phocatox shall have no control over the terms and conditions of employment of the Franchise Owner's employees.

B. Independent Ownership. In all public records and in any relationship with other persons, on stationery, business forms and checks, the Franchise Owner shall indicate that the Franchise Owner's business is independently owned and that he or she is a franchise owner of the subject BIOSWEEP Business. The Franchise Owner shall, if requested by Phocatox, exhibit on the premises or elsewhere in such places as may be designated by Phocatox, a notification that the Franchise Owner's BIOSWEEP Business is operated by an independent contractor and not by Phocatox.

### **Section 8 - - Renewal**

A. Renewal Right. This Agreement may be renewed by the Franchise Owner for three (3) additional terms of five (5) years each provided that the Franchise Owner has met the following conditions prior to the beginning of each additional term and has paid a \$5,000 renewal fee each time:

1. Compliance. The Franchise Owner must have complied with the terms of this Agreement during the entire term of this Agreement.
2. Notice. The Franchise Owner must notify Phocatox in writing of his or her intention to renew this Agreement at least One Hundred Eighty (180) days prior to the expiration of this Agreement.
3. Renewal of Agreement. The Franchise Owner has three (3) five (5) year options to renew the Franchise Agreement on the same terms and conditions as the current Franchise Agreement. The Franchise Owner must agree to sign a renewal option covering the renewal term.
4. Release Phocatox. The Franchise Owner must agree to sign a general release of



Phocatox, its affiliates, officers, directors, members, agents, and employees with respect to any claim, damage, cost or cause of action arising from or in connection with the then expiring Franchise Agreement.

B. Expiration. If the Franchise Owner fails to fulfill the foregoing conditions, then this Agreement shall expire in accordance with the terms of Section 1 of this Agreement.

### **Section 9 - - Assignment**

A. Assignment Conditions. Phocatox may transfer its interest in, and obligations under, this Agreement as part of any merger (or similar transaction involving Phocatox) or the sale of substantially all of the part of the business of Phocatox that is based on the use of the BIOSWEEP System as such is reflected and described in this Agreement. The Franchise Owner's interest in, and obligations under, this Agreement may be assigned, transferred, pledged, mortgaged, hypothecated, or in any manner encumbered only if:

1. The Franchise Owner has paid all obligations due to Phocatox and any other creditor arising from the activities permitted under this Agreement.
2. Phocatox is paid a transfer fee of Three Thousand Dollars (\$3,000), except that this fee is not owing in the case of an assignment under Part B of this Section 9.
3. The Franchise Owner has paid all obligations due to any government arising from the activities permitted under this Agreement, including in particular, obligations for social security payments and withheld taxes.
4. The Franchise Owner is not in default under this Agreement.
5. Franchise Owner has fulfilled the conditions of Part B, C, or D of this Section 9.

B. Transfer to a Business Entity Owned by the Franchise Owner. The Franchise Owner may transfer his or her interest in, and obligations under, this Agreement, provided the provisions of Part A of this Section 9 are fulfilled, to a corporation or other business entity, if:

1. Ownership of the Transferee Business Entity; Approval for Subsequent Transfer. The Franchise Owner shall be the sole owner of the stock, member units, or other equity capital ownership interest of or in such transferee business entity. No equity capital ownership interest of such business entity transferee may be transferred without Phocatox's prior written approval in accordance with this Section 9;
2. Notice and Consent. The Franchise Owner gives Phocatox twenty (20) days prior written notice of such transfer and the Franchise Owner obtains the written consent of Phocatox as to such proposed transfer, which consent Phocatox shall not unreasonably withhold;
3. Franchise Owner Remains Liable. The Franchise Owner remains liable on this Agreement;
4. Legend. All certificates of equity capital ownership interests in such transferee business entity shall contain the following legend:

“The transfer of this ownership interest is subject to the terms and conditions of a Franchise Agreement with Phocatox Technologies, LLC”

C. **Transfer Upon Death.** In the event of the death of the Franchise Owner or, if this Agreement has been assigned to a business entity, or the death of the owner of an equity capital ownership interest, Phocatox shall consent to a transfer of decedent's interest to decedent's heirs subject to the following conditions:

1. **Qualifications.** The heirs must meet Phocatox's qualifications for new franchise owners with regard to financial and managerial capabilities and such other criteria and considerations as Phocatox shall then be applying in considering applications for new franchise owners.
2. **Assumption.** The heirs shall agree, in writing, to assume liability for, and to perform, all the terms and conditions of this Agreement.
3. **Failure to Qualify.** If the heirs do not meet Phocatox's qualifications, the decedent's estate shall use its best efforts to sell decedent's interest (be it direct or indirect) under this Agreement to a transferee who meets Phocatox's qualifications within twenty-four (24) months from the date of decedent's death. During that period, Phocatox shall have the option, but not the obligation, to operate or manage the Franchise Owner's business for the account of the Franchise Owner's estate upon payment by the Franchise Owner's estate of a reasonable management fee. If the transfer is not accomplished within the twenty-four (24) month period, then this Franchise Agreement shall terminate in the manner provided in Section 10 below.

D. **Method of Transfer and Assignment, Generally.** Except pursuant to Parts B and C of this Section 9, the Franchise Owner's interest may be transferred, provided the provisions of Part A of this Section 9 are fulfilled, only in the following manner:

1. **Bona Fide Offer.** The Franchise Owner must receive a bona fide written offer to acquire the Franchise Owner's interest from a financially responsible prospective transferee who meets Phocatox's then current qualifications with regard to financial and managerial capabilities and such other criteria and conditions as Phocatox shall then be applying in considering applicants for new franchises.
2. **Disclosure.** The Franchise Owner must disclose to Phocatox the name and address of the prospective transferee, and of all persons having any interest in the prospective transferee, including all equity capital ownership interest owners in the event the offer is received from a business entity, as well as the terms of the offer from the prospective transferee. In addition, the prospective transferee must submit to Phocatox all information, which Phocatox then requires from applicants for new franchises.
3. **Transferee's Agreement.** The prospective transferee must agree in writing to endorse upon transfer of the Franchise Owner's interest, the Franchise Owner's current Franchise Agreement and to complete the training required by that agreement within 30 days of such transfer.
4. **Cash Flow.** The proposed transaction must be on such terms as to permit a cash flow from the Franchise Owner's BIOSWEEP Business after payment of debt service, if any, (attributable to the transferee's acquisition of the Franchise Owner's BIOSWEEP Business) sufficient for the reinvestment in, and operation of, the Franchise Owner's BIOSWEEP Business (as conducted by the transferee) required by the terms of the new franchise agreement.

5. Offer to Phocatox. The Franchise Owner must offer the interest to Phocatox in writing on the same terms as are contained in the offer from the prospective transferee.

6. Acceptance or Rejection by Phocatox. Phocatox shall have thirty (30) days after the receipt of a written offer (delivered pursuant to Part D.5 of this Section 9) within which to accept or reject the offer.

7. Transfer. If Phocatox should decline or fail to accept the subject offer and if the prospective transferee meets Phocatox's qualifications for new franchise owners and the other conditions set forth above have been fulfilled, then the Franchise Owner may complete the proposed transfer on the same terms as contained in the offer within thirty (30) days of either receiving written notice from Phocatox rejecting the subject offer or the expiration of the time period under Part D.6 of this Section 9.

E. When Void. Any transfer or assignment without fulfilling the terms of this Section 9 shall be void and a prospective transferee in such case would acquire no right in this Agreement.

F. Definitions of Transferee. For the purposes of this Article, "transferee" means any person acquiring by transfer, assignment, sale, pledging, mortgaging, hypothecation or otherwise encumbering any of Franchise Owner's interest in this Agreement or of any stock or other interest in Franchise Owner, whether or not now authorized and outstanding.

G. No Obligation to Find Assignee. Phocatox has no obligation to find, or assist in finding, a transferee for the Franchise Owner's BIOSWEEP Business.

#### **Section 10 - - Termination by Phocatox**

A. Phocatox's Option. If the Franchise Owner fails to pay any sum due to Phocatox or any affiliate of Phocatox within sixty (60) days of the time for paying the same or if the Franchise Owner fails to comply with any of the substantial provisions of this Agreement, then Phocatox may elect either

- to terminate this Agreement; or
- to terminate only the provisions of Section 1 of this Agreement which provide that the Franchise Owner's rights to operate in the Franchise Territory are limited to the Franchise Owner, unless otherwise stated in this Agreement. As a result, Phocatox could, at its option, grant other persons the right to own and operate a BIOSWEEP Business in that geographical territory or Phocatox could itself operate a BIOSWEEP Business there.

B. Methods of Termination. In the event Phocatox elects to terminate either this Agreement or the Franchise Owner's exclusivity, then Phocatox may effect such termination in the following manner:

1. Immediate Termination. Except as otherwise provided by state law, upon the occurrence of any of the following events of default, Phocatox may upon written notice to the Franchise Owner, immediately terminate this Agreement without providing an opportunity to cure the default. Such termination shall be effective immediately upon the mailing of such notice.

a. Failure to Pay Phocatox. If the Franchise Owner fails to pay any sum due to Phocatox or any affiliate of Phocatox within sixty (60) days of the time for

paying the same.

b. **Improper Assignment.** If the Franchise Owner attempts to transfer this Agreement without complying substantially with Section 9 of the Agreement.

c. **Cease Business.** If the Franchise Owner shall cease doing business for a period of more than thirty (30) days, without the prior written approval of Phocatox.

d. **Fraud or Misrepresentation.** If the Franchise Owner shall commit an act of fraud or misrepresentation in the operation of his or her BIOSWEEP Business or under this Agreement.

e. **False Statements.** If the Franchise Owner induced Phocatox to enter into this Agreement by means of false or misleading statements as to his or her qualifications, assets and background.

2. **Termination after Opportunity to Cure.** Upon the failure of the Franchise Owner to comply with any of the substantial provisions of this Agreement, other than those set forth in Part B.1 of this Section 10, Phocatox may, without prejudice to any other rights contained in this Agreement or provided by law or equity, (i) terminate this Agreement, or (ii) declare only the Franchise Territory portion of Section 1 of this Agreement to be terminated and thereafter grant licenses to other persons accordingly or operate a BIOSWEEP Business within such territory itself. Each of such terminations shall be effective (unless otherwise provided by state law) sixty (60) days after written notice is given by Phocatox to the Franchise Owner of any such failure or default by Franchise Owner if such default is not cured within such sixty (60) day period.

C. **No Waiver.** The failure of Phocatox to terminate this Agreement after any default hereunder or the election of Phocatox to terminate only the exclusivity portion of Section 1 of this Agreement without terminating the entire Agreement shall not waive Phocatox's right to terminate the Agreement in the event of the continuation of such default or the occurrence of any new event of default.

### **Section 11 - - Termination by the Franchise Owner**

In the event Phocatox fails to comply with any of the substantial terms of this Agreement, then the Franchise Owner may elect to terminate this Agreement in the manner as a party may terminate as set forth in Part B. of Section 10 of this Agreement.

### **Section 12 - - Effect of Termination and Expiration**

A. **Obligations of Franchise Owner.** Upon the termination or expiration of this Agreement, whenever and however such termination or expiration may occur, the Franchise Owner agrees that:

1. **Sums Due.** The Franchise Owner shall pay to Phocatox all sums that the Franchise Owner owes to Phocatox or any affiliate of Phocatox, whether or not the sums are then yet due. In the event of termination for any default by the Franchise Owner, such sums shall include all damages, costs and expenses, including reasonable attorneys' fees, incurred by Phocatox as a result of the default, which obligation shall give rise to and remain until paid in full, a lien in favor of Phocatox or its affiliate as the case may be against any and all of the

personal property, vehicles, machinery, equipment and supplies owned by the Franchise Owner and used in the Franchise Owner's BIOSWEEP Business at the time of default.

2. BIOSWEEP Trademark. The Franchise Owner shall cease using the BIOSWEEP Trademark, or any variation thereof, and shall not thereafter, directly or indirectly, represent to the public that the business is a BIOSWEEP Business or hold himself or herself out as a present or former franchise owner of Phocatox.
3. BIOSWEEP System. The Franchise Owner shall immediately cease using, by advertising or in any other manner, any methods, procedures and techniques associated with the BIOSWEEP System in which Phocatox has a proprietary right, title or interest, and, in particular, the Franchise Owner shall cease using, without limitation, all signs, machines, vehicles, equipment, advertising materials, stationery, forms, and any other articles which display in any form the BIOSWEEP Trademark or other indicia associated with the BIOSWEEP System.
4. Phocatox Manuals. The Franchise Owner shall deliver to Phocatox all of the Phocatox Manuals, bulletins and other written materials supplied or loaned to the Franchise Owner by Phocatox, including in particular, any materials describing any information about the BIOSWEEP System remediation methods, whether or not such information constitutes trade secrets.
5. Advertising Materials. The Franchise Owner shall deliver to Phocatox all advertising materials provided to the Franchise Owner in accordance with the terms of this Agreement.
6. Sale or Disposal of Equipment. The Franchise Owner shall comply with Phocatox's right to purchase any BIOSWEEP machine as required by Section 3, Part C.1.d of this Agreement.
7. Loss of Access to Phocatox Online Services. The Franchise Owner shall immediately lose any rights granted to it by Phocatox permitting the Franchise Owner to access communication services provided by Phocatox through its internet website, or similar media, to facilitate communication between and among Phocatox franchisees and Phocatox. Phocatox shall remove any references to the Franchise Owner or the Franchise Owner's BIOSWEEP Business from the Phocatox website.
8. Immediate Termination of IPA. If Franchise Owner chooses to participate in the National Accounts Program, by signing the IPA, and this Agreement is terminated, or expires, the IPA will also terminate simultaneously.
9. No Imitations. The Franchise Owner agrees, in the event he or she operates any business, not to use any reproduction, copy or colorable imitation of the BIOSWEEP Trademark or the BIOSWEEP System in conjunction with such other business which is likely to cause confusion or mistake or to deceive, and further agrees not to utilize any trade dress or designation of origin or description or representation which falsely suggests or represents an association or connection with Phocatox. Further, the Franchise Owner shall make such modifications or alterations to the business premises, vehicles and machines

immediately upon termination as may be necessary to prevent the operation of any business by himself or herself or others in derogation of this Part A.8 of this Section 12, and shall make such specific additional changes thereto as Phocatox may reasonably request for to achieve that purpose, including but not limited to, removing or painting over any and all names, marks and insignia identifying BIOSWEEP in any way so that the same are in no way visible.

10. Cost of Enforcement. The Franchise Owner shall pay Phocatox all damages, costs and expenses, including reasonable attorneys' fees, incurred by Phocatox subsequent to the termination or expiration of this Agreement in obtaining damages, or injunctive or any other relief for the enforcement of any portion of this Section 12.

B. Competition After Termination. Upon termination or expiration of this Agreement, whenever and however such termination may occur and for two (2) years thereafter, the Franchise Owner will not, within the Franchise Territory, for the Franchise Owner's own account or in a relationship with any person or organization, engage in activities, work or duties relative to, or otherwise support, the creation or operation of a business that is similar and competitive with the Franchise Owner's BIOSWEEP Business (as such was conducted prior to the expiration or termination of this Agreement), including any business that offers odor removal and / or indoor air and surface decontamination services.

Upon termination or expiration of this Agreement, whenever and however such termination may occur and for two (2) years thereafter, the Franchise Owner will not, within any area that Phocatox has granted a license to any person or organization to operate a BIOSWEEP Business (or any area where Phocatox or an affiliate of Phocatox has so commenced a BIOSWEEP Business), for the Franchise Owner's own account or in a relationship with any person or organization, engage in activities, work or duties relative to, or otherwise support, the creation or operation of a business that is similar and competitive with any such licensee's or Phocatox's BIOSWEEP Business, including any business that offers odor removal and / or indoor air and surface decontamination services.

After termination or expiration of this Agreement, if the Franchise Owner competes with Phocatox in violation of the prohibition set forth in the first two paragraphs of Section 12 B, directly above, the Franchise Owner agrees to pay to Phocatox, on Phocatox's notice of said competition, the sum of SEVEN HUNDRED FIFTY THOUSAND DOLLARS AND NO/100 (\$750,000) as damages.

The Franchise Owner will require all managers of the Franchise Owner's BIOSWEEP business, at the time of employment, to sign an agreement, in a form supplied by Phocatox, agreeing to be bound by non-competition terms that are the same as are set forth above in this Part B with respect to the Franchise Owner, except that the restrictions shall apply to the manager only for a period of time that is two (2) years after the expiration or termination of the manager's employment by the Franchise Owner.

### **Section 13 - - Representations of the Franchise Owner**

- (a) INDEPENDENT INVESTIGATION. THE FRANCHISE OWNER ACKNOWLEDGES THAT HE OR SHE HAS CONDUCTED AN INDEPENDENT INVESTIGATION OF THE BUSINESS BEING LICENSED AND RECOGNIZES THAT THE BUSINESS CONTEMPLATED BY THIS AGREEMENT INVOLVES RISKS AND WILL BE GREATLY DEPENDENT UPON THE ABILITY OF THE FRANCHISE OWNER AS AN INDEPENDENT BUSINESS PERSON.
- (b) FRANCHISE DISCLOSURE DOCUMENT. THE FRANCHISE OWNER ACKNOWLEDGES THAT

HE OR SHE HAS RECEIVED, AT LEAST FOURTEEN (14) CALENDAR DAYS PRIOR TO THE SIGNING BY THE FRANCHISE OWNER OF THIS AGREEMENT OR PAYMENT OF ANY CONSIDERATION TO PHOCATOX, A COPY OF THE CURRENT PHOCATOX FRANCHISE DISCLOSURE DOCUMENT FOR THE STATE IN WHICH FRANCHISE OWNER'S FRANCHISE TERRITORY IS LOCATED.

- (c) CONSULTATION. THE FRANCHISE OWNER STATES THAT HE OR SHE HAS RECEIVED, READ AND UNDERSTOOD THIS AGREEMENT, AND IF PHOCATOX HAS MADE ANY UNILATERAL SUBSTANTIVE CHANGES IN THE AGREEMENT, HAS BEEN ACCORDED AN AMPLE OPPORTUNITY AND A PERIOD OF NOT LESS THAN SEVEN (7) CALENDAR DAYS AFTER RECEIPT OF A FINAL COPY OF THIS AGREEMENT TO CONSULT WITH ADVISORS OF HIS OR HER OWN CHOOSING CONCERNING THE POTENTIAL BENEFITS AND RISKS THAT MAY BE INVOLVED IN ENTERING INTO THIS AGREEMENT AND BECOMING A PHOCATOX FRANCHISE OWNER.
- (d) DISCLAIMER. THE FRANCHISE OWNER ACKNOWLEDGES THAT PHOCATOX HAS MADE NO WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, AS TO THE POTENTIAL INCOME, PROFIT OR SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT.
- (e) FINANCIAL STATEMENTS. THE FRANCHISE OWNER HAS PROVIDED PHOCATOX WITH ACCURATE FINANCIAL STATEMENTS THAT PRESENT A TRUE REPRESENTATION OF HIS OR HER FINANCIAL CONDITION.

#### **Section 14 - - Miscellaneous**

A. Severability. If any provision of this Agreement shall be construed to be illegal or invalid, it shall not affect the legality or validity of any other provisions hereof. The illegal or invalid provision shall be deemed deleted as if never incorporated herein, but all other provisions hereof shall continue.

B. Amendment. No change or modification in this Agreement shall be valid unless the same is in writing signed by the parties.

C. Interpretation. Unless otherwise provided by applicable state law, this Agreement shall be deemed to have been made and entered into in the State of Indiana, and all rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of Indiana.

D. Jurisdiction and Venue. Except to the extent prohibited by applicable state law to the contrary, Phocatox and the Franchise Owner agree that any litigation or other legal action to enforce or otherwise relating to this Agreement, the offer and sale of this Agreement, and the relationship of the parties hereunder shall be filed in the federal district court for the Southern District of Indiana in Indianapolis, Indiana, or the Superior Court of Hamilton County, Indiana, and Phocatox and the Franchise Owner hereby consent to the jurisdiction of such courts.

E. Injunctive Relief. Franchise Owner acknowledges that damages alone may not be an adequate remedy for the breach of certain of the provisions of this Agreement. Accordingly, without prejudice to any other rights and remedies it may have, the Franchisor shall be entitled to the granting of equitable relief (including without limitation injunctive relief) concerning any threatened or actual breach of any of the provisions of this Agreement, without the need for a bond or undertaking.

F. Entire Agreement. This Agreement contains the entire Agreement of the parties and no representation, inducements, promises, or agreement, oral or written (other than the most recent version of

Phocatox's franchise disclosure document provided to Franchise Owner), not included in this Agreement shall be of any force and effect. Nothing in this Agreement or in any related agreement is intended to disclaim the representations Phocatox made in the franchise disclosure document.

G. Waiver. No failure by Phocatox or the Franchise Owner to exercise any power given to it or to insist upon any strict compliance by the other party of any obligation hereunder, shall affect either parties' right concerning such default or any subsequent default. Waiver by Phocatox or the Franchise Owner of any particular default by the other party shall not affect or impair its rights in respect to any subsequent default of the same or a different nature.

H. Product Warranty. Phocatox warrants that the BIOSWEEP machines shall be free of defects for a period of time equal to the shorter of (i) three (3) years from the date of delivery of the machine, or (ii) the machine having been used for Seven Thousand (7,000) hours of operations (the "Warranty Period"). In the event of a defect during the applicable Warranty Period, Phocatox will repair or replace the defective machine at the expense of Phocatox (including that Phocatox will cover the cost of parts, labor and shipping). Phocatox also warrants that the BIOSWEEP machines, when used by Franchise Owner in accordance with the requirements contained in the Franchise Agreement, are suitable for the purposes contemplated in the Franchise Agreement (subject to the terms and conditions of the Franchise Agreement). THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES (EXPRESS OR IMPLIED), INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE (OTHER THAN A PURPOSE CONTEMPLATED IN THE FRANCHISE AGREEMENT).

I. Additional Warranties. To the best of its knowledge (after reasonable inquiry), all statements made by Phocatox related to the BIOSWEEP equipment, parts, products, materials, and supplies provided to Franchise Owner in all manuals, training materials, specifications, marketing materials, and documentation are true and complete in a material manner (including, without limitation, all statements concerning the operation, use, functionality, and capability of all equipment, parts, products, materials and supplies).

### **Section 15 - - Compliance with Anti-Terrorism Laws**

Franchise Owner agrees to comply, and to assist Phocatox to the fullest extent possible in Phocatox's efforts to comply, with Anti-Terrorism Laws (defined below). In connection with that compliance, Franchise Owner certifies, represents, and warrants that none of his/her/its property or interests are subject to being blocked under, and that Franchise Owner and/or its owners otherwise are not in violation of, any of the Anti-Terrorism Laws. "Anti-Terrorism Laws" means Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, and all other present and future federal, state, and local laws, ordinances, regulations, policies, lists, and other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war. Any violation of the Anti-Terrorism Laws by Franchise Owner or its owners, or any blocking of his/her/its assets under the Anti-Terrorism Laws, shall constitute good cause for immediate termination of this Agreement

The parties have read and understand the foregoing provisions of this Agreement and hereby confirm and memorialize their agreement with such.



**PHOCATOX TECHNOLOGIES, LLC**

\_\_\_\_\_  
Mark Brodowicz, Managing Member

Date: \_\_\_\_\_

**(BIOSWEEP FRANCHISE OWNER)**

\_\_\_\_\_  
Name and Title

Date: \_\_\_\_\_

**EXHIBIT A TO FRANCHISE AGREEMENT - FRANCHISE TERRITORY**

(This page contains the description of the territory and markets served)

**EXHIBIT B TO FRANCHISE AGREEMENT – INITIAL PURCHASE OF BIOSWEEP  
MACHINES**

<b>Territory Population</b>	<b>Minimum Quantity of BIOSWEEP Machines</b>
Initial Territory as Identified in Exhibit A	Eight (8) BIOSWEEP Model 900/1100 machines

**EXHIBIT C TO FRANCHISE AGREEMENT – TRADEMARK**

**Registered Trademarks**



**The Exclusive BIOSWEEP Service Provider logo has common law trademark protection.**



## EXHIBIT D

# BioSweep Service Provider Insurance Program Agreement (IPA)

This BioSweep Service Provider (“IPA”) Insurance Program Agreement (“Agreement”), which is a National Accounts Program, is made and entered on the \_\_\_ day of \_\_\_\_\_, 202\_\_, by and between Phocatox Technologies, LLC (“Phocatox” or “Franchisor”) and

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(“Franchisee”) (Collectively referred to as the “Parties”).

The Parties agree as follows:

- **BACKGROUND:** Consistent with the Parties underlying Franchise Agreement (“FA”) and Franchisor’s Franchise Disclosure Document (“FDD”) this National Accounts Program (“Program”) is focused on providing certain services typically required by insurance companies to remedy claims (Exhibit 1 – “Insurance Losses” as may be amended from time to time). This Program provides a vehicle for participating franchisees to take advantage of the business opportunities provided by insurance losses. Franchisee understands it is under no obligation to participate in this Program, but if it chooses not to do so, it is not eligible for the benefits thereto, and may have certain restrictions related to the Customers to which the Program applies.

This Agreement does not place any restrictions on work a Franchisee performs for Customers provided the work is outside the scope of this Agreement.

Work outside of this Agreement includes but is not limited to any service not listed in Exhibit 1. Any work not listed in Exhibit 1 performed for Customers should be quoted and performed by an entity that is not associated with BioSweep (i.e. performing entity does not have BioSweep as part of its name nor is it represented by a BioSweep logo or business card). Phocatox must be provided with a certificate of insurance (“COI”) covering such entity, and Franchisee must notify Phocatox of the work that is being done. Under those conditions, the non-BioSweep entity may perform the work and bill the insured/insurance company directly. Phocatox has no responsibility for the invoicing or performance of such work. Additionally, Franchisee agrees to indemnify Phocatox for all claims relating to work not covered by this Agreement.

- **CUSTOMERS:** The universe of Program customers includes all insurance companies operating in the United States and all consultants providing services to the insurance industry. Customers are either National

Accounts (“NA”) or Non-National Accounts (“NNA”) as defined in Exhibit 2 as amended from time to time (collectively, “Customers”). Franchisees may not call on or develop business relationships with Customers for services contemplated in this Agreement without Franchisor’s approval, which will not be unreasonably withheld. Franchisee agrees that it will work with any such approved Customer using the same procedures and pricing that Franchisor has established as part of this Program. Franchisee agrees to record all projects from these Customers in the Phocatox Loss Intake system and the project will be managed and compensated the same as any other insurance project in accord with the terms of this Agreement including compensation for Registered Accounts.

- **ROLES: Sales and Marketing:** Phocatox is responsible for the overall sales and marketing effort for the insurance industry. This includes (but is not limited to) pricing, operational procedures, project reporting and developing a training program and general sales and marketing plan suitable for use by Franchisees in selling to their approved Customers. The Franchisee marketing plan will include a portfolio of successful projects. Phocatox will provide, where available, information concerning insurance industry associations that the Franchisee may interact with in developing local relationships with insurance industry decision makers.

**Project Scoping and Proposal Writing:** Phocatox is responsible for scoping projects and preparing written proposals as required. Phocatox may assign a Franchisee (one certified to do scoping) to scope certain projects on Phocatox’s behalf. Franchisee performing the scoping activity will be compensated as identified in Exhibits 3 & 4 attached to this Agreement.

**Project Execution:** Phocatox Large Loss Officer (a Phocatox Managing Partner so designated) is responsible for evaluating each project and determining the scope of the project and how best to operationally perform. For any job not in a Franchisee’s exclusive territory as defined in its FA, Phocatox may decide to: 1) assign the project to a single Franchisee (Per Exhibit 4); or 2) form a crew of Franchisees and their employees/and or Franchisor employees\* (per Exhibit 3); or 3) designate a defined catastrophic event (per Exhibit 5); or 4) self-perform\*\*. For projects within a Franchisee’s exclusive territory, Phocatox shall either: 1) assign the project to the local Franchisee (per Exhibit 4); or 2) form a crew of Local Franchisee and other Franchisees and their employees and/or Franchisor employees\* (per Exhibit 3). BioSweep equipment used on such a job will be as described in Exhibit 3. When making these decisions, the Large Loss Officer shall consider the needs of the Customer, complexity of the project, Franchisee’s knowledge specific to the project requirements (e.g. HVAC, forklift, generator, etc.), overall qualifications of the Franchisee(s) including their Team A or B designation and Franchisee(s) distance to the project site.

\*Franchisor may use their own employees to assist equipment movement, setup, and equipment pack up on certain projects under the direction of the Project Manager.

\*\*Any decision for Franchisor to self-perform or utilize Franchisor Employees for treatment must be made in documented notification via e-mail with the Franchise Advisory Council (“FAC”) chair or designate.

Large Loss Projects (Exhibit 3). Large Loss projects will be managed by a Project Manager (PM). The PM will be selected by Franchisor’s Large Loss Officer or their designee. This PM selection will be based on the project execution criteria. The specific Franchisees, number of Franchisees, and their roles will be determined by the PM in consultation with the Large Loss Officer and person scoping the job, if applicable. Franchisees participating in a Large Loss project, will be compensated based on their assigned role and the compensation schedule in Exhibit 3.

Assigned Projects (Exhibit 4) The Large Loss Officer or their designee shall assign a project that is within a Franchisee's exclusive territory to that Franchisee ("Local Franchisee") or to the next nearest qualified Franchisee if not within another Franchisee's exclusive territory. If the Local Franchisee and next nearest qualified Franchisee are unavailable then project assignment will be made by Franchisor\*. The assigned Franchisee will be compensated per Exhibit 4. If the assigned Franchisee needs additional equipment or labor, Franchisee may offer to split the project with another Franchisee of their choosing on terms agreed to between the franchisees.

\*Franchisor will keep and make available to the FAC a record of assigned projects for review.

Catastrophic Loss Projects (Exhibit 5) The Large Loss Officer or their designee will determine if the catastrophic loss terms apply and will execute projects under this designation according to Exhibit 5, and provide documented notification via e-mail with the FAC chair or designate.

**Project Operations:** Each Franchisee and all Franchisees signatory to this Agreement (Franchise Network) are responsible for the timely and successful completion of projects assigned to a Franchisee (Assigned Projects, Catastrophic Loss Projects) and projects that are performed by a subset of the Franchise Network, (Large Loss Projects, Catastrophic Loss Projects). Franchisor warrants it will provide sufficient equipment for Large Loss projects and for purchases by Franchisee to handle Assigned Projects in a best-efforts fashion.

Additionally, Franchisee agrees to annually provide evidence of appropriate respirator fit testing in line with OSHA requirements for its employees who may work on insurance projects.

• **FRANCHISEE RESPONSIBILITIES REGARDING INSURANCE LOSS REQUESTS:** From time to time, a Franchisee may be contacted by any one of several parties requesting a proposal on an Insurance Loss project. If Franchisee is contacted by:

1. **Restoration Contractor.** Franchisee shall not provide proposals or perform services covered by this Agreement to restoration contractors except a restoration contractor owned by Franchisee. Franchisee should contact Franchisor immediately if a non-owned restoration contractor makes such a request.
2. **Insurance Carrier or Insurance Consultant.** Any calls a Franchisee receives from an insurance carrier or insurance consultant involving services covered by this Agreement should be referred to Franchisor (800-284-8745) or entered in Franchisor's Loss Intake System. Franchisor will be responsible for quoting these projects and work will be done pursuant to this Agreement. If such carrier is a NNA, the Franchisee and carrier are eligible to become a Registering Franchisee ("RF") and a Registered Account ("RA"), respectively, as described in Exhibit 2.

#### **Franchisee's Ability to call on Insurance Companies**

Upon completion by Franchisee of the required training program, which will be established, operated, or duly authorized by Franchisor, an eligible Franchisee may contact insurance carriers under the direction of Franchisor. Franchisor shall provide a general sales and marketing presentation for the use of Franchisee. Franchisor will also help identify adjuster associations within the Franchisee's territory that may provide excellent opportunities for franchisee to develop local relationships with National Account and Non-National Account adjusters.

The above procedures will ensure BioSweep Services provides a consistent experience nationwide through the franchise network as BioSweep Services has endeavored to become a nationally approved vendor for multiple insurance carriers with agreed-to pricing.

Not following these procedures harms both Franchisor and Franchisee by:

- Assisting our competitors such as restoration contractors
- Creating inconsistent pricing structures nationwide
- Potentially voiding the approved vendor status
- Confusing insurance underwriters and delaying payment as they may expect an invoice from BioSweep Services

Failure to abide by the above will be deemed a curable default under this Agreement. Franchisee will be provided written notice and given thirty (30) days in which to correct the default, if possible. If a Franchisee fails to abide by the above requirements on more than one occasion, or is not able to cure their default, the parties agree that such failure could be deemed a material breach of this Agreement, which could lead to the Franchisor terminating this Agreement with Franchisee.

- **SAFETY:** Phocatox through the Large Loss Officer or their designee will provide a safety plan, in consultation with the FAC, amended from time to time, to Franchisee outlining the safety equipment and general safety requirements necessary to participate on a job. Franchisee agrees to comply with the safety conditions set forth therein. Franchisee is responsible for understanding and following all relevant regulations and laws.
- **ELIGIBILITY FOR ASSIGNED, LARGE LOSS, AND CATASTROPHIC LOSS PROJECTS:** Franchisees will be eligible for IPA projects ONLY if they meet the requirements indicated in Exhibit 6. Said requirements may be adjusted by Franchisor as necessary, depending upon demonstrated needs to meet the customer requirements under this Program.
- **DOCUMENT INCORPORATION:** As the IPA Program is operated on a project-by-project basis, this Agreement shall apply to all such projects. For each project, additional documents may be generated, such as a project worksheet and/or related documents which specify project related decisions, which may include (but are not limited to) roles, costs, projected or actual compensation, etc. All such documents will be marked as being included in the IPA Program and will include an identification of the specific project in which it applies. All such documents are to be incorporated herein by reference. In the event of any conflict between the terms contained in those documents and the terms contained in this Agreement, the terms contained in the Agreement shall prevail.
- **TRAINING:** To the extent any role involved in a project requires training, which the Franchisee does not already have, Franchisor agrees to conduct sufficient training as is necessary for the Franchisee to competently execute the role assigned. Any training provided by Franchisor will be in consultation with the FAC and the Large Loss Officer to ensure feasibility of compliance. Training may be on the job, in classrooms, and/or informally and may take several sessions before a Franchisee is qualified. Notwithstanding, Franchisor makes no representations regarding the adequacy of the training or the skill of the trainee upon completion of such training. On Assigned and Large Loss projects, Franchisor bears responsibility for all liability provided Franchisees follow the training as outlined by Franchisor from time to time.
- **PROJECT TRACKING:** As a participant in this Program, Franchisee agrees to use whatever software, or other means, required by Franchisor in order to accurately track and document activity being undertaken related to a project in which the Franchisee is involved. Franchisor will provide guidance on proper project



tracking with input from the FAC. As Franchisor's guidance on project tracking will change over the life of this Agreement, in the event the Franchisee fails to follow project tracking guidance or undertakes such activities in a non-professional manner, in the Large Loss Officer's judgment, such actions are deemed to be a curable default under this Agreement. Franchisor must give written notice to Franchisee and FAC, and provide an opportunity to cure within 30 days of said notice.

- **TERM AND TERMINATION:** This Agreement begins \_\_\_\_\_, 202\_\_ and continues in effect until April 30, 2024. When this Agreement ends, Franchisee will be presented with a follow-up agreement. Franchisee will be required to sign that agreement to enable the franchise to continue to participate in the business that is the subject of this Agreement. If a follow-up agreement has not been completed, Franchisee agrees that this Agreement will continue on a month-to-month basis until a follow-up agreement has been presented to Franchisee for Franchisee's signature. In the event Franchisee is in default of this Agreement, Franchisor must provide notice of default and an opportunity to cure the default within 30 days of said notice. If the default is not cured within 30 days, this Agreement may be terminated by Franchisor. Franchisee may elect to terminate this Agreement for any reason by providing Franchisor sixty-day (60) written notice.

- **DEFAULT:** If Franchisee fails to perform or fulfill any obligation under this Agreement, including those that the Parties have agreed will be considered potential material breaches, or any obligation or responsibility under its FA, or any related agreement, Franchisee shall be in default of this Agreement. If curable, Franchisee shall have thirty (30) days from the date of notice of default by Franchisor, to cure any default. In the event Franchisee does not cure the default or it is not curable, Franchisor may at Franchisor's option, which could include consultation with the FAC, immediately terminate this Agreement. All payments due to Franchisee (including, but not limited to compensation, expense reimbursement, equipment rental) will be due upon termination of this Agreement.

Further, if Franchisee shall become insolvent, cease to do business as a going concern, or if a petition has been filed by or against Franchisee under the Bankruptcy Act or similar federal or state statute, Franchisor may immediately declare Franchisee in default of this Agreement and terminate this Agreement.

- **PROFESSIONAL STANDARDS:** Franchisee shall interact with all customers under this Program in a professional manner and in a way that reflects positively on the Franchisee, as well as Franchisor. The Parties agree that Franchisee's failure to act in a professional manner, as determined by Franchisor and a simple majority vote of the FAC, could be considered a material breach of this Agreement.

Additionally, to ensure consistent branding, as part of this National Account Program, Franchisee agrees to use only BioSweep logos on their vehicles for Insurance Losses under this Agreement. Either decal, wrapped and/or magnetic signage is acceptable.

- **NATURE OF RELATIONSHIP:** The relationship of the Parties herein is that of an independent contractor who is a franchisee in a recognized franchise relationship and nothing herein shall be construed as creating any other such relationship. Franchisee shall not represent itself, or any of its employees, officers, directors, representatives, agents or contractors to anyone as an employee of Franchisor, or as being entitled to any employment rights or benefits from Franchisor.

- **INTELLECTUAL PROPERTY – WORK FOR HIRE:** As covered by non-disclosure and non-compete terms in each Franchisee's FA, the Parties expressly agree that all work performed under this Agreement is a work made for hire as defined under 17 USC Section 101 unless otherwise agreed with regard to certain work of Franchisee. All communications, materials, concepts, plans and other materials or intellectual property developed by Franchisee in the course of a project under this IPA Program shall belong exclusively to Franchisor, including, without limitation, all rights to obtain copyrights, patents, trademarks or trade secret rights therein. All communications, documents, materials, project plans and other documents

or information provided by Franchisor pursuant to the IPA Program shall also remain the property of Franchisor including without limitation any copyrights or other intellectual property rights therein.

• **INSURANCE:** Commencing with the performance of any work on a project, Franchisee shall throughout the duration of the project, maintain insurance of the type and minimum coverage indicated below. The term of coverage shall be evidenced by certificates of insurance to be furnished at Franchisor’s request. Insurance must name Franchisor as an additional insured.

Type	Minimum Limits
Worker’s Compensation	Statutory
Commercial Automobile	\$1,000,000
General Liability	\$1,000,000 per occurrence / \$2,000,000 aggregate

• **INDEMNIFICATION:**

*BY FRANCHISOR* – Franchisor shall indemnify, defend and hold harmless Franchisee and its officers, directors, employees and agents from and against all claims, causes of action, suits, damages and costs arising out of and/or resulting from the negligent acts or willful misconduct of Franchisor or its officers, employees or agents pertaining to the activities to be carried out pursuant to this Agreement; provided, however, that Franchisor shall not hold Franchisee harmless from claims to the extent arising out of the negligence or willful misconduct of Franchisee or its officers, directors, employees or agents.

*BY FRANCHISEE* - Franchisee shall indemnify, defend and hold harmless Franchisor and its officers, employees and agents from and against all claims, causes of action, suits, damages and costs arising out of and/or resulting from the negligent acts or omissions or willful misconduct of Franchisee or its officers, directors, employees or agents pertaining to the activities to be carried out pursuant to Franchisee’s obligations under this Agreement; provided, however, that Franchisee shall not hold Franchisor harmless from claims to the extent arising out of the negligence or willful misconduct of Franchisor or its officers, employees or agents.

- a. **Notice of Indemnity Claim.** If a party intends to assert an Indemnity Claim, it shall provide the other party with written notice of such Indemnity Claim after the facts providing the basis for such Indemnity Claim are known. If the required written notice is not given within 6 months after the facts providing the basis of such indemnity claim is known, then the party waives its right to obtain indemnity. An Indemnity Claim notice shall set forth, in detail, the specific character and factual basis for each individual Indemnity Claim asserted therein. At the time the Indemnity Claim is made and thereafter, any party asserting the Indemnity Claim shall provide the other party with copies of any materials in its possession describing the facts or containing information providing the basis for the Indemnity Claim.
- b. **Tender of Defense.** If the indemnity Claim involves a claim by a third party, the party against which the Indemnity Claim is asserted may assume, at its sole expense, the defense of the claim by the third party if such party against which the Indemnity Claim is asserted agrees in writing with respect to such Indemnity Claim that it is obligated hereunder to indemnify and hold the party asserting the Indemnity Claim harmless in accordance with the terms of this Section. The failure of the party against which the Indemnity Claim is asserted to assume the defense of any such claim shall not affect any indemnification obligation under this Agreement.
- c. **Settlement of Indemnity Claims.** The Indemnifying Party shall not, without the prior written

consent of the Indemnified Party, (a) settle or compromise any Indemnity Claim or consent to the entry of any final judgment that does not include as an unconditional term thereof the delivery by the claimant or plaintiff of a written release or releases from all liability in respect of such Indemnity Claim of all Indemnified Parties affected by such Indemnity Claim, or (b) settle or compromise any Indemnity Claim if the settlement imposes equitable remedies or material obligations on the Indemnified Party other than financial obligations for which such Indemnified Party shall be indemnified hereunder. Except in the event the Indemnified Party has assumed the defense of the Indemnified Claim pursuant this Section, the Indemnified Party shall not, without the prior written consent of the Indemnifying Party, settle or compromise any Indemnity Claim or consent to the entry of any final judgment with respect to an Indemnity Claim.

**ADDITIONAL SETTLEMENT AUTHORITY.** With regard to any claim made by a third-party related to a project under this Agreement, whether indemnity is sought or not, Franchisor shall be involved in any decisions related to settlement of such claims and the Parties agree Franchisor may reject any such settlement terms which it deems against the business interest of Franchisor or other franchisees.

- **SEVERABILITY:** If any part or parts of this Agreement shall be held unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed as so limited.
- **ASSIGNMENT:** Neither this Agreement nor Franchisee's rights hereunder are assignable except with Franchisor's prior, written consent. In the event of a transfer of a majority of the issued and outstanding capital stock of any corporate Franchisee or a majority of the total interest in any Franchisee partnership or company, however accomplished, and whether in a single transaction or in a series of related or unrelated transactions, the conversion of a Franchisee entity to either a limited liability company or a limited liability partnership, or the merger or consolidation of a corporate Franchisee, shall be deemed an assignment of this Agreement and subject to Franchisor's consent. Consent shall not be withheld by Franchisor, as long as the assignment meets or exceeds Franchisor's current Franchisee standards of the company.
- **BINDING EFFECT:** The covenants and conditions contained in the Agreement shall apply to and bind the Parties and the heirs, legal representatives, successors and permitted assigns of the Parties.
- **GOVERNING LAW AND JURISDICTION:** This Agreement shall be governed by and construed in accordance with the laws of the United States, State of Indiana. Further, all Parties agree that any dispute with regard to this Agreement will be subject solely to the Jurisdiction of the Courts located in Indianapolis, Indiana (either Federal or State Court). In any legal action between the Parties, the prevailing Party will be due its reasonable attorney fees from the other Party.
- **INJUNCTIVE RELIEF:** Franchisee acknowledges that damages alone may not be an adequate remedy for the breach of certain provisions of this Agreement. Accordingly, without prejudice to any other rights and remedies it may have, the Franchisor shall be entitled to the granting of equitable relief (including without limitation injunctive relief) concerning any threatened or actual breach of any of the provisions of this Agreement, without the need for a bond or undertaking. However, prior to the injunctive relief of any damages sought by Franchisor, the Parties shall mediate by a licensed AAA mediator.
- **NOTICE:** Any notice required or otherwise given pursuant to this Agreement shall be in writing and mailed certified return receipt requested, postage prepaid, or delivered by overnight delivery service to:

Franchisor: Phocatox Technologies, LLC  
Attn: Bill McDaniel  
160 W. Carmel Drive Ste 204  
Carmel IN 46032

Franchisee: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may change such addresses from time to time by providing notice as set forth above.

- **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties and supersedes any prior Restoration Service Provider Agreement (RSP), or similar agreement, whether oral or in writing. There are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified in writing and must be signed by both Franchisor and Franchisee.
- **CUMULATIVE RIGHTS:** Franchisor's and Franchisee's rights under this Agreement are cumulative, and shall not be construed as exclusive of each other unless otherwise required by law.
- **WAIVER:** The failure of either party to enforce any provisions of this Agreement shall not be deemed a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement. The acceptance of rent by Franchisor does not waive Franchisor's right to enforce any provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first above written.

**FRANCHISOR**

**FRANCHISEE**

**Phocatox Technologies, LLC**

\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Printed

Managing Partner  
Title                      Date

\_\_\_\_\_  
Title                      Date

## **Exhibit 1**

### **Insurance Losses**

Services covered by this Agreement are those required by Customers for:

- Insurance-covered Odor elimination (structure and/or contents), and related scoping and consulting.
- Insurance-covered decontamination and/or disinfection of structures and contents.

Franchisee has the right to opt-out of non-fire smoke losses.

Services Not Covered by this Agreement include but are not limited to treatment for mold, surface cleaning, re-construction, pack out, water damage, and odor removal for automobiles. To expedite project assignments, whether a particular service is considered an Insurance Loss or not is at the discretion of the Large Loss Officer. Disputes, reviews, and appeals by the franchisee will be addressed in documented consultation with the FAC chair or designate.

Periodically, the Franchisor or Franchisee may be asked by Customers to perform additional work beyond the BioSweep treatment, such as post-BioSweep surface cleaning/wipedown, pack out, etc. Franchisee is under no obligation to perform non-BioSweep work under this Agreement for Customers but if Franchisee chooses to perform:

- Franchisee must receive prior, written approval by Franchisor
- All work must be performed by Franchisee or by a related entity (e.g. an entity wholly-owned by Franchisee or by officers of Franchisee). Franchisee shall not subcontract work to a non-affiliated restoration contractor or cleaning service under this Agreement
- Franchisor has no responsibility for the invoicing or performance of such work and Franchisee agrees to indemnify Franchisor for all claims relating to work not covered by this Agreement
- If non-odor work on a National Insurance Account project impacts the payment to Franchisor for odor work on the National Insurance Account project, the franchisee will be responsible for any shortfall of payment to Phocatox from the insurance client

## Exhibit 2

### **National Account (“NA”), Non-National Account (“NNA”) Definition, Compensation and Registration**

- A National Account List (“NAL”) showing all National Accounts (“NA”) will be updated quarterly by Franchisor. The current one is dated 12/31/2020 and is incorporated into this Agreement by reference. Any insurance industry company that directly awards a project to Franchisor (i.e. is not referred by a Franchisee) automatically becomes an NA. An NA will be removed from the NAL if Franchisor has not performed at least one loss (Large Loss, Assigned Loss, or CAT Loss) within the prior 18 months; Franchisor to provide semi-annual activity reports to confirm active NAs. NAs removed from the NAL shall be immediately reinstated to the NAL upon invoicing of any new loss by Franchisor. Any insurance industry company not on the NAL is considered a Non-National Account (“NNA”) except for the following:
  - Building & Construction Consultants (“CC”)
  - Third-Party Adjusters (“TPA”)
  - Independent Adjusters (“IA”)These three groups, along with companies specifically listed on the NAL are collectively NAs. NAs and NNAs collectively are “Customers”.
- When a Franchisee is awarded an Insurance Loss job from an NNA insurance carrier or refers an Insurance Loss job to Franchisor that is subsequently awarded, the Franchisee may register that carrier with Franchisor. Franchisee becomes the Registering Franchisee (“RF”) and the NNA carrier becomes a Registered Account (“RA”). Once registered, no other Franchisee can register the same account while the RA remains on the NAL.
- ALL jobs with registered accounts must be entered into the Loss Intake system and will be managed per this Agreement.
- Converting NNA to NA: An NNA retains that status until one of the following conversion triggers occurs:
  - If NNA awards Phocatox projects in at least five states, or
  - The NNA company formally requests Phocatox corporate support aside from invoicing (e.g. adjuster training, scoping support, etc.),then the NNA account becomes eligible to be an NA. The decision to convert the NNA to an NA is based on the above criteria.

- Assigned NNA/NA Compensation Plan:  
Registering Franchisee (RF) gets paid when Phocatox is paid on projects for Registered NNA Accounts.

	Assigned to Registering Franchise (RF) in their territory -	Performed by Franchisor, assigned to RF but not in territory or assigned to Other (not RF) Franchisee, RF Receives -
NNA	Per IPA – 75%	0% until after 5 jobs, then 5%
NNA converted to NA	Per IPA- 80%	+2.5% for 5 yrs*

\* 5 years begins when NNA is converted to a NA.

- Large Loss NNA/NA Compensation Plan:  
Registering Franchisee (RF) gets paid when Phocatox is paid on projects for Registered NNA Accounts.

	In Territory, RF receives	Out of Territory, RF receives
NNA	Per IPA +5%	Per IPA +5%
NNA converted to NA	Per IPA +7.5%	Per IPA +2.5% for 5 yrs*

\* 5 years begins when NNA is converted to a NA.

## Exhibit 3

### Large Loss Projects

IPA Projects with a single insured invoiced cubic footage amount greater than \$25,000 in general are considered to be Large Loss Projects.

#### ***Compensation and Expense Reimbursement Rates:***

If project is within a Franchisee's exclusive territory, the Local Franchisee receives 5% of the total invoice amount for the project. This amount is payable within 60 days from project completion or 10 days of payment to Franchisor by insured/insurer whichever is sooner.

Franchisee and/or their employee(s) working on the project are compensated at the following daily rates. These amounts are payable within 60 days from project completion or 10 days of payment to Franchisor by insured/insurer, whichever is sooner.

- Senior Project Manager - \$1750 per day
- Project Manager - \$1500 per day
- Supervisor (A Franchisee owner or designated general manager who is fully qualified to perform Assigned Jobs) - \$1200 per day
- Technician - \$900 per day
- Stand-by Pay - In the unlikely event the above people show up at a job site and work cannot begin for reasons Parties do not create, stand-by pay will be ½ of the above rates. The above three positions will be reported in ½ day increments.
- Scoping - \$350 per day
- Travel Days- Compensation for traveling to the project will be ½ Daily rate (per day). Not to exceed one day for the project. Also covers travel time to/from locations driving own vehicle.
- Expense Reimbursements (e.g. flights, lodging, meals) - to be submitted best efforts within 5 days but no longer than 30 days of project completion; Franchisor to mail checks within 10 days of project completion
- Driving Franchisor-Owned Vehicle (such as BioSweep box truck) – Technician Rate per day or daily rate of role assigned (e.g. PM, Supv, etc). Based on Franchisor driving safety policy of maximum 11 hour driving day, more than 5.5 hours deemed a full day

#### **Team Assignment:**

- Preference given to location/proximity first and experience
- Assignments, including crew size, will be chosen by project PM in consultation with Large Loss Officer and person scoping the project, if applicable
- Each project must have at least one individual and preferably multiple individuals with a basic knowledge of electrical load in a large loss context
- Depending on the project, individuals may be required to demonstrate competency in power generation operations, forklifts, aerial work platforms, etc.
- Team A / Team B: The franchise network has a roster for staffing IPA projects. Franchisee must commit to either team to enroll in the IPA. Maintenance of this roster is the responsibility of the FAC and the Franchisee:
  - o Team A: available to leave their territory with 24 hours' notice and able to stay on the job-site for 3-4 days;
  - o Team B: available to leave their territory with 7 day notice and able to stay for 2-3 days



In the event the PM or Designated PM of the project cannot perform a timely and successful re-treat of their assigned project, up to 50% of their original compensation for the project may be deducted to cover re-treatment expenses.

PM or Designated PM has right to ask for a delay of project if in their judgement the condition of the site upon arrival is not adequate to ensure a successful treatment. In the event there is a conflict, this request will be reported to the FAC Chair or designate.

**BioSweep Equipment Rental Terms:**

If a project is in the Franchisee's exclusive territory, the Local Franchisee has the option to rent up to 15 of their own BioSweep units and a corresponding number of carbon units to Franchisor for the project. Any additional equipment needs would be augmented at Franchisor's choosing (e.g. Franchisor owned equipment, other equipment from within the franchise network). If a Large Loss project is not in any Local Franchisee's territory, Franchisor has the right to use its own equipment exclusively or rent from any franchisee.

For equipment used by either Local Franchisee or other Franchisees within the network, a daily rental rate of \$275 per BioSweep unit and \$30 per carbon unit would be paid by Franchisor on the same schedule as compensation above; Franchisor reserves the right to rent no more than 15 BioSweep units from any Franchisee on one project.

In the event Franchisor asks a Franchisee to bring equipment as a contingency and it is not used, Franchisor to pay Franchisee a flat daily rate of \$500 regardless of the number of units.

Any hours logged on BioSweep machines for any IPA projects are counted on a Franchisee's monthly royalty program.

## Exhibit 4

### Assigned Projects

IPA Projects with a single insured invoiced cubic footage amount less than \$25,000 are considered to be Assigned Projects unless the Franchisee and Large Loss Officer agree it shall be deemed a Large Loss.

#### ***Compensation and Expense Reimbursement Rates:***

- Projects will be assigned to the Franchisee in whose exclusive territory the loss is located,
- Projects will be assigned to nearest qualified franchisee, if not in another Franchisee's exclusive territory
  - o If nearest qualified Franchisee is unavailable for assignment or not technically capable, Large Loss Officer or designate to contact next nearest qualified franchisee(s) for re-assignment
  - o If re-assignment is not successful to the nearest qualified franchisee(s), Franchisor may re-assign or self-perform the project to provide timely service to the Customer and will provide a documented notification via e-mail to the FAC Chair or designate
- Compensation:
  - o Within Exclusive Territory: Franchisee to receive 62.5% of the cubic foot amount invoiced by Franchisor.
  - o Outside of Exclusive Territory: Selected franchisee to receive 62.5% of the cubic foot amount invoiced by Franchisor.
- For Scoping (if necessary) compensated at \$350/day plus mileage and other travel expenses in line with this Exhibit
- Franchisee will also be compensated for:
  - o Mileage to be reimbursed based on distance from Franchisee's place of business to project (round trip) according to current insurance rate sheet. If a franchisee owns multiple franchises but does not have a business address in their Territory where the project is located, an address in the middle of that territory will be used.
  - o The cost of any equipment owned or paid for by Franchisee that Franchisor can specifically invoice for (e.g. generators or heaters for projects)
- In the event an Assigned Project needs additional equipment or labor, Franchisee may offer to split the project with another Franchisee on terms agreed to between the franchisees. Use of additional Franchisees does not alter what Franchisor would otherwise owe the Assigned Franchisee for the project
- If supplemental heat or power generation is necessary, the Franchisee must have a working knowledge of these fields
- New franchisees will need to participate in five (5) Insurance Loss jobs before they can be assigned insurance projects. The cost of training during those five (5) Insurance Loss Jobs will be paid from the assigned revenue portion of an assigned job to the new franchisee. Any remaining portion of the SP revenue after Service Provider (SP) Trainer's payments are deducted will be paid to the new franchisee. New franchisee equipment will be used on the loss, with the SP Trainer using their units to augment any shortfall. Below are the costs of the SP trainer: SP Trainer will receive \$1,200 for training unless loss requires more than one full 24 hr. treatment

day. Most direct assigned losses require no more than 10-15 treatment hours with sufficient equipment. (In event treatment requires 2 days, SP Trainer will receive an additional 50% - i.e. \$600 for second day).

- SP Trainer will receive full reimbursement for travel expenses to loss location.
- SP Trainer will receive normal ISP rate (i.e. \$275/day per machine) for any of their own BioSweep equipment mobilized to support SP trainee where SP trainee be short equipment.
- SP Trainer will not be compensated for more than 1 Trainer (i.e. bringing along a tech etc.) unless project calls for additional labor and SP trainee does not have such labor, in which case SP Trainer may provide and bill for an additional tech @ \$720 max (to be approved in advance by Ops).
- In the event the new franchisee revenue from the insurance loss does not cover the SP Trainer's total costs, the franchisor will incur those remaining costs.
- If a franchisee is selected to be a SP Trainer, the franchisee is under no obligation to accept this role/work.

**Re-Treatment Work Compensation:**

Franchisee will receive \$500 per re-treatment plus mileage in line with this Exhibit. In the event the Assigned Franchisee of the project cannot perform the re-treatment of the assigned project, up to 50% of their original compensation for the project may be deducted to cover re-treatment expenses. Any decision to deduct compensation from an Assigned Franchisee will be documented by the Franchisor with notification via e-mail to the FAC Chair or Designate.

## Exhibit 5

### Catastrophic Loss Projects (CAT)

Catastrophic (“CAT”) claims are defined as follows:

All Insurance claims for BIOSWEEP treatment of any type of building structure and/or contents that have been adversely impacted by a natural disaster.

1. **BIOSWEEP CAT Equipment Use.** If a CAT loss is within a BioSweep Service Provider’s (“SP”) franchise territory as delineated in the SP’s Franchise Agreement (“FA”), the Franchisee will be compensated for use of their own franchise-owned BioSweep machines, regardless of whether their BioSweep units are actually used, based upon a maximum of up to eight (8) BioSweep machines for one full day of work for each day of CAT deployment of actual work performed.
  - 1.1 The compensation rate for all franchise owned BioSweep machines (both Model 900 and Model 1100) is \$275.00 per day for each BioSweep machine, regardless of the number of projects assigned and/or completed each day.
  - 1.2 BioSweep machine compensation (based upon a maximum of 8 BioSweep machines owned by Franchisee) is based upon the total number of BioSweep machines deployed (whether Franchisor and/or Franchisee owned) on a given day. The determination of the number of machines scheduled to be deployed for each loss on each day will be determined by the Franchisor’s Large Loss Officer or designate in consultation with the assigned CAT PM based upon specific CAT treatment variables germane to the specific CAT event. For clarity, the following two examples are offered:
    - 1.2.1 Example A: On CAT day 7, we treated 3 houses. House One required 2 BioSweep machines, House Two required 2 BioSweep machines, and House Three required 3 BioSweep machines for a daily total of 7 BioSweep machines deployed. In this example, the Franchisee would be compensated for 7 BioSweep machines, provided the Franchisee owned at least 7 BioSweep machines.
    - 1.2.2 Example B: On CAT day 8, we treated 3 houses. House One required 3 BioSweep machines, House Two required 3 BioSweep machines, and House Three required 5 BioSweep machines for a daily total of 11 BioSweep machines deployed. In this example, the Franchisee would be compensated for 8 BioSweep machines, provided the Franchisee owned at least 8 BioSweep machines.
  - 1.3 Franchisee will be compensated for use of Franchisee-owned carbon fans and filters when there is a deficit quantity of Franchisor-owned available carbon filters; and, a Franchisor request is made to the SP in advance of project deployment to provide additional carbon filtration equipment. If so, each carbon filtration unit (carbon + fan) will be reimbursed at a CAT rate of \$30 per day. Power and heat will be reimbursed at the rates established in the most current operational notice but not less than the rates established in Operational Notice

#12 (March 27, 2019).

- 1.4 Other equipment including generators. In the event a Franchisee is asked to provide additional equipment such as portable generators owned by Franchisee, Franchisor will mutually pre-negotiate with Franchisee a reasonable daily rental rate for such equipment TBD based upon the average retail rental cost of such equipment.
  - 1.5 Rental Vehicles. All rental vehicles for CAT will be provided exclusively by Franchisor unless otherwise mutually agreed upon.
  - 1.6 PPE and PortaSens. Each Franchisee participating is required to provide their own full-facepiece respirator with appropriate filter cartridges and at least one (1) PortaSens gas detector per franchise. If more than one individual from the Franchisee is participating at the same time, Franchisor will provide an additional PortaSens as needed. There is no reimbursement for use of these required items.
2. **Franchisee Territory CAT Override.** Franchisee will be compensated five percent (5%) of the final claim invoice less rental equipment (if any) for CAT claims within its territory.
  3. **Franchisee Daily CAT Rates.** The daily rates paid Franchisee (and their respective employees) for CAT are as follows (Please note that these rates differ slightly from Large Loss):

CAT Role	Daily Rate <sup>1</sup>	Daily Stand-By Pay <sup>2</sup>	Travel Days <sup>3</sup>
Project Manager	\$1,500	\$600	\$600
Supervisor	\$1,200	\$600	\$600
Technician (incl. 2 <sup>nd</sup> SP Owner)	\$ 900	\$450	\$450

<sup>1</sup> Maximum rate paid per 24-hour day regardless of work hours. There are no half days or overtime.

<sup>2</sup> In the event out-of-territory Franchisee (or their respective employees) deployed for CAT are not scheduled to perform treatment on a particular day or scheduled to perform other CAT services such as fleet/equipment management (i.e. loading/unloading, truck relocation/transfer, inventory etc.), Franchisee (or their respective employees) will be compensated fifty-percent (50%) of their daily rate not to exceed \$600 per day. (Franchisee and their respective employees are not compensated for stand-by days within their own territory).

<sup>3</sup> Travel days are not applicable to Franchisee working within their own franchise territory or adjacent territory if within 100 miles.

4. **Limited Scoping.** Our Franchisor policy is to limit scoping during CAT events to commercial and high value properties; and, where feasible, to schedule scoping during scheduled CAT treatment days. No scoping fees will be paid if conducted during normal CAT workdays.
5. **Length of Stay.** To maximize efficiency and minimize field disruption, SPs will be asked to initially commit to an initial one-week (7 day) deployment but may be requested to extend if necessary. There is no guarantee of duration for initial stay or extended days, which may be modified, based upon real-time, field variables such as treatment scheduling, road access, and public utilities restoration.

6. **SP Payment.** Franchisor will process Franchisee CAT payment each Monday following the prior week's work schedule as submitted to Corporate.
7. **Expense Reimbursement.** Franchisor provides all CAT accommodations and ground transportation as needed. Travel and meal expenses will be reimbursed within 10 days (if not sooner) of receipt of submission.

## Exhibit 6

### Eligibility to Participate in IPA

To be eligible for an Assigned Project or to serve as a PM on a Large Loss, a Franchisee must meet or exceed certain technical requirements. Details of these requirements and the associated training program will include at a minimum the following:

Assigned Projects:

- Franchisee must own a minimum of eight (8) BioSweep units
- Franchisee must own Carbon / Activated charcoal units in a ratio of not less than one (1) carbon unit per two (2) BioSweeps needed on per project. These carbon units to be in a form acceptable to Franchisor
- Franchisee must own one (1) calibrated PortaSens. Calibration to be performed annually by qualified local company at Franchisee's expense or can be calibrated by OPS (Franchisee to cover shipping; Franchisor to cover one calibration per year)
- Respiratory Fit Test – Annual certifications for all individuals on IPA work in line with OSHA guidance
- Training for insurance industry specific language and protocol to provide a consistent presentation for BioSweep Services nationally
- Franchisee's employees engaged in IPA work have passed a background check done by either Franchisee or Franchisor

Large Loss Projects (in addition to above):

- Training for Heavy Equipment and Power Generation

\*Phocatox uses a third party FCRA compliant background check service to screen new employees and new franchisees. It is Franchisor policy to not engage or hire anyone for employment who has ever pled or have been found guilty of any of the following offenses:

1. Felony Assault
2. Armed Robbery
3. Sexual Assault
4. Felony Drug Possession
5. Theft of any kind other than petty

It is Franchisor policy to not engage or hire anyone for employment who has pled or been found guilty of any of the following within ten years prior to employment:

1. Assault or Battery
2. Petty theft

It is Franchisor policy to restrict or prohibit operation of Franchisor owned, leased or rented motor vehicles and heavy equipment for any employee who has been found guilty of driving under the influence of alcohol or drugs or alcohol within three years prior to employment.

Franchisor may reasonably add additional items as needed from time to time in consultation with the FAC.

## Franchisee Election to Not Participate

\_\_\_\_\_ (Franchisee) has read and understands the above agreement and the IPA Program. Notwithstanding the foregoing, Franchisee has opted to not participate in the IPA Program. As a non-participant, Franchisee understands and agrees that:

- Franchisee may not provide any odor elimination services to NAL and NNA Customers as defined in Exhibit 2,
- Franchisee will not be due any amounts from Insurance Loss Projects that take place in its territory,
- Franchisee will not be due any compensation for any Insurance Loss projects,
- Franchisee will not interfere in any way with Franchisor's operation of the IPA Program.

This declaration to not participate continues in effect until withdrawn by Franchisee and an election to participate is indicated. An election to participate must be made with a minimum of sixty (60) days notice before the date to begin participating in the IPA. Election to participate will require Franchisee to enter into the then current IPA then offered. Franchisee must meet the eligibility requirements outlined in Exhibit 6 and elsewhere in the Agreement.

In the event the Franchisee does not execute the IPA within the published, stipulated time frame, it will be deemed that Franchisee has executed this Election to Not Participate whether the franchisee has actually executed this document or not.

IN WITNESS WHEREOF, the parties have caused this Franchisee Election to Not Participate to be executed the day and year first above written.

### FRANCHISOR

**Phocatox Technologies, LLC**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed

Managing Partner  
Title

\_\_\_\_\_  
Date

### FRANCHISEE

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT C1**

**PROMISSORY NOTE FOR ADDITIONAL MACHINE(S)**

**EXHIBIT C1**  
**PROMISSORY NOTE**

**BORROWER: BIOSWEEP of \_\_\_\_\_ and \_\_\_\_\_ (Individual)**  
\_\_\_\_\_

**LENDER: Phocatox Technologies, LLC**  
**P.O. Box 50891**  
**Indianapolis, IN 46250**

**PRINCIPAL AMOUNT: \$ XX,XXX.00**

1. **FOR VALUE RECEIVED, BIOSWEEP of \_\_\_\_\_ and \_\_\_\_\_**  
(Borrower) of \_\_\_\_\_ jointly and severally  
promise to pay to *Phocatox Technologies, LLC* (Lender) at P.O. Box 50891,  
Indianapolis, Indiana 46250, or at such mailing address as may later be provided  
in writing to Borrower, the principal sum of  
\_\_\_\_\_ (\$XX,XXX.XX) in \_\_\_\_\_ (XX)  
equal monthly installments of \_\_\_\_\_  
(\$X,XXX.XX) on the first (1st) day of each month beginning \_\_\_\_\_,  
20\_\_\_. (Payment Schedule - Attachment 1).

2. The promissory note (the "Note") will be repaid in full on or before  
\_\_\_\_\_, 20XX.

3. If Borrower defaults in payments as required under this Note or after written  
demand for thirty (30) days, the Security, as defined below, will be immediately  
provided to Lender and Lender is granted all rights of possession as a secured  
party. In the event of default, any amounts Lender may be required to pay  
Borrower according to the price chart directly following Section 3. C. 1. (d)(ii) of  
the Franchise Agreement between Lender and Borrower dated \_\_\_\_\_,  
20\_\_ shall be reduced to One Dollar (\$1).

4. This Note will be construed in accordance with and governed by the laws of  
the State of Indiana. Borrower agrees that jurisdiction and venue are exclusive  
and proper in the state court system in Hamilton County, Indiana for all legal  
proceedings related to this Note.

5. All cost, expenses and expenditures including, and without limitation, the  
complete legal costs of Lender in enforcing this Note as a result of any default by  
Borrower will be added to the principal then outstanding and will be immediately  
due and owed by Borrower.

6. This Note will enure to the benefit of and be binding upon the respective administrators, successors and assigns of Borrower and Lender. Borrower waives presentment for payment, notice of non-payment, protest and notice of protest.

7. This Note is secured by the following (the "Security"):

\_\_\_\_\_  
\_\_\_\_\_

8. Borrower grants to Lender a security interest in the Security until this Note is paid in full.

**IN WITNESS WHEREOF** BIOSWEEP of \_\_\_\_\_ and \_\_\_\_\_  
duly affix their signatures this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**BY:** \_\_\_\_\_ (Individual)

Signed: \_\_\_\_\_

**BY: BIOSWEEP OF** \_\_\_\_\_

Signed: \_\_\_\_\_

By its: \_\_\_\_\_

Attachment 1 - Payment Schedule

**EXHIBIT D TO FRANCHISE DISCLOSURE DOCUMENT – BIOSWEEP OUTLETS**

(a) **OPERATIONAL FRANCHISEES.** The following are names, addresses, telephone numbers and email addresses of all BIOSWEEP outlets of a type substantially similar to that offered to the prospective franchisee, as of December 31, 2021 who are operational; and those that were sold and became operational in 2022 before the date of this Disclosure Document:

<b>Name</b>	<b>Address</b>	<b>Phone &amp; Email</b>
(AL) BioSweep of Alabama Roy Ponder	P.O. Box 4291 Opelika, AL 36803-4291	(844) 466.6367 r.ponder@biosweep.com
(AZ) BioSweep of Phoenix Mel Garcia	10483 N. 76 <sup>th</sup> Drive Peoria, AZ 85345	(602) 821-5523 servicephoenix@biosweep.com
(CA) BioSweep of North Orange County Richard Hatlelid	2544 W. Winston Road, Unit L 3 Anaheim, CA 92804	(785) 470-0466 rkhatlelid@biosweep.com
(CA) Biosweep Sacramento Yemi Ayeni	5960 South Land Park Drive, #544 Sacramento, CA 95822	(512)373-8118 yemi@biosweep.com
(CA) BioSweep Northern California Andrew Wood	660 4 <sup>th</sup> Street, #527 San Francisco, CA 94107	(415) 944- 7233andrew@biosweep.com
(CO) BioSweep of Denver Ron Anderson	6140 S. Gun Club Rd., K6-207 Aurora, CO 80016	(720) 499-5516 ron@biosweep.com
(CT) BioSweep of CT Bart Cammarasana	48 Westport Drive Waterbury, CT 06706	(203) 525-7848 b.cam@biosweep.com
(FL) Panhandle Biosweep Steven and Kristen Ray	1333 College Parkway #143 Gulf Breeze, FL 32563	(850) 860-3214 panhandle@biosweep.com
(FL) BioSweep Sun Coast Shane and Jolyn Covelli (Ft. Myers)	5750 Painted Leaf Lane Naples, FL 34116	(239)558-3110 shane@biosweep.com
(FL) BioSweep Solutions Lawton Skipper	122 SW 127 <sup>th</sup> St. Newberry, FL 32669	(352) 317-3992 l.skipper@biosweep.com
(FL) Biosweep of Central Florida John Troudt	4366 Springdale Path The Villages, FL 32163	(414) 620-7146 JohnT@biosweep.com
(FL) BioSweep of Tampa John Troudt	4366 Springdale Path The Villages, FL 32163	(414) 620-4176 JohnT@biosweep.com
(GA) Aristocrat Air (dba BioSweep of North Atlanta) Tim Hutchison	3919 Spring Creek Lane Atlanta, GA 30350	(404) 218-4758 timhutchison@aristocratair.net
(GA) Biosweep of Atlanta Robert Averette	1353 Riverstone Parkway, Ste. 120- 328 Canton, GA 30114	(770) 316-1700 robertaverette@gmail.com
(IL) Biosweep of Chicagoland	648 Boughton Road	(630) 408-7145

Colin Framburg	Bolingbrook, IL 60440	chicagoland@biosweep.com
(IN) BioSweep of Indianapolis Garry Steinke	3793 Barnstable Road Carmel, IN 46032	(317) 506-8454 garry@biosweepindy.com
(KY) Biosweep Ohkentuckiana- Greater Louisville and Lexington Andrew Lutz and Jennifer Leggett	8459 US 42, Ste F, PMB 304 Florence, KY 41042	(859) 760-0332 ohkentuckiana@biosweep.com
(MD) BioSweep of Baltimore Aiden Murphy	1105 Somerset Place Lutherville, MD 21093	(443) 797-9849-3412 aiden@biosweep.com
(MA) Baystate BioSweep Wallace Watson	5 Chop Teague Lane Marstons Mills, MA 02648	(508) 776-4092 wallace@biosweep.com
(NE) BioSweep of Nebraska Jim Hunt	9545 S. 98 <sup>th</sup> St. Lincoln, NE 68526	(402) 429-9984 jimhunt@biosweep.com
(NC) BioSweep of Western Carolina, Larry Stawicki	624 Matthews Mint Hill Rd Matthews, NC 28105	(980) 260-9171 larry@biosweep.com
(OH) BioSweep of Central Ohio Tom Kindler	Box 664 – 5806 Zarley St. New Albany, OH 43054	(614) 406-4380 tkindler@biosweep.com
(OH) BIOSWEEP of Northeast OH TJ Auspach	P.O. Box 861 Vermillion, OH 44089	(440) 654-1970 tj@biosweep.com
(OK) BioSweep Oklahoma Larry Rose – Co-Owner Kevin Skinner – Co-Owner	PO Box 271011 Oklahoma City, OK 73137	(405) 520-5438 L.Rose@biosweep.com (405) 239-9927 k.skinner@biosweep.com
(OR) Biosweep of Oregon Matt Balloo	4430 N.E. 148 <sup>th</sup> Avenue Portland, OR 97230	(410) 303-4485 balloo@bioseep.com
(PA) BioSweep of Southeast PA John McCollough	314 Bolton Lane Downingtown, PA 19335	(610) 233-8092 jpmccullough@biosweep.com
(SC) BioSweep Southeast Michael Jager	P.O. Box 51015 Summerville, SC 29485	(843) 442-9755 mjager@biosweep.com
(TN) BioSweep of Tennessee Gordon Sympson	1661 Mallory Lane Brentwood, TN 37027	(615) 370-4800 gordon@biosweep.com
(TN) Midsouth BioSweep Dan Chase & Robert Cunningham	122 Varanda Cove Collierville, TN 38017	(901) 791-9238 midsouth@biosweep.com
(TX) BioSweep of Dallas Maurice Jackson	17036 Knots Landing Dallas, TX 75001	(214) 708-2850 maurice@biosweeptdallas.com
(TX) Biosweep of North Texas Jennifer Wilkinson	5751 FM 902 Gainesville, TX 76240	(469)989-7335 jennifer@biosweep.com
(TX) Biosweep of San Antonio Jennifer Wilkinson	5751 FM 902 Gainesville, TX 76240	(469)989-7335 jennifer@biosweep.com
(TX) BioSweep /Austin Paul and Diana Moinot	4606 FM 1960, Suite 460 Houston, TX 77079	(281) 961-9571 Paul@biosweeptx.com

(TX) Biosweep/Houston Paul and Diana Moinot	4606 FM 1960, Suite 460 Houston, TX 77079	(281) 961-9571 Paul@biosweeptx.com
(UT) BioSweep of Utah Jim Gregory	9783 Arrington Pl. Sandy, UT 85092	(801) 550-9764 jimgregory@biosweep.com
(VA) Biosweep Northern Virginia South of DC Jeff Deiters	20 Rawlings Place Fredricksburg, VA 22405	(540) 907-6464 nva@biosweep.com
(VA) Biosweep Northern Virginia North of DC Jeff Deiters	20 Rawlings Place Fredricksburg, VA 22405	(540) 907-6464 nva@biosweep.com
(WI) BioSweep of SE Wisconsin Daryl Lepak	N18 W29574 Crooked Creek Road Pewaukee, WI 53072	(262) 804-1670 daryl@biosweep.com

The two Ohkentuckiana franchises were sold and became operational in 2021. One has since closed due to COVID and other concerns. The Florida Sun Coast Broward County franchise was also sold and became operational in 2021 but was closed due to COVID and other concerns.

**EXHIBIT E TO FRANCHISE DISCLOSURE DOCUMENT – FINANCIAL STATEMENTS**

**The following financial statements are attached:**

**Our Independent Auditors' reports of Audited Financial Statements for the Years Ended December 31, 2021, 2020 and 2019**



**PHOCATOX TECHNOLOGIES, LLC**

FINANCIAL STATEMENTS  
Together with Independent Auditors' Report

For the Years Ended December 31, 2021 and 2020



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# Donovan CPAs

## *Independent Auditors' Report*

To the Members  
Phocatox Technologies, LLC

### **Opinion**

We have audited the financial statements of Phocatox Technologies, LLC, which comprise the balance sheets as of December 31, 2021 and 2020, and the related statements of income and change in members' equity and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of Phocatox Technologies, LLC as of December 31, 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**

We conducted our audits in accordance with auditing standards generally accepted in the United States of America ("GAAS"). Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Phocatox Technologies, LLC and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our 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 Phocatox Technologies, LLC's ability to continue as a going concern for one year after the date that the financial statements are issued.

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Indianapolis | 9292 N. Meridian Street, Suite 150, Indianapolis, IN 46260 | 317.844.8300

## **Auditors' Responsibilities for the Audit of the Financial Statements**

Our 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 auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the 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 Phocatox Technologies, LLC'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 our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Phocatox Technologies, LLC's ability to continue as a going concern for a reasonable period of time.

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

## **Report on Supplementary Information**

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The supplementary information presented on pages 11 and 12 is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

DONOVAN



Indianapolis, Indiana  
February 21, 2022

**PHOCATOX TECHNOLOGIES, LLC**

**BALANCE SHEETS**

**December 31, 2021 and 2020**

<b>ASSETS</b>	<b><u>2021</u></b>	<b><u>2020</u></b>
<b>CURRENT ASSETS</b>		
Cash	\$ 220,114	\$ 547,523
Accounts receivable, net of allowance	412,070	542,528
Inventory	200,439	207,434
Notes receivable	13,799	33,892
<i>Total current assets</i>	<u>846,422</u>	<u>1,331,377</u>
<b>PROPERTY AND EQUIPMENT</b>		
BioSweep equipment	296,409	231,543
Vehicles	248,636	248,636
Training materials	90,847	-
Less: accumulated depreciation	<u>(263,723)</u>	<u>(165,868)</u>
<i>Property and equipment, net</i>	<u>372,169</u>	<u>314,311</u>
<b>OTHER ASSETS</b>		
Deposits	<u>535</u>	<u>535</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 1,219,126</u></u>	<u><u>\$ 1,646,223</u></u>
<b>LIABILITIES AND MEMBERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Current portion of notes payable	\$ 43,346	\$ 41,381
Current portion of deferred revenue	80,783	61,797
Accrued expenses	<u>131,987</u>	<u>189,861</u>
<i>Total current liabilities</i>	<u>256,116</u>	<u>293,039</u>
<b>LONG-TERM LIABILITIES</b>		
Notes payable, net of current portion	77,651	121,110
Deferred revenue, net of current portion	<u>178,461</u>	<u>174,386</u>
<i>Total long-term liabilities</i>	<u>256,112</u>	<u>295,496</u>
<b>TOTAL LIABILITIES</b>	512,228	588,535
<b>MEMBERS' EQUITY</b>	<u>706,898</u>	<u>1,057,688</u>
<b>TOTAL LIABILITIES AND MEMBERS' EQUITY</b>	<u><u>\$ 1,219,126</u></u>	<u><u>\$ 1,646,223</u></u>

See independent auditors' report and accompanying notes to the financial statements

**PHOCATOX TECHNOLOGIES, LLC**  
**STATEMENTS OF INCOME AND CHANGE IN MEMBERS' EQUITY**  
**For the Years Ended December 31, 2021 and 2020**

	<u>2021</u>	<u>2020</u>
<b>REVENUE</b>		
RSP projects	\$ 2,210,666	\$ 2,338,888
Royalties	521,807	454,051
Equipment sales	428,828	494,360
CAT projects	320,669	1,526,892
Franchise revenue	69,121	69,777
Other	28,143	21,000
	<u>3,579,234</u>	<u>4,904,968</u>
<i>Total revenue</i>		
<b>COSTS OF REVENUE</b>		
RSP project costs	1,350,256	1,395,090
CAT project costs	221,804	639,670
Labor	494,440	496,053
Materials	159,376	163,440
Other	22,320	17,191
	<u>2,248,196</u>	<u>2,711,444</u>
<i>Total costs of revenue</i>		
<b>GROSS PROFIT</b>	1,331,038	2,193,524
<b>GROSS PROFIT PERCENTAGE</b>	<u>37.2%</u>	<u>44.7%</u>
<b>OPERATING EXPENSES</b>	<u>1,176,969</u>	<u>1,206,414</u>
<b>INCOME FROM OPERATIONS</b>	154,069	987,110
<b>PAYCHECK PROTECTION PROGRAM NOTE PAYABLE FORGIVENESS</b>	<u>-</u>	<u>157,600</u>
<b>NET INCOME</b>	154,069	1,144,710
<b>MEMBERS' EQUITY, BEGINNING OF YEAR</b>	1,057,688	512,978
<b>MEMBERS DISTRIBUTIONS</b>	<u>(504,859)</u>	<u>(600,000)</u>
<b>MEMBERS' EQUITY, END OF YEAR</b>	<u>\$ 706,898</u>	<u>\$ 1,057,688</u>

See independent auditors' report and accompanying notes to the financial statements

**PHOCATOX TECHNOLOGIES, LLC**  
**STATEMENTS OF CASH FLOWS**  
**For the Years Ended December 31, 2021 and 2020**

	<u>2021</u>	<u>2020</u>
<b>OPERATING ACTIVITIES</b>		
Net income	\$ 154,069	\$ 1,144,710
Adjustments to reconcile net income to net cash provided by operating activities:		
Paycheck Protection Program note payable forgiveness	-	(157,600)
Depreciation	97,855	75,510
Loss on disposal of property and equipment	-	2,145
Change in certain assets and liabilities:		
Accounts receivable, net of allowance	130,458	(95,413)
Inventory	6,995	(91,600)
Notes receivable	20,093	(22,418)
Accrued expenses	(57,874)	3,462
Deferred revenue	23,061	87,123
	<u>374,657</u>	<u>945,919</u>
<i>Net cash provided by operating activities</i>		
<b>INVESTING ACTIVITIES</b>		
Purchases of property and equipment	<u>(155,713)</u>	<u>(22,705)</u>
<b>FINANCING ACTIVITIES</b>		
Proceeds from Paycheck Protection Program note payable	-	157,600
Principal repayments of notes payable	(41,494)	(32,402)
Payments on line of credit	-	(50,000)
Members distributions	<u>(504,859)</u>	<u>(600,000)</u>
	<u>(546,353)</u>	<u>(524,802)</u>
<i>Net cash used in financing activities</i>		
<b>NET CHANGE IN CASH</b>	(327,409)	398,412
<b>CASH, BEGINNING OF YEAR</b>	<u>547,523</u>	<u>149,111</u>
<b>CASH, END OF YEAR</b>	<u>\$ 220,114</u>	<u>\$ 547,523</u>
<b>SUPPLEMENTAL INFORMATION</b>		
Purchases of property and equipment financed through notes payable	\$ -	\$ 54,260
Cash paid for interest	6,606	7,130

See independent auditors' report and accompanying notes to the financial statements

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2021 and 2020**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Nature of Business – Phocatox Technologies, LLC (the “Company”) is an Indiana Limited Liability Company and was organized in February 2007. As a Limited Liability Company, each member’s liability is limited to amounts reflected in his or her respective accounts plus any debt for which a personal guarantee has been given. The Company manufactures air and surface decontamination equipment utilizing photocatalytic oxidation for indoor air quality and surface remediation under the federally registered trademark BioSweep®. The Company offers franchises worldwide, including the United States, Canada, Australia, and the United Kingdom. In addition to franchising, the Company uses its own equipment in remediation projects.

With corporate offices in Carmel, Indiana, the Company also maintains approximately 3,500 square feet of warehouse space in Houston, Texas for product development and testing, manufacturing, quality assurance, equipment service and repair, and storage.

Basis of Accounting and Use of Estimates – The accompanying financial statements have been prepared on the accrual basis in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”), which requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results could differ from those estimates.

The financial statements include only those assets, liabilities, and results of operations directly related to the business of Phocatox Technologies, LLC, not the individual franchises.

Cash and Cash Equivalents – For the purpose of the statements of cash flows, the Company considers investments with an original maturity of three months or less to be cash equivalents. There were no cash equivalents at December 31, 2021 and 2020.

Accounts Receivable and Allowance – Accounts receivable are comprised primarily of balances due from insurance providers related to remediation projects. The Company analyzed receivable balances for collectability. Based on this analysis and collections history, the Company has recorded an allowance for doubtful accounts of \$50,000 as of both December 31, 2021 and 2020. Bad debt expense was \$15,669 and \$84,390 for the years ended December 31, 2021 and 2020, respectively.

Inventory – Inventory consists of raw materials, work in process, and finished goods and is stated at the lower of cost or market using the first-in, first-out method. Inventory consists of the following as of December 31:

	<u>2021</u>	<u>2020</u>
Finished goods	\$ 32,706	\$ 31,315
Work in process	10,787	44,765
Raw materials	71,218	45,626
Equipment	85,728	85,728
<i>Total inventory</i>	\$ 200,439	\$ 207,434



**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2021 and 2020**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Continued**

Notes Receivable – Notes receivable primarily represent amounts due from franchisees, secured by unique BioSweep units. The notes bear interest at 5% and are due over a period of 36 months.

Property and Equipment – Purchases of assets and expenditures that materially increase value or extend useful lives are capitalized and are included in the accounts at cost. Routine maintenance and repairs, minor replacement costs, and equipment purchases with a unit cost of less than \$1,000 are charged to expense as incurred.

Depreciation is provided over the estimated useful lives of the respective assets using the straight-line method. The estimated useful lives generally are as follows:

BioSweep equipment.....	7 years
Vehicles .....	5 years
Training materials.....	5 years

Deferred Revenue – The Company invoices its franchisees for the full amount outlined in the franchise agreement at the time the agreement is signed. Franchise revenue is recognized over the life of the franchise agreement. Deferred revenue represents the difference between these amounts.

Advertising and Marketing Costs – The Company’s accounting policy pertaining to advertising and marketing is to expense costs as incurred. The Company incurred \$64,380 and \$50,380 in advertising and marketing costs for the years ended December 31, 2021 and 2020, respectively.

Income Taxes – The Company has elected to be taxed under the provisions of Subchapter S of the Internal Revenue Code. As a Subchapter S Corporation, the Company does not pay federal or state income taxes on its taxable income. Instead, the members report their pro-rata shares of income on their personal income tax returns, therefore these financial statements do not include any provision for corporate income taxes.

Professional accounting standards require the Company to recognize a tax liability only if it is more likely than not the tax position would be sustained in a tax examination, with a tax examination being presumed to occur. The amount recognized is the largest amount of tax liability that is greater than 50% likely of being realized on examination. For tax positions not meeting the more-likely-than-not test, no tax liability is recorded. The Company has examined this issue and has determined that there are no material contingent tax liabilities or questionable tax positions. The tax years ended December 31, 2018 and after are open to audit for both federal and state purposes.

Subsequent Events – The Company has evaluated all events through February 21, 2022, which is the date these financial statements were available to be issued. Any events occurring through this date have been evaluated to determine whether a change in the financial statements or related disclosures would be required.

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2021 and 2020**

**NOTE 2 - REVENUE RECOGNITION**

Revenue Recognition Policy – The Company has multiple revenue streams and related performance obligations, as noted in the table below:

<u>Revenue Stream</u>	<u>Recognition Method</u>	<u>Performance Obligation</u>
RSP and CAT remediation projects	Point in time	Completion of agreed-upon remediation project
Royalties	Point in time	Completion of agreed-upon remediation project by franchisee
Equipment sales	Point in time	Transfer of title to franchisee at time of shipment (F.O.B. shipping point)
Franchise revenue	Over time	Passage of time over the life of the franchise agreement (5 years)

Disaggregation of Revenue – Disaggregated revenue is presented by revenue stream on the statements of income and change in members’ equity.

Variable Consideration – The nature of the Company’s business gives rise to variable consideration, including rework on contracts. Based on experience, the Company has determined these amounts to be rare and immaterial, therefore it does not estimate these amounts to include in the transaction price.

Shipping and Handling – The Company records shipping and handling charges billed to customers as revenue and expenses in costs of revenue.

**NOTE 3 - PAYCHECK PROTECTION PROGRAM**

In response to the COVID-19 pandemic, the United States federal government adopted the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act which includes the Paycheck Protection Program (“PPP”) administered through the Small Business Administration. The proceeds from the PPP notes payable can be used for costs related to payroll, employee healthcare, rent, and utilities. On April 10, 2020, the Company was granted a note payable from Old National Bank in the amount of \$157,600 pursuant to the PPP under Division A, Title I of the CARES Act. Under the terms of the PPP, the loan funds would be forgiven if they are used for qualifying expenses as described in the CARES Act. On November 30, 2020, the Company was notified by Old National Bank that the PPP loan had been fully forgiven. The Company elected to recognize the funds in accordance with FASB ASC 958-605 by reflecting the full amount as PPP note payable forgiveness income during the year ended December 31, 2020.

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2021 and 2020**

**NOTE 4 - LINE OF CREDIT**

The Company maintains a line of credit with Old National Bank. The line is secured by the Company's assets. The line has a credit limit of \$250,000 and bears interest at a variable rate of prime plus .25% (a total of 3.50% at December 31, 2021). There was no balance outstanding at December 31, 2021 and 2020.

**NOTE 5 - NOTES PAYABLE**

Notes payable consisted of the following as of December 31:

	<u>2021</u>	<u>2020</u>
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing December 2023, payable in monthly installments of \$991 including interest at 4.49%	\$ 21,986	\$ 32,599
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing April 2024, payable in monthly installments of \$976 including interest at 4.49%	27,475	37,772
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing April 2024, payable in monthly installments of \$1,013 including interest at 4.49%	29,605	40,254
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing July 2025, payable in monthly installments of \$1,028 including interest at 5.15%	<u>41,931</u>	<u>51,866</u>
	120,997	162,491
Less: current portion	<u>(43,346)</u>	<u>(41,381)</u>
Long-term portion	<u>\$ 77,651</u>	<u>\$ 121,110</u>

Principal maturities of the notes payable are as follows for the years ending December 31:

2022	\$ 43,346
2023	44,675
2024	24,106
2025	<u>8,870</u>
	<u>\$ 120,997</u>

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2021 and 2020**

**NOTE 6 - CONCENTRATION OF CREDIT RISK**

The Company grants unsecured credit to insurance providers which pertain to billed accounts receivable. The Company routinely assesses the collectability of its outstanding accounts receivable and consequently, believes its accounts receivable credit risk exposure is limited.

**NOTE 7 - FRANCHISE AGREEMENT AND FEES**

In accordance with the Franchise Disclosure Document, the Company provides equipment, training, sales, and marketing support and a protected sales territory to its BioSweep franchisees in the United States. United States domestic franchises require an initial capital investment of between \$138,264 and \$162,744, which includes \$120,269 to \$120,469 due to the franchisor or affiliate. The Company sold a net total of one domestic franchises during the year ended December 31, 2021 and six in 2020. As of December 31, 2021, there were 39 franchises in the United States.

For international licensing partners, the Company provides equipment, training, sales, and marketing support and a protected master sales territory. The Company sold no international licenses during either of the years ended December 31, 2021 and 2020. As of December 31, 2021, the Company has three international master franchisees, each with one or more sub-licensees.

SUPPLEMENTARY INFORMATION

**PHOCATOX TECHNOLOGIES, LLC**  
**SCHEDULES OF OPERATING EXPENSES**  
**For the Years Ended December 31, 2021 and 2020**

	<u>2021</u>	<u>2020</u>
Professional service fees paid to members	\$ 523,980	\$ 488,480
Commissions and royalties	144,538	137,652
Depreciation	97,855	75,510
Office expense	49,956	43,071
Advertising and marketing	64,380	50,380
Legal and professional	59,376	83,319
Insurance	52,905	52,476
Training	39,966	2,952
Rent	38,646	36,203
Fees and licenses	21,051	30,637
Payment processing fees	20,343	19,179
Bad debt expense	15,669	84,390
Automobile	10,428	-
Miscellaneous taxes	9,531	13,207
Outside services	7,286	4,982
Interest expense	6,606	7,130
Travel and entertainment	6,418	17,350
Utilities	5,001	5,960
Repurchase of franchise	-	50,000
Loss on disposal of property and equipment	-	2,145
Other expenses	3,034	1,391
	<hr/>	<hr/>
<i>Total operating expenses</i>	<u>\$ 1,176,969</u>	<u>\$ 1,206,414</u>

See independent auditors' report

**PHOCATOX TECHNOLOGIES, LLC**  
**SUMMARY OF SELECTED FINANCIAL DATA**  
**For the Ten Years Ended December 31, 2021**

	<u>2021</u>	<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>
<b>Revenue</b>										
RSP projects	\$ 2,210,666	\$ 2,338,888	\$ 2,591,452	\$ 1,704,238	\$ 1,188,180	\$ 412,116	\$ 731,075	\$ 912,319	\$ 628,277	\$ 774,376
Royalties	521,807	454,051	419,428	420,938	569,742	352,958	-	-	-	-
Equipment	428,828	494,360	299,600	119,747	51,874	-	-	-	-	-
CAT projects	320,669	1,526,892	306,407	952,074	470,884	447,642	394,939	241,554	246,032	157,946
Franchise revenue	69,121	69,777	57,473	49,973	45,390	41,769	20,783	-	-	-
Other	28,143	21,000	9,714	19,014	7,980	17,146	2,500	27,314	22,628	29,049
<i>Total revenue</i>	<u>3,579,234</u>	<u>4,904,968</u>	<u>3,684,074</u>	<u>3,265,984</u>	<u>2,334,050</u>	<u>1,271,631</u>	<u>1,149,297</u>	<u>1,181,187</u>	<u>896,937</u>	<u>961,371</u>
<b>2 Percentage increase (decrease)</b>	<u>(27.0%)</u>	<u>33.1%</u>	<u>12.8%</u>	<u>39.9%</u>	<u>83.5%</u>	<u>10.6%</u>	<u>(2.7%)</u>	<u>31.7%</u>	<u>(6.7%)</u>	<u>45.1%</u>
<b>3 Costs of revenues</b>	2,248,196	2,711,444	2,447,767	1,864,965	884,288	408,300	249,393	334,638	250,856	316,458
<b>4 Gross profit</b>	1,331,038	2,193,524	1,236,307	1,401,019	1,449,762	863,331	899,904	846,549	646,081	644,913
<b>5 Gross profit percentage</b>	<u>37.2%</u>	<u>44.7%</u>	<u>33.6%</u>	<u>42.9%</u>	<u>62.1%</u>	<u>67.9%</u>	<u>78.3%</u>	<u>71.7%</u>	<u>72.0%</u>	<u>67.1%</u>
<b>6 Paycheck Protection Program note payable forgiveness</b>	-	157,600	-	-	-	-	-	-	-	-
<b>7 Operating expenses</b>	1,176,969	1,206,414	1,089,090	1,065,750	1,128,737	929,588	823,126	675,744	477,465	481,436
<b>8 Operating expenses as a percentage of revenue</b>	<u>32.9%</u>	<u>24.6%</u>	<u>29.6%</u>	<u>32.6%</u>	<u>48.4%</u>	<u>73.1%</u>	<u>71.6%</u>	<u>57.2%</u>	<u>53.2%</u>	<u>50.1%</u>
<b>9 Net income (loss)</b>	\$ <u>154,069</u>	\$ <u>1,144,710</u>	\$ <u>147,217</u>	\$ <u>335,269</u>	\$ <u>321,025</u>	\$ <u>(66,257)</u>	\$ <u>76,778</u>	\$ <u>170,805</u>	\$ <u>168,616</u>	\$ <u>163,477</u>
<b>10 Net income (loss) as a percentage of revenue</b>	<u>4.3%</u>	<u>23.3%</u>	<u>4.0%</u>	<u>10.3%</u>	<u>13.8%</u>	<u>(5.2%)</u>	<u>6.7%</u>	<u>14.5%</u>	<u>18.8%</u>	<u>17.0%</u>
<b>11 Net working capital</b>	\$ <u>590,306</u>	\$ <u>1,038,338</u>	\$ <u>404,962</u>	\$ <u>524,533</u>	\$ <u>364,734</u>	\$ <u>130,179</u>	\$ <u>233,663</u>	\$ <u>191,209</u>	\$ <u>136,935</u>	\$ <u>31,909</u>
<b>12 Members' equity</b>	\$ <u>706,898</u>	\$ <u>1,057,688</u>	\$ <u>512,978</u>	\$ <u>592,673</u>	\$ <u>504,820</u>	\$ <u>183,795</u>	\$ <u>250,052</u>	\$ <u>202,586</u>	\$ <u>137,433</u>	\$ <u>32,819</u>
<b>13 Distributions and professional service fees paid to members</b>	\$ <u>1,028,839</u>	\$ <u>1,088,480</u>	\$ <u>676,392</u>	\$ <u>574,396</u>	\$ <u>502,279</u>	\$ <u>400,730</u>	\$ <u>365,802</u>	\$ <u>391,116</u>	\$ <u>280,909</u>	\$ <u>272,570</u>

See independent auditors' report

**PHOCATOX TECHNOLOGIES, LLC**

FINANCIAL STATEMENTS

Together with Independent Auditors' Report

For the Years Ended December 31, 2020 and 2019





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# Donovan CPAs

## *Independent Auditors' Report*

To the Members  
Phocatox Technologies, LLC

### **Report on the Financial Statements**

We have audited the accompanying financial statements of Phocatox Technologies, LLC, which comprise the balance sheets as of December 31, 2020 and 2019, and the related statements of income and change in members' equity and cash flows for the years then ended, and the related notes to the financial statements.

### **Management's Responsibility for the Financial Statements**

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

### **Auditors' Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the entity's preparation and fair presentation of the financial statements 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 the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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## **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Phocatox Technologies, LLC as of December 31, 2020 and 2019, and the changes in its members' equity and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

## **Report on Supplementary Information**

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The supplementary information presented on pages 11 and 12 is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

DONOVAN

A handwritten signature in dark ink that reads "DONOVAN". The signature is written in a cursive style with a large, stylized initial "D".

Indianapolis, Indiana  
March 23, 2021

**PHOCATOX TECHNOLOGIES, LLC**

**BALANCE SHEETS**

**December 31, 2020 and 2019**

	<u>2020</u>	<u>2019</u>
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash	\$ 547,523	\$ 149,111
Accounts receivable, net of allowance	542,528	447,115
Inventory	207,434	115,834
Notes receivable	33,892	11,474
<i>Total current assets</i>	<u>1,331,377</u>	<u>723,534</u>
<b>PROPERTY AND EQUIPMENT</b>		
BioSweep equipment	231,543	221,543
Vehicles	248,636	185,721
Less: accumulated depreciation	<u>(165,868)</u>	<u>(92,263)</u>
<i>Property and equipment, net</i>	<u>314,311</u>	<u>315,001</u>
<b>OTHER ASSETS</b>		
Deposits	<u>535</u>	<u>535</u>
<b>TOTAL ASSETS</b>	<u>\$ 1,646,223</u>	<u>\$ 1,039,070</u>
<b>LIABILITIES AND MEMBERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Current portion of notes payable	\$ 41,381	\$ 30,067
Current portion of deferred revenue	61,797	52,106
Line of credit	-	50,000
Accrued expenses	<u>189,861</u>	<u>186,399</u>
<i>Total current liabilities</i>	<u>293,039</u>	<u>318,572</u>
<b>LONG-TERM LIABILITIES</b>		
Notes payable, net of current portion	121,110	110,566
Deferred revenue, net of current portion	<u>174,386</u>	<u>96,954</u>
<i>Total long-term liabilities</i>	<u>295,496</u>	<u>207,520</u>
<b>TOTAL LIABILITIES</b>	588,535	526,092
<b>MEMBERS' EQUITY</b>	<u>1,057,688</u>	<u>512,978</u>
<b>TOTAL LIABILITIES AND MEMBERS' EQUITY</b>	<u>\$ 1,646,223</u>	<u>\$ 1,039,070</u>

See independent auditors' report and accompanying notes to the financial statements

**PHOCATOX TECHNOLOGIES, LLC**  
**STATEMENTS OF INCOME AND CHANGE IN MEMBERS' EQUITY**  
**For the Years Ended December 31, 2020 and 2019**

	<u>2020</u>	<u>2019</u>
<b>REVENUE</b>		
RSP projects	\$ 2,338,888	\$ 2,591,452
CAT projects	1,526,892	306,407
Royalties	454,051	419,428
Equipment sales	494,360	299,600
Franchise revenue	69,777	57,473
Other	21,000	9,714
	<u>4,904,968</u>	<u>3,684,074</u>
<i>Total revenue</i>		
<b>COSTS OF REVENUE</b>		
RSP project costs	1,395,090	1,683,790
CAT project costs	639,670	153,253
Labor	496,053	508,858
Materials	163,440	87,854
Other	17,191	14,012
	<u>2,711,444</u>	<u>2,447,767</u>
<i>Total costs of revenue</i>		
<b>GROSS PROFIT</b>	2,193,524	1,236,307
<b>GROSS PROFIT PERCENTAGE</b>	<u>44.7%</u>	<u>33.6%</u>
<b>OPERATING EXPENSES</b>	<u>1,206,414</u>	<u>1,089,090</u>
<b>INCOME FROM CONTINUING OPERATIONS</b>	987,110	147,217
<b>PAYCHECK PROTECTION PROGRAM NOTE PAYABLE FORGIVENESS</b>	<u>157,600</u>	<u>-</u>
<b>NET INCOME</b>	1,144,710	147,217
<b>MEMBERS' EQUITY, BEGINNING OF YEAR</b>	512,978	592,673
<b>MEMBERS DISTRIBUTIONS</b>	<u>(600,000)</u>	<u>(226,912)</u>
<b>MEMBERS' EQUITY, END OF YEAR</b>	<u>\$ 1,057,688</u>	<u>\$ 512,978</u>

See independent auditors' report and accompanying notes to the financial statements

**PHOCATOX TECHNOLOGIES, LLC**  
**STATEMENTS OF CASH FLOWS**  
**For the Years Ended December 31, 2020 and 2019**

	<u>2020</u>	<u>2019</u>
<b>OPERATING ACTIVITIES</b>		
Net income	\$ 1,144,710	\$ 147,217
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	75,510	53,164
Loss on disposal of property and equipment	2,145	-
Paycheck Protection Program note payable forgiveness income	(157,600)	-
Change in certain assets and liabilities:		
Accounts receivable, net of allowance	(95,413)	298,314
Inventory	(91,600)	(20,187)
Notes receivable	(22,418)	(11,474)
Accrued expenses	3,462	(206,100)
Deferred revenue	87,123	55,027
	<u>945,919</u>	<u>315,961</u>
<i>Net cash provided by operating activities</i>		
<b>INVESTING ACTIVITIES</b>		
Purchases of property and equipment	(22,705)	(20,806)
	<u>(22,705)</u>	<u>(20,806)</u>
<b>FINANCING ACTIVITIES</b>		
Proceeds from Paycheck Protection Program note payable	157,600	-
Principal repayments of notes payable	(32,402)	(45,088)
Proceeds from (payments on) line of credit	(50,000)	50,000
Members distributions	(600,000)	(226,912)
	<u>(524,802)</u>	<u>(222,000)</u>
<i>Net cash used in financing activities</i>		
<b>NET INCREASE IN CASH</b>	398,412	73,155
<b>CASH, BEGINNING OF YEAR</b>	<u>149,111</u>	<u>75,956</u>
<b>CASH, END OF YEAR</b>	<u>\$ 547,523</u>	<u>\$ 149,111</u>
<b>SUPPLEMENTAL INFORMATION</b>		
Purchases of property and equipment financed through notes payable	\$ 54,260	\$ 185,721
Cash paid for interest	7,130	4,391

See independent auditors' report and accompanying notes to the financial statements

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2020 and 2019**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Nature of Business – Phocatox Technologies, LLC (the “Company”) is an Indiana Limited Liability Company and was organized in February 2007. As a Limited Liability Company, each member’s liability is limited to amounts reflected in his or her respective accounts plus any debt for which a personal guarantee has been given. The Company manufactures air and surface decontamination equipment utilizing photocatalytic oxidation for indoor air quality and surface remediation under the federally registered trademark BioSweep®. The Company offers franchises worldwide, including the United States, Canada, Australia, and the United Kingdom. In addition to franchising, the Company uses its own equipment in remediation projects.

With corporate offices in Carmel, Indiana, the Company maintains approximately 3,500 square feet of warehouse space in Houston, Texas for product development and testing, manufacturing, quality assurance, equipment service and repair, and storage.

Basis of Accounting and Use of Estimates – The accompanying financial statements have been prepared on the accrual basis in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”), which requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results could differ from those estimates.

The financial statements include only those assets, liabilities, and results of operations directly related to the business of Phocatox Technologies, LLC, not the individual franchises.

Cash and Cash Equivalents – For the purpose of the statements of cash flows, the Company considers investments with an original maturity of three months or less to be cash equivalents. There were no cash equivalents at December 31, 2020 and 2019.

Accounts Receivable and Allowance – Accounts receivable are comprised primarily of balances due from insurance providers related to remediation projects. The Company analyzed receivable balances for collectability. Based on this analysis and collections history, the Company has recorded an allowance for doubtful accounts of \$50,000 as of December 31, 2020. There was no allowance as of December 31, 2019. Bad debt expense was \$84,390 and \$64,977 for the years ended December 31, 2020 and 2019, respectively.

Inventory – Inventory consists of raw materials, work in process, and finished goods and is stated at the lower of cost or market using the first-in, first-out method. Inventory consists of the following as of December 31:

	<u>2020</u>	<u>2019</u>
Finished goods	\$ 31,315	\$ 7,811
Work in process	44,765	4,842
Raw materials	45,626	45,200
Equipment	<u>85,728</u>	<u>57,981</u>
<i>Total inventory</i>	<u>\$ 207,434</u>	<u>\$ 115,834</u>

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2020 and 2019**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Continued**

Notes Receivable – Notes receivable primarily represent amounts due from franchisees, secured by unique BioSweep units. The notes bear interest at 5% and are due over a period of 36 months.

Property and Equipment – Purchases of assets and expenditures that materially increase value or extend useful lives are capitalized and are included in the accounts at cost. Routine maintenance and repairs, minor replacement costs, and equipment purchases with a unit cost of less than \$1,000 are charged to expense as incurred.

Depreciation is provided over the estimated useful lives of the respective assets using the straight-line method. The estimated useful lives generally are as follows:

BioSweep equipment .....	7 years
Vehicles .....	5 years

Deferred Revenue – The Company invoices its franchisees for the full amount outlined in the franchise agreement at the time the agreement is signed. Franchise revenue is recognized over the life of the franchise agreement. Deferred revenue represents the difference between these amounts.

Advertising and Marketing Costs – The Company’s accounting policy pertaining to advertising and marketing is to expense costs as incurred. The Company incurred \$50,380 and \$55,666 in advertising and marketing costs for the years ended December 31, 2020 and 2019, respectively.

Income Taxes – The Company has elected to be taxed under the provisions of Subchapter S of the Internal Revenue Code. As a Subchapter S Corporation, the Company does not pay federal or state income taxes on its taxable income. Instead, the members report their pro-rata shares of income on their personal income tax returns, therefore these financial statements do not include any provision for corporate income taxes.

Professional accounting standards require the Company to recognize a tax liability only if it is more likely than not the tax position would be sustained in a tax examination, with a tax examination being presumed to occur. The amount recognized is the largest amount of tax liability that is greater than 50% likely of being realized on examination. For tax positions not meeting the more-likely-than-not test, no tax liability is recorded. The Company has examined this issue and has determined that there are no material contingent tax liabilities or questionable tax positions. The tax years ended 2017 and after are open to audit for both federal and state purposes.

Subsequent Events – The Company has evaluated all events through March 23, 2021, which is the date these financial statements were available to be issued. Any events occurring through this date have been evaluated to determine whether a change in the financial statements or related disclosures would be required.



**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2020 and 2019**

**NOTE 2 - PAYCHECK PROTECTION PROGRAM**

In response to the COVID-19 pandemic, the United States federal government adopted the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act which includes the Paycheck Protection Program (“PPP”) administered through the Small Business Administration. The proceeds from the PPP notes payable can be used for costs related to payroll, employee healthcare, rent, and utilities. On April 10, 2020, the Company was granted a note payable from Old National Bank in the amount of \$157,600 pursuant to the PPP under Division A, Title I of the CARES Act. Under the terms of the PPP, the loan funds will be forgiven if they are used for qualifying expenses as described in the CARES Act. On November 30, 2020, the Company was notified by Old National Bank that the PPP Loan has been fully forgiven. The Company has elected to recognize the funds in accordance with FASB ASC 958-605 by reflecting the full amount as other income during the year ended December 31, 2020.

**NOTE 3 - REVENUE RECOGNITION**

Revenue Recognition Policy – The Company has multiple revenue streams and related performance obligations, as noted in the table below:

<u>Revenue Stream</u>	<u>Recognition Method</u>	<u>Performance Obligation</u>
RSP and CAT remediation projects	Point in time	Completion of agreed-upon remediation project
Royalties	Point in time	Completion of agreed-upon remediation project by franchisee
Equipment sales	Point in time	Transfer of title to franchisee at time of shipment (F.O.B. shipping point)
Franchise revenue	Over time	Passage of time over the life of the franchise agreement (5 years)

Disaggregation of Revenue – Disaggregated revenue is presented by revenue stream on the statements of income and change in members’ equity.

Variable Consideration – The nature of the Company’s business gives rise to variable consideration, including rework on contracts. Based on experience, the Company has determined these amounts to be rare and immaterial and, hence, does not estimate these amounts and include in the transaction price.

Shipping and Handling – The Company records shipping and handling charges billed to customers as revenue and expenses in costs of revenue.

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2020 and 2019**

**NOTE 4 - LINE OF CREDIT**

The Company maintains a line of credit with Old National Bank. The line is secured by the Company's assets. The line has a credit limit of \$250,000 and bears interest at a variable rate of prime plus .25% (3.50% at December 31, 2020). There was an outstanding balance of \$50,000 at December 31, 2019, which was repaid in full during 2020. There was no balance outstanding at December 31, 2020.

**NOTE 5 - NOTES PAYABLE**

Notes payable consisted of the following as of December 31:

	<u>2020</u>	<u>2019</u>
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing December 2023, payable in monthly installments of \$991 including interest at 4.49%	\$ 32,599	\$ 43,494
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing April 2024, payable in monthly installments of \$976 including interest at 4.49%	37,772	46,033
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing April 2024, payable in monthly installments of \$1,013 including interest at 4.49%	40,254	51,106
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing July 2025, payable in monthly installments of \$1,028 including interest at 5.15%	<u>51,866</u>	<u>-</u>
	162,491	140,633
Less: current portion	<u>(41,381)</u>	<u>(30,067)</u>
Long-term portion	<u>\$ 121,110</u>	<u>\$ 110,566</u>

Principal maturities of the notes payable are as follows for the years ending December 31:

2021	\$ 41,381
2022	47,128
2023	44,671
2024	20,440
2025	<u>8,871</u>
	<u>\$ 162,491</u>

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2020 and 2019**

**NOTE 6 - CONCENTRATION OF CREDIT RISK**

The Company grants unsecured credit to insurance providers which pertain to billed accounts receivable. The Company routinely assesses the collectability of its outstanding accounts receivable and consequently, believes its accounts receivable credit risk exposure is limited.

**NOTE 7 - FRANCHISE AGREEMENT AND FEES**

In accordance with the Franchise Disclosure Document, the Company provides equipment, training, sales, and marketing support and a protected sales territory to its BioSweep franchisees in the United States. United States domestic franchises require an initial capital investment of between \$139,750 and \$164,230, which includes \$121,754 to \$121,955 due to the franchisor or affiliate. The Company sold a net total of six domestic franchises during the year ended December 31, 2020 and three in 2019. As of December 31, 2020, there were 38 franchises in the United States.

For international licensing partners, the Company provides equipment, training, sales, and marketing support and a protected master sales territory. The Company sold no international licenses during either of the years ended December 31, 2020 and 2019. As of December 31, 2020, the Company has three international master franchisees, each with one or more sub-licensees.

SUPPLEMENTARY INFORMATION

**PHOCATOX TECHNOLOGIES, LLC**  
**SCHEDULES OF OPERATING EXPENSES**  
**For the Years Ended December 31, 2020 and 2019**

	<u>2020</u>	<u>2019</u>
Professional service fees paid to members	\$ 488,480	\$ 449,480
Commissions and royalties	137,652	89,974
Legal and professional	83,319	123,818
Depreciation	75,510	53,164
Insurance	52,476	42,446
Advertising and marketing	50,380	55,666
Repurchase of franchise	50,000	-
Office expense	43,071	45,089
Rent	36,203	35,346
Bad debt expense	84,390	64,977
Fees and licenses	30,637	14,850
Payment processing fees	19,179	22,858
Travel and entertainment	17,350	26,964
Miscellaneous taxes	13,207	18,184
Interest expense	7,130	4,391
Utilities	5,960	7,655
Outside services	4,982	34,228
Loss on disposal of property and equipment	2,145	-
Other expenses	4,343	-
	<hr/>	<hr/>
<i>Total operating expenses</i>	<u>\$ 1,206,414</u>	<u>\$ 1,089,090</u>

See independent auditors' report

**PHOCATOX TECHNOLOGIES, LLC**  
**SUMMARY OF SELECTED FINANCIAL DATA**  
**For the Ten Years Ended December 31, 2020**

	<b>2020</b>	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
<b>Revenue</b>										
RSP projects	\$ 2,338,888	\$ 2,591,452	\$ 1,704,238	\$ 1,188,180	\$ 412,116	\$ 731,075	\$ 912,319	\$ 628,277	\$ 774,376	\$ 594,057
CAT projects	1,526,892	306,407	952,074	470,884	447,642	394,939	241,554	246,032	157,946	44,010
Royalties	454,051	419,428	420,938	569,742	352,958	-	-	-	-	-
Equipment	494,360	299,600	119,747	51,874	-	-	-	-	-	-
Franchise revenue	69,777	57,473	49,973	45,390	41,769	20,783	-	-	-	-
Other	21,000	9,714	19,014	7,980	17,146	2,500	27,314	22,628	29,049	24,580
<i>Total revenue</i>	<u>4,904,968</u>	<u>3,684,074</u>	<u>3,265,984</u>	<u>2,334,050</u>	<u>1,271,631</u>	<u>1,149,297</u>	<u>1,181,187</u>	<u>896,937</u>	<u>961,371</u>	<u>662,647</u>
<b>2 Percentage increase (decrease)</b>	<u>33.1%</u>	<u>12.8%</u>	<u>39.9%</u>	<u>83.5%</u>	<u>10.6%</u>	<u>(2.7%)</u>	<u>31.7%</u>	<u>(6.7%)</u>	<u>45.1%</u>	<u>74.0%</u>
<b>3 Costs of revenues</b>	<u>2,711,444</u>	<u>2,447,767</u>	<u>1,864,965</u>	<u>884,288</u>	<u>408,300</u>	<u>249,393</u>	<u>334,638</u>	<u>250,856</u>	<u>316,458</u>	<u>328,021</u>
<b>4 Gross profit</b>	<u>2,193,524</u>	<u>1,236,307</u>	<u>1,401,019</u>	<u>1,449,762</u>	<u>863,331</u>	<u>899,904</u>	<u>846,549</u>	<u>646,081</u>	<u>644,913</u>	<u>334,626</u>
<b>5 Gross profit percentage</b>	<u>44.7%</u>	<u>33.6%</u>	<u>42.9%</u>	<u>62.1%</u>	<u>67.9%</u>	<u>78.3%</u>	<u>71.7%</u>	<u>72.0%</u>	<u>67.1%</u>	<u>50.5%</u>
<b>6 Paycheck Protection Program note payable forgiveness</b>	157,600	-	-	-	-	-	-	-	-	-
<b>7 Operating expenses</b>	<u>1,206,414</u>	<u>1,089,090</u>	<u>1,065,750</u>	<u>1,128,737</u>	<u>929,588</u>	<u>823,126</u>	<u>675,744</u>	<u>477,465</u>	<u>481,436</u>	<u>321,119</u>
<b>8 Operating expenses as a percentage of revenue</b>	<u>24.6%</u>	<u>29.6%</u>	<u>32.6%</u>	<u>48.4%</u>	<u>73.1%</u>	<u>71.6%</u>	<u>57.2%</u>	<u>53.2%</u>	<u>50.1%</u>	<u>48.5%</u>
<b>9 Net income (loss)</b>	<u>\$ 1,144,710</u>	<u>\$ 147,217</u>	<u>\$ 335,269</u>	<u>\$ 321,025</u>	<u>\$ (66,257)</u>	<u>\$ 76,778</u>	<u>\$ 170,805</u>	<u>\$ 168,616</u>	<u>\$ 163,477</u>	<u>\$ 13,507</u>
<b>10 Net income (loss) as a percentage of revenue</b>	<u>23.3%</u>	<u>4.0%</u>	<u>10.3%</u>	<u>13.8%</u>	<u>(5.2%)</u>	<u>6.7%</u>	<u>14.5%</u>	<u>18.8%</u>	<u>17.0%</u>	<u>2.0%</u>
<b>11 Net working capital</b>	<u>\$ 1,038,338</u>	<u>\$ 404,962</u>	<u>\$ 524,533</u>	<u>\$ 364,734</u>	<u>\$ 130,179</u>	<u>\$ 233,663</u>	<u>\$ 191,209</u>	<u>\$ 136,935</u>	<u>\$ 31,909</u>	<u>\$ 38,530</u>
<b>12 Members' equity</b>	<u>\$ 1,057,688</u>	<u>\$ 512,978</u>	<u>\$ 592,673</u>	<u>\$ 504,820</u>	<u>\$ 183,795</u>	<u>\$ 250,052</u>	<u>\$ 202,586</u>	<u>\$ 137,433</u>	<u>\$ 32,819</u>	<u>\$ 39,440</u>
<b>13 Distributions and professional service fees paid to members</b>	<u>\$ 1,088,480</u>	<u>\$ 676,392</u>	<u>\$ 574,396</u>	<u>\$ 502,279</u>	<u>\$ 400,730</u>	<u>\$ 365,802</u>	<u>\$ 391,116</u>	<u>\$ 280,909</u>	<u>\$ 272,570</u>	<u>\$ 147,800</u>

See independent auditors' report

**PHOCATOX TECHNOLOGIES, LLC**

FINANCIAL STATEMENTS  
Together with Independent Auditors' Report

For the Years Ended December 31, 2019 and 2018



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# Donovan CPAs

## *Independent Auditors' Report*

To the Members  
Phocatox Technologies, LLC

### **Report on the Financial Statements**

We have audited the accompanying financial statements of Phocatox Technologies, LLC, which comprise the balance sheets as of December 31, 2019 and 2018, and the related statements of income and change in members' equity and cash flows for the years then ended, and the related notes to the financial statements.

### **Management's Responsibility for the Financial Statements**

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

### **Auditors' Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the entity's preparation and fair presentation of the financial statements 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 the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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## **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Phocatox Technologies, LLC as of December 31, 2019 and 2018, and the changes in its members' equity and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

## **Emphasis of Matter**

As discussed in Note 2 to the financial statements, Phocatox Technologies, LLC adopted Accounting Standards Update No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*. The adoption of this accounting standard resulted in a change in reported members equity and franchise revenue as of and for the year ended December 31, 2018. Members' equity as of December 31, 2018 decreased \$94,033 and franchise revenue during the year ended December 31, 2018 increased \$24,973. Our opinion is not modified with respect to this matter.

## **Report on Supplementary Information**

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The supplementary information presented on pages 12 and 13 is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

DONOVAN

A handwritten signature in dark ink that reads "DONOVAN". The signature is written in a cursive style with a large, stylized 'D'.

Indianapolis, Indiana  
March 16, 2020

**PHOCATOX TECHNOLOGIES, LLC**

**BALANCE SHEETS**

**December 31, 2019 and 2018**

<b>ASSETS</b>	<b><u>2019</u></b>	<b><u>2018</u></b>
<b>CURRENT ASSETS</b>		
Cash	\$ 149,111	\$ 75,956
Accounts receivable	447,115	745,429
Inventory	115,834	95,647
Notes receivable	11,474	-
<i>Total current assets</i>	<u>723,534</u>	<u>917,032</u>
<b>PROPERTY AND EQUIPMENT</b>		
BioSweep equipment	221,543	192,670
Vehicles	185,721	8,067
Less: accumulated depreciation	<u>(92,263)</u>	<u>(39,099)</u>
<i>Property and equipment, net</i>	<u>315,001</u>	<u>161,638</u>
<b>OTHER ASSETS</b>		
Deposits	<u>535</u>	<u>535</u>
<b>TOTAL ASSETS</b>	<u>\$ 1,039,070</u>	<u>\$ 1,079,205</u>
<b>LIABILITIES AND MEMBERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Current portion of notes payable	\$ 30,067	\$ -
Current portion of deferred revenue	52,106	50,390
Line of credit	50,000	-
Accrued expenses	<u>186,399</u>	<u>392,499</u>
<i>Total current liabilities</i>	<u>318,572</u>	<u>442,889</u>
<b>LONG-TERM LIABILITIES</b>		
Notes payable, net of current portion	110,566	-
Deferred revenue, net of current portion	<u>96,954</u>	<u>43,643</u>
<i>Total long-term liabilities</i>	<u>207,520</u>	<u>43,643</u>
<b>TOTAL LIABILITIES</b>	526,092	486,532
<b>MEMBERS' EQUITY</b>	<u>512,978</u>	<u>592,673</u>
<b>TOTAL LIABILITIES AND MEMBERS' EQUITY</b>	<u>\$ 1,039,070</u>	<u>\$ 1,079,205</u>

See independent auditors' report and accompanying notes to the financial statements

**PHOCATOX TECHNOLOGIES, LLC**  
**STATEMENTS OF INCOME AND CHANGE IN MEMBERS' EQUITY**  
**For the Years Ended December 31, 2019 and 2018**

	<u>2019</u>	<u>2018</u>
<b>REVENUE</b>		
RSP projects	\$ 2,591,452	\$ 1,704,238
CAT projects	306,407	952,074
Royalties	419,428	420,938
Equipment sales	299,600	119,747
Franchise revenue	57,473	49,973
Other	9,714	19,014
	<u>3,684,074</u>	<u>3,265,984</u>
<i>Total revenue</i>		
<b>COSTS OF REVENUE</b>		
RSP project costs	1,683,790	1,133,409
CAT project costs	153,253	360,816
Labor	508,858	327,411
Materials	87,854	36,413
Other	14,012	6,916
	<u>2,447,767</u>	<u>1,864,965</u>
<i>Total costs of revenue</i>		
<b>GROSS PROFIT</b>	1,236,307	1,401,019
<b>GROSS PROFIT PERCENTAGE</b>	<u>33.6%</u>	<u>42.9%</u>
<b>OPERATING EXPENSES</b>	<u>1,089,090</u>	<u>1,065,750</u>
<b>NET INCOME</b>	147,217	335,269
<b>MEMBERS' EQUITY, BEGINNING OF YEAR</b>	592,673	385,814
<b>MEMBERS DISTRIBUTIONS</b>	<u>(226,912)</u>	<u>(128,410)</u>
<b>MEMBERS' EQUITY, END OF YEAR</b>	<u>\$ 512,978</u>	<u>\$ 592,673</u>

See independent auditors' report and accompanying notes to the financial statements

**PHOCATOX TECHNOLOGIES, LLC**  
**STATEMENTS OF CASH FLOWS**  
**For the Years Ended December 31, 2019 and 2018**

	<u>2019</u>	<u>2018</u>
<b>OPERATING ACTIVITIES</b>		
Net income	\$ 147,217	\$ 335,269
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	53,164	25,340
Change in certain assets and liabilities:		
Accounts receivable	298,314	(395,988)
Inventory	(20,187)	(16,257)
Notes receivable	(11,474)	18,030
Accrued expenses	(206,100)	207,723
Deferred revenue	55,027	(24,973)
	<u>315,961</u>	<u>149,144</u>
 <i>Net cash provided by operating activities</i>		
<b>INVESTING ACTIVITIES</b>		
Purchases of property and equipment	<u>(20,806)</u>	<u>(47,427)</u>
<b>FINANCING ACTIVITIES</b>		
Repayments of notes payable	(45,088)	-
Proceeds from line of credit	50,000	-
Members distributions	<u>(226,912)</u>	<u>(128,410)</u>
	<u>(222,000)</u>	<u>(128,410)</u>
 <i>Net cash used in financing activities</i>		
<b>NET INCREASE (DECREASE) IN CASH</b>	73,155	(26,693)
<b>CASH, BEGINNING OF YEAR</b>	<u>75,956</u>	<u>102,649</u>
<b>CASH, END OF YEAR</b>	<u>\$ 149,111</u>	<u>\$ 75,956</u>
 <b>SUPPLEMENTAL INFORMATION</b>		
Purchases of property and equipment financed through notes payable	\$ 185,721	\$ -
Cash paid for interest	7,655	11,490

See independent auditors' report and accompanying notes to the financial statements

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2019 and 2018**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Nature of Business – Phocatox Technologies, LLC (the “Company”) is an Indiana Limited Liability Company and was organized in February 2007. As a Limited Liability Company, each member’s liability is limited to amounts reflected in his or her respective accounts plus any debt for which a personal guarantee has been given. The Company manufactures air and surface decontamination equipment utilizing photocatalytic oxidation for indoor air quality and surface remediation under the trademark BioSweep. The Company offers franchises worldwide, including the United States, Canada, Australia, and the United Kingdom. In addition to franchising, the Company uses its own equipment in remediation projects.

With corporate offices in Carmel, Indiana, the Company maintains approximately 3,500 square feet of warehouse space in Houston, Texas for product development and testing, manufacturing, quality assurance, equipment service and repair, and storage.

Basis of Accounting and Use of Estimates – The Company maintains its accounting records on the accrual basis which is in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”).

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities as of 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.

The financial statements include only those assets, liabilities, and results of operations directly related to the business of Phocatox Technologies, LLC, not the individual franchises.

Cash and Cash Equivalents – For the purpose of the statements of cash flows, the Company considers investments with an original maturity of three months or less to be cash equivalents. There were no cash equivalents at December 31, 2019 and 2018.

Accounts Receivable and Bad Debts – Accounts receivable are comprised primarily of balances due from insurance providers related to remediation projects. The Company analyzes each specific receivable balance for collectability and uses the specific write-off method for accounting for doubtful accounts. Use of the specific write-off method instead of the allowance method does not materially affect the financial statements. Bad debt expense was \$64,977 and \$28,090 for the years ended December 31, 2019 and 2018, respectively.

Inventory – Inventory consists of raw materials, work in process, and finished goods and is stated at the lower of cost or market using the first-in, first-out method.

Notes Receivable – Notes receivable represent amounts due from franchisees, secured by unique BioSweep units. The notes bear interest at 5% and are due over a period of 36 months.

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2019 and 2018**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Continued**

Property and Equipment – Purchases of assets and expenditures that materially increase value or extend useful lives are capitalized and are included in the accounts at cost. Routine maintenance and repairs, minor replacement costs, and equipment purchases with a unit cost of less than \$1,000 are charged to expense as incurred.

Depreciation is provided over the estimated useful lives of the respective assets using the straight-line method. The estimated useful lives generally are as follows:

BioSweep equipment.....	7 years
Vehicles .....	5 years

Deferred Revenue – The Company invoices its franchisees for the full amount outlined in the franchise agreement at the time the agreement is signed. Franchise revenue is recognized over the life of the franchise agreement. Deferred revenue represents the difference between these amounts.

Advertising and Marketing Costs – The Company’s accounting policy pertaining to advertising and marketing is to expense costs as incurred. The Company incurred \$55,666 and \$52,500 in advertising and marketing costs for the years ended December 31, 2019 and 2018, respectively.

Income Taxes – The Company has elected to be taxed under the provisions of Subchapter S of the Internal Revenue Code. As a Subchapter S Corporation, the Company does not pay federal or state income taxes on its taxable income. Instead, the members report their pro-rata share of income on their personal income tax returns, therefore these financial statements do not include any provision for corporate income taxes.

Professional accounting standards require the Company to recognize a tax liability only if it is more likely than not the tax position would be sustained in a tax examination, with a tax examination being presumed to occur. The amount recognized is the largest amount of tax liability that is greater than 50% likely of being realized on examination. For tax positions not meeting the more-likely-than-not test, no tax liability is recorded. The Company has examined this issue and has determined that there are no material contingent tax liabilities or questionable tax positions. The tax years ended after 2016 are open to audit for both federal and state purposes.

Subsequent Events – The Company has evaluated all events from the financial statement date of December 31, 2019 through March 16, 2020, which is the date these financial statements were available to be issued.

**NOTE 2 - REVENUE RECOGNITION**

Revenue Recognition Standard – Effective January 1, 2019, the Company adopted Accounting Standards Update (“ASU”) No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*. ASU 2014-09 replaced most existing revenue recognition guidance under U.S. GAAP and requires expanded disclosures relating to the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers.

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2019 and 2018**

**NOTE 2 - REVENUE RECOGNITION, Continued**

Revenue Recognition Policy – The Company has multiple revenue streams and related performance obligations, as noted in the table below:

<u>Revenue Stream</u>	<u>Recognition Method</u>	<u>Performance Obligation</u>
RSP and CAT remediation projects	Point in time	Completion of agreed-upon remediation project
Royalties	Point in time	Completion of agreed-upon remediation project by franchisee
Equipment sales	Point in time	Transfer of title to franchisee at time of shipment (F.O.B. shipping point)
Franchise revenue	Over time	Passage of time over the life of the franchise agreement (5 years)

Full Retrospective Application of ASU 2014-09 – Under previous revenue recognition guidance, the Company recorded revenue for the full value of franchise sales at the point in time of the sale. Under ASU 2014-09, the Company has concluded franchise sales should be recorded over the five-year lives of the franchise agreements. The Company has elected the full-retrospective method for reflecting this change, which requires the presentation of both 2019 and 2018 financial information under the new revenue recognition standard. The table below presents the impact of the new revenue recognition standard on the 2018 reported balances and results:

	<u>Previous Standard</u>	<u>Current Standard</u>
Franchise revenue for the year ended December 31, 2018	\$ 25,000	\$ 49,973
Deferred revenue, December 31, 2018	-	94,033
Members' equity, January 1, 2018	504,820	385,814
Members' equity, December 31, 2018	686,706	592,673



**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2019 and 2018**

**NOTE 2 - REVENUE RECOGNITION, Continued**

Disaggregation of Revenue – The following table disaggregates the Company’s revenue based on the timing of satisfaction of performance obligations for the years ended December 31:

	<u>2019</u>	<u>2018</u>
Performance obligations satisfied at a point in time:		
RSP projects	\$ 2,591,452	\$ 1,704,238
CAT projects	306,407	952,074
Royalties	419,428	420,938
Equipment sales	299,600	119,747
Other	9,714	19,014
	3,626,601	3,216,011
Performance obligations satisfied over time:		
Franchise revenue	57,473	49,973
<i>Total revenue</i>	\$ 3,684,074	\$ 3,265,984

Variable Consideration – The nature of the Company’s business gives rise to variable consideration, including rework on contracts. Based on experience, the Company has determined these amounts to be rare and immaterial and, hence, does not estimate these amounts and include in the transaction price.

Shipping and Handling – The Company records shipping and handling charges billed to customers as sales and expenses in costs of revenue.

**NOTE 3 - INVENTORY**

Inventory consists of the following at December 31:

	<u>2019</u>	<u>2018</u>
Finished goods	\$ 7,811	\$ 11,733
Work in process	4,842	34,923
Raw materials	45,200	48,991
Equipment	57,981	-
<i>Total inventory</i>	\$ 115,834	\$ 95,647

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2019 and 2018**

**NOTE 4 - LINE OF CREDIT**

The Company maintains a line of credit with Old National Bank in Indianapolis, Indiana. The line is secured by the Company's assets. The line has a credit limit of \$250,000 and bears interest at a variable rate of prime plus .25% (5.00% at December 31, 2019). The balance on the line of credit was \$50,000 as of December 31, 2019. There was no balance outstanding at December 31, 2018.

**NOTE 5 - NOTES PAYABLE**

Notes payable consist of the following at December 31, 2019:

Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing December 2023, payable in monthly installments of \$991 including interest at 4.49%	\$ 43,494
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing April 2024, payable in monthly installments of \$976 including interest at 4.49%	46,033
Note payable to Isuzu Finance of America, Inc., secured by a vehicle, maturing April 2024, payable in monthly installments of \$1,013 including interest at 4.49%	<u>51,106</u>
	140,633
Less: current portion	<u>(30,067)</u>
Long-term portion	<u>\$ 110,566</u>

Principal maturities of the note payable are as follows for the years ending June 30:

2020	\$ 30,067
2021	31,446
2022	36,669
2023	34,568
2024	<u>7,883</u>
	<u>\$ 140,633</u>

**NOTE 6 - CONCENTRATION OF CREDIT RISK**

The Company grants unsecured credit to insurance providers which pertain to billed accounts receivable. The Company routinely assesses the collectability of its outstanding accounts receivable and consequently, believes its accounts receivable credit risk exposure is limited.

**PHOCATOX TECHNOLOGIES, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**For the Years Ended December 31, 2019 and 2018**

**NOTE 7 - FRANCHISE AGREEMENT AND FEES**

In accordance with the Franchise Disclosure Document, the Company provides equipment, training, sales, and marketing support and a protected sales territory to its BioSweep franchisees in the United States. United States domestic franchises require an initial capital investment of between \$107,416 and \$132,145, which includes \$90,710 to \$91,160 due to the franchisor or affiliate. The Company sold three domestic franchises in the year ended December 31, 2019 and two in 2018. As of December 31, 2019, there were 32 franchises in the United States.

For international licensing partners, the Company provides equipment, training, sales, and marketing support and a protected master sales territory. The Company sold no international licenses during either of the years ended December 31, 2019 and 2018. As of December 31, 2019, the Company has three international master franchisees, each with one or more sub-licensees.

SUPPLEMENTARY INFORMATION

**PHOCATOX TECHNOLOGIES, LLC**  
**SCHEDULES OF OPERATING EXPENSES**  
**For the Years Ended December 31, 2019 and 2018**

	<u>2019</u>	<u>2018</u>
Professional service fees paid to members	\$ 449,480	\$ 445,986
Legal and professional	123,818	138,380
Commissions and royalties	89,974	106,081
Bad debt expense	64,977	28,090
Advertising and marketing	55,666	52,500
Depreciation	53,164	25,340
Office expense	45,089	29,163
Insurance	42,446	57,370
Rent	35,346	33,901
Outside services	34,228	63,169
Travel and entertainment	26,964	28,397
Payment processing fees	22,858	17,811
Miscellaneous taxes	18,184	21,774
Other expenses	14,850	3,399
Utilities	7,655	11,490
Interest expense	4,391	2,899
	<hr/>	<hr/>
<i>Total operating expenses</i>	<u>\$ 1,089,090</u>	<u>\$ 1,065,750</u>

See independent auditors' report

**PHOCATOX TECHNOLOGIES, LLC**  
**SUMMARY OF SELECTED FINANCIAL DATA**  
**For the Nine Years Ended December 31, 2019**

	2019	2018	2017	2016	2015	2014	2013	2012	2011
<b>Revenue</b>									
RSP projects	\$ 2,591,452	\$ 1,704,238	\$ 1,188,180	\$ 412,116	\$ 731,075	\$ 912,319	\$ 628,277	\$ 774,376	\$ 594,057
CAT projects	306,407	952,074	470,884	447,642	394,939	241,554	246,032	157,946	44,010
Royalties	419,428	420,938	569,742	352,958	-	-	-	-	-
Equipment	299,600	119,747	51,874	-	-	-	-	-	-
Franchise revenue	57,473	49,973	45,390	41,769	20,783	-	-	-	-
Other	9,714	19,014	7,980	17,146	2,500	27,314	22,628	29,049	24,580
1 <i>Total revenue</i>	<u>3,684,074</u>	<u>3,265,984</u>	<u>2,334,050</u>	<u>1,271,631</u>	<u>1,149,297</u>	<u>1,181,187</u>	<u>896,937</u>	<u>961,371</u>	<u>662,647</u>
2 <b>Percentage increase (decrease)</b>	<u>12.8%</u>	<u>39.9%</u>	<u>83.5%</u>	<u>10.6%</u>	<u>(2.7%)</u>	<u>31.7%</u>	<u>(6.7%)</u>	<u>45.0%</u>	<u>74.0%</u>
3 <b>Costs of revenues</b>	2,447,767	1,864,965	884,288	408,300	249,393	334,638	250,856	316,458	328,021
4 <b>Gross profit</b>	1,236,307	1,401,019	1,449,762	863,331	899,904	846,549	646,081	644,913	334,626
5 <b>Gross profit percentage</b>	<u>33.6%</u>	<u>42.9%</u>	<u>62.1%</u>	<u>67.9%</u>	<u>78.3%</u>	<u>71.7%</u>	<u>72.0%</u>	<u>67.1%</u>	<u>50.5%</u>
6 <b>Operating expenses</b>	1,089,090	1,065,750	1,128,737	929,588	823,126	675,744	477,465	481,436	321,119
7 <b>Operating expenses as a percentage of revenue</b>	<u>29.6%</u>	<u>32.6%</u>	<u>48.4%</u>	<u>73.1%</u>	<u>71.6%</u>	<u>57.2%</u>	<u>53.2%</u>	<u>50.1%</u>	<u>48.5%</u>
8 <b>Net income (loss)</b>	\$ 147,217	\$ 335,269	\$ 321,025	\$ (66,257)	\$ 76,778	\$ 170,805	\$ 168,616	\$ 163,477	\$ 13,507
9 <b>Net income (loss) as a percentage of revenue</b>	<u>4.0%</u>	<u>10.3%</u>	<u>13.8%</u>	<u>(5.2%)</u>	<u>6.7%</u>	<u>14.5%</u>	<u>18.8%</u>	<u>17.0%</u>	<u>2.0%</u>
10 <b>Net working capital</b>	\$ 404,962	\$ 524,533	\$ 364,734	\$ 130,179	\$ 233,663	\$ 191,209	\$ 136,935	\$ 31,909	\$ 38,530
11 <b>Members' equity</b>	\$ 512,978	\$ 592,673	\$ 504,820	\$ 183,795	\$ 250,052	\$ 202,586	\$ 137,433	\$ 32,819	\$ 39,440
12 <b>Distributions and professional service fees paid to members</b>	\$ 676,392	\$ 574,396	\$ 502,279	\$ 400,730	\$ 365,802	\$ 391,116	\$ 280,909	\$ 272,570	\$ 147,800

See independent auditors' report

## **EXHIBIT F**

### **STATE EFFECTIVE DATES**

The following states 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 registered, or exempt from registration, as of the Effective Date stated below:

California	June 29, 2021
Illinois	April 12, 2021
Indiana	July 1, 2021
Maryland	June 4, 2021
Michigan	December 19, 2020
Minnesota	May 4, 2021
New York	July 28, 2021
Rhode Island	May 7, 2021
Virginia	May 12, 2021
Washington	June 7, 2021
Wisconsin	April 4, 2021

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 of seller-assisted marketing plans.

**EXHIBIT G TO FRANCHISE DISCLOSURE DOCUMENT**

Receipt



**RECEIPT**

This Franchise Disclosure Document summarizes certain provisions of the BIOSWEEP Franchise Agreement and other information in plain language. Read this Franchise Disclosure Document and all agreements carefully.

If Phocatox Technologies, LLC offers you a BIOSWEEP Franchise, it must provide this Franchise Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, us or our affiliate in connection with the proposed franchise sale. **(OR SOONER IF REQUIRED BY APPLICABLE STATE LAW)**

New York law requires a franchisor to provide the Franchise Disclosure Document at the earlier of the first personal meeting or ten (10) business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

If we do not deliver this Franchise Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and to the applicable state agency listed in Exhibit A.

The franchisor is Phocatox Technologies, LLC, located at 160 W. Carmel Drive, Suite 204, Carmel, IN 46032 (ph: (317) 525-0982).

There are no subfranchisors or franchise brokers offering this BIOSWEEP Franchise for us. The franchise seller for this offering is Mark Brodowicz who is an officer of Phocatox Technologies, LLC.

The issuance date of this Franchise Disclosure Document is March 17, 2022.

The undersigned, personally and/or as a duly authorized officer or a partner of the prospective Franchisee, does acknowledge receipt from Phocatox Technologies, LLC of this Franchise Disclosure Document for prospective franchisees dated March 17, 2022 (to which this Receipt is attached), including the following Exhibits:

- A - List of State Administrators and Agents for Service of Process
- B - State Addenda to Franchise Disclosure Document and Franchise Agreement
- C - BIOSWEEP Franchise Agreement
- D - List of BIOSWEEP Franchisees
- E - BIOSWEEP Financial Statements
- F - State Effective Dates
- G - Receipt

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Individually

(Copy # 1 - to be retained for our records)

**Franchise Disclosure Document #** \_\_\_\_\_

**RECEIPT**

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Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Individually

(Copy # 2 - to be retained for your records)

**Franchise Disclosure Document #** \_\_\_\_\_