

# DEVICE PITSTOP®

## FRANCHISE DISCLOSURE DOCUMENT

digital music players, cell phones and accessories to retail customers.

If you purchase certain key items used in your Device Pitstop® store, the total investment necessary to begin operation of a Device Pitstop® store is from \$146,000 to \$206,000. This includes \$35,000 to \$40,000 that must be paid to us or our affiliates. If you lease the same key items used in your Device Pitstop® store, the total investment necessary to begin operation of a Device Pitstop® store is from \$98,700 to \$159,000. This includes \$18,000 to \$23,000 that must be paid to us or our 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, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no government agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Jim Wollman at Device Pitstop, LLC, 4350 Baker Road, Suite 350, Minnetonka, MN 55343, 866-261-2030.

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

Buying a franchise is 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.

### STATE COVER PAGE

Your state may have a franchise law that requires a franchisor to register or file with a state franchise administrator before offering or selling in your state. REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT IS CORRECT.

Call the state franchise administrator listed in **Exhibit D** for information about the franchisor, or about franchising in your state.

MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES. YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS. BEFORE YOU BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW.

Please consider the following RISK FACTORS before you buy this franchise:

1. THE FRANCHISE AGREEMENT REQUIRES YOU TO RESOLVE DISPUTES WITH US BY ARBITRATION OR LITIGATION ONLY IN MINNESOTA. OUT-OF-STATE ARBITRATION OR LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE TO ARBITRATE OR LITIGATE WITH US IN MINNESOTA THAN IN YOUR OWN STATE.
2. WE HAVE LIMITED FINANCIAL RESOURCES WHICH MIGHT NOT BE ADEQUATE TO FUND OUR PRE-OPENING OBLIGATIONS TO EACH FRANCHISEE AND PAY OPERATING EXPENSES.
3. AS PER THE AUDITED BALANCE SHEET DATED DECEMBER 31, 2016, THE FRANCHISOR'S GUARANTOR HAD A WORKING CAPITAL DEFICIENCY OF (\$382,351). THESE AUDITED STATEMENTS REFLECT THAT CURRENT LIABILITIES EXCEED CURRENT ASSETS. THIS MEANS THAT THE FRANCHISOR MAY NOT HAVE THE FINANCIAL RESOURCES TO PROVIDE SERVICES OR SUPPORT TO YOU.
4. THE FRANCHISE AGREEMENT STATES THAT LAW OF THE STATE WHERE YOUR STORE IS LOCATED GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.
5. YOUR SPOUSE MUST SIGN A DOCUMENT THAT MAKES YOUR SPOUSE INDIVIDUALLY LIABLE FOR YOUR FINANCIAL OBLIGATIONS UNDER THE FRANCHISE AGREEMENT EVEN THOUGH YOUR SPOUSE HAS NO



OWNERSHIP INTEREST IN THE BUSINESS. THIS GUARANTEE WILL PLACE BOTH YOUR AND YOUR SPOUSE'S MARITAL AND PERSONAL ASSETS, PERHAPS INCLUDING YOUR HOUSE, AT RISK IF YOUR FRANCHISE FAILS.

6. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

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**We use the services of one or more FRANCHISE BROKERS or referral sources to assist us in selling our franchise. A franchise broker or referral source represents us, not you. We pay this person a fee for selling our franchise or referring you to us. You should be sure to do your own investigation of this franchise.**

Effective Date: See the next page for state effective dates

The following states require that the 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 disclosure document is registered, on file or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates:

State	Effective Date	State	Effective Date
California	Pending	New York	Pending
Illinois	Pending	North Dakota	Pending
Indiana	Pending	South Dakota	Pending
Maryland	Pending	Virginia	Pending
Michigan	Pending	Washington	Pending
Minnesota	Pending	Wisconsin	Pending

In the states listed below, the effective date of this disclosure document (the issuance date) is April 19, 2017.

Alabama	Kentucky	Oklahoma
Alaska	Massachusetts	Oregon
Arizona	Mississippi	Pennsylvania
Arkansas	Missouri	Tennessee
Colorado	Montana	Texas
Delaware	Nebraska	Utah
District of Columbia	Nevada	Vermont
Florida	New Hampshire	West Virginia
Idaho	New Jersey	Wyoming
Iowa	New Mexico	
Kansas	Ohio	

**NOTICE REQUIRED  
BY  
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.**

Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:

- (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.

**THIS MICHIGAN NOTICE APPLIES ONLY TO FRANCHISEES WHO ARE RESIDENTS OF MICHIGAN OR LOCATE THEIR FRANCHISES IN MICHIGAN.**

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(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.

**The fact that there is a notice of this offering on file with the attorney general does not constitute approval, recommendation, or endorsement by the attorney general.**

**Any questions regarding this notice should be directed to the Department of Attorney General, State of Michigan, 670 Law Building, Lansing, Michigan 48913, telephone (517) 373-7117.**

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- EXHIBIT B - Franchise Agreement (and exhibits)
- EXHIBIT C - List of Franchised Stores
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**ITEM 1**

**THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

To simplify the language in this disclosure document, “we” and “Device Pitstop” means Device Pitstop, LLC, the franchisor. “You” means the person who buys the franchise. If a corporation, partnership or limited liability company buys a franchise, “you” also may refer to the shareholders of the corporation, partners of the partnership or members of the limited liability company.

The Franchisor

We are a Delaware limited liability company formed on August 7, 2013. Our principal place of business is at 4350 Baker Road, Suite 350, Minnetonka, MN 55343; telephone number is 866-261-2030. Our agents for service of process are disclosed in Exhibit D.

Our Business Experience and Affiliates

We began franchising Device Pitstop® businesses in September 2013 and, as of the date of this disclosure document, we have 1 company-owned Store and 15 Device Pitstop® franchises. Six of these franchisees converted their Stores from another brand and are currently operating under the Device Pitstop® trademark. We do not have any predecessors.

We are a wholly-owned subsidiary of NTY Franchise Company, LLC formerly known as CMF Holdings, LLC (“CMF”). NTY Franchise Company shares our principal business address. NTY is the parent company of 4 affiliate franchise companies.

Since December 2006, our affiliate, Clothes Mentor, LLC (“Clothes Mentor”), has offered franchises for the operation of Stores under the name “Clothes Mentor” that buy and sell used and new women’s clothing and accessories. As of December 31, 2016, Clothes Mentor had 143 franchised Clothes Mentor® stores and one Clothes Mentor® store operated by its affiliate. Clothes Mentor’s principal place of business is 4350 Baker Road, Suite 350, Minnetonka, MN 55343.

Our affiliate, New Uses, LLC (“New Uses”), sells franchises for the operation of stores under the



name “New Uses” that buy and sell used and new home furnishings and accessories, including furniture, electronics, lamps, artwork, tools and household items and accessories. Certain electronics and related products offered for sale at New Uses® stores may be the same or similar to those offered under this franchise offering. New Uses was formed in May 2011. New Uses began franchising in July 2011, and its principal place of business is 4350 Baker Road, Suite 350, Minnetonka, MN 55343. As of December 31, 2016, New Uses had 10 franchised New Uses® stores and one New Uses® store operated by its affiliate.

Our affiliate, NTY Clothing Exchange, LLC (“NTY Clothing Exchange”) sells franchises for the operation of stores under the name “NTY Clothing Exchange” that buy and sell used and new clothing and accessories for teens and young adults. NTY Clothing Exchange® stores may offer certain products that are offered for sale in Clothes Mentor® Stores, such as shoes, purses and other accessories. NTY Clothing Exchange was formed in January 2014. NTY Clothing Exchange’s principal place of business is 4350 Baker Road, Suite 350, Minnetonka, MN 55343. As of December 31, 2016, NTY Clothing Exchange had one NTY Clothing Exchange® franchised store and two NTY Clothing Exchange® stores operated by its affiliate.

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Our affiliate, Children’s Orchard, LLC (“Children’s Orchard”) sells franchises for the operation of stores under the name “Children’s Orchard” that buy and sell used and new clothing, accessories and toys for kids from infant to age 13. Children’s Orchard was formed in January 2014 as NTY Kids, LLC. In February 2015, it acquired certain assets of the Children’s Orchard® system and changed its name to Children’s Orchard, LLC. Children’s Orchard’s principal place of business is 4350 Baker Road, Suite 350, Minnetonka, MN 55343. As of December 31, 2016, Children’s Orchard had 27 franchised Children’s Orchard® stores, and one Children’s Orchard® store operated by its affiliate.

Our affiliate, BST Software Company (“BST”), a Delaware corporation, owns proprietary third-party software for use in point-of-sale cash registers and back-office computers for tracking, analyzing and reporting sales, inventory and other operational information, customized for use in Device Pitstop® franchised businesses. As described further in Item 11, you must license the proprietary software from BST for use in operating your Store. BST shares our principal business address.

We sell franchises for the operation of stores under the name “Device Pitstop” (“Stores”) that buy, sell and service used and new consumer electronic devices, including laptops, tablets, digital music players, cell phones and accessories to retail customers. Many of the items offered for sale in the Store will be used items and accessories purchased from customers, off lease, vendors, suppliers or other individuals, although we and other suppliers may be the supplier for a limited number of items.

#### Franchise Offered

You will receive the right to own and operate an individual Store that: (i) buys and sells used and new electronic devices, including laptops, tablets, digital music player, cell phones and accessories; and (ii) provides related upgrades, and support services for these devices. The Store will be operated at a location we approve, offering the products and services we approve and using our formats, designs, methods, specifications, standards, operating and marketing procedures and the “Licensed Marks” (as defined in Item 13), including “Device Pitstop” (collectively, the “System”). Most of your inventory will be used electronic devices, including laptops, tablets, digital music players, cell phones and accessories purchased from customers, suppliers or other individuals. Some of the inventory items sold at the Store will be factory refurbished items that are purchased from manufacturers and certain suppliers. We or other suppliers may be the designated supplier or only supplier for a limited number of items. See Item 8 for further information. We may refuse to allow you to open your Store unless you have a minimum of

for further information. We may refuse to allow you to open your store unless you have a minimum of \$36,000 (at cost) in inventory.

### Market and Competition

A Store will have an inventory of used and new electronic devices, including laptops, tablets, digital music players, cell phones and accessories. In addition, you will provide related upgrades and support services for these devices. The typical customers primarily will be value-conscious consumers, who desire to purchase high quality electronic devices, such as laptops, tablets and digital music players or who need to have an electronic device serviced.

Your competition will include electronic stores as well as consignment stores and other stores that sell or service new and used laptops, tablets, digital music players, cell phones and other electronic devices. The market is well developed.

### Laws, Licenses and Permits

You should be aware of state and local government zoning ordinances and regulations in your proposed territory. In addition, certain municipalities and other local and possibly state governmental

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units regulate the purchase and resale of used products. Some state and local regulations require, among other restrictions, that certain items be registered with the police department and held for a period of time before resale. In addition, to the extent you install software onto any electronic device that you sell or service at your Store, you must comply with all applicable software licensing regulations in operating your Store. Each Store must comply with all federal, state and local laws, and we urge you to become familiar with these specific laws and regulations governing the operation of a Store in your state. You also should check with your state and local authorities to determine if there are additional requirements.

## **ITEM 2**

### **BUSINESS EXPERIENCE**

#### President: Ronald G. Olson

Mr. Olson has been our President and a director since our inception. Mr. Olson also has been President and a director of Clothes Mentor since October 2006, President and a director of New Uses since May 2011, President and a director of NTY Clothing Exchange since January 2014, and President and a director of Children's Orchard since January 2014. Mr. Olson also has been the Chief Executive Officer of D. Ventures Inc., a Brooklyn Park, Minnesota-based retail dry cleaning company, since January 1990.

#### Chief Operations Officer: Chad Olson

Mr. Chad Olson has been our Chief Operations Officer since our inception. Mr. Chad Olson also has been Chief Operations Officer of Clothes Mentor since January 2007, Chief Operations Officer of New Uses since May 2011, Chief Operations Officer of NTY Clothing Exchange since January 2014, and Chief Operations Officer of Children's Orchard since January 2014.

#### Vice President of Franchising: James Wollman

Mr. Wollman has been our Vice President of Franchising since our inception. Mr. Wollman also has been the Vice President of Franchising of Clothes Mentor since May 2008 and previously was Director of Franchising for Clothes Mentor from December 2006 to April 2008. Mr. Wollman also has

been the Vice President of Franchising of New Uses since May 2011, NTY Clothing Exchange since January 2014, and Children's Orchard since January 2014.

Vice President of Operations: Michael Smith

Mr. Smith has been our Vice President of Operations since our inception. Previously, he was the Vice President of Operations of New Uses from December 2010 to October 2013. From July 2010 to December 2010, Mr. Smith served as a consultant to NTY Franchise. From December 2000 to July 2010, Mr. Smith held the position of Chief Executive Officer and Co-Founder of the franchise company Laptop Xchange®.

Vice President of Franchise Services: Pete Palmisano

Mr. Palmisano has been our Vice President of Franchise Services since July 2015. Mr. Palmisano was the Vice President of Operations from October 2014 to July 2015, and the Director of New Store Development from February 2014 through September 2014. From July 2013 to January 2014, Mr. Palmisano served as an Independent Small Business Consultant. Mr. Palmisano was General Merchandise Manager with Linder's Greenhouse, Inc. in St. Paul, Minnesota, from February 2013 to June

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2013. From May 2010 to February 2013, Mr. Palmisano was Multi-Site Operations Manager with Macy's based in Minneapolis, Minnesota.

**ITEM 3**

**LITIGATION**

No litigation is required to be disclosed in this Item.

**ITEM 4**

**BANKRUPTCY**

No bankruptcies are required to be disclosed in this Item.

**ITEM 5**

**INITIAL FEES**

We offer an individual unit franchise. The "Initial Franchise Fee" for an individual unit franchise is \$20,000 for each Store. If you already own and operate a Device Pitstop® Store, the Initial Franchise Fee for each additional Store is \$15,000. You must pay the Initial Franchise Fee when you sign the Franchise Agreement. The Initial Franchise Fee is payable in a lump sum and is not refundable under any circumstances.

In addition to the Initial Franchise Fee, you must purchase the proprietary software license (the "Proprietary Software"), and purchase or lease point-of-sale hardware and other software ("POS System"), and back office service and repair station hardware and software (the "Service Area Tech Package"). The Service Area Tech Package includes backroom computers and services, tools, and other required hardware and software. If you purchase these items, you must purchase them from BST and currently, the Proprietary Software license is \$3,000, the POS System is \$4,000, and the Service Area Tech Package is \$13,000. You must pay BST these fees when your order the items. If you lease the POS System and Service Area Tech Package, you will lease them from a third party as part of a larger start-up

package that also includes the fixtures and supplies. These fees are payable in a lump sum and not refundable.

**ITEM 6**

**OTHER FEES**

<b>Type Of Fee</b>	<b>Amount (See Note 1)</b>	<b>Due Date</b>	<b>Remarks</b>
Royalty Fee	5% of total Net Sales (See Note 2)	Payable weekly by electronic funds transfer each Wednesday following the week (Sunday through Saturday) in which sales were made.	

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<b>Type Of Fee</b>	<b>Amount (See Note 1)</b>	<b>Due Date</b>	<b>Remarks</b>
Taxes	We may collect from you the cost of all taxes arising from your operation of the Store or our licensing of intellectual property (such as the Royalty Fees) to you in the state where your Store is located, as well as any assessment on fees and any other income we receive from you.	Payable, when applicable, by electronic funds transfer.	If a state imposes these taxes on Royalty Fees or other amounts paid to us, and we are not able to get an equal tax credit (resulting in double taxation or taxation at a higher rate), we may collect these amounts from you to the extent they exceed the tax credit we do receive.
National Marketing and Promotional Fee ("NMF Fee")	Currently \$2,000 per year, although we may increase the NMF Fee to an amount not exceeding \$3,000 per year on 60 days' notice to you.	Payable by electronic funds transfer. \$1,000 is due on March 31 of each year and the remaining \$1,000 is due on September 30 of each year.	Used for national marketing and promotional activities. See Item 11
Local Advertising	Minimum amount, when combined with cooperative advertising expenses, is 5% of total Net Sales.	Minimum amount must be spent during each calendar year.	See Note 3
Advertising Cooperative	Amount determined by local cooperative.	Established by us or franchisees	Contributions to Advertising Cooperative are credited toward your local advertising obligation. See Note 3

			and Item 11
Transfer Fee	1/3 of then-current Initial Franchise Fee	Before completion of transfer	See Note 4
Renewal Fee	\$10,000	At least 30 days before renewal of Franchise Agreement.	
Remodeling Expenses	Will vary under circumstances	When incurred	See Note 5
Costs and Attorneys' Fees	Will vary under circumstances	When incurred	We may recover costs and reasonable attorneys' fees if you lose in a dispute with us.
Audit	Cost of audit plus 18% interest per year from due date.	30 days after billing	See Note 6

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Type Of Fee	Amount (See Note 1)	Due Date	Remarks
Interest Expenses	<p>Lesser of 18% per year or the maximum rate permitted by law</p> <p>For those franchisees subject to California law, the highest interest rate permitted under California law is 10% per year.</p>	When due	Payable if you do not pay the Royalty Fee, NMF Fee or other amounts owed to us or our affiliates by the applicable due date.
Insurance	Cost of insurance	Payable before opening	If you fail to obtain or maintain required insurance, we may obtain insurance and seek from you reimbursement for insurance, including late charges.
Software Support	Varies, currently \$250 per month and may be increased with 90 days' written notice	Payable to our designated supplier (currently BST); first fee due after the Store opens	See Item 11.
Technology Access Fee	Currently \$250 per year	Payable by electronic funds transfer. \$125 is due on March 31 of each year and the remaining \$125 is due on September 30 of each year.	See Item 11 See Note 7
Additional Training Fee	Currently up to \$200 per person per day	Before training	Incurred for new manager training and additional or refresher training we require. See Item 11



Notes:

- (1) Except where otherwise noted, all fees are payable to us and are non-refundable. Except for fees paid by the Predecessor, all fees are uniformly imposed.
- (2) "Net Sales" generally means the aggregate amount of all sales of goods and services, whether for cash, on credit or otherwise, made or provided in connection with the Store. Net Sales do not include taxes paid or accrued by you, adjustments for net returns on salable goods and discounts allowed to customers on sales.
- (3) There are no minimum or maximum fees that may be imposed. Device Pitstop® Stores owned and operated by us or our affiliates will have the same voting power as franchised Device Pitstop® Stores within that local or regional advertising cooperative. If you do not spend the required minimum amount during the calendar year for approved cooperative or local advertising, we may require you to deposit with us the difference between what you should have spent for advertising during the calendar year and what you actually spent for advertising during the calendar year. We may deposit these monies in the NMF Fund or spend the monies in your market area as we determine.

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- (4) You pay this fee when the Franchise Agreement or a substantial portion of the assets of the Store or any controlling interest in you is transferred. No transfer fee is due if the transfer is to an immediate family member.
- (5) You must remodel your Store or update or replace your POS System, Proprietary Software or Service Area Tech Package on notice from us. Excluding rebuilding obligations should your Store be destroyed or damaged due to a fire, natural disaster or similar event, we will not require you to substantially modernize or refurbish your Store more than once every five-year period following the effective date of your franchise agreement. Any refurbishing must comply with our then-current standards for Device Pitstop® Stores. The scope of refurbishing may range from simply painting the Store to completely refurbishing the entire Store, including replacement of fixtures, signs, supplies and equipment. We cannot estimate the current cost for a refurbishing project because the refurbishing requirements will vary from Store to Store. You may make these payments in whole or in part to various third parties. If you relocate your Store, you will incur certain build-out or remodeling expenses at the new Store premises.
- (6) This fee is payable only if: (a) an audit shows an understatement of at least 2% of Net Sales for any month; or (b) an audit is required because you did not timely provide us with required information.
- (7) You must pay us the Technology Access Fee for each Store you own. We may increase the Technology Access Fee with 30 days written notice to you. We will not increase the Technology

Type Of Expenditures (See Note 1)	Purchase Option Amount Option #1 (See Note 2)	Lease Option Amount Option #2 (See Note 2)	Method Of Payment	When Due	To Whom Payment Is To Be Made
Service Area Tech Package See Note 7	\$13,000		Lump Sum	Before Opening	BST Software
Signs See Note 8	\$3,000 to \$5,000	\$3,000 to \$5,000	As Agreed Upon	Before Opening	Various Third- Party Suppliers
Inventory Leasehold Improvements See Note 4	\$30,000 to \$0 to \$15,000	\$30,000 to \$0 to \$15,000	As Agreed As Agreed Upon	Before Opening As Incurred	Various Third- Landlord, Various Third Parties Suppliers
Fixtures and Supplies See Note 5	\$33,000 to \$37,000	\$5,700 to \$10,000	As Agreed Upon	Before Opening	Various Third- Party Suppliers
Proprietary Software and POS System See Note 6	\$7,000		Lump Sum	Before Opening	BST Software

Security See Note 12	\$3,000 to \$5,000	\$3,000 to \$5,000	As Incurred	As Incurred	Various Third Parties
Grand Opening Advertising - 3 Months	\$15,000 to \$20,000	\$15,000 to \$20,000	As Incurred	As Incurred	Various Third parties
Pre-Opening Labor Expenses	\$3,000 to \$4,000	\$3,000 to \$4,000	As Incurred	As Incurred	Employees
Additional Funds - 3 months See Note 13	\$10,000 to \$15,000	\$10,000 to \$15,000	As Incurred	As Incurred	Employees and Various Third Party Suppliers
<b>TOTAL</b> See Note 14	<b>\$146,000 to \$206,000</b>	<b>\$98,700 to \$159,000</b>			

Notes:

- (1) The typical size of a Device Pitstop® Store ranges from 1,200 to 1,500 square feet. For several items discussed below, your cost will increase as the number of square feet increases. The size of your Store is principally determined by requirements or restrictions that your landlord and appropriate municipality or zoning boards may impose, and availability and cost of leasable space. This Table reflects your estimated initial investment for a single Store operated under a Franchise Agreement. This information assumes that you will lease the premises for your Store.
- (2) Except where otherwise noted, all fees that you pay to us are non-refundable. We and our affiliates do not offer direct or indirect financing to franchisees for any items. Third party lessors, contractors and suppliers will decide if payments to them are refundable. The "Purchase Option Amount" assumes that you will purchase the following items for use in the Device Pitstop® Store: fixtures and supplies, Proprietary Software license and POS System, and Service Area

Tech Package. The “Lease Option Amount” assumes that you lease the POS System and Service Area Tech Package as a package and includes an estimate for items that will not be leased (\$3,000 to \$7,000) and the first three months payments owed under the lease (\$2,700 to \$3,000 depending on the term of the lease).

- (3) The Initial Franchise Fee paid is paid to us and is more fully described in Item 5. The Initial Franchise Fee is \$20,000. If you already own and operate a Device Pitstop® Store, the Initial Franchise Fee for each additional Store is \$15,000.
- (4) Typical locations for your Store are smaller free-standing, multiple use and strip mall locations. Assuming that you will lease the premises for your Store, you will need to make certain leasehold improvements to the leased premises to comply with our approved plans and specifications. Leasehold improvements include lighting, flooring and partition walls. We anticipate that you will negotiate some or all of the cost of leasehold improvements as part of your rental expense. The exact cost or impact on your rental expense will depend on several factors, including the condition of the premises, whether you elect to do more than the minimum required renovations, the landlord’s agreement to reimburse you for certain improvements, the size and location of the premises for your Store and other economic factors. Although we do not recommend that you purchase the land and building for your Store, you will incur significantly greater costs in developing your Store if you choose to do so. All construction materials and fixtures must comply with our specifications. Although we estimate that you will need to lease premises of approximately 1,200 to 1,500 square feet for a Store, you may need larger premises in some situations. We estimate that you may pay from \$20 to \$30 per square foot in the rental expense (including common area maintenance and taxes) for your Store premises. The exact amount of rental expense will vary greatly, depending on the location of the Store premises, the portion of rent representing the value of leasehold improvements at the Store premises, local market conditions and other factors. You may incur greater or lesser start-up costs depending on your ability to negotiate a tenant improvement allowance with the assumption that the space will be delivered in a “vanilla shell” condition from your landlord.
- (5) This amount includes estimated expenses for fixtures, supplies, space planning, delivery, freight and sales taxes. The cost of purchasing or leasing equipment and supplies may vary as a result of the characteristics of the Store site and price differences between suppliers.
- (6) This amount reflects the amount you pay to purchase the Proprietary Software license and to purchase or lease the POS System which we have selected for use in your Store. If you purchase the POS System, this includes the \$3,000 Proprietary Software license and the \$4,000 for the POS System hardware. These estimates assume that you purchase 2 registers. You may lease the POS System as part of a package with the fixtures and supplies, and Service Area Tech Package.
- (7) This figure reflects the amount you pay to purchase or lease the Service Area Tech Package we have selected for you to use in your Store. This includes backroom computers, monitors, servers, tools, routers, testing software, security camera system and equipment, and other diagnostics tools and equipment needed to service and repair devices. If you lease the Service Area Tech Package, you will lease these items as part of a package with the fixtures and supplies and the POS System.
- (8) This includes an estimate for interior and exterior signs for the Store. All signs must meet our standards and comply with your landlord’s requirements as well as any local government regulations.

market conditions and our affiliates’ experience in related businesses. These amounts are estimates, and we cannot guarantee that you will not incur additional expenses in starting the business. Your costs will depend on factors such as how much you follow our systems and procedures, your management skills and experience, local economic conditions, the local market

for Device Pitstop® products, the prevailing wage rate, competition, the amount of the initial investment you decide to finance, and the sales level reached during the initial period.

- (14) This total is an estimate of your pre-opening initial investment and the expenses you will incur during the first three months of Store operations. This total is based on our estimate of nationwide average costs and prevailing market conditions and our affiliates' experience in related businesses. You should review this amount carefully with a business advisor before deciding to purchase the franchise. These figures are estimates only and we cannot guarantee that you will not have additional expenses in starting or operating your Device Pitstop® Store.

## ITEM 8

### RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

To insure a uniform image and uniform quality of products and services throughout the Device Pitstop® system, you must maintain and comply with our quality standards. We will provide you with our Manuals and various bulletins and notices that will contain these standards. As we determine trends in the marketplace or develop new marketing techniques, technologies, products and services, we anticipate that we will develop and modify our standards as we consider appropriate and useful, and notify you through amendments to the Manuals, newsletters or other bulletins.

#### Inventory

You will offer for sale in your Store used and new electronic devices, including laptops, tablets, digital music players, cell phones and accessories. Most of the items offered for sale in your Store will be purchased from customers, suppliers or other individuals, although we or other suppliers may be the

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designated supplier or only supplier for certain items. We or our designees currently are not the sole source of supply for any electronic devices or other inventory items you will offer for sale in your Store, although we reserve the right to do so in the future.

#### Location of your Store; Real Estate Lease

You must locate a site for your Store that we consent to. We approve locations on a case by case basis, considering items such as size, appearance and other physical characteristics of the site, demographic characteristics, traffic patterns, competition from other businesses in the area and other commercial characteristics, such as rental obligations and other lease terms (including those that we require be in the lease). You may not sign a lease for the site until you provide us with a copy of the lease and allowed us reasonable time to confirm that the lease contains certain mandated provisions. We reserve the right to reject the lease if the lease does not contain these provisions. You are not required to purchase, lease or sublease the Store premises from us or our affiliate. We may require you to use a designated third-party vendor to assist you in the site selection process at your expense.

#### Fixtures, Equipment, Furniture & Signs

You must construct and develop your Store. We or our designated supplier will furnish to you prototypical drawings and specifications for your Store, including requirements for interior and exterior materials, decor, fixtures, equipment, furniture and signs. You must meet our specifications and standards in developing your Store. You must submit construction plans and specifications to us for our approval before you begin construction of your Store, and you must submit all revised plans and specifications to us during the course of construction. You must ensure that the plans and specifications comply with the Americans With Disabilities Act and all other applicable federal, state and local laws,



ordinances, building code and permit requirements and lease requirements and restrictions. In developing and operating your Store, you may purchase only the types of construction and decorating materials, fixtures, equipment, furniture and signs that we require and have approved as meeting our specifications and standards for quality, design, appearance, function and performance. You may purchase these items from any supplier who can satisfy our standards and specifications. We or one of our affiliates may be an approved supplier of one or more of these items.

You must maintain the condition and appearance of the Store, and refurbish and modify its layout, decor and general theme, as we may require to maintain the condition, appearance, efficient operation, ambience and overall image of Device Pitstop® stores. However, we will not require you to substantially modernize or refurbish the Store no more than once every 5 year period starting from the effective date of the Franchise Agreement. If the Store is damaged or destroyed by fire or any other casualty, you will, within 30 days, initiate repairs or reconstruction consistent with our specifications as provided in the Operations Manual (defined in Item 11 below) or otherwise in writing.

#### Computer Hardware and Software

You must purchase or lease the POS System and Service Area Tech Package. If you purchase these items, you will purchase them directly from BST. If you lease these items, you will lease them from Capital Lease Funding, Inc. You must also purchase a license for the Proprietary Software from BST. See Item 11 for more information. Currently, there are no other designated suppliers of the POS System, the Proprietary Software, or the Service Area Tech Package.

#### Customer Loyalty Programs

We may require you to participate in customer loyalty, gift card and other promotional programs that we establish, which may be provided by a designated third-party vendor. If we establish such programs, you must pay our third-party vendor any fees associated with such programs.

#### Supplier and Product Approval

We will provide you with lists of approved manufacturers, suppliers and distributors (“Approved Suppliers List”) and approved inventory, products, fixtures, furniture, equipment, signs, supplies and other items or services necessary to operate your Store (“Approved Supplies List”). The Approved Suppliers List may list particular suppliers from which you must purchase certain signs, supplies, fixtures or other items for use in your Store. The Approved Supplies List may include specific brands or types of electronic devices, including laptops, tablets, digital music players, cell phones and accessories that you may buy from any source provided that the items conform to the standards and specifications for the System. We, an affiliate or a third-party vendor or supplier periodically may be the only approved supplier for certain products. As noted above, BST is currently one of the only approved supplier of the POS System, Proprietary Software and Service Area Tech Package. As of the date of this disclosure document, we and our affiliates are not currently the only approved supplier of any other item. The lists specify the suppliers and the products and services which we have approved for use in the System. We may revise these lists and provide you with a copy of approved lists as we deem advisable.

If you want to use any unapproved material, fixture, equipment, furniture or sign, or purchase any items from any supplier that we have not approved, you must first notify us in writing and must submit to us, at our request, sufficient specifications, photographs, drawings or other information or samples for us to determine whether the services, material, fixture, equipment, furniture or sign complies with our specifications and standards, or the supplier meets our approved supplier criteria. We will notify you of our decision within 30 days following our receipt of all information requested. We will pay the reasonable cost of the inspection and evaluation and the actual cost of the test. We may inspect the



facilities and products of any supplier or approved item and revoke our approval of any item or supplier which fails to continue to meet any of our criteria. We will send written notice of any revocation of an approved supplier or supply. As part of the approval process, we may require that a proposed supplier sign a supplier agreement covering such items as insurance, product quality, trademark use, and indemnification. We do not provide material benefits to you based on your use of designated or approved sources.

We apply certain general criteria in approving a proposed supplier, including the supplier's quality and pricing of products, ability to provide products/services that meet our specifications, responsiveness, ability to provide products/services within the parameters required by the System, quickness to market with new items, financial stability, credit program for franchisees, freight costs, and the ability to provide support to the System (merchandising, field assistance, education and training respecting sales and use of products and services).

You may, however, buy used electronic devices from the general public, provided you sell or offer for sale only electronic devices which comply with our standards and specifications for the System.

#### Miscellaneous

We may negotiate prices for numerous products for the benefit of the System, but not for any individual franchisee. We are not aware of any purchasing or distribution cooperative in the System. We attempt to receive volume discounts for the System.

During our fiscal year ended December 31, 2016, neither we nor our affiliates received any revenue as a result of franchisee purchases of goods, products and services. For the year ended December 31, 2016, BST received \$100,000 in revenue as a result of Device Pitstop franchisees' purchases of goods, products and services.

We may derive revenue directly or in the form of rebates or other payments from suppliers, based directly or indirectly on the sale of electronic devices, advertising materials and other items to franchisees. We reserve the right to receive rebates or other payment and estimate that this revenue will range between 1% to 5% or more of the total purchase price of those items.

Our officers own an interest in BST. Otherwise, our officers do not own a material interest in any other supplier.

You must accept those bank cards and credit cards we specifically approve in the Operations Manual.

We estimate that the purchase or lease of equipment (including the POS System hardware and software), signs, fixtures, furnishings, supplies, inventory and advertising and sales promotions materials which meet our specifications will represent approximately 50% to 80% of the total cost to develop the Store. We estimate that the purchase or lease of supplies, inventory and advertising and sales promotions materials which meet our specifications will represent approximately 45% to 55% of the total cost to operate your Store.

i.	Fees	Sections 3(B), 4(D), 5(B), 9, 10(K), 11, 15(C) and 15(C) of Franchise Agreement	Items 5, 6 and /
g.	Compliance with standards and policies/ Operations Manual	Sections 4, 5(D), 5(E) and 10 of Franchise Agreement	Items 11 and 16
h.	Trademarks and proprietary information	Sections 1(A), 1(B), 6 and 7 of Franchise Agreement	Items 13 and 14
i.	Restriction on products/services offered	Section 2, and 10(C) and 10 (E) of Franchise Agreement	Items 8 and 16
j.	Warranty and customer service requirements	Sections 10(E), 10(F), and 10(G) of Franchise Agreement	Item 11
k.	Territorial development and sales quota	Sections 2(B) and (C) of Franchise Agreement	Item 12
l.	Ongoing product/service purchases	Sections 4 and 10 of Franchise Agreement	Items 8 and 11
m.	Maintenance, appearance and remodeling requirements	Sections 3(B), 4(B), 4(C), and 10(A) and (B) of Franchise Agreement	Item 11
n.	Insurance	Section 10(J) of Franchise Agreement	Items 6, 7 and 8
o.	Advertising	Section 11 of Franchise Agreement	Items 6, 7 and 11
p.	Indemnification	Section 8(B) of Franchise Agreement	None
q.	Owner's participation/management/staffing	Sections 10(D) and (I) of Franchise Agreement	Items 11 and 15
r.	Records/reports	Section 12 of Franchise Agreement	Item 6

	<b>OBLIGATION</b>	<b>SECTION IN AGREEMENT</b>	<b>DISCLOSURE DOCUMENT ITEM</b>
s.	Inspections/audits	Section 13 of Franchise Agreement	Item 6
t.	Transfer	Section 15 of Franchise Agreement	Items 6 and 17
u.	Renewal	Section 3 of Franchise Agreement	Items 6 and 17
v.	Post-termination obligations	Sections 14 and 18 of Franchise Agreement	Item 17
w.	Non-competition covenants	Sections 14 and 18(A) of Franchise Agreement	Item 17
x.	Dispute resolution	Sections 19 and 20(D) and (E) of Franchise	Item 17

**ITEM 10**

**FINANCING**

We do not offer direct or indirect financing. We do not guarantee your note, lease or obligation, nor do we receive payment or other consideration for the placing of financing.

**ITEM 11**

**FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

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

Pre-Opening Assistance. Before you open your Store, we will:

- (1) Provide assistance in your evaluation and selection of a location for the Store (Franchise Agreement – Section 5(A)).
- (2) Provide you with prototype drawings and specifications for your Store, including those for dimensions, interior design and layout, building materials, fixtures, equipment, furniture, signs and décor (Franchise Agreement – Section 5(A)).
- (3) Provide the initial and store manager training programs described below (Franchise Agreement – Section 5(B)).
- (4) Provide to you access to the confidential Operations Manual. You must keep the Operations Manual confidential and discontinue using it when the Franchise Agreement terminates (Franchise Agreement – Section 5(E)).
- (5) Make available to you the POS System that we have developed or selected for the System (described further below) (Franchise Agreement – Section 4(D)).
- (6) Make available a field consultant to assist you in the opening and initial operations of your Store for 3-4 days (Franchise Agreement – Section 5(C)).

Ongoing Assistance. During the operation of your Store, we will:

- (1) Make available a field consultant to visit your Store approximately 90 days after the opening date of your Store, and periodically make available a field consultant for telephone conference calls and on-site field consultations on an ongoing basis. (Franchise Agreement – Sections 5(C) and 5(D)).
- (2) Provide advisory services relating to Store operations, including products and services offered for sale, selecting, purchasing and marketing electronic devices, including laptops, tablets, digital music players, cell phones and accessories and other items, marketing assistance and sales promotion programs, and operating, administrative and general operating procedures (Franchise Agreement – Section 5(D)).

- (3) Periodically provide you with updated and revised materials for the Operations Manual (Franchise Agreement – Section 5(E)).
- (4) Operate the NMF Fund (Franchise Agreement – Section 11(A)).

Advertising Programs. We establish and conduct various advertising programs as follows:

We operate a National Marketing and Promotional Fund (the “NMF Fund”) to advertise and promote Device Pitstop® Stores in the System. You will pay us a national marketing fee each year (the “NMF Fee”). The current NMF Fee is \$2,000. One-half (\$1,000) of the NMF Fee is due on March 31 of each year and the remaining one-half (\$1,000) of the NMF Fee is due on September 30 of each year. We collect the NMF Fee via electronic funds transfer. We may increase the NMF Fee to an annual amount not exceeding \$3,000 upon 60 days’ written notice to you. We will deposit the NMF Fee in the NMF Fund that we manage through a separate account. We may use the NMF Fund to conduct national, regional and local advertising, marketing, promotional and public relations campaigns, including the cost of preparing and conducting print, point of purchase, radio, television, Internet, electronic and billboard advertising, and employing advertising agencies. We also will use the NMF Fund to develop advertising and promotional materials for regional and local advertising cooperatives and for use in each franchisee’s local market. Currently, we anticipate that the NMF Fund will be used primarily to pay for creative design costs to produce marketing materials and templates. In the future, we may develop an in-house advertising staff to assist in advertising. We also contract with various outside advertising agencies and third party vendors to produce certain advertising production and promotional materials and to create and implement public relations campaigns. We will determine the use of monies in the NMF Fund. We are reimbursed for reasonable administrative costs and overhead incurred in administering the NMF Fund for the preceding year.

We are not required to spend any particular amount on marketing, advertising or production in the area in which your Store is located. NMF Fees not spent in any fiscal year will be carried over for future use. We may make loans to the NMF Fund bearing reasonable interest to cover any deficit of the NMF Fund and cause the NMF Fund to invest in a surplus for future use by the NMF Fund. NMF Fees will not be used for advertising principally directed at the sale of franchises. At your request, we will provide you with an annual unaudited statement of the receipts and disbursements of the NMF Fund for the most recent calendar year.

Each new Device Pitstop® franchisee must pay the NMF Fee. Other franchisees may pay the same, less or more for the NMF Fee. In addition, each Store we own will contribute to the NMF Fund on the same basis as franchisees.

During our 2016 fiscal year, 32.05% of the NMF Fund expenditures were spent on creative and production and 67.95% on administrative expenses.

We do not have an advertising council composed of franchisees that advise us on advertising policies.

You may develop advertising materials for your own use, at your own cost, if your materials are factually correct, accurately depict the Licensed Marks, and communicate the brand position and character that we have established for Device Pitstop® Stores. If you develop advertisement materials, you must provide a copy of the materials to us for our review and approval (in writing) before you use the advertising materials. You may use proposed advertising materials that otherwise comply with the Franchise Agreement if we do not respond within 15 days after we receive your proposed materials. If we later determine that your marketing materials do not satisfy our then-current advertising and



no later than the date your advertising materials do not satisfy our then current advertising and promotional standards, you immediately must cease using those materials upon written notice from us. In addition, you must comply with all social media policies we require, as described in the Operations Manual.

You must spend at least 5% of the Net Sales of your Store during each calendar year on “approved” local advertising and promotional activities in your local geographic area. Store advertising and promotional activities are “approved” if they are included in our recommended media plan for the Store, if any, and otherwise satisfy our requirements (described above). Amounts spent on unapproved advertising activities will not qualify in determining whether you have satisfied this minimum expense requirement. If you do not spend the minimum amount required for local store advertising and public relations activities, you must pay us the amount of the difference for deposit in the NMF Fund.

You also must participate in and contribute to the local or regional advertising cooperative (the “Cooperative”) established in the area where your Store is located. We or a majority of franchisees (with our approval) may form a local or regional advertising Cooperative in your area. If a Cooperative is established, you must contribute an amount determined by the Cooperative. There are no minimum or maximum fees that may be imposed. Device Pitstop® Stores owned and operated by us or our affiliates will have the same voting power as franchised Device Pitstop® Stores within that local or regional advertising cooperative. The Cooperative will use contributions to fund local and regional advertising and promotional campaigns and activities that we recommend or approve for use by the Cooperative. In the future, we may establish advertising campaigns and activities that the Cooperative must use. Contributions to the Cooperative are credited to your local advertising obligation described above. Each Cooperative must adopt written governing documents. Each Cooperative will determine its own voting procedures so long as those procedures are consistent with the general operating rules we have established. Members of the Cooperative and their elected officials are responsible for administering the local Cooperative. We recommend, but do not require, that each Cooperative prepare annual financial statements and make those financial statements available to all franchisees in the Cooperative. We have the power to establish advertising cooperatives and the rules under which regional and local advertising cooperatives will operate.

Point-of-Sale System and Technology Package. You must use in your Store a computerized multi-purpose point-of-sale system (“POS System”) that we have selected for use in Stores. We periodically may update or change the POS System or software in response to business, operations, marketing conditions, or changes in technology. We will not require you to replace your POS System more than once every five-year period from the effective date of the Franchise Agreement although we may require you to make certain updates and modifications to the POS System or software more frequently. Currently, if you purchase the POS System, we estimate that the cost of the initial cost of the POS System (including the initial license fee of the Proprietary Software described below) is \$7,000.

As of the issuance date of this disclosure document, the POS System package includes the point-of-sale and inventory management software (the “Proprietary Software”) - proprietary software that you will license from BST. The Proprietary Software is specifically designed to track various aspects of your Store, including inventory, customer tracking, daily sales reports and accounts receivable. You will be required to sign a software license agreement with BST. You will operate the Proprietary Software with a hardware and software package that you must purchase from BST or lease from our designated supplier with a back office computer and server featuring Microsoft® software.

The Proprietary Software is the proprietary property of BST. You will license the Proprietary Software from BST. Our affiliate began using the Proprietary Software in September 2013. If you purchase the POS System, you will pay BST an initial software license fee (currently \$3,000) and purchase the computer hardware from BST (currently \$4,000).



You must also purchase or lease the Back Service Area Tech package from BST (currently, \$13,000). This includes backroom computers, monitors, servers, tools, routers, testing software and equipment, and other diagnostics tools and equipment needed to service and repair devices. You must incorporate any upgrades and updates to the Back Service Area Tech package.

If you lease the POS System and Service Area Tech Package as part of a leasing package with the fixtures and supplies, the total estimated initial investment of the leasing package is \$5,700 to \$10,000, and includes items that may not be leased (including the Proprietary Software license) and the first three months' payments.

BST will provide you with limited ongoing maintenance respecting the Proprietary Software. You may be required to purchase upgrades or updates to the Proprietary Software and there are no contractual limitations on the frequency and cost of this requirement, other than the requirement that the fee be reasonable in light of costs incurred to provide these services. (Franchise Agreement, Section 4(D)). You must pay BST a support services fee (currently \$250 per month), which covers POS System services, maintenance and hosting. You must incorporate any upgrades and updates to the POS System.

We have independent access to certain operational and financial information and data produced by your POS System. (Franchise Agreement, Section 4(D).) There are no contractual limitations on our right to access the information and data.

You also must pay us a Technology Access fee of \$250 per year in connection with your use of the Device Pitstop® website and extranet system.

Site Selection. If you already have a potential site for a Store, you may propose the location to us. We may consent to the location after we have independently evaluated it. The location for the Store will be identified in Exhibit A to the Franchise Agreement and you will have 180 days following the date of the Franchise Agreement to identify a Store location acceptable to us, unless we grant you additional time in writing. We will provide you with our general location selection and evaluation criteria. We may require you to use a designated third-party vendor to assist you in the site selection process at your expense. However, you are solely responsible for locating and obtaining a location which meets our standards and criteria and that is acceptable to us.

You must submit to us a complete location report (containing information that we may reasonably require) for the proposed Store location. The general location and evaluation criteria which you should consider include demographic characteristics of the proposed location, traffic patterns, parking, the predominant character of the neighborhood, the proximity to other businesses (including other Device Pitstop® Stores), and other commercial characteristics, and the proposed location, size of premises,

appearance and other physical characteristics. We will notify you in writing within 30 days after we receive your complete location report and other materials we request whether the proposed site satisfies our location selection criteria. If we and you are unable to agree on a proposed location for the Store, the development of your Store may be delayed. If you do not open your Store by the date that we and you agree, we may terminate the Franchise Agreement.

Development Time. The typical length of time between our acceptance of the Franchise Agreement and the opening of your Store varies from 6 to 12 months. This period may be longer or shorter, depending on the time of year, availability of financing, local construction delays, how soon you can attend training or other factors. You must complete development and open your Store by the date that we and you agree as stated in Exhibit A to the Franchise Agreement. We may refuse to allow you to open your Store unless you have a minimum of \$36,000 (at cost) in inventory. If you do not open your Store by the agreed upon date, we may terminate the Franchise Agreement.

by the agreed upon date, we may terminate the Franchise Agreement.

**Training.** We conduct two separate training sessions consisting of classes ranging from business planning, financial management and real-estate selection to Store operations, merchandising, inventory management and POS system training as well as in-Store training. Each session will generally be offered once per month. You may not open your Store unless you (or if you are an entity, a Principal Owner) have successfully completed both sessions of the initial training program to our satisfaction. In addition, your Store manager must successfully complete both sessions of the initial training program to our satisfaction. If we determine that a proposed Store manager is not qualified to manage the Store, we will allow you to select a substitute Store manager to complete the initial training program.

### **Session 1 - Business Training**

You (or if you are an entity, a Principal Owner) and your Store manager must attend 5 days of Business Training covering subjects that address pre-Store opening procedures and tools that you will need prior to opening your Store including real estate/site selection, business planning, new Store development, marketing, personnel management, and QuickBooks. You (or if you are an entity, a Principal Owner) and your Store manager must attend the first available Business Training class after you have signed your Franchise Agreement.

### **Session 2 - Operations and In-Store Training**

You (or if you are an entity, a Principal Owner) and your Store manager must attend 6 days of Operations and In-Store Training. Operations Training lasts 4 days and will cover subjects that address back-of-house administration, loss prevention, inventory management, customer service and Store standards, including grand opening marketing, merchandising and product knowledge. In-Store Training will take place in our corporate Store for a period of 2 days, and will focus on the key areas of running your new Store including: POS training, Store procedures, product buying, local Store marketing, customer service and visual merchandising.

You (or if you are an entity, a Principal Owner) and your Store manager must have successfully completed Business Training before you may attend Operations and In-Store Training. Before Operations and In-Store Training, you also must have a signed lease that has been received by us and ordered your fixture package. Operations and In-Store Training must be completed before you begin your "Open to Buy" period.

The initial training program consists of the following:

### **TRAINING PROGRAM SESSION 1**

<b>Subject(1)(2)</b>	<b>Hours of Classroom Training</b>	<b>Hours of "On-the-Job" Training</b>	<b>Location</b>
Business Orientation	4.5	0	Minnetonka, MN, or a location we designate
Fundamentals of Franchising	1.0	0	Minnetonka, MN, or a location we designate
Real Estate	3.5	0	Minnetonka, MN, or a location we designate

New Store Development	3.0	0	Minnetonka, MN, or a location we designate
Business Planning	9.5	0	Minnetonka, MN, or a location we designate
Personnel and Labor Planning	3.5	0	Minnetonka, MN, or a location we designate
Marketing	2.0	0	Minnetonka, MN, or a location we designate
Accounting Basics and QuickBooks	5.5	0	Minnetonka, MN, or a location we designate
TOTALS	32.5	0	

**TRAINING PROGRAM  
SESSION 2**

<b>Subject(1)(2)</b>	<b>Hours of Classroom Training</b>	<b>Hours of "Hands On" Training</b>	<b>Location</b>
Operations Review	1.0	1.0	Minnetonka, MN, or a location we designate
Business Planning	1.5	1.0	Minnetonka, MN, or a location we designate
Financial Management and Accounting	3.5	1.0	Minnetonka, MN, or a location we designate
Marketing	7.0	1.0	Minnetonka, MN, or a location we designate
Customer Service and New Employee Orientation	4.5	2.0	Minnetonka, MN, or a location we designate
Loss Prevention	2.0	.5	Minnetonka, MN, or a location we designate
Product Knowledge and Buying	7.0	4.0	Minnetonka, MN, or a location we designate
Inventory Management	1.0	2.0	Minnetonka, MN, or a location we designate
Merchandising and Store Standards	.5	4.0	Minnetonka, MN, or a location we designate
Daily Store Procedures and POS Overview	3.0	4.0	Minnetonka, MN, or a location we designate
TOTALS	31.0	20.0	

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- (1) The instructional materials for each subject includes the Operations Manual, the planning guides, reference books, lecture, classroom discussion, hands-on demonstration, role-play training and practice training in the training rooms.
- (2) Pete Palmisano oversees the training programs. Mr. Palmisano has been our Vice President of Franchise Services since July 2015 and has been involved in used and new retail concepts since 1992.

We do not charge a fee for the initial training program described above. You are, however, responsible for travel and living expenses that you and your proposed managers incur while attending the initial training program. See Item 7 for additional information on travel and living expenses. After you open your Store, each new Store manager must attend and successfully complete the initial training

open your store, each new store manager must attend and successfully complete the initial training program. We may charge you a fee for this additional training. In addition, we may require that you (or a Principal Owner of a franchisee that is an entity) and any Store manager or any assistant Store manager attend, or when available, participate by Internet in, supplemental and refresher training programs during the term of the Franchise Agreement. We may determine the time and place of this additional training and may charge you a reasonable fee for the training.

**Operations Manual.** During the term of the Franchise Agreement, we will loan to you one copy of, or allow electronic access to, our Operations Manual (the "Operations Manual").

The current table of contents of the Operations Manual, as of the issuance date of this disclosure document, is as follows:

Subject	Number of Pages
Introduction	9
Store Procedures	21
The Buy Process	13
Transaction Policies	28
Seasonal Procedures	8
Emergency Procedures	4
Loss Prevention	11
Merchandising	11
Interviewing, Hiring and Training Employees	26
TOTAL	131

## ITEM 12

### TERRITORY

You will receive an exclusive territory surrounding the location of your Store when you sign the Franchise Agreement ("Territory"). The Territory will be determined by using natural trade areas and population numbers, but will be no less than a two-mile radius and no greater than a 6-mile radius from a specific in territory. Typically, if you will operate in a metropolitan area with a population in excess of 200,000, you will receive a protected territory with a minimum population of 50,000. If you locate your Store in a smaller market, you typically will receive a Territory with a minimum population of approximately 25,000. The location of the Store and the Territory will be identified in Exhibit A to the Franchise Agreement. If you do not have a site for your Store when you sign the Franchise Agreement, you will have 180 days after the date of the Franchise Agreement to find a site for the Store (acceptable to us) within the Territory, unless we grant you additional time in writing. Maintenance of your Territory is not dependent upon achieving certain sales volumes, market penetration or other contingency. Your

Territory will not be altered during the initial term of your Franchise Agreement, although it may be altered upon renewal of your franchise.

Your Territory is exclusive. During the term of the Franchise Agreement, if you are complying with the provisions of the Franchise Agreement, we will not establish any other franchised or company-owned Device Pitstop® store in the Territory. We (for ourselves and our affiliates) reserve the right to sell and provide services in your Territory under the Licensed Marks through dissimilar channels of distribution (i.e., other than the operation of Stores), including by electronic means such as the Internet and websites we establish. We (for ourselves and our affiliates) also reserve the right to sell any products or services in your Territory under trademarks other than the Licensed Marks through similar or dissimilar channels of distribution, including by electronic means such as the Internet and by websites we establish. We and our other Device Pitstop® franchisees may advertise in your Territory and may serve customers who reside in your Territory without compensation to you. We may advertise the System on



customers who reside in your Territory without compensation to you. We may advertise the System on the Internet and may create, operate, change or discontinue the use of a website using the Licensed Marks. We may grant franchises anywhere outside your Territory. We may sell anywhere all products and services which are not a part of the System. We also may operate and franchise others to operate retail stores using different trademarks even if these stores compete with the Stores, although we will not operate retail stores offering the same or similar products using the Licensed Marks or similar trademarks within your Territory.

You may relocate your Store only with our written consent, which we will not unreasonably withhold. If we permit you to relocate your Store, you will need to build out the Store consistent with our then-current standards for new Stores.

You must concentrate all advertising and other solicitation of customers inside the “market area” of your Store unless you obtain our prior written consent. Your “market area” will be a geographic area identified in the Operations Manual. You may not use other channels of distribution such as the Internet, catalog sales, telemarketing or other direct marketing.

You have no right of first refusal or similar rights to acquire additional franchises.

Our affiliate, New Uses, franchises New Uses® stores that buy and sell used and new home furnishings and accessories. New Uses® stores may offer certain electronics and related products that are offered for sale in Device Pitstop® Stores. Except as disclosed, neither we nor any affiliate operates, franchises, or has any current plans to operate or franchise any business selling the products and services authorized for sale at a Device Pitstop® Store under any other trademark or service mark.

### ITEM 13


#### TRADEMARKS

We grant you the right to operate your Store under the name “Device Pitstop.” You also may use our other Licensed Marks to operate your Store.

The following schedule lists only the principal Licensed Marks that you are licensed to use. We have filed all required affidavits and renewal registrations for the Licensed Mark listed below.

Principal Trademarks	U.S. Registration or Serial No.	Registration Date	Principal/Supplemental Register
DEVICE PITSTOP	4590188	August 19, 2014	Principal

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Principal Trademarks	U.S. Registration or Serial No.	Registration Date	Principal/Supplemental Register
	4858477	November 24, 2015	Principal

We have the right to periodically change the list of Licensed Marks. Your use of the Licensed Marks and any goodwill is to our exclusive benefit and you retain no rights in the Licensed Marks. You also retain no rights in the Licensed Marks when the Franchise Agreement expires or terminates. You are not permitted to make any changes or substitutions respecting the Licensed Marks unless we direct so in writing. You may not use any Licensed Mark or portion of any Licensed Mark as part of any corporate or

any trade name, or any modified form or in the sale of any unauthorized product or service, or in any unauthorized manner. You may not use any Licensed Mark or portion of any Licensed Mark on any website without our prior written approval.

There are currently no effective material determinations by the U.S. Patent and Trademark Office, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court, or any pending infringement, opposition or cancellation proceeding, or any pending material litigation, involving the Licensed Marks that are relevant to your use in any state. There are currently no agreements in effect that significantly limit our rights to use or license the use of any Licensed Marks in any manner material to the franchise.

You must immediately notify us of any apparent infringement of or challenge to your use of any Licensed Marks, and we have sole discretion to take any action we deem appropriate. We are unaware of any infringing uses or superior rights that could materially affect your use of the Licensed Marks.

We are not obligated to protect you against infringement or unfair competition claims arising out of your use of the Licensed Marks, or to participate in your defense or indemnify you. We reserve the right to control any litigation relating to the Licensed Marks and we will have the sole right to decide to pursue or settle any infringement actions relating to the Licensed Marks. You must notify us promptly of any infringement or unauthorized use of the Licensed Marks of which you become aware. If we determine that a trademark infringement action requires changes or substitutions to the Licensed Marks, you will make these changes or substitutions at your own expense.

#### **ITEM 14**

##### **PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

There are no patents or copyrights currently registered that are material to the franchise. We do claim copyright ownership and protection for the Operations Manual and for certain other written materials we provide to assist you in operating your Store.

We own certain proprietary or confidential information relating to the operation of Stores, including information in the Operations Manual ("Confidential Information"). You must keep confidential during and after the term of the Franchise Agreement the Confidential Information. When your Franchise Agreement expires or terminates, you must return to us all Confidential Information and all other copyright material. You must notify us immediately if you learn of an unauthorized use of the Confidential Information. We are not obligated to take any action and we will have the sole right to decide the appropriate response to any unauthorized use of the Confidential Information. You must comply with all changes to the Operations Manual at your cost. We will own Store customer data that is

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located on the POS System. We will periodically establish policies under which we or you may use this Store customer data.

#### **ITEM 15**

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

The Store must at all times be under your direct supervision (or, if you are a partnership, corporation or limited liability company, a Principal Owner or an operating manager who we have approved and who has satisfactorily completed the training program). If an operating manager supervises the Store, you (or a Principal Owner) must remain active in Store operations, including oversight of the operating manager and any communications with us.

operating manager and any communications with us.

The person who is responsible for the day-to-day supervision of any Store (i.e., a Principal Owner or approved operating manager) assumes his/her responsibilities on a full-time basis and may not engage in any other business or other activity that requires any significant management responsibility, time commitments, or otherwise may conflict with his/her obligations. Unless you receive our prior written consent, if you are an entity, you may not engage in any business or activities other than the ownership and operation of Stores under Franchise Agreements that we grant. If the franchisee is a corporation, partnership or limited liability company, the franchisee entity may not engage in any business or activities other than the ownership and operation of Stores under the Franchise Agreement that we grant. In addition, the Principal Owner and any designated operating manager must successfully complete our initial training program.

Each individual who owns a 10% or greater interest in the franchisee entity is considered a "Principal Owner" and must sign the Guaranty and Assumption of Obligations attached as Exhibit C to the Franchise Agreement. We may require the spouse of any person who signs the Guaranty and Assumption of Obligations to also sign the Guaranty and Assumption of Obligations. These people agree to discharge all obligations of the franchisee entity to us under the Franchise Agreement and are bound by all of its provisions, including maintaining the confidentiality of Confidential Information described in Item 14 and complying with the non-compete covenants described in Item 17. In addition, all of your employees who have managerial duties at the Store, as well as all corporate officers and directors of a corporate franchisee entity (all partners in a partnership), must sign a written agreement to maintain the confidentiality of our Confidential Information described in Item 14 and comply with the non-compete covenants described in Item 17.

## ITEM 16

### RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You must offer and sell in your Store all and only, those products and services that we have approved (see Item 8). You must at all times maintain an inventory of used and new electronic devices, including laptops, tablets, digital music players, cell phones, and accessories in such quantities and variety that we direct. We may add new products or services that you must offer at your Store. Our right to modify the approved list of goods and services to be offered at a Store is not limited.

You may not install or maintain on the premises of the Store any newspaper racks, video games, jukeboxes, gaming machines, gum machines, games, rides, vending machines, pool tables, or other similar devices without our prior written approval.

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## ITEM 17

### RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

#### THE FRANCHISE RELATIONSHIP

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

Provision	Section in Franchise or Other Agreement	Summary
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		<b>Other Agreement</b>	
a.	Length of the franchise term	Section 3	Commences on the effective date of the Franchise Agreement and ends 10 years after the day your lease is effective, but no more than 10 years and 180 days after the effective date of the Franchise Agreement.
b.	Renewal or extension of the term	Section 3	If you are in good standing, you can renew the Franchise Agreement for one additional 10 year term.
c.	Requirements for you to renew or extend	Section 3	Provide advance notice, comply with current franchise agreement, you and your Store Manager satisfactorily complete any new/refresher training programs, sign new agreement (which may contain materially different terms and conditions than your original Franchise Agreement), maintain possession of the Store; remodel, pay renewal fee, and sign a general release of claims.
d.	Termination by you	Section 17	If you comply with the Franchise Agreement, and we fail to cure a material provision within 60 days after written notice.
e.	Termination by us without cause	Not Applicable	
f.	Termination by us with cause	Sections 16	We may terminate the Franchise Agreement only if you default.
g.	“Cause” defined – curable defaults	Sections 16(A) and (B)	You have 30 days to cure if you fail to: open the Store when required, complete training, comply with System standards, pay amounts due us or any creditors, or renew or maintain Store lease, or if you violate of any material provision of the Agreement.

<b>Provision</b>		<b>Section in Franchise or Other Agreement</b>	<b>Summary</b>
h.	“Cause” defined – non-curable defaults	Sections 16(A) and (B)	Failure on 3 or more occasions in any 12 months to comply with any provision, default which is not curable, repeatedly deceive Store customers, material misrepresentation or omission on franchise application; conviction of or proof that you have committed a felony or other crime which harms the Store’s reputation, insolvency, an assignment of assets to creditors, Store abandonment, defaults which injure the goodwill associated with the Licensed Marks, use of unapproved website or other unauthorized conduct on the Internet, unauthorized assignment of agreement



			or interest in franchised business, and intentionally falsify any information provided to us.
i.	Your obligations on termination/nonrenewal	Section 18	Pay all amounts due us, stop using and return manuals and other materials, assign to us the Store telephone number and telephone listing or (at our option) disconnect the telephone number, remove all signs and other materials containing any Licensed Marks, comply with obligations under the Proprietary Software license/access agreements, cancel all fictitious or assumed name filings, cease using Confidential Information, agree not to divert Store customers to any competing business for 2 years and redecorate the Store premises (also see o, r below).
j.	Assignment of contract by us	Section 15(A)	Assignee must fulfill our obligations under the agreement.
k.	“Transfer” by you-defined	Section 15(C)	Includes transfer of Store or its assets, or your interest in agreement or any significant (“controlling interest”) ownership change.
l.	Our approval of transfer by franchisee	Section 15(B), (C) and (D)	We have the right to approve all transfers of the Franchise Agreement, but will not unreasonably withhold approval.
m.	Conditions for our approval of transfer	Section 15(C)	New franchisee qualifies and completes training, all amounts owed us or our affiliates are paid, and you are in good standing, new franchisee assumes existing Agreement or (at our option) signs then-current agreement, we approve transfer agreement, transfer fee paid, lease assigned (if applicable), you sign non-compete agreement and general release. No transfer fee for transfer to immediate family member.
n.	Our right of first refusal to acquire your business	Section 15(F)	We can match any offer for your business.
o.	Our option to purchase your business	Section 18(C)	When the Franchise Agreement expires or terminates, we may purchase assets at book value.

Provision		Section in Franchise or Other Agreement	Summary
p.	Your death or disability	Section 15(D)	Franchise must be assigned by estate to an approved buyer within reasonable time not exceeding 12 months.
q.	Non-competition covenants during the term of the franchise	Section 14(B)	No involvement in any business that sells or services used or new electronic devices or relating items or any other competing business (including any e-commerce business).
r.	Non-competition covenants after the	Sections 14(C) and 18(A)	No involvement in any business that sells or services used or new electronic devices or relating items or any

	franchise is terminated or expires		other competing business for two years within 10 miles of your Store location or within 10 miles of another Store. Also, no e-commerce business that solicits customers within 10 mile radius of any Store.
s.	Modification of the agreement	Sections 1(B), 1(G), 5(E) and 20(F)	No modifications generally, except in writing. We may modify Operations Manual, Licensed Marks, System and goods/services to be offered to your Store.
t.	Integration/merger clause	Section 20(L)	Only the terms of the Franchise Agreement (including exhibits) and the Disclosure Acknowledgement Agreement are binding (subject to federal or state law). Any other promises may not be enforceable.
u.	Dispute resolution by arbitration or mediation	Section 19	Except for actions we bring for monies owed, injunctive or extraordinary relief, or actions involving real estate, all disputes will be subject to binding arbitration in Minneapolis, Minnesota.
v.	Choice of forum	Section 20(D)	Litigation not subject to arbitration must be in Minneapolis, Minnesota (subject to state law).
w.	Choice of law	Section 20(E)	The laws of the state where your Store is located applies (subject to state law). This is not a waiver of any right you may have under the General Business Law of New York.

## ITEM 18

### PUBLIC FIGURES

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

## 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.

The following statements of annual Net Sales are based on information reported to us by 9 franchised Stores for the year ended December 31, 2016. Net Sales information is not included for the remaining 5 franchised Stores in operation as of December 31, 2016, because those Stores opened during 2016 and was not in operation for the entire period. The following statements do not include any Net Sales from our affiliate owned Store. We have not independently verified this information. As described in Item 6, "Net Sales" generally means the aggregate amount of all sales of goods and services, whether for cash, on credit or otherwise, made or provided in connection with a Device Pitstop® Store. Net Sales do not include taxes paid or accrued, adjustments for net returns on salable goods and discounts allowed to customers on sales.

Store Location	Annual Net Sales
LEXINGTON, KY*	\$829,747
MAPLE GROVE, MN	\$751,987
BURNSVILLE, MN	\$674,961
MAPLEWOOD, MN	\$521,666
SPRING MOUNTAIN (Las Vegas, NV)*	\$468,852
HENDERSON (Las Vegas, NV)*	\$290,799
OVERLAND PARK, KS	\$209,139
PHOENIX, AZ*	\$197,499
CENTENNIAL (Las Vegas, NV)*	\$183,663
<b>AVERAGE NET SALES</b>	<b>\$458,701</b>

\* In September 2013, we acquired the assets of the Laptop Xchange® franchise system, including existing Laptop Xchange® franchise agreements. The Net Sales information above includes information for five Stores previously operated under older forms of Laptop Xchange® franchise agreements. These Stores signed Device Pitstop® Franchise Agreements with us in October 2013 and are still in the process of migrating to our Proprietary Software and fully implementing our System.

In the following table, the top 33% includes the average Net Sales of the 3 Stores with the highest Net Sales for the 2016 calendar year. The top 67% includes the average Net Sales of the 6 Stores with the highest Net Sales for the 2016 calendar year. The top 100% includes the average Net Sales of the 9 Stores with the highest Net Sales for the 2016 calendar year. The bottom 67% includes the average Net Sales of the 6 Stores with the lowest Net Sales for the 2016 calendar year. The bottom 33% includes the average Net Sales of the 3 Stores with the lowest Net Sales for the 2016 calendar year. The bottom 25% includes the average Net Sales of the 2 Stores with the lowest Net Sales for the 2016 calendar year. 100% includes the average Net Sales of all 8 Stores for the 2016 calendar year.

Percentile	Number of Stores	Average Net Sales	Range of Net Sales	Median Net Sales
------------	------------------	-------------------	--------------------	------------------

<b>Top 33%</b>	3	\$752,232 (1)	\$674,961 to \$829,747	\$751,987
<b>Top 67%</b>	6	\$589,669 (2)	\$290,799 to \$829,747	\$598,314
<b>Bottom 67%</b>	6	\$311,936 (3)	\$183,663 to \$521,666	\$249,969
<b>Bottom 33%</b>	3	\$196,767 (4)	\$183,663 to \$209,139	\$197,499
<b>100%</b>	9	\$458,701 (5)	\$183,663 to \$829,747	\$468,852

- (1) Of the 3 Stores, 1 Stores (33%) met or exceeded the average Net Sales for the Stores for the top 33% of all Stores.
- (2) Of the 6 Stores, 3 Stores (50%) met or exceeded the average Net Sales for the top 67% of all Stores.
- (3) Of the 6 Stores, 2 Stores (33%) met or exceeded the average Net Sales for the bottom 67% of all Stores.
- (4) Of the 3 Stores, 2 Stores (67%) met or exceeded the average Net Sales for the bottom 33% of all Stores.
- (5) Of the 9 Stores, 5 Stores (56%) met or exceeded average Net Sales of all Stores.

Device Pitstop® franchisees will experience different results, however, depending on factors such as the market for used and new consumer electronic devices, the cost to purchase such devices, rent, labor costs and other factors.

Written substantiation of the data used to prepare this financial performance representation is available upon written request. Some franchisees have earned this amount. Your individual results may differ. There is no assurance you will earn as much.

Other than the preceding financial performance representation, we do not make any financial performance representations. 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 Jim Wollman, Device Pitstop, LLC, 4350 Baker Road, Suite 350, Minnetonka, MN 55343, (866) 261-2030, the Federal Trade Commission, and the appropriate state regulatory agencies.

## ITEM 20

### OUTLETS AND FRANCHISEE INFORMATION

**TABLE NUMBER 1**  
**Systemwide Store Summary**  
**For Years 2014 to 2016**

Store Type	Year	Stores at the Start of the Year	Stores at the End of the Year	Net Change
Franchised(1)	2014	6	9	+3
	2015	9	9	0



	2016	9	15	+6
<b>Company-Owned</b>	2014	1	1	0
	2015	1	1	0
	2016	1	1	0
<b>Total Stores</b>	2014	7	10	+3
	2015	10	10	0
	2016	10	16	+6

(1) As described in Item 1, we only began franchising in August 2013.

**TABLE NUMBER 2**  
**Transfers of Stores From Franchisee to New Owners (Other than the Franchisor)**  
**For Years 2014 to 2016**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
<b>Kansas</b>	2014	0
	2015	0
	2016	1
<b>Nevada</b>	2014	1
	2015	1
	2016	1
<b>TOTAL</b>	2014	1
	2015	1
	2016	2

**TABLE NUMBER 3**  
**Status of Franchised Stores**  
**For Years 2014 to 2016**

<b>State</b>	<b>Year</b>	<b>Stores at the Start of the Year</b>	<b>Stores Opened</b>	<b>Terminations</b>	<b>Non-Renewals</b>	<b>Reacquired by Franchisor</b>	<b>Ceased Operations / Other Reasons</b>	<b>Stores at the End of the Year</b>
<b>Alaska</b>	2014	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0
	2016	0	1	0	0	0	0	1
<b>Arizona</b>	2014	1	0	0	0	0	0	1

STATE	2014	2015	2016	2017	2018	2019	2020	2021
	2015	1	0	0	0	0	0	1
	2016	1	0	0	0	0	0	1
<b>Colorado</b>	2014	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0
	2016	0	2	0	0	0	0	2
<b>Kansas</b>	2014	0	0	0	0	0	0	0
	2015	0	1	0	0	0	0	1
	2016	1	0	0	0	0	0	1
<b>Kentucky</b>	2014	1	0	0	0	0	0	1
	2015	1	0	0	0	0	0	1
	2016	1	0	0	0	0	0	1
<b>Michigan</b>	2014	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0
	2016	0	1	0	0	0	0	1
<b>Minnesota</b>	2014	0	3	0	0	0	0	3
	2015	3	0	0	0	0	0	3
	2016	3	1	0	0	0	0	4
<b>Nevada</b>	2014	4	0	0	0	0	0	4
	2015	4	0	0	0	0	1	3
	2016	3	0	0	0	0	0	3
<b>Virginia</b>	2014	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0
	2016	0	1	0	0	0	0	1
<b>TOTAL</b>	2014	6	3	0	0	0	0	9
	2015	9	1	0	0	0	1	9
	2016	9	6	0	0	0	0	15

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**TABLE NUMBER 4**  
**Status of Company-Owned Stores (1)**  
**For Years 2014 to 2016**

State	Year	Stores at the Start of the Year	Stores Opened	Stores Reacquired From Franchisees	Stores Closed	Stores Sold to Franchisees	Stores at the End of the Year
<b>Minnesota</b>	2014	1	0	0	0	0	1
	2015	1	0	0	0	0	1
	2016	1	0	0	0	0	1
<b>TOTAL</b>	2014	1	0	0	0	0	1

<b>TOTAL</b>	<b>2017</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
	2015	1	0	0	0	0	1
	2016	1	0	0	0	0	1

**TABLE NUMBER 5  
Projected Openings  
As of December 31, 2016**

State	Franchise Agreements Signed But Store Not Opened	Projected New Franchised Stores in the Next Fiscal Year	Projected New Company-Owned Stores in the Next Fiscal Year
Colorado	0	2	0
Illinois	0	1	0
Kentucky	0	1	0
Michigan	0	1	0
Minnesota	2	2	0
Nevada	1	0	0
Pennsylvania	0	2	0
Texas	1	1	0
<b>TOTAL</b>	4	10	0

The names and addresses and telephone numbers of the franchised Stores are included in Exhibit C. As of the date of this disclosure document, no franchisee has had a franchise terminated, canceled, not renewed, otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement, or has not communicated with us within 10 weeks of the issuance date of this disclosure document. If you buy a Device Pitstop® franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

During the last three fiscal years, no current or former franchisees have signed confidentiality clauses that restrict them from discussing with you their experiences as a franchisee in our franchise system.

We are not aware of any trademark-specific franchisee associations.

**ITEM 21**

**FINANCIAL STATEMENTS**

The audited financial statements of our affiliate Clothes Mentor as of December 31, 2014, December 31, 2015 and December 31, 2016, are attached as Exhibit A. Our separate financial statements are not included in this disclosure document. Our fiscal year end is December 31. Clothes Mentor absolutely and unconditionally guarantees the obligations of Device Pitstop under your Franchise Agreement. See Exhibit I for a copy of the written guarantee.

**ITEM 22**

## CONTRACTS

The Franchise Agreement (including the Electronic Transfer of Funds form and Personal Guaranty) is attached as Exhibit B. The State Addenda are attached as Exhibit E. A general release form is attached as Exhibit F. The Disclosure Acknowledgment Agreement is attached as Exhibit G. The current form software license agreement required by BST for use of the Proprietary Software is attached as Exhibit H.

### ITEM 23

#### RECEIPTS

Two copies of an acknowledgment of your receipt of this disclosure document are included at the end of this disclosure document (Exhibit J). You should keep one copy as your file copy and return the second copy to us.

#### 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 control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

#### AUDITOR'S 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 audit 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 auditor's 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 auditor considers internal control relevant to the Company'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 Company'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.

(continued)



Malloy, Montague, Karnowski, Radosevich & Co., P.A.

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**OPINION**

In our opinion, the financial statements referred to on the previous page present fairly, in all material respects, the financial position of the Company as of December 31, 2016 and 2015, 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.

*Malloy, Montague, Karnowski, Radosevich & Co., P.A.*

Minneapolis, Minnesota  
March 29, 2017

Accounts receivable	98,032	55,122
Prepaid expense – franchise sales	183,000	243,000
Due from related parties	70	214,350
Other prepaid expenses	15,759	–
Total current assets	<u>344,432</u>	<u>655,612</u>
Property and equipment		
Office equipment and furnishings	88,902	74,470
Less accumulated depreciation	<u>(71,399)</u>	<u>(56,374)</u>
Net property and equipment	17,503	18,096
Other assets		
Intellectual property rights	500,000	500,000
Trademark	<u>200,000</u>	<u>200,000</u>
Total other assets	<u>700,000</u>	<u>700,000</u>
Total assets	<u>\$ 1,061,935</u>	<u>\$ 1,373,708</u>

Liabilities and Member's Equity

Current liabilities		
Accounts payable	\$ 11,783	\$ 7,368
Deferred revenue	715,000	860,000
National Marketing and Promotion Fund	-	74
Due to related parties	-	4,547
Total current liabilities	<u>726,783</u>	<u>871,989</u>
Member's equity	<u>335,152</u>	<u>501,719</u>
Total liabilities and member's equity	<u>\$ 1,061,935</u>	<u>\$ 1,373,708</u>

See notes to financial statements

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## CLOTHES MENTOR, LLC

### Statements of Income and Member's Equity

	Years Ended December 31,	
	2016	2015
Revenue		
Franchise revenue	\$ 441,666	\$ 261,666
Royalty fees	3,132,558	3,048,439
Total revenue	<u>3,574,224</u>	<u>3,310,105</u>
Selling, general, and administrative expenses		
Payroll and payroll benefits expense	1,095,607	965,513
Commission expenses	147,500	88,000
Conference expenses	177,609	148,908
Travel and auto expenses	149,996	162,602
Rent expenses	142,988	154,485
Insurance expenses	130,453	62,467
Advertising expenses	260,129	247,423
Miscellaneous expenses	184,725	174,859
Total selling, general, and administrative expenses	<u>2,289,007</u>	<u>2,004,257</u>
Net income	1,285,217	1,305,848
Member's equity		
Beginning of year	501,719	170,770
Member draws	<u>(1,451,784)</u>	<u>(974,899)</u>
End of year	<u>\$ 335,152</u>	<u>\$ 501,719</u>

See notes to financial statements

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CLOTHES MENTOR, LLC

Statements of Cash Flows

	Years Ended December 31,	
	2016	2015
Cash flows from operating activities		
Net income	\$ 1,285,217	\$ 1,305,848
Adjustments to reconcile net income to net cash provided by operating activities		
Bad debt expense	3,637	20,000
Depreciation expense	15,025	13,437
(Increase) decrease in current assets		
Accounts receivable	(47,367)	(11,949)
Prepaid expense – franchise sales	60,000	10,000
Due from related parties	214,280	(203,580)
Other prepaid expenses	(15,759)	17,000
Increase (decrease) in current liabilities		
Accounts payable	4,415	(16,728)
Deferred revenue	(145,000)	(90,000)
National Marketing and Promotion Fund	(74)	(56,084)
Due to related parties	(4,547)	4,547
Net cash provided by operating activities	1,369,827	992,491
Cash flows from investing activities		
Payments for purchase of property and equipment	(14,432)	(17,400)
Cash flows from financing activities		
Member draws	(1,451,784)	(974,899)

Increase (decrease) in cash and cash equivalents	(96,389)	192
Cash and cash equivalents		
Beginning of year	<u>143,140</u>	<u>142,948</u>
End of year	<u>\$ 46,751</u>	<u>\$ 143,140</u>

See notes to financial statements

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CLOTHES MENTOR, LLC

Notes to Financial Statements  
December 31, 2016 and 2015

**NOTE 1 – NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES**

**NATURE OF OPERATIONS**

Clothes Mentor, LLC (a Delaware limited liability company) (the Company) is organized as a limited liability company for the purpose of offering and selling licenses and franchises to operate retail stores that buy and sell new and used women’s apparel and accessories.

NTY Franchise Company, LLC (NTY) is the sole member of the Company.

**SIGNIFICANT ACCOUNTING POLICIES**

**A. Revenue Recognition**

The Company recognizes revenue and expenses on the accrual basis for financial statement purposes. Franchise fees related to sales of franchises are recognized as revenue upon substantial performance by the Company of all material conditions relating to the initial fee. Royalty fee revenue is recognized based on weekly net sales of franchise stores.

**B. Statements of Cash Flows**

For purposes of the Statements of Cash Flows, the Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents.



### **C. Accounts Receivable**

The Company utilizes the reserve method of accounting for doubtful accounts. At December 31, 2016 and 2015, all accounts receivable balances were considered fully collectible; therefore, no allowance for doubtful accounts has been provided for within this report.

### **D. Property and Equipment**

Property and equipment are capitalized at cost. Depreciation of property and equipment is charged to operations at rates calculated to amortize the cost of the property and equipment ratably over their estimated useful lives using straight-line and accelerated methods.

The estimated useful life of property and equipment is 3–7 years for office equipment and furnishings.

### **E. Intangibles**

In accordance with the Intangibles – Goodwill and Other Topic of Financial Accounting Standards Board Accounting Standards Codification (FASB ASC), goodwill and other intangible assets are subject to an annual impairment assessment.

For income tax purposes, goodwill and other intangible assets are amortized ratably over a 15-year period.

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## **CLOTHES MENTOR, LLC**

Notes to Financial Statements (continued)  
December 31, 2016 and 2015

### **NOTE 1 – NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

#### **E. Intangibles (continued)**

**Intellectual Property Rights** – The Company purchased intellectual property rights from two unrelated individuals. Intellectual property rights include the seller’s knowledge respecting the operation of the business concept, the method and format of that concept, manuals, and goodwill related to such intellectual property rights and the business concept. The business concept is defined as the methods, procedures, standards, and specifications relating to a retail store concept offering new and used apparel and accessories for women. These intellectual property rights are classified as unamortized intangible assets and are deemed to have an indefinite useful life. At December 31, 2016 and 2015, the carrying value was \$500,000 each year.

**Trademark** – The Company purchased a trademark for the name “Once Upon a Mom.” This trademark is classified as an unamortized intangible asset and is deemed to have an indefinite useful life. At December 31, 2016 and 2015, the carrying value was \$200,000 each year.

For the years ended December 31, 2016 and 2015, no impairment loss has been recognized.

#### **F. Franchise Fee Revenue/Deferred Revenue**

The Company records franchise fee receivables upon the signing/execution of franchise agreements.

Franchise fee revenue is deferred until the Company has performed substantially all initial services required by the franchise agreement and the store is opened.

The Company provides the following initial services: financial and budgeting support, training and field assistance in the site selection process, and construction and building specification requirements.

Franchise fees collected from franchisees, but not yet recognized as income, are recorded as deferred revenue in the liability section of the Balance Sheets.

Franchise fees generally range from \$15,000 to \$20,000 per store.

	Number of Franchised Outlets for the Years Ended December 31,	
	2016	2015
Total franchised outlets at beginning of year	187	175
Franchised outlets sold	15	12
Franchised outlets closed or unopened terminations	(17)	-
Total franchised outlets at end of year	<u>185</u>	<u>187</u>
Franchised outlets unopened at end of year	<u>36</u>	<u>47</u>
Franchisor-owned outlets in operation at end of year	<u>148</u>	<u>139</u>
Related party franchised outlets in operation at end of year	<u>1</u>	<u>1</u>

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## CLOTHES MENTOR, LLC

Notes to Financial Statements (continued)  
December 31, 2016 and 2015

### NOTE 1 – NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### G. Royalty Fee Revenue

The Company generally records royalty fee revenue equal to 4 percent of net weekly sales of franchisees. Royalty fee revenue is recognized when net sales occur at franchise stores.

#### H. Advertising Costs

The Company expenses advertising costs as they are incurred. Advertising costs for the years ended December 31, 2016 and 2015 totaled \$260,129 and \$247,423, respectively.

#### I. Income Taxes

The Company, as a single member limited liability company, is disregarded and, therefore, not a taxpaying entity for income tax purposes. Accordingly, the Company's taxable income or loss is allocated to NTY. Therefore, no provision or liability for income taxes has been included in the accompanying financial statements.

The Company follows the recognition requirements for uncertain income tax positions as required by FASB ASC 740-10. Income tax benefits are recognized for income tax positions taken or expected to be taken in a tax return, only when it is determined that the income tax position will more-likely-than-not be

sustained upon examination by taxing authorities. The Company has analyzed tax positions taken for filing with the Internal Revenue Service (IRS) and the state jurisdiction where it operates. The Company believes that income tax filing positions will be sustained upon examination and does not anticipate any adjustments that would result in a material adverse effect on the Company's financial condition, results of operations, or cash flows. Accordingly, the Company has not recorded any reserves or related accruals for interest and penalties for uncertain income tax positions at December 31, 2016.

NTY is subject to routine audits by taxing jurisdictions.

**J. Use of Estimates**

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

**K. Subsequent Events**

Subsequent events have been evaluated by management through March 29, 2017, which is the date the financial statements were available to be issued.

CLOTHES MENTOR, LLC  
Notes to Financial Statements (continued)  
December 31, 2016 and 2015

**NOTE 2 – NATIONAL MARKETING AND PROMOTION FUND**

The Company oversees and administers a National Marketing and Promotion Fund (NMPF), which serves as a marketing association for all stores. The NMPF develops, initiates, and executes marketing programs including, but not limited to, the development of marketing tools for the mutual benefit of the franchisees making deposits into the NMPF. The NMPF is not a separate legal entity and is included in the Company's Balance Sheets. The NMPF is managed by the Company.

On a weekly or semiannual basis, the Company collects national marketing fees from the franchisees based on their respective franchise agreements. The Company has the option to increase the annual fee to a multiple of the original stated rate in the franchise agreement with a 60-day notice. (As of the date of these financial statements, the Company has not elected to raise its rates.) Disbursements from the NMPF are to be used to pay expenses incurred in connection with general marketing and promotion of licensed franchisees.

A summary of the national marketing fees deposited into the NMPF, and the marketing and promotion expenses paid from the NMPF, are as follows:

	Year Ended December 31,	
	2016	2015
NMPF, beginning of year	\$ 74	\$ 56,158
National marketing fees deposited	208,766	201,014

Marketing and promotion expenses paid	<u>(208,840)</u>	<u>(257,098)</u>
NMPF, end of year	<u>\$ -</u>	<u>\$ 74</u>

National marketing fee deposits to the NMPF are not recorded as income of the Company, and disbursements from the NMPF for marketing and promotion expenses are not recorded as expenses of the Company, unless marketing expenses exceed marketing fee deposits as the Company has no recourse to the franchisees beyond the contractual fees allowed. NMPF deposits in excess of disbursements, if any, are included in cash and cash equivalents and current liabilities within the Balance Sheets.

### NOTE 3 – PREPAID EXPENSE – FRANCHISE SALES

The Company has incurred commission expenses related to the sale of franchises. The commissions, which are payable upon execution of the franchise agreement, are recorded as a prepaid expense until the related franchise fee revenue is recognized. (See Note 1 – Nature of Operations and Significant Accounting Policies, F. Franchise Fee Revenue/Deferred Revenue.)

At December 31, 2016 and 2015, prepaid commissions related to signed franchise agreements in which the store had not opened totaled \$183,000 and \$243,000, respectively. For the years ended December 31, 2016 and 2015, commission expense related to the sale of franchises totaled \$147,500 and \$88,000, respectively.

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CLOTHES MENTOR, LLC  
Notes to Financial Statements (continued)  
December 31, 2016 and 2015

### NOTE 4 – RELATED PARTY TRANSACTIONS

#### A. Due From Related Parties

At December 31, 2016 and 2015, the Company had receivables from limited liability companies affiliated through common ownership for expense reimbursements as follows:

	December 31,	
	<u>2016</u>	<u>2015</u>
Children’s Orchard, LLC	\$ -	\$ 50,264
Clothes Mentor Minnetonka, LLC	-	13,877
Device Pitstop, LLC	55	57,892
NTY Clothing Exchange, LLC	-	67,747
Other related parties	<u>15</u>	<u>24,570</u>
Total	<u>\$ 70</u>	<u>\$ 214,350</u>

#### B. Due to Related Parties

At December 31, 2016 and 2015, the Company had a payable to New Uses, LLC, a limited liability company affiliated through common ownership, for expenses paid on behalf of the Company totaling \$0 and \$4,547, respectively.

**C. Related Party Franchised Outlet**

As of December 31, 2016 and 2015, the Company has opened one franchised outlet with a related party to use as a model franchise. Related party franchised outlets are not subject to the franchise and royalty fee provisions of the franchise agreements. (See Note 1 – Nature of Operations and Significant Accounting Policies, F. Franchise Fee Revenue/Deferred Revenue.)

**D. Office Space Lease**

The Company is allocated rent expense from common area leased office space from NTY under a verbal month-to-month lease agreement. For the years ended December 31, 2016 and 2015, rent expense totaled \$142,988 and \$154,485 respectively.

**NOTE 5 – EMPLOYEE BENEFIT PLAN**

NTY maintains a Simple Retirement Plan (the Plan) for substantially all of its related entities and employees. Matching contributions up to 3 percent of eligible compensation are made by the Company. The Plan allows eligible employees to make pre-tax contributions of earnings up to a maximum allowed by the IRS. Employee benefit plan expense totaling \$17,045 and \$14,754 for the years ended December 31, 2016 and 2015, respectively, is included in payroll and payroll benefits expense.

CLOTHES MENTOR, LLC

Financial Statements  
for Years Ended  
December 31, 2015 and 2014



**REPORT ON THE FINANCIAL STATEMENTS**

We have audited the accompanying financial statements of Clothes Mentor, LLC (a Delaware limited liability company) (the Company), which comprise the balance sheets as of December 31, 2015 and 2014, and the related statements of income and member's 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 control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

**AUDITOR'S 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 audit 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 auditor's 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 auditor considers internal control relevant to the Company'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 Company'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.

(continued)

**OPINION**

In our opinion, the financial statements referred to on the previous page present fairly, in all material respects, the financial position of the Company as of December 31, 2015 and 2014, 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.

**Malloy, Montague, Karnowski, Radosevich & Co., P.A.**

Minneapolis, Minnesota

March 31, 2016

Rent expenses	154,485	106,783
Insurance expenses	62,467	97,975
Advertising expenses	247,423	81,835
Miscellaneous expenses	174,859	139,986
Total selling, general, and administrative expenses	<u>2,004,257</u>	<u>1,889,056</u>
Operating income	1,305,848	1,339,020
Other income		
Gain on sale of property and equipment	<u>—</u>	<u>1,099</u>
Net income	1,305,848	1,340,119
Member's equity		
Beginning of year	170,770	75,848
Member draws	<u>(974,899)</u>	<u>(1,245,197)</u>
End of year	<u>\$ 501,719</u>	<u>\$ 170,770</u>
Net cash provided (used) by investing activities	<u>(17,400)</u>	<u>1,795</u>
Cash flows from financing activities		
Member draws	<u>(974,899)</u>	<u>(1,245,197)</u>
Decrease in cash and cash equivalents	192	(26,290)
Cash and cash equivalents		
Beginning of year	<u>142,948</u>	<u>169,238</u>
End of year	<u>\$ 143,140</u>	<u>\$ 142,948</u>

See notes to financial statements

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## CLOTHES MENTOR, LLC

Notes to Financial Statements  
December 31, 2015 and 2014

### **NOTE 1 – NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES**

#### **NATURE OF OPERATIONS**

Clothes Mentor, LLC (a Delaware limited liability company) (the Company) is organized as a limited liability company for the purpose of offering and selling licenses and franchises to operate retail stores selling new and used women's apparel and accessories. NTY Franchise Company, LLC (formerly known as CMF Holdings, LLC) (NTY) is the sole member of the Company.

#### **SIGNIFICANT ACCOUNTING POLICIES**

##### **A. Revenue Recognition**

The Company recognizes revenue and expenses on the accrual basis for financial statement purposes. Franchise fees related to sales of franchises are recognized as revenue upon substantial performance by the Company of all material conditions relating to the initial fee. Royalty fee revenue is recognized based on weekly net sales of franchise stores.

##### **B. Statements of Cash Flows**

For purposes of the Statements of Cash Flows, the Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents.

##### **C. Accounts Receivable**

The Company utilizes the reserve method of accounting for doubtful accounts. At December 31, 2015 and 2014, all accounts receivable balances were considered fully collectible; therefore, no allowance for doubtful accounts has been provided for within this report.

##### **D. Property and Equipment**

Property and equipment are capitalized at cost. Depreciation of property and equipment is charged to operations at rates calculated to amortize the cost of the property and equipment ratably over their estimated useful lives using straight-line and accelerated methods.

The estimated useful life of property and equipment is 3–7 years for office equipment and furnishings.

##### **E. Intangible**

**E. Intangibles**

In accordance with the Intangibles – Goodwill and Other Topic of Financial Accounting Standards Board Accounting Standards Codification (FASB ASC), goodwill and other intangible assets are subject to an annual impairment assessment.

For income tax purposes, goodwill and other intangible assets are amortized ratably over a 15-year period.

CLOTHES MENTOR, LLC

Notes to Financial Statements (continued)  
December 31, 2015 and 2014

**NOTE 1 – NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES  
(CONTINUED)**

**E. Intangibles (continued)**

**Intellectual Property Rights** – The Company purchased intellectual property rights from two unrelated individuals. Intellectual property rights include the seller’s knowledge respecting the operation of the business concept, the method and format of that concept, manuals, and goodwill related to such intellectual property rights and the business concept. The business concept is defined as the methods, procedures, standards, and specifications relating to a retail store concept offering new and used apparel and accessories for women. These intellectual property rights are classified as unamortized intangible assets and are deemed to have an indefinite useful life. At December 31, 2015 and 2014, the carrying value was \$500,000 each year.

**Trademark** – The Company purchased a trademark for the name “Once Upon a Mom.” This trademark is classified as an unamortized intangible asset and is deemed to have an indefinite useful life. At December 31, 2015 and 2014, the carrying value was \$200,000 each year.

For the years ended December 31, 2015 and 2014, no impairment loss has been recognized.

**F. Franchise Fee Revenue/Deferred Revenue**

The Company records franchise fee receivables upon the signing/execution of franchise agreements. Franchise fee revenue is deferred until the Company has performed substantially all initial services required by the franchise agreement and the store is opened.

The Company provides the following initial services: financial and budgeting support, training and field assistance in the site selection process, and construction and building specification requirements.

Franchise fees collected from franchisees, but not yet recognized as income, are recorded as deferred revenue in the liability section of the Balance Sheets.

Franchise fees generally range from \$15,000 to \$20,000 per store.

Number of Franchised Outlets for the Years Ended December 31,	
2015	2014

	<u>2015</u>	<u>2014</u>
Total franchised outlets at beginning of year	175	152
Franchised outlets sold	<u>12</u>	<u>23</u>
Total franchised outlets at end of year	<u>187</u>	<u>175</u>
Franchised outlets unopened at end of year	<u>47</u>	<u>52</u>
Franchisor-owned outlets in operation at end of year	<u>139</u>	<u>122</u>
Related party franchised outlets in operation at end of year	<u>1</u>	<u>1</u>

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The Company, as a single member limited liability company, is disregarded and, therefore, not a taxpaying entity for income tax purposes. Accordingly, the Company's taxable income or loss is allocated to its sole member. Therefore, no provision or liability for income taxes has been included in the accompanying financial statements.

The Company adopted the recognition requirements for uncertain income tax positions as required by FASB ASC 740-10 (formerly known as FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes*), with no cumulative effect adjustment required. Income tax benefits are recognized for income tax positions taken or expected to be taken in a tax return, only when it is determined that the income tax position will more-likely-than-not be sustained upon examination by taxing authorities. The Company has analyzed tax positions taken for filing with the Internal Revenue Service (IRS) and the state jurisdiction where it operates. The Company believes that income tax filing positions will be sustained upon examination and does not anticipate any adjustments that would result in a material adverse effect on the Company's financial condition, results of operations, or cash flows. Accordingly, the Company has not recorded any reserves or related accruals for interest and penalties for uncertain income tax positions at December 31, 2015.

NTY, sole member of the Company, is subject to routine audits by taxing jurisdictions; however, there are currently no audits in progress for any open tax periods. NTY's open audit periods are the years ended December 31, 2012, 2013, and 2014.

**J. Use of Estimates**

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

**K. Subsequent Events**

Subsequent events have been evaluated by management through March 31, 2016, which is the date the financial statements were available to be issued.

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CLOTHES MENTOR, LLC

Notes to Financial Statements (continued)  
December 31, 2015 and 2014



## NOTE 2 – NATIONAL MARKETING AND PROMOTION FUND

The Company oversees and administers a National Marketing and Promotion Fund (NMPF) which serves as a marketing association for all stores. The NMPF develops, initiates, and executes marketing programs including, but not limited to, the development of marketing tools for the mutual benefit of the franchisees making deposits into the NMPF. The NMPF is not a separate legal entity and is included in the Company's Balance Sheets. The NMPF is managed by the Company.

On a semiannual basis, the Company collects national marketing fees from the franchisees based on their respective franchise agreements. The Company has the option to increase the annual fee to double the original stated rate in the franchise agreement with a 60 day notice. As of the date of these financial statements, the Company has not elected to raise its rates. Disbursements from the NMPF are to be used to pay expenses incurred in connection with general marketing and promotion of licensed franchisees. A summary of the national marketing fees deposited into the NMPF, and the marketing and promotion expenses paid from the NMPF, are as follows:

	Year Ended December 31,	
	2015	2014
NMPF, beginning of year	\$ 56,158	\$ 141,412
National marketing fees deposited	201,014	170,690
Marketing and promotion expenses paid	<u>(257,098)</u>	<u>(255,944)</u>
NMPF, end of year	<u>\$ 74</u>	<u>\$ 56,158</u>

National marketing fee deposits to the NMPF are not recorded as income of the Company, and disbursements from the NMPF for marketing and promotion expenses are not recorded as expenses of the Company, unless marketing expenses exceed marketing fee deposits as the Company has no recourse to the franchisees beyond the contractual fees allowed. The NMPF deposits in excess of disbursements are included in cash and cash equivalents and current liabilities within the Balance Sheets at December 31, 2015 and 2014.

## NOTE 3 – PREPAID EXPENSE – FRANCHISE SALES

The Company has incurred commission expenses related to the sale of franchises. The commissions, which are payable upon execution of the franchise agreement, are recorded as a prepaid expense until the related franchise fee revenue is recognized. (See Note 1 – Nature of Operations and Significant Accounting Policies, F. Franchise Fee Revenue/Deferred Revenue.)

At December 31, 2015 and 2014, prepaid commissions related to signed franchise agreements in which the store had not opened totaled \$243,000 and \$253,000, respectively. For the years ended December 31, 2015 and 2014, commission expense related to the sale of franchises totaling \$88,000 and \$188,928, respectively, is included within commission expenses.

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expenses. (See Note 5 – Commitments, Office Space Leases.)

The Company subleased office space to York Investment, LLC, a limited liability company affiliated through common ownership, under a verbal month-to-month agreement until May 28, 2014. For the years ended December 31, 2015 and 2014, rental income of \$0 and \$13,498, respectively, was netted against rent expenses. (See Note 5 – Commitments, Office Space Leases.)

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CLOTHES MENTOR, LLC

Notes to Financial Statements (continued)  
December 31, 2015 and 2014

**NOTE 4 – RELATED PARTY TRANSACTIONS (CONTINUED)**

**E. Related Party Franchised Outlet**

As of December 31, 2015 and 2014, the Company has opened one franchised outlet with a related party to use as a model franchise. Related party franchised outlets are not subject to the franchise and royalty fee provisions of the franchise agreements. (See Note 1 – Nature of Operations and Significant Accounting Policies, F. Franchise Fee Revenue/Deferred Revenue.)

**NOTE 5 – COMMITMENTS**

**Office Space Leases**

The Company had entered into a lease agreement with an unrelated party for the use of office space at the Wayzata Executive Park through March 31, 2017. The lease was terminated effective May 31, 2014, requiring forfeiture of the \$3,062 security deposit plus a termination payment totaling \$25,082.

Office space rent expense for the terminated lease totaled \$63,424 for the year ended December 31, 2014.

Combined office space rent expense, net of sublease income, totaled \$154,485 and \$106,783 for the years ended December 31, 2015 and 2014, respectively.

**NOTE 6 – EMPLOYEE BENEFIT PLAN**

NTY maintains a Simple Retirement Plan (the Plan) for substantially all of its related entities and employees. Matching contributions up to 3 percent of eligible compensation are made by the Company. The Plan allows eligible employees to make pre-tax contributions of earnings up to a maximum allowed by the IRS. Employee benefit plan expense totaling \$14,754 and \$19,815 for the years ended December 31, 2015 and 2014, respectively, is included in payroll and payroll benefits expense.

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INTRODUCTION

- A. We own a system (the “System”) relating to the development and operation of retail stores that buy, sell and service used and new consumer electronic devices, including laptops, tablets, digital music players, cell phones and accessories.
- B. We own the Device Pitstop® trademarks, and other related trademarks and service marks used in operating the System.
- C. We grant qualified persons the right to develop, own and operate a Device Pitstop® store at a specific location.
- D. You desire to obtain the right to develop and operate a Device Pitstop® store using the System at a specific location.

AGREEMENTS

In consideration of the mutual covenants and agreements stated below, the parties agree as follows:

1. DEFINITIONS

- A. “Confidential Information” means the methods, techniques, formats, marketing and promotional techniques and procedures, specifications, information, systems and knowledge of and experience in operating and franchising Device Pitstop® stores that we communicate to you or that you otherwise acquire in operating the Store under the System. Confidential Information does not include information, processes or techniques that are generally known to the public, other than through disclosure (whether deliberate or inadvertent) by you.
- B. “Licensed Marks” means the Device Pitstop® service mark, and other trademarks, service marks, domain names, logos and commercial symbols that we have designated, or may in the future designate, for use in the System.
- C. “Net Sales” means the aggregate amount of all sales of goods and services (including

service charges in lieu of gratuity), whether for cash, by check, credit card or trade or otherwise, made or provided at or in connection with the Store, including internet sales, off-premises sales and monies derived at or away from the Store. The term "Net Sales" does not include: (1) any federal, state, municipal or other sales, value added or retailer's excise taxes that you pay or accrue; and (2) adjustments for net returns on salable goods and discounts allowed to customers on sales. Net Sales will not be adjusted for uncollected accounts.

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DEVICE PITSTOP FA (FTC)  
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A. Grant of Franchise, Store Location and Protected Area. Subject to the provisions contained in this Agreement, we grant you a franchise (the "Franchise") to own and operate a Device Pitstop® Store at a site approved by us and to use the Licensed Marks in operating the Store. The location of the Store and your Protected Area are identified in Exhibit A. If you do not have a location for the Store as of the Effective Date, you must enter into a lease for the Store premises under the terms of this Agreement within one hundred and eighty (180) days after the date of this Agreement, unless otherwise approved by us in writing.

B. Nature of your Protected Area. During the term of this Agreement (as described in Section 3), if you are in compliance, we will not directly operate or franchise another to operate any other Device Pitstop® store within the Protected Area. Other than as we may authorize in the Operations Manual, the license granted to you under this Agreement is personal in nature, may not be used at any location other than the Store, does not include the right to sell products or services identified by the Licensed Marks at any location other than at the Store, and does not include the right to sell products or services identified by the Licensed Marks through any other channels of distribution, including the Internet (or any other existing or future form of electronic commerce). You will not open any other Device Pitstop® store in the Protected Area. You will not have the right to subfranchise or sublicense any of your rights under this Agreement. You will not use the Store for any purposes other than the operation of a Device Pitstop® store. You will concentrate all Store advertising and solicitation of potential customers within your "Market Area," unless you obtain our prior written consent. For purposes of this Section, the term "Market Area" means the geographic area identified in the Operations Manual (as defined in Section 5(E) below).

C. Rights Reserved To Us. We (for ourselves and our affiliates) retain the right:

1. to ourselves operate, or to grant other persons the right to operate, Device Pitstop® stores at locations outside the Protected Area (except to the extent we may be restricted under a separate Device Pitstop® Franchise Agreement to which you are a party);

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2. to sell the products and services authorized for sale at Device Pitstop® stores under trademarks and service marks other than the Licensed Marks through similar or dissimilar channels of distribution;

3. to sell the products and services authorized for sale at Device Pitstop® stores under the Licensed Marks through dissimilar channels of distribution (i.e., other than the

operation of retail Device Pitstop® stores), including by electronic means such as the Internet and by websites we established, and pursuant to conditions we deem appropriate within and outside the Protected Area; and

4. to advertise the System on the Internet (or any other existing or future form of electronic commerce) and to create, operate, maintain and modify, or discontinue the use of a website using the Licensed Marks.

3. TERM OF FRANCHISE; RENEWAL RIGHTS

A. Term. The term of this Agreement commences on the date of this Agreement (the "Effective Date") and ends ten (10) years after the "Lease Date" (as defined in Exhibit A), but no later than ten (10) years and one hundred eighty (180) days after the Effective Date.

B. Renewal. You will have the right to renew the Franchise for the Store for one (1) additional ten (10) year term, provided you meet the following conditions:

1. you have given us written notice at least one hundred eighty (180) days before the end of the term of this Agreement of your intention to renew;

2. you have complied with all of the material provisions of this Agreement, including the payment of all monetary obligations you owe to us or our affiliates, and have complied with our material operating and quality standards and procedures;

3. you maintain possession of the Store premises and have at your expense made such reasonable capital expenditures necessary to remodel, modernize and redecorate the Store premises and to replace and modernize the supplies, fixtures, signs, and equipment used in your business so that your business reflects the then-current physical appearance of new Device Pitstop® stores, or are able to secure a new location within the Protected Area which we have accepted (such acceptance not to be unreasonably withheld) and agree to construct all required improvements to the Store premises and install all required fixtures and equipment in compliance with our then-current standards and specifications for new Device Pitstop® stores;

4. you and your Principal Owners meet all of our managerial, financial and business standards for new and renewing franchisees;

5. you (or if you are an entity, a Principal Owner who has been approved by us) and the Store manager completes, to our satisfaction, any new training and refresher programs as we may reasonably require. You are responsible for travel, living and compensation costs of attendees;

6. you have paid a Renewal Fee of Ten Thousand Dollars (\$10,000) to us at least thirty (30) days before the term of this Agreement expires;

7. you sign the standard Franchise Agreement we then currently are using; provided that you will be required to pay the Renewal Fee in lieu of the Initial Franchise Fee stated in the then-current Franchise Agreement; and

8. you and each Principal Owner signs a general release, in form acceptable to us, of all claims against us and our current and former affiliates, and our and their



respective past and present officers, directors, employees, and agents.

4. DEVELOPMENT AND OPENING OF THE STORE

A. Lease for Store Premises. If you enter into a lease for the Store premises, you must provide a copy of the proposed lease to us before you sign it. We reserve the right to reject the proposed lease if your lease does not contain provisions requiring that: (1) so long as this Agreement remains in effect, the premises will be used only for a Device Pitstop® store; (2) we will be granted the right (but not the duty) to take possession of the Store premises and assume the lease in the event of a termination of this Agreement or a threatened termination of the lease as a result of a breach by you; (3) the landlord will provide us written notice of any default or right to cure by you; and (4) upon vacating the Store premises or termination of this Agreement or the lease for the Store premises, you must remove all signs and materials bearing the words "Device Pitstop" and other Licensed Marks. You must use, at your expense, our designated third party vendor to review and comment on the business terms of the proposed lease unless otherwise approved by us in writing.

B. Your Development of the Store. Promptly after you sign a lease or acquire the premises for the Store, and receive from us or our designee the prototype plans and specifications for the Store, you will:

1. prepare and submit to us for approval, which will not be unreasonably withheld, any proposed modifications to our basic plans and specifications, which you may modify only to the extent necessary to comply with applicable ordinances, building codes, permit requirements and lease or deed requirements and restrictions;

2. obtain all required building, utility, sign, health, sanitation and business permits and licenses, and any other required permits and licenses;

3. construct all required improvements to the Store premises, purchase and install all required fixtures and equipment and decorate the premises in compliance with the plans and specifications approved by us and all applicable ordinances, building codes, permit requirements and lease or deed requirements and restrictions;

4. obtain an opening inventory of used and new commercial electronic devices and accessories required for the Store that satisfies our minimum requirements; and

5. establish filing, accounting and inventory control systems complying with our requirements.

C. Fixtures, Equipment, Furniture and Signs. You will use in constructing and operating the Store only those types of construction and decorating materials, fixtures, equipment (including computer hardware, software, repair station equipment and related tools), non-inventory furniture, and signs that we have approved for Device Pitstop® stores as meeting our specifications and standards for appearance, function and performance. You may purchase approved types of construction and decorating materials, fixtures, equipment, non-inventory furniture and signs from any supplier we approve or designate (which

may include us and/or our affiliates). If you propose to purchase any material, fixture, equipment, non-inventory furniture or sign we have not then approved, or any items from any supplier we have not then approved, you must first notify us in writing and will provide to us (upon our request) sufficient specifications, photographs, drawings and other information or samples for us to determine whether the material, fixture, equipment, non-inventory furniture or sign complies with our specifications and standards, or the supplier meets our approved supplier criteria, which determination we will make and

communicate in writing to you within a reasonable time.

D. Point-of-Sale System. You will use in the Store the point-of-sale system, including all existing or future communication or data storage systems, components thereof and associated service, which we have developed and/or selected for the System (the "POS System"). The POS System developed for use in your business includes one or more proprietary software programs developed for us (the "Proprietary Software"). You must use the Proprietary Software that we or our designated third party supplier provides. The Proprietary Software will remain the confidential property of us or our third party supplier. You may be required to enter into our or a third party supplier's standard form computer software access or license agreement in connection with your use of the Proprietary Software. You will pay us or our third party suppliers the then-current license fee related to your use of the Proprietary Software and you will pay us or our third party suppliers the then-current fees for the purchase of the POS System hardware components. You will pay the then-current fee for the Proprietary Software and hardware at or before you open the Store for business. In addition, we or our third party supplier will charge you reasonable annual or monthly technology access and service fee, in the amount then posted on our intranet site or otherwise communicated to you, for access to the POS System and for computer software support we or our designee provides to you respecting the Proprietary Software. We reserve the right to assign our rights, title and interest in the Proprietary Software or any software license agreement to a third party we designate, or to replace the Proprietary Software. In such event, you may be required to enter into a separate computer software license agreement specified by us or the third party supplier of the Proprietary Software. We will not require you to replace the POS System, including the Proprietary Software, more than once during each five (5) year period starting from the Effective Date. We may require you to make certain updates and modifications to the POS System more frequently. We also may access financial information and customer data produced by or otherwise located on your POS System (collectively the "Customer Data"). We own the Customer Data that is stored on the POS System and you assign your rights in the Customer Data to us. We periodically will establish policies respecting the use of the Customer Data. You will have at the Store Internet access with a form of high-speed connection as we require. You will use an e-mail address we designate or approve for communication with us. The computer hardware component of the POS System must comply with specifications we develop and must be configured as a package unit. We have the right to designate a single source from which you must purchase the POS System, any software or hardware components thereof or associated service, and we or our affiliates may be that single source. You will be required to use and, at our discretion, pay for all future updates, supplements and modifications to the POS System. You are solely responsible for protecting yourself from disruptions, Internet access failures, Internet content failures, and attacks by hackers and other unauthorized intruders and you waive any and all claims you may have against us as the direct or indirect result of such disruptions, failures or attacks.

E. Store Opening. You will not open the Store for business without our prior written approval. You agree to complete the development and open the Store for business within the time period stated in Exhibit A.

F. Relocation of Store. You will not relocate the Store from the approved site of the Store without our prior written consent. If you relocate the Store under this Section, the "new" franchised location of the Store, including the real estate and building, must comply with all applicable provisions of this Agreement and with our then-current specifications and standards for Device Pitstop® stores. If you must relocate the Store because the Store was destroyed, condemned or otherwise became untenable

by fire, flood or other casualty, you must reopen the Store at the new franchised location in the Protected Area within twelve (12) months after you discontinue operation at the existing Store site. We will not unreasonably withhold our consent to the proposed relocation, provided we have received at least ninety (90) days written notice prior to the closing of the Store at the existing franchised location of the Store, you have obtained a site acceptable to us within the Protected Area, and you agree to open the "new" location for the Store within five (5) days after you close the Store at the "prior" franchised location and

otherwise comply with any other conditions that we may require.

5. TRAINING AND OPERATING ASSISTANCE

A. Development of Store. We or our designated supplier will provide you with prototype drawings and specifications for a Store, reflecting our requirements for dimensions, interior design and layout, image, building materials, fixtures, equipment, non-inventory furniture, signs and decor. We will provide you with reasonable consulting services in connection with the selection and evaluation of the proposed Store site and development of the Store. You acknowledge that our assistance in site location and acceptance of the premises does not represent a guaranty or representation by us that the location will be a successful location for your Device Pitstop® Store.

B. Training. Before the opening of the Store, we will provide, and you (or if you are an entity, a Principal Owner who has been approved by us) and any proposed manager of the Store must attend, an initial training program on the operation of the Store, provided at a place and time we designate. You are solely responsible for the compensation, travel, lodging and living expenses you and your employees incur in attending the initial training program or any supplemental or refresher training programs.

The initial training program will take place in up to two (2) phases, which must be successfully completed in accordance with the timeline specified by us. The training program includes instruction relating to Store operations, product purchasing and pricing, customer service, marketing and sales programs and methods of controlling operating costs. If, during any training program, we determine that any proposed manager is not qualified to manage the Store, we will notify you and you must select and enroll a substitute manager in the training program.

After the Store opens, we will provide training (at times we determine) to any new Store manager at your expense. We may require that you (or a Principal Owner) and any manager(s) and assistant manager(s) attend or, when available, participate by Internet in, all supplemental and refresher training programs that we designate. We may charge you a reasonable fee for the supplemental and refresher training programs.

C. Opening Assistance. We will provide you with the services of one of our employees for three (3) to four (4) days to assist you in the opening and initial operations of the Store. In addition, after your Store opens for business, one of our representatives will conduct a follow-up visit your Store. We will determine the time at which the employee is available to you for such Store visits.

D. Operating Assistance. We will advise you on operational issues and provide assistance in operating the Store as we deem appropriate. Operating assistance may include advice regarding the following:

1. products and services authorized for sale at Device Pitstop® stores;
2. selecting, purchasing and marketing for sale used and new consumer electronic devices and accessories and other approved products, materials and supplies;

3. employee relations, marketing assistance and sales promotion programs and accountability of employees; and

4. establishing and operating administrative, bookkeeping, accounting, inventory control, sales and general operating procedures to properly operate a Device Pitstop® store.



We will provide such guidance, in our discretion, through our Operations Manual bulletins or other written materials, telephone conversations and/or meetings at our office or at the Store in connection with an inspection of the Store. We will provide additional assistance for a fee.

E. Operations Manual. We will provide on loan to you, during the term of this Agreement, one manual copy or electronic (internet) access to an Operations Manual, and other handbooks, manuals and written materials (collectively, the "Operations Manual") for Device Pitstop® stores. The Operations Manual will contain mandatory and suggested specifications, standards and operating procedures that we develop for Device Pitstop® stores and information relating to your other obligations. Any required specifications, standards and operating procedures exist to protect our interests in the System and the Licensed Marks and to create a uniform customer experience, and not for the purpose of establishing any control or duty to take control over those matters that are reserved to you. We may add to, and otherwise modify, the Operations Manual to reflect changes in authorized products and services, and specifications, standards and operating procedures of a Device Pitstop® store. The master copy of the Operations Manual that we maintain electronically or at our principal office and make available to you will control if there is a dispute involving the contents of the Operations Manual.

## 6. LICENSED MARKS

A. Ownership and Goodwill of Licensed Marks. You acknowledge that you have no interest in or to the Licensed Marks and that your right to use the Licensed Marks is derived solely from this Agreement and is limited to the conduct of business in compliance with this Agreement and all applicable specifications, standards and operating procedures that we require during the term of the Franchise. You agree that your use of the Licensed Marks and any goodwill established exclusively benefits us, and that you receive no interest in any goodwill related to your use of the Licensed Marks or the System. You must not, at any time during the term of this Agreement or after your termination or expiration, contest or assist any other person in contesting the validity or ownership of any of the Licensed Marks.

B. Limitations on Your Use of Licensed Marks. You agree to use the Licensed Marks as the sole identification of the Store, but you must identify yourself as the independent owner in the manner we direct. You must not use any Licensed Mark as part of any corporate or trade name or in any modified form, and you cannot use any Licensed Mark in selling any unauthorized product or service or in any other manner unless we have expressly authorized such use in writing. You agree to display the Licensed Marks prominently and in the manner we direct on all signs and forms. Subject to our rights described in this Agreement, you agree to obtain fictitious or assumed name registrations as may be required under applicable law.

C. Restrictions on Internet and Website Use. We retain the sole right to advertise the System on the Internet and to create, operate, maintain and modify, or discontinue the use of, a website using the Licensed Marks. You have the right to access our website. Except as we may authorize in writing, however, you will not: (1) link or frame our website; (2) conduct any business or offer to sell or advertise any products or services on the Internet (or any other existing or future form of electronic communication); (3) create or register any Internet domain name in any connection with your Franchise; (4) use any e-mail address which we have not authorized for use in operating the Store; and (5) conduct any activity on "social media" or related social networking websites other than as we have expressly

authorized in writing. You will not register, as Internet domain names, any of the Licensed Marks or any abbreviation, acronym or variation of the Licensed Marks, or any other name that could be deemed confusingly similar. Further, you may not market, advertise or promote your Store or conduct any business on the Internet, including using social and professional networking sites to promote your Store, except as provided in our written social media policy (if any) or with our prior written approval.

D. Notification of Infringements and Claims. You must notify us immediately in writing of any apparent infringement of or challenge to your use of any Licensed Mark, or any claim by any person of any rights in any Licensed Mark or any similar trade name, trademark or service mark of which you become aware. You must not communicate with any person other than us and our counsel regarding any infringement, challenge or claim. We may take any action we deem appropriate and have the right to exclusively control any litigation or other proceeding arising out of any infringement, challenge or claim relating to any Licensed Mark. You will sign all documents, provide assistance and take all action as we may reasonably request to protect and maintain our interests in any litigation or other proceeding or to otherwise protect and maintain our interests in the Licensed Marks.

E. Litigation. You will have no obligation to and will not, without our prior written consent, defend or enforce any of the Licensed Marks in any court or other proceedings for or against imitation, infringement, any claim of prior use, or for any other allegation. You will, however, immediately notify us of any claims or complaints made against you respecting the Licensed Marks and will, at your expense, cooperate in all respects with us in any court or other proceedings involving the Licensed Marks. We will pay the cost and expense of all litigation we incur, including attorneys' fees, specifically relating to the Licensed Marks. We and our legal counsel will have the right to control and conduct any litigation relating to the Licensed Marks.

F. Changes. You cannot make any changes or substitutions to the Licensed Marks unless we so direct in writing. We reserve the right, in our discretion, to modify or discontinue use of any Licensed Mark, or to use one or more additional or substitute trademarks or service marks. In such event, you will, at your expense, comply with such modification or substitution within a reasonable time after we notify you.

## 7. CONFIDENTIAL INFORMATION/IMPROVEMENTS

A. Confidential Information. You acknowledge and agree that you do not acquire any interest in the Confidential Information, other than the right to use it in developing and operating the Store pursuant to this Agreement, and that the use or duplication of the Confidential Information in any other business constitutes an unfair method of competition. You acknowledge and agree that the Confidential Information is proprietary and is a trade secret of us and is disclosed to you solely on the condition that you agree that you: (1) will not use the Confidential Information in any other business or capacity; (2) will maintain the absolute confidentiality of the Confidential Information during and after the term of this Agreement; (3) will not make unauthorized copies of any Confidential Information disclosed in written form; (4) will adopt and implement all reasonable procedures we direct to prevent unauthorized use or disclosure of the Confidential Information, including restrictions on disclosure to Store employees; and (5) will sign a Confidentiality Agreement and will require all employees with access to Confidential Information to sign such an agreement in a form we approve.

The restrictions on your disclosure and use of the Confidential Information will not apply to disclosure of Confidential Information in judicial or administrative proceedings to the extent you are legally compelled to disclose this information, if you use your best efforts to maintain the confidential treatment of the Confidential Information, and provide us the opportunity to obtain an appropriate

protective order or other assurance satisfactory to us of confidential treatment for the information required to be so disclosed.

Notwithstanding any other provision of this Agreement, there may be certain, limited circumstances where applicable law allows for the disclosure of certain trade secrets, as specified in the Operations Manual.



B. Improvements. You must fully and promptly disclose to us all ideas, concepts, methods, techniques, improvements, additions and Customer Data relating to the development and/or operation of a Device Pitstop® store or the System, or any new trade names, service marks or other commercial symbols, or associated logos relating to the operation of the Store, or any advertising or promotion ideas related to the Store (collectively the "Improvements") that you and/or your employees conceive or develop during the term of this Agreement. You agree that we have the perpetual right to use and authorize others to use the Improvements without any obligation to you for royalties or other fees.

8. RELATIONSHIP OF THE PARTIES/INDEMNIFICATION

A. Relationship of the Parties. We and you are independent contractors. Neither party is the agent, legal representative, partner, subsidiary, joint venture or employee of the other. Neither party will independently obligate the other to any third parties or represent any right to do so. This Agreement does not reflect or create a fiduciary relationship or a relationship of special trust or confidence. You must conspicuously identify yourself at the premises of the Store and in all dealings with customers, lessors, contractors, suppliers, public officials and others as the owner of the Store under a franchise agreement from us, and must place other notices of independent ownership on signs, forms, stationery, advertising and other materials as we require.

B. Your Indemnification Obligations. You agree to indemnify and hold us and our subsidiaries, affiliates, stockholders, members, directors, officers, employees and agents harmless against, and to reimburse them for, any loss, liability or damages arising out of or relating to your ownership or operation of the Store or your or your employees' actions or inaction, and all reasonable costs of defending any claim brought against any of them or any action in which any of them is named as a party (including reasonable attorneys' fees and interest on such costs and fees) unless the loss, liability, damage or cost is solely due to our negligence.

C. Our Indemnification Obligations. We agree to indemnify and hold you and your officers, directors and agents harmless against, and to reimburse them for, any loss, liability or damage solely arising from or relating to our negligence or attributable to agreements, representations or warranties of us, and all reasonable costs of defending any claim brought against you or any action in which you are named as a party (including reasonable attorneys' fees and interest on such costs and fees).

D. Survival. The indemnities and assumptions of liabilities and obligations continue in full force and effect after the expiration or termination of this Agreement.

9. FRANCHISE FEES

A. Initial Franchise Fee. You will pay us an initial franchise fee of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The initial franchise fee is payable when you sign this Agreement. The initial franchise fee is fully earned by us when we sign this Agreement and is nonrefundable.

B. Royalty Fee. You will pay us a non-refundable weekly Royalty Fee in an amount equal to five percent (5%) of your Net Sales. The Royalty Fee is due and payable on the Wednesday of each week based on the Net Sales for the previous week (Sunday through Saturday).

C. Technology Access Fees. You will pay us our then-current annual "Technology Access Fee" in two installments on March 31 and September 30 each year in connection with your use of the

100 in the month of August 31 and September 30 each year in connection with your use of the Device Pitstop® website and extranet system, as described in Section 10(L). We reserve the right to increase the Technology Access Fee with thirty (30) days prior written notice to you. We will not increase the Technology Access Fee by more than ten percent (10%) each year.

D. Electronic Transfer of Funds. We will require you to sign electronic transfer of funds authorizations and other documents as we periodically designate, in the form attached as Exhibit B, to authorize your bank to transfer, either electronically or through some other method of payment designated by us, directly to our account and to charge your account for all amounts due to us from you. Your authorizations will permit us to designate the amount to be transferred from your account. You will maintain a balance in your accounts sufficient to allow us to collect the amounts owed to us when due. You will be responsible for any penalties, fines or similar expenses associated with the transfer of funds described herein.

E. Interest on Late Payments. All Royalty Fees, Technology Access Fees, national marketing fees (NMF Fees), and other amounts which you owe to us or our affiliates will bear interest after the due date at the lesser of: (1) eighteen percent (18%); or (2) the maximum contract rate of interest permitted by law in the state in which the Store is located.

F. Application of Payments. We have discretion to apply against amounts due to us or any of our affiliates any payments received from you or any indebtedness of us to you.

G. Withholding Payments Unlawful. You agree that you will not withhold payment of any Royalty Fees, Technology Access Fees, NMF Fees or any other amount due us, and that the alleged non-performance or breach of any of our obligations under the Franchise Agreement or any related agreement does not establish a right at law or in equity to withhold payments due us for Royalty Fees, Technology Access Fees, NMF Fees or any other amounts due.

H. Tax Indemnification. If any income, capital, gross receipts, sales, or other taxes are imposed by the state in which the Store is located as a result of your operation of the Store or the license of any of our intangible property in the jurisdiction in which the Store is located on Royalty Fees or other amounts paid to us, and we are unable to receive a tax credit equal to such tax amounts (resulting in double taxation or taxation at a higher rate), you will indemnify us and reimburse us for such taxes to the extent they exceed the tax credit we do receive. If more than one Device Pitstop® franchisee is located in such jurisdiction, they will share the liability in proportion to their Net Sales from the franchised business, except in the case of sales taxes and gross receipts taxes, which will be divided in proportion to taxable sales to the franchisees. If applicable, this payment is in addition to the Royalty Fee payments described above.

## 10. STORE IMAGE AND OPERATING STANDARDS

A. Condition And Appearance Of Store/Rebuilding Of Store. You agree to maintain the condition and appearance of the Store, and refurbish and modify its layout, decor and general theme, as we may require to maintain the condition, appearance, efficient operation, ambience and overall image of Device Pitstop® stores (as we may modify). You will replace worn out or obsolete fixtures, equipment, non-inventory furniture, or signs, repair the interior and exterior of the Store and adjacent parking areas,

and periodically clean and redecorate the Store; provided that we will not require you to substantially modernize or refurbish the Store no more than once every five (5) year period starting from the Effective Date. If at any time in our reasonable judgment, the general state of repair, appearance or cleanliness of the Store premises (including parking areas) or its fixtures, equipment, non-inventory furniture or signs does not meet our then-current standards, we will so notify you, specifying the action you must take to correct the deficiency. To the extent the cooperation of the landlord is needed to complete the

correct the deficiency. To the extent the cooperation of the landlord is needed to complete the maintenance or refurbishing, you will use your best efforts to work with the landlord to correct the deficiency. If you fail, within ten (10) days after receipt of notice, to commence action and continue in good faith and with due diligence, to undertake and complete any required maintenance or refurbishing, we may (in addition to our rights under Section 16 below) enter the Store premises and correct the deficiencies on your behalf, and at your expense.

If the Store is damaged or destroyed by fire or any other casualty, you will, within thirty (30) days, initiate repairs or reconstruction, and thereafter in good faith and with due diligence continue (until completion) repairs or reconstruction, to restore the Store premises to its original condition before the casualty. If, in our reasonable judgment, the damage or destruction is of a nature or to an extent that you can repair or reconstruct the premises of the Store consistent with the then-current decor and specifications of a new Device Pitstop® store without incurring substantial additional costs, we may require you, by giving written notice, that you repair or reconstruct the Store premises in compliance with the then-current decor and specifications.

B. Store Alterations. You cannot alter the premises or appearance of the Store, or make any unapproved replacements of or alterations to the fixtures, equipment, non-inventory furniture or signs of the Store without our prior written approval. We may, in our discretion and at your sole expense, correct any alterations to the Store not previously approved by us.

C. Restriction on Use of Premises. You agree that you will not, without our prior written approval, offer at the Store any products or services not then authorized by us for Device Pitstop® stores, nor will the Store or the premises which you occupy be used for any purpose other than the operation of a Device Pitstop® store in compliance with this Agreement.

D. Your Hiring and Training of Employees. You will hire all employees of the Store, and be exclusively responsible for the terms of their employment, compensation, scheduling, benefits, disciplining and all other personnel decisions respecting Store employees without any influence or advice from us. You will implement a training program for Store employees in compliance with our requirements. You will maintain at all times a staff of trained employees sufficient to operate the Store in compliance with our standards.

E. Products, Supplies and Materials. You agree that the Store will only offer for sale those products and services which we have approved as being suitable for sale and meeting the standards of quality and uniformity for the System. Certain products and services must be purchased from suppliers approved by us (which may include us and/or our affiliates). We periodically may modify the lists of approved brands and suppliers, and you will comply with such modified lists of approved brands and suppliers. If you propose to offer for sale any products or other services which we have not approved, you must first notify us in writing and provide sufficient information, specifications and samples concerning the brand and/or supplier to permit us to determine whether the brand complies with our specifications and standards and/or the supplier meets our approved supplier criteria. We will notify you within a reasonable time whether or not the proposed brand and/or supplier is approved. We may develop procedures for the submission of requests for approved brands or suppliers and obligations that approved suppliers must assume (which may be incorporated in a written agreement to be signed by approved suppliers). We will have the right to charge each proposed supplier a reasonable fee in reviewing a

proposed brand or supplier. We may impose limits on the number of suppliers and/or brands for any products and services to be used in the Store. You agree that certain products, materials, and other items and supplies may only be available from one source, and we or our affiliates may be that source. You must at all times maintain an inventory of products sufficient in quantity and variety to realize the full potential of the Store. Our approval is not required to buy used electronic devices and accessories from the general public, provided you sell or offer for sale only electronic devices and accessories which



the general public, provided you sell or offer for sale only electronic devices and accessories which comply with our standards and specifications for the System and otherwise comply with all applicable laws. WE AND OUR AFFILIATES MAKE NO WARRANTY AND EXPRESSLY DISCLAIM ALL WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, RESPECTING PRODUCTS, EQUIPMENT (INCLUDING ANY REQUIRED COMPUTER SYSTEMS), SUPPLIES, FIXTURES, FURNISHINGS OR OTHER ITEMS THAT WE DISTRIBUTE OR THAT THIRD PARTIES APPROVED BY US MANUFACTURE OR DISTRIBUTE FOR USE IN THE SYSTEM.

We may conduct market research and testing to determine consumer trends and the market for used and new electronic devices and accessories.

F. Standards of Service. You must at all times give prompt, courteous and efficient service to your customers. You must, in all dealings with your customers and suppliers and the public, adhere to the highest standards of honesty, integrity and fair dealing.

G. Specifications, Standards and Procedures. You acknowledge and agree that each and every detail of the appearance and operation of the Store is important to us and other Device Pitstop® stores. You agree to maintain the highest standards of quality and service in the Store and agree to comply with all mandatory specifications, standards and operating procedures (whether contained in the Operations Manual or any other written communication to you) relating to the appearance or operation of a Device Pitstop® store, including:

1. type and quality of products and services;
2. quality and uniformity of service and sales of all products and services at the Store;
3. methods and procedures relating to marketing, dealing with customers and providing services and handling customer orders;
4. the hours and days during which the Store is open for business as specified in the Operations Manual unless otherwise approved by us in writing;
5. the safety, maintenance, cleanliness, function and appearance of the Store premises and its fixtures, equipment, non-inventory furniture, décor and signs;
6. qualifications, dress, general appearance and demeanor of Store employees;
7. the style, make and/or type of equipment (including computer equipment) used in operating the Store;
8. use and illumination of exterior and interior signs, posters, displays, standard formats and similar items; and
9. Store advertising and promotion.

H. Compliance with Laws and Good Business Practices. You must secure and maintain in force all required licenses, permits and certificates relating to the operation of the Store and must operate the Store in full compliance with all applicable laws, ordinances and regulations, including labor and employment laws. You must comply with all laws and regulations relating to privacy and data protection, and must comply with any privacy policies or data protection and breach response policies we periodically may establish. You must notify us in writing within five (5) days of the commencement of

periodically may establish. You must notify us in writing within five (5) days of the commencement of any action, suit, proceeding or investigation, and of the issuance of any order, injunction, and award of decree, by any court, agency, or other governmental instrumentality that may adversely affect the operation or financial condition of you or the Store. You also must immediately notify us of any suspected data breach at or in connection with the Store. You will not conduct any business or advertising practice which injures our business, the System or the goodwill associated with the Licensed Marks and other Device Pitstop® stores.

I. Management Of the Store/Conflicting Interests. The Store must at all times be under your direct supervision or, if you are a partnership, corporation or limited liability company, a Principal Owner or an operating manager who we have approved and who has satisfactorily completed our designated training program. If an operating manager supervises the Store, you (or the Principal Owner) must remain active in Store operations, including oversight of the operating manager and any communications with us. If there is more than one Principal Owner, the Principal Owners must designate (in writing) one Principal Owner who will oversee store operations and represent you in interacting with us.

You must at all times faithfully, honestly and diligently perform your obligations and continuously use your best efforts to promote and enhance the business of the Store. Except as otherwise authorized by us in writing, the person who is responsible for the day-to-day supervision of the Store (i.e., the Principal Owner or the approved manager) must assume responsibilities on a full-time basis and must not engage in any other business or other activity, directly or indirectly, that requires any significant management responsibility, time commitments or otherwise may conflict with your obligations.

J. Insurance. You agree to purchase and maintain in force, at your expense, all of the insurance coverage we require in the types and amounts described in the Operations Manual. All insurance policies will: (1) be issued by an insurance carrier(s) acceptable to us; (2) will name us and our affiliates as an additional insured; (3) contain a waiver of the insurance company's right of subrogation against us; (4) contain the above-mentioned insurance coverage for each Device Pitstop® store that you operate; and (5) provide that we will receive thirty (30) days' prior written notice of any material change in or termination, expiration or cancellation of any policy. We periodically may, with prior written notice to you, increase the minimum liability protection requirements, and require different or additional kinds of insurance to reflect inflation or changes in standards of liability. If you at any time fail to maintain in effect any insurance coverage we require, or to furnish satisfactory evidence thereof, we, at our option, may obtain insurance coverage for you. You agree to promptly sign any applications or other forms or instruments required to obtain any insurance and pay to us, on demand, any costs and premiums we incur. You will provide us with a copies of the certificate of insurance, insurance policy endorsements or other evidence of compliance with these requirements at least two (2) weeks before you take possession and commence development of the Store premises, and at such other times as we may require. In addition, you will provide to us a copy of the evidence of the renewal or extension of each insurance policy in a form we require. Your obligation to obtain and maintain these insurance policies in the amounts required by us shall not be limited in any way by reason of any insurance that we may maintain, nor does your procurement of required insurance relieve you of liability under the indemnity obligations described in Section 8(B). Your insurance procurement obligations under this Section are separate and independent of your indemnity obligations. We do not represent or warrant that any insurance that you are required to purchase will provide adequate coverage for you. The requirements of insurance specified in this

Agreement are for our protection. You should consult with your own insurance agents, brokers, attorneys and other insurance advisors to determine the level of insurance protection you need and desire, in addition to the coverage and limits required by us.

K. Vending Services. You may not install or maintain on the premises of the Store any



newspaper racks, video games, jukeboxes, gaming machines, gum machines, games, rides, vending machines, pool tables, or other similar devices without our prior written approval. Any income from vending services in the Store or on its premises, regardless of which person or entity collects the money, must be included in Net Sales for purposes of your Royalty Fee.

L. Participation in Internet Website. We require you to participate in a Device Pitstop® website listed on the Internet or other online communications and participate in any extranet system we establish. We will, at our discretion, determine the content and use of a Device Pitstop® website and extranet system and will establish rules under which franchisees will participate. We will retain all rights relating to the Device Pitstop® website and extranet system and may alter the website or extranet system upon thirty (30) days' notice to you. Your general conduct on the Internet and the Device Pitstop® extranet system, and specifically your use of the Licensed Marks or any advertising on the Internet (including the domain name and any other Licensed Marks we may develop as a result of participation in the Internet), will be subject to the provisions of this Agreement. You acknowledge that certain information obtained through your online participation in the website or extranet system is considered Confidential Information (as defined in Section 7 above), including access codes and identification codes. Your right to participate in the Device Pitstop® website or extranet system or otherwise use the Licensed Marks or the System on the Internet will terminate when this Agreement expires or terminates.

M. E-Commerce Programs. We reserve the right to establish e-commerce programs designed to expand the market for Device Pitstop® products and services through sales of product on a centralized Internet website. You agree to participate in such programs, provided you satisfy our then-current qualifications, and understand that we will establish the rules under which you will participate.

N. Customer Loyalty Programs. We reserve the right to establish customer loyalty, gift card and other promotional programs, which may be provided by us or a designated third-party vendor. You agree to participate in such programs, and understand that we will establish the rules under which you will participate. In addition, our third-party vendor will charge you a monthly service fee, in the amount then posted on our intranet site or otherwise communicated to you, for program support we or our designee provides to you respecting such programs.

## 11. ADVERTISING

A. National Marketing and Promotional Fund. During the term of this Agreement, you will pay to us for deposit in a national marketing and promotional fund (the "NMF Fund") a national marketing fee (the "NMF Fee"). As of April 1, 2017, the NMF Fee payable to us was Two Thousand Dollars (\$2,000) per year. Based on that amount, One Thousand Dollars (\$1,000) of the NMF Fee will be due on March 31 of each year and the remaining One Thousand Dollars (\$1,000) of the NMF will be due on September 30 of each year. We have the right, during the term of this Agreement and upon sixty (60) days' prior written notice to you, to increase the NMF Fee to an amount not exceeding Three Thousand Dollars (\$3,000) per year. If we increase the NMF Fee, the Fee will be payable in two equal installments on March 31 and September 30 of each year. The NMF is payable by electronic transfer of funds or such other form of payment that we require. We will place all NMF Fees we receive in the NMF Fund and will manage such Fund. We also will contribute to the NMF Fund for each Device Pitstop® store that we operate in the United States at the same percentage rate as a majority of Device Pitstop® franchisees must pay to the NMF Fund. Reasonable disbursements from the NMF Fund will be made solely to pay expenses we incur in

connection with the general promotion of the Licensed Marks and the System, including creative design costs to produce marketing and advertising materials, the cost of formulating, developing and implementing advertising, marketing promotional materials and public relations campaigns; and the reasonable costs of administering the NMF Fund, including the cost of employing advertising agencies to assist us and providing promotional brochures and advertising materials to Device Pitstop® stores and to regional and local advertising cooperatives, as well as accounting expenses and the actual costs of salaries and fringe

local advertising cooperatives, as well as accounting expenses and the actual costs of salaries and fringe benefits paid to our employees engaged in administration of the NMF Fund. The NMF Fund is not a trust or escrow account, and we have no fiduciary obligations regarding the NMF Fund. We cannot insure that any individual franchisee will benefit directly or on a pro rata basis from the future placement of any such advertising in its local market. We may spend in any fiscal year an amount greater or less than the aggregate contributions of Device Pitstop® stores to the NMF Fund in that year. We may, through the NMF Fund, furnish you with approved local marketing plans and materials on the same terms and conditions as we impose on plans and materials we furnish to other Device Pitstop® franchisees. We will determine the methods of advertising, media employed, and scope, contents, terms and conditions of advertising, marketing, promotional and public relations campaigns and programs. Upon written request, we will provide you an annual unaudited statement of the receipts and disbursements of the NMF Fund for the most recent calendar year.

B. Local Advertising and Store Promotion. In addition to the NMF Fee due under Section 11(A) above, you will spend at least five percent (5%) of Net Sales during each calendar year on “approved” Store advertising and promotional activities in your Market Area. On or before February 15 of each year, you will provide us with an accounting of the funds that you have spent for local advertising for the preceding calendar year. For purposes of this Section, Store advertising and promotional activities are “approved” if they comply with Section 11(E) below. If you fail to spend the minimum amount required under this Section during the calendar year for approved regional cooperative advertising or local advertising, we may require you to deposit with us the difference between what you should have spent for approved advertising during the calendar year and what you actually spent for approved advertising during the calendar year. We will deposit that amount in the NMF Fund or spend it in your Market Area.

C. Cooperative Advertising. You will participate in, support and contribute a proportionate share of the cost of regional cooperative advertising programs we designate. The amount of your contribution will be determined by the regional cooperative; provided that if the regional cooperative is unable or unwilling to designate the amount of the contribution, we may designate the contribution amount. We reserve the right to designate regional and local advertising markets, to establish regional advertising cooperatives and to establish the bylaws and other rules under which such councils will operate. Your contributions to regional and local advertising cooperatives will be credited toward your local advertising obligations described in Section 11(B) above.

D. Directory Advertising. You may, at your expense, list and advertise the Store in the telephone and business directories (both hard copy and electronic forms) we have identified in the Operations Manual that are distributed within or targeted for your Market Area, using our standard forms of listing. You will not publish or use any toll-free number in operating the Store, other than the toll free telephone number(s) we may designate. If you elect to list and advertise the Store in any approved telephone or business directories, you must use the directory categories we specify and use our standard form of listing and directory advertisements. The cost of advertising will be credited towards your local advertising obligations of at least five percent (5%) of Net Sales as described in Section 11(B) above.

E. Approved Advertising, Media Plans and Store Promotion Materials. We may develop, and make available to you, local store media planning assistance. If we do so, you must use our recommended media plan in promoting the Store or otherwise develop, and obtain our advance written approval to, an alternative media/promotion plan. In addition, you will use only our approved advertising and promotional

materials approved by us in promoting the Store. If you desire to use any advertising or promotional materials in promoting the Store which we previously have not approved, you must obtain written approval from us before using any such materials, which approval will not be unreasonably withheld. If we do not respond within fifteen (15) days from the date we receive your proposed materials, you may use such materials provided they otherwise comply with this Agreement. If we later determine that your advertising materials do not satisfy our then current advertising and promotional standards, we will immediately

materials do not satisfy our then-current advertising and promotional standards, you will immediately cease using such materials upon written notice from us.

F. Participation in Certain Programs and Promotions. You will use your best efforts to promote and advertise the Store and will participate in all advertising and promotional programs we establish in the manner we direct. You will have the right to advertise and sell your products at the prices you determine, provided such prices are consistent with our general marketing and advertising guidelines.

## 12. RECORDS AND REPORTS

A. Accounting and Records. During the term of this Agreement, you will, at your expense, maintain and retain for a minimum of three (3) years from the date of their preparation, complete and accurate books, records and accounts (using such methods of bookkeeping and accounting as we may require) relating to the Store (the "Records"), in the form and manner we direct in the Operations Manual or otherwise in writing. You will be permitted to preserve Records and submit reports electronically, consistent with our requirements. The Records will include the following: (i) daily cash reports; (ii) cash receipts journal and general ledger; (iii) cash disbursements journal and weekly payroll register; (iv) monthly bank statements and daily deposit slips and canceled checks; (v) all tax returns relating to the Store; (vi) suppliers' invoices (paid and unpaid); (vii) POS System records; (viii) semi-annual balance sheets and monthly profit and loss statements; (ix) weekly inventories; (x) records of promotion and coupon redemption; and (xi) such other records and information as we periodically may request.

B. Reports and Tax Returns. You will deliver or provide access to us the following: (1) weekly sales reports relating to Net Sales; (2) by the fifteenth (15<sup>th</sup>) of each month monthly financial statements for the previous month that include a complete profit and loss statement and a balance sheet; (3) within thirty (30) days after the end of each calendar quarter an accounting of funds you have spent for approved local advertising as described in Section 11(B) above; and (4) within sixty (60) days after the end of each fiscal year, an annual profit and loss statement and source and use of funds statement for the Store for the year and a balance sheet for the Store as of the end of the year, reviewed by an independent certified public accountant. You also will provide to us copies of all Records and other information and supporting documents as we designate. All financial statements, reports and information must be on forms we approve and signed and verified by you.

## 13. INSPECTION AND AUDITS

A. Our Right to Inspect the Store. To determine whether you are complying with this Agreement, we may, at any time during business hours and without prior notice to you, inspect the Store. You will fully cooperate with our representatives making any inspection and will permit our representatives to take photographs or videotapes of the Store and to interview employees and customers of the Store.

B. Our Right to Examine Books and Records. We may, at all reasonable times and without prior notice to you, examine, audit, or request copies of the Records (including the books, records and state and/or federal income tax records of the Store). Records and supporting documents may be maintained electronically, consistent with our requirements. Any hard copy Records and supporting documents must be maintained at the Store premises or your corporate office. You will make financial

and other information available at a location we reasonably request, and will allow us (and our agents) full and free access to any such information at the Store or corporate office. You also must make copies of any Records we request and deliver those Records to us or our designee. You otherwise will fully cooperate with our representative and independent accountants hired to conduct any examination or audit.

C. Result of Audit: Unreported Net Sales. If any examination or audit discloses an



C. Result of Audit, Unreported Net Sales. If any examination or audit discloses an understatement of Net Sales, you will pay to us, within fifteen (15) days after receipt of the examination or audit report, the Royalty Fees and any NMF Fees due on the amount of the understatement, plus interest (at the rate provided in Section 9(E) above) from the date originally due until the date of payment. You must reimburse us for the cost of the audit or examination, including the charges of any independent accountants and the travel expenses, room and board and compensation of our employees, if: (1) an examination or audit is necessary because you failed to timely provide required information; (2) any examination or audit results in a determination that Net Sales for any month are understated by greater than two percent (2%); or (3) you fail to spend the minimum amount required for local store promotion under Section 11(B) above. The foregoing remedies are in addition to all other of our remedies and rights under applicable law.

#### 14. COVENANTS

A. Non-Solicitation of Customers/Employees. You covenant that, during the term of this Agreement, and for a period of two (2) years thereafter, you will not, directly or indirectly: (1) divert or attempt to divert any business, account or customer of the Store or any other Device Pitstop® stores or the System to any competing business; and (2) employ or seek to employ any person employed by us, or any other person who is at that time operating or employed by or at any other Device Pitstop® store, or otherwise directly or indirectly induce such persons to leave their employment.

B. Covenant Not To Compete During Term. You (and each Principal Owner) will not, during the term of this Agreement, directly or as an employee, agent, consultant, partner, officer, director or shareholder of any other person, firm, entity, partnership or corporation, own, operate, lease, franchise, conduct, engage in, be connected with, having any interest in, or assist any person or entity engaged in any business (including any e-commerce or internet-based business) that buys, sells or services used or new laptops, tablets, digital music players, cell phones, accessories, and other consumer electronic devices or any other related business that is competitive with a Device Pitstop® store, except: (i) with our prior written consent; or (ii) the ownership of securities listed on a stock exchange or traded on the over-the-counter market that represent one percent (1%) or less of that class of securities.

C. Post-Term Covenant Not To Compete. You (and each Principal Owner) will not, for a period of two (2) years after this Agreement expires or is terminated or the date on which you cease to conduct the business franchised under this Agreement, whichever is later, directly or as an employee, agent, consultant, partner, officer, director or shareholder of any other person, firm, entity, partnership or corporation, own, operate, lease, franchise, conduct, engage in, be connected with, having any interest in, or assist any person or entity engaged in any business that buys, sells or services used or new laptops, tablets, digital music players, cell phones, accessories, and other consumer electronic devices or any other related business that is competitive with or similar to a Device Pitstop® store that is located at the Store or within a ten (10) mile radius of the former site of the Store or any other then existing Device Pitstop® store; provided, however, that this Section 14(C) will not apply to: (i) other Device Pitstop® stores that you operate under Device Pitstop® franchise agreements; or (ii) the ownership of securities listed on a stock exchange or traded on the over-the-counter market that represent one percent (1%) or less of that class of securities. For purposes of this Section, any form of e-commerce business or website that distributes, sells or otherwise deals in the buying, selling or servicing of used or new laptops, tablets, digital music players, cell phones, accessories, and other consumer electronic devices or any other related

business that is competitive with to a Device Pitstop® store will be in violation of this provision if such e-commerce business or website offers, sells or otherwise makes its products or services available to individuals residing within or businesses located within ten (10) mile radius of the former site of the Store or any other then-existing Device Pitstop® Store.

D. Injunctive Relief. You agree that damages alone cannot adequately compensate us if there is a violation of any covenant in this Section in that injunctive relief is essential for our protection. You therefore agree that we may seek injunctive relief without posting any bond or security, in addition to the remedies that may be available to us at equity or law, if you or anyone acting on your behalf violates any covenant in this Section. The covenants stated in this Section will survive the termination or expiration of this Agreement.

15. ASSIGNMENT

A. By Us. This Agreement is fully assignable by us and benefits our successors and assigns. Any such assignment will require the assignee to fulfill our obligations under this Agreement. We reserve the right to outsource or assign any of our obligations under this Agreement to an affiliate or third party without your consent.

B. Your Assignment to Corporation or Limited Liability Company. You may assign this Agreement to a corporation or a limited liability company that conducts no business other than the Store (or other Device Pitstop® stores under franchise agreements with us), provided: (1) the assigning franchisee actively manages the Store and owns at least seventy percent (70%) of the ownership interest in the corporation or limited liability company; (2) you and all Principal Owners of the assignee entity sign the Personal Guaranty attached hereto as Exhibit C; (3) you provide us fifteen (15) days' written notice before the proposed date of assignment of this Agreement to the corporation or limited liability company; (4) you provide to us a certified copy of the articles of incorporation, operation agreement, organizational documents, a list of all shareholders or members having beneficial ownership, reflecting their respective interest in the assignee entity; and (5) the organizational documents and all issued and outstanding stock or membership certificates will bear a legend, in form acceptable to us, reflecting or referring to the assignment restrictions stated in Section 15(C) below. You will not pay a transfer fee for an assignment under Section 15(B).

C. Your Assignment or Sale of Substantially All of Your Assets. You understand that we have granted the Franchise under this Agreement in reliance upon your individual or collective character, aptitude, attitude, business ability and financial capacity. You (and your Principal Owners) will not transfer (whether voluntary or involuntary), assign or otherwise dispose of, in one or more transactions, your business, the Store, substantially all or all of the assets of your business, this Agreement or any "controlling interest" in you unless you obtain our prior written consent (except as provided in Section 15(B) above). A "controlling interest" includes a proposed transfer of fifty percent (50%) or more of the common (voting) stock of a corporate franchisee or of the ownership interest in a limited liability company or partnership). We will not unreasonably withhold our consent to an assignment, provided you comply with any or all of the following conditions which we may, in our discretion, deem necessary:

1. All of your accrued monetary obligations to us and our affiliates have been satisfied, and you otherwise are in good standing under this Agreement;

2. The transferee-franchisee (or the managing Principal Owners, if applicable) is approved by us and demonstrates to our satisfaction that he/she meets our managerial, financial and business standards for new franchisees, possesses a good business reputation and credit rating, and has the aptitude and ability to conduct the franchised business. You understand that

we may communicate directly with the transferee-franchisee during the transfer process to respond to inquiries, as well as to insure that the transferee-franchisee meets our qualifications;

3. The transferee-franchisee enters into a written agreement, in form satisfactory to us, assuming and agreeing to discharge all of your obligations and covenants under this Agreement for the remainder of your term or, at our option, signs such other agreement standard form



Agreement for the remainder of your term or, at our option, signs our then-current standard form of franchise agreement (which will provide for the same Royalty Fees and NMF Fees required for a term equal to the remaining term of this Agreement, although such agreement may provide other rights and obligations from those provided in this Agreement);

4. The transferee-franchisee successfully completes the initial training program required of new franchisees;

5. If required, the lessor of the Store premises consents to your assignment or sublease of the premises to the transferee-franchisee;

6. You pay us an assignment fee equal to one-third of the then-current initial franchise fee for new franchisees. There is not an assignment fee due upon transfer to heirs or immediate family members;

7. You (and each Principal Owner, if applicable) sign a general release, in form and substance satisfactory to us, of any and all claims against us and our current and former affiliates, and our and their respective past and present officers, directors, employees and agents, except to the extent limited or prohibited by applicable law;

8. We approve the material provisions of the assignment or sale of assets which assignment or sale cannot permit you to retain a security interest in this Agreement or any other intangible asset; and

9. You (and each Principal Owner, if applicable) sign an agreement, in form satisfactory to us, in which you and each Principal Owner covenants to observe the post-termination covenant not to compete and all other applicable post-termination obligations.

We may expand upon, and provide more details related to, the conditions for transfer and our consent as described in this Section 15(C), and may do so in the Operations Manual or otherwise in writing.

D. Your Death or Disability. If you (or the managing Principal Owner) die or are permanently disabled, your executor, administrator or other personal representative, or the remaining Principal Owners, must appoint a competent manager acceptable to us within a reasonable time, not to exceed thirty (30) days, from the date of death or permanent disability. The appointed manager must satisfactorily complete our designated training program. If a manager we approve is not appointed within thirty (30) days after your death or permanent disability, we may, but are not required to, immediately appoint a manager to maintain Store operations on your behalf until an approved assignee can assume the management and operation of the Store. Our appointment of a Store manager does not relieve you of your obligations, and we will not be liable for any debts, losses, costs or expenses incurred in operating the Store or to any of your creditors for any products, materials, supplies or services purchased by the Store while it is managed by our appointed manager. We may charge a reasonable fee for management services and may cease to provide management services at any time.

If you (or the managing Principal Owner) die or are permanently disabled, your executor, administrator, or other personal representative must transfer his/her interest within a reasonable time, not to exceed twelve (12) months from the date of death or permanent disability, to a person we approve. Such transfers, including transfers by devise or inheritance will be subject to conditions contained in Section 15(C) above.

E. Public or Private Offerings. Subject to Section 15(C) above, if you (or any of your Principal Owners) desire to raise or secure funds by the sale of securities (including common or preferred stock, bonds, debentures or general or limited partnership interests) in you or any of your affiliates, you agree to submit to us any written information we request before its inclusion in any registration statement, prospectus or similar offering circular or memorandum and must obtain our written consent to the method of financing before any offering or sale of securities. Our written consent will not imply or represent our approval respecting the method of financing, the offering literature submitted to us or any other aspect of the offering. No information respecting us or any of our affiliates will be included in any securities disclosure document, unless we furnish the information in writing in response to your written request, which request will state the specific purpose for which the information is to be used. Should we, in our discretion, object to any reference to us or any of our affiliates in the offering literature or prospectus, the literature or prospectus will not be used unless and until our objections are withdrawn. We assume no responsibility for the offering.

The prospectus or other literature utilized in any offering must contain the following language in boldface type on the first textual page:

“NEITHER DEVICE PITSTOP, LLC NOR ANY OF ITS AFFILIATES IS DIRECTLY NOR INDIRECTLY THE ISSUER OF THE SECURITIES OFFERED. NEITHER DEVICE PITSTOP, LLC NOR ANY OF ITS AFFILIATES ASSUMES ANY RESPONSIBILITY RESPECTING THIS OFFERING AND/OR THE ADEQUACY OR ACCURACY OF THE INFORMATION CONTAINED HEREIN. NEITHER DEVICE PITSTOP, LLC NOR ANY OF ITS AFFILIATES ENDORSES OR MAKES ANY RECOMMENDATION RESPECTING THE INVESTMENT CONTEMPLATED BY THIS OFFERING.”

F. Our Right of First Refusal. If you or your Principal Owners at any time during the term of this Agreement desire to sell or assign for consideration the Franchise, the Store, an ownership interest representing (in the aggregate) fifty percent (50%) or more of the ownership in you or all or substantially all of your assets, you or your Principal Owners must obtain a bona fide, executed written offer from a responsible and fully disclosed purchaser and must deliver a copy of the offer to us. We have the right, exercisable by written notice delivered to you or your Principal Owners within thirty (30) days following receipt of the proposed offer, to purchase the interest in the Store or your ownership interest for the price and on terms contained in the offer. We may substitute cash for any non-cash form of payment proposed in the offer and will have a minimum of sixty (60) days to prepare for closing. If we do not exercise our right of first refusal, you or your Principal Owners may complete the sale to the proposed purchaser under the terms of the offer, provided you and the Principal Owners otherwise comply with this Section 15. If the sale to the proposed purchaser is not completed within one hundred twenty (120) days after delivery of the offer to us, or if there is a material change in the terms of the sale, we again have the right of first refusal.

G. Guaranty. All Principal Owners of you, if you are a corporation, partnership or other entity, will sign the Guaranty and Assumption Agreement in the form attached to this Agreement as Exhibit C (the “Guaranty Agreement”). Any person or entity that at any time after the date of this Agreement becomes a Principal Owner of you under the provisions of this Section 15 or otherwise will,

as a condition of becoming a Principal Owner, sign the Guaranty Agreement. We may require the spouse of any person who signs the Guaranty Agreement to also sign the Guaranty Agreement. You will furnish to us at any time upon reasonable request a certified copy of the Articles of Incorporation or Articles of Organization and a list, in a form we reasonably require, of all shareholders or members of record and all persons having a beneficial interest in any corporation or other entity that is or becomes a franchisee.

16. FRANCHISOR'S TERMINATION RIGHTS

A. Termination of Franchise Agreement - Grounds. You will be in default, and we may, at our option, terminate this Agreement, as provided herein, if: (1) you (or the managing Principal Owner) fail to satisfactorily complete the initial training program or fail to open and commence operations of the Store at such time as provided in this Agreement; (2) you violate any material provision or obligation of this Agreement; (3) you or any of your managers, directors, officers or any Principal Owner make a material misrepresentation or omission in the application for the franchise; (4) you or any of your managers, directors, officers or any Principal Owner are convicted of, or plead guilty to or no contest to a felony, a crime involving moral turpitude, or any other crime or offense that we believe will injure the System, the Licensed Marks or the goodwill associated therewith, or if we have proof that you have committed such a felony, crime or offense; (5) you fail to comply with the material requirements of the System or the material standards of uniformity and quality for the products and services as described in the Operations Manual or as we have established in connection with the System; (6) you fail to timely pay Royalty Fees, Technology Access Fees or NMF Fees or any other obligations or liabilities due and owing to us or our affiliates or suppliers approved by us as a source for required items or fail to timely pay any advertising cooperative obligations; (7) you are insolvent within the meaning of any applicable state or federal law; (8) you make an assignment for the benefit of creditors or enter into any similar arrangement for the disposition of your assets for the benefit of creditors; (9) you voluntarily or otherwise "abandon" (as defined below) the Store; (10) you are involved in any act or conduct which materially impairs or otherwise is prejudicial to the goodwill associated with the name "Device Pitstop" or any of the Licensed Marks or the System; (11) you or a Principal Owner make an unauthorized assignment or transfer of this Agreement, the Store or an ownership interest in you; (12) you develop or use an unapproved website in connection with the Store or otherwise conduct any unauthorized activity on the Internet in violation of Section 6(C) above; or (13) your lease for the Store premises expires or is terminated for any reason (unless, through no fault of you, the lessor of the premises in which the Store is located refuses to renew your lease and you relocate within the Protected Area to a site approved by us within sixty (60) days thereafter). The term "abandon" means your failure to operate the Store during regular business hours for a period of five (5) consecutive days without our prior written consent unless such failure is due to an event of "*force majeure*" as further described in Section 20(J) below.

B. Procedure. Except as described below, you will have thirty (30) days, or such longer period as applicable law may require, after you receive from us a written Notice of Termination within which to remedy any default hereunder, and to provide evidence thereof to us. If you fail to correct the alleged default within that time (or such longer period of time as applicable law may require), this Agreement will terminate without further notice to you effective immediately when the thirty (30) day period (or such longer period as applicable law may require) expires. We may terminate this Agreement immediately upon delivery of written notice to you, with no opportunity to cure, if the termination results from any of the following: (1) you fail to comply with one or more material requirements of this Agreement on three (3) separate occasions within any twelve (12) month period; (2) the nature of your breach makes it not curable; (3) you willfully and repeatedly deceive customers relative to the source, nature or quality of goods sold; (4) any default under items (3), (4), (7), (8), (9), (10), (11) or (12) in Section 16(A) above; or (5) you willfully and materially falsify any report, statement, or other written data furnished to us either during the franchise application process or after you are awarded a franchise. Any report submitted under Section

12(B) will be conclusively deemed to be materially false if it understates Net Sales by more than four percent (4%).

C. Applicable Law. If the provisions of this Section 16 are inconsistent with applicable law, the applicable law will apply.



17. FRANCHISEE'S TERMINATION RIGHTS

You may terminate this Agreement if we violate any of our material obligations to you and fail to cure such violation within sixty (60) days after our receipt of written notice from you; provided, however, that you are in substantial compliance with the Agreement at the time you give such notice of termination. Your written notice must identify the violation and demand that it be cured.

18. FRANCHISEE OBLIGATIONS UPON TERMINATION

A. Post-Term Duties. If this Agreement expires or is terminated for any reason other than a termination as a result of a breach by us, you will:

1. within ten (10) days after termination, pay all amounts due and owing to us or our affiliates, including all Royalty Fees, Technology Access Fees, NMF fees and accrued interest due under this Agreement;
2. discontinue using, and return to us by first class prepaid United States mail any hard copies of, the Operations Manuals and any other manuals, advertising materials, and all other printed materials relating to the operation of the Franchise;
3. assign to us or, at our discretion, disconnect the telephone number for the Store. You acknowledge that we have the sole right to and interest in all telephone numbers and directory listings associated with the Licensed Marks, and you authorize us, and appoint us as your attorney-in-fact, to direct the telephone company and all listing agencies to transfer such numbers and listings to us;
4. remove from the Store premises all signs, posters, fixtures, decals, wall coverings and other materials that are distinctive of a Store or bear the name "Device Pitstop" or other Licensed Marks or any name or mark substantially similar to any Licensed Mark;
5. discontinue using the Proprietary Software, including the return of all materials relating to the Proprietary Software, and provide us or our designee with full access to your POS System hard drive to delete the Proprietary Software and related content;
6. take all necessary action to cancel all fictitious or assumed name or equivalent registrations relating to your use of any of the Licensed Marks;
7. immediately cease using Confidential Information and return to us all documents, including those documents in electronic format, that contain Confidential Information; and
8. comply with all other applicable provisions of this Agreement, including the non-compete provisions.

Upon termination of this Franchise Agreement for any reason, your right to use the name "Device Pitstop" and the other Licensed Marks and the System will immediately terminate and you (and the

Principal Owners) will not in any way associate yourself/themselves as being associated with us. If you fail to remove all signs and other materials bearing all or any portion of the Licensed Marks, we may do so at your expense.

B. Redecoration. If this Agreement is terminated for any reason, and you either remain in

possession of the premises of the former Store to operate a separate business not in violation of Section 14 above or enter into an agreement with a third party to allow such third party to directly operate a business at the premises of the former Store, you will, at your expense, modify both the exterior and interior appearance of the business premises so that they will be easily distinguished from the standard appearance of Device Pitstop® stores. At a minimum, such changes and modifications to the premises will include: (1) repainting the premises with totally different colors; (2) removing all signs and other materials bearing the name “Device Pitstop” and other Licensed Marks; (3) removing from the premises all fixtures which are indicative of Device Pitstop® stores; (4) discontinuing use of the approved employee uniforms and refraining from using any uniforms which are confusingly similar; (5) discontinuing use of all packaging and Confidential Information regarding the operation of the Store; and (6) taking such other action, at your expense, as we may reasonably require. If you fail to immediately initiate modifications to the premises of the former Store or complete such modifications within any period of time we deem appropriate, you agree that we or our designated agents may enter the premises of the former Store to make such modifications, at your risk and expense, without responsibility for any actual or consequential damages to your property or others, and without liability for trespass or other tort or criminal act.

C. Our Option To Purchase Store. If this Agreement expires or is terminated for any reason (other than our fault), we have the option, upon thirty (30) days’ written notice from the date of expiration or termination, to purchase from you all the tangible and intangible assets relating to the Store (excluding any unsalable inventory, cash, short-term investments and accounts receivable) (collectively, the “Purchased Assets”) and to obtain an assignment of your lease for (1) the Store premises (or, if an assignment is prohibited, a sublease for the full remaining term under the same provisions as your lease) and (2) any other tangible leased assets used in operating the Store. We may assign this option to purchase and assignment of leases separate and apart from the remainder of this Agreement.

The purchase price for the Store will be the “Book Value” (as defined below) of the Purchased Assets. “Book Value” means the net book value of the Purchased Assets, as disclosed in the last quarterly statement of the Store provided to us under Section 12(B) before termination or expiration, provided, however, that: (1) each depreciable asset will be valued on a “straight-line” basis without provision for salvage value; (2) we may exclude from the Purchased Assets any products or other items that were not acquired in compliance with this Agreement; and (3) we may exclude from Book Value any provision for goodwill or similar value attributable to intangible property. If we are not satisfied with the accuracy or fairness of any financial statements, or none has been submitted, our regularly employed firm of certified public accountants will determine (by audit) the Book Value. We and you will equally bear the cost of the audit. The results of the audit will be final and binding on both parties.

The purchase price, as determined above, will be paid in cash at the closing of the purchase, which will occur no later than sixty (60) days after we deliver notice of our election to purchase the Store, unless Book Value is determined by audit, in which case the closing will occur within a reasonable time, not to exceed sixty (60) days, after the results of the audit are made available. At the closing, you will deliver documents transferring good and merchantable title to the assets purchased, free and clear of all liens, encumbrances and liabilities to us or our designee and such other documents we may reasonably request to permit us to operate the Store without interruption. We may set off against and reduce the purchase price by all amounts you owe to us or any of our affiliates. If we exercise our option to purchase the Store, we may, pending the closing, appoint a manager to maintain Store operations.

D. Continuing Obligations. All obligations of us and you which expressly or by their nature survive the expiration or termination of this Agreement will continue in full force and effect following its expiration or termination and until they are satisfied or expire.



A. Arbitration. Except to the extent we elect to enforce the provisions of this Agreement by injunction as provided in Section 19(B) below, all disputes, claims and controversies between the parties, whether arising under or in connection with this Agreement or the negotiation, making, performance, breach or interpretation thereof (including claims of fraud in the inducement and other claims of fraud in the arbitrability of any matter) will be settled by arbitration under the authority of the Federal Arbitration Act in Minneapolis, Minnesota. The proceedings will be conducted under the Commercial Arbitration Rules of the American Arbitration Association, or the rule of such other arbitration services organization as the parties otherwise may agree upon in writing, to the extent such rules are not inconsistent with the provisions of this arbitration provision. The arbitrator(s) will have a minimum of five (5) years' experience in franchising or distribution law and will have the right to award specific performance of this Agreement. The arbitration will be on an individual basis only and not consolidated with any other proceeding. As part of the arbitration proceedings, each party agrees to submit no more than twenty-five (25) interrogatories or to conduct no more than four (4) depositions during the course of discovery, should discovery be ordered by the arbitrator(s). The decision of the arbitrator(s) will be final and binding on all parties; provided, however, the arbitrator(s) may not under any circumstances: (i) stay the effectiveness of any pending termination of this Agreement; (ii) assess punitive or exemplary damages; or (iii) make any award which extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business performance set by us. The binding or preclusive effect of any award will be limited to the actual dispute or claim arbitrated, and to the parties, and will have no collateral effect on any other dispute or claim of any kind. This Section 19 will survive termination or nonrenewal of this Agreement under any circumstances. Judgment upon the award of the arbitrator(s) may be entered in any court having jurisdiction thereof. During any arbitration proceeding, we and you will fully perform our respective obligations under this Agreement.

B. Injunctive Relief. Notwithstanding Section 19(A) above, you recognize that a single franchisee's failure to comply with the terms of this Agreement could cause irreparable damage to us and/or to some or all other Device Pitstop® franchisees. Therefore, if you breach or threaten to breach any of the terms of this Agreement, we will be entitled to an injunction restraining such breach and/or a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining such equitable relief, until such time as a final and binding determination is made by the arbitrators.

C. Attorneys' Fees. The nonprevailing party will pay all costs and expenses, including reasonable attorneys' fees and interest on all such costs and expenses, the prevailing party incurs in any action brought to enforce any provision of this Agreement or to enjoin any violation of this Agreement.

## 20. ENFORCEMENT

A. Severability. All provisions of this Agreement are severable and this Agreement will be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein and partially valid and enforceable provisions will be enforced to the extent valid and enforceable. If any applicable and binding law or rule of any jurisdiction requires a greater prior notice of the termination of or non-renewal of this Agreement than is required, or the taking of some other action not required, or if under any applicable and binding law or rule of any jurisdiction, any provision of this Agreement or any specification, standard or operating procedure we prescribe is invalid or unenforceable,

rights under the Federal Arbitration Act respecting Section 19 above, this Agreement will be governed by and construed under the laws of the state in which the Store is located, without regard to any conflict of laws principles of such state. You waive, to the fullest extent permitted by law, the rights and protections that might be provided through any state franchise or business opportunity laws, other than those of the state designated above.

F. Binding Effect. This Agreement is binding upon the parties and their respective executors, administrators, heirs, assigns, and successors in interest, and will not be modified except by written agreement signed by both you and us. Except as provided above, this Agreement is not intended, and will not be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Agreement.

G. References. If you consist of two or more individuals, such individuals will be jointly and severally liable, and references to you in this Agreement will include all such individuals. Reference to you as neuter or a male will also include a neuter, male or female you as relevant in the context.

H. Interpretation of Rights and Obligations. The following provisions will apply to and govern the interpretation of this Agreement, the parties' rights under this Agreement and the relationship between the parties:

1. Our Rights. Whenever this Agreement provides that we have a certain right, that right is absolute and the parties intend that our exercise of that right will not be subject to any limitation or review. We have the right to operate, administrate, develop and change the System in any manner that is not specifically precluded by the provisions of this Agreement.

2. Our Reasonable Business Judgment. Whenever we reserve discretion in a particular area or where we agree or are required to exercise our rights reasonably or in good faith, we will satisfy our obligations whenever we exercise "reasonable business judgment" in making our decision or exercising our rights. A decision or action by us will be deemed to be the result of "reasonable business judgment," even if other reasonable or even arguably preferable alternatives are available, if our decision or action is intended to promote or benefit the System generally even if the decision or action

also promotes a financial or other of our individual interests. Examples of items that will promote or benefit the System include enhancing the value of the Licensed Marks, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization, and improving the competitive position of the System. Neither you nor any third party (including a trier of fact) will substitute their judgment for our reasonable business judgment.

I. **WAIVER OF PUNITIVE DAMAGES. YOU AND WE AND OUR AFFILIATES AGREE TO WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO OR A CLAIM FOR ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT IN THE EVENT OF ANY DISPUTE BETWEEN US, EACH WILL BE LIMITED TO THE RECOVERY OF ACTUAL DAMAGES SUSTAINED BY IT.**

J. Force Majeure. If any party fails to perform any obligation under this Agreement due to a cause beyond the control of and without the negligence of such party, such failure will not be deemed a breach of this Agreement, provided such party uses reasonable best efforts to perform such obligations as soon as possible under the circumstances. Such causes include strikes, wars, riots, civil commotion, and acts of government, except as may be specifically provided for elsewhere in this Agreement.

K. Notice of Our Potential Profit. We advise you that we and/or our affiliates periodically may make available to you goods, products and/or services for use in the Store on the sale of which we and/or our affiliates may make a profit. We further advise you that we and our affiliates periodically may receive consideration from suppliers and manufacturers respecting sales of goods, products or services to you or in consideration for services provided or rights license to such persons. You agree that we and our affiliates will be entitled to such profits and consideration.

L. Entire Agreement. The "Introduction" section, the exhibit(s) to this Agreement, and that certain Disclosure Acknowledgment Agreement signed contemporaneously by you are a part of this Agreement, which represents the entire agreement of the parties, and there are no other oral or written understandings or agreements between us and you relating to the subject matter of this Agreement. Nothing in this Agreement is intended to disclaim the representations we made in the Franchise Disclosure Document we provided to you

21. NOTICES

All written notices and reports permitted or required to be delivered by the provisions of this Agreement are deemed so delivered at the time delivered by hand one (1) business day after sent by a recognized overnight delivery service which requires a written receipt, or three (3) business days after placed in the U.S. Mail by registered or certified mail, return receipt requested, postage prepaid and addressed to the party to be notified at the address stated herein or at such other address as may have been designated in writing to the other party.

22. ACKNOWLEDGEMENTS

A. Success of Franchised Business. The success of the business venture you intend to undertake under this Agreement is speculative and depends, to a large extent, upon your (or the Principal Owner's) ability as an independent businessman, and your active participation in the daily affairs of the Store as well as other factors. We do not make any representation or warranty, express or implied, as to the potential success of the business venture.

B. Independent Investigation. You acknowledge that you have entered into this Agreement after making an independent investigation of our operations and not upon any representation as to gross revenues, volume, potential earnings or profits which you might be expected to realize, nor has anyone

\_\_\_\_\_  
Name of Corporation

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

(If you are an individual owner,  
you must sign below; if a partnership,  
all partners must sign below)

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

(If you are a limited liability company)

\_\_\_\_\_  
Name of Limited Liability Company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

6. Defined Terms. All capitalized terms contained in this Exhibit and not defined herein will have the same meaning as provided in the Franchise Agreement.

COMPANY/US:

FRANCHISEE/YOU:

DEVICE PITSTOP, LLC,  
A Delaware Limited Liability Company

(If you are a corporation or limited  
liability company)

\_\_\_\_\_  
Name of Corporation or Limited Liability

Name of Corporation or Limited Liability Company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

(If you are an individual owner,  
you must sign below; if a partnership,  
all partners must sign below)

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

(3) Guarantor's liability hereunder will not be diminished or relieved by bankruptcy, insolvency or reorganization of you or any assignee or successor;

(4) Guarantor's liability will not be diminished, relieved or otherwise affected by any extension of time or credit which we may grant to you, including the acceptance of any partial payment or performance, or the compromise or release of any claims;

(5) We may proceed against Guarantor and you jointly and severally, or we may, at our option, proceed against Guarantor, without having commenced any action, or having obtained any judgment against you or any other Guarantor; and

(6) Guarantor will pay all reasonable attorneys' fees and all costs and other expenses we incurs in enforcing this Guaranty against Guarantor or any negotiations relative to the obligations hereby guaranteed.

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Tim Smith	3823 Spring Mountain Road	Las Vegas	NV	89102	702-878-8500
Rich Roehm	6440 Sky Pointe Drive, Suite 130	Las Vegas	NV	89131	702-387-9768
Paul Washington	12080 Jefferson Avenue, Suite #920	Newport News	VA	23606	757-234-7565

**LIST OF FRANCHISE AGREEMENTS SIGNED BUT NOT OPEN AS OF DECEMBER 31, 2016**

NAME	ADDRESS	CITY	STATE	ZIP	PHONE
Brad Peterson	TBD	Eden Prairie	MN	TBD	TBD
Joe Ferrazzo	TBD	Woodbury	MN	TBD	TBD
Tim Smith	TBD	Las Vegas	NV	TBD	TBD
Joyce & Cris Stock	TBD	Keller	TX	TBD	TBD

**LIST OF FORMER FRANCHISEES AS OF DECEMBER 31, 2016**

NAME	CITY	STATE	PHONE	REASON
Dave Root	Overland Park	KS	816-333-7143	Transfer
Jonathan Waite	Centennial	NV	702-432-3128	Transfer
Mike Terek	Monroeville	PA	724-387-2286	Did Not Open

New York (Agent)	New York Department of State	212-416-6042 Fax One Commerce Plaza 99 Washington Avenue, 6th Floor Albany, NY 12231-0001 518-473-2492
North Dakota	Securities Commissioner North Dakota Securities Department	600 East Boulevard Avenue State Capitol, Fifth Floor, Dept. 414 Bismarck, ND 58505-0510
South Dakota	Department of Labor and Regulation	124 S. Euclid, Suite 104



	Division of Securities	Pierre, SD 57501
Virginia (State Administrator)	State Corporation Commission Division of Securities and Retail Franchising	1300 East Main Street, 9 <sup>th</sup> Floor Richmond, VA 23219 804-371-9051
Virginia (Agent)	Clerk of the State Corporation Commission	1300 East Main Street, 1st Floor Richmond, VA 23219-3630
Washington	Department of Financial Institutions Securities Division	150 Israel Road SW Tumwater, WA 98501 360-902-8760
Wisconsin	Commissioner of Securities	Department of Financial Institutions Division of Securities 201 W. Washington Ave., Suite 300 Madison, WI 53703

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**EXHIBIT E**  
**STATE ADDENDA**

To the extent the California Franchise Investment Law, Cal. Corp. Code §§ 31000-31516 or the California Franchise Relations Act, Cal. Bus. & Prof. Code §§20000-20043 applies, the terms of this Addendum apply.

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 DISCLOSURE DOCUMENT.

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT AND COMPLAINTS CONCERNING THE CONTENTS OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT AT [WWW.DBO.CA.GOV](http://WWW.DBO.CA.GOV).

Item 3. Additional Disclosure:

Neither we nor any person described in Item 2 of the 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. 78a et seq. suspending or expelling such persons from membership in such association or exchange.

Item 17, Additional Disclosures:

The franchise agreement requires franchisee to execute a general release of claims upon renewal or transfer of the franchise agreement. California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of that law or any rule or order there under is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 – 20043).

The franchise agreement requires application of the laws of the state where the Store is located. This provision may not be enforceable under California law.

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.

The franchise agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. §101 et seq.)

The franchise agreement requires binding arbitration. The arbitration will occur in Minneapolis, Minnesota with the cost being borne by the parties as determined by the arbitrator. Prospective franchisees are encouraged to consult with 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.

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.

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The financial performance figures do not reflect the costs of sales, operating expenses, or other costs or expenses that must be deducted from the gross revenue or gross sales figures to obtain your net income or profit. You should conduct an independent investigation of the costs and expenses you will incur in operating your franchised business. Franchisees or former franchisees listed in the Disclosure Document may be one source of this information.

To the extent the California Franchise Investment Law, Cal. Corp. Code §§ 31000-31516 or the California Franchise Relations Act, Cal. Bus. & Prof. Code §§20000-20043 applies, the terms of this Addendum apply.

1. Notwithstanding anything to the contrary contained in the Franchise Agreement, to the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

The Franchise Agreement requires franchisee to execute a general release of claims upon renewal or transfer of the franchise agreement. California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of that law or any rule or order there under is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 – 20043).

The Franchise Agreement requires application of the laws of the state where you Store is located. This provision may not be enforceable under California law.

California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. The Federal Bankruptcy Code also provides rights to franchisee concerning termination of the Franchise Agreement upon certain bankruptcy-related events. If the Franchise Agreement is inconsistent with the law, the law will control.

The Franchise Agreement requires binding arbitration. The arbitration will occur in Minneapolis, Minnesota with the cost being borne by the parties as determined by the arbitrator. Prospective franchisees are encouraged to consult with 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.

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.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.

3. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Franchise Agreement. In the event of any conflict between this Addendum and the Franchise Agreement, the terms and conditions of this Addendum shall apply.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

WE:  
DEVICE PITSTOP, LLC

YOU:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

this Addendum apply.

Item 17, Additional Disclosures. The following statements are added to Item 17:

The conditions under which your franchise can be terminated and your rights upon nonrenewal may be affected by Illinois law, 815 ILCS 705/19 and 705/20.

Section 41 of the Illinois Franchise Disclosure Act states that “any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act is void.” To the extent that any provision in the Franchise Agreement is inconsistent with Illinois law, Illinois law will control.

The Illinois Franchise Disclosure Act shall govern the Franchise Agreement.

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in the Franchise Agreement which designates jurisdiction or venue in a forum outside of Illinois is void, provided that the Franchise Agreement may provide for arbitration in a forum outside of Illinois.

Any release of claims or acknowledgments of fact contained in the Franchise Agreement that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Illinois Franchise Disclosure Act, or a rule or order under the Illinois Franchise Disclosure Act will be void and are deleted with respect to claims under the Illinois Franchise Disclosure Act.

Franchisee Acknowledgment / Compliance Certification:

The representations under this Disclosure Acknowledgment Agreement are not intended, nor shall they act as a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act.



**ILLINOIS ADDENDUM TO DEVICE PITSTOP  
FRANCHISE AGREEMENT**

To the extent the Illinois Franchise Disclosure Act, Ill. Comp. Stat. §§705/1 – 705/44 applies, the terms of this Addendum apply.

1. Notwithstanding anything to the contrary contained in the Franchise Agreement, to the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

Any claims franchisee may have under the Illinois Franchise Disclosure Act shall be governed by the Illinois Franchise Disclosure Act.

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in the Franchise Agreement which designates jurisdiction or venue in a forum outside of Illinois is void with respect to any cause of action which otherwise is enforceable in Illinois, provided that the Franchise Agreement may provide for arbitration in a forum outside of Illinois.

Section 41 of the Illinois Franchise Disclosure Act states that “any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act is void.” To the extent that any provision in the Franchise Agreement is inconsistent with Illinois law, Illinois law will control.

Illinois Franchise Disclosure Act paragraphs 705/19 and 705/20 provide rights to franchisee concerning nonrenewal and termination of this Agreement. If the Franchise Agreement contains a provision that is inconsistent with the Act, the Act shall control.

Any release of claims or acknowledgments of fact contained in the Franchise Agreement that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Illinois Franchise Disclosure Act, or a rule or order under the Act shall be void and are hereby deleted with respect to claims under the Act.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.

3. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Franchise Agreement. In the event of any conflict between this Addendum and the Franchise Agreement, the terms and conditions of this Addendum shall apply.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

WE:  
DEVICE PITSTOP, LLC

YOU:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

You may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

The general release required as a condition of renewal, sale and/or assignment/transfer will not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

Franchisee Acknowledgment / Compliance Certification:

The representations under this Disclosure Acknowledgment Agreement are not intended, nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

1. Notwithstanding anything to the contrary contained in the Franchise Agreement, to the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

The general release required as a condition of renewal, sale and/or assignment/transfer

shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

Nothing in the Franchise Agreement prevents the franchisee from bringing a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

Nothing in the Franchise Agreement operates to reduce the 3-year statute of limitations afforded to a franchisee for bringing a claim arising under the Maryland Franchise Registration and Disclosure Law. Further, any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

The Federal Bankruptcy laws may not allow the enforcement of the provisions for termination upon bankruptcy of the franchisee.

All initial fees and payment shall be deferred until such time as the franchisor completes its initial obligations under the Franchise Agreement.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.

3. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Franchise Agreement. In the event of any conflict between this Addendum and the Franchise Agreement, the terms and conditions of this Addendum shall apply.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

WE:  
DEVICE PITSTOP, LLC

YOU:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

**MINNESOTA ADDENDUM TO DEVICE PITSTOP  
FRANCHISE DISCLOSURE DOCUMENT**

This Addendum relates to franchises sold in the state of Minnesota and is intended to comply with Minnesota statutes and regulations.

1. Item 13. Item 13 of the disclosure document is amended to include the following language:

We will indemnify you for damages for which you are held liable in any proceeding arising out of the use of the "Device Pitstop" mark, provided you have used the Licensed Marks properly and have notified us

of any claim against you within 10 days of your knowledge of the claim. We will have sole control of any litigation involving the Licensed Marks. Our indemnification obligation will not apply to any franchisee residing outside the state of Minnesota who purchases a franchise to be located outside of Minnesota.

2. Item 17. Item 17 of the disclosure document is amended to include the following:

“Minnesota law provides franchisees with certain termination and non-renewal rights. Minnesota Statutes Section 80C.14, subs. 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 nonrenewal of the Franchise Agreement.

Minnesota Statutes Section 80C.21 and Minnesota Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. To the extent a dispute is subject to litigation (and not arbitration), nothing in the disclosure document or Franchise Agreement can eliminate or reduce any of your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

No release language stated in the Franchise Agreement will relieve us or any other person, directly or indirectly, from liability imposed by Minnesota laws concerning franchising, provided that this part will not bar the voluntary settlement of disputes.”

1. Licensed Marks – Indemnification. Section 6 of the Franchise Agreement is amended to include the following language:

If you are a Minnesota franchisee, we will indemnify you for damages for which you are held liable in any proceeding arising out of the use of the “Device Pitstop” mark, provided that you have used the mark properly and has notified us of any claim against you within ten (10) days of your knowledge of such claim. We will have sole control of any litigation involving the Licensed Marks. Our indemnification obligation will not apply to any franchisee residing outside the state of Minnesota who purchases a franchise to be located outside of Minnesota.

2. Application of Minnesota Law. Sections 3 and 16 of the Franchise Agreement are amended by adding the following sentences at the end of each Section: “Minnesota law provides franchisees with certain termination and nonrenewal rights. Minnesota Statutes Section 80C.14, subs. 3, 4 and 5 require, except in certain specified cases, that a Franchisee be given 90 days’ notice of termination (with 60 days to cure) and 180 days’ notice for nonrenewal of the Franchise Agreement.”

3. Injunctive Relief. The second sentence of Section 19(B) is deleted in its entirety and replaced with the following:

Therefore, if you breach or threaten to breach any of the terms of this Agreement, we may seek an injunction restraining such breach and/or a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys’ fees and other costs incurred in obtaining such equitable relief, until such time as a final and binding determination is made by the arbitrators.

4. Venue. Section 20(D) of the Franchise Agreement is deleted.

5. Governing Law. Section 20(E) of the Franchise Agreement is amended by adding the following provision at the end of such Section: “Under Minnesota Statutes Section 80C.21, this section will not in any way abrogate or reduce any rights of the Franchisee as provided for in Minnesota Statutes, Chapter 80C including the right to submit non-arbitrable matters to the jurisdiction of the courts in



Chapter 80C, including the right to submit non-arbitrable matters to the jurisdiction of the courts in Minnesota. Minnesota statutes Section 80C.21 and Minnesota Rule 2860.4400J prohibit the Franchisor from requiring litigation to be conducted outside Minnesota.”

6. Release. No release language stated in the Franchise Agreement will relieve us or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Minnesota, provided that this part will not bar the voluntary settlement of disputes.

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Other than as described in Item 3, neither we, nor any of our predecessors, nor any person identified in Item 2, nor any affiliate offering franchises under our principal trademark:

A. Has an administrative, criminal or civil action pending against that 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. 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. Has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the ten-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud or securities law; fraud, embezzlement, fraudulent conversion or misappropriation of property, or unfair or deceptive practices or comparable allegations.

D. 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.

Item 4, Additional Disclosure. Item 4 is deleted and replaced with the following:

Neither we nor any of our predecessors, affiliates, or officers, or general partners during the 10-year period immediately before the date of the Disclosure Document: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the Bankruptcy Code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within one year after the officer or general partner of the franchisor held this position in the company or partnership.

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

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor's obligations under the Franchise Agreement.

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 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.

Any provision in the Franchise Agreement that is inconsistent with the New York General Business Law, Article 33, Section 680 - 695 may not be enforceable.

Any provision in the Franchise Agreement requiring franchisee to sign a general release of claims against franchisor does not release any claim franchisee may have under New York General Business Law, Article 33, Sections 680-695.

The New York Franchise Law shall govern any claim arising under that law.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.

3. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Franchise Agreement. In the event of any conflict between this Addendum and the Franchise Agreement, the terms and conditions of this Addendum shall apply.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

WE:  
DEVICE PITSTOP, LLC

YOU:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

Covenants not to compete during the term of and upon termination or expiration of the franchise agreement are enforceable only under certain conditions according to North Dakota law. If the Franchise Agreement contains a covenant not to compete that is inconsistent with North Dakota law, the covenant may be unenforceable.

The Franchise Agreement includes a waiver of exemplary and punitive damages. This waiver may not be enforceable under North Dakota law.

The Franchise Agreement stipulates that the franchisee shall pay all costs and expenses incurred by franchisor in enforcing the agreement. For North Dakota franchisees, the prevailing party is entitled to recover all costs and expenses, including attorneys' fees.

The Franchise Agreement requires the franchisee to consent to a waiver of trial by jury. This waiver may not be enforceable under North Dakota law.

The Franchise Disclosure Document and Franchise Agreement state that franchisee must consent to the jurisdiction of courts outside that State of North Dakota. That requirement may not be enforceable under North Dakota law.

Any release executed in connection with a renewal shall not apply to any claims that may arise under the North Dakota Franchise Investment Law.

Covenants not to compete during the term of and upon termination or expiration of the franchise agreement are enforceable only under certain conditions according to North Dakota law. If the Franchise Agreement contains a covenant not to compete that is inconsistent with North Dakota law, the covenant may be unenforceable.

The choice of law other than the State of North Dakota may not be enforceable under the North Dakota Franchise Investment Law. If the laws of a state other than North Dakota govern, to the extent that such law conflicts with North Dakota law, North Dakota law will control.

The waiver of punitive or exemplary damages may not be enforceable under the North Dakota Franchise Investment Law.

The waiver of trial by jury may not be enforceable under the North Dakota Franchise Investment Law.

The requirement that arbitration be held outside the State of North Dakota may not be enforceable under the North Dakota Franchise Investment Law. Any mediation or arbitration will be held at a site agreeable to all parties.

The Franchise Agreement states that franchisee must consent to the jurisdiction of courts located outside the State of North Dakota. This requirement may not be enforceable under North Dakota law.

Franchise Agreement stipulates that the franchisee shall pay all costs and expenses incurred by Franchisor in enforcing the agreement. For North Dakota franchisees, the prevailing party is entitled to recover all costs and expenses, including attorneys' fees.

Payment of the initial franchise fee is deferred until such time as the franchisor completes its initial obligations and franchisee is open for business.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.

3. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

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This Addendum is being entered into in connection with the Franchise Agreement. In the event of any conflict between this Addendum and the Franchise Agreement, the terms and conditions of this Addendum shall apply.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

WE:  
DEVICE PITSTOP, LLC

YOU:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_



“According 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 does 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.”

- - -

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

WE:  
DEVICE PITSTOP, LLC

YOU:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration involving a franchise purchased in Washington, the arbitration site shall be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the 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, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

#### **WASHINGTON ADDENDUM TO DEVICE PITSTOP FRANCHISE AGREEMENT**

To the extent the Washington Franchise Investment Protection Act, Wash. Rev. Code §§19.100.010 – 19.100.940 applies, the terms of this Addendum apply.

1. Notwithstanding anything to the contrary contained in the Franchise Agreement, to the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

The state of Washington has a statute, RCW 19.100.180 which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. 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.

In any arbitration involving a franchise purchased in Washington, the arbitration site shall be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the 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, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable

transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.

3. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Franchise Agreement. In the event of any conflict between this Addendum and the Franchise Agreement, the terms and conditions of this Addendum shall apply.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

WE:  
DEVICE PITSTOP, LLC

YOU:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

**EXHIBIT F**  
**GENERAL RELEASE FORM**

**THIS IS A CURRENT RELEASE FORM THAT GENERALLY WILL BE USED WITH OR INCORPORATED INTO A SEPARATE AGREEMENT. THIS FORM IS SUBJECT TO CHANGE OVER TIME.**

For and in consideration of the Agreements and covenants described below, Device Pitstop, LLC ("Franchisor") and \_\_\_\_\_ ("Franchisee") enter into this Release of Claims ("Agreement").

**RECITALS**

A. Franchisor and Franchisee entered into a Device Pitstop Franchise Agreement dated \_\_\_\_\_, \_\_\_\_.

B. [NOTE: Describe the circumstances relating to the release.]

**AGREEMENTS**

1. **Consideration.** [NOTE: Describe the consideration paid.]

2-3. [NOTE: Detail other terms and conditions of the release.]

4. **Release.** Franchisee hereby releases Franchisor, its officers, directors, shareholders, and agents, and their respective successors, assigns, heirs, and personal representatives, from all debts, representations, agreements, liabilities, actions, and causes of action of every kind and nature arising out of or relating to the Franchise Agreement between Franchisor and Franchisee, the offer and sale of that franchise and the franchise relationship between the parties.

5. **General.** No amendment to this Agreement or waiver of the rights or obligations of either party shall be effective unless in writing signed by the parties. This Agreement is governed by the laws of the State of \_\_\_\_\_ without regard to conflicts of laws principles. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. This Agreement contains the entire agreement and understanding of the parties concerning the subject matter of this Agreement. [NOTE: Detail other miscellaneous provisions.]

FRANCHISEE:

DEVICE PITSTOP, LLC

\_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

ITS: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXHIBIT G**

**DISCLOSURE ACKNOWLEDGMENT AGREEMENT**



Applicant \_\_\_\_\_  
(If corporation) State of Incorporation \_\_\_\_\_  
Address of Applicant \_\_\_\_\_  
Location (Territory) Applied For \_\_\_\_\_

1. I have received all appropriate offering circulars and disclosure documents for the State(s) of \_\_\_\_\_ at my first personal meeting with Device Pitstop, LLC (“Franchisor”) and have had at least fourteen (14) calendar days before signing the Franchise Agreement and/or payment of any monies.

2. I have signed and returned to Franchisor the acknowledgment of receipt for each disclosure document given me.

3. I have had an opportunity to read the Franchise Agreement thoroughly and understand all of Franchisor’s covenants and obligations and my obligations as a franchisee of the Device Pitstop® system. I understand that the Franchise Agreement contains all obligations of the parties and that Franchisor does not grant to me under the Franchise Agreement any right of first refusal.

4. I understand that this franchise business, as in all business ventures, involves risk and despite assistance and support programs, the success of my business will depend largely upon me and my ability.

5. Other than fill in the blank provisions or changes due to negotiations that I initiated, I received a completed Franchise Agreement at least seven (7) calendar days before the actual date I signed the Agreement.

6. I understand that Franchisor will establish a national marketing and promotional program which is not directed towards any specific franchise territory but is intended to benefit the entire Device Pitstop® system nationwide.

7. I have had no promises, guarantees or assurances made to me and no information provided to me relative to earnings, revenues, profits, expenses or projected revenues for this franchise, except as disclosed in the disclosure document. If I believe that I have received any such promises, guarantees, assurances or information, I agree to describe it below (otherwise write “None”).

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

Applicants’ Acknowledgment:

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

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

("Licensee"), is effective as of \_\_\_\_\_, 20\_\_ (the "Effective Date").

#### BACKGROUND

A. Device Pitstop, LLC ("DP") and Licensee have entered into a Franchise Agreement (the "Franchise Agreement") under which Licensee will operate a Device Pitstop® franchised business at a designated site (the "Franchised Business"). Under the Franchise Agreement, Licensee must use the software designated by DP in operating the Franchised Business.

B. The Licensor (an affiliate of DP) owns proprietary third-party software for use in point-of-sale cash registers and back-office computers for tracking, analyzing and reporting sales, inventory and other operational information, and has been designated by DP as the exclusive provider of customized software for use in Device Pitstop® franchised businesses (the "Software").

C. The Licensor agrees to grant Licensee a license to use the Software at the Franchised Business under the terms stated below.

#### AGREEMENT

In consideration of the foregoing and the agreements stated below, the parties agree as follows:

1. ACCESS TO SOFTWARE

The Licensor grants to Licensee a non-transferable and non-exclusive right to use the Software solely in connection with the operation and management of the Franchised Business.

2. RESTRICTIONS ON USE

A. General Obligations. Licensee agrees to fully comply with each of the provisions of this Agreement, including those additional obligations and restrictions described on Exhibit H-1 attached hereto, and understands that Licensee's violation of any of such provisions may jeopardize DP's and other licensees' use of the Software, in addition to the possible termination of Licensee's rights under this Agreement.

B. Limitations on Use. Licensee may use the Software only as permitted under the terms of this Agreement. Licensee cannot use the Software for any other use, including copying or reproduction; processing of data arising other than from the internal operations of the Franchised Business; disassembling, reverse engineering, or accessing the source code of the Software; publication or disclosure; license, sublicense or re-license; alteration; or unauthorized assignment or transfer. Licensee will use its best efforts to protect the Software at all times from any unauthorized use.

C. Multiple Locations. This Agreement applies only to the authorized Franchised Business location. If Licensee operates more than one Device Pitstop® franchised business, Licensee and the Licensor must enter into a separate software license agreement for each franchised business location.

3. HOSTING SERVICE

A. Connectivity. Licensee must provide connectivity, either Internet-based or private connection, from Licensee's site with sufficient bandwidth to meet Licensee's use demands. Licensee

will comply with Licensor's minimum hardware and software requirements, as disclosed and periodically updated in DP's confidential franchise operations manuals.

B. Backup. All Licensee data will be backed up on a daily basis by Licensee. Licensee also must ensure the security, integrity and confidentiality of all of Licensee's data.

#### 4. PAYMENT

A. Initial Development Fee. Licensee will pay to the Licensor a computer access and POS System development fee on or before the date Licensee commences operation of the Franchised Business. These fees include a Three Thousand Dollar (\$3,000) fee for the initial development fee for the Software.

B. Monthly Support Fee. Licensee will pay the Licensor a monthly software support fee (the "Support Fee") for the support and maintenance services described herein and for accessing the Software. The current monthly Support Fee is Two Hundred and Fifty Dollars (\$250). The Licensor (or DP on behalf of the Licensor) will automatically deduct the Support Fee from Licensee's checking account through ACH on the first of each month beginning upon the Store opening. Licensee is responsible for any sales, excise, use or value-added taxes applicable to the Software or this Agreement. The Licensor reserves the right to periodically increase the Support Fee by a reasonable amount to reflect the Licensor's increased costs of providing services (including those provided by third parties) and Software access under this Agreement.

#### 5. SUPPORT AND MAINTENANCE

A. Licensor Support Services. The Licensor will provide the following services to Licensee during the term of this Agreement: at a minimum a help desk support to answer questions related to functionality of the Software; correcting identifiable and reproducible program errors in the Software; and providing major upgrades of the Software that are made generally available by the Licensor. Help desk services are not a substitute for training or consulting services. Training documentation is provided for Licensee to train its own employees. Training classes will also be offered for additional fees.

B. Software Updates. The Licensor may, in its sole discretion, periodically release updates, modifications and enhancements respecting the Software. Licensee will install any fixes, updates, modifications or enhancements which Licensor designates as mandatory. The Licensor may charge a reasonable fee for its services, including any services or expenses relating to updates, modifications, and enhancements to the Software which it elects to release.

#### 6. CONFIDENTIALITY

A. Confidential Information. Licensee acknowledges and agrees that all provisions in the Franchise Agreement respecting "Confidential Information" (as defined in the Franchise Agreement) will apply to this Agreement.

B. Customer Data. Licensee acknowledges and agrees that all provisions in the Franchise Agreement respecting "Customer Data" (as defined in the Franchise Agreement) will apply to this Agreement.

#### 7. INDEMNIFICATION FOR THIRD PARTY INFRINGEMENT CLAIMS

A. Indemnification of Licensee for Software. The Licensor does not have actual knowledge of any claim that the Software infringes upon a third party's patent, copyright or other proprietary right. If a third party asserts such an infringement claim against Licensee, Licensee will immediately notify Licensor in writing. Licensor will have the right (but not the obligation) to defend any such claim, at

Licensor's expense, and Licensee will cooperate with Licensor with respect to such defense. In the event of any such claim, Licensee will, at Licensor's direction, immediately discontinue using the Software. Licensor will either modify the Software so as to make it non-infringing, replace the Software with such other non-infringing software as Licensor may furnish to Licensee or discontinue using the Software without compensation to Licensee. Licensor will not be liable to Licensee if an infringement claim is based on Licensee's unauthorized use or modification of the Software.

B. Licensee Indemnification of DP and Licensor. In addition to Licensee's indemnification obligations under the Franchise Agreement, Licensee will hold harmless, indemnify and defend DP and Licensor against all claims and will pay all costs, damages and reasonable attorneys' fees, arising out of or resulting from Licensee's failure to comply with all applicable terms of this Agreement.

8. WARRANTY DISCLAIMER

LICENSOR DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING NON-INFRINGEMENT (EXCEPT AS PROVIDED IN SECTION 7(A) or 7(B) ABOVE), MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LICENSOR DOES NOT WARRANT THAT THE SOFTWARE IS ERROR-FREE OR THAT USE OF THE SOFTWARE WILL BE FREE FROM MINOR INTERRUPTIONS.

9. LIMITATION ON DAMAGES

THE LIABILITY OF THE LICENSOR TO LICENSEE WILL NOT EXCEED THE AMOUNTS LICENSEE PAYS TO THE LICENSOR UNDER THIS AGREEMENT. NEITHER THE LICENSOR NOR ANY OF ITS OFFICERS, DIRECTORS, AGENTS, AFFILIATES OR REPRESENTATIVES WILL BE LIABLE TO LICENSEE FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) RELATED TO THIS AGREEMENT OR RESULTING FROM LICENSEE'S USE OR INABILITY TO USE THE SOFTWARE, THAT ARISE FROM ANY CAUSE OF ACTION, INCLUDING CONTRACT, WARRANTY, STRICT LIABILITY, OR NEGLIGENCE, EVEN IF THE LICENSOR HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.

10. PROPRIETARY RIGHTS

Other than the access granted under this Agreement, no right, title or interest in all or any portion of the Software is conveyed or assigned to Licensee, either expressly or by implication, under this Agreement, including any patents, copyrights, trade secrets, trademarks, trade names, or other intellectual property associated with the Software.

11. TERM AND TERMINATION

This Agreement commences on the Effective Date and continues until the current term of the Franchise Agreement terminates or expires, unless this Agreement is earlier terminated under this Section. The Licensor may terminate this Agreement: (1) immediately upon written notice to Licensee if Licensee violates Sections 2(A) or 6 above or if Licensee makes an assignment for the benefit of creditors, or commences or has commenced against it any proceeding in bankruptcy, insolvency, or reorganization pursuant to bankruptcy laws or laws of debtor's moratorium; (2) if Licensee violates any provision of this Agreement and fails to cure such violation within thirty (30) days or such shorter time as the Licensor or DP deems reasonably necessary to avoid termination of the Franchise Agreement; (3) Licensee ceases to have the right to operate the Franchised Business; or (4) otherwise upon termination of the Franchise Agreement. In addition, the Licensor has the right to terminate this Agreement upon sixty (60) days' written notice to Licensee if the Licensor intends to discontinue or replace the Software. Upon termination of this Agreement: (1) the Licensor agrees to provide Licensee with access to the Customer



Data; provided, Licensee agrees not to use any Customer Data for any activity that would violate Licensee's covenants or post-termination obligations stated in the Franchise Agreement; and (2) Licensee will immediately pay the Licensor all amounts due respecting the Software and Hosting Service and immediately return to the Licensor all property relating to the Software and related Software documentation.

12. THIRD PARTY BENEFICIARY

Licensee acknowledges and agrees that DP is a third party beneficiary under this Agreement and that DP has an independent right to enforce any term, provision, covenant or obligation of this Agreement, if Licensee has an uncured default hereunder.

13. MISCELLANEOUS

This Agreement will be governed by the laws of the State of Minnesota.

A. This Agreement represents the entire agreement between the parties respecting this subject matter and supersedes all prior agreements, representations, negotiations and understandings between the parties. Licensor and Licensee acknowledge and agree that dispute resolution, governing law and venue will be governed in the same manner as under the corresponding provisions of the Franchise Agreement. Licensee expressly acknowledges that a violation or default of the Franchise Agreement will constitute a default of this Agreement and any default of this Agreement will constitute a default of the Franchise Agreement. If Licensee defaults under the Franchise Agreement, DP may pursue all remedies available to it under this Agreement or the Franchise Agreement, including the right of termination.

B. All amendments to this Agreement must be in writing and signed by both parties.

C. If any provision of this Agreement is found by an arbitrator or a court of competent jurisdiction to be illegal or unenforceable, then the remaining provisions will remain in full force and effect.

D. The Licensor may assign all or any of its interests or obligations in this Agreement to any other person or entity. Licensee may assign this Agreement only to its successor in interest under the terms of the Franchise Agreement.

E. Notices will be given to Licensee at the address of the approved location of the Franchised Business. Notices to the Licensor will be given at 4350 Baker Road, Suite 350, Minnetonka, MN 55343 or such other address as Licensor may provide to Licensee in writing. All notices will be deemed given as described in the Franchise Agreement.

The parties have signed this Agreement as of the date first written above.

THE LICENSOR:

BST Software Company  
a Delaware corporation

LICENSEE:

(If Licensee is a corporation or limited  
liability company)

\_\_\_\_\_  
Name of corporation or limited liability  
company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

(If Licensee is an individual owner,  
Licensee must sign below; if a partnership,  
all partners must sign below)

\_\_\_\_\_  
Licensee

\_\_\_\_\_  
Licensee

\_\_\_\_\_  
Licensee

\_\_\_\_\_  
Licensee

Licensee acknowledges and agrees that, except for Licensee’s license expressly described in this Agreement, Licensee has no right, title and interest in the Software, in any form, or in any copies thereof, including all worldwide copyrights, trade secrets, patent rights and any other proprietary information and confidential information rights therein. In connection therewith, Licensee agrees at all times to keep the Software free of all security interests, liens, encumbrances (other than licenses permitted hereunder), mortgages and claims, and Licensee agrees that neither it nor anyone at its direction will file a financing statement, mortgage, notice of lien, deed of trust, security agreement or any other agreement or instrument creating or giving notice of an encumbrance or charge against the Software.

Neither Licensor nor DP will be liable for any default or delay in the performance of its obligations hereunder: (i) if and to the extent that such default or delay arises out of causes beyond its reasonable control, including acts of God, acts of war, acts of governmental authority, acts of public energy, insurrection, earthquakes, fires, cable cuts, floods, terrorism, and riots (each, a “Force Majeure Event”) and (ii) provided such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternative sources, work-around plans or other means. Upon the occurrence of a Force Majeure Event, Licensor or DP, as the case may be, will be excused from further performance or observance of the obligation(s) affected so long as such circumstances caused by the Force Majeure Event prevail and the parties use their reasonable efforts to promptly recommence performance or observance of such obligation(s).

The Guarantor signs this guarantee at Minnetonka, Minnesota, on the 13<sup>th</sup> day of April, 2017.

Guarantor:

CLOTHES MENTOR, LLC

By: [Signature]

Name: Ronald G. Olson

Title: President

GP:4645208 v1

Its telephone number is (866) 261-2030.

Issuance Date: April 19, 2017.

The franchise seller involved in offering and selling the franchise to you is James Wollman, 4350 Baker Road, Suite 350, Minnetonka, MN 55343, (866) 261-2030, or is listed below (with address and telephone number) or will be provided to you separately before you sign a franchise agreement:

Device Pitstop authorizes the respective state agencies identified on Exhibit D to receive service of process for us in the particular state.

I have received a disclosure document dated April 19, 2017, that included the following Exhibits:

- (A) Financial Statements
- (B) Franchise Agreement
- (C) List of Franchised Stores
- (D) List of State Administrators; Agents for Service of Process
- (E) State Addenda
- (F) General Release Form
- (G) Disclosure Acknowledgment Agreement
- (H) BST Software License Agreement
- (I) Guarantee of Clothes Mentor, LLC
- (J) Receipts

Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

\_\_\_\_\_  
Print Name

Prospective Franchisee's Copy

**Receipt**

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

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

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

The franchisor is Device Pitstop, LLC located at 4350 Baker Road, Suite 350, Minnetonka, MN 55343. Its telephone number is (866) 261-2030.

Issuance Date: April 19, 2017.

The franchise seller involved in offering and selling the franchise to you is James Wollman, 4350 Baker Road, Suite 350, Minnetonka, MN 55343, (866) 261-2030, or is listed below (with address and telephone number) or will be provided to you separately before you sign a franchise agreement:

\_\_\_\_\_.

Device Pitstop authorizes the respective state agencies identified on Exhibit D to receive service of process for us in the particular state.

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- |   |   |
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| (B) Franchise Agreement   | (G) Disclosure Acknowledgment Agreement |
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| (D) List of State Administrators; Agents for Service of Process | (I) Guarantee of Clothes Mentor, LLC    |
| (E) State Addenda   | (J) Receipts                            |

Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

\_\_\_\_\_  
Print Name

Copy for Device Pitstop, LLC

Please sign and date both copies of this receipt, keep one copy (the previous page) for your records, and mail one copy (this page) to the address listed on the front page of this disclosure document or send to James Wollman by email to [jwollman@ntyfranchise.com](mailto:jwollman@ntyfranchise.com) or by fax to (952) 923-1224.



