

FRANCHISE DISCLOSURE DOCUMENT

BLACK DIAMOND FRANCHISING INC

An Indiana Corporation
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Jeffersonville, IN 47130
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The Franchisor is Black Diamond Franchising Inc (hereinafter referred to as “Black Diamond”, “Black Diamond”, “we”, or “us”). We develop, operate, and franchise termite and pest control services.

As a Black Diamond franchisee, you will sell termite and pest control services to residences and businesses.

The total investment necessary to begin operation of a Black Diamond franchise ranges from about \$73,900 on the low end to about \$197,500 on the high end. This includes a range of \$27,000 to \$62,000 in fees and reimbursable expenses that must be paid to the franchisor or affiliate.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **NOTE, HOWEVER, THAT NO GOVERNMENTAL AGENCY HAS VERIFIED THE INFORMATION CONTAINED IN THIS DOCUMENT.**

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Black Diamond Franchising Inc at 4911 Hamburg Pike, Jeffersonville, IN 47130 (Tel: (812) 944-0453).

The terms of your contract will govern your franchise relationship. Do not 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, such as a lawyer or an accountant.

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

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

Issued: April 18, 2025.

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.**

Call the state franchise administrators listed in Exhibit A to this disclosure document 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 PERMITS EITHER YOU OR US TO SUBMIT DISPUTES TO A COURT OR TO ARBITRATION. THE PLACE OF ARBITRATION SHALL BE IN THE STATE WHERE THE APPROVED LOCATION IS LOCATED. SOME STATES MAY HAVE LAWS REGARDING ARBITRATION/LITIGATION. SEE ADDENDA TO CONTRACTS AND/OR FDD REQUIRED BY VARIOUS STATES (EXHIBITS B and I).
2. THE FRANCHISE AGREEMENT STATES THAT INDIANA LAW GOVERNS THAT AGREEMENT. THESE LAWS MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW OR LOCAL LAW MAY APPLY REGARDLESS OF THIS STATEMENT. PLEASE REFER TO ANY STATE-SPECIFIC ADDENDA ATTACHED TO THIS DISCLOSURE DOCUMENT FOR CAVEATS REQUIRED BY VARIOUS STATES (EXHIBITS B and I). YOU MAY WANT TO COMPARE THESE LAWS.
3. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

****LOCAL LAW MAY SUPERSEDE THESE FRANCHISE AGREEMENT PROVISIONS. CERTAIN STATES REQUIRE THE SUPERSEDING PROVISIONS TO APPEAR IN AN ADDENDUM IN THIS DISCLOSURE DOCUMENT.**

Our agents authorized to receive service of process are listed in Exhibit A to this disclosure document.

In accordance with the requirements of the Federal Trade Commission, this disclosure document was issued on April 18, 2025 without amendment. Certain states require franchisors to make additional disclosures related to the information contained in this disclosure document. If applicable, these additional disclosures will be furnished to you in an addendum.

Issued: April 18, 2025.

The Effective Date for this disclosure document in your state is listed on the following page.

**STATE COVER PAGE
EXHIBIT A**

STATE EFFECTIVE DATES

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

This Franchise Disclosure Document is effective in these states as of the following date:

California	Not Registered		New York	Not Registered
Hawaii	Not Registered		North Dakota	Not Registered
Illinois	No Registered		Rhode Island	Not Registered
Indiana	April 18, 2025		South Dakota	Not Registered
Maryland	Not Registered		Virginia	Not Registered
Michigan	Not Registered		Washington	Not Registered
Minnesota	Not Registered		Wisconsin	Not Registered

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

How to Use This Franchise Disclosure Document

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

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

What You Need To Know About Franchising *Generally*

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

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

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

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

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

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

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

Some States Require Registration

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

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda in *Exhibit I*.

Special Risks to Consider About *This* Franchise

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

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

Certain states may require other risks to be highlighted. Check the “State Specific Addenda” in Exhibit I to see whether your state requires other risks to be highlighted.

BLACK DIAMOND FRANCHISING, INC.
FRANCHISE DISCLOSURE DOCUMENT

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ITEM 1

THE FRANCHISOR AND ANY PARENTS, PREDECESSORS AND AFFILIATES

To simplify the language, this disclosure document uses “**Black Diamond**”, “**Black Diamond**”, “**we**”, or “**us**” to mean Black Diamond Franchising Inc, the franchisor. “**You**” means the individual, corporation, company, or other entity that buys a Black Diamond franchise.

The Franchisor

Black Diamond Franchising LLC was organized in the State of Indiana on March 5, 2015. It was converted into Black Diamond Franchising Inc, an Indiana corporation, on March 11, 2015. Its principal place of business is located at 4911 Hamburg Pike, Jeffersonville, IN 47130.

We conduct our business under our corporate name only. We do not maintain a sales office at any location, other than our principal place of business, and do not use any sales organization or brokers.

Currently, we do not own or operate businesses of the type being franchised. As indicated below, our affiliate, “Black Diamond”, operates a business of the type being franchised. We do not offer franchises in any other line of business.

Agent for Service of Process

Our agents for service of process are listed in *Exhibit A*.

Our Parents, Predecessors and Affiliates

Black Diamond Termite & Pest Control Service, Inc. is an Indiana corporation originally incorporated on July 5, 1977. In 1987, Black Diamond Termite & Pest Control Service, Inc. sold its business assets, including the intangible property, to K & D Services, Inc., an Indiana corporation. On January 16, 2007, K & D Services, Inc. contributed its assets to a newly incorporated business, Black Diamond Termite & Pest Control, Inc., which has operated continuously since then.

Black Diamond Termite & Pest Control, Inc. owns and operates a Black Diamond franchise that operates in Southern Indiana and Louisville, Kentucky. These businesses are similar to the type franchisees will own and operate, except that Black Diamond Termite and Pest Control, Inc. also provides services in Animal Control, Canine Bedbug Detection, Lawn Care, Snow Removal, and Heating and Air. Black Diamond Termite & Pest Control, Inc. and its affiliates do not and have never offered franchises in this or any other line of business. Our franchisees are and will not be our affiliate.

Black Diamond is a wholly owned subsidiary of Black Diamond Termite & Pest Control, Inc.

The Black Diamond Franchise

We offer franchises for the operation of a Pest Control Business under the “BLACK DIAMOND” service mark, and other trademarks, trade names, service marks and logos we periodically designate (“**Black Diamond Marks**” or “**Marks**”). A “**Pest Control Business**” offers residential and commercial customers a variety of goods and services in the pest elimination/control industry, including the inspection of residential and commercial property and the sale, design, installation and servicing of pest elimination and control systems. The franchise is operated using a unique system, including our valuable know-how, information, trade secrets, methods, Training Manual, standards, designs, methods of trademark usage, copyrights, sources and specifications, confidential electronic and other communications, methods of Internet usage, marketing programs, and research and development connected with the operation and promotion of Pest Control Businesses (the “**Black Diamond System**”). We have the right to change or otherwise modify the Black Diamond System at any time.

If you sign a franchise agreement, you will operate a franchised Black Diamond Pest Control Business. Under our franchise agreement, we grant our franchisees the right (and they accept the obligation) to operate a Black Diamond Pest Control Business and to sell other products and services that we approve.

We may periodically make changes to the Black Diamond System, standards, and facility, signage, equipment and fixture requirements. You may have to make additional investments in the franchised business periodically during the term of the franchise if we make those kinds of changes, or if your franchise’s equipment or facilities wear out or become obsolete, or for other reasons (for example, investments as may be needed to comply with a change in the system standards or code changes).

All Black Diamond Pest Control Businesses must be developed and operated to our specifications and standards. Uniformity of services provided by Black Diamond Pest Control Businesses is important, and you have no discretion in the services you sell. The franchise agreement is limited to a single, specific location. We have the right to operate or franchise or license others who may compete with you for the same customers. The distinguishing characteristics of the Black Diamond System (as defined in Item 8) include, for example, distinctive uniforms, decor, color and identification schemes and furnishings; standards, specifications and procedures for operations, manufacturing, distribution and delivery; quality of services offered; management programs; training and assistance; and marketing, advertising and promotional programs, all of which we may change, supplement, and further develop.

Periodically, franchisees may sell existing franchises at varying prices and terms. Also, we may also periodically sell existing company-operated franchises or existing franchises we have bought or taken back from franchisees. Many factors affect the sales price and terms for existing franchises, such as location, age, length of remaining equipment life and franchise rights, rent, physical condition of premises and equipment, operating history, whether the purchase price is paid in cash or financed over time, the prices and terms on which comparable franchises have been sold in the market and the negotiations of the parties.

If in the future you agree to buy an existing franchise from a franchisee, we may exercise our right of first refusal to purchase territories or markets from that franchisee. If we do not elect to exercise our right, then you and the seller must comply with the transfer provisions of the seller's franchise agreement, such as obtaining our approval of the terms of sale and of your qualifications to be a franchisee, correcting any defects in the condition of the franchise, paying a transfer fee, signing a new franchise agreement, and other conditions in the franchise agreement. You may also have to comply with transfer provisions of the seller's lease.

While we do not have existing converted franchises, we may pursue opportunities to convert similar businesses operating under different trade names to one of our systems. We may provide conversion incentives to those businesses. The terms of conversion incentives may vary depending on factors such as the number of outlets to convert, perceived competitive advantage of the outlets, their location, physical condition and age, length of remaining equipment life and franchise rights, rent, the outlets' production or satellite capability, access, visibility, demographic profile, hours of operation, operating history, the prices and terms on which comparable outlets have been sold in the market, our then current conversion policy, and the negotiations of the parties, among others. In the future, information on past conversion incentives is available from us upon request.

You should consult with your attorney concerning these and other local laws and ordinances that may affect your operation of the franchise.

General Market Conditions and Competition

You can expect to compete in your market with locally-owned businesses as well as national and regional chains that sell similar services and products. The market for termite and pest control services is well-established, highly competitive, and seasonal in some parts of the country. Franchises compete on the basis of factors such as price, office location, and quality of service. Additionally, you may find that there is competition for suitable franchise locations. Principal factors that will vary but that will impact our brand's competitive position are name recognition (which is stronger in some regions than in others), product quality, variety, office appearance, location, other tenants in shopping center locations, and advertising. A business such as a Black Diamond Franchise may also be affected by other factors, such as changes in consumer taste, economic conditions, population, and travel patterns.

Your competition may also include other outlets selling termite and pest control services and related pest control markets. We may grant selected franchisees unique rights or franchises to operate or distribute authorized products through special distribution outlets. These special arrangements may involve special agreements or modifications to our standard franchise and other agreements.

Industry-Specific Regulations

You must comply with all local, state, and federal laws that apply to your operations including health, sanitation, smoking prohibitions, EEOC, OSHA, discrimination, employment, and sexual harassment laws. The Americans with Disabilities Act of 1990 requires readily accessible

accommodations for disabled people and may affect your building construction, site design, entrance ramps, doors, seating, bathrooms, drinking facilities, etc.

There are specific regulations pertaining to this industry, and you must comply with all local, state and federal pesticide codes and regulations and all Environmental Protection Agency (“EPA”) and other environmental regulations pertaining to the use, disposal and storage of pesticides. You may be required by local and state authorities to obtain certain permits, registrations, certifications or licenses to operate a Pest Control Business. You should consult with local agencies and/or your attorney. You must obtain all required licenses and permits, and ensure that your employees and others providing pest elimination and control services to customers on behalf of your Pest Control Business have all required licenses and permits relating to the operation of your Pest Control Business. The failure to maintain the proper licensing and permits is a material breach of the Franchise Agreement. In certain jurisdictions, you must have at least 2 years of experience to qualify for an individual pesticides license. If you are located in any of those jurisdictions and do not have the required experience, you must hire at least one individual with the necessary license or partner with an individual with the necessary license.

Government contractor laws may also apply if your franchise is located (or if, subject to your franchise agreement, you sell services) at military bases or other government facilities. For example, you may be required to comply with requirements such as government contractors’, wage and hour restrictions, preparation and maintenance of written affirmative action plans, retention and access of records, special procedures for resolving contractual disputes, listing employment openings with state employment services, and termination of the contract for default or for the convenience of the government.

You are responsible for complying with all applicable laws and regulations and should carefully review these requirements with your own attorney before you invest.

ITEM 2

BUSINESS EXPERIENCE

The following individuals comprise the executive team of Black Diamond:

Owner/CEO & President: D. Keith Duncan, Jr.

Keith Duncan, Jr., has served as Owner and CEO of Black Diamond Termite and Pest Control, Inc., since 2012. He began working as a Termite Control Technician at Black Diamond Termite and Pest Control, Inc. as a teenager, has held nearly every position in the company, and became General Manager in 2000. He maintains a Kentucky PCO license and Indiana applicator certifications in categories 3a, 3b, 6, 7a, 7b and 8 and is a member of the Kentucky, Indiana, and National Pest Management Associations.

Under Keith, Jr.'s leadership, together with Keith, Sr., Black Diamond Termite and Pest Control, Inc. has become the largest pest control company in the Louisville, Kentucky, and Southern Indiana market. Black Diamond Termite and Pest Control, Inc. is a mainstay on several industry "Top 100" lists and has grown to employ over 150 full-time technicians and support staff. Keith has driven the expansion of Black Diamond Termite and Pest Control, Inc. into the Lawn Care, Landscaping, Snow Removal, and Heating and Air industries.

Manager of Administration and Finance: Karen Mercer

Karen Mercer joined the Black Diamond Termite and Pest Control, Inc. team in 2008 and is presently the Manager of Administration and Finance for Black Diamond Termite and Pest Control, Inc. Karen handles human resources, processes payroll, manages accounts payable, and helps manage office staff. Karen also consults with the owners on business decisions, specifically in regard to human resources and office administration. Karen takes a special interest in helping the growing company excel at customer service.

During her tenure with Black Diamond Termite and Pest Control, Inc., Karen has worked closely with the IT department to develop programs to better manage consumer data. These programs have allowed the company to go paperless.

Karen has lived in the Louisville, Kentucky area most of her life. She has a Bachelor of Science in General Studies and a Minor in Sociology from Indiana University. Before joining Black Diamond Termite and Pest Control, Inc., Karen worked in the lumber industry for 10 years. During that time, Karen worked as an executive assistant for the Vice President and then as office manager, where she handled accounts payable, accounts receivable and payroll for 3 separate companies. This experience helped Karen develop the skills necessary to her management position at Black Diamond Termite and Pest Control, Inc.

Chief Information Officer: Michael Chew

Michael Chew serves as the Chief Information Officer (CIO) at Black Diamond Pest Control, a position he has held since 2019 after initially joining the company in 2014. In this role, he oversees all technological aspects crucial to the company's daily operations and strategic objectives. Initially tasked with updating the proprietary CRM system, Michael now leads all technology-related functions, contributing significantly to marketing, strategic direction, process enhancements, and various operational challenges.

With a strong background in multiple technology fields and a knack for optimizing business processes, Michael has notably enhanced communication, operations, and efficiency across Black Diamond Pest Control. His approach to technology—prioritizing seamless integrations to avoid hindering staff—supports Black Diamond Pest Control's primary objective of delivering outstanding customer service.

A lifelong resident of Southern Indiana, Michael holds a Bachelor of Arts in Psychology and an associate degree in computer science from Indiana University Southeast. Before his tenure at Black Diamond Pest Control, he spent 17 years in the credit reporting and employment screening sector, where he excelled as a Development Manager. This experience laid the groundwork for his success in his current role at Black Diamond Pest Control.

ITEM 3 LITIGATION

Black Diamond is involved in the following litigation matter:

Dean Hohl, LLC v. Black Diamond Franchising, Inc., Case No. 3:24-cv-00911 (M.D. Tenn. 2024 (pending)), removed from Davidson County Chancery Court, Case No. 24-CI-0773-II.

Plaintiff has alleged breach of contract, breach of the Tennessee Consumer Protection Act, and tort claims against Black Diamond. Black Diamond has removed the case to federal court and has moved to enforce the franchise agreement's arbitration provision.

Black Diamond disputes the claims and has prepared counterclaims for a number of causes of action, including breach of contract, including failure to provide proof of licensing and required training, both in violation of Tennessee law, fraud, and tortious interference, seeking compensatory and punitive damages.

Currently, this matter is being resolved through arbitration, pursuant to the dispute resolution provisions of the franchise agreement. The arbitration is ongoing, and the parties will await an arbitration panel's ruling, anticipated in 2026.

No other litigation is required to be disclosed in this disclosure document.

ITEM 4
BANKRUPTCY

Neither Black Diamond nor any of its parents, predecessors or affiliates has filed for bankruptcy protection.

ITEM 5 INITIAL FEES

Franchise Agreement

Upon execution of the Franchise Agreement, you must pay to us an initial franchise fee (“**Initial Franchise Fee**” or “**IFF**”) in the total amount of **\$25,000** to **\$50,000** for a **7-year term**. The amount of the Initial Franchise Fee is dependent upon the size and population of the proposed Territory.

If you meet our criteria for expansion and we approve you to open an additional Territory, you must pay an additional Initial Franchise Fee for each additional Territory in the total amount of our then-current, standard Franchise Fee for each **7-year term**.

The Initial Franchise Fee is fully earned and non-refundable in consideration of administrative and other expenses that we incur by negotiating and entering into the Franchise Agreement and for our lost or deferred opportunity to enter into a Franchise Agreement with others.

You will be required to make pre-opening purchases of inventory from our parent, our affiliates, or us.

Notes:

- We may offer other reduced or deferred IFFs in special circumstances, such as to franchisees who commit to and have the ability to develop a large number of territories, or part of a special offer for conversion of competitor companies as the business circumstances warrant, or a smaller territory or portfolio of products available in that territory.
- Additionally, we may have special incentive offers in certain markets, such as new and developing markets, which may include reduced, waived, or deferred IFFs. These special incentives may be offered to existing and/or new franchisees.
- These reduced fees only apply to those who comply with all of our agreements and requirements.
- We reserve the right to modify or cancel any special incentive or program at any time.
- Unless you are qualified to receive an offer, you should not anticipate that you will receive one. If you do receive an offer, you will not be entitled to receive the benefits of more than one incentive or deferral program.

**ITEM 6
OTHER FEES**

Franchise Agreement

Type of Fee	Amount	Date Due	Remarks
Royalty Fee	\$500 or 5% of Gross Sales, whichever is greater (See <u>Notes 1, 2, and 3.</u>)	Monthly, payable on or before the 10th of the following month by ACH	You must make all royalty payments to us by electronic funds transfer (“<u>EFT</u>”) or whatever we may designate from time to time. “<u>Gross Sales</u>” includes all revenue from the sale of all products and services and all other income of every kind and nature related to the Approved Location, whether for cash, by redemption of gift certificates or for credit, regardless of collection; provided, however, Gross Sales does not include the incidental sales of gift certificates or newspapers, incidental receipts from pay telephones, or any sales taxes or other taxes you collect from customers for transmittal to the appropriate taxing authority. All revenues and other income as defined by U.S. Generally Accepted Accounting Principles shall be included in Gross Sales unless specifically excluded by us. Gross Sales does not include any sales taxes or other taxes collected from your clients by you for transmittal to the appropriate taxing authority. (See <u>Note 1.</u>)

Type of Fee	Amount	Date Due	Remarks
Technology / Administrative Fee	\$150 to \$200 per month	Monthly, payable with the first royalty	You must use the purchasing web site, file sharing, and cloud storage providers that we use.
Software Fee	Up to \$125 per user or up to \$200 per 1,000 customers	Monthly, payable with the first royalty payment due each month	You must use the customer billing software that we require. With the current Software Provider, you must pay a monthly access fee to us.
Advertising	Initial Advertising Fee is included in the IFF. However, if you request additional advertising, we will provide it at a cost of \$65.00 per hour for labor plus materials at cost plus 50%	As incurred	
Brand Development Fee	Up to 2% of Gross Sales	Monthly, payable on or before the 10 th of the following month by ACH	You will contribute to the Brand Development Fund, which promotes and advertises the Black Diamond brand and System. Currently, we are not collecting this fee.

Type of Fee	Amount	Date Due	Remarks
Training Fees	Initial Training Fee is included in the IFF. If we determine that you need additional training or you request additional training, we may, in our discretion, provide training to you at the following costs: Ordinary Training: \$55 per hour per employee at our principal office, or \$150 per hour per employee at your franchise location, plus our travel expenses (\$500 minimum), at your franchise location Specialized Training: \$85 per hour per employee at our principal office, or \$200.00 per hour per employee, plus our travel expenses (\$500 minimum), at your franchise location Executive Training: \$250 per hour, plus our travel expenses (\$1,500 minimum), at your franchise location You must pay all costs and expenses incurred by your trainees in connection with attending any training programs and seminars.	As incurred	See <u>Item 11</u> for more detail.
Toll-Free Number	\$0.05 cents per minute	As incurred	877-DEAD-BUG
Bidding Assistance	\$50.00 per hour for calls; on location, \$85.00 per hour (each a minimum charge of 1 hour)	As incurred	

Type of Fee	Amount	Date Due	Remarks
Chemicals and Equipment	Cost plus 15%	As incurred	
Audit by Us	TBD	15 days after billing	Payable only if you fail to furnish reports, supporting records, or other required information, or understate the amounts due to us in an amount equal to or greater than 2%.
Development/ Technical Assistance	\$65.00 per hour	As incurred	
Transfer Fee	50% of the then-current Initial Franchise Fee if transferring to an existing franchisee; 100% of the then-current Initial Franchise Fee if transferring to a new franchisee. (See <u>Note 4</u> .)	Prior to approval of Transfer by us	See <u>Item 17</u> for more detail. No fee is imposed for transfers to corporations or other limited liability entity you form for the convenience of ownership.
Renewal Fee	Then-current franchise fee for a renewal term (if approved) for a maximum of 7 years is <u>\$10,000</u> . Amount may vary based upon the length of renewal term granted; amount will be prorated based upon the then-current Initial Franchise Fee.	Due upon signing of a renewal Franchise Agreement	If we approve you to enter into a successor Franchise Agreement after the end of the initial term, we will require you to sign our then current Franchise Agreement with terms that may be different from your original Franchise Agreement.

Type of Fee	Amount	Date Due	Remarks
Mystery Shopper Fee	Up to \$500 per year	As incurred	We reserve the right to engage an independent shopping service to evaluate your performance as a Franchise (e.g., handling calls, friendliness, expertise). We will determine the frequency, nature and extent of the evaluation services. You must pay all fees and costs charged by the independent shopping service to evaluate your Franchise.
Interest on Overdue Payments	1.5% per month or the maximum commercial contract interest rate permitted by law, whichever is less.	Due with the payment of outstanding amounts	Payable on overdue amounts.
Insufficient Funds Fee	\$150.00-per occurrence	As incurred	Unless otherwise indicated, you must pay to us all amounts by EFT. If you have insufficient funds in your account and any EFT transaction or check is returned, you must pay an insufficient funds fee to us. (See <u>Note 1.</u>)
Indemnification	Will vary under circumstances	15 days after billing	You will be required to reimburse us for any and all damages and costs (including reasonable attorneys' fees) arising out of any suits, actions, proceedings, or claims filed against us, unless such claim is solely the result of actions by us.

Type of Fee	Amount	Date Due	Remarks
Insurance	Insurance premiums plus 10%	15 days after billing	If you fail to obtain or maintain the required insurance, we have the right to obtain insurance for you. You must pay to us the cost of the premium(s), plus 10% to cover our administrative time and costs.
Replacement Manuals Fee	\$500	15 days after billing	We reserve the right to charge you a fee if you lose or misplace the Manual(s).
Attorneys' fees and other costs	Will vary under the circumstances.	As incurred	Payable if we prevail in any legal dispute with you.
Digital Marketing/Optimization Fee	\$1,000 SEO/SEM Management Monthly Fee and a minimum monthly investment of \$2,000 for Google AdWords and LSA campaign (rates are subject to change).	Billed monthly by Black Diamond Franchise	

Notes:

General: Unless otherwise stated, all fees are imposed by, paid to, and collected by us and are non-refundable. Except as specified below, all fees are uniformly applied to new system franchisees. However, in some instances in which it is appropriate to do so, we may waive or reduce some or all of these fees for a particular franchisee.

1. For EFT payments, you must provide us with bank account information and other forms we need to set up or change EFT authorization. We will also require you to report your Gross Sales electronically via the internet. We will deduct the fees automatically from your bank account for the corresponding fees each month. You must have computer equipment capable of accessing and using the electronic form. We reserve the right, whether due to system failure or due to our decision in our sole discretion, to withdraw the electronic form and designate another form and procedure that you will be required to follow.

2. If your state, or any governmental body in your state, charges a tax on the royalty we receive from you, then you are required to pay an additional earned service fee and royalty equal to the amount of this tax. This does not apply to any federal or income taxes we have to pay.

3. If you lease a facility from one of our affiliates or us, then you will pay us (or our affiliate) a monthly fixed rent set forth in your lease. You may also pay us percentage rent regardless of whether the prime lease requires percentage rent. The amount of percentage rent varies and will be set forth in your lease. Our leases are customarily “net-net-net” leases, which means you must pay all related costs of occupancy such as real estate taxes, insurance costs, all maintenance and repair costs, utilities, common area maintenance charges, and other costs. See Items 5 and 7 for information about initial franchise fees, investment costs, and real estate costs.

4. When a franchisee sells a business to another franchisee, we do not allow the seller and buyer to enter into their own covenant not to compete outside the franchise agreement. If we elect to purchase the Pest Control Business by exercising our right of first refusal, the seller must still pay us the required Transfer Fee.

5. We may offer certain celebrities a discount on their IFF in exchange for certain promotional considerations.

6. We may provide referral incentives to existing franchisees, employees, real estate professionals, franchise brokers and others for qualified referrals of prospective franchisees.

7. We may, from time to time, pay membership fees to public, quasi-public and private services who refer potential franchisees from identified groups (e.g., veterans or military personnel planning to leave the service).

8. To protect our reputation and goodwill, to maintain uniform standards of the services, programs, operations, our intellectual property, and products offered, and to promote the goodwill of all franchises and our franchise system, we have created for you to use a Franchise Operations Manual and other manuals and training and operations materials, which may be in paper or electronic form, or which may be accessed via the internet (collectively, “**Manuals**”). If you should lose or misplace part or all of the Manuals, we will charge you a replacement fee.

We impose and collect all fees. All fees are non-refundable. Unless explicitly stated, all invoices are due net 30 days.

ITEM 7
ESTIMATED INITIAL INVESTMENT

Franchise Agreement

YOUR ESTIMATED INITIAL INVESTMENT

Type of Expenditure	Amount		Method of Payment	When Due	To Whom Payment Is To Be Made
	Low	High			
Initial Franchise Fee <u>See Note 1.</u>	\$25,000	\$50,000	Lump Sum	Upon execution of the Franchise Agreement	Black Diamond
Facility Costs <u>See Note 2.</u>	\$15,000	\$36,000	As Arranged	As Arranged	Landlord
Chemicals <u>See Note 3.</u>	\$0	\$15,000	As Arranged	As Arranged	Suppliers, Black Diamond
Equipment and Supplies <u>See Note 4.</u>	\$1,000	\$10,000	As Arranged	As Arranged	Suppliers, Black Diamond
Business Licenses and Permits <u>See Note 5.</u>	\$400	\$2000	As Arranged	As Arranged	Government Authorities
Software <u>See Note 6.</u>	\$2,000	\$10,000	As Arranged	As Arranged	Black Diamond
Travel and Living Expenses for Initial Training <u>See Note 7.</u>	\$5,000	\$15,000	As Incurred	During Training	Suppliers of transportation, food and lodging
Utility Deposits <u>See Note 8.</u>	\$0	\$1,000	Lump Sum	As Incurred	Utility Companies
Business Insurance <u>See Note 9.</u>	\$3,000	\$6,000	As Arranged	As Incurred	Insurers
Professional Fees <u>See Note 10.</u>	\$1,000	\$3,500	As Arranged	As Incurred	Professionals

Type of Expenditure	Amount		Method of Payment	When Due	To Whom Payment Is To Be Made
	Low	High			
Additional funds (3 months) <u>See Note 11.</u>	\$20,000	\$35,000	As Arranged	As Incurred	Suppliers
Advertising & Marketing <u>See Note 12.</u>	\$1,500	\$14,000	As Arranged	As Incurred	Suppliers, Black Diamond
TOTAL <u>See Note 13.</u>	\$73,900	\$197,500			

Notes:

Except as otherwise described below, all payments are nonrefundable.

1. The Initial Franchise Fee is discussed in detail in Item 5. We do not provide financing for the Initial Franchise Fee. We reserve the right to charge a reduced Initial Franchise Fee, if you are an existing franchisee and meet our criteria. The reduced Initial Franchise Fees are discussed in Item 5. The range of the Initial Franchise Fee depends on the population and size of the territory.
2. Real estate costs vary considerably according to the type of facility, fair market values in your area, your real estate interest (leasehold or ownership), location, and whether you, your landlord, or we develop the location. Your costs can be higher depending on the size of the site and code requirements.
3. The chemicals that you will need will be provided on a master product list that we will update from time to time. Estimated initial chemical costs are based on the chemicals purchased and used by Black Diamond Termite and Pest Control, Inc. Chemical costs vary considerably based on volume of work.
4. You must purchase certain equipment for your Pest Control Business, including but not limited to certain equipment identified on a master equipment list that we will update from time to time.
5. You will be required to obtain governmental permits, such as a pest control license and a business license or an occupancy license. The cost and number of such licenses will vary by municipality.
6. You must purchase from us certain computer software, including but not limited to an approved customer service and tracking software that we designate and which we reserve the right to change from time to time. See Item 11 for details.

7. You will incur expenses associated with attending our initial training program. You must also pay for transportation, lodging, food, and wages for your employees and you. The cost will depend on the distance you must travel to the training location and the type of accommodations you choose. The estimate is based on travel to our headquarters in the Louisville, Kentucky and Southern Indiana metropolitan area for training lasting up to 60 days.
8. You may be required to provide deposits for utilities. The amount of the deposits will vary depending upon the location of the Franchise, the practices of the utility companies, the landlord, if any, and your credit history.
9. You must obtain and maintain the types and amounts of insurance described in Section 10 of the Franchise Agreement. The low amount in the chart represents our estimate of the first semi-annual premium and the high amount represents our estimate for the annual premium for the business policy. Each estimate includes a 3-month allocation for workers' compensation premium. Rates are based on our Affiliate's insurance premiums in the Louisville, Kentucky and Southern Indiana area.
10. We recommend that you engage an attorney and an accountant. The fees may vary greatly based on the individuals and firms that you engage.
11. You will need to support ongoing expenses, such as payroll and utilities, to the extent these costs are not covered by your revenue. New businesses often generate negative cash flow. This is only an estimate, however, and we cannot assure you that you will not need additional funds during or after this initial 3-month phase. Factors that affect the amount of additional funds required include sales volume and expense control. We relied on past experience and affiliate-owned facility performance when preparing these figures.
12. You will be responsible for general advertising and marketing expenses, which may include the Google AdWords Campaign, LSA, phone book listings, uniforms, lettering, and business stationery. We recommend Search Engine Optimization as an advertising and marketing expense, estimated at \$11,000. Total price varies depending upon your preferences.
13. We relied on the operations of Black Diamond Termite and Pest Control, Inc. when preparing these figures. You should review these figures carefully with a business advisor, accountant, and/or attorney before making any decision to invest in the Franchise. See Item 21 and Exhibit F.

We do not offer direct or indirect financing to franchisees for any items listed above.

ITEM 8

RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

You must establish and operate your Pest Control Business in compliance with your Franchise Agreement and the standards and specifications contained in the Black Diamond confidential operations manual (“**Operations Manual**”) we loan to you.

You must provide only Black Diamond approved services. We and our predecessors and affiliates have spent considerable time, effort and money to develop the Black Diamond System. We have acquired experience and skill in developing and operating a Pest Control Business. You must conform to our high and uniform standards of quality, safety, cleanliness, appearance, and service. We anticipate that our standards will change over time. You are expected to adhere to these changes.

Suppliers

All supplies, equipment and materials of your Pest Control Business and services to your Pest Control Business must meet our specifications, standards, and requirements. You must purchase all chemicals and certain office supplies, including paperwork, invoices, estimates, folders, fliers, cards, and other office equipment directly from us. You must purchase uniforms, trucks, and equipment from supplier(s) that we designate. You may purchase all other supplies, equipment, and materials from supplier(s) at your discretion, so long as the supplies, equipment and materials purchased meet our specifications, standards, and requirements. We reserve the right to designate supplier(s) of other supplies, equipment and materials and to disapprove of products and suppliers based on our determination of the quality of products and suppliers. These changes may impact your cost of continued operation. If you continue to use an unapproved supplier of products or services after our written notice, we may terminate your Franchise Agreement and your rights to operate your Franchise.

We may also designate a single supplier, which may be our affiliates or us, for any products, equipment, supplies, or services, in which event you must purchase such items exclusively from the designated supplier. Our affiliates or we may receive commission or other compensation from some suppliers on account of the suppliers’ dealings with us, you, or other franchisees in the Black Diamond System. We may use any amounts that we receive from suppliers for any purpose that we deem appropriate. Our affiliates and we may negotiate contracts with our suppliers under which we are able to purchase products, equipment, and supplies at a price lower than that at which you and our other franchisees are able to purchase the same items.

There are no approved, unaffiliated suppliers in which any of our officers owns an interest. Our affiliates and we may derive revenue based on a markup over our costs on your required purchases or leases from us and our affiliates but have no basis for estimating the revenue we will receive, as no such sales have occurred as of the date of this filing.

Every supplier of items or services must demonstrate, to our satisfaction, that it can meet all specifications, standards, and requirements and has adequate capacity to supply our franchisees’ and our quantity and delivery needs, which may mean the ability to supply all markets in the Black Diamond System.

Product and Supplier Approvals and Specifications

If we have designated a supplier, you must submit to us a written request for approval of any unapproved supplier of products, furnishings, fixtures, equipment, signage, computer hardware and software, and advertising materials prior to purchasing such items for use in the Franchise. You must not use, sell, or offer for sale any products or services of the proposed supplier until you receive written notice from us approving the proposed supplier. We have the right to require that our representatives be permitted to inspect the supplier's facilities and that samples from the supplier be delivered for evaluation, researching, and testing either to us or to an independent testing facility designated by us.

Before approving any supplier, we may take into consideration: (a) consistency of products and/or name brands within the Black Diamond System, (b) economies of scale achieved by larger volumes, and (c) certain other benefits that a particular supplier may offer, such as new product development capability or delivery and networking capability.

When approving a supplier, we take into consideration the system as a whole, which means that certain franchisees may pay higher prices than they could receive from another supplier that is not approved.

We reserve the right to withhold approval of a supplier for any reason. A list of approved suppliers is available on request. Suppliers may be required to share shipping, distribution and all other information with us, and you will be required to cooperate.

Our criteria for approving alternative suppliers are not available to you or your proposed suppliers. You and/or the supplier may request approval by submitting the request to us in writing. We may require that samples from the supplier be delivered to us or to a designated independent testing laboratory for testing prior to approval and use.

We expect that the cost of testing will be less than \$1,000 depending on the complexity of the products or services. All requests will be reviewed in accordance with our then-current procedures. We will take into consideration our available resources, which may affect the timing of our response.

The supplier must meet our then-current specifications, standards and requirements, which may include signing a non-disclosure agreement and a guarantee of performance. We may change our specifications, standards, and requirements at any time. There is no limit on our right to do so. If the supplier is approved or disapproved, we will notify you and the supplier in writing usually within ninety (90) to one-hundred eighty (180) days depending on the nature of the products or services.

We may withdraw our approval at any time upon written notice if the supplier's performance does not meet our criteria, or we change our specifications, standards, or requirements, or we cancel for other reasons. You or the supplier will be required to reimburse us for all costs that we incur in the testing and approval process.

We may limit the number of potential suppliers that we consider for approval and for some categories of products we will designate a third party or ourselves as an exclusive supplier. We may enter into new exclusive supplier arrangements for some categories of products or services.

Advertising and Promotion

We will provide all marketing and promotion for your Pest Control Business. You must submit to us a written request for approval of any marketing or promotional materials. If we have not prepared or previously approved marketing and promotional materials that you wish to use, you must submit samples of all materials to us for our approval (except as to prices you charge). If you do not receive a written notice, by mail or email, of disapproval within 30 days after the date we receive the marketing or promotional materials, they will be deemed approved. We may provide you with marketing materials from time to time. You must not use any marketing or promotional materials that we have not supplied you until you receive our written approval.

We will affix lettering to your trucks at your expense upon request. You must take out an advertisement in your local phone book or online (e.g., Google Adwords) at your expense using the layout we provide to you. If you wish to use different truck lettering or a different phone book advertisement layout, you must seek approval as set forth above.

You must comply with our policies on the use of social media (e.g., Twitter, Facebook) and internet.

Insurance

You must obtain, before beginning any operations under the Franchise Agreement, and must maintain in full force and effect at all times during the term of the Franchise Agreement, at your own expense, an insurance policy or policies protecting you, us, and our respective officers, directors, partners, and employees. The policies must provide protection against any demand or claim relating to personal and bodily injury, death, or property damage, or any liability arising from your operation of the Franchise. All policies must be written by a responsible carrier or carriers which we determine to be acceptable, must name us as an additional insured, and must provide at least the types and minimum amounts of coverage specified in the Manuals.

Leases

If you occupy the premises of the Franchise under a lease, you must abide by and fulfill all of your duties with regard to site selection and approval by us of your lease, as specified in the Site Selection Addendum of the Franchise Agreement. We may require certain provisions to be included in the lease for your site.

Computer Hardware and Software

We will require you, at your expense, to purchase, and maintain, the computer hardware and software described in Item 11. You must purchase the computer hardware and software from our approved supplier or us. You must purchase appropriate licenses to use the software we require, but we have the right to require you to use different software. You must abide by all license terms imposed upon you by the Software Provider. We may have an agreement with the Software Provider to provide to us all of the computer hardware and software. We may charge you an

administration fee for arranging and providing the software in addition to the amount the Software Provider charges us. At this time, we do not generate any revenue or other material consideration from this arrangement.

Purchasing or Distribution Cooperatives

We may, but are not required to, negotiate purchase arrangements with suppliers for the benefit of our franchisees. We do not have purchasing or distribution cooperatives.

Revenue from Required Purchases

We, or our affiliates, may derive revenue from your required purchases or leases. In the calendar year ending December 31, 2024, we derived \$1,395,199 (representing 80.2% of our total revenue, not profit) from your required purchases and leases.

Your Purchases and Leases

We estimate that the required purchases and space leases will be 60% to 70% of all purchases and leases made by you in establishing your Franchise and 30% to 40% of all ongoing purchases and leases in operating the Franchise. The percentage of required purchases and leases in relation to all purchases and leases to establish and operate a Franchise will vary depending on several factors, including the size and location of your Franchise.

ITEM 9 FRANCHISEE'S OBLIGATIONS

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

Obligation	Section in Agreement	Disclosure Document Item
a. Site selection and acquisition/lease	Sections 1.1, 3.2, and 5.2 of the Franchise Agreement; Site Selection Addendum	Items 7, 8, and 11
b. Pre-opening purchases/leases	Sections 5.3 and 5.12 of the Franchise Agreement	Items 5, 7, and 8
c. Site development and requirements	Sections 3.1, 5.2, 5.3, and 5.4 of the Franchise Agreement	Items 7, 8, and 11
d. Initial and ongoing training	Sections 3.3 and 5.5 of the Franchise Agreement	Item 6 and 11
e. Opening	Sections 3.5, 5.4, and 9.2 of the Franchise Agreement	Item 11
f. Fees	Section 4 of the Franchise Agreement	Items 5 and 6
g. Compliance with standards and policies/ Manuals	Sections 3.4, 5.1, 5.7, 5.8, 5.9, 5.11, 5.12, 5.13, 5.17, 5.18, and 7.1 of the Franchise Agreement	Items 8, 11, 13, and 14
h. Trademarks and proprietary information	Sections 6 and 7 of the Franchise Agreement	Items 13 and 14
i. Restrictions on products/services offered	Sections 3.8, 5.8, and 5.12 of the Franchise Agreement	Items 8 and 16
j. Warranty and customer service requirements	Section 5.1 of the Franchise Agreement	Item 16
k. Territorial development and sales quotas	Sections 1.3, 1.4 and 1.5 of the Franchise Agreement	Item 12

Obligation	Section in Agreement	Disclosure Document Item
l. Ongoing product/service purchases	Sections 5.8 and 5.12 of the Franchise Agreement	Item 8
m. Maintenance, appearance and remodeling requirements	Sections 5.7 and 5.17 of the Franchise Agreement	None
n. Insurance	Section 10 of the Franchise Agreement	Items 7, and 8
o. Advertising	Section 9 of the Franchise Agreement	Items 6, 8, and 11
p. Indemnification	Section 17.4 of the Franchise Agreement	Item 6
q. Owner's participation/management/staffing	Sections 5.9 and 5.10 of the Franchise Agreement	Item 15
r. Records/reports	Section 8 of the Franchise Agreement	Item 6
s. Inspection/audits	Sections 3.7, 5.13, and 8.7 of the Franchise Agreement;	Items 6 and 11
t. Transfer	Section 11 of the Franchise Agreement	Item 6 and 17
u. Renewal	Section 2.2 and 4.3 of the Franchise Agreement	Item 6 and 17
v. Post-termination obligations	Section 13 of the Franchise Agreement	Item 17
w. Non-competition covenants	Section 14 of the Franchise Agreement	Item 17
x. Dispute resolution	Section 22 of the Franchise Agreement	Item 17
y. Taxes/permits	Sections 5.3, 5.11, and 16 of the Franchise Agreement	Item 1
z. Personal Guaranty by each owner	Attachment 2 to the Franchise Agreement	Item 15

ITEM 10 FINANCING

At this time, we do not offer direct or indirect financing. We do not guarantee your note, lease, or any of your other obligations.

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

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

A. Pre-Opening Assistance

Before you open the Franchise, we will provide the following assistance and services to you:

- We will provide an initial training program as described in the Franchise Agreement (*See Franchise Agreement, Sections 3.3 and 5.5*).
- We will loan you one copy of the Manuals (*See Franchise Agreement, Section 3.4*).
- We will provide the names of designated Suppliers of uniforms, trucks, and office equipment to you so that you can obtain all required chemical, equipment and supplies and enter into any necessary agreements to purchase Approved Products prior to opening the Franchise (*See Franchise Agreement, Sections 3.9 and 3.10*).

Other than as described above, we do not have any other pre-opening obligations and are not required under the Franchise Agreement to provide any other pre-opening assistance to you prior to the opening of the Franchise.

B. Continuing Obligations

During your operation of the Franchise, we will provide the following assistance and services to you:

- We will provide, from time to time as we deem appropriate, advice and written materials concerning techniques of managing and operating your Franchise, including new developments and improvements in operations, promotions, public relations, customer relations, marketing and recruiting and training your staff (*See Franchise Agreement, Section 3.6*).
- We will conduct, as we deem advisable, inspections of the Franchise and evaluations of the services provided by you, and may charge you for these inspections (*See Franchise Agreement, Section 3.7*).
- We will provide, from time to time and as we deem appropriate, advertising and promotional assistance, including the Black Diamond logo, trademarks, website, and toll-free number (*See Franchise Agreement, Sections 3.10 and 9*).
- We may provide telephone and/or internet support for your questions about the Franchise. We may provide, from time to time, newsletters, social media, and message board posts (*See Franchise Agreement, Section 3.9*).

- We may provide the additional training requested by you and we reserve the right to charge you a fee for additional training. (See Franchise Agreement, Section 5.5)

Other than as described above, we do not have any other continuing obligations to you in connection with your operation of the Franchise.

Brand Development Fund and Promotional Materials

We administer and maintain a fund for the promotion and advertising of the Black Diamond brand and System (“**Brand Development Fund**”). The Brand Development Fund is intended to maximize general public recognition, acceptance, and use of the System; and we are not obligated, in administering the Brand Development Fund, to make expenditures for you that are equivalent or proportionate to your contribution, or to ensure that any particular franchisee benefits directly or pro rata from expenditures by the Brand Development Fund. We are not obligated to spend any amount on advertising in the area where you are located.

We use the Brand Development Fund, all contributions to it, and any earnings on it, exclusively for preparing and administering advertising, marketing, merchandising, public relations, and/or promotional programs and materials, and any other activities which we believe will enhance the image of the System, including the costs of preparing and conducting media advertising campaigns; direct mail advertising; marketing surveys; employing advertising and/or public relations agencies to assist us; purchasing promotional items; and providing promotional and other marketing materials and services to the businesses operating under the System. We do not use any money from the Brand Development Fund for advertising that is principally a solicitation for the sale of franchises. We do, however, maintain the right to add a limited franchising message on certain advertising material and promotions.

We direct all promotional and advertising programs with sole discretion over the concepts, materials, and media used in the programs, including their placement and allocation. We may disseminate advertising in print, radio, television, and internet forms. We may prepare advertising or we may use outside sources to prepare advertising.

We may require you to contribute up to two percent (2%) of your monthly gross sales to the Brand Development Fund by electronic funds transfer or other means as we determine. All Franchises will contribute equally to the Brand Development Fund, including those Franchises (and our affiliate’s company-owned markets) that our affiliates or we own and operate. We maintain all sums paid to the Brand Development Fund in an account separate from our other monies. We will not use them for any of our expenses, except for reasonable costs and overhead, if any, that we incur in activities reasonably related to the direction and implementation of the Brand Development Fund and advertising programs for franchisees and the System. These costs may include costs of personnel for creating and implementing advertising, promotional, and marketing programs. The Brand Development Fund is not and will not be our asset. Any monies remaining in the Brand Development Fund at the end of the taxable year in which such monies were received will be used for advertising or promotional purposes in the following taxable year before contributions from that taxable year are used. We reserve the right to terminate the Brand Development Fund at any time, in which case all monies remaining in the Brand Development

Fund will be expended for advertising or promotional purposes or returned to the contributors on the basis of their respective contributions. The Brand Development Fund and any earnings on it will not otherwise benefit us. We may offset some internal marketing costs with any payments we receive for providing services to the Brand Development Fund. (*See Franchise Agreement, Section 9.5*).

Upon your written request, we will provide you with an annual accounting of receipts and disbursements of the Brand Development Fund.

You may not use any advertising or promotional plans or materials until you have received our approval, according to the procedures and terms described in the Franchise Agreement. You must submit samples of all marketing and promotional plans and materials to us as described in Item 8 above (*See Franchise Agreement, Sections 9.3 and 9.8*).

Advertising Cooperatives

We do not currently require participation in or reserve the right to establish a local or regional advertising cooperative.

Computer Systems and POS System

We will require you, at your expense, to purchase and maintain the computer hardware and software, Broadband high-speed internet service, active e-mail account, dedicated telephone and power lines, modems, printers, scanner, cash drawer, credit card machines and other computer related accessories or peripheral equipment as we may specify from time to time in the Manuals. We will require you to purchase from us the hardware and software for your computer system.

You will be responsible for maintaining your computer system hardware and software in good repair and condition, and you must promptly install such additions, changes or modifications as we may direct (*See Franchise Agreement, Section 8.1*). Neither our affiliates nor we have any obligation to provide you with ongoing support, maintenance, repairs, updates or upgrades to your computer system, any components or software. We may on occasion, however, require upgrades and updates to such software (*See Franchise Agreement, Sections 8.1 and 8.2*). There are no contractual limitations on the cost and frequency of your obligation to update or upgrade any computer hardware or software during the term of the Franchise Agreement.

Your computer systems must be capable of communicating with our computer system and software. We must have the ability to electronically access your system and we will have the right to retrieve and inspect such data and information from your computer system as we deem necessary. There will be no contractual limitation on our right to receive sales reports, customer profiles, transactional records, or any other type of information about your Franchise from your computer systems unless otherwise prohibited by financial privacy laws (*See Franchise Agreement, Section 8.1*).

Website

We have the right, but not the obligation, to establish and maintain a website that, without limitation, promotes the Marks, any or all of the Products, other approved products or services, Franchises and the franchising of the System. We have the sole right to control all aspects of the website, including, without limitation, its design, content, functionality, links to the websites of third parties, legal notices, and policies and terms of usage. We also have the right to discontinue operation of the website at any time and without notice to you.

We have the right, but not the obligation, to designate one or more web page(s) to describe you and/or your Franchise, with such web page(s) to be located within our website. You must comply with our policies with respect to the creation, maintenance and content of any such web page(s). We have the right to refuse to post and/or discontinue posting any content and/or the operation of any web page(s).

You may not establish or maintain a separate website, register or use any domain name/URL address, or use any other social media outlet, such as Facebook, Twitter or any other outlet, for or in connection with the Franchise without our prior written approval (which we shall not be obligated to provide). You may not post, respond to, or otherwise participate in any social media communications unless otherwise authorized by us (See Franchise Agreement, Section 9.7).

Manuals

The table of contents from our Franchise Operations Manual is contained in Exhibit C.

C. Opening the Franchise

Time is of the essence in opening your Franchise. You must open the Franchise no later than 6 months from the date of the Franchise Agreement. (See Franchise Agreement, Section 5.4) We estimate that the typical length of time between signing the Franchise Agreement and opening the Franchise is 45 to 150 days. Factors which may affect this period include the ability to find a site and to negotiate a lease, financing or building permits; zoning and local ordinances; weather conditions; force majeure events; shortages or delayed installation of equipment, fixtures, and signs. Before opening, you must obtain all necessary government permits and licenses, hire and train your employees, and order and receive all supplies, equipment, fixtures, furniture, and signs. Upon receipt, you must send all applicable licenses and permits to us for verification before you open the Franchise.

D. Training

Before opening the Franchise, you (or, if you are a corporation or partnership, one of your principals who has at least a 10% ownership interest), and your Manager (as defined in Item 15) must attend and complete to our satisfaction our franchise initial training program (“**Franchise Training Program**”), which will last at least one week and may last up to 60 days. We provide the Franchise Training Program at our corporate facilities in the Jeffersonville, Indiana area. We may elect, in our sole discretion, to provide training at another location. You will not receive any compensation or reimbursement for services or expenses for participation in the initial training program. You are responsible for all your expenses to attend any training program, including lodging, transportation, food, uniforms, and training materials.

We plan to provide the training listed in the table below.

TRAINING PROGRAM (WEEKLY)

Subject	Hours of Classroom Training	Hours of On-the-Job Training	Location
Labor Control, Operating Forms and Procedures	6	4	Corporate Headquarters (Jeffersonville, IN)
Black Diamond Standards Guidelines; Customer Service, Cost of Goods Management	12	4	Corporate Headquarters (Jeffersonville, IN)
Franchise Opening; Receiving Orders	0	4	Corporate Headquarters (Jeffersonville, IN)
Computer Training	2	4	Corporate Headquarters (Jeffersonville, IN)
Marketing; Administration; Exam	4	0	Corporate Headquarters (Jeffersonville, IN)
Total	24	16	Corporate Headquarters (Jeffersonville, IN)

We reserve the right to vary the length and content of the initial training program based upon the experience and skill level of the individual or individuals attending the initial training program. We will use the Black Diamond Manuals as the primary instruction materials during the initial training program. We do not have a set schedule for the training classes, and we hold initial training

classes as needed to train new franchisees. Training is conducted by members of our headquarters and operations team under the supervision of Dustin Benjamin, who is our Director of Training and has been with Black Diamond since 2015. He started as a field technician and has moved into many roles within the company since. Dustin has worked as a technician, field trainer, specialist and real estate inspector and has combined that experience with additional training and research in order to lead our training program, Black Diamond University. As our Director of Training, Dustin implements and oversees the initial training for tactical eradication technicians in the field and coordinates continuing development programs to support field operations. He assists new Franchise owners with setting up state required training, chartering, licenses and acquiring any needed state testing materials. He is currently licensed in Indiana, Kentucky, Ohio and Tennessee.

Dustin is passionate about educating others as to how to positively impact health through the proper implementation of a variety of pest control options. A large part of his vision is to help technicians realize the role they play in positively affecting the lives of their customers by not only performing proper eradication services but also by positively educating their customers along the way.

ITEM 12 TERRITORY

Franchise Agreement

Subject to the limitations described below, we will specify in the Site Selection Addendum to the Franchise Agreement a geographic area (“**Territory**”) in which neither our affiliates nor we will establish, or license any other entity to establish, any business that operates under the Black Diamond System and the Marks. After signing the Franchise Agreement, we will approve a particular location for your Franchise. Your Territory will be a county or counties within your state. You should expect competition from other pest control businesses and, potentially, other Black Diamond Franchisees, if you sell services or Products outside your Territory. As other competitors and Black Diamond Pest Control Businesses develop around you, you may experience a decline in sales as consumers shift their purchase patterns.

Although we will not operate a Black Diamond Pest Control Business within the Territory that uses the System and the Marks, there are no limitations on our right to establish, or to license other entities to establish, locations using our Marks and System outside of the Territory.

Additionally, we and our affiliates may offer the same or similar products and services inside or outside of your Territory through any method of distribution other than a dedicated Black Diamond Pest Control Business, including but not limited to such channels of distribution as sales via the internet and other third-party locations (the “**Alternative Distribution Channels**”). We currently sell pest control services through our web site. You do not have any right to use Alternative Distribution Channels to sell Products or services outside or inside your Territory and you will receive no compensation for our sales or the sales of our affiliates through Alternative Distribution Channels.

You receive no rights to provide products and services outside the Territory. You may only provide services at the approved location for your Franchise; products and services may be provided to anyone from the approved location of the Franchise, whether or not they live or work in the Territory.

During the term of your Franchise and for 2 years after the expiration and/or termination of your Franchise, you may not create or participate in a business which is the same or similar to the Franchise and which is either located within the territory granted to you under your Franchise Agreement, or is located within a 50-mile radius of a Black Diamond Pest Control location or territory owned or operated by us, our affiliate, or any other franchisee.

You are required to market within your Territory using the marketing and promotional materials we provide to you. We may temporarily permit you to market in adjacent territories that we have not granted to other Franchisees at our sole discretion and only in writing. You must submit a written request to us if you wish to market in an adjoining territory. If we rescind our approval for temporary marketing, we will notify you in writing and, thereafter, you must immediately cease all marketing activities in that territory.

You do not have the first right of refusal to acquire any other Franchises. Further, neither you nor we have the right to change your Territory. You may not relocate your Franchise within the Territory without our prior written approval. You must send a request to relocate to us in writing.

Our approval process for relocating is substantially the same as our process for a new Franchise. In addition, you must be current with all of your obligations and not be in default under any agreement with us. You must sign our then-current form of Franchise Agreement for a term equal to the remaining term of your Franchise Agreement for your prior location. You are not required to pay an Initial Franchise Fee for your relocated Franchise unless we grant you a term that is longer than the term remaining on your Franchise Agreement. We will charge you a relocation fee to cover our costs associated with reviewing your request. You do not have the right to relocate within or outside your Territory without our prior written approval.

Your rights to an exclusive Territory are not dependent upon achievement of a specific sales volume, market penetration, a change in population, or other conditions.

ITEM 13 TRADEMARKS

Franchise Agreement

The Franchise Agreement will allow you to use the Marks for your Franchise. Black Diamond Termite and Pest Control, Inc. owns the Marks. The principal marks you will use are:

Mark	Description	Application/ Registration Number	Application/ Registration Date
Black Diamond	Service Mark (Name / Text)	Reg. No. 3,322,755	October 30, 2007
Get Pest Off	Service Mark	Reg. No. 4,106,498	July 1, 2014
Black Diamond (text)	Service Mark	Reg. No. 4,536,953	May 27, 2014
No bugs no weeds no worries	Service Mark	Reg. No. 4,559,093	September 15, 2013
Black diamonds (designs)	Service Mark	Reg. No. 4,785,952	August 4, 2015
Black Diamond (mark with diamond and text)	Service Mark (Name / Text)	Reg. No. 4,892,743	January 26, 2016
“Bugs hate us.”	Service Mark	Reg. No. 5,031,724	August 30, 2016

Black Diamond Termite and Pest Control, Inc. intends to file all necessary affidavits of use and renewal applications when they become due. There are no currently effective material determinations of the Patent and Trademark Office, the Trademark Trial and Appeal Board, the Trademark Administrator of any state or any court; nor are there any pending infringement, opposition, or cancellation proceedings or material litigation, involving any of the above Marks.

Our right to use the Marks and the System are exercised pursuant to a Trademark and System License Agreement (the “**Trademark Agreement**”) with Black Diamond Termite and Pest Control, Inc. Under the Trademark Agreement, we have the right to use and permit others to use the Marks and the System. The initial term of the Trademark Agreement is perpetual. The Trademark Agreement may be terminated only if a material default of the terms occurs and is not cured, or if we are adjudicated bankrupt or insolvent, if we become involved in an unopposed bankruptcy or insolvency proceeding against us, or if we make a general assignment for the benefit

of our creditors. In the event we lose our rights to the Marks and the System, Black Diamond Termite and Pest Control, Inc. is required by the Trademark Agreement to allow our Franchisees to maintain their rights to use the Marks and the System in accordance with their Franchise Agreements. Other than the Trademark Agreement, there are no other agreements currently in effect that limit our rights to use or license the use of the Marks or the System.

You must follow our rules and regulations with respect to the use of the Marks. You cannot use any of the Marks or any other marks, names, or indicia of origin that are or may be confusingly similar to the Marks as part of a corporate name or other legal name.

You must promptly notify us of any unauthorized use of the Marks, any challenge to the validity of the Marks, or any challenge to our ownership of, right to use and to license others to use, or your right to use, the Marks. We have the right to direct and control any administrative proceeding or litigation involving the Marks, including any settlement. We have the right, but not the obligation, to act against uses by others that may constitute infringement of the Marks. We will defend you against any third-party claim, suit, or demand arising out of your use of the Marks. If we determine that you have used the Marks in accordance with the Franchise Agreement, we will bear the cost of defense, including the cost of any judgment or settlement. If we determine that you have not used the Marks in accordance with the Franchise Agreement, you must bear the cost of defense, including the cost of any judgment or settlement. If there is any litigation relating to your use of the Marks, you must execute all documents and do all things as may be necessary to carry out a defense or prosecution, including becoming a nominal party to any legal action. Unless litigation results from your use of the Marks in a manner inconsistent with the terms of the Franchise Agreement, we will reimburse you for your out-of-pocket costs.

We reserve the right to substitute different proprietary marks for use in identifying the System and the businesses operating under it if we, in our sole discretion, determine that substitution of different marks as Marks will be beneficial to the System. You must comply with such change, revision, or substitution and bear all expenses associated with them.

ITEM 14

PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION

Patents

We do not own any right in or to any patents that are material to the Franchise.

Copyrights

We claim common law copyright protection covering various materials used in our business and the development and operation of the Franchise, including the Manuals, advertising and promotional materials, and training materials.

There are currently no effective determinations of the United States Copyright Office or any court, or any pending litigation or other proceedings, regarding any copyrighted materials. We do not know of any superior prior rights or infringing uses that could materially affect your use of the copyrighted materials. No agreement requires us to protect or defend our copyrights or to indemnify you for any expenses or damages you incur in any judicial or administrative proceedings involving the copyrighted materials. No provision in the Franchise Agreement requires you to notify us of claims by others of rights to, or infringements of, the copyrighted materials. If we require, you must immediately modify or discontinue using the copyrighted materials. Neither our affiliates nor we will have any obligation to reimburse you for any expenditures you make because of any such discontinuance or modification.

Confidential Manuals

We will provide you a copy of the Manuals on loan for the term of the Franchise Agreement. The Manuals are described more fully in Item 11. You must treat the Manuals, any other manuals created for or approved for use in the operation of the Franchise, and the information contained in them, as confidential, and must use reasonable efforts to maintain this information as secret and confidential. You must not reproduce these materials or otherwise make them available to any unauthorized person. The Manuals will remain our sole property. You must keep them in a secure place on the Franchise premises.

We may revise the contents of the Manuals, and you must comply with each new or changed standard. You must ensure that the Manuals are kept current at all times at your expense. If there is a dispute as to the contents of the Manuals, the terms of the master copies that we maintain at our home office will control.

Confidential Information

You acknowledge that the Manuals and other confidential information, knowledge, and know-how concerning the Black Diamond System and us are and will remain our trade secrets. You must not, before, during or after the term of the Franchise Agreement, divulge or use for the benefit of anyone else any confidential information, knowledge, or know-how concerning us and the System and the

methods of operation of the Franchise. You may divulge any information that you can demonstrate came to your attention prior to our disclosure or which has become a part of the public domain. Any and all information, knowledge, and other data that we designate as confidential will be deemed confidential for purposes of the Franchise Agreement.

At our request, you must require any personnel having access to any confidential information to sign covenants that they will maintain the confidentiality of information they receive during their employment at the Franchise. These covenants must be in a form that we find satisfactory and that identifies us specifically as a third-party beneficiary of these covenants with the independent right to enforce them.

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

We strongly believe that the success of your Franchise will depend to a large extent on your personal and continued efforts, supervision and attention. You must devote continuous efforts to the development, management and operation of your Franchise. You must devote sufficient time and resources to ensure full and complete compliance with our standards, requirements and the Black Diamond System. Your involvement in all facets of your Franchise is critical, and you should understand and be able to perform all sales, management and maintenance functions required to operate your Franchise. You must be able to organize your Franchise so that you and your employees maintain our standards of service, quality, hygiene, and cleanliness. Operation of the Franchise requires a firm, personal commitment from you.

We require that you designate a manager who has successfully completed our Franchisee Training Program (the “**Manager**”). You may be the Manager. If you are not actively involved in the daily operation of your Franchise, the Manager should hold at least 10% ownership interest in your entity. If your Manager leaves the Franchise, you must hire a replacement Manager approved by us. Each Manager must attend and successfully complete our Franchisee Training Program. We may at our sole discretion waive the 10% ownership requirement. We don’t have any obligation to waive this requirement.

You, either individually or through your Principals and employees, must be licensed in every category of service offered by a customary Pest Control Business.

If you are an individual, you or the Manager must be a citizen or legal resident of the United States and must personally manage the Franchise at all times. If you are a legal entity, you must be organized, incorporated, or registered to do business in a state of the United States, maintain your good standing with all states in which you are registered to do business, and your managing shareholder, partner or member, or Manager, must personally supervise the Franchise at all times.

If you form an entity with multiple partners, including financial and operational partners, we require you to provide us a copy of your organizational documents (e.g., operating agreement, partnership agreement, bylaws, etc.) for our approval. Your organizational documents should clearly show responsibilities, hierarchy, and decision-making authority, and must fulfill obligations regarding the entity’s role in operating the Black Diamond Franchise. We will require all owners of the outstanding equity interests in the entity owning the Franchise (the “**Principals**”) to enter into an agreement not to compete with businesses operating under the System during the term of the Franchise Agreement and for a period of 2 years after the Principal is no longer with the Franchise. (See Franchise Agreement, Sections 14.1 and 14.2.) We may require other key individuals to enter into similar agreements. (See Franchise Agreement, Section 14.6.) We may require the Manager and employees to enter into a similar agreement restricting them from competing with any business operating under the System while you employ them and for 2 years after you cease to employ them, and an agreement not to reveal confidential information obtained in the course of their employment with you. (See Franchise Agreement, Section 14.6.)

The Manager, Principals, and employees of the Franchise must not have been convicted of a state or federal crime (excepting minor traffic offenses or offenses receiving a specific written waiver

from Black Diamond), may not be arrested during their ownership of the Franchise, and must not have filed for bankruptcy or similar protection under state or federal laws (including receivership and assignment for the benefit of creditors). In the event any Manager, Principal, or employee of the Franchise is arrested, charged with, or convicted of a state or federal crime (excepting minor traffic offenses), or files for bankruptcy or similar protection, the Franchise must immediately notify Black Diamond in writing and, if Black Diamond has not otherwise notified the Franchise within writing within 14 days, take steps to remove the Manager, Principal, or employee. Black Diamond may terminate the Franchise Agreement for failure to comply with these requirements.

The Franchise Agreement requires all Principals and their spouses to personally guarantee all obligations under the Franchise Agreement.

ITEM 16

RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

Franchise Agreement

You must use the Franchise premises solely to operate the Black Diamond Franchise. You must not use the premises for any other purpose or activity without first obtaining our written consent.

You, your Manager, your Principals, and your employees may not perform any services other than operation of the Black Diamond Franchise when wearing a Black Diamond uniform. You, your Manager, your Principals, and your employees may not work for an employer other than Black Diamond without the prior written consent of Black Diamond.

You may only offer or sell services or products approved by us and you must offer for sale the full menu prescribed by us. We may add, delete, or change approved services that you are required to offer from time to time. There are no limits on our right to do so.

We impose no customer restrictions. However, your Franchise is limited to one Approved Location and all sales must be made from that location. You are not permitted to sell or distribute goods or services through the use of the internet or other electronic communications, except as authorized expressly in writing by us.

You must operate the Franchise in strict conformity with the specifications contained in the Manuals or otherwise in writing. You must not deviate from our specifications and procedures without first obtaining our written consent.

You must offer for sale at all times, all Black Diamond services, and only Black Diamond services, as have been expressly approved in writing and which meet our current standards as established in the Manuals or other writings. You must not sell any other kind of service or product without first obtaining our written consent. You must immediately discontinue selling or offering for sale any services or products that we disapprove of, in our sole discretion, in writing at any time. You may determine the prices of all services and products you offer and sell to your customers, but we may set minimum or maximum prices that may be charged based upon an analysis of the market and to facilitate advertising and competitive strategies. You may not offer Black Diamond services under any name other than Black Diamond.

You must comply with all reasonable requirements if we supplement, improve, or modify the System.

We have the right to change the types of authorized goods and services, and there are no limits on our right to make changes. For a description of your restrictions on some purchases, see Item 8 of this disclosure document. For a description of the restrictions on marketing and solicitation, see Item 12 of this FDD.

Except as described above and in Item 12, neither the Franchise Agreement nor any other practice restricts the goods or services which you may offer, or the customers you may solicit from the location of your Franchise.

ITEM 17
RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION
THE FRANCHISE RELATIONSHIP

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

Provision	Section in Franchise Agreement	Summary
a. Length of the franchise term	Section 2.1	7 years.
b. Renewal or extension of the term	Section 2.2	Your renewal right permits you to enter into a renewal term for your franchise after the initial term of your franchise agreement expires. If you wish to do so, you notify us in writing of your request to renew, and you satisfy all of the required pre-conditions to renewal, we will offer you the right to obtain one additional term for a maximum of 7 years. The length of your renewal term may not exceed the length of time for which you then have a legally binding right to occupy the current location of your franchise, so the renewal period may be less than 7 years. You must sign our then-current franchise agreement for the renewal term and pay the renewal fee. The new Franchise Agreement may have different terms and conditions from the agreement that covered your original term.

Provision	Section in Franchise Agreement	Summary
c. Requirements for you to renew or extend	Section 2.2	Written notice of your request to renew given not more than 12 months and not less than 6 months prior to expiration of current term or you obtain our approval to relocate to a new location; our approval; execution of then-current Franchise Agreement; execution of general release; other conditions apply, such as remodeling and reimaging requirements, and full compliance with the Franchise Agreement and other agreements with us or our affiliates. You must sign our then-current Franchise Agreement for the renewal term and this new agreement may have different terms and conditions from the agreement that covered your original term. We require payment of a renewal fee that will vary based on the renewal term granted.
d. Termination by you	None	You do not have any right to terminate the franchise.
e. Termination by us without cause	None	We may terminate the agreement without cause under certain circumstances in which you are default.

Provision	Section in Franchise Agreement	Summary
f. Termination by us with cause	Sections 12.1, 12.2, and 12.3	We may terminate you if you: fail to operate the Franchise during our required hours and in compliance with our required standards; are bankrupt or insolvent; are repeatedly in default; fail to comply with agreement covenants; make misrepresentations to us; knowingly maintain false books or records; are charged with or convicted of certain crimes; commit a default that cannot be cured; fail to timely cure a default; lose a category license; lose a business license; receive a fine or other sanctions from a governmental agency; perform work below Black Diamond standards; violate state or federal statutory or common law; violate Black Diamond sexual harassment and discrimination policies; breach customer agreements; service customers outside your Territory without our permission; impair the Brand or Marks by poor performance or behavior; and in other circumstances as apply. Please note that the provision in the Franchise Agreement that provides for termination upon bankruptcy of a franchisee may not be enforceable under federal bankruptcy law, depending on the specific circumstances of the bankruptcy. (11 U.S.C. § 101 <u>et seq.</u>)
g. “Cause” defined - curable defaults	Section 12.3	Failure to permit inspection; failure to maintain the standards dictated by us; failure to comply with the material terms of any agreement; the sale of unauthorized products; failure to maintain insurance; and others.
h. “Cause” defined - non-curable defaults	Sections 12.1 and 12.2	Bankruptcy or insolvency; charges or conviction of certain crimes; abandonment; attempting to execute an unauthorized transfer; misuse of the Marks; and others as may apply.

Provision	Section in Franchise Agreement	Summary
i. Your obligations on termination/nonrenewal	Section 13	Cessation of operations and use of Marks and information; return of all customer information to us; return of all Manuals and other information; termination and/or transfer of phone listings; termination of assumed name filings; sale of certain assets to us if we elect to purchase them; assignment of lease; modification of premises; transfer of certain items; payment of monies due; compliance with post-term covenants; and others as apply.
j. Assignment of contract by us	Section 11.1	No restriction on our right to assign.
k. "Transfer" by you - definition	Sections 11.2 and 11.8	Transfer of rights or obligations under the Franchise Agreement or of the assets or ownership of franchisee.
l. Our approval of transfer by you	Section 11.2	You may not transfer your rights in the Franchise Agreement or your interest in any entity that owns an interest of the Franchise of any of its assets without our prior written consent, which we will not unreasonably withhold if all of the conditions we establish are met by you and the transferee. We may reduce the transfer fee at our sole discretion and option if you are transferring less than 50% interest or to your spouse or children. You may not transfer the Franchise Agreement or the Franchise assets to a legal entity owned by you without our prior written consent.
m. Conditions for our approval of transfer	Section 11.2	Satisfaction of financial obligations; good standing; execution of a general release; payment of transfer fee; written assignment of obligations; qualified new franchisee approved by us; remodeling and/or reimaging of the Franchise; transferee's completion of training

		programs; execution of current agreements; and others as may apply.
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Provision	Section in Franchise Agreement	Summary
n. Our right of first refusal to acquire your business	Sections 11.3 and 11.7	We have the right to purchase the Franchise before transfer. We can match any bona fide offer for your business within 60 days from delivery of a complete and accurate copy of the offer letter.
o. Our option to purchase your business	None	Not applicable.
p. Your death or disability	Section 11.5	Executor or representative has 6 months to arrange for a transfer to a third party approved by us, or 6 months to dispose of decedent interest in Franchise subject to the conditions for transfer. If the interest has not been transferred to an approved third party or disposed of within 6 months, we may terminate the Franchise Agreement. Upon death and until appointment of manager we may appoint a manager and you will be responsible for his expenses in addition to a \$500 per diem.
q. Non-competition covenants during the term of the franchise	Section 14.1	You will not attempt to divert any business to a similar business, nor will you have any interest in a business similar to the Franchise.
r. Non-competition covenants after the franchise is terminated or expires	Section 14.2	No employment by, or interest in, a business offering the same or similar goods for a period of 2 years following the termination or expiration of the Franchise Agreement, and within your Territory or within 50 miles of a location or territory owned by us or other System franchisees.

s. Modification of the agreement	Section 20.1	No modification unless mutually agreed to and in writing.
t. Integration/merger clause	Section 20.1	Only the terms of the Franchise Agreement are binding.
Provision	Section in Franchise Agreement	Summary
u. Dispute resolution by arbitration or mediation	Sections 22.2 and 22.3	All disputes must be arbitrated in the State of Indiana.
v. Choice of forum	Section 22.4	Court of proper jurisdiction in the State of Indiana; arbitration will be held in the State of Indiana.
w. Choice of law	Section 22.1	State of Indiana. Arbitration will be governed by the American Arbitration Association, Commercial Rules of Arbitration.

ITEM 18
PUBLIC FIGURES

As of the date of this disclosure document, we do not use any public figures to promote the 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 or affiliate owned outlets, if there is a reasonable basis for the information, and 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 table illustrates the various levels of sales reported by numerous franchises in the Black Diamond system for sales activity during the 2024 reporting period.

Franchise Operations ⁽¹⁾	
2024 Average Gross Sales	\$839,828
2024 Median Gross Sales	\$595,000
Company Operations ⁽²⁾	
2024 Average Gross Sales	\$2,428,805
2024 Median Gross Sales	\$250,000

Notes:

1. As of the date of this FDD, we have five (5) franchises, which are active and operating with a range of \$225,000 to \$2,000,000 in sales.
2. As of the date of this FDD, we have eight (8) company territories.

General Notes:

1. The financial performance representations presented in the tables above do not reflect the cost of sales, operating expenses, or other costs or expenses that must be deducted from the gross sales to obtain your net income or profit. Gross sales include all revenues received or receivable by you as payment. Gross sales excludes: (i) sales taxes, value added or other tax, excise or duty charged to customers, based on sales at or from your territory; (ii) tips, gratuities or service charges paid directly by customers to your employees or paid to you and promptly turned over to your employees in lieu of direct tips or gratuities; and (iii) proceeds from isolated sales of equipment and trade fixtures which are not part of your products and services offered for resale or outside the ordinary course of the ongoing operation of your business.
2. Written substantiation for the financial performance representations will be made available to the prospective franchisee upon reasonable request.

Some outlets have earned this amount. Your individual results may differ. There is no assurance that you will earn as much.

Except for the financial performance representations above, we do not furnish or authorize our employees to furnish any oral or written information concerning the potential sales, costs, income or profits of a Black Diamond franchise. Results vary, and we cannot estimate the results of any particular franchisee.

ITEM 20
OUTLETS AND FRANCHISEE INFORMATION
SYSTEMWIDE OUTLET SUMMARY

FOR YEARS 2022/2023/2024

Outlet Type	Year	Outlets at Start of Year	Outlets at End of the Year	Net Change
Total Outlets	2022	10	13	3
	2023	14	14	0
	2024	14	13	(1)
Company-owned	2022	4	7	3
	2023	7	8	1
	2024	9	8	(1)
Franchised	2022	6	6	0
	2023	6	6	0
	2024	6	5	(1)

TRANSFERS OF OUTLETS FROM FRANCHISEES
TO NEW OWNERS (OTHER THAN THE FRANCHISOR)

FOR YEARS 2022/2023/2024

State	Year	Number of Transfers
All States	2022	0
	2023	0
	2024	0
Total	2022	0
	2023	0
	2024	0

**STATUS OF FRANCHISED OUTLETS
FOR YEARS 2022/2023/2024**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations / Other Reasons	Outlets at End of Year
Indiana	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
All Other States	2022	5	0	0	0	0	0	5
	2023	5	1	0	0	(1)	0	5
	2024	5	0	0	0	(1)	0	4
Total	2022	6	0	0	0	0	0	6
	2023	6	1	0	0	(1)	0	6
	2024	6	0	0	0	(1)	0	5

**STATUS OF COMPANY-OWNED OUTLETS
FOR YEARS 2022/2023/2024**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of Year
Indiana	2022	2	1	0	0	0	3
	2023	3	0	0	0	0	3
	2024	3	0	0	0	0	3
All Other States	2022	2	2	0	0	0	4
	2023	4	0	1	0	0	5
	2024	5	0	1	(1)	0	5
Total	2022	4	3	0	0	0	7
	2023	7	0	1	0	0	8
	2024	8	0	1	(1)	0	8

**PROJECTED OPENINGS AS OF
December 31, 2025**

State	Franchise Agreements Signed but Outlet not Opened	Projected New Franchised Outlets in Next Fiscal Year	Projected New Company-Owned Outlets in Current Fiscal Year
Missouri	0	1	0
Total	0	1	0

Our franchisees are listed on Exhibit D. Our affiliate, Black Diamond Termite and Pest Control, Inc., owns the Black Diamond Pest Control Businesses listed on Exhibit E. No franchisees have left our System within the last fiscal year or have not communicated with us within 10 weeks of the date our disclosure document was issued. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system. No franchisees have signed confidentiality clauses during the last 3 fiscal years. In years 2017 and prior, our fiscal year ended December 31.

ITEM 21
FINANCIAL STATEMENTS

The financial statements listed below are attached to this disclosure document as Exhibit F:

2024 Audited Financial Statements

ITEM 22
CONTRACTS

The following contracts are attached to this disclosure document in the following order:

Exhibit B – Franchise Agreement

Exhibit L – General Release of All Claims

ITEM 23
RECEIPTS

Two copies of an acknowledgment of your receipt of this Disclosure Document appear at the end of the Disclosure Document. Please return one signed copy to us and retain the other for your records.

APPLICABLE STATE LAW MAY REQUIRE ADDITIONAL DISCLOSURES RELATED TO THE INFORMATION IN THIS DISCLOSURE DOCUMENT. THESE ADDITIONAL DISCLOSURES, IF NECESSARY, APPEAR IN THE ATTACHED EXHIBIT I.

[Remainder of page intentionally left blank]

**EXHIBIT A
TO THE DISCLOSURE DOCUMENT**

LIST OF ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS

We intend to register this disclosure document as a “franchise” in some or all of the following states, in accordance with the applicable state law. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, the following are the state administrators responsible for the review, registration, and oversight of franchises in that state and the state offices or officials designated as our agents for service of process in those states:

CALIFORNIA

California Corporations Commissioner
Department of Corporations
320 West 4th Street, Suite 750
Los Angeles, CA 90013
(213) 576-7500 Toll Free (866) 275-2677

1515 K Street, Suite 200
Sacramento, CA 95814
(916) 445-7205

1350 Front Street
San Diego, CA 92101
(619) 525-4233

One Sansome Street, Suite 600
San Francisco, CA 94104
(415) 972-8559

CONNECTICUT

State of Connecticut
Department of Banking
Securities & Business Investments Division
260 Constitution Plaza
Hartford, CT 06103-1800
(860) 240-8230

Agent: Banking Commissioner

HAWAII

(state administrator)

Business Registration Division
Department of Commerce and Consumer
Affairs
335 Merchant Street, Room 203
Honolulu, Hawaii 96813
(808) 586-2722

(agent for service of process)

Commissioner of Securities
State of Hawaii
335 Merchant Street
Honolulu, Hawaii 96813 (808)
586-2722

INDIANA

(state administrator)

Indiana Secretary of State
Securities Division, E-111
302 Washington Street
Indianapolis, Indiana 46204
(317) 232-6681

(agent for service of process)
Indiana Secretary of State
201 State House
200 West Washington Street
Indianapolis, Indiana 46204
(317) 232-6531

ILLINOIS

Franchise Bureau
Office of the Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-4465

MARYLAND

(state administrator)

Office of the Attorney General
Securities Division
200 St. Paul Place
Baltimore, Maryland 21202-0
(410) 576-6360

(for service of process)
Maryland Securities Commissioner
200 St. Paul Place
Baltimore, Maryland 21202-2021
(410) 576-6360

MICHIGAN

(state administrator)

Consumer Protection Division
Antitrust and Franchise Unit
Michigan Department of Attorney General
525 W. Ottawa Street, 6th Floor
Lansing, Michigan 48933
(517) 373-7117

(for service of process)
Corporations Division
Bureau of Commercial Services
Department of Labor and Economic Growth
P.O. Box 30054
Lansing, Michigan 48909

NEW YORK

(state administrator)

New York State Department of Law
Bureau of Investor Protection and Securities
120 Broadway, 23rd Floor
New York, New York 10271
(212) 416-8211

(for service of process)
Secretary of State of New York
41 State Street
Albany, New York 12231
(518) 474-4750

OREGON

Department of Insurance and Finance
Corporate Securities Section
Labor and Industries Building
Salem, Oregon 97310
(503) 378-4387

MINNESOTA

(state administrator)

Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198
(651) 296-6328

(for service of process)
Minnesota Commissioner of Commerce

NORTH DAKOTA

North Dakota Securities Department
State Capitol, Fifth Floor, Dept. 414
600 East Boulevard Avenue
Bismarck, North Dakota 58505
(701) 328-4712

(for service of process)
North Dakota Securities Commissioner

RHODE ISLAND

Securities Division
Department of Business Regulation,
Bldg 69, First Floor
John O. Pastore Center
1511 Pontiac Avenue
Cranston, Rhode Island 02920
(401) 462-9582

SOUTH DAKOTA

Department of Labor & Regulation
Division of Securities
445 East Capitol Avenue
Pierre, South Dakota 57501
(605) 773-4823

WASHINGTON

(state administrator)

Department of Financial Institutions
Securities Division
P.O. Box 9033
Olympia, Washington 98507-9033
(360) 902-8760

(for service of process)
Director, Department of Financial Institutions
Securities Division
150 Israel Road S.W.
Tumwater, Washington 98501

VIRGINIA

State Corporation Commission
Division of Securities and Retail Franchising
1300 East Main Street, 9th Floor
Richmond, Virginia 23219
(804) 371-9051

(for service of process)
Clerk of the State Corporation Commission
1300 East Main Street, 1st Floor
Richmond, Virginia 23219
(804) 371-9733

WISCONSIN

(state administrator)

Division of Securities
Department of Financial Institutions
345 W. Washington Ave., 4th Floor
Madison, Wisconsin 53703
(608) 266-1064

(for service of process)
Administrator, Division of Securities
Department of Financial Institutions
345 W. Washington Ave., 4th Floor
Madison, Wisconsin 53703

EXHIBIT B
TO THE DISCLOSURE DOCUMENT
FRANCHISE AGREEMENT

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ATTACHMENTS:

- 1 – Site Selection Addendum
- 2 – Guaranty and Covenants from Owners of an Interest in Franchisee
- 3 – Territory
- 4 – State Addenda (if required)

BLACK DIAMOND FRANCHISING INC

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (“**Agreement**”) is entered into on _____, 202_, between BLACK DIAMOND FRANCHISING INC, an Indiana corporation, with its principal place of business at 4911 Hamburg Pike, Jeffersonville, IN 47130 (“**we**”, “**us**” or “**Franchisor**”), and _____ (“**you**” or “**Franchisee**”).

CONTRACT DATA SCHEDULE

1. Location of the Office: _____.
2. Term: Seven (7) years from the first date the Office opens to serve the general public, or, in the case of an existing Office, until _____, _____.
3. Territory: _____
4. Initial Franchise Fee: _____ dollars (\$) .
5. Royalty Fee Rate: _____ dollars (\$), or _____ percent (___%)
of
Gross Sales, whichever is greater.
6. Software Fee: _____ dollars (\$) per month.
7. Renewal Fee: _____ dollars (\$) .
8. Technology Fee: _____ dollars (\$) .
9. Digital Marketing/Optimization Fee: _____ dollars (\$) .
10. Notice: Address for notice to FRANCHISEE shall be at the Office, unless another address is inserted here: _____.
11. Permitted Financing: no more than ____% of (i) the initial investment in the Office, equipment, fixtures and signs for new markets or (ii) the purchase price for existing Black Diamond markets.
12. Addenda: _____

BACKGROUND

A. This Agreement is a non-exclusive license to operate a Black Diamond termite and pest control business granted by us and to you. The franchisee, location and term are as specified in the accompanying Contract Data Schedule. As a result of the expenditure of time, effort and money, we have acquired experience and skill in the continued development of the Black Diamond System (the “**System**”), which involves the trade secrets, methods, training, standards, marketing programs, and research and development connected with the operation and promotion of a pest control business, including the inspection of residential and commercial property and the sale, design, installation and servicing of pest elimination and control systems. Our System uniquely offers the highest standards of termite and pest control that is proprietary for use in the Franchise and for sale to customers (the “**Services**”), as well as other products from approved suppliers (“**Approved Products**,” or “**Products**”).

B. The System and the franchise are identified by certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including but not limited to the trade names and marks “Black Diamond Termite and Pest Control” and “Black Diamond Pest Control” as is now designated and additional marks as may be designated by us in writing for use in connection with the System (“**Marks**”).

C. You have investigated and become familiar with the System and desire to enter into the business of operating a Black Diamond office and using the Marks (a “**Franchise**”), and wish to obtain a Franchise from us for that purpose, as well as to receive the assistance provided by us in connection therewith. This license is non-exclusive and relates solely to the single Office location set forth in the Contract Data Schedule. We retain the right to operate or license others to operate Black Diamond offices and other concepts, and to grant other licenses relating to the Marks, at such locations and on such terms as we choose, except as restricted in this Agreement.

D. You understand and acknowledge the importance of our high standards for service, quality, appearance, and the necessity of operating the Franchise in strict conformity with all of our standards and specifications.

NOW, THEREFORE, we and you, for good and valuable consideration, mutually agree as follows:

1. GRANT

1.1 Grant of Franchise

We grant you, and you accept from us, a license to establish, own, and operate under the System, one Franchise at an approved location within the territory (the “**Approved Location**”) specified in the Site Selection Addendum (the “**Site Selection Addendum**”) attached as Attachment 1 and contract data schedule. You agree to identify the Franchise and all services and

products you sell or offer for sale only by the Marks. You have no right to use the System or the Marks for any purpose other than expressly provided herein.

1.2 Deliveries on Grant

Upon execution of this Agreement, you must deliver to us the following:

- (a) The original signed Agreement;
- (b) A check for the Initial Franchise Fee, as specified in Section 4.1, or the Renewal Fee, as specified in Section 4.3, as applicable;
- (c) A signed Site Selection Addendum; and
- (d) If you are a corporation or other limited liability business entity, a guaranty (“**Guaranty**”), attached as Attachment 2, signed by each of your owners (the “**Principals**”) and their spouses.

1.3 Franchise Territory

As described and set forth on Attachment 3, we will specify a geographic area (“**Territory**”) in which you have the exclusive rights to operate a Franchise and in which neither we nor our affiliates will establish (or license another to establish) any traditional pest control service that operates under the System and the Marks, provided you comply with this Agreement.

1.4 Exclusions from Territorial Protection

You expressly acknowledge and agree that, except as provided in Section 1.3 and pursuant to the terms set forth in the Site Selection Addendum, the Franchise is not exclusive. We retain rights:

- (a) To own, acquire, establish, and/or operate, and license others to establish and operate, businesses using the Marks and the System outside the Territory;
- (b) To own, acquire, establish and/or operate, and license others to establish and operate, businesses under proprietary marks other than the Marks, whether such businesses are the same, similar, or different from the Franchise, at any location outside the Territory; and
- (c) To sell or distribute, at retail or wholesale, directly or indirectly, or license to others to sell or distribute, any Products which bear any of the Marks, or any of our other proprietary marks, including the Black Diamond Products and Approved Products, whether inside or outside the Territory, as well as through mail-order catalogs and the internet or other electronic remote-entry ordering systems; and

(d) To sell, operate or grant rights to operate or own non-traditional (each an alternative point of distribution) Black Diamond offices within your territory to third parties. The non-traditional or alternative points of distribution include, internet sales, whole sales, and military or government facilities.

23.7. No Customer Exclusivity

You may solicit business from customers only within your Territory. However, if we have not granted such territory to another franchisee, we may permit you to solicit business in territories adjacent to your Territory by express written consent. We will notify you in writing upon the grant of an adjacent territory and you must immediately cease all soliciting, marketing, and servicing of customers in such territory upon receipt of such notice. Your sales may be impacted.

1.6 Modifications to System.

As franchisor, we have the right to establish “Standards” for various aspects of the System that include the location, physical characteristics, operating systems, and other concepts; the products that are sold; the qualifications of suppliers; the qualifications, organization and training of franchisees and their personnel; the marketing of products and our brand; and all other things affecting the experience of consumers who patronize our System. We make those Standards available to you in our Manuals and in other forms of communication, which we may update from time to time. Complete uniformity may not be possible or practical throughout the System, and we may from time to time vary the Standards as we deem necessary or desirable for the System.

You acknowledge that the System, the services and the Products offered by the Franchise may be modified (such as, but not limited to, the addition, deletion, and/or modification of operating procedures, Products, and services) from time to time by us; and you agree to comply, at your expense, with all such modifications, including without limitation, all requirements needed to implement the modifications.

2. INITIAL AND RENEWAL TERMS

2.1. Initial Term

The initial term of this Agreement will commence when we accept and sign this Agreement and will expire seven (7) years from its commencement.

2.2. Renewal Terms

You may renew the franchise granted under this Agreement for one additional renewal term not to exceed seven (7) years (“**Renewal Term**”). The length of your Renewal Term may not exceed the length of time for which you then have the legally binding right to occupy the Approved Location. For example, if you only have three (3) years remaining on your lease for the Approved Location at the time of renewal, we may only grant to you a three (3) year Renewal Term. To obtain a

Renewal Term, you must meet all of the following prerequisites prior to the commencement of the Renewal Term granted by us:

- (a) You have given us written notice of your request to renew the grant of your rights to operate the Franchise not more than twelve (12) months and not less than six (6) months prior to the end of the expiring term;
- (b) You present satisfactory evidence that you have the right to remain in possession of the premises at the Approved Location for an additional period of time or you obtain our approval to relocate to a new location;
- (c) You refurbish, renovate, or reconstruct the Franchise at your expense to conform with our then-current specifications and presentation of Marks; as outlined in the contract data schedule;
- (d) You comply with our qualification and training requirements in effect at that time;
- (e) You are not in default under any provision of this Agreement, any amendment to this Agreement, any other agreement between us, any agreement with suppliers of Approved Products, any financing agreement, or any lease or sublease for the Approved Location; and you have substantially complied with all the terms and conditions of such agreements and leases during the terms thereof and not been repeatedly in default under such agreements or leases;
- (f) You have satisfied all monetary obligations you owe to our affiliates and us and have timely met those obligations throughout the term of this Agreement;
- (g) You sign our then-current form of Franchise Agreement, which will supersede this Agreement in all respects, and the terms of which may differ from the terms of this Agreement;
- (h) You pay to us the Renewal Fee, as set forth in Section 4.3 below;
- (i) You relocate your Franchise, if we require such relocation as a result of our determination that the existing location of your Franchise is not viable based upon our then current criteria for site selection; and
- (j) Both parties have executed a mutual general release, in a form prescribed by us, by which both parties release any and all claims each has against the other, their respective affiliates, officers, directors, agents, and employees, excluding amounts then due by you to us and indemnity obligations.

3. DUTIES OF FRANCHISOR

3.1. Site Selection Assistance

We will provide you with leasing guidelines (“**Leasing Guidelines**”) to assist you in selecting a site. We may require you, at your sole cost and expense, to use a real estate broker approved by us to assist you with your site selection.

3.2. Training

We will provide an initial training program for you and the individual who you select (and approved by us) to manage the daily operation of your Franchise (the “**Manager**”) at our principal place of business, and/or at another designated location, .

3.3. Manuals

In order to protect our reputation and goodwill, to maintain uniform standards of the services, programs, operations and Products offered and sold under the Marks, and to promote the goodwill of all franchises and the System, we have created for you to use a Franchise Operations Manual and other manuals and training and operations materials which may be in paper or electronic form, or which may be accessed via the internet (collectively, “**Manuals**”). We will loan one copy of the Manuals to you during the term of this Agreement. We may, from time to time in our sole discretion, revise the Manuals to incorporate System changes. You must promptly implement, at your own expense, any such System changes upon receipt of notice thereof from us and must complete their implementation within the time we specify. You must, at our discretion, destroy or return to us the Manuals, or any portion thereof, which are subsequently replaced or superseded.

3.4. Operational Suggestions

We may provide to you, from time to time as we deem appropriate, advice and written materials concerning techniques of managing and operating the Franchise.

3.5. Inspections and Evaluations; Mystery Shopper

We seek to maintain high standards of service, quality, and appearance of the System, and to that end will conduct, as we deem advisable, and at no charge to you, inspections of the Franchise and evaluations of the sales and services rendered therein. We have the right to hire independent shopping or other customer feedback services to (a) visit your Franchise, (b) interview customers, (c) communicate with customers for the purpose of evaluating your Franchise, your use of the Products, and your compliance with our System standards. We will determine the frequency, extent and nature of the evaluation services that will be provided and the form of reports that will be provided to us. We will provide you with a copy of all evaluation reports prepared with respect to your Franchise. You will be required to pay all fees and costs charged to evaluate your Franchise.

3.6. Product Supply

We will use reasonable efforts to make available for purchase by you, either indirectly or directly from us all Approved Products currently being offered for use at the Franchise or for sale to customers; provided, however, that we reserve the right:

(a) To allocate, as we deem necessary or advisable, the supply of Approved Products supplied by us among all Franchises (whether operated by you or other franchisees) based on such non-discriminatory criteria as we may reasonably determine;

(b) To discontinue, in our sole discretion, the use in the Franchise, or the offer and sale at retail, of any Approved Products;

(c) To limit the use in the Franchise, or the offer and sale at retail, of any Approved Products in such manner and for such period of time as we may reasonably deem necessary to determine the marketability of such Approved Products and the feasibility and desirability of using such product at the Franchise, or offering such product for sale under the System; and

(d) To recall or require disposal of, in its sole discretion, any Approved Product which we reasonably believe to be adulterated, tainted, contaminated, spoiled, unsafe, hazardous, expired, or otherwise unfit to be used for its intended purposes. We will reimburse you for the cost of any such recalled or disposed product, together with all reasonable direct costs paid by you to return such recalled product (including freight and insurance), provided such product did not become a recalled or disposed product as a result of an act or failure to act by you.

3.7. Support

We may provide to you, from time to time as we deem appropriate, support by telephone, internet, or other means selected by us, to you related to your operation of the Franchise.

3.8. Supply Company

We reserve the right to establish and require you to use a supply company (“**Supply Company**”) owned by Black Diamond or its affiliate for all product, equipment and other required products and services purchases used in development and operations of your Franchise. In such event, neither we, nor the other franchisee or affiliate owner has any obligation to you and you have no right to receive any compensation or share of profit or benefit. Once the supply company is established, we may charge you a membership fee to offset operations cost of the supply company. When established, you must pay this Fee by EFT, together with the first Royalty Payment due in each month.

3.9. Delegation of Obligations

You acknowledge and agree that any duty or obligation imposed on us by this Agreement may be performed by any of our designees, employees, or agents, as we may direct.

3.10. Sufficiency of Pre-Opening and Opening Services

If you believe we have failed to adequately provide pre-opening and opening services to you in regard to the initial training, selection and purchase of equipment and supplies, or any other matter affecting the establishment of the Franchise, you must notify us in writing within thirty (30) days following the opening of the Franchise. Absent your timely provision of such notice to us, you will be deemed to conclusively acknowledge that all pre-opening and opening services required to be provided by us were sufficient and satisfactory in your judgment.

4. FEES

4.1. Initial Franchise Fee

You must pay to us the total initial franchisee fee of Fifty Thousand and No/100 Dollars (\$50,000) (“**Initial Franchise Fee**”) upon execution of this Agreement. The Initial Franchise Fee is non-refundable in consideration of administrative and other expenses incurred by us in entering into this Agreement and for our lost or deferred opportunity to enter into a Franchise Agreement with others.

4.2. Royalty Fee

You must pay to us a continuing monthly royalty fee of Five Hundred Dollars (\$500) or five percent (5%) of Gross Sales, whichever is greater (“**Royalty Fee**”). “**Gross Sales**” will mean all revenue and income received or receivable by you from the operation of the Franchise, including, but not limited to, revenue from services rendered by the Franchise and from the sale of all products and services, whether for cash or credit and regardless of collection in the case of credit, vendor rebates and insurance proceeds; provided, however, that Gross Sales will not include any sales taxes or other taxes collected from customers by you for transmittal to the appropriate taxing authority. Gross Sales will include all revenues and other income as defined by generally accepted accounting principles unless specifically excluded by us.

4.3. Renewal Fee

In our sole discretion, if we grant you a Renewal Term, you must pay to us a renewal fee (“**Renewal Fee**”) that we will determine based on the length of the Renewal Term. The Renewal Fee for a 7-year Renewal Term will be Ten Thousand Dollars (\$10,000). If your Renewal Term is shorter than 7 years, we will determine the Renewal Fee by prorating the fee. You must pay the Renewal Fee to us upon execution of the then-current form of Franchise Agreement. The Renewal Fee is non-refundable in consideration of administrative and other expenses incurred by us in entering into a new Franchise Agreement and for our lost or deferred opportunity to enter into a Franchise Agreement with others.

4.4. Training Fee

The costs of initial training, including the costs of materials that we will provide you at the initial training program, are included in the Initial Franchise Fee. If we determine that you need additional training or if you request additional training, we may, in our discretion, provide training to you at the following costs (“**Training Fee**”): Ordinary Training, \$65 per hour per employee at our Office; Specialized Training, \$150 per hour per employee at our principal office, or \$200 per hour per employee, plus our travel expenses at your Office. Other than stated in this Agreement, you must pay all costs and expenses incurred by you and your trainees in connection with attending any training programs and seminars; Executive Training, \$250 per hour with a minimum of \$1,500 per day. Training is further described in Section 3.2 above and Section 5.5 below.

4.5. Software Fee

In our sole discretion, you must pay to us a continuing monthly customer and billing software licensing fee of up to \$125 per user or up to \$200 per 1,000 customers (“**Software Fee**”) on the first day of every month. The Software Fee represents our cost of setting up and operating the proprietary software that manages customer lists and organizes billing of those customers.

4.6. Technology / Administrative Fee

In our sole discretion, you must pay to us a continuing monthly technology and administrative fee of \$150 to \$200 per month (“**Technology Fee**”) on the first day of every month. The Technology Fee represents our cost of setting up and operating the purchasing web site, file sharing, and cloud storage programs with third party providers.

4.7. Time and Manner of Payments

You must pay all monthly payments required by Sections 4.2 and 9.5 on or before the 10th day of each following month and by electronic funds transfer (“**EFT**”) or such other manner which we may designate from time to time. Any payment or report not received by us on or before such date will be deemed overdue. All other payments due to us must be paid on the date and in the manner specified in this Agreement. If any payment under this Agreement is overdue, you must pay us, in addition to the overdue amount, interest on such amount from the date it was due until paid at the rate of one and one-half percent (1.5%) per month, or the maximum commercial contract interest rate permitted by law, whichever is less. Entitlement to such interest is in addition to any other remedies that we may have.

4.8. Penalties for Insufficient Funds

You will pay us a fee of \$150 per occurrence for each EFT not completed due to any reason, including, but not limited to, insufficient funds (“**NSF**”) in your designated account. Three or more uncompleted EFT within any twelve-month period will be grounds for default under this Agreement.

4.9. Additional Penalty for Failure to Timely Pay Fees

You understand and agree that if you fail to pay the Royalty Fee or any other fees due to us when such fees are due, we may withhold any services we may then be providing to you (including Black Diamond Supply company services) until such time as you pay all outstanding fees due to us. In addition, we reserve the right to withhold from you any Products, services, information, advice, consultation, and training if you are not in compliance with the terms of this Agreement or the Manuals.

4.10. Franchisor Remedies

Nothing contained in this Section 4 will prevent us from exercising, in our sole judgment, any other rights or remedies available to us elsewhere in this Agreement, including the right to terminate this Agreement for your failure to make all payments when due.

5. DUTIES OF FRANCHISEE

5.1. Importance of System Standards

You understand and acknowledge that every detail of the System and this Agreement is important to you, us, and other franchisees in order to develop and maintain high operating standards, to increase the demand for the services and Products offered and sold by all franchisees, and to protect our reputation and goodwill. You must maintain our high standards with respect to servicing, Products, and operations.

5.2. Site Selection

You will select the site for your Franchise. You must secure the Approved Location within your Territory no later than ninety (90) days after you sign this Agreement. We do not make any representation or warranty of any kind, express or implied, as to the suitability of the site. Your decision to develop and operate the Franchise at the site is based solely on your independent investigation of the suitability of the site for the Franchise. You and your owners release us, and our affiliates, officers, directors, employees and agents from any and all loss, damages and liability arising from or in connection with your selection of the site for development of the Franchise. You must abide by and fulfill all of your duties with regard to site selection and approval by us of your lease, as specified in the Site Selection Addendum and incorporated by reference herein. You may not relocate your site without our prior written approval. A request by you to relocate your site must be sent to us in writing. Our approval process for relocation is substantially similar to our process for site selection. In addition, you must not be in default under this Agreement or any other agreement with us, you must be current on all of your obligations and you must sign our then current form of franchise agreement for a term equal to the term otherwise remaining under this Agreement.

5.3. Office Location

You must modify or renovate the Approved Location to conform to our brand standards at your own expense. You must submit to us the preliminary and final drawings and specifications of the Approved Location for our prior written approval. The drawings and specifications must not thereafter be changed or modified without our prior written approval. You will be responsible, at your expense, for obtaining all zoning classifications, permits, and clearances including but not limited to, certificates of occupancy, which may be required by federal, state, or local laws, ordinances, or regulations or which may be necessary or advisable owing to any restrictive covenants relating to the Franchise's premises or required by the lessor.

5.4. Approval for Franchise Opening

You agree to open the Franchise no later than six (6) months after the date this Agreement is signed. Prior to opening the Franchise, you must obtain our written approval, which approval will not be unreasonably withheld, by first submitting to us written notice of your intent to open the Franchise. We will approve or disapprove your request to open the Franchise within fifteen (15) days; however, if we have not responded to your request within the fifteen (15) day period, your request will be deemed approved, provided that no request will be approved without receipt of all applicable licenses, permits, and insurance necessary for operation.

5.5. Training

You agree that:

(a) Prior to opening the Franchise, you (or, if a corporation, partnership or other limited liability entity, your principal), the Manager, and such additional persons as we may deem necessary and appropriate, in our sole discretion (collectively, "**Trainees**"), will attend and complete, to our satisfaction, the initial training program offered by us at our principal place of business or at such other place as we designate. We will cover the cost of materials that we provide to you at the initial training program. At our option, any persons subsequently employed by you in the position of Manager must also attend our initial training program. We reserve the right to charge an additional fee for this training. Trainees must also attend such additional training programs and seminars as we may require from time to time.

(b) You must have at least one (1) Office Manager ("**Office Manager**") on site during the hours the Franchise is open. The Office Manager must attend and complete, to our satisfaction, our managers training program offered by us at our principal place of business or at such other place as we designate and such additional training and seminars that we may require from time to time.

(c) You will be responsible for any and all expenses incurred by your employees including Assistant Office Managers and the Office Manager in connection with any training programs and seminars including, without limitation, the costs of transportation, lodging, meals, and any wages, as well as any costs of conducting training at your location.

(d) In addition to initial training, we may require any persons subsequently employed by you to attend and complete, to our satisfaction, training at our principal place of business or such other place as we designate for which we may charge you a fee.

(e) You may request training in addition to initial training, which we may provide at our sole discretion and for which we may charge you a reasonable fee.

5.6. Use of Franchise Premises; Hours of Operation

You must use and occupy the Approved Location solely for the operation of the Franchise, must refrain from using or permitting the use of the premises for any other purpose or activity, must keep the Franchise open and in normal operation for at least such minimum hours and days as we may specify in the Manuals or otherwise in writing and as may be required by the lease for the Franchise premises, subject to applicable law, and must at all times staff the Franchise with such number of employees (as specified in the Manuals) and operate the Franchise diligently so as to maximize the revenues and profits therefrom.

5.7. Maintenance of Franchise Premises

You must maintain the Franchise premises in a high degree of repair and in good condition and, in connection therewith, must make such additions, alterations, repairs, and replacements thereto (but no others without our prior written consent) as may be required for that purpose.

5.8. System Standards

To ensure that the highest degree of quality and service is maintained, you must operate the Franchise in strict conformity with such techniques, methods, standards, and specifications as we may from time to time prescribe in this Agreement, the Manuals, or otherwise in writing. Without limiting the generality of the foregoing, you agree that:

(a) You will offer for sale at all times only services and Products as we have expressly approved for sale in writing;

(b) You will ensure that all employees engaged in the provision of services obtain and maintain in good standing any licenses required by applicable laws;

(c) You will purchase and install, at your expense, all equipment, supplies, signs, and other items as we may reasonably direct from time to time in the Manuals or otherwise in writing, and will refrain from installing or permitting to be installed on or about the Franchise premises, without our prior written consent, any furnishings, fixtures, equipment, supplies, signs, and other items not previously approved as meeting our standards and specifications under the System; and

(d) You will maintain sufficient working capital to cover all normal operating expenses.

5.9. Franchisee Employee Policy

You agree to:

(a) Maintain a competent, conscientious, trained staff on duty at the Franchise, including at least one Office Manager (who may be you) who has attended and satisfactorily completed such training as we may require in our sole discretion, and such additional persons as we may require from time to time in the Manuals or otherwise in writing;

(b) Take such steps as are necessary to ensure that all employees of the Franchise keep a neat and clean personal appearance, preserve good customer relations, comply with such dress codes and other standards as we may establish in the Manuals or otherwise in writing;

(c) Employ throughout the term of this Agreement such other personnel specified by us as may reasonably be required to support the business of the Franchise; and

(d) Be solely responsible for all employment decisions and functions, including, without limitation, those related to hiring, firing, establishing remuneration, personnel policies, benefits, disciplining, supervising, and record keeping, regardless of whether you received advice from us on these subjects. Under no circumstances will the Manager and/or staff be deemed to be our employees.

5.10. Personal Attention of Franchisee or Manager to Business

(a) You, a Principal or a Manager, who has successfully completed all required initial training, must personally manage the Franchise at all times.

(b) You understand and agree that the success of the Franchise will depend on personal, continued and full-time attention to the business by you, a Principal or Manager. Personal, continued, and full-time attention will include at least: availability during normal and peak business periods; participation in the development and implementation of management and operational policies; diligent sales and marketing efforts; and involvement in the training and supervision of employees and independent contractors to ensure that the System is followed.

5.11. Compliance with Laws

You agree to cause the Franchise, the employees and agents to comply with all applicable federal, state and local laws, rules and regulations. You must timely obtain, and keep or require to be kept in force at all times during the term of this Agreement, all permits, certificates and licenses necessary for the full and proper conduct of the Franchise including but not limited to Health and Safety permits and approvals. You will, at our request, provide us with copies of any and all professional and other licenses and permits required to conduct the Franchise.

5.12. Products and Other Purchases

(a) All Products and services sold or offered for sale at the Franchise must meet our then current standards and specifications and be approved by us, purchased through the Supply Company or supplied by our approved suppliers. You must purchase, install, and use all equipment, decor, signs, computers, and communications hardware and software as we may reasonably require in the Manuals or other written materials. You must purchase all Products and other items solely from manufacturers, distributors, and suppliers who demonstrate to our continuing reasonable satisfaction the ability to meet our standards and specifications, who possess adequate quality controls and capacity to supply your needs promptly and reliably, and who have been approved by us in the Manuals or otherwise in writing. You may not purchase, offer or sell any services or Products, or purchase, install, or use on the premises of the Franchise, any equipment, decor, sign, computer, and/or communications hardware or software that we have not previously approved as meeting our standards and specifications. We may disapprove of Products and suppliers based on our desire to consolidate System purchases through fewer suppliers.

(b) We may designate a single supplier, which may be the Supply Company or our affiliates, for any services, Products, equipment, and supplies, in which event you must purchase such items exclusively from the designated supplier. Our affiliates or we may receive payments or other compensation from suppliers on account of the suppliers' dealings with us, you, or other franchises in the System. We may use any amounts that we receive from suppliers for any purpose that we deem appropriate, as permitted by applicable law. Our affiliates and we may negotiate supply contracts with our suppliers under which we are able to purchase Products, equipment, supplies, and services at a price lower than that at which our franchisees are able to purchase the same items.

5.13. Cooperation with Inspections

You grant our agents and us the right to enter the premises of the Franchise at any time during regular business hours for the purpose of conducting inspections. You must cooperate with our representatives in such inspections by rendering such assistance as they may reasonably request; and, upon notice from us or our agents and without limiting our other rights under this Agreement, you must take such steps as may be necessary to correct immediately any deficiencies detected during any such inspection.

5.14. Shareholders' Guaranties

Each Principal and each Principal's spouse must jointly and severally guarantee your performance of all of your obligations under this Agreement by executing the Guaranty in the form attached hereto as Attachment 2.

5.15. Conditional Right of Franchisee to Set Prices for Goods and Services

You have the right to offer System products and services at any prices you may determine, but we may set minimum and maximum prices that may be charged based on an analysis of the market and to facilitate advertising and competitive strategies.

5.16. Notification of Legal Proceedings

You must notify us in writing within five (5) days of the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, which may adversely affect the operation or financial condition of the Franchise.

5.17. Franchisee Changes to System

You must not implement any change to the System without our prior written consent. You must notify us in writing of any proposed change and provide such information about the proposed change as we request. You acknowledge and agree that we will have the right to incorporate the proposed change into the System and that we will thereupon obtain all right, title, and interest therein without compensation to you.

6. MARKS

6.1. Our Representations Concerning Marks

We represent with respect to the Marks that we have the right to use and to authorize you and others to use the Marks.

6.2. Your Representations Concerning Marks

You agree that:

(a) You will use only the Marks designated by us, and will use them only in the manner authorized and permitted by us, and only in connection with the operation of the Franchise. You acknowledge that any other use of the Marks will constitute an infringement of our rights;

(b) Unless otherwise approved by us, you will operate and advertise the Franchise only under the name “BLACK DIAMOND TERMITE AND PEST CONTROL” without prefix or suffix;

(c) You will, at all times when you use a Mark, indicate the owner of the Mark (along with the registration symbol ® for registered trademarks and service marks or the designations TM or SM where applicable as specified by us). You will not permit such notice to be altered, defaced, or over-printed;

(d) You will not use the Marks to incur any obligation or indebtedness on our behalf;

(e) You will not use the Marks or any other marks, names or indicia that are or may be confusingly similar to the Marks, as part of your corporate or other legal name;

(f) You will furnish to us, for our prior written consent, any application which you propose to submit for registration of your trade name, business name, fictitious name, assumed name, or other similar name registration to the state or county in which you operate;

(g) During the term of this Agreement and after its expiration or termination, you will not directly or indirectly contest the validity or the ownership of the Marks, nor take any action which may tend to derogate or jeopardize our interest therein or our right to use and to license others to use the Marks; and

(h) You will, at your own expense, sign any documents deemed necessary by us to obtain protection for the Marks or to maintain their continued validity and enforceability.

6.3. Your Acknowledgements Concerning Marks

You expressly understand and acknowledge that:

(a) We have the right to use the Marks and to authorize others to use the Marks;

(b) The Marks serve to identify the System and those who are authorized to operate under the System;

(c) You will not directly or indirectly contest the validity or ownership of the Marks, or our right to use or to license the use of the Marks, and will not apply to register in any country or jurisdiction, in your name or otherwise, the Marks or any trademarks or service marks confusingly similar to the Marks;

(d) Your use of the Marks pursuant to this Agreement does not give you any ownership interest or other interest in or to the Marks, except the license granted by this Agreement;

(e) Any and all goodwill arising from your use of the Marks will inure solely and exclusively to our benefit and our affiliates' benefit, and, upon expiration or termination of this Agreement and the license herein granted, no monetary amount will be assigned as attributable to any goodwill associated with your use of the System or the Marks;

(f) Except as specified in Section 1.3 hereof, we, and our affiliates, will have and retain the rights, among others: (i) to use the Marks in connection with selling Products and services; (ii) to grant licenses to others for the Marks, in addition to those licenses already granted to existing franchisees; and (iii) to develop and establish other systems using the Marks, similar proprietary marks, or any other proprietary marks, and to grant licenses or franchises thereto without providing any rights therein to you;

(g) We reserve the right to change, revise, or substitute different Marks for use in identifying the System, the Franchise, and the services and Products sold or offered for sale through the Franchise, if we, in our sole discretion, determine that change, revision, or substitution of different Marks will be beneficial to the System. In such circumstances, the use of the substituted proprietary marks will be governed by the terms of the Agreement. You must comply with each such change, revision, or substitution and bear all expenses associated therewith;

(h) You will promptly notify us of any suspected unauthorized use of the Marks or confusingly similar marks, or of any challenge to the validity or use of the Marks. We (or our affiliate) will have the sole right to determine whether any action should be taken, and, if any action is taken, we (or our affiliate) will have the right to direct and control any such action, including the conduct of an administrative proceeding or litigation or other adjudicative proceeding involving the Marks, including any settlement thereof. You will have no right, independent of us, to make any demand against any such user or challenger or to prosecute any claim of any kind or nature whatsoever relating to the Marks; and

(i) We (or our affiliate) will defend you against any third-party claim, suit, or demand arising out of your use of the Marks. If we, in our sole discretion, determine that you have used the Marks in accordance with this Agreement, we will bear the cost of such defense, including the cost of any judgment or settlement. If we, in our sole discretion, determine that you have not used the Marks in accordance with this Agreement, you will bear the cost of such defense, including the cost of any judgment or settlement. In the event of any litigation relating to your use of the Marks, you will sign any and all documents and do such acts as may, in our opinion, be necessary to carry out such defense or prosecution, including, but not limited to, becoming a nominal party to any legal action. Except to the extent that such litigation is the result of your use of the Marks in a manner inconsistent with the terms of this Agreement, we agree to reimburse you for your out-of-pocket litigation costs in cooperating with us with respect to the litigation.

6.4. Changes in Law Affecting Marks

In the event that the trademark law is amended so as to render inapplicable any of the provisions of this Agreement, you will sign any documents and do such acts and things as in our opinion may be necessary to effect the intent and purpose of the provisions of this Agreement; provided, however, that we will bear all costs associated with such request.

7. CONFIDENTIAL MANUALS AND INFORMATION

7.1. Use of Manuals

In order to protect the reputation and goodwill of the businesses operating under the System and to maintain standards of operation under the System and to maintain the standards of operation under the Marks, you must operate the Franchise in accordance with the Manuals, including such amendments as we may publish. You must treat the Manuals and the information contained therein as confidential, and secret. You may not at any time edit, copy, duplicate, record, or otherwise reproduce the Manuals, in whole or in part, nor otherwise make the same available to any unauthorized person. You must keep the Manuals current and in a secure location on the Franchise premises. If you lose or misplace the Manuals, you must obtain a replacement copy from us at your sole cost and expense. The Manuals will at all times remain our sole property. In the event of any dispute as to the contents of the Manuals, the terms of the master copy of each of the Manuals maintained by us will be controlling.

7.2. Confidentiality of Information

You acknowledge that the Manuals and other confidential information, knowledge, and know-how concerning the System and us are and will remain our trade secrets. You covenant and agree, during the term of this Agreement or thereafter, not to communicate to, divulge to, or use for the benefit of anyone other than yourself, any confidential information, knowledge, or knowhow concerning us and/or the marketing, management or operations of the Franchise (including, without limitation, the Manuals) which may be communicated to you, or of which you may be apprised, by virtue of your operation under the terms of this Agreement. You may disclose such confidential information only to employees who need to know such information in order to operate the Franchise. Any and all information, knowledge, know-how, techniques, and other data which we designate in the Manuals or otherwise in writing as confidential will be deemed confidential for purposes of this Agreement, except information (a) which you can demonstrate came to your attention prior to disclosure thereof by us, or (b) which, at the time of disclosure by us to you, had become or becomes a part of the public domain through publication or communication by others. In the event of requested disclosure of confidential information pursuant to request for information or documents in any legal proceeding, subpoena, interrogatories, civil investigative demand or otherwise, you must provide us with prompt written notice of such request so that we may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Section 7.

7.3. Confidentiality Covenants from Individuals Associated with You

You must insure that anyone associated with you will keep confidential all information received about the Franchise and us. You must require anyone who may have access to confidential information to sign covenants that they will maintain the confidentiality of information that they receive in connection with their association with you. Such covenants must be in a form approved by us including, without limitation, specific identification of us as a third-party beneficiary of such covenants with the independent right to enforce them.

8. ACCOUNTING AND RECORDS

8.1. Computer System

You, at your expense, will purchase or lease, and thereafter maintain, such approved computer hardware and software, dedicated telephone and power lines, modem(s), printer(s), and other computer-related accessories or peripheral equipment as we specify. We require you to connect your computer system with our computer system, and you must provide such assistance as may be required for us to obtain and maintain such connection. We will thereafter have the right to retrieve and use for any purpose such data and information from your computer system as we, in our sole and exclusive discretion, deem necessary or desirable. In view of the contemplated interconnection of computer systems and the necessity that such systems be compatible with each other, you expressly agree that you will strictly comply with our standards and specifications for all item(s) associated with your computer system. We are not obligated to provide any support or assistance to you with respect to the general maintenance or operation of your computers, computer system or related accessories and equipment.

8.2. Software and Technology Services and Fees

In addition to the fees identified in Sections 4.5 and 4.6, we reserve the right to create, maintain and require you to use software or technology services that our affiliates, any third party or we provide, and in connection with such services charge a fee.

8.3. Maintenance of Computer System

You must, at your expense, keep your computer system in good maintenance and repair, and, at your expense, promptly install such additions, changes, modifications, substitutions and/or replacements to your computer hardware, software, telephone and power lines, and other computer-related facilities as we direct.

8.4. Maintenance of Records

You must maintain during the term of this Agreement, must preserve for at least five (5) years from the dates of their preparation, and must make available to us at our request and at your expense, full, complete, and accurate books, records, and accounts in accordance with generally accepted accounting principles.

8.5. Submission of Performance Reports

You must submit to us, for review or auditing, financial statements, including a balance sheet and income statement prepared on a quarterly basis, Gross Sales reports and performance reports for monthly periods, and such forms, reports, records, information, and data as we may reasonably designate, in the form and by the means we reasonably require. On an annual basis, you must submit to us an advertising expense report in the form specified by us.

8.6. Submission of Financial Statements and Tax Returns

You must, at your expense, provide us with a copy of your financial statements prepared in accordance with generally accepted accounting principles showing the results of operations of the Franchise for each fiscal year during the term of this Agreement. The statements will include a statement of income and a balance sheet certified by you as true and correct and will be furnished within ninety (90) days after the end of each fiscal year of the Franchise. The fiscal year of the Franchise must coincide with our fiscal year end, which ends on the Sunday closest to December 31. You also must submit, within five (5) days of their filing, your federal and state tax returns for each year during the term of this Agreement; provided, however, that if you are not a corporation, other limited liability entity or partnership, you may, at your option, submit only those schedules to your personal tax filings which reflect the revenues and expenses of the Franchise.

8.7. Audit of Your Records

We or our designated agents have the right at all reasonable times to examine and copy, at our expense, the books, records, and tax returns of the Franchise and remove copies thereof from the Franchise premises. We will also have the right at any time, at our expense, to have an independent audit made of the Franchise books, records, and accounts. If any inspection or audit reveals that any underpayment exists, you must immediately pay to us the amount owing to us, as determined by the inspection or audit. Upon discovery of an understatement of two percent (2%) or more, you must reimburse us for any and all expenses connected with such inspections or audits, including but not limited to reasonable accounting and legal fees as well as interest in accordance with the provisions of Section 4.4 hereof. Such payments will be without prejudice to any other remedies we may have under this Agreement or otherwise at law.

9. PROMOTION AND ADVERTISING

Recognizing the value of promotion and advertising and the importance of the standardization of promotion and public relations programs to the furtherance of the goodwill and public image of the System, the parties agree as follows:

9.1. Supplying Promotional Materials

We will from time to time provide to you, at your expense, such promotional and marketing materials as we deem advisable. You must participate in the promotion of services and Products as required and designated by us.

9.2. Most Current Marketing Materials

You are required purchase the most current version of promotional and marketing materials from us. You are at all times required to use the most current of promotional and marketing materials.

9.3. Reserved 9.4. Approval of Your Advertising Materials

You must obtain our prior approval of all promotional and advertising plans and materials that you desire to use. You must submit such plans and materials to us (in the manner set forth in Sections 18 and 19 hereof); however, such plans and materials will be deemed approved unless we express disapproval or request changes in writing within fifteen (15) business days from the date of receipt thereof by us. You will use no such plans or materials unless we have approved them (or we have not responded within fifteen (15) days), and you will promptly discontinue use of any promotional or advertising plans or materials upon notice from us.

9.5. Brand Development Fund

We administer and maintain a fund for the promotion and advertising of the Black Diamond brand and System (“**Brand Development Fund**”), as follows:

(a) Our designee or we will direct all promotional and advertising programs with sole discretion over the concepts, materials, and media used in such programs and the placement and allocation thereof. You agree and acknowledge that the Brand Development Fund is intended to maximize general public recognition, acceptance, and use of the Marks for the System and that we or our designee undertake no obligation in administering the Brand Development Fund to make expenditures which are equivalent or proportionate to your contribution or to insure that any particular franchisee benefits directly or pro rata from expenditures by the Brand Development Fund.

(b) We may require you to pay to the Brand Development Fund an amount up to two percent (2%) of your monthly Gross Sales from the Franchise. We will not commence any Brand Development Fund contribution until after your Franchise has been in operation for twelve (12) months. Each Franchise and company-owned business owned by us will make contributions to the Brand Development Fund on at least the same basis as assessments required of System franchisees. Each business owned by our affiliates will make contributions to the Brand Development Fund that meet or exceed the assessments required of System franchisees.

(c) The Brand Development Fund, all contributions thereto, and any earnings thereon will be used exclusively to meet any and all costs of maintaining, administering, directing, and preparing promotional and/or advertising activities including, among other things, the cost of preparing and conducting broadcast and print media advertising campaigns; direct mail advertising; marketing surveys; advertising activities; use of advertising and advertising agencies to assist therein; and promotional brochures, films, videos, and other marketing materials for use by Franchises. We retain the right to add a limited franchising message on certain advertising materials and promotions.

(d) If we require you to participate in the Brand Development Fund, you will contribute to the Brand Development Fund by EFT or by such other manner that we may designate from time to time. All sums paid by us to the Brand Development Fund will be

maintained in an account separate from our other monies and will not be used to defray any of our expenses, except for such reasonable administrative costs and overhead, if any, as we may incur in activities reasonably related to the administration or direction of the Brand Development Fund and promotion and advertising programs for franchisees and the System, including, among other things, the cost of personnel for creating and implementing advertising, promotional, and marketing programs. The Brand Development Fund and its earnings will not otherwise inure to our benefit. Our designee or we will maintain separate bookkeeping accounts for the Brand Development Fund.

(e) It is anticipated that all contributions to and earnings of the Brand Development Fund will be expended for promotional and/or advertising purposes during the taxable year within which the contributions and earnings are received. If, however, excess amounts remain in the Brand Development Fund at the end of such taxable year, all expenditures in the following taxable year(s) will be made first out of accumulated earnings from previous years, next out of earnings in the current year, and finally from contributions.

(f) The Brand Development Fund is not and will not be an asset of our designee or ours. A statement of the operations of the Brand Development Fund as shown on our books will be prepared annually by us or by an independent certified public accountant selected by us and will be made available to you. Upon request, we will make available for inspection by you the books and records of the Brand Development Fund.

(g) We maintain the right to terminate the Brand Development Fund. The Brand Development Fund will not be terminated, however, until all monies in the Brand Development Fund have been expended for promotional and/or advertising purposes or returned to contributors on the basis of their respective contributions.

(h) The Brand Development Fund will not be a trust fund. We will have no fiduciary responsibility to you in connection with the collection or use of the Brand Development Fund monies or any aspect of the operations of the Brand Development Fund.

9.6. Reserved 9.7. Website

In connection with any website, including any social media website, you agree to the following:

(a) We will have the right, but not the obligation, to establish and maintain a website, which may, without limitation, promote the Marks, any or all of the services and Products, Franchises, the franchising of our business, and/or the System. We will have the sole right to control all aspects of the website, including without limitation its design, content, functionality, links to the websites of third parties, legal notices, and policies and terms of usage. We will also have the right to discontinue operation of the website.

(b) We will have the right, but not the obligation, to designate one or more web page(s) to describe you and/or the Franchise, with such web page(s) to be located within our website. You must comply with our policies with respect to the creation, maintenance

and content of any such web pages. We will have the right to refuse to post and/or discontinue posting any content. We will have the sole right to control all aspects of the operation of any webpage.

(c) If we permit you to establish a website, you must comply with our policies, standards and specifications with respect to the creation, maintenance and content of any such website. You specifically acknowledge and agree that any website owned or maintained by or for your benefit will be deemed “Advertising” under this Agreement, and will be subject to (among other things) our approval under Section 9.4 above.

(d) We will have the right to modify the provisions of Section 9.7 relating to websites as we solely determine is necessary or appropriate.

9.8. Online Use of Marks

You will not use the Marks or any abbreviation or other name associated with us and/or the System as part of any e-mail address, domain name, and/or other identification of you in any electronic medium. You agree not to transmit or cause any other party to transmit advertisements or solicitations by e-mail or other electronic media without our prior written consent as to your plan for transmitting such advertisements.

9.9. Telephone Number and Promotion

You must establish a local telephone number for the Franchise and arrange for listing of the telephone number and address of the Franchise in Google and other online directories we approve under the name “BLACK DIAMOND TERMITE AND PEST CONTROL” or such other name as we may designate. All advertising and promotion in such mediums (beyond a simple listing of name, address and telephone number) are subject to our approval pursuant to Section 9.4 above. We reserve the right to arrange for listings for franchisees under the System and, at your expense, for you; in which case you will pay us as we may designate. Furthermore, your rights to retain your assigned telephone number, local directory listings and advertisements, and internet listings are subject to the provisions of Section 13.3 herein.

9.10. Social Media

You must comply with our policies and procedures regarding permitted use of social media. You may not establish or maintain a separate website, register or use any domain name/URL address, or use any other social media outlet, such as Facebook, Twitter or any other outlet, for or in connection with the Franchise without our prior written approval (which we shall not be obligated to provide). You may not post, respond to, or otherwise participate in any social media communications unless otherwise authorized by us. We reserve the right to change any and all such policies and procedures and permitted and prohibited outlets at any time upon written notice to you.

9.11. Online Customer Reviews

You must maintain a minimum 4.5-star rating on both Google Reviews and Facebook Reviews as well as any other review platforms, including Yelp. In the event that a negative review is posted on Google or Facebook, you are required to respond to the negative review within 24 hours.

10. INSURANCE

10.1. Franchisee Insurance Obligations

You must procure, prior to the commencement of any operations under this Agreement, and maintain in full force and effect at all times during the term of this Agreement, at your expense, an insurance policy or policies protecting you, us, and our affiliates, and their respective shareholders, partners, directors, officers, employees, and agents against any demand or claim with respect to personal and bodily injury, death, or property damage or any loss, liability, or expense whatsoever arising or occurring upon or in connection with the Franchise. Such policy or policies must: (a) be written by insurer(s) acceptable to us; (b) name us, our affiliates and each of our shareholders, officers, directors, employees, and agents as additional insureds; (c) comply with the requirements prescribed by us at the time such policies are obtained; (d) provide at least the types and minimum amounts of coverage specified in the Manuals or otherwise in writing; (e) contain a waiver by you and your insurers of your subrogation rights against us and our affiliates, and all respective shareholders, directors, officers, employees and agents; and (f) expressly provide that no less than thirty (30) days prior written notice will be given to us in the event of material alteration to or cancellation of the coverages under such policies.

10.2. Additional Required Endorsement

All public liability and property damage policies will contain a provision that we and our affiliates, although named as additional insureds, will nevertheless be entitled to recover under such policies on any loss occasioned to us, our affiliates, their agents, or employees by reason of your negligence or the negligence of your agents or employees.

10.3. Proof of Insurance

You must provide us with proof of the required insurance coverages and copies of your policies upon our request.

10.4. Our Right to Secure Insurance on Your Behalf

If you, for any reason, fail to procure or maintain the insurance required by this Agreement, we will have the right and authority (but not the obligation) to immediately procure such insurance and to charge the premium on such insurance to you, which charges, together with a reasonable fee for our expenses in so acting, will be payable by you immediately upon notice. The foregoing remedies will be in addition to any other remedies that we may have.

11. TRANSFER OF INTEREST

11.1. Transfer by Us

We have the right to transfer or assign all or any part of our rights or obligations under this Agreement to any person or legal entity. In addition, and without limiting the foregoing, you expressly affirm and agree that we may sell our assets, our Marks, or our System; may sell our securities in a public offering or in a private placement; may merge, acquire other corporations, or be acquired by another corporation; and may undertake a refinancing, recapitalization, leveraged buy-out, or other economic or financial restructuring.

11.2. Transfer by Franchisee

(a) You understand and acknowledge that the rights and duties set forth in this Agreement are personal to you, and that we have granted this Franchise in reliance on your business skill, financial capacity, and personal character (and, in the event you are other than an individual, of the owners of a beneficial interest in you). Accordingly, neither you, nor any individual, partnership, corporation, other limited liability entity or other legal entity which directly or indirectly owns any interest in this Franchise, in you, or in the Franchise assets, may sell, assign, transfer, convey, pledge, merge, create a security interest in, or give away (collectively, “**Transfer**”) any rights or obligations hereunder and/or any direct or indirect interest in this Franchise (including any direct or indirect interest in a corporate or partnership Franchisee, or in your assets), in any legal entity which owns this franchise, or in all or a substantial portion of the Franchise assets, without our prior written consent. Any purported Transfer, by operation of law or otherwise, not having our written consent required by this Section 11.2(a) will be null and void and will constitute a material breach of this Agreement, for which we may exercise any contractual remedies, including (but not limited to) termination of this Agreement without opportunity to cure pursuant to Section 12.2(d) hereof.

(b) We will not unreasonably withhold our consent to a Transfer of any rights, obligations or interest, in this Franchise (including any direct or indirect interest in a corporate or partnership Franchisee, or in your assets), in any legal entity which owns this Franchise, or in all or a substantial portion of your assets, as long as all of the conditions below are met:

(i) All of your accrued monetary obligations and all other outstanding obligations to us and our affiliates and the approved Suppliers have been satisfied;

(ii) You are not then in default under any provision of this Agreement (as amended), any other agreement between you or your affiliates and us, or our affiliates, or of any lease or sublease for the Franchise premises;

(iii) The transferor (and, if the transferor is other than an individual, the

transferor and its owners) signs a general release in a form satisfactory to us of any and all claims against us and our affiliates and their shareholders or members, partners, directors or managers, officers, agents, and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules, and ordinances;

(iv) The transfer fee payable by the transferor to us is as follows: (1) 50% of the then-current Initial Franchise Fee if the transferee is an existing Black Diamond franchisee; or (2) 100% of the then-current Initial Franchise Fee if the transferee is not an existing Black Diamond franchisee; we reserve the right to reduce the transfer fee, at our option, if you are transferring less than a 50% interest or to your spouse or children;

(v) At our option, the transferee (and, if the transferee is other than an individual, the transferee and its owners) must sign, for a new term, the then-current standard form franchise agreement and any ancillary documents then being offered to new System franchisees (including the execution of personal guarantees);

(vi) The transferee (and, if the transferee is other than an individual, the transferee and its owners) must demonstrate to our satisfaction that the transferee meets our then-current standards for new franchisees in the System including, without limitation, our standards concerning related business experience and financial condition; that the transferee is not a competitor of ours (or an existing franchisee of a competitor); and that the terms of the proposed Transfer do not place an unreasonable financial or operational burden on the transferee;

(vii) The transferee must, at its expense and in a manner satisfactory to us, refurbish, renovate, and/or reconstruct the Franchise to conform to the building design, trade dress, color schemes, and presentation of the Marks to the image then in effect for new or the most recently remodeled Franchises, including, without limitation, structural changes, remodeling, redecoration, and modifications to existing improvements;

(viii) The transferee and its designated managerial personnel must complete, to our satisfaction, the training then required by us for new franchisees; and

(ix) You will remain liable for all of the obligations to our affiliates and to us in connection with the Franchise arising prior to the effective date of the Transfer and will sign any and all instruments reasonably requested by us to evidence such liability.

11.3. Right of First Refusal

If any party holding any interest in this Agreement, in you, or in all or substantially all of the assets of the Franchise desires to accept any *bona fide* offer from a third party to purchase such interest, you must notify us of such offer at least ninety (90) days before such Transfer is proposed to take place, and provide such information and documentation relating to the offer as we may require. We have the right and option, exercisable within sixty (60) days after receipt of such written notification and any background materials concerning the proposed Transfer that we reasonably request, to send written notice to the seller that we intend to purchase the seller's interest on the same terms and conditions offered by the third party; provided that we may substitute cash for any form of payment proposed in such offer. If we elect to purchase the seller's interest, the closing on such purchase will occur within sixty (60) days from the date of notice to the seller of the election to purchase by us. If we decline to purchase the seller's interest, you have ninety (90) days from the earlier of (a) receipt of a notice from us declining to exercise our right of first refusal, or (b) sixty (60) days after our receipt of the transferor's written notification of the proposed Transfer, to close on the transfer of such interest, subject to our approval pursuant to this Section 11. Failure to effect a Transfer with the third party within the ninety (90) day period, or any material change thereafter in the terms of the offer prior to closing, constitutes a new offer subject to the same rights of first refusal by us as in the case of the third party's initial offer. Our failure to exercise the option afforded by this Section 11.3 will not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Section 11, with respect to a proposed Transfer.

11.4. Covenants by Transferees

We have the right to require as a condition pre-requisite to our consent to any Transfer that the transferee (including, in the event that the transferee is a corporation, its officers, directors, and shareholders, and if the assignee is a partnership, all general and limited partners) sign the covenants concerning confidentiality, as set forth in Section 7.3 above, and non-competition, as set forth in Section 14.6 below.

11.5. Transfer Upon Death or Permanent Incapacity

Upon the death or permanent incapacity (mental or physical) of you (if you are an individual), or of a Principal with a controlling interest in this Franchise or in you (if you are a corporation, other limited liability entity or partnership), the executor, administrator, or personal representative of such person may transfer this person's interest to a third party approved by us within six (6) months after such death or permanent incapacity. Upon such death or permanent incapacity and until such transfer is effected, we have the right, but not the obligation, to appoint a manager to operate the Franchise, and you must pay all the costs and expenses incurred by the manager, including, without limitation, the costs of travel, food, lodging, wages and Five Hundred and No/100 Dollars (\$500.00) per diem. Such transfers of interest, including those made by devise or inheritance, will be subject to the same conditions as any *inter vivos* transfer, except that the estate will not be required to pay a transfer fee. However, in the case of transfer by devise or inheritance, if the heirs or beneficiaries of any such person are unable to meet the conditions in this Section 11, the personal representative of the deceased Franchisee will have six (6) months to dispose of the deceased's interest in this franchise, which disposition will be subject to all the terms and conditions for

transfers contained in this Agreement. If the personal representative does not transfer such interest to an approved third party or does not dispose of such interest within six (6) months, we may, at our option, terminate this Agreement.

11.6. Non-Waiver of Claims

Our consent to a Transfer will not constitute a waiver of any claims we may have against the transferring party, nor will it be deemed a waiver of our right to demand exact compliance with any of the terms of this Agreement by the transferee.

11.7. Transfer by Franchisee Bankruptcy - Right of First Refusal

If, for any reason, this Agreement is not terminated pursuant to Section 12.1 and this Agreement is assumed or assigned to any person or entity who has made a *bona fide* offer to accept an assignment of this Agreement pursuant to the United States Bankruptcy Code, then notice of such proposed assignment or assumption, setting forth (a) the name and address of the proposed assignee and (b) all of the terms and conditions of the proposed assignment and assumption, will be given to us within twenty (20) days after receipt of such proposed assignee's offer to accept assignment of this Agreement and, in any event, within ten (10) days prior to the date that the application is made to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and we will thereupon have the prior right and option, to be exercised by notice given at any time prior to the effective date of such proposed assignment and assumption, to accept an assignment of this Agreement to us, upon the same terms and conditions and for the same consideration, if any, as in the *bona fide* offer made by the proposed assignee, less any brokerage commissions which may be payable by you out of the consideration to be paid by such assignee for the assignment of this Agreement.

11.8. Incorporation of Franchisee

Notwithstanding any provision in Section 11 to the contrary, you (if an individual or general partnership) may assign this Agreement, the Franchise assets, and/or your rights and obligations hereunder on one occasion without paying the transfer fee described above in Section 11.2(b)(iv) or complying with 11.2(b)(iii), (v), (vi), (vii), (viii), or (ix), to a limited liability entity organized by you for that purpose only; however, you must continue to own at least a majority of all of the issued and outstanding shares of stock and equity interest in the limited liability entity, and you must receive our advance, written approval and provide a Guaranty (attached as Attachment 2) exercised by all the Principals of such limited liability entity and their spouses. Such limited liability entity will at no time engage in any business or activities other than the exercise of the rights herein granted to you and the performance of your obligations as franchisee hereunder. The legal name of such entity may not include any of the Marks; however, the legal entity is permitted to trade as "Black Diamond Termite and Pest Control" or such other name as we may require.

12. DEFAULT AND TERMINATION

12.1. Automatic Termination

You will be in default under this Agreement, and all rights granted herein will automatically terminate without notice to you, if:

- (a) you become insolvent or make a general assignment for the benefit of creditors; or if a petition in bankruptcy is filed by you or such a petition is filed against you and not opposed by you;
- (b) you are adjudicated as bankrupt or insolvent;
- (c) a bill in equity or other proceeding for the appointment of a receiver of you or other custodian for your business or assets is filed and consented to by you;
- (d) a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction;
- (e) proceedings for a committee of creditors under any state or federal law are instituted by or against you;
- (f) a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless a supersedeas bond is filed);
- (g) you are dissolved;
- (h) execution is levied against your business or property;
- (i) suit to foreclose any lien or mortgage against the Approved Location or your assets is instituted against you and not dismissed within thirty (30) days;
- (j) your real or personal property is sold after levy thereupon by any sheriff, marshal, or constable; or
- (k) your assets, property or interests are “blocked” under any law, ordinance or regulation relating to terrorist activities.

12.2. Termination with Notice and without Opportunity to Cure

You will be in default, and we may, at our option, terminate this Agreement and all rights granted hereunder, without affording you any opportunity to cure the default, effective immediately upon receipt of notice by you, upon the occurrence of any of the following events:

- (a) If you fail to secure an Approved Location within the time limits as provided in Section 5.2 of this Agreement (and the attached Site Selection Addendum), or if you fail to open the Franchise within the time limits as provided in Section 5.4 of this Agreement;

(b) If you at any time cease to operate or otherwise abandon the Franchise without the express written permission of Franchisor, lose the right to possession of the Franchise premises, or otherwise forfeits the right to do or transact business in the jurisdiction where the Franchise is located; provided, however, that if, through no fault of you, the Franchise premises are damaged or destroyed by an event such that repairs or modifications cannot be completed within ninety (90) days thereafter, then you will have thirty (30) days after such event in which to apply for our approval to relocate and/or renovate the Franchise premises, which approval will not be unreasonably withheld;

(c) If a threat or danger to public health or safety results from the maintenance or operation of the Franchise;

(d) If you or any of your partners or shareholders purports to Transfer any rights or obligations hereunder or any interest in you or the Franchise's assets to any third party without our prior written consent, contrary to the terms of Section 11 hereof;

(e) If you fail to comply with the in-term covenant in Section 14.1 below or fail to deliver to us the signed covenants required under Sections 7.3 and 14.6 of this Agreement;

(f) If an approved Transfer is not effected within a reasonable time, as required by Section 11.5 hereof, following your death or permanent incapacity;

(g) If you, after curing a default pursuant to Section 12.3 below, commit the same default two (2) times in a twelve-month period, whether or not cured after notice;

(h) If you repeatedly are in default under Section 12.3 for failure to comply substantially with any of the requirements imposed by this Agreement, whether or not cured after notice;

(i) If you (or an officer or director (or manager) of, or a shareholder (or member) in, you if you are a corporation or other limited liability entity, or your general or limited partners, if you are a partnership) is convicted of a felony, a crime involving moral turpitude, or any other crime or offense that we believe is reasonably likely to have an adverse effect on the System, the Marks, the goodwill associated therewith, or our interest therein;

(j) If you misuse or make any unauthorized use of the Marks, institute any unauthorized litigation regarding the Marks, or otherwise materially impair the goodwill associated therewith or our rights or our affiliates' rights therein;

(k) If you engage in any business or market any service or product under a name or mark which, in our opinion, is confusingly similar to a Mark;

(l) If you knowingly maintain false books or records, or submit any false reports to us;

(m) If you or any of your affiliates commit any act of default under any other franchise agreement with us or any other agreement with us or our affiliates for which such agreement is terminated;

(n) If, contrary to the terms of Section 7 hereof, you or any of your principals discloses or divulges the contents of the Manuals or other confidential information provided to you by us;

(o) If, within ten (10) days after receipt of written notice from us that any required payment is overdue, you do not make such payment to us, our affiliates, or your suppliers or creditors, unless, with respect to your suppliers or creditors, you notify us of the existence of a *bona fide* dispute and take immediate action to resolve it;

(p) If you or any of your principals or agents have made any material misrepresentations in connection with your application to us for the franchise granted herein;

(q) If you understate any payment to us by two percent (2%) or more;

(r) If you take, withhold, misdirect, or appropriate for your own use any funds withheld from your employees' wages for employees' taxes, FICA, insurance or benefits, or generally fail to deal fairly and honestly with your employees or customers;

(s) If you lose or are denied any federal, state or local license that you must possess in order to operate the Franchise;

(t) If you are found liable by any judicial or arbitral body for violation of federal, state or local laws barring discrimination on the basis of race, sex, national origin, age or sexual orientation, or found liable for any common law civil claim the facts of which are grounded in allegations of discrimination on the basis of race, sex, national origin, age or sexual orientation;

(u) If you fail to complete three (3) or more EFTs within any 12-month period, whether or not cured after notice; or

(v) If you fail to provide three (3) or more times within a six (6) month period, your sales, profit and loss information, employee payroll and bonus data, and other financial record per this agreement.

12.3. Termination with Notice and Opportunity to Cure

Except as provided in Sections 12.1 and 12.2 of this Agreement, upon any default by you which can be cured, we may terminate this Agreement only by giving written notice of termination stating the nature of such default to you at least thirty (30) days prior to the effective date of termination; provided, however, that you may avoid termination by immediately initiating a remedy to cure such default and curing it to our satisfaction within the thirty (30) day period (or within such shorter time period as we may reasonably specify) and by promptly providing proof thereof to us. If any such default is not cured within the specified time, or such longer period as applicable law may require, this Agreement will terminate without further notice to you effective immediately upon the expiration of the thirty (30) day period or such longer period as applicable law may require.

12.4. Operation of Franchise in Event of Default

In addition to any of our other rights under this Agreement, if you close or abandon the Franchise without the express written consent of Franchisor (except if such closure or abandonment is due to damage or destruction by an insured risk, statutory or local authority requirements, renovation of the Franchise, or works being undertaken by the landlord in accordance with the terms of the lease or sublease for the Franchise), we have the right, but not the obligation, to operate the Franchise for up to thirty (30) days, at your sole cost and expense, in order to protect and maintain the reputation and goodwill of the System and the Marks. In addition to the costs to operate the Franchise, you must pay all costs and expenses of a manager appointed by us, including, without limitation, the costs of travel, food, lodging, wages and Five Hundred and No/100 Dollars (\$500.00) per diem. You agree to indemnify and hold us and our officers, directors or managers, shareholders or members, agents, employees, and designees harmless against any and all claims, suits, proceedings, liability, costs, damages, expenses, obligations, and losses arising directly or indirectly from, as a result of, or in connection with activities or actions undertaken pursuant to this Section.

12.5. Non-Exclusive Remedy

Our right to terminate this Agreement will be cumulative of and will not preclude the exercise of any other remedies we may have under this Agreement or applicable law.

13. OBLIGATIONS UPON TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement, all rights granted to you under this Agreement to you will immediately terminate and revert to us, and except to the extent permitted by any other currently effective franchise agreements entered into between you and us:

13.1. Cessation of Franchise Operations

You must immediately cease to operate the Franchise, and will not thereafter, directly or indirectly, represent to the public or hold yourself out as one of our present or former franchisees.

13.2. Cessation of Use of Confidential Information and Marks

You must immediately and permanently cease to use all confidential methods, procedures, and techniques associated with the System and all Marks and distinctive forms, slogans, signs, symbols, devices, trade dress, color schemes, designs and layouts associated with the System. In particular, you must cease to use, without limitation, all signs, promotions, and advertising materials, displays, stationery, forms and any other articles that display the Marks.

13.3. Transfer or Cancellation of Certain Items

We have the option, to be exercised within thirty (30) days of termination, to assume your assumed name or equivalent registration and business licenses, telephone numbers, white and yellow pages telephone directory listings and advertisements (whether in print or as part of an internet directory), and e-mail addresses and/or internet domain names which contain any Mark of ours or our affiliates, and you must sign all documents necessary to permit us to assume your rights to those items. If we elect not to exercise this option, you must take all actions necessary to cancel each of the items listed above and furnish us with evidence to prove your compliance with this obligation within fifteen (15) days after you receive notice of termination or expiration of this Agreement. In the event that you fail to do so, we have the right, for which purpose you hereby appoint us as your attorney-in-fact, to obtain such cancellation on your behalf.

13.4. Assignment of Lease

You must, at our option, assign to us any interest which you have in any lease or sublease for the Franchise premises and thereafter vacate the Franchise premises, rendering all necessary assistance to us to enable us to take prompt possession thereof. In the event that you fail to do so, we have the right, for which purpose you hereby appoint us as your attorney-in-fact, to make such assignment on your behalf. In the event that we elect to exercise our option to acquire the lease or sublease of the Franchise premises, you must also assign the telephone number associated with the Franchise to us. In the event that we do not elect to exercise our option to acquire the lease or sublease for the Franchise premises, you must make such modifications or alterations to the premises (including, without limitation, the changing of the telephone number, interior color, and the storefront) immediately upon termination or expiration of this Agreement as may be necessary to distinguish the appearance of the premises from the appearance of other franchise premises under the System. In the event you fail or refuse to comply with the requirements of this Section 13.4, we have the right to enter upon the Franchise premises, without being guilty of trespass or any other tort, for the purpose of making or causing to be made such changes as may be required, at your expense, which expense you agree to pay upon demand. The provisions of this Section 13.4 will not conflict with or supersede the covenants contained in Section 14.2 of this Agreement.

13.5. Modification of Premises to Avoid Public Confusion

You agree, in the event that you continue to operate or subsequently begin to operate any other business, not to use any reproduction, counterfeit copy, or colorable imitation of the Marks, either in connection with such other business or the promotion thereof, which is likely to cause confusion, mistake, or deception, or which is likely to dilute our and our affiliates' rights in and to the Marks

and further agree not to utilize any designation of origin or description or representation which falsely suggests or represents an association or connection with us.

13.6. Franchisee Payment of Monies Due

You will promptly pay all sums owing to us and our affiliates. In the event of termination for any default by you, such sums will include all damages, costs, and expenses, including reasonable attorneys' fees, incurred by us or our affiliates as a result of the default, which obligation will give rise to and remain, until paid in full, a lien in favor of us against any and all of the personal property, furnishings, equipment, signs, fixtures, and inventory owned by you and on the Franchise premises at the time of default. You hereby appoint us as your attorney-in-fact, with full power and authority to sign on your behalf such documents as are necessary to obtain and perfect such lien. We have the right to set-off any amounts which are payable to us by you.

13.7. Franchisee Payment of Franchisor's Cost in Securing Franchisee's Compliance with Post-Termination Obligations

You must pay to us all damages, costs, and expenses, including reasonable attorneys' fees, incurred by us subsequent to the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provisions of this Section 13.

13.8. Return of Manuals and Other Confidential Information

You must immediately deliver to us all copies of any confidential information and Manuals you have in your possession, as well as all identifying information regarding customers of the Franchise, all of which you acknowledge are our property. However, you will retain your Gross Sales data and financial statements from your operation of the Franchise for a period of not less than three (3) years from the date you receive a Notice of Termination from us.

13.9. Franchisor Right to Purchase Franchise Assets

We will have the option, to be exercised within forty-five (45) days after termination, to purchase from you any or all of your assets related to the operation of the Franchise. Such purchases of your undamaged or unused inventory or supplies will be at the price you paid for such items, while purchases of furnishings, equipment, signs or fixtures will be at your depreciated book value. You must provide us with all data necessary for us to determine your costs (or depreciated book value) for such items within ten (10) days of receiving a request for such information from us. If you do not furnish such information to us within ten (10) days of receipt of our request, we will designate an independent appraiser to determine the fair market value of your assets and set the purchase price that we will pay you. If we elect to exercise our option to purchase, the closing will take place within forty-five (45) days after our notice of intent to purchase has been furnished to you. We have the right to set off all amounts due from you (including, without limitation, damages, costs, and expenses associated with the termination of this Agreement) and the cost of the appraisal, if any, against our payment to you for your assets.

13.10. Compliance with Post-Term Covenants

You must comply with the post-term covenant contained in Section 7 of this Agreement.

14. COVENANTS

14.1. Non-Competition During Term of Agreement

You specifically acknowledge that, pursuant to this Agreement, you will receive valuable information, including, without limitation, information regarding operational, sales, promotional and marketing methods of the System and us. You covenant that during the term of this Agreement, except as otherwise approved in writing by us, you will not, either directly or indirectly, for yourself, or through, on behalf of, or in conjunction with any person, association, partnership, or corporation:

(a) Divert or direct, or attempt to divert or direct, any business or customer of the Franchise to any other business, by direct or indirect solicitation, inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System; or

(b) Own, maintain, advise, operate, engage in, be employed by, make loans to, have any interest in or relationship or association with, a business which offers the same or similar goods and services as those offered by the Franchise within the United States.

14.2. Non-Competition after Expiration of Term of Agreement

Except to the extent permitted by any other currently effective franchise agreements entered into between the parties, commencing upon the date of: (a) a transfer permitted under Section 11 hereof; (b) expiration of this Agreement; (c) termination of this Agreement (regardless of the cause for termination); or (d) a final court order (after all appeals have been taken) with respect to any of the foregoing events or with respect to enforcement of this Section 14.2, and continuing for an uninterrupted period of two (2) years thereafter, you will not, without our prior written consent, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, or legal entity, own, maintain, advise, operate, engage in, be employed by, make loans to, or have any interest in or relationship or association with a business which offers the same or similar goods and services as those offered by the Franchise and which is located within (a) the Territory, or (b) within a fifty- (50) mile radius of any Franchise (or location or territory offering services under the system and the Marks) owned or operated by us, our subsidiaries or affiliates, or any other system franchisee. It is understood that the purpose of this covenant is not to deprive you of a means of livelihood and it will not do so, but is rather to protect our goodwill and interest and the System's good will and interest.

14.3. Reducing Scope of Covenants

We have the right, in our sole discretion, to reduce your obligations under any covenant set forth in Sections 14.1 and/or 14.2 hereof, or any portion thereof, without your consent, effective

immediately upon receipt by you of written notice thereof. You agree that you will comply immediately with any covenant as so modified, which will be fully enforceable notwithstanding the provisions of Section 20 of this Agreement.

14.4. Enforceability of Covenants Not Affected by Franchisee Claims

You expressly agree that the existence of any claims that you may have against us, whether or not arising from this Agreement, will not constitute a defense to the enforcement by us of the covenant in Section 7 of this Agreement. You agree to pay all costs and expenses (including reasonable attorneys' fees and expenses) incurred by us in connection with the enforcement of Section 7 of this Agreement.

14.5. Breach of Covenants Cause Irreparable Injury

You acknowledge that your violation of the terms of Section 7 of this Agreement hereof would result in irreparable injury to us for which damages are not an adequate remedy. You agree that we may seek, and you agree to pay all court costs and reasonable attorneys' fees incurred by us in obtaining, without posting a bond, an ex parte order for injunctive or other legal or equitable relief for your action or omission in violation of the terms of Section 7 of this Agreement.

14.6. Covenants from Individuals

At our request, you will require and obtain execution of covenants of confidentiality and non-competition similar to those set forth in Section 7 and Section 14 hereof (including covenants applicable upon the termination of a person's relationship with you) from (a) any operations manager and any other personnel employed by you who have received or will have received training from us or any other persons having a connection with the Franchise; (b) if you are a limited liability entity, all officers, directors or managers, and holders of a beneficial interest of your securities, and of the securities of any entity directly or indirectly controlling you, who were not signatories to the Guaranty contained in Attachment 2 hereto; and (c) if you are a partnership, the general partners and any limited partners (including any corporation and the officers or managers, directors, and holders of a beneficial interest of the securities of any entity that controls, directly or indirectly, any general or limited partner), who were not signatories to Attachment 2 hereto. The covenant required by this Section 14.6 will be in a form specified by us, including, without limitation, specific identification of us as a third-party beneficiary of such covenant with the independent right to enforce it. Your failure to obtain the covenants required by this Section 14.6 will be deemed a default under Section 12.3 of this Agreement.

15. FRANCHISEE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP

15.1. Corporate Franchisee

Except as otherwise approved in writing by us, if you are a corporation, you will: (a) confine your activities, and your governing documents will at all times provide that your activities are confined, exclusively to operating the Franchise and other franchises under Franchise Agreements with us;

(b) furnish us with its articles of incorporation, bylaws and good standing certificate as well as such other documents that we may reasonably request; (c) maintain stop transfer instructions on its records against the transfer of any equity securities and only issue securities upon the face of which a legend, in a form satisfactory to us, appears which references the transfer restrictions imposed by this Agreement; (d) not issue any voting securities or securities convertible into voting securities; (e) maintain a current list of all owners of record and all beneficial owners of any class of voting stock of Franchisee and furnish the list to us upon request; and (v) not attempt to register under the Securities Act of 1933 or the Securities Exchange Act of 1934 or issue securities exempt from such registration.

15.2. Partnership Franchisee

If you are a partnership you will: (a) confine your activities exclusively to operating the Franchise and other franchises under Franchise Agreements with us; (b) furnish us with its partnership agreement, as well as such other documents as we may reasonably request and any amendments thereto; and (c) prepare and furnish to us, upon request, a current list of all your general and limited partners.

15.3. Limited Liability Company Franchisee

If you are a limited liability company, you will: (a) confine your activities exclusively to operating the Franchise and other Franchises under Franchise Agreements with us; (b) furnish us with its articles of organization, operating agreement and certificate of good standing, as well as such other documents as we may reasonably request and any amendments thereto; (c) prepare and furnish to us, upon request, a current list of all your members and managers; and (d) maintain stop transfer instructions on its records against the transfer of any equity securities and will only issue securities which bear a legend, in a form satisfactory to us, which references the transfer restrictions imposed by this Agreement.

16. TAXES

16.1. Payment of Taxes

You will promptly pay to us an amount equal to all taxes levied or assessed, including, but not limited to, unemployment taxes, sales taxes, use taxes, withholding taxes, excise taxes, personal property taxes, intangible property taxes, gross receipt taxes, taxes on royalties, any similar taxes or levies, imposed upon or required to be collected or paid by us by reason of the furnishing of Services or Products, intangible property (including trademarks and trade names) or services by us to you through the sale, license or lease of property or property rights provided by this Agreement.

17. INDEPENDENT CONTRACTOR AND INDEMNIFICATION

17.1. No Fiduciary Relationship

This Agreement does not create a fiduciary relationship between the parties to this Agreement. You will be an independent contractor, and nothing in this Agreement is intended to constitute

either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever.

17.2. Public Notice of Independent Status

You will conspicuously identify yourself and the Franchise in all dealings with your customers, contractors, suppliers, public officials, and others, as our independent franchisee and will place such notice of independent ownership in your Franchise on windows and/or walls and on all forms, business cards, stationery, advertising, signs, and other materials and in such fashion as we may specify from time to time in the Manuals or otherwise in writing.

17.3. Independent Contractor

You acknowledge and agree that you are not authorized to make any contract, agreement, warranty, or representation on our behalf or to incur any debt or other obligation in our name. You acknowledge that we will in no event assume liability for, or be deemed liable a result of, any such action, nor will we be liable by reason of any of your acts or omissions in your conduct of the Franchise or for any claim or judgment against you or us arising from your conduct of the Franchise.

17.4. Indemnification

You will indemnify and hold harmless to the fullest extent permitted by law, us, our affiliates and their respective directors, officers, employees, shareholders, and agents (collectively “**indemnitees**”) from any and all losses and expenses (as defined below) incurred in connection with any litigation or other form of adjudicatory procedure, claim, demand, investigation, or formal or informal inquiry (regardless of whether reduced to judgment) or any settlement thereof which arises directly or indirectly from, as a result of, or in connection with your operation of the Franchise including, but not limited to, claims arising as a result of the maintenance and operation of vehicles or the Franchise premises (collectively “**event**”), and regardless of whether same resulted from any strict or vicarious liability imposed by law on the indemnitees; provided, however, that this indemnity will not apply to any liability arising from the gross negligence of indemnitees (except to the extent that joint liability is involved, in which event this indemnification will extend to any finding of comparative negligence or contributory negligence attributable to you). We may, in our sole judgment, take such actions as we deem necessary and appropriate to investigate, defend, or settle any event or take other remedial or corrective actions, as may be, in our sole judgment, necessary for the protection of the indemnitees or the System.

18. APPROVALS AND WAIVERS

18.1. Obtaining Approvals

Whenever this Agreement requires our prior approval or consent, you will make a timely written request to us, and such approval or consent must be obtained in writing. We make no warranties or guarantees upon which you may rely and assume no liability or obligation to you by providing any

waiver, approval, consent, or suggestion to you in connection with this Agreement or by reason of any neglect, delay, or denial of any request.

18.2. No Waiver

No delay, waiver, omission, or forbearance on our part to exercise any right, option, duty, or power arising out of any breach or default by you, or by any other franchisee, of any of the terms, provisions, or covenants of this Agreement or any other of our franchise agreements, and no custom or practice by the parties at variance with the terms hereof, will constitute a waiver by us of our rights to enforce any such right, opinion, or power as against you or as to a subsequent breach or default by you. Subsequent acceptance by us of any payments due to us hereunder will not be deemed to be a waiver by us of any preceding or succeeding breach by you of any terms, covenants, or conditions of this Agreement.

19. NOTICES

19.1. Notices

Any and all notices required or permitted under this Agreement will be in writing and will be personally delivered, sent by facsimile, emailed, mailed by certified mail, return receipt requested, or dispatched by a national overnight service envelope, to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notices to Franchisor: Black Diamond Franchising Inc
4911 Hamburg Pike
Jeffersonville, IN 47130
Attention: Franchise Relations

Notices to Franchisee: As listed on the signature page to this Agreement

Notices will be deemed to have been received as follows: by personal delivery or facsimile -- at the time of delivery; by overnight delivery service -- on the next business day following the date on which the Notice was given to the overnight delivery service; and certified mail -- three (3) days after the date of mailing.

20. ENTIRE AGREEMENT

20.1. Entire Agreement

This Agreement, any attachments hereto, and any ancillary agreements between you and us or any affiliate which are signed contemporaneously with this Agreement constitute the entire and complete Agreement between us (and, if applicable, any affiliate) and you concerning this subject matter and supersede all prior agreements. You acknowledge that you are entering into this Agreement and any ancillary agreements signed contemporaneously herewith as a result of your own independent investigation of the business franchised hereby and not as a result of any

representations made by us or persons associated with us or other franchisees which are contrary to the terms herein set forth or which are contrary to the terms of any franchise disclosure document or other similar document required or permitted to be given to you pursuant to applicable law. Except for those permitted to be made unilaterally by us, no amendment, change, or variance from this Agreement will be binding on either party unless mutually agreed to by the parties and signed by their authorized officers or agents in writing.

21. SEVERABILITY AND CONSTRUCTION

21.1. Severability and Construction

Except as expressly provided to the contrary in this Agreement, each portion, section, part, term, and provision of this Agreement will be considered severable. If, for any reason, any section, part, term, or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation by a court or agency having valid jurisdiction, the remaining portions, sections, parts, terms, and provisions of this Agreement will continue to be in full force and effect and bind the parties hereto. All acknowledgments, promises, covenants, agreements, and obligations herein made or undertaken by you will be deemed jointly and severally undertaken by all those executing this Agreement on your behalf.

21.2. No Third-Party Beneficiaries

Except as expressly provided to the contrary in this Agreement, nothing in this Agreement is intended, nor will be deemed, to confer upon any person or legal entity other than you, us, our affiliates, shareholders or members, partners, directors or managers, officers, and employees, and such of your and our respective successors and assigns as may be contemplated (and, as to you, permitted) by Section 11 hereof, any rights or remedies under or by reason of this Agreement.

21.3. Survival of Modified Provisions

You expressly agree to be bound by any promise or covenant imposing the maximum duty permitted by law which is subsumed within the terms of any provision hereof, as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions hereof any portion or portions which a court may hold to be unreasonable and unenforceable in a final decision to which we are a party or from reducing the scope of any promise or covenant to the extent required to comply with such a court order.

21.4. Captions

All captions in this Agreement are intended solely for the convenience of the parties, and none will be deemed to affect the meaning or construction of any provision hereof.

21.5. Survival of Obligations after Expiration or Termination of Agreement

Any provision or covenant of this Agreement that by its terms or by reasonable implication are to be performed in whole or in part after the expiration or termination of this Agreement will survive such expiration or termination.

22. APPLICABLE LAW

22.1. Choice of Law

Any claim or controversy arising out of or related to this Agreement, or the making, performance, breach, interpretation, or termination thereof, except to the extent governed by the United States Trademark Act of 1946, will be interpreted and construed under the laws of the State of Indiana. In the event of any conflict of law, the substantive laws of the State of Indiana will prevail, without regard for the application of that state's conflict of law rules.

22.2. Arbitration

(a) All controversies, disputes, or claims (excluding claims relating to (i) ownership or use of the Marks, (ii) issues concerning alleged violations of federal or state antitrust laws; (iii) securing injunctive relief pursuant to Section 22.5 of this Agreement) between the parties, including their respective affiliates, owners, officers, directors, agents, and employees, arising from or relating to this Agreement shall on demand of either party be submitted for arbitration to the American Arbitration Association ("AAA"). The arbitration shall be governed exclusively by the United States Arbitration Act (9 U.S.C. § 1, et seq.), without reference to any state arbitration statutes. The parties agree that, in connection with any such arbitration proceeding, each shall submit or file any claim which would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedures) within the same proceeding as the claim to which it relates. Any such claim which is not submitted or filed in such proceeding shall be barred. The arbitration proceedings shall be conducted in the city where Franchisor then has its principal place of business in accordance with the then-current commercial arbitration rules of the AAA, except the parties shall be entitled to limited discovery at the discretion of the arbitrator(s) who may, but are not required to, allow depositions. The parties acknowledge that the arbitrators' subpoena power is not subject to geographic limitations. The arbitration proceedings shall be conducted on an individual basis and not on a multi-plaintiff, consolidated or class-wide basis. The arbitrator(s) shall have the right to award the relief which he or she deems proper, consistent with the terms of this Agreement, including compensatory damages (with interest on unpaid amounts from date due), legal fees and costs. The award and decision of the arbitrator(s) shall be conclusive and binding on all parties, and judgment upon the award may be entered in any court of competent jurisdiction. Any right to contest the validity or enforceability of the award shall be governed exclusively by the United States Arbitration Act.

(b) The provisions of this Section 22.2 shall continue in full force and effect subsequent to and notwithstanding expiration or termination of this Agreement.

22.3. Venue

The parties agree that any action brought by either party against the other in any court, whether federal or state, will be brought exclusively within the judicial circuit in which the Franchisor has its principal place of business at the time the action is initiated (presently Jeffersonville, Indiana). You agree to pay our reasonable attorneys' fees in dismissing or having transferred any suit filed in any other forum. You irrevocably waive, to the fullest extent you may lawfully do so, the defense of an inconvenient forum to the maintenance of such suit, action or proceeding and agree that service of process for purposes of any such suit, action or proceeding need not be personally served but may be served by certified mail or any other means permitted by law addressed to you at the address set forth in this Agreement. Nothing contained herein will affect our rights to bring a suit, action or proceeding in any other appropriate jurisdiction, including any suit, action or proceeding brought by us to enforce any judgment against you entered by a state or federal court.

22.4. Limitation of Adjudicative Proceedings

The parties irrevocably waive: (a) trial by jury in any action, proceeding, or counterclaim whether at law or in equity, brought by either of them against the other, whether or not there are other parties in such action or proceeding; and (b) any right to or claim of any punitive or exemplary damages against the other and agree that in the event of a dispute between them each will be limited to the recovery of any actual damages sustained by it. Any and all claims and actions arising out of or relating to the events leading up to the execution of this Agreement, the relationship of Franchisee and Franchisor, or your operation of the Franchise, brought by any party hereto against the other will be commenced within one (1) year from the occurrence of the facts giving rise to such claim or action, or such claim or action will be forever barred.

22.5. Right to Injunctive Relief

Nothing in this Agreement will bar our right to seek injunctive relief without the posting of any bond or security to obtain the entry of temporary and permanent injunctions and orders of specific performance enforcing the provisions of this Agreement relating to your: (a) use of the Marks; (b) obligations upon termination or expiration of the agreement; (c) your proposed Transfer of the Franchise, this Agreement, or any ownership interest in you; or (d) actions covered by the provisions of Section 7 or 14 of this Agreement. We also will be able to seek injunctive relief to prohibit any act or omission by you or your employees that constitutes a violation of any applicable law, is dishonest or misleading to your customers or to the public, or which may impair the goodwill associated with the Marks, and you will pay all costs and reasonable attorneys' fees incurred by us in obtaining such relief.

22.6. Costs and Legal Fees

If we are required to enforce this Agreement in a judicial or arbitration proceeding, you shall reimburse us for our costs and expenses, including, without limitation, reasonable accountants', attorneys', attorney assistants', and expert witness fees, costs of investigation and proof of facts,

court costs, other litigation expenses and travel and living expenses, whether incurred prior to, in preparation for or in contemplation of the filing of any such proceeding. If we are required to engage legal counsel in connection with any failure by you to comply with this Agreement, you shall reimburse us for any of the above-listed costs and expenses incurred by us.

23. ACKNOWLEDGMENTS

23.1. Recognition of Business Risks

You acknowledge that you have conducted an independent investigation of the proposed franchise and recognize that the business venture contemplated by this Agreement involves business risks and that its success will be largely dependent upon your ability as an independent businessperson. We expressly disclaim the making of, and you acknowledge that you have not received, any warranty, or guarantee, or representation other than as set forth in the Franchise Disclosure Document, express or implied, from any of our employees or agents as to the potential sales volumes, profit or level of success of the business venture contemplated by this Agreement, or of the suitability of the Approved Location of the Franchise.

23.2. Receipt of Franchise Disclosure Document

You acknowledge that you received the disclosure document required by the Trade Regulation Rule of the Federal Trade Commission entitled “Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures” (the “**Franchise Disclosure Document**”) at least fourteen (14) days prior to the date on which this Agreement was signed or you made any payment to us. You further acknowledge that the Franchise Disclosure Document included a copy of the Franchise Agreement and all attachments and agreements relating thereto. You further acknowledge that we have not unilaterally and materially altered the terms of the Franchise Agreement or any related agreements or attachments to the Franchise Disclosure Document without giving you a copy of each such revised agreement at least seven (7) days before you sign such agreement.

23.3. Review of Franchise Disclosure Document

You acknowledge that you have read and understand this Agreement, the attachment(s) hereto, the documents referred to herein, and agreements relating thereto, if any; that we have accorded you ample time and opportunity to consult with advisors of your own choosing about the potential benefits and risks of entering into this Agreement; and that you have not been advised or represented by us or our affiliates or any of their agents with respect to this Agreement.

23.4. Reliance on Materials Outside the Franchise Disclosure Document

You acknowledge and agree that, in making the decision to enter into this Agreement, you have not relied upon any information provided to you by us or our agents (including, but not limited to, past or projected sales, expenses, profits or income of any other franchises) that is contrary to or different from the information contained in the Franchise Offering Circular.

23.5. Atypical Arrangements

You acknowledge and agree that we may, in the future, modify the offer of franchises to other franchisees in any manner and at any time, which offers and agreements may have terms, conditions, and obligations which differ from the terms, conditions, and obligations in this Agreement.

23.6. Agreement Binding Upon Signature by Franchisor

You acknowledge that this Agreement will not take effect until its acceptance and execution by one of our officers.

[Reminder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each party has caused its authorized representative to duly sign and deliver this Agreement on the date written below.

BLACK DIAMOND FRANCHISING INC

WITNESS

By: _____

Name: _____

Name: _____

Signature: _____

Title: _____

Date: _____

Date: _____

FRANCHISEE:

WITNESS

By: _____

Name: _____

Name: _____

Signature: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT 1
TO THE FRANCHISE AGREEMENT
SITE SELECTION ADDENDUM

BLACK DIAMOND FRANCHISING INC, an Indiana corporation (“we” or “us”), and _____ (“you”), have this day entered into a Franchise Agreement (“**Franchise Agreement**”) and desire to supplement its terms as set out below in this Site Selection Addendum (“**Addendum**”). The parties hereto agree as follows:

AGREEMENT

1. **Time to Locate Site:** After the Effective Date of the Franchise Agreement (as defined therein), you must promptly acquire or lease, at your expense, commercial real estate that is properly zoned for the use of the business to be conducted under the Franchise Agreement (a “**Franchise**”) at a site we approve as hereinafter provided. Your failure to acquire or lease a site for the Franchise within the time required in this Section 1 constitutes a default under Section 12.2 of the Franchise Agreement and under this Addendum, and we, in our sole discretion, may terminate the Franchise Agreement and this Addendum pursuant to the terms of Section 12.2 of the Franchise Agreement.
2. **Site Selection Assistance:** We may provide you with leasing guidelines (“**Leasing Guidelines**”) to assist you in your site selection. If we provide you with Leasing Guidelines, you must follow the Leasing Guidelines. We may require you to use an approved real estate broker to assist you in selecting a site.
3. **Site Selection Package Submission and Approval:** You must submit to us, in the form we specify, a copy of the site plan and such other information or materials as we may reasonably require, together with an option contract, letter of intent or other evidence satisfactory to us which confirms your favorable prospects for obtaining the site. We have fifteen (15) days after receipt of such information and materials from you to approve or disapprove, in our sole discretion, the proposed site as the location for the Franchise. In the event we do not disapprove a proposed site by written notice to you within said fifteen (15) days such site is deemed approved by us.
4. **Lease Responsibilities:** Within sixty (60) days of site approval by us, you must sign a lease which must be coterminous with the Franchise Agreement, or a binding agreement to purchase the site. Our approval of any lease is conditioned upon inclusion in the lease of the Franchise Lease Rider attached hereto as Schedule A. However, we are not responsible for review of the Lease for any terms other than those contained in the Franchise Lease Rider.

5. **Site Evaluation Services:** We have the right, but not the obligation, to perform any on-site evaluation as we may deem advisable. If we deem an on-site evaluation necessary and appropriate for any Franchise to be established, you must reimburse us for all reasonable expenses we incur in connection with such on-site evaluation, including, without limitation, the cost of travel, lodging and meals.
6. **Approved Location:** After we approve the location for the Franchise pursuant to Section 1 and 3 hereof and leased or acquired by you pursuant to Section 4 hereof, the location will constitute the Approved Location described in Section 1.1 of the Franchise Agreement. The Approved Location will be specified on Schedule B attached hereto, which shall become a part the Franchise Agreement.
7. This Site Selection Addendum is considered an integral part of the Franchise Agreement between the parties hereto, and the terms of this Site Selection Addendum will control with respect to the subject matter hereof. Except as modified or supplemented by this Site Selection Addendum, the terms of the Franchise Agreement are hereby ratified and confirmed.

IN WITNESS WHEREOF, each party has caused its duly authorized representative to duly sign and deliver this Site Selection Addendum on the date written below.

FRANCHISEE:

By: _____

Name: _____

Title: _____

Date: _____

FRANCHISOR:

BLACK DIAMOND FRANCHISING INC

By: _____

Name: _____

Title: _____

Date: _____

SCHEDULE A TO THE SITE SELECTION ADDENDUM

LEASE RIDER

Tenant and Landlord have entered into that certain Lease Agreement dated _____ (the “**Lease**”) for the premises located at _____ (the “**Premises**”). In the event of a conflict between the terms and conditions set forth within this Rider and the terms and conditions set forth in the Lease to which this Rider is attached, the terms and conditions set forth within this Rider shall govern and control.

1. **Permitted Use.** The Premises are leased to Tenant for the operation of a Franchise that provides approved “Black Diamond” termite and pest control products and services.
2. **Signage.** Notwithstanding anything contained within the Lease to the contrary, Tenant shall, subject to the requirements of local law, have the right to utilize its standard signage and other proprietary marks and identification on both the exterior and within the interior of the Premises.
3. **Assignment and Subletting.** Landlord’s consent to an assignment of the Lease or subletting of the Premises shall not be required in connection with an assignment or subletting as a part of a merger, reorganization or sale of all or substantially all of Tenant’s assets or business or an assignment or sublet to Black Diamond Franchising Inc (the “**Franchisor**”), any parent, subsidiary or affiliated corporation of Tenant or Franchisor, or another franchisee of Franchisor. Landlord shall approve as an assignee or sublessee any tenant who has become a transferee of the Franchise Agreement as a result of a merger, reorganization or sale of all or substantially all of Tenant’s assets. Tenant shall also have the right, without the consent of Landlord, to assign this Lease to a company incorporated or to be incorporated by Tenant or a partnership formed or to be formed by Tenant, or a limited liability company to be formed by Tenant, provided that Tenant owns or beneficially controls a majority of the issued and outstanding shares of capital stock or units of interest of the company or is the managing general partner of the partnership.
4. **Notices; Opportunity to Cure.** Copies of any demand letters, default notices or other similar notices of non-compliance (“**Notice**”) sent by Landlord to Tenant shall also be sent to Franchisor at the following address:

Black Diamond Franchising Inc
4911 Hamburg Pike
Jeffersonville, IN 47130
Attention: Franchise Relations

In the event Tenant fails to cure or otherwise remedy the subject matter of the Notice, Landlord shall grant Franchisor the identical period of time in which to cure same (said cure period to commence immediately upon written notice from Landlord to Franchisor (at the address set forth herein) that Tenant has failed to cure in a timely manner) and Landlord agrees to accept the performance of Franchisor within said period of time as performance by Tenant pursuant to the terms of the Lease.

5. **Option to Lease**. Landlord hereby agrees that, in the event of (a) the termination or expiration of the Franchise Agreement by and between Tenant and Franchisor; (b) the termination of the Lease for any cause whatsoever including, without limitation, a default by Tenant under the Lease after expiration of any applicable notice and cure periods; or (c) Tenant's failure to exercise any extension option contained in the Lease, Franchisor shall have the option to lease the Premises pursuant to the same terms and conditions as are contained in the Lease, in accordance with the following:

(a) Landlord agrees to promptly give written notice to Franchisor (at the address set forth herein) in the event the Lease is terminated as the result of a default by Tenant or in the event Tenant fails to exercise any remaining options to extend the term of the Lease;

(b) If Franchisor elects to lease the Premises, Franchisor shall notify Landlord in writing of its election to exercise this option to lease within thirty (30) days after (1) termination or expiration of the Franchise Agreement; (2) Franchisor's receipt of notice from Landlord that the Lease has been terminated; or (3) receipt of notice from Landlord that Tenant has failed to exercise an option to extend the term of the Lease;

(c) If Franchisor elects to lease the Premises, Franchisor shall sign and deliver to Landlord a lease containing all of the same terms and conditions (including rental rates, terms and remaining options to extend the term of the Lease) as are contained in the Lease, provided, however, that Franchisor's leasehold interest shall not be subject to any defaults or claims that may exist between Landlord and Tenant and any such lease shall permit Franchisor to assign the lease or sublease the Premises to a franchisee of Franchisor for use as a Franchise; and

(d) Nothing contained herein shall affect Landlord's right to recover any and all amounts due under the Lease from Tenant or to exercise any right of Landlord against Tenant as provided under the Lease.

6. **De-identification**. Landlord and Tenant hereby acknowledge that in the event the Franchise Agreement expires or is terminated, Tenant is obligated under the Franchise

Agreement to take certain steps to de-identify the location as a Franchise operated by Tenant. Landlord agrees to cooperate fully with Franchisor in enforcing such provisions of the Franchise Agreement against Tenant, including allowing Franchisor, its employees and agents to enter and remove signs, decor and materials bearing or displaying any marks, designs or logos of Franchisor; provided, however, that Landlord shall not be required to bear any expense thereof.

LANDLORD:

TENANT:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCHEDULE B TO THE SITE SELECTION ADDENDUM

APPROVED LOCATION

The Approved Location of the Franchise is: _____

Dated _____, 202_

ATTACHMENT 2 TO THE FRANCHISE AGREEMENT

GUARANTY AND COVENANTS

As an inducement to Black Diamond Franchising Inc (“**Franchisor**”) to sign the Franchise Agreement with _____ (“**Franchisee**”) dated _____, _____ (“**Franchise Agreement**”), and in consideration of Franchisor executing the Franchise Agreement and other mutual promises between the shareholders, limited partners or members of Franchisee (each a “**Guarantor**”, together “**Guarantors**”), the sufficiency of which is hereby acknowledged, Guarantors jointly and severally agree as follows:

1. Guarantors must pay or cause to be paid to Franchisor all monies payable by Franchisee under the Franchise Agreement on the days and times in the manner therein appointed for payment thereof.
2. Guarantors unconditionally guarantee full performance and discharge by Franchisee of all the obligations of Franchisee under the Franchise Agreement at the times and in the manner therein provided.
3. Guarantors must indemnify and save harmless Franchisor and its affiliates against and from all losses, damages, costs, and expenses that Franchisor and its affiliates may sustain, incur, or become liable for by reason of:
 - (a) the failure for any reason whatsoever of Franchisee to pay the monies payable pursuant to the Franchise Agreement or to do and perform any other act, matter or thing pursuant to the provisions of the Franchise Agreement; or
 - (b) any act, action, or proceeding of or by Franchisor for or in connection with the recovery of monies or the obtaining of performance by Franchisee of any other act, matter or thing **pursuant to the provisions of the Franchise Agreement.**
4. Franchisor is not obligated to proceed against Franchisee or exhaust any security from Franchisee or pursue or exhaust any remedy, including any legal or equitable relief against Franchisee, before proceeding to enforce the obligations of the Guarantors herein set out, and the enforcement of such obligations may take place before, after, or contemporaneously with enforcement of any debt or obligation of Franchisee under the Franchise Agreement.
5. Without affecting the Guarantors’ obligations under this Guaranty, Franchisor, without notice to the Guarantors, may extend, modify, or release any indebtedness or obligation of Franchisee or settle, adjust, or compromise any claims against Franchisee. Guarantors waive notice of amendment of the Franchise Agreement and notice of demand for payment or performance by Franchisee.

6. Guarantors' obligations under this Guaranty remain in full force and effect, and are unaffected by: (a) the unenforceability of the Franchise Agreement against Franchisee; (b) the termination of any obligations of Franchisee under the Franchise Agreement by operation of law or otherwise; (c) the bankruptcy, insolvency, dissolution, or other liquidation of Franchisee, including, without limitation, any surrender or disclaimer of the Franchise Agreement by the trustee in bankruptcy of Franchisee; (d) Franchisor's consent or acquiescence to any bankruptcy, receivership, insolvency, or any other creditor's proceedings of or against Franchisee, or the winding-up or dissolution of Franchisee, or any other event or occurrence which would have the effect at law of terminating the existence of Franchisee's obligations prior to the termination of the Franchise Agreement; or (e) by any other agreements or other dealings between Franchisor and Franchisee having the effect of amending or altering the Franchise Agreement or Franchisee's obligations hereunder or by any want of notice by Franchisor to Franchisee of any default of Franchisee or by any other matter, thing, act, or omission of Franchisor whatsoever.

7. The provisions of Section 22 of the Franchise Agreement apply as to any interpretation or enforcement of this Guaranty, and the provisions of Section 19 of the Franchise Agreement shall apply to any notice to either party, except that notice to Guarantors will be as follows:

Notices to Guarantors:

Name

Address

8. Any Transfer (as the term "**Transfer**" is defined in Section 11.2(a) of the Franchise Agreement) of Guarantor's interest in Franchisee is subject to the same terms and conditions applicable to other Transfers covered by the Franchise Agreement, including, without limitation, Section 11 thereof.

9. Each Guarantor is personally bound and must abide by the restrictions upon Franchisee provided in Sections 7.2 ("Confidentiality"), 14.1 ("In-Term Covenant Not To Compete") and 14.2 ("Post-Term Covenant Not To Compete") (collectively, the "**Covenants**") of the Franchise Agreement.

10. Each Guarantor is aware that any violation of the Covenants will cause irreparable harm to Franchisor; therefore, Guarantor hereby acknowledges and agrees that Franchisor may apply for the issuance of an injunction preventing Guarantor from violating these Covenants, and Guarantor agrees to pay to Franchisor all costs it incurs including, without limitation, attorneys' fees, in enforcing these Covenants. Due to the importance of these Covenants to Franchisor, Guarantor agrees that any claim Guarantor may have against Franchisor is a separate matter and does not entitle Guarantor to violate, or justify any violation of, these Covenants. If any parts of these Covenants are held invalid by a court or agency, the rest of the Covenants are still enforceable and the part held invalid is enforceable to the extent found reasonable by the court or agency.

IN WITNESS WHEREOF, each of the undersigned has signed this Guaranty and Covenants as of the date of the Franchise Agreement.

GUARANTORS:

WITNESSES:

Print Name

Print Name

Signature

Signature

Date

Date

Print Name

Print Name

Signature

Signature

Date

Date

Print Name

Print Name

Signature

Signature

Date

Date

Countersigned:

BLACK DIAMOND FRANCHISING INC

By: _____

Name: _____

Title: _____

Date: _____

ATTACHMENT 3
TO THE FRANCHISE AGREEMENT
FRANCHISE TERRITORY

**ATTACHMENT 4
TO THE FRANCHISE AGREEMENT**

STATE ADDENDA

ADDENDUM TO THE FRANCHISE AGREEMENT
BLACK DIAMOND FRANCHISING INC

FOR THE STATE OF INDIANA

This Addendum to the Franchise Agreement is entered into this ____ day of _____, 202_, between Black Diamond Franchising Inc (“**we**”, “**us**” or “**Franchisor**”) and _____ (“**you**” or “**Franchisee**”) and is intended to comply with Indiana statutes and regulation. In consideration of the execution of the Franchise Agreement, Franchisor and you agree to amend and revise the Franchise Agreement as follows:

1. In recognition of the requirements of Indiana franchise laws, including Indiana Code Stat. §23-2-2.5 and §23-2-2.7, the Franchise Agreement is amended as follows:
 - a. Sections 2.2(j) and 11.2(b)(iii) require you to sign a general release as a condition of renewal and transfer of the Franchise; the release excludes claims arising under the Indiana Franchise Disclosure Law or the Indiana Deceptive Franchise Practices Act.
 - b. Sections 22.1 and 22.3 are amended to state that restricting jurisdiction or venue to a forum outside the state of Indiana or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under the Indiana Franchise Disclosure Law or the Indiana Deceptive Franchise Practices Act.
2. Each provision of this Addendum is effective only to the extent that the jurisdictional requirements of the Indiana Law applicable to the provisions are met independent of this Addendum. To the extent this Addendum is inconsistent with any terms or conditions of the Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum govern.
3. Unless expressly amended by this Addendum, all other terms of the Franchise Agreement remain unchanged.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each party has caused its duly authorized representative to sign and deliver this Addendum on the date written below.

BLACK DIAMOND FRANCHISING INC

WITNESS:

By: _____

Print Name

Name: _____

Signature

Title: _____

Date: _____

Date

FRANCHISEE:

WITNESS:

Print Name

By: _____

Signature

Name: _____

Title: _____

Date

Date: _____

Address: _____

EXHIBIT C
TO THE DISCLOSURE DOCUMENT
FRANCHISE OPERATIONS MANUAL
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EXHIBIT D
TO THE DISCLOSURE DOCUMENT
FRANCHISEES

Franchisees (as of December 31, 2024)

As of December 31, 2024, there were five (5) franchisees open and operating:

- (1) Black Diamond of Indy Inc.: (Chase Brackin), 1727 South Franklin Road Suite A, Indianapolis, IN 46239 (Indianapolis, IN)
- (2) Black Diamond of Cincy: Chris Stock, 3291 North Bend Road, Cincinnati, OH 45239 (Cincinnati, OH)
- (3) Black Diamond of SoKy: Adam Cottrell, 3244 Beaver Dam Road, Leitchfield KY 42754 (Southern Kentucky)
- (4) Black Diamond of Rivercities: Sarah Gabbard, 610 1st Street, Worthington, KY 41183 (River Cities; KY, OH)
- (5) Black Diamond of Lexington: David Chapman, 320 Cutters Hill Ct., Lexington, KY 40509 (Lexington, KY)

EXHIBIT E
TO THE DISCLOSURE DOCUMENT
PARENT-OWNED OR AFFILIATE BUSINESSES

(As of December 31, 2024)

Black Diamond Termite and Pest Control, Inc.	
4911 Hamburg Pike Louisville, KY 47130 (812) 944-0453	

EXHIBIT F
TO THE DISCLOSURE DOCUMENT
FINANCIAL STATEMENTS

BLACK DIAMOND FRANCHISING, INC.

FINANCIAL STATEMENTS

DECEMBER 31, 2024 AND 2023

BLACK DIAMOND FRANCHISING, INC.

TABLE OF CONTENTS DECEMBER 31, 2024 AND 2023

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Blue & Co., LLC / 2650 Eastpoint Parkway, Suite 300 / Louisville, KY 40223
main 502.992.3500 fax 502.992.3509 email blue@blueandco.com
blueandco.com

REPORT OF INDEPENDENT AUDITORS

The Board of Directors
Black Diamond Franchising, Inc.
Jeffersonville, Indiana

Opinion

We have audited the accompanying financial statements of Black Diamond Franchising, Inc. (the Company), which comprise the balance sheets as of December 31, 2024 and 2023, and the related statements of income, stockholders' equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2024 and 2023, and the results of its operations and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

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

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

Auditor's Responsibilities for the Audit of the Financial Statements

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

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

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

Blue & Co., LLC

Louisville, Kentucky

February 11, 2025

BLACK DIAMOND FRANCHISING, INC.

BALANCE SHEETS DECEMBER 31, 2024 AND 2023

ASSETS		2024	2023
Current assets			
Cash		\$ 110,834	\$ 19,621
Accounts receivable		81,286	77,648
Total current assets		192,120	97,269
Property and equipment, net		4,543	14,239
Total assets		<u>\$ 196,663</u>	<u>\$ 111,508</u>
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current liabilities			
Accounts payable		\$ 73,567	\$ 54,994
Accrued liabilities		8,165	6,308
Current portion of deferred franchise fees		16,817	23,374
Total current liabilities		98,549	84,676
Deferred franchise fees, less current portion		16,106	24,113
Total liabilities		114,655	108,789
Stockholders' equity			
Common stock, 1,000 shares issued and outstanding with no par value		-	-
Retained earnings		82,008	2,719
Total stockholders' equity		82,008	2,719
Total liabilities and stockholders' equity		<u>\$ 196,663</u>	<u>\$ 111,508</u>

See accompanying notes to financial statements.

BLACK DIAMOND FRANCHISING, INC.STATEMENTS OF INCOME
YEARS ENDED DECEMBER 31, 2024 AND 2023

	2024	2023
Revenue		
Chemical sales	\$ 940,654	\$ 788,833
Social media sales	454,545	405,181
Royalties	209,337	226,230
Other	80,522	81,062
Franchise fees	24,564	31,073
Advertising fees	29,697	17,784
Total revenue	1,739,319	1,550,163
Operating expenses		
Chemicals	911,574	766,672
Social media fees	314,486	375,338
Wages and payroll taxes	93,930	140,273
Advertising	157,312	94,490
Telephone	65,643	59,935
Professional fees	47,373	19,586
Depreciation	9,696	9,696
Other	12,292	12,567
Insurance	10,871	10,785
Meals and entertainment	4,012	7,735
Office supplies	660	660
Total operating expenses	1,627,849	1,497,737
Income from operations	111,470	52,426
Other income		
Other income	200	100
Interest income	945	805
Total other income	1,145	905
Net income	\$ 112,615	\$ 53,331

See accompanying notes to financial statements.

BLACK DIAMOND FRANCHISING, INC.

STATEMENTS OF STOCKHOLDERS' EQUITY YEARS ENDED DECEMBER 31, 2024 AND 2023

	Common Stock	Retained Earnings	Total Stockholders' Equity
Balance at January 1, 2023	\$ -	\$ 70,621	\$ 70,621
Net income	-	53,331	53,331
Distributions	-	(121,233)	(121,233)
Balance at December 31, 2023	-	2,719	2,719
Net income	-	112,615	112,615
Distributions	-	(33,326)	(33,326)
Balance at December 31, 2024	<u>\$ -</u>	<u>\$ 82,008</u>	<u>\$ 82,008</u>

See accompanying notes to financial statements.

BLACK DIAMOND FRANCHISING, INC.STATEMENTS OF CASH FLOWS
YEARS ENDED DECEMBER 31, 2024 AND 2023

	2024	2023
Operating activities		
Net income	\$ 112,615	\$ 53,331
Adjustments to reconcile net income to net cash flows from operating activities:		
Depreciation	9,696	9,696
Changes in assets and liabilities:		
Accounts receivable	(3,638)	11,804
Accounts payable	18,573	(14,697)
Accrued liabilities	1,857	417
Deferred franchise fees	(14,564)	(31,073)
Net cash flows from operating activities	124,539	29,478
Financing activities		
Stockholder distributions	(33,326)	(121,233)
Net change in cash	91,213	(91,755)
Cash, beginning of year	19,621	111,376
Cash, end of year	<u>\$ 110,834</u>	<u>\$ 19,621</u>

See accompanying notes to financial statements.

BLACK DIAMOND FRANCHISING, INC.

NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 2024 AND 2023

1. NATURE OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES

Nature of Operations

Black Diamond Franchising, Inc (the Company) was incorporated in March 2015 to franchise the rights of Black Diamond Pest Control. Black Diamond Pest Control is a full-service pest control company. At December 31, 2024 and 2023, the Company had five and six franchisees, respectively.

Management's Estimates

Management uses estimates and assumptions in preparing financial statements in accordance with accounting principles generally accepted in the United States of America. Those estimates and assumptions affect the reported amounts of assets and liabilities and the reported revenue and expenses. Actual results could vary from the estimates that were used.

Accounts Receivable

Accounts receivable consist of amounts billed to customers at net invoice amounts in exchange for products sold, which includes chemicals and services performed, advertising, social media, and royalties due. Management estimates an allowance for credit losses based on historical experience, the current economic environment, and management's expectations of future economic conditions based on reasonable and supportable forecasts. The Company also applies adjustments for specific factors and current economic conditions, as needed, at each reporting date. Management utilizes aging schedules for estimating expected credit losses. In evaluating loss rates, accounts receivable are pooled into categories based on days past due. Significantly aged receivables are evaluated individually by credit worthiness and historical experience with the customers. Account balances are written off against the allowance when management deems the amount is uncollectible. Management has determined no allowance for credit losses is necessary at December 31, 2024 and 2023. Accounts receivable balance at January 1, 2023 was \$89,452.

Property and Equipment

Property and equipment are stated at cost. Depreciation is provided using the straight-line method based on the estimated useful life of the asset, which is approximately seven years. Maintenance, repairs, and minor improvements are expensed as incurred.

Significant Financing Component

The Company does not enter into contracts in which the period between transfer of goods or services to the customer and payment by the customer is greater than one year. Therefore, the Company has elected a practical expedient in which consideration amounts are not adjusted for the time value of money.

BLACK DIAMOND FRANCHISING, INC.

NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 2024 AND 2023

Revenue Recognition

The Company's revenue consists of fees from franchisees and sales of chemicals, social media, advertising, and other operating materials. Fees from franchisees include royalties based on a percent of sales and initial fees.

Initial franchise fees have been recognized as the Company satisfies the performance obligation over the franchise term, which is generally seven years. Continuing franchise royalties are based on a defined percentage of franchise store revenue and are recognized when earned unless there is significant uncertainty concerning collectability of such revenue, in which case royalty revenue is recognized when received. Sales of social media advertising are recorded as revenue as these services are provided to franchisees over time. Other operating materials such as chemical sales are recorded as revenue when delivery is made and title has passed.

Expected future recognition of deferred revenue from existing franchise agreements is as follows:

Year Ending December 31,

2025	\$	16,817
2026		6,941
2027		2,858
2028		2,858
2029		1,784
Thereafter		1,665
	\$	<u>32,923</u>

Deferred franchise fees balance at January 1, 2023 was \$78,560.

Income Taxes

The Company has elected to be taxed under the provisions of Subchapter S of the Internal Revenue Code. Under these provisions, federal corporate taxable income is taxed directly to the stockholders individually and not the Company. Accordingly, no current or deferred provision for federal income taxes has been provided. Local and state taxes that do not recognize the federal sections described above are reported in other operating expenses.

Accounting principles generally accepted in the United States of America require management to evaluate tax positions taken by the Company and recognize a tax liability if the Company has taken an uncertain position that more likely than not would not be sustained upon examination by various taxing authorities. Management has analyzed the tax positions taken by the Company, and has concluded that as of December 31, 2024 and 2023, there are no uncertain positions taken or expected to be taken that would require recognition of a liability or disclosure in the accompanying financial statements.

BLACK DIAMOND FRANCHISING, INC.

NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 2024 AND 2023

The Company has filed its income tax returns for periods through December 31, 2023 and is subject to routine audits by taxing jurisdictions. However, as of the date the financial statements were available to be issued, there were no audits for any tax periods in progress. These income tax returns are generally open to examination by the relevant taxing authorities for a period of three years from the later of the date the return was filed or its due date (including approved extensions).

Advertising

The Company expenses advertising costs as incurred. Advertising expense was \$157,312 and \$94,490 for the years ended December 31, 2024 and 2023, respectively.

Subsequent Events

The Company has evaluated events or transactions occurring subsequent to the balance sheet date for recognition and disclosure in the accompanying financial statements through the date the financial statements were available to be issued, which is February 11, 2025.

2. RELATED PARTY TRANSACTIONS

The Company sells chemicals and other operating services to Black Diamond Pest Control, which has common ownership to the Company. The Company sold \$759,797 and \$619,860 of chemicals and other operating services to Black Diamond Pest Control for the years ended December 31, 2024 and 2023, respectively. Amounts due from Black Diamond Pest Control at December 31, 2024 and 2023 were \$50,276 and \$63,080, respectively.

3. PROPERTY AND EQUIPMENT

Net property and equipment includes the following for the years ended December 31, 2024 and 2023:

	2024	2023
Vehicle	\$ 67,872	\$ 67,872
Less accumulated depreciation	(63,329)	(53,633)
Property and equipment, net	<u>\$ 4,543</u>	<u>\$ 14,239</u>

BLACK DIAMOND FRANCHISING, INC.

NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 2024 AND 2023

4. CONCENTRATIONS

The Company maintains its cash in bank deposit accounts that, at times, may exceed federally insured limits. The Company has not experienced any losses in its accounts. The Company believes it is not exposed to any significant credit risk on cash.

During the years ended December 31, 2024 and 2023, approximately 44% and 40% of the Company's revenue was from one customer, respectively. Approximately 76% of accounts receivable were with two customers at December 31, 2024. Approximately 81% of accounts receivable were with one customer at December 31, 2023. During the years ended December 31, 2024 and 2023, the Company purchased approximately 100% of chemicals from one supplier.

**EXHIBIT G
TO THE DISCLOSURE DOCUMENT**

FRANCHISEE COMPLIANCE CERTIFICATION

As you know, BLACK DIAMOND FRANCHISING INC (“**Black Diamond**”) and you are preparing to enter into a Franchise Agreement for the establishment and operation of a franchised business. The purpose of this Questionnaire is to determine whether any statements or promises were made to you that Black Diamond has not authorized and that may be untrue, inaccurate or misleading. Please review each of the following questions and statements carefully and provide honest and complete responses to each.

1. Have you received and personally reviewed the Franchise Agreement and each addendum and related agreement attached to it?

Yes ___ No ___

2. Do you understand all of the information contained in the Franchise Agreement, each addendum and related agreement provided to you?

Yes ___ No ___

If “No,” what parts of the Franchise Agreement, addendum, and related agreement do you not understand? (Attach additional pages, if necessary.)

3. Have you received and personally reviewed Black Diamond’s Franchise Disclosure Document (“**FDD**”) that was provided to you?

Yes ___ No ___

4. Did you sign a receipt for the FDD indicating the date you received it?

Yes ___ No ___

5. Do you understand all of the information contained in the FDD and any state-specific addendum to the FDD?

Yes ___ No ___

If “No,” what parts of the FDD and addendum do you not understand? (Attach additional pages, if necessary.)

6. Have you discussed the benefits and risks of establishing and operating a franchised business with an attorney, accountant, or other professional advisor?

Yes ___ No ___

If “No,” do you wish to have more time to do so?

Yes ___ No ___

7. Do you understand that the success or failure of your franchised business will depend in large part upon your skills and abilities, competition from other businesses, interest rates, inflation, labor and supply costs, lease terms and other economic and business factors?

Yes ___ No ___

8. Has any employee or other person speaking on behalf of Black Diamond made any statement or promise concerning the revenues, profits or operating costs of a franchised business operated by Black Diamond or its franchisees, that is contrary to the information contained _____ in _____ the _____ FDD?

Yes ___ No ___

9. Has any employee or other person speaking on behalf of Black Diamond made any statement or promise regarding the amount of money you may earn in operating the franchised business that is contrary to the information contained in the FDD?

Yes ___ No ___

10. Has any employee or other person speaking on behalf of Black Diamond made any statement or promise concerning the total amount of revenue the franchised business will generate, that is contrary to the information contained in the FDD?

Yes ___ No ___

11. Has any employee or other person speaking on behalf of Black Diamond made any statement or promise regarding the costs you may incur in operating the franchised business that is contrary to or different from, the information contained in the FDD?

Yes ___ No ___

12. Has any employee or other person speaking on behalf of Black Diamond made any statement or promise concerning the likelihood of success that you should or might expect to achieve from operating a franchised business?
Yes ___ No ___
13. Has any employee or other person speaking on behalf of Black Diamond made any statement, promise or agreement concerning the advertising, marketing, training, support service or assistance that Black Diamond will furnish to you that is contrary to, or different from, the information contained in the FDD?
Yes ___ No ___
14. Have you entered into any binding agreement with Black Diamond concerning the purchase of this franchise prior to today?
Yes ___ No ___
15. Have you paid any money to Black Diamond concerning the purchase of this franchise prior to today?
Yes ___ No ___
16. If you have answered “Yes” to any one of questions 9-16, please provide a full explanation of each “yes” answer in the following blank lines. (Attach additional pages, if necessary, and refer to them below.) If you have answered “No” to each of questions 9-16, please leave the following lines blank.

I signed the Franchise Agreement and addenda (if any) on _____, _____, and acknowledge that no agreement or addendum is effective until signed and dated by Black Diamond.

Please understand that your responses to these questions are important to us and that we will rely on them.

By signing this Questionnaire, you are representing that you have responded truthfully to the above questions.

FRANCHISE APPLICANT

Name: _____

Title: _____

Date: _____

STATE OF _____,

CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me, this ____ day of _____,
20____, by _____. He/She/They is/are personally known to me or has/have produced
_____ as identification.

Notary Public
My commission expires: _____

EXHIBIT H
TO THE DISCLOSURE DOCUMENT

GENERAL RELEASE OF ALL CLAIMS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, _____, (“**Franchisee**”), hereby releases and forever discharges BLACK DIAMOND FRANCHISING INC, its officers, directors, agents, employees, subsidiaries and affiliates from and against any and all liabilities, actions, causes of action, judgments, suits, controversies, claims, demands, damages, costs and expenses whatsoever, in law or in equity (“**Claims**”) arising out of any matters prior to the date of execution hereof, which have ever existed, may now exist or may hereafter arise, known or unknown, foreseen or unforeseen. Without limiting the generality of the foregoing, it is expressly understood and agreed that this Release includes Claims Franchisee(s) may have individually or as the members for any class (i) under any federal or state franchise, antitrust, trade regulation or similar law, including specifically disclosure obligations under any such law or (ii) under any state or federal security, blue sky or similar law.

Notwithstanding any other provision contained in this Release, any existing Franchise Agreement(s) (the “**Agreements**”) remain in full force and effect.

This Release does not (i) release, waive, modify or in any way release Claims arising out of matters occurring after the date of execution of this Release by Franchisee(s) or (ii) apply to any liability under the Maryland Franchise Registration and Disclosure Law.

Franchisee(s) represent and warrant that no other party has any interest in the Black Diamond franchise that is the subject of this Agreement.

This Release contains the entire agreement among the parties hereto concerning the subject matter hereof and the terms of this Release are contractual and not a mere recital.

The undersigned hereby certifies that he/she has read all provisions of this General Release of All Claims; that he/she is represented by counsel and has been advised or been afforded the opportunity to be advised of the effect of the provisions of this General Release of All Claims; that he/she has made such investigation and inquiry as he/she and counsel have deemed appropriate; and that he/she understands said provisions and effect, and has executed this General Release of All Claims freely and without duress.

FRANCHISEE:

By: _____

Dated: _____

Name: _____

Title: _____

FRANCHISEE PRINCIPAL:

Name: _____

Dated: _____

Signature: _____

Name: _____

Dated: _____

Signature: _____

**EXHIBIT I
TO THE DISCLOSURE DOCUMENT**

STATE ADDENDA

**ADDENDUM TO THE FRANCHISE AGREEMENT BLACK
DIAMOND FRANCHISING INC**

FOR THE STATE OF ILLINOIS

The State of Illinois requires that the following additional information be provided with respect to Item 17 of the disclosure document:

1. The conditions under which a franchisee can be terminated may be affected by Illinois law, 815 ILCS 705/19 and 705/20.
2. Any provision in a franchise agreement that designates jurisdiction or venue in a forum outside of the State of Illinois is void provided that a franchise agreement may provide for arbitration in a forum outside of the State.
3. Any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of the Illinois Franchise Disclosure Act (the “Act”) or any other law of this State is void. This Section shall not prevent any person from entering into a settlement agreement or executing a general release regarding a potential or actual lawsuit filed under any of the provisions of the Act, nor shall it prevent the arbitration of any claim pursuant to the provisions of Title 9 of the United States Code.

[SIGNATURE PAGES FOLLOW]

**ADDENDUM TO THE FRANCHISE AGREEMENT BLACK
DIAMOND FRANCHISING INC**

FOR THE STATE OF INDIANA

This Addendum to the Franchise Agreement is entered into this ____ day of _____, 202_, between Black Diamond Franchising Inc. (“**we**”, “**us**” or “**Franchisor**”) and _____ (“**you**” or “**Franchisee**”) and is intended to comply with Indiana statutes and regulation. In consideration of the execution of the Franchise Agreement, Franchisor and you agree to amend and revise the Franchise Agreement as follows:

4. In recognition of the requirements of Indiana franchise laws, including Indiana Code Stat. §23-2-2.5 and §23-2-2.7, the Franchise Agreement is amended as follows:
 - c. Sections 2.2(j) and 11.2(b)(iii) require you to sign a general release as a condition of renewal and transfer of the Franchise; the release excludes claims arising under the Indiana Franchise Disclosure Law or the Indiana Deceptive Franchise Practices Act.
 - d. Sections 22.1 and 22.3 are amended to state that restricting jurisdiction or venue to a forum outside the state of Indiana or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under the Indiana Franchise Disclosure Law or the Indiana Deceptive Franchise Practices Act.
5. Each provision of this Addendum is effective only to the extent that the jurisdictional requirements of the Indiana Law applicable to the provisions are met independent of this Addendum. To the extent this Addendum is inconsistent with any terms or conditions of the Franchise Agreement or exhibits or attachments thereto, the terms of this Addendum govern.
6. Unless expressly amended by this Addendum, all other terms of the Franchise Agreement remain unchanged.

[SIGNATURE PAGES FOLLOW]

FOR THE STATE OF NORTH CAROLINA

The State of North Carolina requires that the following additional information be provided with respect to Item 17 of the disclosure document:

The following additional information is required to be disclosed by North Carolina law:

1. If Black Diamond Franchising Inc. fails to deliver the products, equipment or supplies or fails to render the services necessary to begin substantial operation of the business within 45 days of the delivery date stated in your contract, you may notify Black Diamond Franchising Inc. in writing and demand that the contract be canceled.

[SIGNATURE PAGES FOLLOW]

FOR THE STATE OF VIRGINIA

The State of Virginia requires that the following additional information be provided with respect to Item 17 of the disclosure document:

“Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the franchise agreement 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.”

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each party has caused its duly authorized representative to sign and deliver this Addendum on the date written below.

BLACK DIAMOND FRANCHISING INC

WITNESS:

By: _____

Name: _____

Print Name

Title: _____

Signature

Date: _____

Date

FRANCHISEE:

WITNESS:

By: _____

Print Name

Name: _____

Signature

Title: _____

Date: _____

Date

Address: _____

ITEM 23
RECEIPT (yours)

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 Black Diamond Franchising Inc offers you a franchise, it must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

If Black Diamond Franchising Inc 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 and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the applicable state agencies listed in Exhibit A of this FDD.

New York and Rhode Island require that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

Michigan, Oregon and Wisconsin require that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

The sales agent representing Black Diamond Franchising Inc for this offering is:

Name: D. Keith Duncan, Jr.

Address: 4911 Hamburg Pike
Jeffersonville, IN 47130

Telephone: (812) 944-0453

Issuance Date: See the Effective Date provided on Exhibit A to the State Cover Page for state related information.

Black Diamond Franchising Inc authorizes the agents listed in Exhibit A of this FDD to receive service of process for us.

I received a disclosure document dated _____ that included the following Exhibits:

Exhibit A	List of Administrators and Agents for Service of Process
Exhibit B	Franchise Agreement
Exhibit C	Operations Manual Table of Contents
Exhibit D	Franchisees
Exhibit E	Parent-Owned or Affiliate Businesses
Exhibit F	Financial Statements

Exhibit G	Franchisee Compliance Certification
Exhibit H	General Release of All Claims
Exhibit I	State Addenda (if required)

Date

Franchisee

ITEM 23
RECEIPT (ours)

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

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New York and Rhode Island require that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

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The sales agent representing Black Diamond Franchising Inc for this offering is:

Name: D. Keith Duncan, Jr.

Address: 4911 Hamburg Pike
Jeffersonville, IN 47130

Telephone: (812) 944-0453

Issuance Date: See the Effective Date provided on Exhibit A to the State Cover Page for state related information.

Black Diamond Franchising Inc authorizes the agents listed in Exhibit A of this FDD to receive service of process for us.

I received a disclosure document dated _____ that included the following Exhibits:

Exhibit A	List of Administrators and Agents for Service of Process
Exhibit B	Franchise Agreement
Exhibit C	Operations Manual Table of Contents
Exhibit D	Franchisees
Exhibit E	Parent-Owned or Affiliate Businesses
Exhibit F	Financial Statements

Exhibit G	Franchisee Compliance Certification
Exhibit H	General Release of All Claims
Exhibit I	State Addenda (if required)

Date

Franchisee