

**PAUL DAVIS RESTORATION, INC.**

**FRANCHISE DISCLOSURE DOCUMENT**

**PAUL DAVIS EMERGENCY SERVICES**

**2012**

## FRANCHISE DISCLOSURE DOCUMENT



PAUL DAVIS RESTORATION, INC.  
a Florida Corporation  
One Independent Drive, Suite 2300  
Jacksonville, Florida 32202  
U.S.A.  
Telephone: (904) 737-2779  
[www.pdrestoration.com](http://www.pdrestoration.com)

Paul Davis Restoration, Inc. ("PDRI") licenses franchise rights to use PDRI's Paul Davis Emergency Services® service mark for the operation of a business specializing in emergency services, including drying, cleaning, decontamination, repair, board-up, demolition, loss mitigation, mold remediation and other emergency services for residential and commercial buildings, structures and contents (the "Paul Davis Emergency Services Business").

The total investment necessary to begin operating of a Paul Davis Emergency Services Business franchise is \$40,784 to \$147,824. This includes \$36,000 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.**

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

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

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

The Issue Date of this Disclosure Document is **April 1, 2012**

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

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

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

1. THE FRANCHISE AGREEMENT PERMITS THE FRANCHISEE TO ARBITRATE WITH PDRI AND WITH OTHER FRANCHISEES ONLY IN THE LOCATION DESIGNATED BY THE ARBITRATORS, WHO ARE FRANCHISEES, IN ACCORDANCE WITH THE ARBITRATION RULES IN EXHIBIT C. OUT OF STATE ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO ARBITRATE WITH PDRI IN THE DESIGNATED LOCATION THAN IN YOUR HOME STATE.
2. THE FRANCHISE AGREEMENT STATES THAT FLORIDA LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.
3. PLEASE NOTE THAT 59.7% OF FS BRANDS, INC.'S ASSETS ARE INTANGIBLE. YOU MAY WANT TO CONSIDER THIS WHEN MAKING A DECISION TO PURCHASE THIS FRANCHISE OPPORTUNITY.
4. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

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

The Effective Dates for the registration states are listed on the next page.

## **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 registered, on file or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates:

<b>STATE</b>	<b>EFFECTIVE DATE</b>
California	Pending
Florida	Pending
Hawaii	Pending
Illinois	Pending
Indiana	Pending
Maryland	N/A
Michigan	March 31, 2012
Minnesota	Pending
New York	Pending
North Dakota	N/A
Rhode Island	Pending
South Dakota	March 29, 2012
Utah	March 30, 2012
Virginia	Pending
Washington	Pending
Wisconsin	March 26, 2012

In all the other states, the effective date of this Franchise Disclosure Document is the issuance date of April 1, 2012.

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

To simplify this disclosure document, "PDRI" or "Franchisor" means Paul Davis Restoration, Inc., the franchisor. "You" means the franchisee, and includes a corporation, partnership or other legal entity and the individual owner(s) of the entity.

### **CORPORATE HISTORY**

PDRI was incorporated in Florida in 1967. Prior to February 2, 2000, PDRI did business under the name of "Paul W. Davis Systems, Inc." and under the trade name "Paul Davis Systems®". On January 1, 2000, PDRI adopted the trade name "Paul Davis Restoration®" and on February 2, 2000, PDRI changed its corporate name from Paul W. Davis Systems, Inc. to "Paul Davis Restoration, Inc." On November 14, 1997, The Franchise Company (U.S.) Inc., a Delaware corporation, whose principal place of business is 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, acquired PDRI. On December 31, 2011, The Franchise Company (U.S.), Inc. sold PDRI to its subsidiary, FS Brands, Inc., a Delaware corporation, whose principal place of business is 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada. PDRI has no predecessors. PDRI's sole parent is FS Brands, Inc., with a principal place of business is 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada.

PDRI began its operations as an insurance restoration structural renovation specialist in 1967 and began to offer franchises in January 1970 in the insurance restoration market.

### **BUSINESS ADDRESSES**

The address of PDRI's principal place of business is One Independent Drive, Suite 2300, Jacksonville, FL, 32202. Its telephone number is (904) 737-2779.

PDRI's Agent for Service of Process in your state is disclosed in Exhibit D.

### **PAUL DAVIS EMERGENCY SERVICES BUSINESS**

PDRI licenses franchise rights to use PDRI's Paul Davis Emergency Services® service mark, PD logo, Operations Manual, Procedures Manual and business systems for the operation of a business specializing in emergency services, including drying, cleaning, decontamination, repair, board-up, demolition, loss mitigation, mold remediation and other emergency services for residential and commercial buildings, structures and contents (the "Paul Davis Emergency Services Business"). PDRI began to offer franchises of the Paul Davis Emergency Services Business in April 2009 and as of December 31, 2011, PDRI had 82 Paul Davis Emergency Business franchisees, of which 63 were in operation.

The basic emergency services provided are primarily promoted to the general public, residential and commercial landlords, property management companies and insurance companies. You will compete with other businesses in your local area that provide emergency services, loss-mitigation and similar services. You will receive a Paul Davis Emergency

Services Operations Manual (the "Operations Manual") and a Paul Davis Emergency Services Procedures Manual (the "Procedures Manual") which describe in detail the procedures required to operate a Paul Davis Emergency Services Business. You must comply with certain procedures in the Operations Manual and the Procedures Manual.

You must participate as a member in the District Council (described in the Franchise Agreement – Section 10).

PDRI and its affiliates retain the right to operate one or more Paul Davis Emergency Services Businesses as company outlets. PDRI and its affiliates reserve the right to participate in other businesses, including related businesses such as the Paul Davis Restoration Business described below.

### **SPECIAL INDUSTRY REGULATIONS**

As well as the laws and regulations that apply to businesses generally, you may subject to various federal, state and local government regulations, including those relating to the regulation of general or specialty contractors. As a general or specialty contractor, you may have worker's compensation liability for employees of your subcontractors if they fail to maintain the Worker's Compensation Insurance required by state law. You must comply with other laws in your state regulating contractors. You are responsible for obtaining any licenses required by your state or local government before you begin operating your business and you should consult an attorney in the locality where you intend to operate your franchise to ensure compliance with all applicable state, local and federal laws. PDRI strongly encourages you to investigate the regulations and laws that may be applicable to your business before you purchase a franchise.

### **PAUL DAVIS RESTORATION BUSINESS**

In January 1970, PDRI began licensing franchise rights for the operation of a general contracting business specializing in structural reconstruction and emergency services, including drying, cleaning, loss mitigation and mold remediation, primarily in the insurance restoration market (the "Paul Davis Restoration Business"). Franchisees operate their Paul Davis Restoration Business under the name "Paul Davis Restoration®" and provide services primarily to the insurance restoration markets, comprising insurance restoration construction and reconstruction, remodeling, and emergency services, including drying, cleaning, decontamination, repair, board-up, demolition, loss mitigation, mold remediation, and other emergency services, for residential and commercial buildings, structures, and contents.

As at December 31, 2011, PDRI had 212 franchises, of which 207 were in operation, operating Paul Davis Restoration Businesses.



## **PDRI'S AFFILIATES**

The following is a list of PDRI's affiliates including the principal address, a description of the business, and the number of franchises of each. Other than as disclosed below and in this disclosure document, neither PDRI nor its predecessors nor affiliates presently operate businesses of the type that they franchise, offer franchises in any other line of business or engage in any other type of business.

<b><i>Company/Address</i></b>	<b><i>Type of Business/Year Began Offering Franchises</i></b>	<b><i>Number of Franchises as at December 31, 2011</i></b>
California Closet Company, Inc., a California corporation  1716 Fourth Street Berkeley, CA 94710	Residential and commercial customized closet, office, garage, and storage space design, production, and installation services and related products / 1980	88 (United States)* 7 (Canada)* 2 (International)  * A subsidiary of our parent company holds 100% of 2 franchises in the United States and holds a majority interest in 15 franchises in the United States and 1 franchise in Canada.
Certa ProPainters Ltd., a Massachusetts corporation  150 Green Tree Road Suite 1003 Oaks, PA 19456	Residential and commercial painting and decorating franchises / 1992	296 (United States)
Certa ProPainters Ltd., a Canadian corporation  1140 Bay Street, Suite 4000 Toronto, Ontario M5S 2B4 Canada	Residential and commercial painting and decorating franchises / 1990	26 (Canada)
College Pro Painters Ltd., a Canadian corporation  81 The East Mall, Suite 201 Etobicoke, Ontario M8Z 5W3 Canada	Residential (exterior and some interior) and exterior light commercial painting franchises / 1972	195 (Canada) (franchises have a one-year term and operate seasonally)
College Pro Painters Ltd., a Canadian corporation  81 The East Mall, Suite 201 Etobicoke, Ontario M8Z 5W3 Canada	College Pro Window Cleaning – seasonal residential window cleaning / 2010	100 (Ontario, Canada) (franchises have a one-year term and operate seasonally)

<b><i>Company/Address</i></b>	<b><i>Type of Business/Year Began Offering Franchises</i></b>	<b><i>Number of Franchises as at December 31, 2011</i></b>
College Pro Painters Ltd., a Canadian corporation  924 17th Avenue S.W. Suite 300 Calgary, Alberta T2T 0A2 Canada	College Pro Window Cleaning – seasonal residential window cleaning / 2009	24 (Alberta, Canada) (franchises have a one-year term and operate seasonally)
College Pro Painters Ltd., a Canadian corporation  1585 East Kent Avenue Vancouver, BC V5P 4Y7 Canada	College Pro Window Cleaning – seasonal residential window cleaning / 2011	9 (Manitoba, Canada) 10 (British Columbia, Canada) (franchises have a one-year term and operate seasonally)
College Pro Painters (U.S.) Ltd., a Maryland corporation  15 Commonwealth Avenue Suite 202 Woburn, MA 01801	Exterior residential and light commercial painting franchises / 1978	285 (United States) 1 company-owned outlet (United States) (franchises have a one-year term and operate seasonally)
College Pro Window Cleaning, Inc., a Nevada corporation  15 Commonwealth Avenue Suite 202 Woburn, MA 01801	Seasonal residential window cleaning / 2010	52 (United States) 3 company-owned outlets (United States) (franchises have a one-year term and operate seasonally)
Floorcoverings International, Ltd., a Georgia corporation  5250 Triangle Parkway Suite 100 Norcross GA 30092	Mobile retail floor covering and window blind business / 1998	83 (United States) 10 (Canada)

<b><i>Company/Address</i></b>	<b><i>Type of Business/Year Began Offering Franchises</i></b>	<b><i>Number of Franchises as at December 31, 2011</i></b>
Mamar Inc., an Ohio corporation now known as Handyman Connection, Inc.  11115 Kenwood Drive Blue Ash, OH 45242	Referral business for providers of home repair and light remodeling services / 1993	74 (United States)* 24 (Canada) 1 company-owned store (Cincinnati, Ohio)  * Mamar, Inc. holds 100% of Franz, Inc., a Florida corporation located at 4811 Lyons Tech Parkway, Suite 17, Coconut Creek, FL 33073, that owned and operated several Handyman Connection franchises located in southern Florida between 2002 and 2011.
Pillar To Post Inc., a Delaware corporation  13902 North Dale Mabry Highway, Suite 300 Tampa, FL 33618	Residential inspection services for single family and some various smaller multi-family residences / 1995	262 (United States) 6 master franchises (United States) 2 development agents (United States)
Pillar To Post Inc., a Canadian corporation  5399 Eglinton Ave W, Suite 110 Etobicoke, Ontario M5C 5K9 Canada	Residential inspection services for single family and various multi-family homes / 1994	81 individual franchise territories(Canada)
<b><i>AFFILIATES WHICH MAY FROM TIME TO TIME PROVIDE PRODUCTS OR SERVICES TO THE FRANCHISOR AND/OR ITS FRANCHISEES:</i></b>		
Tele-Link Services Inc., an Ontario corporation  700 Richmond Street, Suite 416 London, Ontario N6A 5C7 Canada	Answering services and telemarketing and customer survey services for the franchisor and its franchisees	N/A

## **ITEM 2: BUSINESS EXPERIENCE**

### Chief Executive Officer and Director: Scott Baker

Mr. Baker has been Chief Executive Officer of PDRI in Jacksonville, Florida since May 1995. He holds a Harvard MBA and is a member of the Florida Bar. Mr. Baker has his offices at One Independent Drive, Suite 2300, Jacksonville, FL 32202

### President and Chief Financial Officer: Timothy M. Robinson

Mr. Robinson was named the President of PDRI in Jacksonville, Florida in January 2011. Mr. Robinson has been the Chief Financial Officer of PDRI since January 2002. Prior to that time he served as Vice President-Finance, Treasurer and Controller. Mr. Robinson is a certified public accountant and has been employed by PDRI since March 1993. Mr. Robinson has his offices at One Independent Drive, Suite 2300, Jacksonville, FL 32202.

### Vice President – Franchise Development: Robb King

Mr. King was named Vice President – Franchise Development of PDRI in August 2009. Prior to that time, Mr. King has been employed by PDRI in Jacksonville, Florida since 1992 in a variety of field support positions, including Vice President, Operations between 2003 and August 2009. Mr. King has his offices at One Independent Drive, Suite 2300, Jacksonville, FL 32202.

### Vice President, Business Development: Tracy Bachtell

Mr. Bachtell is responsible for marketing, new business development and overall brand management. Mr. Bachtell has been employed by PDRI in Jacksonville, Florida since 2003. Mr. Bachtell has his offices at One Independent Drive, Suite 2300, Jacksonville, FL 32202.

### Secretary, Treasurer and Director: Kevin Roy

Mr. Roy has been employed by FS Brands, Inc. in Ontario, Canada as Chief Financial Officer since January 1, 2012. He was employed by The Franchise Company Inc. in Ontario, Canada as Vice President of Finance from July 2007 to December 31, 2011. In June 2010, Mr. Roy was appointed Treasurer and director of FS Brands, Inc. Mr. Roy also serves as Treasurer, Secretary and director for various of the affiliates disclosed in Item 1. From 2000 to July 2007, Mr. Roy served the Director of Corporate Development at FirstService Corporation in Toronto, Ontario, Canada. Mr. Roy has his office at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada.

### Director: Charles E. Chase

Mr. Chase has been employed by PDRI's affiliates in various positions for a number of years. Mr. Chase was Vice President of College Pro Painters (U.S.) Ltd. from 1984 to 1992. Mr. Chase became President of Certa ProPainters Ltd. ("Certa Pro") in 1992, and was appointed Chief Executive Officer in January 1998. Between July 2000 and May 2003, Mr. Chase was employed

in the internet industry. In May 2003, Mr. Chase rejoined CertaPro as President, a position he held until June 2010, and Chief Executive Officer, a position he held until January 2011. Since June 2010, Mr. Chase has been employed as the President of FS Brands, Inc. In July 2011, Mr. Chase was appointed as a Director of PDRI. Mr. Chase also serves as a director for FS Brands, Inc. and various of the affiliates disclosed in Item 1. Mr. Chase has his office at 150 Green Tree Road, Suite 1003, Oaks, PA 19456.

Director: Douglas G. Cooke

Mr. Cooke has been employed by FirstService Corporation in Toronto, Ontario, Canada as Corporate Controller since 1995 and as Vice President since 2005. Mr. Cooke has his office at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada.

Rotating Director (Franchisee Representative): Kevin Lethers

An additional seat on the Board of Directors is reserved for the current President of the Paul Davis Franchisee National Executive Council, the franchisee governing body. The seat is currently held by Kevin Lethers, the owner of Paul Davis Restoration of Polk County, FL. Mr. Lethers was elected president of the Paul Davis Franchisee National Executive Council effective January 1, 2012.

Director, Franchise Development: Jacqueline M. Fairfax

Ms. Fairfax was named Director of Franchise Development, in November 2003, and is responsible for new franchise sales. Prior to that time she served as Regional Sales Representative. Ms. Fairfax has been employed by PDRI in Jacksonville, Florida since 1998. Ms. Fairfax has her offices at 10910 Spring Mill Lane, Carmel, IN 43032.

Franchise Development Director: Jana Speer

Ms. Speer was named Franchise Development Director in January 2010 and is responsible for new franchise sales. Prior to that time she was employed by PDRI as a Marketing Assistant in Jacksonville since June 2009. From May 2006 to June 2009, Ms. Speer was employed as a sales representative by Liberty Mutual Group at 12276 San Jose Blvd. Jacksonville, FL 32223. Ms. Speer has her offices at 497 Flintlock Court, Findlay, Ohio 45840.

Franchise Development Director: Eric Meyer

Mr. Meyer has been employed by PDRI since July 2010 as a Franchise Development Director. From April 2009 to July 2010, Mr. Meyer was employed as a Franchise Development Manager by Driven Brands at 610 Freedom Business Center, King of Prussia, PA 19406. From July 2008 to April 2009, Mr. Meyer was employed as a Regional Franchise Executive by Express Employment Professionals at 8516 NW Expressway, Oklahoma City, OK 73162. Between January 2006 and July 2008, Mr. Meyer was employed as Director of Franchise Development by GMAC Home Services at 2021 Spring Rd, Oak Brook, IL 60523. Mr. Meyer has his offices at 1334 Stonegate Drive, Downingtown, PA 19335.

### **ITEM 3: LITIGATION**

#### **PAUL DAVIS EMERGENCY SERVICES BUSINESS**

There is no litigation pending in connection with the Paul Davis Emergency Services Business. Please see below for PDRI's litigation disclosures in connection with the Paul Davis Restoration Business.

#### **PAUL DAVIS RESTORATION BUSINESS**

##### **PENDING LITIGATION**

Mathew and Renee Everett, James Foytik, EA Green Bay, LLC, EA Restoration, LLC, Everett Foytik Associates, LLC, and Building Werks Holdings LLC, (collectively, "Everett").

Matthew Everett ("Matthew") was the owner of three PDR franchises in Wisconsin: EA Green Bay, LLC, d/b/a Paul Davis Restoration of Northeast Wisconsin ("Green Bay"); EA Restoration, LLC, d/b/a Paul Davis Restoration of Fox Valley ("Fox Valley"); and Everett Foytik Associates, LLC, d/b/a Paul Davis Restoration of Central Wisconsin ("Central Wisconsin"). On March 1, 2010, PDRI terminated Green Bay's franchise agreement for non-payment of royalty. PDRI later discovered that Green Bay was transferred to Renee Everett, Matthew's wife ("Renee"), and it continued to operate under a new d/b/a name of "Building Werks." It was subsequently also discovered that Renee had been an undisclosed 50% owner of Green Bay prior to PDRI's termination of Green Bay's franchise agreement. On March 31, 2011, PDRI terminated the Fox Valley franchise agreement and the Central Wisconsin franchise agreement for violation of the in-term non-competition provisions. Matthew continues to operate Fox Valley and Central Wisconsin under the d/b/a names "CP Restoration" and "Certified Professional Restoration." The following proceedings are related and are discussed collectively:

- (1) Paul Davis Restoration, Inc. v. Matthew L. Everett, Renee Everett, and EA Green Bay, LLC, d/b/a Building Werks (PDR Internal Arbitration, Case No. 10-1, Telephone Hearing, June 1, 2010)

On July 1, 2010, PDRI initiated arbitration against Matthew, Renee and Green Bay, seeking to enforce the post termination non-competition provisions of Green Bay's franchise agreement (the "Green Bay Arbitration"). PDRI suspended arbitration as to Renee, pending the outcome of the lawsuit filed by Renee and others against PDRI and others (see (5) below), and continued with arbitration against Matthew and Green Bay. On February 10, 2011, an arbitration hearing was conducted and on March 8, 2011, the arbitration committee ruled in favor of PDRI and enjoined Matthew and Green Bay from operating in the insurance restoration business. The arbitration ruling has been made final.

- (2) Paul Davis Restoration, Inc. v. Renee Everett (PDR Internal Arbitration, Case No. 11-3, Jacksonville, Florida, May 13, 2011)

On May 13, 2011, PDRI initiated arbitration against Renee seeking to enforce the post-termination non-competition provisions of Green Bay's franchise agreement. A two day in-person arbitration hearing was conducted on December 8, 2011 and February 28, 2012. On February 14, 2012, the Arbitration Committee issued a ruling in favor of PDRI on all claims.

- (3) Paul Davis Restoration, Inc. v. Matthew L. Everett and EA Restoration, LLC, d/b/a Certified Professional Restoration (PDR Internal Arbitration, Case No. 11-5, [location has not been determined], June 21, 2011)

On June 21, 2011, PDRI initiated arbitration against Matthew and Fox Valley seeking to enforce the post termination non-competition provisions of Fox Valley's franchise agreement. The arbitration hearing has not been scheduled yet.

- (4) Paul Davis Restoration, Inc. v. Matthew L. Everett, James Foytik, and Everett Foytik Associates, LLC, d/b/a Certified Professional Restoration (PDR Internal Arbitration, Case No. 11-6, [location has not been determined], August 8, 2011)

On August 8, 2011, PDRI initiated arbitration against Matthew, James Foytik and Central Wisconsin seeking to enforce the post termination non-competition provisions of Central Wisconsin's franchise agreement. The arbitration hearing has not been scheduled yet.

- (5) Renee Everett and Building Werks of WI, LLC v. Paul Davis Restoration, Inc., EA Green Bay, LLC, and Matthew L. Everett (State of Wisconsin, Circuit Court, Branch 4, Brown County, Case No. 10-CV-1949, July 14, 2010, removed to U.S. District Court, Eastern District of Wisconsin, Case No. 10-CV-634, July 26, 2010)

On July 14, 2010, Renee and Building Werks of WI, LLC filed a complaint in Wisconsin state court against PDRI, Matthew and Green Bay seeking a declaration that as a non-signatory of Green Bay's franchise agreement, Renee is not bound by the arbitration provisions or the non-competition provisions of the franchise agreement and that the non-competition obligations of the franchise agreement are not enforceable under Wisconsin law. On July 26, 2010, the case removed to federal court and the plaintiffs filed a Motion for Preliminary Injunction and Temporary Restraining Order to prevent arbitration from proceeding against Renee. On April 28, 2011, the federal court denied that motion and PDRI initiated new arbitration against Renee (see (2) above). On June 14, 2011, the court entered a stay in the case pending the outcome of the arbitration against Renee. On February 15, 2012, PDRI filed a motion to confirm the arbitration ruling against Renee (see (2) above).

- (6) Matthew L. Everett and EA Green Bay, LLC, v. Paul Davis Restoration, Inc. (State of Wisconsin, Circuit Court, Branch 3, Brown County, Case No. 11-CV-623, March 11, 2011)

On March 11, 2011, Matthew and Green Bay filed a complaint against PDRI in Wisconsin state court seeking to vacate the ruling in the Green Bay Arbitration. On April 28, 2011, PDRI filed an answer, affirmative defenses and a counterclaim. On May 20,

2011, the plaintiffs filed a reply to PDRI's counterclaim and affirmative defenses. On June 29, 2011, PDRI filed a motion requesting the court to confirm the ruling in the Green Bay Arbitration.

- (7) Building Werks Holdings LLC, EA Restoration, LLC, and Everett Foytik, LLC v. Paul Davis Restoration, Inc. (State of Wisconsin, Circuit Court, Branch 3, Brown County, Case No. 11-CV-220, January 24, 2011)

On January 24, 2011, Building Werks Holding, LLC (as successor in interest to Green Bay), Fox Valley and Central Wisconsin filed a complaint against PDRI, which was not served on PDRI until April 1, 2001, alleging that PDRI breached the Wisconsin Fair Dealership Law in the renewal process for Green Bay's franchise agreement and that PDRI imposed changes in competitive circumstances for all three franchises. Plaintiffs sought damages in excess of \$500,000, as well as costs, expenses and attorney's fees. On May 18, 2011, the plaintiffs filed an amended complaint adding claims of intentional misrepresentation, fraud in the inducement and violations of the Wisconsin Franchise Investment Law, specifically that PDRI made untrue statements of material fact to plaintiffs in the franchise sales and disclosure process. On July 5, 2011, PDRI filed a motion to dismiss and to compel arbitration. On February 2, 2012, the court denied the plaintiffs' motion for temporary restraining order to stop the arbitration pending against Fox Valley from proceeding to a final hearing.

James Andrew Bova, Individually, James Anthony Bova, Individually, and JBEE Construction, Inc., d/b/a Paul Davis Restoration of North Pinellas v. Paul Davis Restoration, Inc. (PDR Internal Arbitration, Case No. 11-4, Columbus, Ohio, November 18, 2011)

The Bovas are the former owners of the PDR franchise in North Pinellas County, FL, which was terminated on March 30, 2011, for failure to pay sums due. The Bovas initiated arbitration claiming damages of \$1,200,000 for wrongful termination and tortious interference with a contract for the sale of the franchise business. An in-person hearing was conducted on November 18, 2011. On November 30, 2011, the arbitration committee ruled in favor of PDRI on all issues. The Bovas have appealed the arbitration ruling. An appeal hearing has not been scheduled yet.

## **CONCLUDED LITIGATION**

Swanson Restoration & Design, Inc., and Thomas A. Swanson v. Paul Davis Restoration, Inc. (U.S. District Court, Central District of California, Case no. SACV 07-1018 AG (RNBx), September 4, 2007)

Claim by former franchisee of breach of written contract, breach of oral contract, intentional interference with prospective economic relations, negligent interference with prospective economic relations, and request for injunctive relief in connection with PDRI's termination of the former franchisee's Franchise Agreement and PDRI's refusal to allow franchisee to subsequently transfer or sell the terminated franchise rights. On November 26, 2007, the court granted PDRI's Motion to Dismiss for Lack of Subject Matter Jurisdiction and to Compel Arbitration dismissing the Complaint and ordering the parties to submit the dispute to arbitration in accordance the PDR



Operations Manual arbitration procedures. No arbitration has been initiated. No consideration was paid in connection with this matter.

Hallmark Capital Group, LLC and Jason R. Freeman (collectively, "Hallmark").

Jason Freeman and Monique Freeman, African Americans, are the owners of Hallmark Capital Group, LLC, the former franchisee of the Southwest Houston franchise. Following the initiation of the sales audit Hallmark submitted a request that PDRI approve the transfer of the franchise from Hallmark Capital Group, LLC, to Watermark Renovators, LLC ("Watermark"), a company also owned and controlled by Mr. Freeman and his family members. PDRI deferred review of the request to transfer until the issues identified in the sales audit were resolved. The sales audit issues were not resolved and the Hallmark's Franchise Agreement was terminated by PDRI on June 7, 2006, for failure to pay sums due to PDRI and failure to accurately report sales. The following cases (the "Hallmark Cases") are related and are discussed collectively.

(1) Watermark Renovators, LLC v. Paul Davis Restoration, Inc. (U.S. District Court, Southern District of Texas, Houston Division, Case no. H-07-579, February 13, 2007)

On February 13, 2007, Watermark sued PDRI claiming racial discrimination in not approving the transfer of franchise rights from Hallmark to Watermark.

(2) Paul Davis Restoration, Inc., v. Jason R. Freeman, Monique D. Freeman, and Hallmark Capital Group, LLC (Arbitration in accordance with Booklet Two of the Paul Davis Restoration Operations Manual, Tampa, Florida, July 13, 2007)

On July 13, 2007, PDRI initiated arbitration seeking to enforce Hallmark's post-termination obligations and to collect \$41,956.10 in sums due to PDRI. Hallmark counterclaimed alleging breach of the Franchise Agreement, wrongful termination based on racial discrimination, and violation of the Texas Deceptive Trade Practices Act. A hearing was scheduled for January 22, 2008.

(3) Hallmark Capital Group, LLC v Paul Davis Restoration, Inc. (American Arbitration Association, Case no. 70 114 00758 07, Houston, Texas, December 3, 2007)

On December 3, 2007 Hallmark initiated arbitration claiming breach of the Franchise Agreement, wrongful termination based on racial discrimination, and violation of the Texas Deceptive Trade Practices Act. PDRI refused to consent to arbitration before the American Arbitration Association.

(4) Hallmark Capital Group, LLC v Paul Davis Restoration, Inc. (U.S. District Court, Southern District of Texas, Houston Division, Case No. 4:07-cv-04120, December 6, 2007)

On December 6, 2007, Hallmark sued PDRI claiming that the PDR arbitration procedures were unconscionable and in violation of Hallmark's statutory and constitutional rights and seeking to compel PDRI to consent to arbitration with the American Arbitration

Association. A hearing was conducted on December 7, 2007, and Hallmark was ordered to arbitrate the dispute under the PDR arbitration procedures.

(5) Hallmark Capital Group, LLC v. Paul Davis Restoration, Inc. (State of Texas District Court, Harris County, Texas, Case No. 2007-74626, December 10, 2007)

On December 10, 2007, Hallmark sued PDRI seeking to stay PDRI's Booklet Two Arbitration and to compel PDRI to consent to arbitration with the American Arbitration Association or litigate the dispute in court. A hearing was conducted on December 10, 2007, and Hallmark was ordered to arbitrate the dispute under the PDR arbitration procedures.

On January 20, 2008, the parties reached a settlement of all the Hallmark Cases in which: (1) Hallmark and Watermark agreed that the Hallmark Franchise Agreement was validly terminated; (2) Hallmark agreed to abide by their post termination obligations; (3) mutual release of all claims; and (4) the dismissal with prejudice of all the Hallmark cases. No consideration was or will be paid in connection with this settlement.

Paul Davis Restoration, Inc., v. William H. Hess, Curtis Huffman, and Property Damages Services, LLC (Arbitration in accordance with Booklet Two of the Paul Davis Restoration Operations Manual) /Curtis A. Huffman v. Paul Davis Restoration, Inc., and William H. Hess (Circuit Court of Duval County, Florida, Division CV-B, Case no. 2006-CA-006522, October 2, 2006).

Mr. Huffman and Mr. Hess were co-owners of a PDR franchise that was terminated on November 10, 2005, for failure to pay royalty and other fees due PDRI. On July 11, 2006, PDRI initiated arbitration against Huffman and Hess seeking to recover sums owed to PDRI. Mr. Huffman then filed a lawsuit in state court claiming violation of the Florida Business Opportunities Act, fraud, breach of fiduciary duty, unjust enrichment, and civil conspiracy and seeking to stay the arbitration and a declaratory judgment that Mr. Huffman was not a party to the Franchise Agreement and was not required to arbitrate. In mid-March 2007, the parties settled the case. The parties agreed to dismiss all claims and Mr. Huffman and Mr. Hess agreed to make settlement payments to PDRI in the sum of \$105,000.

Paul Davis Restoration – Triad, Inc. and James Untz v. Paul Davis Restoration, Inc. (PDR Internal Arbitration, Case No. 10-1, Jacksonville, Florida, March 10, 2010)

On March 10, 2010, Paul Davis Restoration – Triad, Inc., a franchisee of PDRI, and James Untz, the sole shareholder of Paul Davis Restoration – Triad, Inc., (collectively "Franchisee") initiated arbitration against PDRI seeking a ruling that Franchisee was entitled to assign their existing Franchise Agreement rather than require a transferee to execute the form of Franchise Agreement used for new franchises at the time of the transfer. On March 22, 2011, the District 5 Arbitration Committee ruled that a transferee was required to execute the form of Franchise Agreement in effect at the time of the transfer. On July 20, 2011, the Arbitration Appeal Board upheld the District 5 Arbitration Committee's ruling.

Other than these actions, no litigation is required to be disclosed in this Item 3.

#### **ITEM 4: BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

#### **ITEM 5: INITIAL FEES**

You may acquire a Paul Davis Emergency Services® franchise with an initial (and renewable) term of five years, for a franchise fee of \$36,000 for population of up to 100,000 plus \$0.20 per person for population in excess of \$100,000 in the franchise territory. The franchise fee is payable \$20,000 upon signing the Franchise Agreement and PDRI will finance the remaining amount in excess of \$20,000 with a two-year eight percent (8%) promissory note. In the previous fiscal year (ending December 31, 2011), new franchisees paid franchise fees of between \$15,000 and \$49,100. In 2011, PDRI charged lower initial franchise fees to franchisees who owned an existing Paul Davis franchise and purchased a Paul Davis Emergency Services Business franchise.

PDRI offers a discount of \$5,000 for the initial franchise fee for veterans honorably discharged within the last 10 years.

If you purchase your franchise from an existing franchisee, for which you did not pay any initial franchise fee to PDRI, you must pay a non-refundable training fee of \$11,000 per person to PDRI for your training program, which fee is due within 3 days after the closing of the purchase and sale of the existing franchise. Typically franchisees choose to send only one person to training (see Item 11 for more information about training).

At the sole option of PDRI, PDRI reserves the right at any time until thirty (30) days after the completion of the classroom training described in Item 11 to rescind the Franchise Agreement and refund to you within 5 business days all of the franchise fee paid by you to PDRI if, in the reasonable determination of PDRI, you fail to meet PDRI's performance standards evidenced through evaluations determined by classroom training and personal interviews. PDRI will not refund any portion of the franchise fee under any other circumstances. In the event of such termination, you would be bound by the covenant not to compete, trade secret covenants and the arbitration provisions described in Item 17.

## ITEM 6: OTHER FEES

Type of fee	Amount	Due Date	Remarks
Royalty Fee	4% to 8% of Gross Receipts (See Note 1)	Payable monthly on the 15 <sup>th</sup> day of each month, for Gross Receipts during the preceding month.	"Gross Receipts" includes the total amount of all revenue or income derived from sales of labor, material, and services performed or rendered by the franchised business or by third party vendors and subcontractors.
Minimum Royalty	The difference between the Monthly Minimum Royalty (see Note 2) and the Royalty Fee actually paid by you.	At the same time and in the same manner as the Royalty Fee.	Only applies to extent actual royalties paid to PDRI do not meet your minimum royalty obligation. See Franchise Agreement Section 3.1 and 3.2.
Call Center Fee	Actual cost per call, plus administrative charge of up to 20%.	At the same time and in the same manner as the Royalty Fee.	Fee for call received through national toll free numbers maintained by PDRI.
Program Job Review Fee	Up to 1% of the amount of the job.	As incurred.	If PDRI establishes referral programs with insurance companies which require estimate and invoicing standards, PDRI may provide review services in connection with such programs for franchisees for a fee of up to 1% of the amount of the job. See Franchise Agreement Section 3.6.
Transfer	\$5,000 (for majority transfer) or \$1,000 (for minority transfer), plus training fees, as applicable.	Due before transfer.	See Franchise Agreement, Section 18, for restrictions and requirements.

<b>Type of fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Marketing Fee	2% of Gross Receipts	At the same time and in the same manner as the Royalty Fee. See Note 3.	
Bankruptcy Costs and Attorneys Fees	As incurred. See Note 3.	As incurred. See Note 4.	See Franchise Agreement Section 21.3
Promissory Note Collection Costs and Attorneys Fees	As incurred. See Note 4.	As incurred. See Note 5.	See Note 4.
Xactimate™ Software License Fee	\$96 per month.	Payable monthly.	Paid to Xactimate.
New Franchisee Training	\$11,000 per person (for majority transfer) or \$2,500 per person (for minority transfer)	Before training.	Payable if you purchase your franchise from an existing franchisee and do not pay any initial franchise fee to PDRI. See Item 11 for more information about training.
Dishonored Check and EFT Denial Fee	\$100 per dishonored check or electronic funds transfer denial	As incurred.	Paid to PDRI. See Franchise Agreement Section 3.9.
Convention Registration Fee	A maximum of \$500	As incurred.	Paid to PDRI. See Franchise Agreement Section 3.4.

Type of fee	Amount	Due Date	Remarks
Renewal Fee	\$2,000	Due 60 days before renewal.	Paid to PDRI with written notice of intent to review. See Franchise Agreement Section 5.2.

### **NOTES TO ITEM 6:**

The preceding chart shows recurring or isolated fees or payments that you must pay either to PDRI or that PDRI imposes or collects on behalf of a third party. All fees are imposed by and payable to PDRI unless otherwise stated. All fees are nonrefundable and are uniformly imposed on all franchisees except as otherwise described below. Late payment is assessed at 1 1/2% per month. Please see the notes below for additional information about these fees.

Note 1: You pay a monthly royalty fee to PDRI equal to Gross Receipts times a royalty percentage for each of the following increments:

<i><b>Gross Receipts</b></i>	<i><b>Royalty Percentage</b></i>
\$0.00 - \$39,999.99	8%
\$40,000.00 - \$79,999.99	7%
\$80,000.00 - \$119,999.99	6%
\$120,000.00 - \$159,999.99	5%
\$160,000.00 and over	4%

Note 2: During the initial term of your Franchise Agreement, your "Monthly Minimum Royalty" is equal to (a) \$300.00 during the first year of the Franchise Agreement, (b) \$800.00 during the second year of the Franchise Agreement, (c) \$1500.00 during the third year of the Franchise Agreement; and (d) for years 4 and 5 and during any renewal term or transfer of your Franchise Agreement, \$1,500 adjusted for any changes in the Consumer Price Index, all Urban Consumers, (or comparable index) published by the U.S. Department of Labor since the effective date of your original Franchise Agreement. If the amount of the monthly Royalty Fee you actually pay to PDRI is less than the applicable Monthly Minimum Royalty, then you must pay to PDRI the difference between the actual monthly Royalty Fee you paid and the applicable Monthly Minimum Royalty. PDRI waives the Monthly Minimum Royalty for the six month period after you complete new owner training.

Note 3: For startup franchises, except for those acquired from existing franchisees, these monthly fees shall commence in the second full month following the completion of new owner school, if applicable.

Note 4: In the event of a bankruptcy by a franchisee, the franchisee is liable to PDRI for all of PDRI's costs and attorneys fees associated with the bankruptcy.

Note 5: PDRI offers financing of your initial franchise fee. If PDRI needs to collect or enforce its payment rights, you are required to pay PDRI for all costs and expenses, including attorneys fees, incurred. See Item 10 for more information on financing.

## ITEM 7: ESTIMATED INITIAL INVESTMENT

### YOUR ESTIMATED INITIAL INVESTMENT

Type of expenditure	Amount	Method of payment	When due	To whom payment is to be made
Franchise Fee	\$20,000 - \$36,000 (Note 1)	Lump sum or as arranged	\$20,000 due when Franchise Agreement signed; balance in the form of a two year 8% promissory note	PDRI
Real Property and Improvements (2)	\$0 - \$2,500 (Note 2)	As incurred	Monthly (Note 2)	Landlord (Note 2)
Computer Software (3)	\$494	Lump sum or as arranged	Before Training	Third Party Vendors
Telecommunications Equipment (4)	\$390 - \$1,230	Lump sum or as arranged	Before Training	Third Party Vendors
Vehicle (5)	\$5,000 - \$33,000	Lump sum or as arranged	Before Training	Third Party Vendors
Drying Equipment (6)	\$3,500 - \$35,000	Lump sum or as arranged	Before Training	Third Party Vendors
Office Furniture	\$0 - \$2,000	As incurred	Before Opening	Third Party Vendors
Travel and Living Expenses While Training (7)	\$3,200 - \$5,000	As incurred	During Training	Third Parties
Insurance (8)	\$2,000 - \$10,600	As incurred	Before Opening	Insurance Companies
Licensing (9)	(Note 9)	As incurred	(Note 9)	(Note 9)
CPA fees - initial work (10)	\$400 - \$1,200	As incurred	At startup	CPA
Legal fees – incorporation	\$500 - \$1,500	Lump sum	At incorporation date	Attorney
Additional funds - first 3 months (11)	\$5,300 – \$19,300	As incurred	1/3 each month as incurred	Employees, Suppliers, Utilities, PDRI



Type of expenditure	Amount	Method of payment	When due	To whom payment is to be made
<b>TOTAL FOR STARTUP</b>	<b>\$40,784 - \$147,824</b>			

### **NOTES TO ITEM 7:**

All fees paid to PDRI are not refundable unless otherwise indicated. You should be aware that fees paid to third parties may not be refundable.

(1) PDRI considers the initial franchise fee fully earned and non-refundable once you sign the Franchise Agreement. As described in Item 5, you may pay \$20,000 at the time you sign the Franchise Agreement and you may finance the balance of the initial franchise fee. If you chose to finance a portion of the initial franchise fee, your first payment under the promissory note financed is due on the first day of the third month following your completion of new owner training school. (See Item 10 for more information).

At the sole option of PDRI, PDRI reserves the right at any time until thirty days after completion of the classroom training described in Item 11 to rescind the Franchise Agreement and refund to you within 5 business days all of the franchise fee paid by you to PDRI if, in the reasonable determination of PDRI, you fail to meet PDRI's performance standards evidenced through evaluations determined by classroom training and personal interviews. PDRI will not refund any portion of the franchise fee under any other circumstances. In the event of such termination, you would be bound by the covenant not to compete, trade secret covenants and the arbitration provisions described in Item 17.

(2) You may operate your franchise business from your home. If you are unable to use your home then you will need to establish an office. Suitable office locations include strip centers, light industrial parks, or suburban office parks. Typical rent for a start-up office is \$500 - \$1,000 per month (See Item 11 for additional information about site selection). You will need up to 100 square feet of storage space to store your additional equipment supplies, in addition to the equipment and supplies being stored in your van. You may use any type of storage space, including your home garage, to store your additional equipment and supplies.

(3) PDRI will loan you with a laptop computer and provide you with PDRI's proprietary software with which to operate your franchise business (See Item 11 for more information). You are required to use proprietary software provided to you by PDRI in conjunction with the Xactimate<sup>™</sup> estimating system. (See Item 8 for more information). You are responsible for costs of obtaining, installing and maintaining the Xactimate<sup>™</sup> estimating system, including all license fees associated with its possession, use or operation. The current cost for the Xactimate<sup>™</sup> software is a \$200 set-up fee and a \$98 per month license fee.

(4) You must obtain, at your expense, certain telecommunication equipment and services, including a high speed USB aircard, an aircard data communication plan, a smart phone and

voice and data plan for the phone, to support the computer system (See Item 11 for more information) and a dedicated telephone landline for business use.

(5) You must lease or purchase a full-sized extended van which must be delivered to you before you begin training. The estimates provided are for the cost of three monthly lease payments and down payment for a new vehicle, with a four year lease term. The cost of the vehicle will vary depending upon the make, model and age of the vehicle; and, as of the date of this disclosure document, the purchase price of a three quarter ton van should range from \$32,000 to \$33,000, including the purchase and installation of the decals and storage racks for holding your equipment in accordance with PDRI's specifications. As you will transport drying equipment in the van, the van must be large enough to the drying equipment and other supplies and equipment and the storage racks installed to hold the drying equipment.

(6) You must purchase a drying equipment package to operate your business before you begin training. PDRI has arranged with a supplier to have PDRI's standard drying equipment package available to franchises, but this equipment is available from any supplier. Some suppliers may permit you to finance the cost of the equipment depending on your credit rating. While the exact terms and rates of such financing will depend on your supplier and your credit rating, you will generally be required to make a down payment of at least 10% of the purchase price of the drying equipment.

(7) You will incur significant travel and lodging expenses during the training program period, including round trip airfare to Jacksonville, car rental, hotel, and meals. PDRI estimates your travel and living expenses during the three-week training period will be \$3,200 - \$5,000.

(8) Insurance costs due at start-up will range from approximately \$2,000 to \$10,600 for the first quarter based on the current insurance market, which fluctuates considerably. Some insurance providers may permit you to finance a portion of your insurance premium. The terms and rates of such financing will vary from provider to provider and may include the requirement of paying up to 20% to 30% of your total premium in advance.

(9) The requirements for individual or company licensing and/or certification vary substantially from state to state and may further vary from city to city, or county to county, within a state. You should determine what licensing or certification requirements are imposed by the various governmental bodies in the locations where you expect to establish a Paul Davis Emergency Services Business. These licenses may require examinations and/or significant fees. It is your responsibility to determine what licensing requirements are applicable.

(10) Initial CPA fees to set up the accounting for a franchise will generally range between \$400 and \$1,200. The CPA may waive or reduce the initial set-up charge as an incentive to get a new client.

(11) You will need funds (or working capital) to finance the on-going operation of the franchise business. PDRI recommends that you have minimum working capital of \$25,000. Working capital is the difference between current assets and current liabilities plus available unused lines of credit. The amount of working capital will fluctuate as your business grows.

Following your initial year of operation you are required to maintain working capital of the greater of \$25,000 or 5% of your Gross Receipts for the prior twelve months.

The estimate of additional funds required for the first 3 months does not include any salary or draw for you, the owner. If you will be dependent on the franchise business to provide your personal living expenses during this period then you must increase the estimated start-up costs by that amount.

In addition, you will be responsible for certain monthly fees including the monthly marketing fee (See Item 6 for additional information).

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

You must purchase or lease the computer software and drying equipment required for the operation of your business in accordance with the specifications in the Operations Manual and the Procedures Manual (see Items 7 and 11 for more information regarding the equipment and computer software you are required to buy). A copy of the current Operations Manual is attached to this disclosure document as Exhibit H and the table of contents for the current Procedures Manual is attached to this disclosures document as Exhibit I. The specifications contained in the Operations Manual or the Procedures Manual may be modified by PDRI from time to time at our discretion to meet the changing needs of the Paul Davis Emergency Services Business program.

PDRI will provide you with an initial printing and sales and marketing supplies package. You must purchase additional printing supplies from suppliers approved by PDRI. You will be provided with a list of approved suppliers when you attend your initial training.

You may purchase printing supplies from alternative suppliers if the approved suppliers are not in available in your area. You must make a written request to PDRI for the approval of an alternative supplier of printing supplies or alternative suppliers of other required goods or services. PDRI does not charge you for this approval service and will issue an approval or a disapproval within two weeks after receiving the request provided the supplier meets our specifications. Before approving a supplier, we may request that you supply us with specifications or samples so that we can determine if the supplier complies with the standards of quality that we have established for our franchise system. PDRI may revoke an approval if the supplier fails to meet our specifications.

You are not required to purchase any goods or services from PDRI or any of its affiliates and none of PDRI nor its affiliates is currently an approved supplier. No officer of PDRI owns an interest in any approved supplier.

We advise you that 2009 was the first year that PDRI offered franchises of the Paul Davis Emergency Services Business and, while we believe that the estimates of the initial expenditures disclosed in Item 7 are reasonably accurate, it is possible that your actual expenditures may be more or less than these estimates. Based on the estimated expenditures disclosed in Item 7, we calculate that the total amount of goods and services purchased or leased by you in establishing your franchise will range between \$15,484 and \$92,324. Please note these amounts are the total of the amounts disclosed in Item 7, not including the initial franchise fee or first three months of additional funds. Depending on how you pay for your drying equipment, the cost of your required purchases of computer software and drying equipment will range between \$3,994 and \$35,494, which is between 26% and 38% of your total purchases or leases of goods and services in connection with the establishment of your business.

As 2009 was the first year in which the Paul Davis Emergency Services Business was offered, PDRI does not have any historical financial information upon which to base an estimate of the proportion that required purchases or leases of goods or services will have in relation to the cost of all expenses you will incur in connection with the operation of your franchised business. While PDRI cannot provide an accurate estimate of the relation of these required

purchases to all purchases, PDRI would roughly estimate that the total of your purchases for goods and services from approved suppliers or in accordance with specifications will range from 30% to 40% of your overall purchases in operating your business.

PDRI has negotiated national accounts with several suppliers of building supplies, paint, carpet, appliances, vans and drying equipment supplies that you may use in the course of your business. Current agreements with suppliers provide: (i) discounts on various supplies which you may use; and (ii) in one instance, an annual fee of \$49,133.83 is paid by a paint supplier to PDRI. Your use of these building supplies, paint, carpet, appliances, vans and drying equipment supplies from any of these suppliers is voluntary. PDRI does not itself provide any material benefits to you based on your use of those accounts. The benefit to you is derived from the discount offered by the supplier, not PDRI. Except for the annual fee and rebate described in this Item 8, PDRI receives no revenue, rebates or other material consideration as a result of required purchases or leases and none of PDRI nor PDRI's affiliates derive any income from required purchases or leases. There are no purchasing or distribution cooperatives.

## 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.**

	<b>Obligation</b>	<b>Section in agreement</b>	<b>Disclosure document item</b>
A.	Site selection and acquisition/lease	Section 4	Item 11
B.	Pre-opening purchases/leases	Section 9	Item 11
C.	Site development and other pre-opening requirements	Section 6	Item 11
D.	Initial and ongoing training	Section 8	Item 11
E.	Opening	Section 6	Item 11
F.	Fees	Sections 2, 3	Item 5, 6
G.	Compliance with standards and policies/operating manual	Section 6	Item 11
H.	Trademarks and proprietary information	Section 1	Item 13
I.	Restrictions on products/services offered	Section 6	Item 8
J.	Warranty and customer service requirements	None	Not Applicable
K.	Territorial development and sales quotas	Section 4	Item 12
L.	Ongoing product/service purchases	Section 9	Item 8
M.	Maintenance, appearance and remodeling requirements	None	Not Applicable
N.	Insurance	Section 12	Item 7
O.	Advertising	Section 11	Item 6, 7
P.	Indemnification	Section 13	Not Applicable
Q.	Owner's participation/ management/ staffing	Section 6	Item 15
R.	Records/reports	Section 6	Item 21
S.	Inspections/audits	Section 6	Not Applicable
T.	Transfer	Section 18	Item 6, 17
U.	Renewal	Section 5	Item 6, 17
V.	Post-termination obligations	Section 17	Item 17
W.	Non-competition covenants	Section 20	Item 17
X.	Dispute resolution	Section 21	Item 17

## **ITEM 10: FINANCING**

PDRI offers financing for 100% of the amount of the initial franchise fee in excess of \$20,000 for a 2-year period at an APR of 8%. A copy of the Promissory Note showing the financing terms is attached as Exhibit F. Other than the Promissory Note, PDRI does not require any additional security interest in connection with the financing. Each owner of a franchise must individually sign the Promissory Note. The balance of the Promissory Note may be prepaid in whole or in part at any time without penalty or premium. If you do not pay on time or if you default on the Franchise Agreement or if you fail to abide by the terms of the Operations Manual, then you will be in default under the Promissory Note and you will automatically be in default under the Franchise Agreement. If you are in default under the Promissory Note or if you sell a portion or all of your interest in the Franchise Agreement, PDRI can call the Promissory Note and demand immediate payment of the full outstanding balance and obtain court costs and attorney's fees if a collection action is necessary. You will also pay all costs and expenses including reasonable attorney's fees and costs incurred by PDRI in connection with an appeal of any proceeding respecting the payment or enforceability of the Promissory Note. You waive your rights to presentment, protest, notice of protest, and notice of dishonor under the Promissory Note. The terms of the Promissory Note do not bar you from asserting a defense against PDRI.

PDRI does not arrange financing from other sources. Commercial paper from franchisees has not been and is not sold or assigned to anyone, and PDRI has no plans to do so. PDRI does not receive direct or indirect payments for placing financing. PDRI does not guarantee your obligations to third parties.

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

**Except as listed below, PDRI is not required to provide you with any assistance.**

### **Pre-Opening Assistance**

Before you open your business, PDRI will:

- A. Designate your franchise territory (Franchise Agreement, Section 4.1);
- B. Provide you with an initial printing, sales and marketing supplies package (Franchise Agreement, Section 9.2) [not applicable to a resale or renewal of an existing franchise];
- C. Assign you to a District Council in your area of the U.S. (Franchise Agreement, Section 10.2);
- D. Provide your designated representative with the classroom training described below;
- E. Establish a franchise specific web site with a unique URL for your use in operating the franchise (Franchise Agreement, Section 11.2).

The typical length of time between the earlier of signing the Franchise Agreement or paying the initial franchise fee and the opening of a start up Paul Davis Emergency Services Business franchise is less than 4 months. The principal time constraints will be your ability to attend the next available training class. You are required to begin operating your franchise within thirty (30) days after you finish your classroom training program (Franchise Agreement, Section 16.2(c)).

### **Post-Opening Assistance**

During the operation of the franchise business, PDRI will provide the following:

- 1. Personal consultation, advisory and supervisory services at your principal place of business for a fee agreed between you and PDRI (Franchise Agreement, Section 8.4).
- 2. Lend you one copy of its Operations Manual and its Procedures Manual, which contains required and suggested standards and procedures for operating the franchise business. These manuals are proprietary and remain the property of PDRI. PDRI may modify the manuals from time to time (Franchise Agreement, Section 1.2). The entire text of the Operations Manual is contained in Exhibit H and the table of contents of the Procedures Manual is contained in Exhibit I.
- 3. Own and maintain the Marketing Fund (Franchise Agreement, Section 3.3). See below for more information about the Marketing Fund.



## **TRAINING PROGRAM**

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On-The-Job Training</b>	<b>Location</b>
Structural Drying	39	N/A	Jacksonville, Florida
Thermal Imaging	1	N/A	Jacksonville, Florida
Fire and Smoke Mitigation	14	N/A	Jacksonville, Florida
Mold Remediation	16	N/A	Jacksonville, Florida
Marketing	8	16 (for field training)	Jacksonville, Florida; on-site
Accounting, Budgeting and Cash Management	6	N/A	Jacksonville, Florida
Software Training	12	N/A	Jacksonville, Florida
Lead Remediation	8	N/A	Jacksonville, Florida
Textile Cleaning	6	N/A	Jacksonville, Florida
Estimating & Documentation	22	N/A	Jacksonville, Florida

The initial training program is mandatory for each new franchisee (including resales of existing franchises). Before you begin operations, you or your designated representative must complete the classroom training to the satisfaction of PDRI. Operations are deemed to begin when you first offer your services to the public. In addition, you or your designated representative must satisfactorily complete the on-site field training program by making marketing calls under the supervision of PDRI's trainers before you begin operations. PDRI may also require you to attend a two-day advanced new owner training class, consisting of business and financial management and best practices courses, approximately two years after you complete initial training. PDRI has not yet set any specific criteria to determine whether or not attendance at the advanced training class will be required. In all cases, PDRI will determine whether or not training has been satisfactorily completed.

The training program is conducted approximately five times per year. All classroom training takes place at PDRI's Jacksonville, Florida headquarters or at a leased facility in Jacksonville, Florida, or at such other location selected by PDRI. On-the-job training may take place at PDRI's Jacksonville, Florida headquarters or at a leased facility in Jacksonville, Florida, at such other location selected by PDRI or at your office. PDRI does not charge for the initial training service for you or your designated representative. However, you must pay all personal

expenses, including travel, meals, lodging, and transportation, incurred during the training program. If you purchased your franchise from an existing franchisee, for which you did not pay any initial franchise fee to PDRI, you must pay a training fee to PDRI for your training program of \$11,000 per person, in the case of a transfer of a majority ownership of the franchise, or \$2,500 per person, in the case of a transfer of a minority ownership of the franchise.

The following are PDRI's instructors:

Eric Taylor instructs PDRI's franchisees in job scoping, estimating, Xactimate, project management, and franchise management. Mr. Taylor has 3 years experience with PDRI and 11 years experience in the field.

Leslie Anderson instructs PDRI's franchisees in marketing, MICA, and franchise management. Ms. Anderson has 1 years experience with PDRI and 12 years experience in the field.

Denna Wright instructs PDRI's franchisees in accounting and office procedures. Ms. Wright has 20 years experience with PDRI and 28 years experience in the field.

Sonny Bass instructs PDRI's franchisees in the technical aspects of emergency services, drying, cleaning and loss mitigation. Mr. Bass has 11 years experience with PDRI and 38 years experience in the field.

Tracy Bachtell instructs PDRI's franchisees in marketing, insurance industry, insurance claims process and insurance policy review. Mr. Bachtell has 9 years experience with PDRI and 36 years experience in the field.

Barry Floyd instructs PDRI's franchisees in franchise financial management. Mr. Floyd has 12 years experience with PDRI and 17 years experience in the field.

Kathy Gillette instructs PDRI's franchisee in local marketing. Ms. Gillette has 21 years experience with PDRI and 21 years experience in the field.

Although PDRI does not currently require continuing education, PDRI reserves the right to implement such a program upon 60 days notice. If PDRI implements such a program, you agree to attend such program at PDRI's place of business in Jacksonville, Florida at your expense.

### **COMPUTER REQUIREMENTS**

PDRI will loan you a computer system with which to operate the franchise for the term of the Franchise Agreement. The computer system consists of a laptop computer and PDRI's proprietary claims management software (Tsunami) and mobile mitigation management software (MICA) and access to Quickbooks accounting software.

In addition to the PDRI supplied computer system, you are required to obtain, at your expense, Xactimate™ estimating software. The cost for the Xactimate™ software is a \$200 set-up fee and a \$98 per month license fee. Although Xactimate™ is the most commonly used third party estimating system for estimating property claims, some customers may require you to use a different estimating system at your expense.

You are required to process all franchise transactions through the computer system. You may not use the computer system for any purpose other than the operation of the franchise business and you may not load any software on the computer system without PDRI's approval. You will be responsible for any loss or damage to the computer system. PDRI does not have any obligation to provide ongoing maintenance, repairs, upgrades or updates to the computer system. PDRI does not require you to update and upgrade the computer hardware and/or software, once you have fulfilled the minimum standards required, however, if the Xactimate™ estimating software is updated, your customers may require you to use the most current version available.

The data generated and stored on your computer system includes customer lists, sales volumes, job estimates and reports and other general information. PDRI currently does not link to your computer system or have access to any of the information generated or stored in your computer system.

You must obtain, at your expense, certain telecommunication equipment and services to support the computer system. For wireless communication you will need a high speed USB aircard (cost \$70), and an aircard data communication plan (cost \$60 - \$70 per month). For on-site data capture you will need an HTC EVO or Droid smart phone (cost \$170 - \$610) and a voice and data plan for the phone (\$90 - \$180 per month). PDRI personnel can assist you in obtaining this equipment and services.

### **ADVERTISING**

You may develop advertising and promotional materials for your own use, at your own cost. PDRI or its designated representative must approve your advertising materials in advance and in writing. Such approval shall not be unreasonably withheld. PDRI does not require that you participate in any advertising program.

PDRI will establish a franchise specific web site for your use in advertising and promoting your franchise. You will be responsible for maintaining and updating the web site content.

You are required to participate in the Marketing Fund, a cooperative program which requires financial contributions from each franchisee, as described in Item 6, under the heading "Marketing Fund". You are required to contribute to the Marketing Fund an amount equal to two percent of your monthly Gross Receipts. The Marketing Fund is owned and managed by PDRI. You may request an accounting of the Marketing Fund in writing from PDRI and PDRI will supply you with the accounting statements by first class mail. PDRI may use an outside regional advertising agency to create and place advertising in regional and national media. PDRI is not required to spend any amount on advertising in your territory. In the event any portion of the Marketing Fund is not spent in the fiscal year in which it was collected, such amounts will be

accrued and used in subsequent fiscal years. PDRI may use a portion of the Marketing Fund to contribute to the Strategic Marketing Plan, the Job Completion and Payment Guarantee Fund, and the Indemnity and Insurance Reimbursement Fund (described in the Operations Manual) on behalf of franchisees of the Paul Davis Emergency Services Business. PDRI does not use the Marketing Fund to solicit new franchisees.

During the last fiscal year of the Marketing Fund (ending on December 31, 2011), the Marketing Fund spent 22.5% of its income on franchisee web sites, 14.8% of its income on contributions to the Strategic Marketing Plan; 21.8% of its income on contributions to the Job Completion and Payment Guarantee Fund and the Indemnity and Insurance Reimbursement Fund; 14.0% of its income on continuing education classes which franchisees provided to insurance adjusters; 12.7 % of its income on media/collateral production; and 14.9% on mitigation software.

To establish the Marketing Fund in 2009, PDRI made a contribution of \$24,341 to the Marketing Fund in cash. PDRI does not expect to make any contributions to the Marketing Fund in 2012.

PDRI does not require advertising cooperatives to be formed, changed, dissolved or merged unilaterally. There is no franchisee advertising council.

You may not use PDRI's name or trademarks in connection with any electronic commerce or other electronic transmission, including email communications or interactive web sites, without the prior written approval of PDRI or its designated representative. Such approval shall not be unreasonably withheld.

### **SITE SELECTION**

You may operate the franchise business from your home. If you are unable to operate from your home for any reason, such as, for example, space constraints or local zoning requirements, then you will need to establish an office in a commercial location. You must locate your office (whether in your home or another location) within the boundaries of your franchise territory, but PDRI does not otherwise approve the site for your Franchise Business. Franchisees usually rent offices in strip centers, light industrial parks, or suburban office parks.

## ITEM 12: TERRITORY

You conduct your franchise operations within a specific franchise territory listed in the Franchise Agreement. PDRI does not establish a minimum size for any territory. The size and configuration of the franchise territory is based on population density, geographic location and other factors and your franchise territory will be identified using zip code boundaries. The size of your franchise territory is determined by you and PDRI before you sign the Franchise Agreement. The typical franchise territory contains a population of 75,000 to 100,000. As PDRI determines each franchise territory based on many factors, including population density, geographic and other factors, some franchisees may receive franchise territories that contain a population that is greater than 100,000.

You will not receive an exclusive franchise territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. Due to the nature of the business, you may provide services to clients in another franchisee's territory, and vice versa, subject to the cross territory procedures described in Booklet Three of the Operations Manual included in this disclosure document as Exhibit H. In addition, franchisees operating Paul Davis Restoration franchises may operate in your territory and you may operate in territories which belong to franchisees operating Paul Davis Restoration business, as described in Section 4.4 of your Franchise Agreement. Also, PDRI may enter into regional or national account relationships with insurance companies, third party administrators, and property managers under which PDRI may assign jobs to franchisees. If you do not participate in or qualify for any such regional or national account programs, then the cross territory procedures shall not apply to any services which PDRI assigned to other franchisees for jobs in your territory in connection with such regional or national account programs.

Your office must be located in your franchise territory. You are not required to seek PDRI's approval to re-locate your office within your franchise territory. You do not have any options, rights of first refusal or similar rights to acquire additional franchises in contiguous or other territories.

As to any territory covered by a Franchise Agreement, PDRI (including any parent or affiliate of PDRI) has not established and will not establish a company-owned outlet office using our service marks and trademarks. PDRI does not offer the same services as franchisees, and, therefore, PDRI may not solicit or accept orders for services or products the same as or similar to those that you are authorized to sell within your territory without your permission. PDRI may use alternative distribution, including the Internet, within your territory under different trademarks, but PDRI does not offer any compensation to franchisees for soliciting or accepting orders from within a franchisee's territory. PDRI may grant similar franchises using our trademarks inside or outside of your territory.

Your territory will be identified using zip code or political boundaries, which are subject to change. These changes are outside of the control of PDRI. Other than changes to zip code or political boundaries used to define your territory, PDRI has no right to alter the territory granted to you under the Franchise Agreement. Your retention of your territory is not dependent upon

the achievement of a certain sales volume, market penetration, or any other contingency, apart from your obligations under the Franchise Agreement.

In addition to the Paul Davis Restoration franchisees, some of our affiliates listed in Item 1 of this disclosure document offer franchises under different service-marks or trademarks which provide services that may be similar to, but do not necessarily compete with, some of the services you are authorized to provide as a franchisee of a Paul Davis Emergency Services Business, as follows: California Closet Company, Inc. offers franchises that provide residential and commercial customized closet, office, garage and storage space design, production and installation services and related products; Certa ProPainters Ltd. and College Pro Painters (U.S.) Ltd. offer franchises that provide residential and commercial painting and decorating services; Floorcoverings International, Ltd. offers franchises that provide mobile retail floor coverings and window blinds; and Handyman Connection, Inc. (formerly known as Mamar, Inc.) offers franchises and operates company-owned franchisees that provide referrals for home repair and light remodeling services.

## ITEM 13: TRADEMARKS

PDRI grants each franchisee the license to use the PD<sup>®</sup> logo and the "Paul Davis Emergency Services" mark shown on the cover page of this disclosure document. You may use the names and logos on stationery, in advertising approved by PDRI and for other purposes consistent with the operation of the franchise and in accordance with the Operations Manual and the Procedures Manual. PDRI controls your use of the names and logos and you may not use any PDRI mark or name to sell an unauthorized service or product or in a manner not authorized in writing by PDRI.

PDRI is the registered owner of the PD<sup>®</sup> logo, which is registered with the U.S. Patent and Trademark Office on the principal register under Registration No. 1,661,053 on October 15, 1991 and renewed November 20, 2001, and the "Paul Davis Emergency Services" mark as shown on the cover page of this disclosure document, which is registered with the U.S. Patent and Trademark Office on the principal register under Registration No. 3,920,362 on February 15, 2011. There have never been any determinations by the U.S. Patent and Trademark Office, the Trademark Trial and Appeal Board or any state trademark administrator or court of any pending infringement, opposition or cancellation proceeding or any pending material litigation involving either of the above-referenced marks which is relevant to its use. PDRI has filed all required affidavits for use of its PD<sup>®</sup> logo trademark and will file all required affidavits for the "Paul Davis Emergency Services" mark at the appropriate time.

There are no agreements in effect which significantly limit the right of PDRI to use or license the use of its names and logos in any manner material to the franchise. PDRI does not know of any superior prior rights or infringing uses that could materially affect your use of its service marks.

You must comply with the Operations Manual and the Procedures Manual guidelines when you use the names and logos in operating the franchise. PDRI assumes all responsibility to protect any rights to the names and logos. You are not obligated to defend against claims of infringement or unfair competition with respect to such names and logos but you are obligated to notify PDRI immediately if you learn about an infringement of or challenge to your use of the PDRI service marks. PDRI will take the action we deem appropriate and if we ask you to assist us in defending the service marks, we will reimburse you for all costs which you incur in doing so, if such costs are approved by PDRI in writing.

You must modify or discontinue use of any PDRI service mark if PDRI modifies or discontinues it for all of our franchisees. If this happens, PDRI will not reimburse you for expenses you incur in changing signage or other uses of the service mark. Your obligations under the Franchise Agreement continue if any PDRI service mark is modified or discontinued.

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

PDRI does not own any patents which are material to the franchise. PDRI claims copyrights on its software and its Operations Manual and Procedures Manual although it has not filed an application for a copyright registration for the Operations Manual or the Procedures Manual.

Item 11 describes limitations on your use of the Operations Manual and the Procedures Manual. You must comply with any changes to the Operations Manual and the Procedures Manual and PDRI will not reimburse you for any expenses you incur in making these changes.

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

Either the individual franchise owner or a designated representative, who must be approved by PDRI, must personally participate in franchise operations. The designated representative of each franchise must have completed the full training program and manage the franchise on a full-time basis. The designated representative cannot have an interest in or business relationship with any competitor of PDRI or its franchisees and he or she must sign an agreement to maintain confidentiality of the trade secrets described in Item 14 and to abide by the covenants not to compete described in Item 17.

#### **ITEM 16: RESTRICTIONS ON WHAT THE FRANCHISE MAY SELL**

The Franchise Agreement limits the goods or services which you may sell to those offered in the franchise system. The Franchise Agreement does not limit the customers to whom you may sell such goods or services, but you are subject to the compensation provisions for cross territory services provided by franchisees operating a Paul Davis Restoration Business. See Exhibit C. You must offer all services that PDRI designates as required in your Franchise Agreement. If PDRI establishes new services, you must offer them. There are no limits on PDRI's right to establish new services.



## ITEM 17: RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

### THE FRANCHISE RELATIONSHIP

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

	Provision	Section in franchise or other agreement	Summary
a.	Length of the franchise term	Section 5.1	5 years
b.	Renewal or extension of the term	Section 5.2	Additional 5 years
c.	Requirements for franchisee to renew or extend	Section 5.2	Includes: 2 month notice of intent; pay renewal fee; sign new Franchise Agreement, which may have materially different terms and conditions from your original franchise agreement; bring equipment up to then current standards; compliance throughout term; achieved Gross Receipts target.
d.	Termination by franchisee	Not applicable	Not applicable
e.	Termination by franchisor without cause	Not applicable	Not applicable
f.	Termination by franchisor with cause	Section 16	Unless your state law requires a longer period to cure, you have 15 days to cure certain defaults, such as nonpayment of fees; failure to operate in accordance with Operations Manual or Procedures Manual and other defaults listed in Section 16.1

	<b>Provision</b>	<b>Section in franchise or other agreement</b>	<b>Summary</b>
g.	"Cause" defined - curable defaults	Section 16.1	Unless your state law requires a longer period to cure, you have 15 days to cure certain defaults, such as: nonpayment of fees; failure to operate in accordance with the Operations Manual or the Procedures Manual and other defaults listed in Section 16.1
h.	"Cause" defined - non-curable defaults	Section 16.2	No right to cure defaults such as: failure to timely begin operation; material or repeated misrepresentation in reporting gross sales; insolvency; non-approved assignment; conviction of a felony; two or more repeated violations of curable defaults within 12 month period; abandonment of the franchise business
i.	Franchisee's obligations on termination/nonrenewal	Section 17	Obligations include complete de-identification; payment of sums due; transfer of phone numbers and domain names; return of materials (see also r. below)
j.	Assignment of contract by franchisor	Section 18	No restriction of PDRI's right to assign. No assignment will be made except to an assignee who, in the good faith and judgment of the Franchisor, is willing and able to assume the Franchisor's obligations under the Franchise Agreement.
k.	"Transfer" by franchisee - definition	Section 18.1	Includes transfer of contract or assets, as well as any ownership change
l.	Franchisor approval of transfer by franchisee	Section 18.1	PDRI has right to approve all transfers, applying same criteria as to new franchisees

	<b>Provision</b>	<b>Section in franchise or other agreement</b>	<b>Summary</b>
m.	Conditions for franchisor approval of transfer	Section 18.1	New franchise qualified; transfer fee paid; training agreed to; transferee must execute new franchise agreement and agree to then current royalty and fee schedule; computer hardware and other equipment brought up to current standards, if necessary; your accounts settled
n.	Franchisor's right of first refusal to acquire franchisee's business	Section 18.3	PDRI has right to acquire on same terms as third party offer
o.	Franchisor's option to purchase franchisee's business	Section 18	Not applicable (except right of first refusal described above)
p.	Death or disability of franchisee	Section 18.6	Heir can inherit if conditions for approval (item m. above) are followed
q.	Non-competition covenants during the term of the franchise	Section 20	Cannot participate in competing business
r.	Non-competition covenants after the franchise is terminated or expires	Section 20	No competing business for 2 years after termination within protected territory or in other PDRI territories
s.	Modification of the agreement	Section 23.1	Only by mutual consent
t.	Integration/merger clause	Section 23.6	Only the terms of the Franchise Agreement are binding. Any other representations or promises outside of the disclosure document and franchise agreement will not be enforceable.
u.	Dispute resolution by arbitration or mediation	Section 21	All disputes must be submitted to binding arbitration

	<b>Provision</b>	<b>Section in franchise or other agreement</b>	<b>Summary</b>
v	Choice of forum	Section 21	Any controversy or claim arising out of or relating to the Franchise Agreement or the acquisition or operation of the franchise shall be settled by binding arbitration. Subject to state law; the forum in which the arbitration will take place is selected by the Arbitration Committee.  Subject to state law, such disputes may not be litigated in any court.
w.	Choice of law	Section 23.4	Subject to state law; Florida law will apply

**NOTE TO ITEM 17:**

Any provision in the Franchise Agreement which provides for termination upon bankruptcy of the franchisee may not be enforceable under Federal Bankruptcy Law (11 U.S.C. §101, et seq.)

**ITEM 18: PUBLIC FIGURES**

PDRI does not use any public figures to promote its franchises.

## ITEM 19: FINANCIAL PERFORMANCE REPRESENTATIONS

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

### **Paul Davis Emergency Services Business Franchisees Historical Financial Performance Representation**

**Table 1**  
**2011 Sales of Operational Franchises in Business for Full Year 2011**

FRANCHISE NAME	START DATE	2011 SALES
PDES OF GILBERT, AZ	06/15/10	\$292,856
PDES OF THE GOLDEN ISLES	10/01/09	\$555,310
PDES OF THOMASVILLE/MOULTRIE	03/12/10	\$144,229
PDES OF CARROLL COUNTY, GA	07/16/10	\$169,057
PDES OHARE	08/14/09	\$74,732
PDES OF METHUEN & LAWRENCE	09/30/09	\$257,738
PDES OF THE SOUTH SHORE, MA	11/22/10	\$85,698
PDES OF WOODBURY MN	06/15/10	\$622,059
PDES OF WAYZATA, MN	09/01/10	\$149,088
PDES OF SOUTHEAST CHARLOTTE	05/14/09	\$224,172
PDES OF CLEVELAND & RUTHERFORD COUNTIES, NC	07/15/10	\$46,062
PDES OF HIGHLANDS AND CASHIERS, NC	07/13/10	\$282,136
PDES OF CABARRUS & STANLY COUNTIES, NC	10/04/10	\$79,706
PDES OF MONADNOCK, NH	02/15/10	\$74,690
PDES OF AIRMONT, NY	06/15/10	\$490,823
PDES OF NORTH COUNTRY, NY	12/06/10	\$179,661
PDES OF WEST CENTRAL OHIO	03/05/10	\$292,945
PDES OF MADISON, FAYETTE & PICKAWAY COUNTIES	08/27/10	\$190,247
PDES OF LICKING COUNTY, OH	08/24/10	\$114,398
PDES OF DELAWARE COUNTY, OH	10/18/10	\$155,677
PDES OF READING	08/24/09	\$38,238
PDES OF MONROE COUNTY, PA	12/16/10	\$237,613
PDES OF SOUTHERN VERMONT	04/21/09	\$339,343
Total Franchises Operating for Full Year 2011		\$5,096,478

Number of Franchises Operating for Full Year 2011	23
Average Revenue Per Franchise for Full Year 2011	\$221,586
PERCENT OF FRANCHISEES THAT WERE OPERATIONAL DURING 2011 THAT ATTAINED OR SURPASSED THE AVERAGE RESULTS	43.5%

PDRI provides historical financial performance about PDRI's existing outlets in Table 1 above which show the actual franchise sales of operating franchises during 2011. The information provided in Table 1 are actual amounts reported to PDRI by 23 franchises operating for the full year 2011. Therefore, all of the franchise outlets in operation for the stated period have attained the stated results.

**Table 2**  
**2011 Average Gross Margins After Deduction for 2011 Average Total Job Costs**  
**(Reported on a Cash Basis)**

<b>Average Revenue:</b>	\$232,751	% of Average Revenue
<b>Average Job Costs:</b>		
Fuel, Maintenance & Consumables	10,620	4.6%
Job Materials	17,698	7.6%
Labor (including sub-contracted labor)	29,603	12.7%
Equipment Rental & Storage	3,149	1.3%
Franchise Fees (Royalty and Marketing)	20,120	8.6%
<b>Average Total Job Costs:</b>	\$81,189	34.9%
<b>Average Gross Margin:</b>	\$151,561	65.1%

*Some franchisees achieved a gross margin percentage equal to or greater than the average. There is no assurance that you will do as well. If you rely upon our figures, you must accept the risk of not doing as well.*

The average gross margin is represented as a percentage of the gross sales of the franchisee, after deduction for the average total job costs. The average job costs do not include other costs and expenses associated with operating a Paul Davis Emergency Services Business franchised business, such as overhead costs, including rent, utilities, local marketing, office supplies, lease or installment payments for your van and drying equipment, insurance and license fees; taxes; or compensation to yourself as an employee of the business. You should not rely on these historical job cost results and you must not construe them to mean that any Paul Davis Emergency Services Business franchise is, or will be, profitable, including your own. We encourage you to obtain estimates for job costs and other expenses and review them with a professional advisor before buying a Paul Davis Emergency Services Business franchise.

These averages are derived from the actual historical performance of the 20 franchises reporting financial results out of the total of 23 franchises operating for the full year 2011. Of these 20 franchises, 5 commenced operating during 2009 and 15 commenced operating during 2010. In 2011, all franchisees operated the same type of franchise as that being offered in this disclosure document.

Twenty of the 23 franchisees operating for the full year submitted quarterly and annual financial statement reports to PDRI for 2011. As required by the franchise agreement, franchisees must engage a certified public accountant to compile the annual reports. However, PDRI has not audited any of the quarterly or the annual reports to determine whether the reports were prepared in accordance with generally accepted accounting principles.

Of the 20 reporting franchisees, eight (or 40%) achieved revenues equal to or greater than the average revenue of \$232,751; 11 (or 55%) achieved a gross margin percentage equal to or greater than the average gross margin percentage of 65.1%; and eight (or 40%) achieved a gross margin in dollars equal to or greater than the average gross margin in dollars of \$151,561.

You must not assume that your franchised business will be profitable. Revenues, costs, gross profit, gross margins and other figures will vary substantially from location to location due to a variety of factors such as the demographics of a particular franchisee's territory, seasonal factors including weather conditions, the geographic area in which the franchised business is located, competition from other national and local emergency services contractors, national or local economic conditions, advertising and promotional activities undertaken by particular franchisees and the business abilities and efforts of the franchisee. You should not assume that you will achieve the percentages reported here. Your results may be substantially less favorable.

**A NEW FRANCHISEE'S FINANCIAL RESULTS ARE LIKELY TO DIFFER FROM THE RESULTS STATED IN THIS ITEM 19: FINANCIAL PERFORMANCE REPRESENTATIONS.**

Upon reasonable request, PDRI will provide you with written substantiation of the data PDRI used to prepare the financial performance representation.

Other than the preceding financial performance representation, Paul Davis Restoration, Inc. does not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Mike Stokes at Paul Davis Restoration, Inc., One Independent Drive, Suite 2300, Jacksonville, Florida 32202; Tel.: (904) 737-2779, the Federal Trade Commission, and the appropriate state regulatory agencies.

## ITEM 20: OUTLETS AND FRANCHISEE INFORMATION

**Table No. 1**  
**Systemwide Outlet Summary**  
**For years 2009, 2010, 2011**

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
<b>Franchised</b>	2009	0	7	+7
	2010	7	24	+17
	2011	24	63	+39
<b>Company-Owned</b>	2009	0	0	0
	2010	0	0	0
	2011	0	0	0
<b>Total Outlets</b>	2009	0	7	+7
	2010	7	24	+17
	2011	24	63	+39

**NOTES:**

PDRI does not operate any company owned outlets.

**Table No. 2**  
**Transfers of Outlets from Franchisees**  
**to New Owners (other than Franchisor)**  
**For years 2009, 2010, 2011**

State	Year	Number of Transfers
Illinois	2009	0
	2010	1
	2011	0
<b>Totals</b>	2009	0
	2010	1
	2011	0



**Table No. 3**  
**Status of Franchised Outlets**  
**For years 2009, 2010, 2011**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations – Other Reasons	Outlets at End of the Year
Alabama	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	4	0	0	0	0	4
Arizona	2009	0	1	0	0	0	0	1
	2010	1	1	1	0	0	0	1
	2011	1	0	0	0	0	0	1
Arkansas	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	1	0	0	0	0	1
California	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	7	0	0	0	0	7
Colorado	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	1	0	0	0	0	1
Georgia	2009	0	1	0	0	0	0	1
	2010	1	3	0	0	0	0	4
	2011	4	1	1	0	0	0	4
Illinois	2009	0	1	0	0	0	0	1
	2010	1	0	0	0	0	0	1
	2011	1	2	0	0	0	0	3
Kansas	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	1	0	0	0	0	1
Kentucky	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	1	0	0	0	0	1
Massachusetts	2009	0	1	0	0	0	0	1
	2010	1	1	0	0	0	0	2
	2011	2	2	0	0	0	0	4
Michigan	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	3	0	0	0	0	3
Minnesota	2009	0	0	0	0	0	0	0
	2010	0	2	0	0	0	0	2
	2011	2	2	0	0	0	0	4
Mississippi	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	1	0	0	0	0	1
North Carolina	2009	0	1	0	0	0	0	1
	2010	1	3	0	0	0	0	4
	2011	4	0	0	0	0	0	4

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations – Other Reasons	Outlets at End of the Year
Nevada	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	2	0	0	0	0	2
New Hampshire	2009	0	0	0	0	0	0	0
	2010	0	1	0	0	0	0	1
	2011	1	0	0	0	0	0	1
New Jersey	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	4	0	0	0	0	4
New York	2009	0	0	0	0	0	0	0
	2010	0	2	0	0	0	0	2
	2011	2	2	0	0	0	0	4
Ohio	2009	0	0	0	0	0	0	0
	2010	0	4	0	0	0	0	4
	2011	4	0	0	0	0	0	4
Oregon	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	1	0	0	0	0	1
Pennsylvania	2009	0	1	0	0	0	0	1
	2010	1	1	0	0	0	0	2
	2011	2	1	0	0	0	0	3
South Carolina	2009	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0
	2011	0	1	0	0	0	0	1
Texas	2009	0	0	0	0	0	0	0
	2010	0	1	1	0	0	0	0
	2011	0	3	0	0	0	0	3
Vermont	2009	0	1	0	0	0	0	1
	2010	1	0	0	0	0	0	1
	2011	1	0	0	0	0	0	1
<b>Totals</b>	2009	0	7	0	0	0	0	7
	2010	7	19	2	0	0	0	24
	2011	24	40	1	0	0	0	63

**NOTES:**

PDRI does not operate any company owned outlets.

**Table No. 4**  
**Status of Company-Owned Outlets**  
**For years 2009, 2010, 2011**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
All States	2009	0	0	0	0	0	0
	2010	0	0	0	0	0	0
	2011	0	0	0	0	0	0
Totals	2009	0	0	0	0	0	0
	2010	0	0	0	0	0	0
	2011	0	0	0	0	0	0

***NOTES:***

PDRI does not operate company-owned outlets.

**Table No. 5**  
**Projected Openings as of December 31, 2011**

State	Franchise Agreements Signed But Outlets Not Opened	Projected New Franchised Outlet in the Next Fiscal Year	Projected Company Owned Outlet in the Next Fiscal Year
Alabama	0	2	0
Arkansas	1	2	0
Arizona	1	0	0
California	4	8	0
Illinois	5	1	0
Indiana	0	1	0
Kansas	1	0	0
Kentucky	0	1	0
Massachusetts	0	2	0
Michigan	0	1	0
Minnesota	0	2	0
Mississippi	0	2	0
New Jersey	2	1	0
New York	0	4	0
North Carolina	0	2	0
Ohio	0	2	0
Oklahoma	0	2	0
Pennsylvania	0	2	0
South Carolina	1	0	0
Texas	3	4	0
West Virginia	0	2	0
Wyoming	1	0	0
TOTALS	19	41	0

**NOTES:**

PDRI does not operate company-owned outlets.

Exhibit A identifies the names of all Paul Davis Emergency Services Business franchisees and the addresses and telephone numbers of all of their outlets. All franchise outlets reported in Exhibit A are substantially similar to the franchises offered in this disclosure document, other than the size of the territory. All franchises receive or have available substantially the same services from PDRI. Exhibit A also identifies all Paul Davis Emergency

Services Businesses that were terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business during 2011. There are no franchisees who have not communicated with PDRI in the ten weeks prior to the issuance date of this disclosure document.

The following 19 franchises had signed franchise agreements, but were not in operation as of December 31, 2011 as they had to wait until January 2012 to attend training:

1. PDES of Fayetteville, AR – James Ford: P.O. Box 1083 Bentonville, AR72712, Tel 479-644-7782
2. PDES of Surprise, AZ – Robert Stephenson: 929 N. Val Vista Drive, Suite 109, #120, Gilbert, AZ 85234, Tel 480-272-1990
3. PDES of Glendora, CA – Tony Cunzio: 12223 Highland Avenue, Suite 106-575, Rancho Cucamonga, CA 91739, Tel 951-595-3200
4. PDES of Murrieta, CA – Daniel Lacatus: 7562 Skyview Drive, Riverside, CA 92509, Tel 951-727-8975
5. PDES of Temecula, CA – Daniel Lacatus: 7562 Skyview Drive, Riverside, CA 92509, Tel 951-727-8975
6. PDES of Costa Mesa, CA – Daryl Pierce: 3983 Balmoral Drive, Yorba Linda, CA 92886, Tel 864-270-7297
7. PDES of Palatine, IL – Wayne Merlino: 153 Wildflower Way, Steamwood, IL 60107, Tel 847-912-3620
8. PDES of Schaumburg, IL– Wayne Merlino: 153 Wildflower Way, Steamwood, IL 60107, Tel 847-912-3620
9. PDES of Mount Prospect, IL– Wayne Merlino: 153 Wildflower Way, Steamwood, IL 60107, Tel 847-912-3620
10. PDES of Evanston, IL – Harlan Freeman, 4447 N. Malden Street #3, Chicago, IL 60640, Tel 773-944-5771
11. PDES of Glenview, IL – Harlan Freeman, 4447 N. Malden Street #3, Chicago, IL 60640, Tel 773-944-5771
12. PDES of West Wichita, KS – Jill Skaggs, 425 Courtleigh Street, Wichita, KS, 67214, Tel 316-210-4132
13. PDES of Brunswick, NJ - Joe Gambino: 775 Hoover Drive, North Brunswick, NJ 08902, Tel 737-339-8498

14. PDES of South Somerset, NJ – Jim Johnson, 2325 Pioneer Road, Hatboro, PA 19040, Tel 908-343-6150
15. PDES of Greenwood, SC – Tim Cicora: 700 Mitchell Bridge Road, Apt 90, Athens, GA 30606, Tel 706-248-4906
16. PDES of West Plano, TX – Scott McDaniel: 2814 Baker Street, Sachse, TX 75048, Tel 469-682-8924
17. PDES of Allen, TX – Mike Moreno: 500 Waters Edge Drive, Unit 1110, Lake Dallas, TX 75065, Tel 817-874-6674
18. PDES of Frisco, TX – Mike Moreno: 500 Waters Edge Drive, Unit 1110, Lake Dallas, TX 75065, Tel 817-874-6674
19. PDES of Laramie, WY – Fred Roberts: 309 Lincoln Court, Fort Collins, CO 80524, Tel 970-221-1281

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system. No franchisees of the Paul Davis Emergency Services Business have signed confidentiality clauses during the last three years.

We are not aware of any trademark specific franchisee organizations associated with the franchise system, which are required to be disclosed in this disclosure document.

## **ITEM 21: FINANCIAL STATEMENTS**

Exhibit B-1 of this disclosure document contains the following financial statements:

Audited consolidated financial statements of FS Brands, Inc. (a Delaware corporation formed on March 30, 2010 and formerly known as TFC Brands, Inc.), as parent for PDRI, for the fiscal years ended December 31, 2010 and December 31, 2011.

**IF ANY OF THE ENCLOSED FINANCIAL STATEMENTS ARE UNAUDITED, PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED HIS/HER OPINION WITH REGARD TO CONTENT OR FORM.**

Our parent, FS Brands, Inc. absolutely and unconditionally guarantees PDRI's obligations under the Franchise Agreement. Copies of these guarantees are attached as Exhibit B-2.

## **ITEM 22: CONTRACTS**

Copies of the Paul Davis Emergency Services Business Franchise Agreement and Promissory Note are attached as Exhibits C and F.

## **ITEM 23: RECEIPTS**

The last two pages of this disclosure document contain the receipt/acknowledgement that the prospective franchisee received a copy of this disclosure document and the exhibits attached to it.

# **EXHIBIT A**

## **Franchisee List**



## 2011 PAUL DAVIS EMERGENCY SERVICES FRANCHISES

**THE FOLLOWING PAUL DAVIS EMERGENCY SERVICES FRANCHISES WERE IN OPERATION ON DECEMBER 31, 2011**

ST*	CODE	OWNERS	STREET	CITY	ZIP	TELEPHONE
AL	ESAL01	DONNY TSUN WONG	910 JEFF ROAD	HUNTSVILLE	35806	(256) 701-6860
AL	ESAL02	TIMOTHY BELL	601 ENGLAND ROAD, BLDG 2	LINCOLN	35096	(205) 763-1777
AL	ESAL03	TIMOTHY BELL	601 ENGLAND ROAD. BLDG 2	LINCOLN	35096	(205) 763-1777
AL	ESAL04	JONATHAN TURNER	2751 LEGENDS PARKWAY, BOX 323	PRATTVILLE	36066	(334) 358-8599
AR	ESAR01	JAMES FORD	PO BOX 1083	BENTONVILLE	72712	(479) 644-7782
AZ	ESAZ02	ROBERT STEPHENSON CHERLY STEPHENSON	929 N VAL VISTA DRIVE, SUITE 109, #120	GILBERT	85234	(480) 272-1990
CA	ESCA01	ARSEN KHACHUNTS	13243 VANOWEN STREET, #7	NORTH HOLLYWOOD	91605	(818) 359-5959
CA	ESCA02	DOREL ANTIM	751 S WEIR CANYON ROAD, #157- 133	ANAHEIM	92808	(714) 745-4023
CA	ESCA03	ELEAZAR RAMOS	17945 WILDWOOD CREEK ROAD	RIVERSIDE	92504	(951) 347-3121
CA	ESCA04	JOEL MOSS	26724 OAK AVENUE, UNIT B	SANTA CLARITA	91351	(661) 310-0884
CA	ESCA05	TONY CUNZIO	12223 HIGHLAND AVENUE, SUITE 106-575	RANCHO CUCAMONGA	91739	(951) 595-3200
CA	ESCA06	TONY CUNZIO	1042 N MOUNTAIN AVENUE. #B-749	UPLAND	91786	(951) 595-3200
CA	ESCA08	ERNIE FERARITA	PO BOX 4027	TUSTIN	92781	(714) 235-8861
CO	ESCO01	DAVID JOHNSON	615 WOOTEN ROAD	COLORADO SPRINGS	80915	(719) 252-1121
GA	ESGA01	JIM DELAMARTER HEATHER DELAMARTER	120 N WINDWARD DRIVE	SAINT SIMONS ISLAND	31522	(912) 634-3344
GA	ESGA02	PHILIP STONE	PO BOX 796	THOMASVILLE	31799	(229) 977-6382
GA	ESGA04	JAMES ERIC MORRIS ALLEN MCHENRY	577 N RABURN ROAD	BREMEN	30110	(404) 798-0409
GA	ESGA05	PAUL DRAYTON	300 OSBORNE STREET	SAINT MARYS	31558	(912) 342-2220
IL	ESIL01	RICHARD KRAMER KRISTINE KRAMER	550 WEST FIFTH AVENUE	NAPERVILLE	60563	(847) 879-5018
IL	ESIL02	GARRETT MAUN	6851 CLAY SCHOOL RD.	COLLINSVILLE	62234	(618) 960-2793
IL	ESIL03	RAINER KRAUTWALD	8130 MILWAUKEE AVENUE	NILES	60714	(847) 692-5000
KS	ESKS01	JILL SKAGGS	425 COURTLEIGH STREET	WICHITA	67214	(316) 210-4132
KY	ESKY01	BARRY GOODIN	1420 CEDAR AVENUE	HOPKINSVILLE	42240	(270) 881-4049
MA	ESMA01	RICHARD A. SMITH	1 POWERS STREET	LAWRENCE	01843	(978) 794-2100

## 2011 PAUL DAVIS EMERGENCY SERVICES FRANCHISES

ST*	CODE	OWNERS	STREET	CITY	ZIP	TELEPHONE
MA	ESMA02	JOSEPH O CONNELL	63 WAGON WHEEL ROAD	PLYMOUTH	02360	(508) 746-9111
MA	ESMA03	RICHARD A. SMITH	1 POWERS STREET	LAWRENCE	01843	(978) 794-2100
MA	ESMA04	MIKE GOLAN	235 SALEM STREET	WOBURN	01801	(781) 999-1331
MI	ESMI01	FRED VANHALA	11781 LONGSDORF STREET	RIVERVIEW	48193	(734) 250-7399
MI	ESMI02	FRED VANHALA	11781 LONGSDORF STREET	RIVERVIEW	48193	(734) 250-7399
MI	ESMI03	MOHAMED ELHARAKE	4326 SCHAEFER ROAD	DEARBORN	48126	(313) 846-5700
MN	ESMN01	CALEB BRUNZ STEPHANIE BRUNZ	680 COMMERCE DRIVE, SUITE 360	WOODBURY	55125	(651) 414-0056
MN	ESMN02	DAN MCCARTY DAVID MCCARTY	438 PONDRIDGE CIRCLE	WAYZATA	55391	(952) 334-9396
MN	ESMN03	CALEB BRUNZ	6618 HUMBOLDT AVE S	RICHFIELD	55423	(612) 310-3242
MN	ESMN04	WILLIAM BENTZ	PO BOX 938	PRIOR LAKE	55372	(952) 447-2100
MS	ESMS01	JON OLIVER	1085EE STARK ROAD	STARKVILLE	39759	(662) 323-6868
NC	ESNC01	CHRIS TAYLOR JENNIFER TAYLOR	272-C UNIONVILLE-INDIAN TRAIL ROAD	INDIAN TRAIL	28079	(704) 264-9338
NC	ESNC02	WYN HARDY	PO BOX 3017	SHELBY	28151	(828) 429-1113
NC	ESNC03	TIM HUGHEY GORDON MCPHEE DAN DRISCOLL	PO BOX 3148	CASHIERS	28717	(828) 200-9772
NC	ESNC04	RONALD CICERO CLAUDIA CICERO	4365 HIGHWAY 49 SOUTH, SUITE 500 #301	HARRISBURG	28075	(704) 845-0722
NH	ESNH01	MIKE HOIRIIS KATHLEEN HOIRIIS	P.O. BOX 48	BENNINGTON	03442	(603) 588-7337
NJ	ESNJ01	JAMES JOHNSTON	14A ROUTE 173	CLINTON	08809	(908) 343-6150
NJ	ESNJ02	STEPHEN ROTAY	3 WHITE OAK DRIVE	OCEAN VIEW	08230	(609) 390-7337
NJ	ESNJ03	STEPHEN ROTAY	3 WHITE OAK DRIVE	OCEAN VIEW	08230	(609) 390-7337
NJ	ESNJ04	JOHN MACKEY	726 ROUTE 202 SOUTH, SUITE 320-353	BRIDGEWATER	08807	(908) 722-2022
NV	ESNV01	DEAN TOMSICK	598 W PLUMB LANE	RENO	89509	(775) 825-7856
NV	ESNV02	DEAN TOMSICK	598 W PLUMB LANE	RENO	89509	(775) 825-7856
NY	ESNY01	CHRIS SCHENK CYNTHIA SCHENK	PO BOX 114	SUFFERN	10901	(845) 545-0831
NY	ESNY02	SCOTT COLBERT	292 ROUTE 33	CENTRAL SQUARE	13036	(315) 427-2878
NY	ESNY03	THOMAS CLAYTON	172 GOLF COURSE ROAD	ELMIRA	14903	(607) 684-5111

## 2011 PAUL DAVIS EMERGENCY SERVICES FRANCHISES

ST*	CODE	OWNERS	STREET	CITY	ZIP	TELEPHONE
NY	ESNY04	BRUNO RANIERI	4465 EAST GENESEE STREET, BOX 205	SYRACUSE	13214	(315) 565-4150
OH	ESOH01	NICHOLAS SPEER JANA SPEER	2447 TIFFIN AVE	FINDLAY	45840	(419) 619-4834
OH	ESOH02	ROBERT DANIELSSON SARA MARIE DANIELSSON	27 S LONDON STREET	MOUNT STERLING	43143	(740) 233-1010
OH	ESOH03	MICHAEL SEIBERT MATTHEW SEIBERT STEVE FRAIZER	24 EAST FRONT STREET, #209	PATASKALA	43062	(740) 963-9456
OH	ESOH04	TONY CARRELLI ADAM WIEGAND	182 RIVERS EDGE WAY	COLUMBUS	43230	(740) 971-1299
OR	ESOR01	RICHARD LEA	PO BOX 50457	EUGENE	97405	(541) 338-0111
PA	ESPA01	STEPHEN ROTAY	1817 COLONIAL VILLAGE LANE	LANCASTER	17601	(717) 291-6000
PA	ESPA02	JAMES AMICI WILLIAM HUND EILEEN DAVALL	PO BOX 1165	STROUDSBURG	18360	(570) 402-2300
PA	ESPA03	PATRICK DEVLIN	2741 PAXTON STREET, SUITE 3B	HARRISBURG	17111	(717) 232-7337
SC	ESSC01	MICHAEL CHERRY	106 STAGECOACH ROAD	ORANGEBURG	29115	(803) 997-0456
TX	ESTX02	RANDI MITCHELL	11394 JAMES WATT DRIVE, #706	EL PASO	79936	(915) 921-1774
TX	ESTX03	KATIE NORTHERN	800 N HIGHWAY 77, SUITE 160, #169	WAXAHACHIE	75165	(972) 217-9987
TX	ESTX04	KATIE NORTHERN	3250 W. PLEASANT RUN, SUITE #200-428	LANCASTER	75146	(972) 217-9987
VT	ESVT01	SAL MENDOLA	798 ROUTE 100	WILMINGTON	05363	(802) 464-0892

### THE FOLLOWING PAUL DAVIS EMERGENCY SERVICES FRANCHISES WERE TERMINATED DURING 2011

ST	CODE	OWNERS	STREET	CITY	ZIP	TELEPHONE
GA	ESGA03	JON BISHOP JAMES VANDERFORD	P.O. BOX 2850	COVINGTON	30015	(770) 940-7001

**NO PAUL DAVIS EMERGENCY SERVICES FRANCHISES WERE SOLD OR TRANSFERRED DURING 2011**

**NO PAUL DAVIS EMERGENCY SERVICES FRANCHISES WERE NOT RENEWED, REACQUIRED BY FRANCHISOR, OR LEFT THE SYSTEM / OTHER DURING 2011.**

## **EXHIBIT B - 1**

### **Financial Statements**

**IF ANY OF THE ENCLOSED FINANCIAL STATEMENTS  
ARE UNAUDITED, PROSPECTIVE FRANCHISEES OR  
SELLERS OF FRANCHISES SHOULD BE ADVISED THAT  
NO INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT  
HAS AUDITED THESE FIGURES OR EXPRESSED AN  
OPINION WITH REGARD TO THEIR CONTENT OR  
FORM**

# **FS Brands, Inc.**

Consolidated Financial Statements  
**December 31, 2011 and**  
**December 31, 2010**  
(expressed in US dollars)



March 20, 2012

## **Independent Auditor's Report**

**To the Stockholders of  
FS Brands, Inc.**

We have audited the accompanying consolidated financial statements of FS Brands, Inc. and its subsidiaries (the company), which comprise the consolidated balance sheets as at December 31, 2011 and December 31, 2010 and the consolidated statements of income and comprehensive income, changes in stockholders' equity and cash flows for the years then ended, and the related notes, which comprise a summary of significant accounting policies and other explanatory information.

### **Management's responsibility for the consolidated financial statements**

Management is responsible for the preparation of these consolidated financial statements in accordance with United States generally accepted accounting principles and for such internal control as management determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditor's responsibility**

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with United States generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. We were not engaged to perform an audit of the company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing 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 over financial reporting. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained in our audits is sufficient and appropriate to provide a basis for our audit opinion.

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*PricewaterhouseCoopers LLP, Chartered Accountants  
PwC Tower, 18 York Street, Suite 2600, Toronto, Ontario, Canada M5J 0B2  
T: +1 416 863 1133, F: +1 416 365 8215*

"PwC" refers to PricewaterhouseCoopers LLP, an Ontario limited liability partnership.

**Opinion**

In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of FS Brands, Inc. and its subsidiaries as at December 31, 2011 and December 31, 2010 and their financial performance and their cash flows for the years then ended in accordance with generally accepted accounting principles in the United States.

*PricewaterhouseCoopers LLP*

**Chartered Accountants, Licensed Public Accountants**



# FS Brands, Inc.

## Consolidated Balance Sheets

As at December 31, 2011 and December 31, 2010

(expressed in US dollars)

	2011 \$	2010 \$ (note 17)
<b>Assets</b>		
<b>Current assets</b>		
Cash and cash equivalents	18,087,607	2,925,498
Restricted cash	889,895	990,350
Accounts receivable - net of allowance for doubtful accounts of \$956,103 (2010 - \$1,220,170)	11,124,033	10,729,638
Notes receivable (note 4)	1,709,006	1,357,830
Inventories	1,968,470	1,950,957
Prepaid expenses and other current assets	2,542,948	2,456,330
Income tax recoverable	-	116,829
Deferred income taxes (note 7)	172,425	81,396
	36,494,384	20,608,828
<b>Notes receivable</b> (note 4)	4,087,985	4,220,804
<b>Property and equipment</b> (note 5)	4,092,771	3,418,351
<b>Intangible assets</b> (note 6)	28,436,154	30,642,207
<b>Goodwill</b>	39,137,257	39,137,257
<b>Deferred income taxes</b> (note 7)	949,534	918,675
	113,198,085	98,946,122

**Approved by the Board**

The accompanying notes are an integral part of these consolidated financial statements.

# FS Brands, Inc.

## Consolidated Balance Sheets ...continued

As at December 31, 2011 and December 31, 2010

(expressed in US dollars)

	2011 \$	2010 \$(note 17)
<b>Liabilities</b>		
<b>Current liabilities</b>		
Accounts payable	4,943,648	4,684,779
Accrued liabilities	5,571,664	4,588,109
Notes payable (note 8)	755,286	814,649
Deferred revenue and customer deposits	1,970,825	1,356,685
Due to parent (note 3)	157,875	-
Income taxes payable (note 7)	2,922,134	-
Deferred income taxes (note 7)	-	244,897
	16,321,432	11,689,119
<b>Notes payable</b> (note 8)	120,322	206,449
<b>Due to parent</b> (note 3)	36,571,053	48,812,518
<b>Income taxes payable</b> (note 7)	166,284	705,710
<b>Deferred income taxes</b> (note 7)	10,905,844	10,660,459
	64,084,935	72,074,255
<b>Non-controlling interests</b> (note 10)	10,413,501	8,946,589
<b>Stockholders' Equity</b>		
<b>Common stock</b>		
\$0.01 par value, 3,000 shares authorized, 100 shares issued and outstanding	1	1
Additional paid-in capital	29,268,406	29,268,406
<b>Retained earnings (deficit)</b>	9,431,242	(11,343,129)
	38,699,649	17,925,278
	113,198,085	98,946,122
<b>Commitments and contingencies</b> (note 11)		

The accompanying notes are an integral part of these consolidated financial statements.

# FS Brands, Inc.

## Consolidated Statements of Income and Comprehensive Income For the years ended December 31, 2011 and December 31, 2010

(expressed in US dollars)

	2011 \$	2010 \$ (note 17)
<b>Revenues</b>		
Royalties	40,617,302	37,885,170
Franchise fees	5,650,848	4,407,259
Merchandise sales	36,700,004	32,255,637
Services and other	23,533,465	21,715,565
	<u>106,501,619</u>	<u>96,263,631</u>
<b>Costs and expenses</b>		
Franchise operating	15,926,591	17,578,573
Cost of merchandise sales	26,321,588	22,861,571
Cost of services	11,618,439	10,987,942
General and administrative	32,084,993	27,770,135
Management fees to parent (note 3)	4,626,948	7,054,962
Depreciation and amortization	4,714,054	3,749,594
	<u>95,292,613</u>	<u>90,002,777</u>
<b>Income from operations</b>	<u>11,209,006</u>	<u>6,260,854</u>
<b>Other income (expense)</b>		
Interest income	275,686	213,763
Interest expense	(1,266,062)	(1,822,806)
	<u>(990,376)</u>	<u>(1,609,043)</u>
<b>Income before income taxes</b>	10,218,630	4,651,811
<b>Provision for income taxes</b> (note 7)	<u>3,412,371</u>	<u>1,405,196</u>
<b>Net income for the year</b>	6,806,259	3,246,615
<b>Non-controlling interests share of earnings</b> (note 10)	(778,709)	(234,312)
<b>Redemption increment of non-controlling interests</b> (note 10)	<u>(1,230,236)</u>	<u>280,109</u>
<b>Net income attributable to common stockholders and comprehensive income for the year</b>	<u>4,797,314</u>	<u>3,292,412</u>

The accompanying notes are an integral part of these consolidated financial statements.

## FS Brands, Inc.

### Consolidated Statements of Changes in Stockholders' Equity For the years ended December 31, 2011 and December 31, 2010

(expressed in US dollars)

	Common stock \$0.01 par value \$	Additional paid-in capital \$	Retained earnings (deficit) \$	Total \$
<b>Balance - December 31, 2009</b>	-	-	-	-
Issuance of shares (note 17)	1	29,268,406	-	29,268,407
Decrease in retained earnings (notes 15 and 17)	-	-	(12,627,941)	(12,629,941)
Dividends paid	-	-	(2,007,600)	(2,007,600)
Net income and comprehensive income attributable to common stockholders for the year	-	-	3,292,412	3,292,412
<b>Balance - December 31, 2010</b>	1	29,268,406	(11,343,129)	17,925,278
Increase in retained earnings (note 15)	-	-	15,977,057	15,977,057
Net income and comprehensive income attributable to common stockholders for the year	-	-	4,797,314	4,797,314
<b>Balance - December 31, 2011</b>	1	29,268,406	9,431,242	38,699,649

The accompanying notes are an integral part of these consolidated financial statements.

# FS Brands, Inc.

## Consolidated Statements of Cash Flows

For the years ended December 31, 2011 and December 31, 2010

(expressed in US dollars)

	2011 \$	2010 \$(note 17)
<b>Cash provided by (used in)</b>		
<b>Operating activities</b>		
Net income for the year	6,806,259	3,246,615
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation of property and equipment (note 5)	1,635,840	1,650,681
Amortization of intangible assets	3,078,214	2,098,913
Deferred income taxes	(120,734)	440,303
Other	77,292	-
Change in non-cash working capital (note 9)	3,633,926	(2,850,023)
	<u>15,110,797</u>	<u>4,586,489</u>
<b>Investing activities</b>		
Purchase of property and equipment	(2,310,260)	(637,017)
Purchase of intangible assets (note 6)	(872,819)	(2,412,935)
Decrease in restricted cash	100,455	316,102
	<u>(3,082,624)</u>	<u>(2,733,850)</u>
<b>Financing activities</b>		
Payment of dividends to parent	-	(2,007,600)
Advances from ultimate parent	4,237,722	4,082,056
Payment of notes payable	(527,012)	(2,529,325)
Issuance of notes payable	37,267	34,578
Purchase of non-controlling interest (note 10)	(109,141)	(4,545,868)
Sales of shares to non-controlling interests	200,000	3,761,819
Payment of dividends to non-controlling interests	(704,900)	(413,440)
Payment of obligations under capital leases	-	(76,679)
	<u>3,133,936</u>	<u>(1,694,459)</u>
<b>Increase in cash and cash equivalents during the year</b>	<b>15,162,109</b>	<b>158,180</b>
<b>Cash and cash equivalents - Beginning of year</b>	<b>2,925,498</b>	<b>2,767,318</b>
<b>Cash and cash equivalents - End of year</b>	<b>18,087,607</b>	<b>2,925,498</b>
<b>Supplementary information</b>		
Cash paid for interest and dividends	789,810	97,419
Cash paid for income taxes	1,295,026	1,927,239

The accompanying notes are an integral part of these consolidated financial statements.

# **FS Brands, Inc.**

## **Notes to Consolidated Financial Statements**

**December 31, 2011 and December 31, 2010**

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(expressed in US dollars)

### **1 Nature of business operations**

FS Brands, Inc. (the company), incorporated on March 31, 2010, is a 96% owned subsidiary of The Franchise Company (U.S.) Inc. (the parent), which indirectly is a 100% owned subsidiary of FirstService Corporation (the ultimate parent), a publicly owned, diversified real estate services company. The consolidated financial statements of the company for 2011 and 2010 exclude certain entities that are included in the financial statements of the parent.

Through the following subsidiaries: College Pro Painters (U.S.) Ltd., College Pro Window Cleaning, Inc., Certa ProPainters Ltd., Paul Davis Restoration, Inc., California Closet Company, Inc., Pillar to Post, Inc., Floor Coverings International, Ltd. and Handyman Connection, Inc., the company's principal function is the recruiting, training and operation of franchise systems throughout the United States. In addition, the company controls eight California Closet franchises that produce and install custom organization systems and two Handyman Connection franchises that provide handyman services to homeowners.

### **2 Summary of significant accounting policies**

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the dates of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting periods. The most significant estimates made by management relate to the collectibility of accounts receivable and notes receivable, reserves for uncertain tax positions, the initial determination of fair values of assets acquired and liabilities assumed in business combinations, and the assessment of potential impairment of goodwill and intangible assets. Actual results could differ from those estimates.

#### **Basis of consolidation**

The consolidated financial statements include the accounts of the company and its subsidiaries. All significant intercompany balances and transactions between the company and its subsidiaries are eliminated upon consolidation.

#### **Revenue recognition**

- Royalties

Royalties are generally charged as a percentage of franchisee sales revenue, as defined by the franchise agreements, and are recognized when sales are reported by the franchisees and collection is reasonably assured.

# **FS Brands, Inc.**

## **Notes to Consolidated Financial Statements**

**December 31, 2011 and December 31, 2010**

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(expressed in US dollars)

- Franchise fees

Revenue from the sale of franchises and master franchises is recognized when all material services or conditions relating to the sale of the franchise have been substantially performed, the required deposits have been received and the collectibility of outstanding amounts is reasonably assured.

- Merchandise sales and services

Revenue from the sale of merchandise or the provision of services is recognized when the risk and rewards of ownership have been passed to the customer, the consideration received is known or services are provided and collectibility is reasonably assured.

### **Cash and cash equivalents**

The company considers all investments readily convertible into cash having an initial maturity of three months or less to be cash equivalents. Cash equivalents include money market funds and time deposits, which are carried at cost plus accrued interest and approximates fair value.

### **Restricted cash**

Restricted cash comprises cash restricted for marketing fund use. The company is in custody of cash received from franchisees for use in franchisee marketing funds.

### **Inventories**

Inventories consist of finished products, accessories and components of closet and workspace systems, painting kits, film and supplies held for resale. Inventories are valued at the lower of cost (first in, first out) and net realizable value.

### **Property and equipment**

Property and equipment are stated at cost less accumulated depreciation and any impairment in value. Depreciation is provided using the straight-line method over the estimated useful lives of the assets, except for leasehold improvements, which are depreciated on a straight-line basis over the lesser of the useful life of the asset or the remaining lease term.

Maintenance and repairs are expensed to operations as incurred, while betterments and additions are capitalized. Upon sale or retirement, the cost of the property and the related accumulated depreciation are removed from the respective accounts and any resulting gains or losses are reflected in income.

# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

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(expressed in US dollars)

### Goodwill and intangible assets

Goodwill represents the excess of purchase price over the fair value of assets acquired and liabilities assumed in a business combination and is not subject to amortization.

Intangible assets are recorded at a fair value on the date they are acquired and are amortized using the straight-line method over their estimated useful lives as follows:

Trademark	15 to 30 years
Franchise agreements	pattern of use
Internally developed software	3 years

Goodwill is tested for impairment annually, on August 1, or more frequently if events or changes in circumstances indicate the asset might be impaired, in which case the carrying amount of the asset is written down to fair value.

On July 1, 2011, the company adopted new guidance on testing goodwill for impairment (note 16). Impairment of goodwill is tested at the reporting unit level. Impairment is tested by first assessing qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. Where it is determined to be more likely than not that its fair value is greater than its carrying amount, then no further testing is required. Where it is determined to be more likely than not that the carrying amount exceeds the fair value then a two-step goodwill impairment test is performed. In the first step, the reporting unit's carrying amount, including goodwill, is compared to the estimated fair value of the reporting unit. The fair values of the reporting units are estimated using a discounted cash flow approach. The fair value measurement is classified within Level 3 of the fair value hierarchy. If the carrying amount of the reporting unit exceeds its fair value, then a second step is performed to measure the amount of impairment loss, if any. Certain assumptions are used to determine the fair value of the reporting units, the most sensitive of which are estimated future cash flows and the discount rate applied to future cash flows. Changes in these assumptions could result in a materially different fair value.

### Impairment of long-lived assets

The company reviews the carrying value of its long-lived assets including, but not limited to, property and equipment, intangible and other assets, if events or changes in circumstances indicate the asset might be impaired. The carrying value of a long-lived asset group is considered impaired when the undiscounted cash flow from such asset group is estimated to be less than its carrying value. In that event, a loss is recognized as the amount by which the carrying value exceeds its fair value. Fair value is determined primarily using the anticipated cash flows discounted at a rate commensurate with the risk involved. Losses on long-lived asset groups to be disposed of would be determined in a similar manner, except that fair value would be reduced by any costs of disposal.



# **FS Brands, Inc.**

## **Notes to Consolidated Financial Statements**

**December 31, 2011 and December 31, 2010**

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(expressed in US dollars)

### **Deferred revenue and customer deposits**

Deferred revenue represents payments received in connection with services to be provided in the future and are recognized when the services have been provided. Customer deposits represent payments received as deposits in connection with California Closet products to be installed.

### **Income taxes**

The company accounts for income taxes in accordance with ASC 740, Income Taxes. ASC 740 is an asset and liability approach that requires the recognition of deferred income tax assets and liabilities for the expected future income tax consequences of temporary differences between the carrying amounts and the income tax bases of assets and liabilities. Deferred income tax assets are recognized, net of any valuation allowance, for deductible temporary differences and net operating loss and income tax credit carry-forwards, and deferred income tax liabilities are recognized for taxable temporary differences. Deferred income tax assets are recognized only to the extent that management determines it to be more likely than not that the deferred income tax assets will be realized. A valuation allowance is recorded when there is uncertainty regarding realization of a deferred income tax asset. Deferred income tax assets and liabilities are adjusted for the effects of changes in income tax laws and rates on the date of enactment. The income tax expense or benefit is the income tax payable or recoverable for the period plus or minus the change in deferred income tax assets and liabilities during the period.

The company recognizes uncertainty in tax positions taken or expected to be taken in a tax return by recording a liability for unrecognized tax benefits on its consolidated balance sheets. Uncertainties are quantified by applying a prescribed recognition threshold and measurement attribute.

### **Non-controlling interests**

The non-controlling interests are considered to be redeemable securities and accordingly are recorded at the greater of: (i) the redemption amount; or (ii) the amount initially recorded as a non-controlling interest at the date of inception of the minority equity position. This amount is recorded in the mezzanine section of the consolidated balance sheets, outside of stockholders' equity. Changes in the non-controlling interests amount are recognized immediately as they occur.

### **Fair value measurements**

Financial assets and liabilities are measured using inputs from the three levels of the fair value hierarchy. A financial asset or liability's classification within the hierarchy is determined based on the lowest level input that is significant to the fair value measurement. The three levels are as follows:

- Level 1 - quoted prices (unadjusted) in active markets for identical assets or liabilities;
- Level 2 - observable market based inputs other than quoted prices in active markets for identical assets or liabilities; and
- Level 3 - unobservable inputs.

# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

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(expressed in US dollars)

### Concentrations

The company's financial instruments exposed to credit risk include cash and cash equivalents, restricted cash, accounts receivable and notes receivable. The company places its cash and cash equivalents with institutions of high creditworthiness. Management routinely assesses the collectibility of its accounts receivable and notes receivable.

## 3 Transactions with related parties

### Management fees

The company has a management agreement with the parent that provides certain administrative and management services to the company. For the year ended December 31, 2011, the fees for such services totalled \$4,626,948 (2010 - \$7,054,962). These transactions were in the normal course of operations and were measured at the exchange amount.

### Due to related parties

As at December 31, amounts due to the parent consisted of the following:

	2011 \$	2010 \$
Note payable to ultimate parent, unsecured, due on demand, non-interest bearing	157,875	-
Note payable to parent, unsecured, due on demand, non-interest bearing	-	12,610,461
Note payable to parent, unsecured, maturity date December 31, 2021, interest at LIBOR plus 4%	35,857,802	36,202,057
Accrued interest payable	713,251	-
	<u>36,728,928</u>	<u>48,812,518</u>

Interest on notes payable to the parent of \$713,251 (2010 - \$nil) for the year ended December 31, 2011 is included in interest expense. Interest was incurred in the normal course of operations and was measured at the exchange amount.

On November 30, 2011, the parent passed a resolution to convert the amount of \$15,977,057, which the company owes to the parent, to additional paid-in capital on the books of the company.

# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

(expressed in US dollars)

### 4 Notes receivable

The company has notes receivable from franchisees for various franchise fees and royalties. These notes bear interest at rates ranging from 4% to 8%, are unsecured and repayable in monthly instalments. Also included in notes receivable are amounts owing from certain non-controlling interest stockholders. The total amount due from non-controlling interests is \$1,817,611 (2010 - \$1,709,746). These notes bear interest at rates ranging from 4% to 6% and are due on various dates from 2010 to 2011.

As at December 31, 2011, annual maturities on the notes receivable are as follows:

	\$
2012	1,709,005
2013	1,453,582
2014	774,473
2015	565,043
2016	44,868
Thereafter	1,683,113
	<hr/>
	6,230,084
Less: Allowance for doubtful accounts	(433,093)
	<hr/>
	5,796,991
Less: Current portion	(1,709,006)
	<hr/>
	4,087,985

### 5 Property and equipment

				2011
	Depreciation period	Gross carrying amount \$	Accumulated depreciation \$	Net \$
Production equipment	5 to 7 years	4,415,331	3,816,201	599,130
Vehicles	5 years	2,279,934	1,940,451	339,483
Furniture and fixtures	5 to 7 years	1,793,601	1,171,826	621,775
Computers and equipment	3 to 5 years	5,488,496	4,359,112	1,129,384
Leasehold improvements	lease term	3,855,755	2,452,756	1,402,999
		<hr/>	<hr/>	<hr/>
		17,833,117	13,740,346	4,092,771

# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

(expressed in US dollars)

		2010		
	Depreciation period	Gross carrying amount \$	Accumulated depreciation \$	Net \$
Production equipment	5 to 7 years	4,891,143	4,155,456	735,687
Vehicles	5 years	2,330,280	2,026,527	303,753
Furniture and fixtures	5 to 7 years	1,552,039	1,100,364	451,675
Computers and equipment	3 to 5 years	4,741,584	3,815,752	925,832
Leasehold improvements	lease term	3,445,478	2,444,074	1,001,404
		16,960,524	13,542,173	3,418,351

Depreciation expense totalled \$1,635,840 for the year ended December 31, 2011 (2010- \$41,650,681)

## 6 Intangible assets

		2011		
		Gross carrying amount \$	Accumulated amortization \$	Net \$
Trademarks		13,104,323	3,760,857	9,343,466
Franchise agreements		27,407,637	9,784,899	17,622,738
Internally developed software		3,970,135	2,500,185	1,469,950
		44,482,095	16,045,941	28,436,154

		2010		
		Gross carrying amount \$	Accumulated amortization \$	Net \$
Trademarks		13,104,323	3,334,871	9,769,452
Franchise agreements		28,066,762	8,691,676	19,375,086
Internally developed software		3,213,067	1,715,398	1,497,669
		44,384,152	13,741,945	30,642,207

# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

(expressed in US dollars)

During the year, the company acquired the following intangible assets:

	\$
Franchise agreements	115,174
Internally developed software	757,645
	<u>872,819</u>

The following is the estimated annual amortization expense for each of the next five years:

	\$
2012	2,077,282
2013	1,976,504
2014	1,291,918
2015	1,291,918
2016	1,291,918
	<u>7,929,540</u>

## 7 Income taxes

The components of the provision for income taxes are as follows:

	2011 \$	2010 \$
Current provision		
Federal	2,840,293	654,201
State	782,811	310,032
	<u>3,623,104</u>	<u>964,233</u>
Deferred provision (recovery)		
Federal	(184,391)	385,843
State	(26,342)	55,120
	<u>(210,733)</u>	<u>440,963</u>
	<u>3,412,371</u>	<u>1,405,196</u>

# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

(expressed in US dollars)

The components of deferred income tax assets and liabilities are as follows:

	2011 \$	2010 \$
Deferred income tax assets		
Accrued expenses	172,425	81,396
Bad debt	510,838	448,312
Future benefit of tax losses	438,696	470,363
	<u>1,121,959</u>	<u>1,000,071</u>
Deferred income tax liabilities		
Purchased goodwill and intangible assets	9,624,503	9,943,697
Property and equipment	1,281,341	716,762
Prepaid and other assets	-	244,897
	<u>10,905,844</u>	<u>10,905,356</u>
	<u>9,783,885</u>	<u>9,905,285</u>

The aggregate change in the balance of uncertain tax positions for the year was as follows:

	\$
Balance - Beginning of year	705,710
Decrease in balances relating to tax provisions of prior years	<u>(539,426)</u>
Balance - End of year	<u>166,284</u>

The number of years with open tax audits varies depending on the tax jurisdiction. The company's taxing jurisdiction is the United States of America. With few exceptions, the company is no longer subject to US federal, state and local income tax examinations by tax authorities for years before 2009.

The company does not currently expect any material impact on earnings to result from the resolution of matters relating to open taxation years; however, actual settlements may differ from amounts accrued. Currently, it is not reasonably possible to determine whether unrecognized tax benefits will increase or decrease within the next 12 months with respect to settlements of tax audits. The company has, as part of its ASC 740 analysis, made its current estimates on facts and circumstances known to date and cannot predict subsequent or changed facts and circumstances that could affect its current estimates.

Within the next 12 months, the company believes it is reasonably possible that the total amount of unrecognized tax benefits associated with certain positions may be reduced due to lapses in the statutes of limitations. The company estimates that the unrecognized tax benefits as at December 31, 2012 could be reduced by approximately \$166,274.

# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

(expressed in US dollars)

### 8 Notes payable

	2011 \$	2010 \$
Promissory note, unsecured, payable on demand, interest at 6%*	516,497	486,710
Promissory note, unsecured, payable on demand, interest at 6%*	152,660	145,180
Promissory note, unsecured, payable at \$100,000 per year beginning in 2007, interest at 5%	-	100,000
Promissory note, unsecured, payable in monthly instalments through April 2014, interest at 4%	206,451	289,208
	<hr/>	<hr/>
	875,608	1,021,098
Less: Current portion	(755,286)	(814,649)
	<hr/>	<hr/>
	120,322	206,449

\*Included in notes payable are amounts due to certain non-controlling interests stockholders totalling \$669,157 (2010 - \$631,890).

### 9 Change in non-cash working capital

	2011 \$	2010 \$
Accounts receivable	(394,395)	(1,074,687)
Inventories	(17,513)	200,694
Notes receivable	(146,357)	(1,324,566)
Prepaid expenses and other current assets	(163,910)	(141,575)
Accounts payable	258,869	(90,028)
Accrued liabilities	983,555	437,996
Deferred revenue and customer deposits	614,140	105,149
Income tax payable	2,499,537	(963,006)
	<hr/>	<hr/>
	3,633,926	(2,850,023)

### 10 Non-controlling interests

The minority equity positions in the company's subsidiaries are referred to as non-controlling interests (NCI). The NCI are considered to be redeemable securities; accordingly, NCI are recorded at the greater of: (i) the redemption amount, or (ii) the amount initially recorded as an NCI at the date of inception of the minority equity position. This amount is recorded in the mezzanine section of the consolidated balance sheets, outside of stockholders' equity. Changes in the NCI amount are recognized immediately as they occur.

# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

(expressed in US dollars)

The following table provides a reconciliation of the beginning and ending NCI amounts:

	2011 \$	2010 \$
Balance - Beginning of year	8,946,589	9,916,894
Share of earnings of NCI	778,709	234,312
Redemption increment of NCI	1,230,244	(280,109)
Distributions paid to NCI	(704,900)	(413,440)
Purchase of NCI	(109,141)	(5,609,652)
Sale of NCI	272,000	4,863,584
Reclassification of paid-in capital	-	235,000
Balance - End of year	10,413,501	8,946,589

During 2011, the company acquired interests from non-controlling stockholders amounting to \$109,141, all of which was settled by cash. The company sold interests to non-controlling stockholders during the year amounting to \$272,000, of which \$200,000 was received in cash and \$72,000 in notes receivable.

During 2010, the company acquired interests from non-controlling shareholders amounting to \$5,609,652, of which \$4,545,868 was settled by cash and \$1,063,784 by note. The company sold interests to non-controlling shareholders during the year amounting to \$4,863,584, of which \$3,761,819 was received in cash and \$1,101,765 in notes receivable.

The company has stockholders' agreements in place at each of its non-wholly owned subsidiaries. These agreements allow the company to call the NCI at a price determined with the use of a formula price, which is usually equal to a fixed multiple of average annual net income before extraordinary items, income taxes, interest, depreciation and amortization. The agreements also have redemption features, which allow the owners of the NCI to put their equity into the company at the same price, subject to certain limitations. The formula price is referred to as the redemption amount and may be settled in cash or with the ultimate parent's shares. The redemption amount as of December 31, 2011 is \$9,855,838 (2010 - \$8,448,516).

### 11 Commitments and contingencies

	\$
2012	2,913,085
2013	2,353,157
2014	1,924,631
2015	1,572,822
2016	687,560
	<u>9,451,255</u>

Rent expense for the year amounted to \$3,850,258 (2010 - \$3,462,085).



# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

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(expressed in US dollars)

The company is involved in legal proceedings and claims primarily arising in the normal course of business. In the opinion of management, the company's liability, if any, would not materially affect its consolidated financial condition or operations.

### 12 Letters of credit

College Pro Painters (U.S.) Ltd. is required to obtain irrevocable bank letters of credit totalling \$650,000 (2010 - \$650,000). The letters of credit are to remain open for the duration of certain stop-loss insurance policies or until all insurance claims against College Pro Painters (U.S.) Ltd. have been settled.

### 13 Fair values of financial instruments

The carrying amounts of cash and cash equivalents, accounts receivable and accounts payable and accrued liabilities approximate their fair values due to the short-term maturity of these instruments. The following are estimates of the fair values for other financial instruments:

	Carrying amount \$	Fair value \$
Notes receivable	6,230,084	5,294,082
Notes payable	875,608	861,875

Notes receivable include amounts due from franchisees and non-controlling stockholders. Notes payable include amounts due to vendors in connection with business acquisitions and non-controlling stockholders. The fair values of these instruments are determined using a valuation model with market price inputs obtained from third parties.

### 14 Defined contribution pension plan

The company contributed \$136,195 (2010 - \$140,691) to its 401(k) plan during the year, which has been recorded as an expense in each of the respective years.

### 15 Retained earnings (deficit)

During 2011, notes payable to the parent company of \$ 15,977,057 were converted into equity, increasing the retained earnings account.

During 2010, \$12,627,941 was recorded as a decrease to retained earnings as a result of the excess in consideration paid over carrying value in connection with the acquisition of PDRI Holdings, Inc.

# **FS Brands, Inc.**

## **Notes to Consolidated Financial Statements**

**December 31, 2011 and December 31, 2010**

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(expressed in US dollars)

### **16 Impact of recently issued accounting standards**

Effective July 1, 2011, the company adopted updated Financial Accounting Standards Board (FASB) guidance on testing goodwill for impairment (ASU 2011-08). This updated guidance simplifies the testing for goodwill impairment as it permits an entity to first assess qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount as a basis for determining whether it is necessary to perform the two-step goodwill impairment test. The more likely than not threshold is defined as having a likelihood of more than 50%. The adoption of this updated guidance changed the manner in which goodwill testing is performed and did not have a material effect on the company's results of operations, financial position or disclosure.

In May 2011, the FASB issued updated guidance to achieve common fair value measurement and disclosure in US GAAP and International Financial Reporting Standards (IFRS) (ASU 2011-04). This update was issued to provide a consistent definition of fair value and ensure the fair value measurement and disclosure requirements are similar between US GAAP and IFRS. The update changes certain fair value measurement principles and enhances disclosure requirements, particularly for Level 3 fair value measurements. This guidance is effective for the company on January 1, 2012. The company is in the process of evaluating the adoption and disclosure implications, but it is not expected to have a material effect on the company's results of operations or financial position.

In June 2011, the FASB issued updated guidance on the presentation of comprehensive income (ASU 2011-5). This guidance requires entities to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. Regardless of whether an entity chooses to present comprehensive income in a single continuous statement or in two separate but consecutive statements, the entity is required to present on the face of the financial statements reclassification adjustments for items that are reclassified from other comprehensive income to net income in the statement(s) where the components of net income and the components of other comprehensive income are presented. The guidance does not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. ASU 2011-5 will be applied retrospectively by the company effective January 1, 2012, except for the requirement to present reclassifications from other comprehensive income to net income by item on the face of the consolidated financial statements, which has been deferred. The adoption of the guidance is expected to result in a change in disclosure of comprehensive income from within the consolidated statement of stockholders' equity to a separate statement of comprehensive income.

### **17 Transactions between entities under common control**

On December 31, 2011, the parent sold its 92.9% interest in PDRI Holdings, Inc. (PDRI) (parent of Paul Davis Restoration, Inc.) to the company. This transaction is presented with retrospective effect as of January 1, 2010 in these consolidated financial statements as the transaction represents a transfer of interests among companies under common control. The transaction was recorded at the carrying value with the difference from the consideration paid recorded in additional paid-in capital.

# FS Brands, Inc.

## Notes to Consolidated Financial Statements

December 31, 2011 and December 31, 2010

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(expressed in US dollars)

On June 1, 2010 the parent contributed all of its interest in the following subsidiaries to the company. As consideration, the company issued common shares equal to a 97.18% interest in the company valued at \$29,268,407. This transaction is presented with retrospective effect as of January 1, 2010 in these consolidated financial statements as the transaction represents a transfer of interests among companies under common control. The transaction was recorded at carrying value.

CC Seattle, LLC	70% interest
Creative Closets Unlimited, Inc.	80% interest
California Closet Company, Inc.	100% interest
College Pro Painters (U.S.) Ltd.	100% interest
Marsand, Inc.	80% interest
Lunsford Design, Inc.	80% interest
Certa Pro Painters Ltd.	88.3% interest
Creative Closets Inc.	70% interest
Closet Tamers, Inc.	80% interest
Chicago North Shore Enterprises, Inc.	85% interest
Floorcoverings International Inc.	70% interest
More Than Closets, Inc.	100% interest
Pillar to Post, Inc.	100% interest
BrandPoint Service, Inc.	100% interest
College Pro Window Cleaning, Inc.	100% interest
Mamar, Inc.	100% interest

## **EXHIBIT B - 2**

### **Guarantees of Performance**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

This guarantee continues until all such obligations of the Franchisor under its franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. The Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. The Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and its successors and assigns.

The Guarantor signs this guarantee at Toronto, Ontario, on the 12th day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF CALIFORNIA**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12th day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF FLORIDA**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12<sup>th</sup> day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF HAWAII**

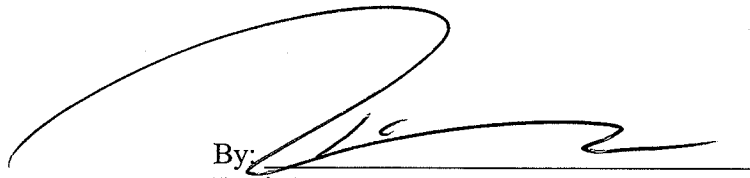
**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

This guarantee continues until all such obligations of the Franchisor under its franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. The Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. The Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and its successors and assigns.

The Guarantor signs this guarantee at Toronto, Ontario, on the 12th day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer



**STATE OF ILLINOIS**

**GUARANTY OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation, located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees the performance by franchisor, Paul Davis Restoration, Inc., of all obligations under the Illinois Franchise Disclosure Act and Rules, and of all of the obligations of franchisor to furnish goods and/or services necessary to establish and open the business of franchisees to whom franchises are granted by franchisor pursuant to the registration of such franchises in the State of Illinois and the terms and conditions of its franchise and other agreements entered into after this date with franchisees under the jurisdiction of the Illinois Franchise Disclosure Act, as the same have been or may hereafter be amended, modified, renewed or extended from time to time.

This guaranty shall continue in force until all such obligations of franchisor shall have been satisfied or until such liability of franchisor to such franchisees has been completely discharged, whichever first occurs. Guarantor shall not be discharged from liability hereunder as long as any such claim by a franchisee against franchisor remains outstanding. Notice of acceptance is waived. Notice of default on the part of franchisor is not waived. This guaranty shall be binding upon guarantor, its successors and assigns.

In witness whereof, guarantor has, by a duly authorized officer, executed this guarantee at Toronto, Ontario, on the 12th day of March, 2012.

ATTEST:

*Erica Roth*

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF INDIANA**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12th day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF MICHIGAN**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12th day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF MINNESOTA**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12<sup>th</sup> day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF NEW YORK**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12th day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF RHODE ISLAND**


**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12th day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF SOUTH DAKOTA**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12<sup>th</sup> day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF UTAH**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12<sup>th</sup> day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer



**COMMONWEALTH OF VIRGINIA**

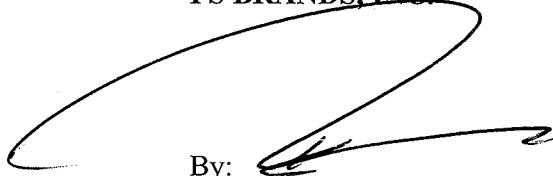
**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees the performance by Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor") of all of the obligations of the Franchisor under its Paul Davis Emergency Services franchise registration in the Commonwealth of Virginia and of its Paul Davis Emergency Services Franchise Agreement executed after April 1, 2012.

This guarantee continues until all obligations of the Franchisor under its franchise registrations and the franchise agreements are satisfied. The Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. Notice of default on the part of the Franchisor is not waived. This guarantee is binding on the Guarantor and its successors and assigns.

The Guarantor signs this guarantee at Toronto, Ontario, on the 12th day of March, 2012.

**FS BRANDS, INC**

A large, stylized handwritten signature in black ink, appearing to be 'Kevin Roy', is written over a horizontal line.

By: \_\_\_\_\_  
Kevin Roy, Treasurer

**STATE OF WASHINGTON**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

For value received, FS Brands, Inc., a Delaware corporation (the "Guarantor"), located at 1140 Bay Street, Suite 4000, Toronto, Ontario, M5S 2B4 Canada, absolutely and unconditionally guarantees to assume the duties and obligations of Paul Davis Restoration, Inc., located at One Independent Drive, Suite 2300, Jacksonville, Florida 32202 (the "Franchisor"), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2012 Franchise Disclosure Document (Paul Davis Emergency Services), as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time.

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**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

**STATE OF WISCONSIN**

**GUARANTEE OF PERFORMANCE  
(PAUL DAVIS EMERGENCY SERVICES)**

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The Guarantor signs this guarantee at Toronto, Ontario, on the 12<sup>th</sup> day of March, 2012.

**FS BRANDS, INC.**

By:   
Kevin Roy, Treasurer

# **EXHIBIT C**

## **Franchise Agreement**

**PAUL DAVIS RESTORATION, INC.**  
**One Independent Drive, Suite 2300**  
**Jacksonville, Florida 32202**

**PAUL DAVIS EMERGENCY SERVICES**  
**FRANCHISE AGREEMENT**

**THIS FRANCHISE AGREEMENT** (this "Agreement"), is made effective as of \_\_\_\_\_, 2012, by and among PAUL DAVIS RESTORATION, INC., a Florida corporation, ("PDRI"); and the following individual(s): \_\_\_\_\_ (singly, or collectively if more than one, the "Principal Owner"); and \_\_\_\_\_, d.b.a. Paul Davis Emergency Services of \_\_\_\_\_ (the "Franchisee"). Because the obligations of Franchisee and Principal Owner are joint and several under this Agreement, the term "Franchisee" throughout this Agreement shall refer to both Franchisee and Principal Owner, except in those circumstances where the term Principal Owner is specifically used.

**WITNESSETH:**

A. PDRI is the owner of the Paul Davis Emergency Services® ("PDES") service mark and has acquired experience and knowledge with respect to emergency services, including drying, cleaning, decontamination, repair, board-up, demolition, loss mitigation, mold remediation, and other emergency services, for residential and commercial buildings, structures, and contents ("PDES' Business").

B. PDRI is also the owner of the Paul Davis Restoration® ("PDR") service mark and has acquired experience and knowledge with respect to insurance restoration construction and reconstruction, remodeling, and emergency services, including drying, cleaning, decontamination, repair, board-up, demolition, loss mitigation, mold remediation, and other emergency services, for residential and commercial buildings, structures, and contents ("PDR's Business").

C. As a result of the expenditure of time, effort and money in research and development, PDRI has developed certain systems, methods, procedures, know-how, and other associated trade secrets (collectively the "Franchise System"), as described in the Paul Davis Operations Manual (the "Operations Manual"), the Paul Davis Procedures Manual (the "Procedures Manual"), and new owner training materials for the operation of a business engaging in PDES' Business;

D. Franchisee recognizes that the Franchise System is unique, novel and valuable and Franchisee desires to obtain the commercial benefits of the use of the Franchise System, the name of Paul Davis Emergency Services® and the benefits of the knowledge, experience and reputation of PDRI.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, and agreements hereinafter set forth, PDRI and Franchisee agree as follows:

## **1. THE FRANCHISE SYSTEM**

1.1 Grant of Franchise. PDRI hereby grants to Franchisee a non-exclusive license to use the Franchise System to operate a Paul Davis Emergency Services® franchise (the “Franchise Business”) under the terms and conditions set forth in this Agreement.

1.2 Operations Manual and Procedures Manual. During the term of this Agreement, PDRI grants to Franchisee a non-exclusive license to use the Operations Manual and the Procedures Manual (collectively, the “Manuals”), the provisions of which are hereby incorporated by reference into this Agreement. Franchisee acknowledges that the Manuals remain the property of PDRI and Franchisee shall return the Manuals and any copies thereof to PDRI upon termination of this Agreement. Franchisee further acknowledges that PDRI may amend the Manuals in accordance with the procedures set forth in the Operations Manual and Franchisee shall be bound by any such amendment.

1.3 Tradename and Logos. PDRI grants to Franchisee, for the term of this Agreement, a non-exclusive license to use the Paul Davis Emergency Services® name in the operation of the Franchise Business in accordance with this Agreement. Franchisee shall operate exclusively under the Paul Davis Emergency Services® name and shall not use or display any other tradename or service mark without the prior written consent of PDRI. All names and logos owned by PDRI and licensed to Franchisee are hereafter referred to as the “Marks.” PDRI reserves the right, in its sole discretion, to modify, replace, substitute or terminate any of the Marks.

1.4 Restrictions on Use of Marks. Franchisee shall not use either the Marks or any variation thereof as part of its corporate, firm or business name or for any other purposes except in accordance with this Agreement or as may otherwise be specifically authorized by PDRI in writing, nor shall Franchisee hold out or otherwise employ the Marks to perform any activity, or to incur any obligation or indebtedness in manner as might make PDRI liable therefore. Franchisee shall not register or attempt to register the Marks in its name or the name of any person, firm, corporation or entity, and shall not take any action which might invalidate the Marks, impair any rights of Franchisor in and to such Marks or create any rights adverse to those of PDRI. Moreover, Franchisee shall use the Marks correctly spelled and/or depicted and not as a verb or in the plural or in any other manner which might endanger the validity of the Marks and/or, if registered, their registration. Franchisee shall use the Marks only in the style as may be registered, or if not registered, as prescribed by PDRI.

## **2. FRANCHISE FEE**

2.1 Franchise Fee. As consideration for the granting of the license to use the Marks and the Franchise System, Franchisee shall pay to PDRI a fee (the “Franchise Fee”) of \$36,000 for population of up to 100,000 plus \$0.20 per person for population in excess of 100,000 in the Franchise Territory. The Franchise Fee shall be due and payable: (i) \$20,000 upon the signing of this Agreement; and (ii) the balance (in excess of \$20,000) in the form of a 2 year 8% promissory note with monthly payments commencing on the fifteenth day of the third month following the first available new owner training following the effective date of this Agreement. Franchisee agrees that the Franchise Fee is fully earned upon payment and is non-refundable.

## **3. ROYALTY AND OTHER FEES**

3.1 Royalty Fee. Franchisee shall pay to PDRI a monthly royalty fee (the “Royalty Fee”)

equal to Gross Receipts times the Royalty Percentage for each of the following increments set forth in the following schedule:

<u>Monthly Gross Receipts</u>		<u>Royalty Percentage</u>
<u>From</u>	<u>To</u>	
\$ 0.00	\$39,999.99	8%
\$ 40,000.00	\$79,999.99	7%
\$ 80,000.00	\$119,999.99	6%
\$120,000.00	\$159,999.99	5%
\$160,000.00 and over		4%

The term "Gross Receipts" means all revenue or income received (including any deposits, pre-payments or draws) for labor, materials, and services of every kind or nature relating to or connected with the operation of the Franchise Business or use of the Franchise System or the Marks. Gross Receipts includes all revenue or income received by Franchisee or by third party vendors and subcontractors who provide labor, material or services to Franchisee's clients as a part of Franchisee's services and pay Franchisee a fee of any kind. Franchisee shall report Gross Receipts using such forms or in such format as PDRI may specify from time to time. Franchisee shall deposit all Gross Receipts only into a bank account approved by PDRI.

The Royalty Percentage for Gross Receipts for any work performed as a subcontractor for a PDR franchise shall be 4.5%. Franchisee shall report all such subcontracting work separately and identify the applicable PDR franchise.

3.2 Monthly Minimum Royalty. If the Royalty Fee for any month is less than the Monthly Minimum Royalty, then Franchisee shall pay PDRI the difference between the Royalty Fee and the Monthly Minimum Royalty. During the initial term of this Agreement the term "Monthly Minimum Royalty" shall mean \$300.00 during the first (1<sup>st</sup>) year, \$800.00 during the second (2<sup>nd</sup>) year, and \$1500.00 during the third (3<sup>rd</sup>) year. For each year after the 3<sup>rd</sup> year of the Franchise Agreement, including all renewal terms and the terms of all transferees and subsequent transferees of Franchisee, the Monthly Minimum Royalty shall be \$1,500 per month, adjusted for any changes in the Consumer Price Index, all Urban Consumers, (or comparable index) published by the U.S. Department of Labor since the effective date of the original Franchise Agreement. The Monthly Minimum Royalty is waived for the first full six (6) months following the completion of new owner training (but not for any renewal or transfer agreements)

3.3 Marketing Fee. Franchisee shall pay to PDRI a Marketing Fee of two percent (2%) of Gross Receipts. Franchisee shall pay the Marketing Fee at the same time and in the same manner as the Royalty Fee. All Marketing Fees shall be paid into a Marketing Fund which shall be owned and managed by PDRI. PDRI shall, in its sole discretion, determine the use of the Marketing Fund to promote and protect the reputation of the Marks and the PDES franchise network. PDRI shall use a portion of the Marketing Fund to contribute to the Strategic Marketing Plan, the Job Completion and Payment Guarantee Fund, and the Indemnity and Insurance Reimbursement Fund (described in Booklet One of the Operations Manual) on behalf of PDES franchises. The Marketing Fund shall not be used to promote the sale of franchises.

3.4 Convention Registration Fee. PDRI at its option may from time to time hold franchisee conventions. Franchisee agrees to pay within 30 days of billing a convention registration fee determined for each convention, but not to exceed \$500.

3.5 Call Center Fee. PDRI, at its option, may maintain a centralized call center for the purpose of processing in-coming customer service related telephone calls, text messages, and internet communications and for dispatching leads and service requests. PDRI may charge Franchisee a per lead/call service charge, provided that such charge shall not exceed the actual cost per lead/call plus an administrative charge of up to 20%.

3.6 Program Job Review Fee. PDRI may from time to time establish referral programs with insurance companies which may require estimate and invoicing standards for jobs referred (a "Program Job"). PDRI may, at its option, undertake to review Program Job estimates and invoices for program compliance and may charge Franchisee a Program Job Review Fee of up to 1% of the amount of the job.

3.7 Due Date and Method of Payment of Monthly Fees. The Royalty Fee and the Marketing Fee are due on the 15<sup>th</sup> day of the month. At PDRI's option, PDRI may require the payment of fees and other amounts due PDRI via automatic direct electronic withdrawals from Franchisee's bank account and Franchisee agrees to cooperate with PDRI in such procedure and to execute any and all authorizations required for such withdrawals.

3.8 Late Payment. Franchisee agrees that any amounts due to PDRI and not received by PDRI on or before their due date shall immediately begin to accrue interest as of the due date at the maximum rate allowed by law or one and one-half percent (1½%) monthly, whichever is less, without waiver of any other rights of PDRI.

3.9 Dishonored Check and EFT Denial Fee. Franchisee shall pay a fee of \$100 to PDRI within thirty days for any dishonored checks and denied electronic funds withdrawals.

#### **4. FRANCHISE TERRITORY**

4.1 Territory Defined. The "Franchise Territory" is the geographic area described on Exhibit A, attached hereto and incorporated herein, using U.S Postal Service zip code or other political boundaries. In the event these zip code or political boundaries are modified by applicable authority, PDRI shall redescribe the Franchise Territory using such modified boundaries and maintaining as closely as possible the original geographic size and shape of the Franchise Territory but giving due consideration to any adjoining franchise territories.

4.2 Location of Franchise Office. The franchise office must be located within the Franchise Territory. Franchisee shall not locate any additional offices outside the Franchise Territory without the prior written permission of PDRI and PDRI shall not allow another PDES or PDR franchise to locate an office within the Franchise Territory.

4.3 Nature of the Franchise Territory. Franchisee acknowledges that PDES operates as an "open" franchise system with non-exclusive franchise territories and that other PDES franchisees may market and service customers within Franchisee's Franchise Territory. Franchisee also acknowledges that PDRI may enter into regional or national account relationships with insurance companies, third party administrators, or property managers ("Program Accounts"), under which PDRI may assign jobs within the Franchise Territory to other PDRI franchisees or to third parties.

4.4 Applicability of Cross-Territory Procedures. Franchisee agrees to be bound by the terms of Booklet Three of the Operations Manual relating to marketing and servicing of accounts by Franchisee and other franchisees of PDRI, including the payment of fees for sales within the Franchise Territory of another franchisee (the "Cross Territory Procedures"). Franchisee agrees



that if Franchisee does not participate in or qualify for any Program Account, then the Cross Territory Procedures shall not apply to jobs assigned in the Franchise Territory pursuant to the Program Account. Franchisee also agrees that the cross territory fee for any commercial job in Franchisee's Franchise Territory shall not exceed \$5,000

## **5. TERM AND RENEWAL OF FRANCHISE**

5.1 Term. This Agreement and the rights granted to Franchisee hereunder shall be for a term of five (5) years.

5.2 Renewal. Franchisee may renew this Agreement for successive five (5) year renewal terms, provided that the following conditions are met:

(a) Franchisee gives written notice of intent to renew at least sixty (60) days prior to the expiration date and makes payment of a Franchise Renewal Fee of \$2,000.00;

(b) Franchisee has remained throughout the term substantially in compliance with the terms of the Agreement, including the payment of all amounts due and payable under this Agreement, and is in compliance as of the date of renewal;

(c) Franchisee replaces any equipment used in operating the franchise so as to comply with the then-current equipment requirements for new franchisees;

(d) Franchisee has attained Gross Receipts for the prior twenty-four (24) month period of at least \$400,000; and

(e) Franchisee executes a new franchise agreement and any other documents then customarily used by PDRI in granting new franchises. The terms and conditions of the new franchise agreement may differ materially from the terms of this Agreement; provided, however, that the Royalty Fee shall remain the same as in this Agreement and the Franchise Fee shall be waived.

## **6. OPERATIONAL OBLIGATIONS**

6.1 Commencement of Operations. Within thirty (30) days of completion of new owner school, Franchisee agrees to commence operations and thereafter continually engage in the operation of the Franchise Business on a full-time basis. The term "commence operations" shall mean offering Franchisee's services to the public, including soliciting insurance agents and property owners.

6.2 Operating Capital. Franchisee shall at all times maintain working capital (defined as current assets and unused lines of credit less current liabilities) of not less than the greater of five percent of Gross Receipts for the prior twelve months or \$25,000.00.

6.3 Operation under Corporate Structure. Principal Owner hereby represents and warrants that Franchisee is a corporation (the term "corporation" includes a limited liability company) formed in accordance with applicable law and duly authorized to do business in the state in which the Franchise Territory is located. In the case where Franchisee is not a presently existing corporation, Principal Owner shall form such corporation within thirty days of the effective date of this Agreement and shall cause such corporate to ratify this Agreement and otherwise assume all of the obligations of Franchisee under this Agreement. The corporate

name of the Franchisee shall be as set forth in the preamble of this Agreement, or such other name as PDRI may approve in writing, but in no event shall the corporate name include "Paul Davis," "PD," PDES," or any of the Marks of PDRI. All shares of stock (or other ownership interests) of Franchisee shall be held solely by Principal Owner in the percentages set forth on the signature page of this Agreement and any transfer of such shares shall be subject to the provisions of Article 20 of this Agreement and all stock certificates shall include the legend: "The transfer of this stock is subject to the terms, conditions, and restrictions of a Franchise Agreement with Paul Davis Restoration, Inc." The Franchise Business shall be operated under Franchisee's corporate form and under the full fictitious name set forth in the preamble to this Agreement or such other fictitious name as PDRI may approve in writing. Franchisee shall register or file such fictitious name as required by local law.

6.4 Services Offered. Franchisee agrees to offer emergency services, including drying, cleaning, decontamination, repair, board-up, demolition, loss mitigation, mold remediation, and other emergency services, for residential and commercial buildings, structures, and contents. If Franchisee offers remodeling or insurance restoration construction or reconstruction then Franchisee agrees to do so only pursuant to this Agreement.

6.5 Compliance with Operations Manual. Franchisee agrees to operate the Franchise Business in accordance with the standards, policies, and procedures set forth in the Operations Manual. Franchisee shall conduct no business other than the Franchise Business.

6.6 Name Change on Termination. Upon termination of this Agreement Franchisee shall immediately cease to use and shall take such steps as are necessary to notify the public and to withdraw from any public records any and all use of the Marks, tradenames, logos, or corporate name (or portions thereof) of PDRI.

6.7 Reports; Inspections; Records.

(a) Franchisee shall provide to PDRI on or before the third (3<sup>rd</sup>) business day of each month a monthly statement of Gross Receipts for the prior month in the form and format designated by PDRI. Franchisee shall also submit job specific information in the form, format and frequency designated by PDRI. Franchisee shall submit quarterly and annual financial statement reports prepared in accordance with generally accepted accounting principles and in a format specified by PDRI. Quarterly reports shall be provided to PDRI within thirty (30) days following the end of the quarter. Annual financial reports shall be provided to PDRI within ninety (90) days following the end of the fiscal year and are required to be compiled (but not audited) by a certified public accountant. Franchisee shall submit copies of federal and state tax returns filed by Franchisee and Principal Owner if requested by PDRI.

(b) Franchisee shall maintain adequate books and records of its operations and such records shall be stored at Franchisee's principal place of business for a period of not less than five years. Franchisee agrees to permit PDRI, through its authorized representatives and agents, to inspect Franchisee's records, premises and methods of operation from time to time during regular business hours in order to determine that Franchisee has complied with the sales reporting and other provisions of this Agreement. These records shall include but not be limited to: job files; bank statements; check registers; canceled checks; federal and state tax returns of Franchisee and Principal Owners; financial statements; general ledgers; computer generated reports; and disbursement records including subcontractor files. If any inspection determines that Franchisee has underreported Gross Receipts by an amount greater than 5%, then Franchisee shall pay for all expenses incurred in connection with such inspection, including air

fare, transportation, meals, motels, miscellaneous expenses, and an hourly fee based on a prorated percentage of the inspector's salary or the independent auditor's actual fee.

(c) Franchisee agrees to allow PDRI's representative to copy records and remove such copies from Franchisee's premises and to copy any electronic data via electronic or on-line access. Franchisee shall cooperate in PDRI's inspection and copying, including directing PDRI's representative to the records, responding fully to all inquiries with respect to the records, and allowing reasonable use of photocopiers and any equipment necessary to read or copy information on magnetic or similar media.

6.8 Compliance with Law. "Law" means the collective body of constitutions, statutes, regulations, ordinances, codes, rules, official opinions, rulings, guidelines, orders, case precedents, and other expressions or prescriptions of civil authorities regulating conduct, property, and rights within or affecting their jurisdictions. Franchisee shall comply with all Law regulating the operation of the Franchise Business, including any licensing requirements. Any violation of Law by Franchisee is a breach of this Agreement.

6.9 Pricing Recommendations. From time to time, PDRI may advise Franchisee of suggested prices for services offered. PDRI and Franchisee expressly agree that any such suggested prices furnished by PDRI are recommendations only and not binding or mandatory.

6.10 Quality Surveys. Franchisee shall submit to PDRI, or its designee, job information in a format specified by PDRI for the purposes of conducting customer satisfaction surveys. PDRI may reveal the results of such surveys to insurance company representatives and in its advertising.

6.11 Brand Identity Program. Franchisee agrees to comply with any brand identity programs instituted by PDRI and acknowledges that such program may include mandatory standard employee apparel or uniforms, vehicle appearance and signage, office appearance and signage, and use of a PDRI approved after-hours telephone answering service.

6.12 PDRI Review of Estimates/Invoices. PDRI shall have the right to review and approve the form and format of Franchisee's estimates and invoices for all services prior to the release of such estimates and invoices to insurers or PDRI's Program Account customers.

## **7. RELATIONSHIP OF PARTIES**

7.1 Independent Contractor Status. Franchisee is an independent contractor and is not an agent, partner, joint venturer or employee of PDRI. No fiduciary relationship between the parties exists. Franchisee shall have no right to bind or obligate PDRI in any way nor represent that Franchisee has any right to do so.

## **8. TRAINING PROGRAM**

8.1 Training Obligation. Franchisee's approved General Manager must satisfactorily complete the new owner training program which consists of: (1) up to three (3) weeks of new owner training school conducted in Jacksonville, Florida, (2) up to two (2) days of field training at Franchisee's franchise location, and (3) if required by PDRI a three day advanced new owner training class in Jacksonville approximately six months after completion of new owner school. The fee for the new owner training program is included in the Franchise Fee, provided, that if this franchise was acquired from a prior franchisee then Franchisee shall pay the then-current

training fee for new owners (see Section 18.1 below). All travel, living, and related expenses incurred by Franchisee or Franchisee's representative(s) during the new owner training school is at Franchisee's expense.

8.2 Termination and Refund. At any time until thirty (30) days after the completion of new owner training school described in Section 8.1 above PDRI may terminate this Agreement and any related Promissory Note and refund to Franchisee within five (5) business days any cash payment paid to PDRI if, in PDRI's sole discretion, Franchisee fails to meet PDRI's performance standards as determined by PDRI training instructors and operations personnel. Franchisee agrees that if PDRI terminates this Agreement as stated herein, Franchisee shall nevertheless continue to be bound by the arbitration, non-competition and non-disclosure of trade secrets provisions set forth in this Agreement and Franchisee shall bear the costs incurred in pursuing the purchase of the franchise, other than the Franchise Fee paid to PDRI.

8.3 Continuing Education. PDRI may, at its option, implement a continuing education program for Franchisees and Franchisee agrees to complete such program at Franchisee's expense.

8.4 Post Training On-Site Consultation. In its sole discretion, PDRI may provide personal consultation, advisory and supervisory services at Franchisee's principal place of business for a fee based on time and expense incurred by PDRI's representatives, as agreed in advance.

## **9. EQUIPMENT AND SUPPLIES**

9.1 Computer Equipment and Software. During the term of this Agreement, Franchisee, at Franchisee's cost and expense, shall acquire and maintain such hardware and software components and electronic transmission capabilities as designated by PDRI from time to time in the Operations Manual

9.2 Initial Printing and Sales and Marketing Supplies Package. Except for franchises acquired from an existing franchisee or a franchise renewal, PDRI shall supply an initial printing and sales and marketing supplies package to Franchisee, to be delivered to Franchisee during the classroom training program attended by Franchisee or after receipt of required information from Franchisee. Franchisee shall thereafter use only such sales and marketing materials as shall be approved by PDRI. Franchisee shall purchase printing supplies only from suppliers approved by PDRI.

9.3 Franchise Equipment. Franchisee shall purchase or lease and shall maintain in good working order through the term of this Agreement such equipment as is specified in the Operations Manual.

## **10. COUNCILS**

10.1 Establishment of Councils. Booklet Two of the Operations Manual, entitled "Plan of Operation for the Paul Davis Council" (the "Plan of Operation") describes the governing body for the franchisees: a General Council, comprised of all operating PDRI franchisees; the District Councils for each operating district, comprised of one representative of each PDRI franchise in a defined geographic area designated by PDRI, which serve as the decision making bodies for the PDRI franchisees; and the National Executive Committee ("NEC"), comprised of the franchisee president of each District Council and a PDRI representative. The Plan of Operation establishes rules and regulations for the governance and operation of the General Council, the District Councils and the NEC. Such rules and regulations include procedures for consideration

and approval of recommendations that may be submitted by District Councils, PDRI or any franchisee for new programs, for amendments to the Operations Manual (including amendments to the Plan of Operation) and for other changes in the operations of the franchises. Franchisee agrees to be bound by and comply with any and all such new programs, amendments to the Operations Manual and other changes in the operations of the franchises as may be approved from time to time in accordance with the Plan of Operation.

10.2 Designated District Council. PDRI shall assign Franchisee to a District Council designated by PDRI which encompasses the Franchise Territory.

## **11. ADVERTISING**

11.1 Franchisee's Right to Advertise. PDRI grants to Franchisee the right to establish, create, and undertake promotional and advertising programs at Franchisee's own cost and expense, with the prior written approval of PDRI. Such approval shall not be unreasonably withheld.

11.2 Franchisee Web Site. PDRI shall establish a franchise specific web site ("Franchise Web Site") and with a unique Universal Resource Locator ("URL") domain name for Franchisee's use during the term of this Agreement and Franchisee shall not establish or maintain any other web site or URL related to the Franchise Business without PDRI's prior written consent. Franchisee shall be responsible to maintain and update the Franchise Web Site content. PDRI reserves the right, at any time and at its sole discretion, to modify or delete any Franchise Web Site content, to modify the appearance or functionality of the Franchise Web Site, or to discontinue the Franchise Web Site.

11.3 Use of Third Party Web Sites. Franchisee may establish and use third party web sites such as social media or directory web sites ("Third Party Web Sites") to advertise and promote the Franchise Business. PDRI reserves the right, at its sole discretion, to require that Franchisee discontinue or modify its use of, or content provided to, such Third Party Web Sites and Franchisee agrees to comply with such requirements. Franchisee shall provide PDRI access to such Third Party Web Site accounts (including URLs, access codes, logins, and passwords) and PDRI at its discretion may from time to time provide content updates to such Third Party Web Sites.

11.4 Approval of Electronic Transmission. Franchisee shall not use the name or Marks of PDRI in connection with any electronic commerce or other electronic transmission, including, without limitation, communication via the internet, e-mail, web sites, social media networks, or text messages without the prior written approval of PDRI. Such approval shall not be unreasonably withheld.

11.5 Domain Names / E-Mail Addresses. Franchisee hereby irrevocably assigns to PDRI all rights, title and interest that Franchisee may have now or in the future in any internet domain name/URL, e-mail address, and Third Party Web Site URLs, access codes, logins, and passwords that Franchisee establishes or uses in the operation of the Franchise Business, whether or not such domain name or the web site to which it relates or e-mail address was provided or approved by PDRI.

## **12. INSURANCE**

12.1 General Provisions. Franchisee agrees to carry at its expense during the term of this

Agreement such types and amounts of insurance as set forth in the Operations Manual. Prior to the commencement of operations, Franchisee shall furnish to PDRI a Certificate of Insurance reflecting that all required insurance coverage is in effect and if requested shall provide a copy of all such insurance policies. All policies shall be renewed and PDRI shall be provided a renewal Certificate of Insurance for all policies prior to the expiration of the policy.

### **13. HOLD HARMLESS**

13.1 Liability to Third Parties. Franchisee is solely responsible for all claims, demands, losses, obligations, liens, costs, expenses, liabilities, debts or damages to or by third parties arising out of or in connection with the possession, ownership, operation, transfer or proposed transfer of the Franchise Business, and for all claims or demands for damages to property or for injury, illness or death of persons directly or indirectly resulting therefrom (collectively, a "Claim").

Franchisee agrees to defend, indemnify and save PDRI, its parent, subsidiaries, affiliates, officers, directors and employees, harmless from and assume all liability for any such Claims unless resulting from the gross negligence of PDRI. PDRI shall notify Franchisee of any Claim, and Franchisee may assume the defense of the matter. If Franchisee fails to assume the defense, or if an actual or potential conflict of interest exists or arises for any counsel selected by Franchisee to represent PDRI, PDRI may defend the action in the manner it deems appropriate. Franchisee shall pay to PDRI all costs and expenses, including attorney's fees, incurred by PDRI in defending any Claim, and any amounts which PDRI may pay or be obligated to pay by reason of any payment, settlement or judgment against PDRI. PDRI's right to indemnity under this Agreement shall arise notwithstanding that joint or concurrent liability may be imposed on PDRI by statute, ordinance, regulation or other law. This indemnification provision shall survive the termination of this Agreement.

13.2 Insurer Indemnification. As a requirement for Franchisee's participation in certain national or regional accounts or job referral programs, PDRI may be required to indemnify insurance companies or other third parties making the referral from any claims arising from Franchisee's servicing of the job. Franchisee shall indemnify and hold PDRI harmless for any claim arising from such indemnification which shall be considered a Claim under section 13.1 above.

### **14. TAXES; LICENSING**

14.1 Taxes. Franchisee agrees that it will promptly pay any and all personal property taxes, real property taxes, income taxes, or other taxes of any nature that may be imposed, levied or assessed against Franchisee by any federal, state, county or municipal government.

14.2 Licensing. Franchisee agrees to obtain any contracting and other licenses or certifications required by the laws of the jurisdictions in which Franchisee operates the Franchise Business. Franchisee hereby represents that Franchisee has investigated the licensing requirements of the jurisdictions in which Franchisee intends to do business prior to the execution of this Agreement.

### **15. EMPLOYEES OF FRANCHISEE**

15.1 Employees Under Control of Franchisee. Franchisee agrees that all persons hired, employed by, or under contract with Franchisee in connection with the operation of the Franchise Business shall be considered to be employees or agents of Franchisee and not of

PDRI, and such employees and agents shall be solely and exclusively under Franchisee's direction and control and Franchisee shall at its own cost and expense comply with all unemployment insurance, old age pension, and other social security acts or statutes applicable to employers or employees or both, and shall pay when due any and all rates, taxes, assessments, and contributions that may be required or demanded under or by virtue of any of such acts or statutes.

15.2 Fee for Recruiting Employees. Franchisee acknowledges the importance of trained and experienced employees. In the event Franchisee hires an employee of PDRI or another Paul Davis franchisee (including 30 days following termination of the employee) Franchisee shall pay the sum of \$10,000 to the former employer.

## **16. TERMINATION BY PDRI**

16.1 Termination with Opportunity to Cure. PDRI may terminate this Agreement and all franchise rights granted hereunder if Franchisee fails to cure within fifteen (15) days of written notice any of the following:

(a) Non-payment by Franchisee of any sums due PDRI as required by this Agreement or by any other agreement, note, or instrument between the parties.

(b) Failure by Franchisee to maintain and operate the Franchise Business in accordance with good business practices and in accordance with the standards, policies, and procedures contained in the Operations Manual as now compiled or as amended from time to time;

(c) Misuse or unauthorized use of PDRI's name, any of the Marks, or the Manuals, or other impairment of the goodwill associated with the foregoing or PDRI's rights in them;

(d) The breach of any of the terms and conditions of this Agreement.

16.2 Termination without Opportunity to Cure. PDRI may terminate this Agreement and all rights granted hereunder at any time, without a right to cure, upon written notice of termination, in the event of any of the following:

(a) Three (3) repetitions of the same breach within any twelve (12) month period, for which PDRI has provided notice and a right to cure the first two breaches under Section 16.1;

(b) Filing by Franchisee or Principal Owner of a voluntary petition in bankruptcy, adjudication of bankruptcy, any assignment for the benefit of creditors, or appointment of a trustee or receiver in bankruptcy for Franchisee;

(c) Failure of Franchisee to commence operation of the Franchise Business within thirty (30) days after completion of the new owner training program;

(d) Abandonment by Franchisee of the Franchise Business, defined as either (i) Franchisee's announced intention to close or abandon the Franchise Business, or (ii) Franchisee's failure to operate the Franchise Business for ten (10) consecutive days;

(e) The Franchisee's omission or misrepresentation of any material fact relevant to the decision of PDRI to enter into this Agreement.

- (f) Conviction of Franchisee or Principal Owner of a felony offense;
- (g) An unapproved Transfer, as defined in section 18 hereof;
- (h) A violation of the in-term covenant not to compete or of the covenants of non-disclosure of trade secrets set forth in section 20 hereof;
- (i) Fraudulent reporting of financial or operational information to PDRI or any violation of the terms of section 6.7 hereof;
- (j) Other acts which may bring discredit on the entire PDRI franchise organization such as, but not limited to, willful acts of dishonesty toward PDRI, property owners, insurers, and other third parties dealing with Franchisee, PDRI or other franchises; or
- (k) Failure to maintain insurance as required in this Agreement.

## **17. PROCEDURES AFTER TERMINATION**

17.1 Obligations of Franchisee. On termination or non-renewal of this Agreement for any reason Franchisee and Principal Owner agree to immediately do the following:

- (a) Surrender all rights under this Agreement;
- (b) Pay in full all outstanding amounts due to PDRI, Franchisee's employees, subcontractors, vendors and suppliers;
- (c) Refrain from using the Marks or any name or initials similar thereto in Franchisee's corporate name, on signs, places of business or advertising of any nature, directly or indirectly;
- (d) Surrender to PDRI the Operations Manual and refrain from using the Franchise System and all procedures and methods contained in the Operations Manual for the conduct of any business at any time or any place thereafter forever;
- (e) Assign to PDRI or its designee, or, at PDRI's election, disconnect, any telephone numbers, internet addresses, and Domain Names (URLs) used in operating, or associated with, the Franchise Business;
- (f) De-identify all premises used in operating the Franchise Business, including, but not limited to, removal and destruction of signs, markings and materials containing the Marks;
- (g) Forego use of and destroy any materials containing the Marks; and
- (h) Abide by the Non-Competition and Trade Secrets provisions set forth herein; and
- (i) Surrender to PDRI or its designated representative all lists and contact information for all customers, clients, suppliers, and subcontractors with which the Franchise Business has had business relations of any kind.

17.2 Rights of PDRI. Upon termination of this Agreement for any reason PDRI may, in its



sole discretion:

(a) Enter Franchisee's premises and destroy all computer programs supplied by PDRI or containing PDRI's Trade Secrets, on any and all computers owned, leased, rented or in any way operated for the benefit of Franchisee;

(b) Have all existing telephone numbers, internet addresses, and Domain which have been used in any way in the operation of, or associated with the Franchise Business transferred, disconnected or referred to another number;

(c) Collect the Operations Manual and any other of PDRI's proprietary material;

(d) Sell the franchise rights for the Franchise Territory to another party and retain all proceeds; and

(e) De-identify the premises at Franchisee's expense to the extent such de-identification has not been timely accomplished by Franchisee.

## **18. ASSIGNMENT, SALE OR TRANSFER**

18.1 Restriction on Transfers. "Transfer" shall mean any sale, assignment, transfer or encumbrance, in whole or part, of: (i) this Agreement; (ii) Principal Owner's or Franchisee's rights and interests under this Agreement; or (iii) the capital stock or other ownership interest of the Franchisee. "Minority Transfer" shall mean any Transfer of less than fifty percent (50%) of the total capital stock or other ownership interest of Franchisee, measured both individually and in the aggregate of all Minority Transfers and which does not result in the change of majority control of Franchisee. Franchisee and Principal Owner shall not make any Transfer (including Minority Transfers) without the prior written consent of PDRI, which shall not be unreasonably withheld. In addition to the consent of PDRI, all Transfers shall be conditioned on the following:

(a) Franchisee shall have submitted to PDRI a written request for PDRI's consent to Transfer, accompanied by a copy of the fully executed agreement for such Transfer (the "Transfer Contract");

(b) Franchisee shall have paid to PDRI a non-refundable transfer fee of \$5,000 (\$1,000 in the case of a Minority Transfer);

(c) Franchisee shall be in full compliance with all of Franchisee's obligations under this Agreement and any other agreement between Franchisee and PDRI including the payment of all sums due PDRI;

(d) The proposed transferee shall agree to assume all liabilities of Franchisee for completion of work in progress and for servicing all warranties in effect for work completed by Franchisee;

(e) The proposed transferee shall have completed, to the satisfaction of PDRI, all documents required by PDRI as part of its then current application process and shall meet PDRI's then current criteria for the granting of a new franchise, including a personal interview with PDRI representatives; and

(f) The proposed transferee shall have agreed with PDRI to:

- (i) attend PDRI's next available training program for new franchisees at a time and location designated by PDRI;
- (ii) pay to PDRI the then established training fees for all training required to qualify the proposed transferee as a new franchisee (currently such fees are \$11,000 for a Transfer or \$2,500 for a Minority Transfer);
- (iii) execute the then-current franchise agreement (the standard franchise agreement used for a new franchise) and accept all obligations required of the franchisee under such franchise agreement (excluding the payment of the initial franchise fee); and
- (iv) assume all conditions and obligations set forth in section 13 hereof, holding PDRI harmless for loss or damage to third parties.

18.2 Sale of Franchise to Transferee Identified by PDRI. Franchisee acknowledges that PDRI invests in on-going efforts to identify and develop prospects for franchise sales. In the event of the sale of any interest in the Franchise Business to a transferee that was first identified as a sales prospect by PDRI or any sales agent engaged by PDRI, then Franchisee shall pay (due upon closing) to PDRI the sum of \$25,000 or such greater sum as PDRI may be obligated to pay any such sales agent. An individual shall be identified as a PDRI sales prospect by PDRI's receipt of a Confidential Information Form ("CIF") from the individual that was not first associated with a transfer transaction.

18.3 Right of First Refusal. At any time within thirty (30) days after receipt by PDRI of both the written request to consent to a Transfer and a copy of the Transfer Contract, PDRI shall have the option to purchase or otherwise acquire such of Franchisee's rights under this Agreement, together with all such other property and rights of Franchisee comprising the subject matter of the Transfer Contract, upon the same terms and conditions as those set forth in the Transfer Contract. PDRI may exercise its option by giving written notice of its acceptance to Franchisee. The provisions of this paragraph shall not apply to any proposed Transfer to any child, parent, sibling or spouse of Principal Owner.

18.4 Involuntary Transfer. The personal confidence reposed in Principal Owner is a material part of the consideration for PDRI's entering into this Agreement and no person or entity shall succeed to any of the rights of Franchisee or Principal Owner under this Agreement by virtue of any voluntary or involuntary proceeding in bankruptcy, receivership, attachment, execution, assignment for the benefit of creditors or other legal process.

18.5 Violation. Any attempt by Franchisee or Principal Owner to affect a Transfer without the prior written consent of PDRI shall constitute a material breach of this Agreement and any such Transfer shall be null and void.

18.6 Transfers to Heirs. The legal heirs of Principal Owner may inherit the Principal Owner's rights under this Agreement, subject to approval by PDRI and completion by the new Principal Owner at PDRI's training program within three (3) months after the date of transfer. Such heirs shall be subject to all of Franchisee's obligations hereunder.

18.7 Transfers by PDRI. PDRI may assign, sell, transfer or encumber its rights under this Agreement without the prior consent of Franchisee. Any such assignment, sale, transfer or

encumbrance by PDRI shall relieve PDRI of its liability to Franchisee under the terms of this Agreement.

## **19. REFUND POLICY**

19.1 **No Refund.** Neither Franchisee nor Principal Owner, upon termination or cancellation of this Agreement or the franchise for any reason, shall be entitled to any refund or rebate in whole or in part of the Franchise Fee, or of any Royalty Fee or other fees herein agreed to be paid, other than as provided in Section 8.6 of this Agreement.

## **20. NON-COMPETITION; POST TERMINATION COMMISSIONS; AND TRADE SECRETS**

20.1 **Non-Competition.** Franchisee and Principal Owner hereby agree to the following limitations on their right to engage in the business of emergency services (including drying, cleaning, decontamination, repair, board-up, demolition, loss mitigation, and mold remediation), insurance restoration construction and reconstruction, and remodeling of residential and commercial buildings, structures and contents (collectively, "PDRI's Business"):

(a) During the term of this Agreement, any conduct of PDRI's Business shall be subject to the terms of this Agreement and Franchisee and Principal Owner shall not otherwise directly or indirectly engage in PDRI's Business.

(b) During the two (2) year period commencing on the termination of this Agreement, including, but not limited to: (i) termination for any reason, including at PDRI's option during the training period or termination for breach of this Agreement; (ii) the non-renewal of this Agreement for any reason; or (iii) a termination in connection with a Transfer (collectively, "Termination"), Franchisee and Principal Owner shall not directly or indirectly engage in PDRI's Business within the Franchise Territory.

(c) During the two (2) year period commencing on Termination, Franchisee and Principal Owner shall not directly or indirectly engage in PDRI'S Business within one hundred (100) miles of the Franchise Territory.

(d) Franchisee and Principal Owner acknowledge that the limitations contained in this section 20.1 are necessary to protect the legitimate business interests of PDRI, including, but not limited to, its confidential business processes and training provided to Franchisee and Principal Owner, protection of its trade secrets, as defined herein, and its right to rebrand the Franchise Territory. PDRI shall be entitled, in addition to any other remedies that it may have under this Agreement or otherwise, to preliminary and permanent injunctive and other equitable relief to prevent or curtail any breach or threatened breach of this Agreement by Franchisee or Principal Owner. No reference in this Agreement to a specific legal or equitable remedy shall be construed as a waiver of other legal or equitable remedies in the event of such a breach.

(e) For purposes of this Article, the term "directly or indirectly" engaging in PDRI's Business shall include, without limitation: (i) acting as an agent, representative, consultant, officer, director, independent contractor or employee of any entity or enterprise; and (ii) participating directly or indirectly in any such entity or enterprise as an owner, partner, limited partner, joint venturer, material creditor or stockholder (except as a stockholder holding less than a one percent (1%) interest in a corporation whose shares are traded on a national securities exchange or in the over-the-counter market).

(f) Except to the extent required to operate the Franchise Business and to train its employees, Franchisee and Principal Owner agree that they will at no time, reveal any of the methods or systems used by PDRI in its business to any party unless written permission is given in advance by PDRI.

20.2 Post Termination Commissions. Franchisee and Principal Owner acknowledge that they may develop relationships with various insurance companies (each an "Insurance Company") as a result of introductions by PDRI or by other PDRI franchisees or their status as a PDRI franchisee. Franchisee and Principal Owner each agree that for a period of two years following Termination that any business that Franchisee or Principal Owner accepts from an insurance company shall automatically result in a sales commission of 25% of the gross sales amount, immediately due and payable from Franchisee and Principal Owner to PDRI. For purposes of this section 22.2, the term Insurance Company shall include any person or entity acting on behalf of an Insurance Company to assign, arrange for, or manage reconstruction, restoration or cleaning services for losses insured by such Insurance Company.

20.3 Trade Secrets. Franchisee and Principal Owner hereby agree to the following limitations on their right and the right of Franchisee's employees to use certain information obtained in connection with this Agreement:

(a) Trade Secret Defined. Upon completion of the Training Program, Franchisee shall possess certain secret and confidential information of PDRI consisting of customer lists; contract forms; appraisal techniques; ideas and data contained in the Operations Manual; knowledge of sales and profit performance of PDRI's other franchisees; sources of supply; and other methods, techniques, know-how, formulas and data, now existing or hereinafter developed or acquired relating to the operation and franchising of a PDES franchise, but not including information or techniques in the public domain and generally known and used by mitigation, cleaning and emergency service providers other than through disclosure by Franchisee. All of the foregoing is hereinafter referred to as the "Trade Secrets."

(b) Right to Use Trade Secrets. PDRI shall disclose the Trade Secrets to Franchisee by lending to Franchisee, for the term of this Agreement, the Operations Manual and other written materials, all containing the Trade Secrets, through training and assistance provided to Franchisee, and by and through the performance of PDRI's other obligations under this Agreement. Franchisee acknowledges that PDRI is the sole owner of all Trade Secrets; that such information is being imparted to Franchisee only by reason of its special status as a PDES Franchisee; and that the Trade Secrets are not generally known to the trade or public and are not known to Franchisee except by reason of such disclosure. Franchisee further acknowledges that it shall acquire no interest in the Trade Secrets other than the right to use them in the development and operation of the Franchise Business during the term of this Agreement. Franchisee further acknowledges that the use or duplication of the Trade Secrets except as expressly permitted by this Agreement shall constitute an unfair method of competition and that PDRI shall suffer irreparable injury thereby.

(c) Covenant Not to Disclose. Franchisee acknowledges that the Trade Secrets are disclosed to Franchisee solely on the condition that Franchisee does agree that Franchisee will: (i) use the Trade Secrets only in strict accordance with the Operations Manual and with directions given by PDRI from time to time; will not use the Trade Secrets in any other business or capacity; maintain the absolute confidentiality of the Trade Secrets during and after the term of this Agreement; not duplicate, copy or otherwise reproduce any written materials or computer software containing the Trade Secrets unless it has received prior written consent from PDRI;

and immediately notify PDRI in writing of any suspected or actual use of the Trade Secrets by a third party.

(d) Covenant to Secure Materials. Franchisee shall keep the Operations Manual and other written materials containing the Trade Secrets in a secure location and shall maintain control over such materials at all times. Franchisee shall disclose the Trade Secrets to employees only to the extent required for such employees to perform their duties of employment.

(e) Changes to Trade Secrets. PDRI retains the right to make additions, deletions and revisions to the Trade Secrets. Such changes shall become binding upon Franchisee upon notification thereof and Franchisee agrees to take all steps necessary to implement such changes and to update all written materials evidencing such changes.

20.4 Reformation of Provisions. Any arbitration panel or court of law shall have the right to reform this article to make it reasonable and enforceable under applicable law. PDRI reserves the right to reduce the scope of Franchisee's obligations under the foregoing covenants without Franchisee's consent, effective immediately upon notice.

## **21. DISPUTE RESOLUTION**

21.1 Arbitration. Any controversy or claim arising out of or relating to this Agreement or the operation of the Franchise Business or the actual or attempted acquisition or disposition of the franchise rights or Franchise Business shall be settled by binding arbitration in accordance with the arbitration procedures set forth in the Operations Manual. Any arbitration governed by this Agreement shall not be given class status. The obligation to arbitrate shall survive the Termination, Transfer or non-renewal of this Agreement.

21.2 Costs and Attorneys' Fees. In any dispute arising out of this Agreement each party shall be responsible for their own costs and expenses, including attorneys' fees, provided, however, that any party hereunder failing to comply with Section 21.1 above including, but not limited to, failing or refusing to arbitrate a dispute or to abide by or comply with an arbitration award shall be liable to the other party for all costs and attorneys' fees incurred in enforcing the arbitration provisions.

21.3 Bankruptcy Costs and Attorneys Fees. In the event of a bankruptcy by the Franchisee, the Franchisee shall be liable to PDRI for all of PDRI's costs and attorneys fees associated with the bankruptcy.

21.4 Federal Arbitration Act. Any controversies or disputes concerning the enforceability or scope of this arbitration agreement shall be governed by the Federal Arbitration Act, 9 U.S.C. 1, et. seq. (the "FAA"), and Franchisee acknowledges that, notwithstanding any contrary language in PDRI's Franchise Disclosure Document or in any state addendum to this Agreement, the FAA preempts any state law restrictions on the enforcement of this arbitration agreement according to its terms and it is the intent and agreement of the parties that this arbitration agreement be enforced to the maximum extent allowed by law.

## **22. RECEIPT OF FRANCHISE DISCLOSURE DOCUMENT**

22.1 Acknowledgment of Receipt. Franchisee and Principal Owner acknowledge their receipt of a PDES Franchise Disclosure Document at least fourteen (14) days prior to signing this

Agreement.

### **23. MISCELLANEOUS**

23.1 Only Written Modifications. No other agreement or understanding hereafter modifying or supplementing this Agreement shall be binding on either party unless confirmed in writing and signed by the duly authorized representatives of each party.

23.2 Effect of Invalidity of a Clause. Should any provision, word, phrase, sentence, clause or paragraph of this Agreement be declared invalid or illegal by any arbitration panel or court, then such invalidity or illegality shall not affect the remainder of this Agreement which shall remain in full force and effect and shall be construed in all respects as if such invalidity or illegality were omitted.

23.3 No Implied Waiver. No waiver or forbearance of any breach of any term or obligation of Agreement shall be deemed or considered as a waiver in the future of any new or continuing breach of the terms or obligations of this Agreement.

23.4 Governing Law. This Agreement shall be deemed to have been written, approved and accepted at Jacksonville, Duval County, Florida, and the construction and interpretation of this Agreement, wherever executed and wherever to be performed, shall be governed by and construed under the laws of the State of Florida, excluding its conflict of laws principals. In the event of any conflict between this Agreement and the Operations Manual, the provisions of this Agreement shall govern.

23.5 Provision of Notice. Any notices required to be given by this Agreement shall be directed to PDRI, Franchisee or any one of the Principal Owner(s) at their respective last known business address. The notice must be delivered prepaid by one of the following methods: personal delivery; Federal Express® or other similar overnight delivery service; verified facsimile transmission; or United States express, certified, or registered mail, return receipt requested. A notice shall be deemed received on the earliest of the day it was actually received, the day its delivery was refused, or the third business day following the day it was deposited with one of the specified carriers.

23.6 Integration of Agreement. This Agreement, including all addenda signed by the parties, contains the entire agreement between the parties. All prior and collateral representations, promises and conditions in connection with the subject matter hereof are deemed to have been merged herein, and any representation, promise or condition not incorporated herein shall not be binding upon either party. Nothing contained in this Agreement is intended to disclaim the representations made by PDRI in the Franchise disclosure document provided to Franchisee.

23.7 Counterpart Execution. This Agreement may be executed in counterparts and each such counterpart is deemed an original. The signature of any party on any one counterpart binds that party to the Agreement.

**(signature page follows)**

**IN WITNESS WHEREOF**, the parties hereto have signed, sealed and delivered this Agreement effective the day and year first written above written.

**PDRI:**

PAUL DAVIS RESTORATION, INC.

\_\_\_\_\_  
date signed

By: \_\_\_\_\_  
Its: \_\_\_\_\_ President

**PRINCIPAL OWNER:**                      (% OWNERSHIP)

\_\_\_\_\_  
date signed

\_\_\_\_\_  
Print name: \_\_\_\_\_ (\_\_\_\_\_%)

\_\_\_\_\_  
date signed

\_\_\_\_\_  
Print name: \_\_\_\_\_ (\_\_\_\_\_%)

**FRANCHISEE:**

\_\_\_\_\_  
(corporate or LLC name)

\_\_\_\_\_  
date signed

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT A**

**Description of the Franchise Territory**



**PAUL DAVIS RESTORATION, INC.  
CALIFORNIA**

**ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN  
THE STATE OF CALIFORNIA ARE HEREBY AMENDED AS FOLLOWS:**

1. Section 31125 of the California Corporation Code requires the Franchisor to give you a disclosure document, in a form and containing such information as the Commissioner may by rule or order require, prior to solicitation of a proposed material modification of an existing franchise.
2. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.
3. The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec 101 et seq.).
4. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This may not be enforceable under California law.
5. The Franchise Agreement requires binding arbitration. This provision may not be enforceable under California law.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**PAUL DAVIS RESTORATION, INC.**

**Franchisee:**

\_\_\_\_\_

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

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

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

\_\_\_\_\_

Print Name

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

**PAUL DAVIS RESTORATION, INC.  
ILLINOIS**

**ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN  
THE STATE OF ILLINOIS ARE HEREBY AMENDED AS FOLLOWS:**

1. The Franchisor and Franchisee hereby acknowledge that this Agreement shall be governed by the Illinois Franchise Disclosure Act.
2. Section 41 of the Illinois Franchise Disclosure Act states that "any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act is void."
3. The conditions under which the Franchised Business may be terminated and the Franchisee's rights upon non-renewal are governed by Illinois Compiled Statutes 1992, Chapter 815, Section 705/18 through 705/20.
4. With respect to any agreement executed and operational in the State of Illinois, any governing law or choice of law clause granting authority to a state other than Illinois is hereby amended to grant authority of the Illinois Franchise Disclosure Act.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**PAUL DAVIS RESTORATION, INC.**

**Franchisee:**

\_\_\_\_\_

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

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

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

\_\_\_\_\_

Print Name

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

**PAUL DAVIS RESTORATION, INC.  
INDIANA**

**ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN  
THE STATE OF INDIANA ARE HEREBY AMENDED AS FOLLOWS:**

1. Any agreement executed in and operative within the State of Indiana shall be governed by applicable Indiana franchise laws and the right of any franchisee to institute a civil action or initiate arbitral proceedings within the State of Indiana shall not be deemed to have been abridged in any form or manner by any provisions contained in this Agreement.
2. In compliance with Indiana Code 12-2-2.7-1(9), any provisions in this Franchise Agreement relating to non-competition upon the termination or non-renewal of the Franchise Agreement shall be limited to a geographic area not greater than the Franchise Area granted in this Franchise Agreement and shall be construed in accordance with Indiana Code 23-2-2.7-1(9).
3. Indiana Code section 23-2-2.7-1(10) prohibits the choice of an exclusive forum other than Indiana.
4. Indiana Code section 23-2.2.7-1(10) prohibits the limitation of litigation. The Indiana Secretary of State has interpreted this section to prohibit provisions in contracts regarding liquidated damages. Accordingly, any provisions in the Franchise Agreement regarding liquidated damages may not be enforceable.
5. In compliance with Indiana Code 23-2-2.7-1(10), any inference contained in this Franchise Agreement to the effect that the Franchisor "is entitled" to injunctive relief shall, when applicable to a Franchise Agreement executed in and operative within the State of Indiana, hereby be deleted, understood to mean and replace the words "may seek".
6. Indiana Code section 23-2-2.5 and 23-2-2.7 supercedes the choice of law clauses of the Franchise Agreement.
7. Indiana Code section 23-2.2.7-1 makes it unlawful for a franchisor to terminate a franchise without good cause or to refuse to renew a franchise on bad faith.

8. Any reference contained in this Franchise Agreement to a prospective franchisee's "exclusive Franchise Area" shall, in any Franchise Agreement executed in and operative within the State of Indiana, hereby be deleted and replaced with the words "non-exclusive Franchise Area".
9. In compliance with Indiana Code 23-2-2.7-1(5), any requirement that the Franchisee must execute a release upon termination of this Agreement shall not be mandatory and is hereby made discretionary. However, Franchisee shall execute all other documents necessary to fully rescind all agreements between the parties under this Agreement.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**PAUL DAVIS RESTORATION, INC.**

**Franchisee:**

\_\_\_\_\_

\_\_\_\_\_

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

Print Name

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

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

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

|

**PAUL DAVIS RESTORATION, INC.  
MINNESOTA**

**ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN  
THE STATE OF MINNESOTA ARE HEREBY AMENDED AS FOLLOWS:**

1. Any reference to liquidated damages or termination penalties contained in this Franchise Agreement, shall be deleted and replaced with the words "actual damages".
2. Notwithstanding anything contained in the Franchise Agreement to the contrary, the Franchisor shall protect the Franchisee's right to use the trade marks, service marks, trade names, logotypes, symbols, and other commercial symbols belonging to the Franchisor and which the Franchisee has been permitted to use under the Franchise Agreement.
3. With respect to franchises governed by Minnesota law, the franchisor will comply with Minn. Stat. Sec. 80c. 14, Subds. 3, 4 and 5 which require, except in certain specified cases, that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the Franchise Agreement.
4. Any reference contained in the Franchise Agreement to the effect that the Franchisor "is entitled" to injunctive relief, or any imputation that the Franchisee can waive any rights under any law shall, in any Franchise Agreement entered into in the State of Minnesota be deleted and replaced with the words, "may seek".
5. Notwithstanding anything to the contrary in the Franchise Agreement, pursuant to Minn. Stat. Sec. 80C.21 and Minn. Rule Part 2860.4400J, the Franchisor is prohibited from requiring litigation to be conducted outside Minnesota. In addition, nothing in the offering circular or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
6. With respect to franchises governed by Minnesota law, Franchisor will comply with Minn. Rule 2860.4400D which prohibits a franchisor from requiring a franchisee to assent to a general release as a requirement to renew or extend.

The undersigned agree and acknowledge that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**PAUL DAVIS RESTORATION, INC.**

**Franchisee:**

\_\_\_\_\_

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

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

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

\_\_\_\_\_

Print Name

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

**PAUL DAVIS RESTORATION, INC.  
NEW YORK**

**ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN  
THE STATE OF NEW YORK ARE HEREBY AMENDED AS FOLLOWS:**

The foregoing choice of law should not be considered a waiver of any right conferred upon Franchisor or upon Franchisee by the General Business Law of the State of New York, Article 33.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**PAUL DAVIS RESTORATION, INC.**

**Franchisee:**

\_\_\_\_\_

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

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

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

\_\_\_\_\_

Print Name

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

**PAUL DAVIS RESTORATION, INC.  
RHODE ISLAND**

**ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN  
THE STATE OF RHODE ISLAND ARE HEREBY AMENDED AS FOLLOWS:**

1. Pursuant to the Rhode Island Franchise Investment Act, the choice of jurisdiction and venue provisions of this Franchise Agreement shall be governed by Section 19-28.1-14 of the Act.
2. Pursuant to Section 19-28.1-15 of the Act, any condition, stipulation or provision in this Franchise Agreement requiring a franchisee to waive compliance with or relieving a person of a duty of liability imposed by or a right provided by this Act or a rule or order under this Act is void. An acknowledgment provision, disclaimer or integration clause or a provision having a similar effect in the Franchise Agreement does not negate or act to remove from judicial review any statement, misrepresentations or action that would violate this Act or a rule or order under this Act. This section shall not affect the settlement of disputes, claims or civil lawsuits arising or brought under this Act.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**PAUL DAVIS RESTORATION, INC.**

**Franchisee:**

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

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

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

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

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



**PAUL DAVIS RESTORATION, INC.  
WASHINGTON**

**ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN  
THE STATE OF WASHINGTON ARE HEREBY AMENDED AS FOLLOWS:**

1. The State of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.
2. In any arbitration involving a franchise purchased in Washington, the arbitration site shall be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator.
3. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act shall prevail.
4. A release or waiver of rights executed by the franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, rights or remedies under the Act, such as rights to jury trial may not be enforceable.
5. Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**PAUL DAVIS RESTORATION, INC.**

**Franchisee:**

\_\_\_\_\_

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

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

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

\_\_\_\_\_

Print Name

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

**PAUL DAVIS RESTORATION, INC.  
WISCONSIN**

**ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN  
THE STATE OF WISCONSIN ARE HEREBY AMENDED AS FOLLOWS:**

The Franchisor and Franchisee hereby acknowledge that the Franchise Agreement shall be governed by The Wisconsin Fair Dealership Law (Wisconsin Statutes, 1979-1980, Title XIV-A, Chapter 135, Sections 135.01 through 135.07) which makes it unlawful for a franchisor to terminate, cancel or fail to renew a franchise without good cause, as well as providing other protections and rights to the franchisee. To the extent anything in the Franchise Agreement is contrary to the laws in the State of Wisconsin, said laws shall prevail.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**PAUL DAVIS RESTORATION, INC.**

**Franchisee:**

\_\_\_\_\_

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

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

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

\_\_\_\_\_

Print Name

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

## **EXHIBIT D**

### **Schedule of State Administrators and Agents for Service of Process**

**STATE ADMINISTRATORS AND  
AGENT FOR SERVICE OF PROCESS**

<b>State</b>	<b>State Administrator</b>	<b>Agent for Service of Process</b>
California	Commissioner of Corporations 320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013-2344 (213) 576-7500 Toll Free (866) 275-2677	Commissioner of Corporations Department of Corporations 320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013-2344 Toll Free (866) 275-2677
Hawaii	Director, Department of Commerce and Consumer Affairs Business Registration Division King Kalakaua Building 335 Merchant Street, Room 203 Honolulu, HI 96813 (808) 586-2744	Director, Department of Commerce and Consumer Affairs Business Registration Division King Kalakaua Building 335 Merchant Street, Room 203 Honolulu, HI 96813
Illinois	Illinois Attorney General Franchise Bureau 500 South Second Street Springfield, IL 62706 (217) 782-4465	Illinois Attorney General Franchise Bureau 500 South Second Street Springfield, IL 62706
Indiana	Commissioner Indiana Securities Division 302 W. Washington St., Room E-111 Indianapolis, IN 46204 (317) 232-6681	Indiana Secretary of State 201 State House 200 W. Washington Street Indianapolis, IN 46204
Maryland	Maryland Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-7042	Maryland Securities Commissioner Maryland Securities Division 200 St. Paul Place Baltimore, MD 21202-2020
Michigan	Consumer Protection Division Franchise Section 670 Law Building P.O. Box 30213 Lansing, MI 48909-8236 (517) 335-0855	Director Corporation Division 2501 Woodlake Circle Okemos, MI 48864
Minnesota	Department of Commerce 85 7th Place East, Suite 500 St. Paul, MN 55101 (612) 296-6328	Commissioner of Commerce Department of Commerce 85 7th Place East, Suite 500 St. Paul, MN 55101
New York	New York State Department of Law Bureau of Investor Protection and Securities 120 Broadway, 23rd Floor New York, NY 10271 (212) 416-8211	New York Secretary of State 41 State Street Albany, NY 12231

<b>State</b>	<b>State Administrator</b>	<b>Agent for Service of Process</b>
North Dakota	Securities Commissioner State Capitol, 5th Floor 600 East Boulevard Bismarck, ND 58505-0510 (701) 328-2910	Securities Commissioner State Capitol 5th Floor 600 East Boulevard Bismarck, ND 58505-0510
Rhode Island	Division of Securities Department of Business Regulation 233 Richmond Street, Suite 232 Providence, RI 02903 (401) 272-3048	Director Department of Business Regulation 233 Richmond Street, Suite 232 Providence, RI 02903
South Dakota	SD Department of Revenue and Regulation Division of Securities 445 E. Capitol Avenue Pierre, SD 57501-3185 (605) 773-4823	SD Department of Revenue and Regulation Division of Securities 445 E. Capitol Avenue Pierre, SD 57501-3185
Utah	No State Administrator	Corporation Service Company Gateway Tower East, Suite 900 10 East South Temple Salt Lake City, UT 84133
Virginia	State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9 <sup>th</sup> Floor Richmond, VA 23219 Telephone: (804) 371-9051	Clerk of the State Corporation Commission 1300 East Main Street 1 <sup>st</sup> Floor Richmond, VA 23219
Washington	Administrator Department of Financial Institutions Securities Division P.O. Box 9033 Olympia, WA 98501-9033 (360) 902-8760	Administrator Department of Financial Institutions Securities Division P.O. Box 9033 Olympia, WA 98501-9033
Wisconsin	Division of Securities Department of Financial Institutions 345 West Washington Avenue, 4 <sup>th</sup> Floor Madison, WI 53703 (608) 266-8559	Commissioner of Securities 345 West Washington Avenue 4 <sup>th</sup> Floor Madison, WI 53703

**AGENT FOR SERVICE OF PROCESS IN ALL OTHER STATES IS ON THE NEXT PAGE.**

**AGENT FOR SERVICE OF PROCESS IN ALL OTHER STATES**

**AGENT FOR SERVICE OF PROCESS IN ALL OTHER STATES**

Paul Davis Restoration, Inc.  
One Independent Drive  
Suite 2300  
Jacksonville, FL 32202  
Att.: President

Tel: (904) 737-2779

# **EXHIBIT E**

## **State Addenda**



## **ADDENDUM TO DISCLOSURE DOCUMENT FOR THE STATE OF CALIFORNIA**

1. Neither the franchisor nor any person in Item 2 of the disclosure document is subject to any currently effective order of any national securities association or national securities exchange as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling such person from membership in that association or exchange.
2. The California Franchise Investment Law requires that a copy of all proposed agreements relating to the sale of the franchise be delivered together with the disclosure document.
3. The Franchise Agreement requires binding arbitration. The arbitration will occur at a site chosen by the arbitrators with the costs being borne by each party except where a party fails to comply with the arbitration provisions of the Franchise Agreement, in which case, that party shall be liable to the other party for all costs and attorneys' fees incurred by the other party to enforce the arbitration provision.
4. The following paragraph is added to the end of Item 6 of the disclosure document  
  
A. Liquidated Damages Provision:  
  
If the Franchise Agreement contains any liquidated damage clauses, California Civil Code Section 1671 may render them unenforceable.
5. The following paragraph is added at the end of Item 10 of the disclosure document  
  
We will comply with all appropriate laws governing any direct financing offered by us to you including, if applicable, the California Finance Lenders Law.
6. The following paragraphs are added at the end of Item 17 of the disclosure document:  
  
A. Termination and Non-Renewal:  
  
California Business and Professional Code Sections 200000 through 20043 provide rights to franchisees concerning termination or non-renewal of a franchise. If the Franchise Agreement contains any provision that is inconsistent with the law, the law, as amended from time to time, will control.  
  
B. Post Termination Non-Competition Covenants:  
  
Any non-competition and non-solicitation agreement containing a covenant not to compete that extends beyond the termination/expiration of the franchise, may not be enforceable under California law.  
  
C. Liquidated Damages Provision:  
  
If the Franchise Agreement contains any liquidated damage clauses, California Civil Code Section 1671 may render them unenforceable.  
  
D. Termination upon Insolvency, Bankruptcy or Reorganization:  
  
Where the Franchise Agreement provides for termination upon insolvency, bankruptcy or reorganization, such a provision might not be enforceable under California Law.

E. Material Modifications:

Section 31125 of the Franchise Investment Law requires us to give you a disclosure document approved by the Commissioner of Corporations before we ask you to consider a material modification of your Franchise Agreement.

7. The following paragraph is added at the end of Item 19 of the disclosure document:

**NOTICE REQUIRED BY THE STATE OF CALIFORNIA**

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

## NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF ILLINOIS

The following are revisions to Item 17 of the disclosure document:

The Illinois Franchise Disclosure Act applies. The conditions under which the franchise can be terminated and the rights upon non-renewal may be affected and are governed by Illinois Compiled Statutes 1992, Chapter 815, Section 705/18 through 705/20.

With respect to any agreement executed and operational in the State of Illinois, any governing law or choice of law clause granting authority to a state other than Illinois is hereby amended to grant authority of the Illinois Franchise Disclosure Act.

Jurisdiction and venue for any dispute arising out of the Franchise Agreement shall be in the State of Illinois except in the case of arbitration, which shall be conducted pursuant to Article 18.2 of the Franchise Agreement.

Dated: \_\_\_\_\_

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

\_\_\_\_\_  
Printed name of Prospective Franchisee

## **NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF INDIANA**

The following are revisions to Item 17 of the disclosure document:

Indiana Code section 23-2.7-1(9) prohibits provisions in contracts which require a franchisee to covenant not to compete with the franchisor for a period longer than three (3) years or in an area greater than the exclusive area granted by the Franchise Agreement upon termination or failure to renew the Franchise Agreement. Accordingly, in the State of Indiana, upon termination of the Franchise Agreement, you cannot be involved in a competing business for one (1) year within your exclusive Franchise Territory.

Indiana Code section 23-2.2.7-1(10) prohibits the limitation of litigation. The Indiana Secretary of State has interpreted this section to prohibit provisions in contracts regarding liquidated damages. Accordingly, the provisions in the Franchise Agreement regarding liquidated damages may not be enforceable.

Indiana Code section 23-2-2.7-1(10) prohibits the choice of an exclusive forum other than Indiana.

Indiana Code section 23-2-2.5 and 23-2-2.7 supersedes the choice of law clauses of the Franchise Agreement.

## NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF MICHIGAN

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

- (A) A prohibition on the right of a franchisee to join an association of franchisees.
- (B) A requirement that a franchisee assent to release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (C) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (D) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are subject to compensation. This subsection applies only if: (1) the term of the franchise is less than 5 years and (2) the franchisees is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of the franchisor's intent not to renew the franchise.
- (E) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (F) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (G) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
  - (1) the failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.
  - (2) the fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
  - (3) the unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
  - (4) the failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

- (H) A provision that require the franchisee to resell to the franchisor item that are not uniquely identified with the franchisor. This subdivision does no prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bond fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provision of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).
- (I) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

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

ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE ADDRESSED TO:

DEPARTMENT OF ATTORNEY GENERAL  
CONSUMER PROTECTION DIVISION  
670 LAW BUILDING, 525 W. OTTAWA STREET  
LANSING, MICHIGAN 48913

Telephone (517) 373-7117

## **NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF MINNESOTA**

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

Notwithstanding anything to the contrary in the Franchise Agreement, pursuant to Minn. Stat. Sec. 80C.21 and Minn. Rule Part 2860.4400J, the Franchisor is prohibited from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

Notwithstanding anything contained in the Franchise Agreement to the contrary, the Franchisor shall protect the Franchisee's right to use the trade marks, service marks, trade names, logotypes, symbols, and other commercial symbols belonging to the Franchisor and which the Franchisee has been permitted to use under the Franchise Agreement.

## NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF NEW YORK

ALTHOUGH THESE FRANCHISES HAVE BEEN ACCEPTED FOR FILING, SUCH FILING UNDER GENERAL BUSINESS LAW, ART. 33 OF THE STATE OF NEW YORK DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OF ENDORSEMENT BY THE NEW YORK STATE DEPARTMENT OF LAW THAT THE INFORMATION PROVIDED HEREIN IS TRUE. THE DEPARTMENT'S REVIEW DID NOT INCLUDE A DETAILED EXAMINATION OF THE MATERIALS SUBMITTED. A FALSE, INCOMPLETE, INACCURATE OR MISLEADING STATEMENT MAY CONSTITUTE A VIOLATION OF BOTH FEDERAL AND STATE LAW, AND SHOULD BE REPORTED TO BOTH THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND THE NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 120 BROADWAY, NEW YORK, NEW YORK 10271.

GENERAL BUSINESS LAW, ARTICLE 33 OF THE STATE OF NEW YORK MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WHICH IS SUBJECT TO REGISTRATION WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE A COPY OF THE OFFERING PROSPECTUS, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE AT THE EARLIER OF (a) THE FIRST PERSONAL MEETING BETWEEN THE FRANCHISOR OR ITS AGENT AND THE PROSPECTIVE FRANCHISEE, (b) AT LEAST TEN BUSINESS DAYS PRIOR TO THE EXECUTION OF A BINDING FRANCHISE OR OTHER AGREEMENT OR (c) AT LEAST TEN DAYS PRIOR TO THE RECEIPT OF ANY CONSIDERATION IN CONNECTION WITH THE SALE OR PROPOSED SALE OF A FRANCHISE.

The following are revisions to Item 3 of the disclosure document:

Other than the matters described above, neither PDRI nor any person identified in Item 2: (1) has any pending administrative, criminal or material civil action alleging a violation of any franchise law, securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations; (2) has been convicted of a felony or pleaded *nolo contendere* to a felony charge or, within the ten year period immediately preceding the application for registration, has been convicted of a misdemeanor or pleaded *nolo contendere* to a misdemeanor charge or been held liable in a civil action by final judgment or been the subject of a material complaint or other legal proceeding if such misdemeanor conviction or charge or civil action, complaint or other legal proceeding involved violation of any franchise law, securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations; or (3) is subject to any injunctive or restrictive order or decree relating to franchises or under any Federal, State or Canadian franchise, securities, antitrust, trade regulation or trade practice law as a result of a concluded or pending action or proceeding brought by a public agency.

The following are revisions to Item 4 of the disclosure document:

Neither PDRI, nor its affiliates, officers, or directors during the 10 year period immediately preceding the date of the offering prospectus have (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within one (1) year after the officer or general partner of the franchisor held this position in the company or partnership.



The following are revisions to Item 5 of the disclosure document:

The Initial Franchise Fee is to be used for the purpose of sales development, training, and marketing costs as set forth in Item 7.

The following are revisions to Item 17D of the disclosure document:

The franchisee may terminate the agreement upon any grounds available by law.

## **NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF WASHINGTON**

The State of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

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

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

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

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

**NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF WISCONSIN**

IN THE STATE OF WISCONSIN CHAPTER 135 OF THE WISCONSIN FAIR DEALERSHIP LAW GOVERNS THIS AGREEMENT. YOU MAY WANT TO REVIEW THIS LAW.

# **EXHIBIT F**

## **Promissory Note**

PROMISSORY NOTE

\$\_\_\_\_.00

\_\_\_\_, 2012  
Jacksonville, Florida

FOR VALUE RECEIVED, the undersigned (collectively, the "Maker") individually, jointly and severally promises to pay to the order of Paul Davis Restoration, Inc. ("Holder") at One Independent Drive, Suite 2300, Jacksonville, Florida 32202, or at such other address as the Holder of this Note may designate in writing from time to time, the principal sum of \_\_\_\_\_ AND 00/100 DOLLARS (\$\_\_\_\_\_.00) together with interest thereon of EIGHT percent (8.0%) per annum, to be paid as follows:

monthly installments of \$\_\_\_\_\_ commencing on \_\_\_\_\_ 1, 2012, and continuing on the first (1<sup>st</sup>) day of each and every calendar month thereafter until the entire principal balance is paid in full.

If not paid in full sooner, the entire principal balance hereof, together with accrued and unpaid interest and all other sums due hereunder, shall be due and payable in full on \_\_\_\_\_ 1, 201\_. All payments hereunder are to be credited first to interest accrued and the balance to the reduction of principal.

This Note is being made in connection with a franchise agreement of even date herewith, as amended (the "Franchise Agreement"), between Holder and Maker. Maker acknowledges and agrees that the interest of Maker in the Franchise Agreement is directly related to this Note and that an event of a default under this Note shall also constitute an event of default under the Franchise Agreement. The non-payment when due of any installment under this Note shall constitute an Event of Default with respect to this Note. In addition, a default under the terms of the Franchise Agreement or a failure to abide by the terms of the Paul Davis Operations Manual shall be an Event of Default under this Note.

If an Event of Default occurs, or if any interest in the Franchise Agreement, whether in whole or in part, is sold to a third party, the Holder of this Note may declare the entire unpaid principal amount of this Note to be immediately due and payable and may proceed to protect its rights in the manner provided by applicable law. If an Event of Default occurs, the Maker shall pay all costs and expenses including reasonable attorney's fees and costs incurred by the Holder in connection with the collection of, or with the appeal of any proceeding respecting the payment or enforceability of this Note. Upon default, principal and interest shall both bear interest at the maximum legal rate until paid in full.

This Note may be prepaid in whole or in part at any time without penalty or premium. All persons now or at any time liable for payment of this Note hereby waive presentment, protest, notice of protest, and notice of dishonor. Each Maker expressly consents to any extensions and renewals, in whole or in part, and to all delays in time of payment or other performance that the Holder of this Note may grant at any time, and from time to time without limitation, and without any notice or further consent of the Maker. This

Note shall be governed by and construed and enforced according to the laws of the State of Florida.

IN WITNESS WHEREOF, the undersigned has caused this Note to be executed as of the day and year first above written.

MAKER:

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

\_\_\_\_\_  
(corporate name)

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

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

Its: \_\_\_\_\_

# **EXHIBIT G**

## **Compliance Certification**

**PAUL DAVIS RESTORATION, INC.**  
**COMPLIANCE CERTIFICATION**

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Before you sign the Franchise Agreement, we want to be sure that you understand your risks and responsibilities as a franchisee, as well as to determine whether any statements or promises were made to you that the franchisor has not authorized and that may be untrue, inaccurate, or misleading. Please review each of the following questions carefully and provide honest and complete responses to each question.

1. Have you received and personally reviewed the Franchise Agreement and each exhibit attached to it?  
  
Yes \_\_\_\_\_ No \_\_\_\_\_
2. Are there any provisions of the Franchise Agreement and/or any exhibit which you do not understand? (If yes, please specify in question 13.)  
  
Yes \_\_\_\_\_ No \_\_\_\_\_
3. Have you received and personally reviewed the franchisor's Franchise Disclosure Document ("FDD")?  
  
Yes \_\_\_\_\_ No \_\_\_\_\_
4. Did you sign a receipt for the FDD indicating the date you received it?  
  
Yes \_\_\_\_\_ No \_\_\_\_\_
5. Have you had this FDD in your possession for at least fourteen calendar days ( or at least ten business days in the states of Maryland, Michigan, New York, Oregon, Rhode Island, Washington and Wisconsin) prior to today?  
  
Yes \_\_\_\_\_ No \_\_\_\_\_
6. Is there any information contained in the FDD which you do not understand? (If yes, please specify in question 13.)  
  
Yes \_\_\_\_\_ No \_\_\_\_\_
7. Have you reviewed the lists of franchisees contained in FDD Item 20 and contacted as many of them as you felt necessary?  
  
Yes \_\_\_\_\_ No \_\_\_\_\_



8. Have you carefully reviewed the earnings information contained in FDD Item 19, including all of the explanatory notes?

Yes \_\_\_\_\_ No \_\_\_\_\_

9. Has any employee or other person speaking on behalf of the franchisor made any statement or promise concerning:

- a. the sales or earnings of prior years' franchisees which is different from or inconsistent with the information contained in FDD Item 19?

Yes \_\_\_\_\_ No \_\_\_\_\_

- b. the amount of sales or earnings that you personally may achieve as a franchisee?

Yes \_\_\_\_\_ No \_\_\_\_\_

- c. the costs you may incur in operating the franchised business or being a franchisee that is different from or inconsistent with the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

- d. the advertising, training, support service or assistance that we will furnish to you that is different from or inconsistent with the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

10. Do you understand that during the term of your franchise agreement, you will need to devote maximum personal efforts to properly operate your business?

Yes \_\_\_\_\_ No \_\_\_\_\_

11. Do you understand that your success or failure as a franchisee will depend on your skills, effort, and commitment?

Yes \_\_\_\_\_ No \_\_\_\_\_

12. Have you discussed the benefits and risks of becoming a franchisee with an attorney, accountant, or other professional advisor?

a. Yes \_\_\_\_\_ No \_\_\_\_\_

If no, do you want more time to do so?

b. Yes \_\_\_\_\_ No \_\_\_\_\_

13. If you have answered "Yes" to questions 2, 6, 9a-d or 12b or "No" to questions 10 or 11, please provide a full explanation of each such answer. (Attach additional pages, if necessary, and refer to them below.)

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.

**PROSPECTIVE FRANCHISEE**

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

# **EXHIBIT H**

## **Paul Davis Operations Manual**

# **PAUL DAVIS**

# **OPERATIONS MANUAL**

**PAUL DAVIS RESTORATION**

**PAUL DAVIS EMERGENCY SERVICES**



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# **INTRODUCTION TO THE PAUL DAVIS OPERATIONS MANUAL TABLE OF CONTENTS**

<b>Article I.</b>	<b>HOLD HARMLESS .....</b>	<b>2</b>
<b>Article II.</b>	<b>DEFINITIONS .....</b>	<b>3</b>

## **ARTICLE I HOLD HARMLESS**

Each Franchisee shall be deemed to have released each member, officer and director of all approved Paul Davis Restoration ("PDR"), Paul Davis Emergency Services ("PDES"), and Completion Services, Inc. ("CSI"), committees, including, without limitation, the National Executive Committee ("NEC"), the Strategic Marketing Committee ("SMC"), the Board of Directors of CSI, and the Executive Finance Committee ("EFC") of CSI (each of the foregoing members, officers, and directors of any such committee is hereafter referred to as an "Indemnified Party"), of and from any liability of any nature and on account of any decision, ruling, or finding rendered by an Indemnified Party or any act or thing performed or omitted by an Indemnified Party, if done or omitted in good faith and for a purpose which the Indemnified Party believed to be in the best interest of the PDR and PDES franchise systems, including CSI.

CSI shall indemnify and hold harmless each Indemnified Party against all judgments, including interest, fines, amounts paid or agreed upon in settlement, reasonable costs, and expenses including attorney's fees and any other liability, cost, fee, or expense that may be paid or incurred by an Indemnified Party as a result of any claim, action, suit, or proceeding, whether civil, criminal, administrative, or otherwise prosecuted or threatened to be prosecuted (collectively, the "Legal Costs"). Such indemnification shall not depend upon whether or not the Indemnified Party is an officer, director or member at the time such claim, action, suit, or proceeding is begun, prosecuted, or threatened nor on whether or not the liability to be indemnified was incurred or the act or omission occurred prior to the adoption of Booklet Two. This indemnification shall be deemed to have been in effect as of the election of the first National Executive Committee and the first Board of Directors of CSI.

## ARTICLE II DEFINITIONS

- 2.1 **"Active Representative"** shall mean the individual authorized to vote on behalf of a franchise and may be either a director, officer, stockholder, associate, or employee of an operating franchise.
- 2.1.1 Such active representative shall be duly designated by the owner of record of the operating franchise.
- 2.1.2 No operating franchise shall have more than one (1) active representative at any one time, and no active representative shall represent more than one (1) operating franchise at any one time.
- 2.1.3 Any disagreement concerning noncompliance that may affect a Franchisee's right to participate in a District Council meeting shall be submitted to the President and Vice President of that district, who shall rule on that Franchisee's eligibility to participate as an active franchise in the upcoming district meeting.
- 2.1.4 Any Franchisee judged to be in noncompliance shall be entitled to attend the meeting but may not take part in discussion or voting.
- 2.2 **"Arbitration Committee"** shall mean the Arbitration Committees created under Article XIII (Organization of Arbitration Committee) hereof.
- 2.3 **"District Council"** shall mean the District Councils created under Section 1.2 (Creation: District Councils) hereof.
- 2.4 **"District Executive Committee"** shall mean the executive committee consisting of the three (3) officers of each District Council created in accordance with Section 3.8 (Officers of District Councils: District Executive Committee).
- 2.5 **"Executive Finance Committee (EFC)"** shall mean the executive committee consisting of the President, Treasurer, and Assistant Treasurer of Completion Services, Inc., the President, CEO or representative of the Franchisor corporation, and one non-officer member from the Board of Directors.
- 2.6 **"Financial Institution"** shall mean any organization authorized to do business under state or federal laws relating to financial institutions, including but not limited to banks and trust companies, savings and loan companies and associations including brokerage firms, savings banks, and credit unions, registered with the Securities and Exchange Commission and with the state in which it is engaged in the business of buying and selling securities for its institutions.
- 2.7 **"Franchise"** shall mean all PDR and PDES franchises granted by the Franchisor, except that any reference to "PDR Franchise" or "PDES Franchise" shall mean only PDR franchises or PDES franchises respectively. As used herein the term "Franchise" means the franchise granted by a single franchise agreement.
- 2.8 **"Franchise Network"** shall mean and shall consist of all franchises that are from time to time a part of the PDR or PDES systems of Franchises, except that any



reference to the "PDR Franchise Network" or the "PDES Franchise Network" shall mean only PDR franchises or PDES franchises respectively.

- 2.9        **"Franchisee"** shall mean any person, corporation, partnership, trust, or other entity to whom a franchise has been granted and who has entered into a Franchise Agreement with the Franchisor that is current and in good standing.
- 2.10       **"Franchisor"** shall mean Paul Davis Restoration, Inc., a Florida corporation, and Paul Davis Systems Canada, Ltd., an Ontario corporation, and their successors.
- 2.11       **"General Council"** shall mean the General Council composed of an active representative of each operating franchise, which is created under Section 1.4 (Creation: General Council) hereof.
- 2.12       **"National Executive Committee (NEC)"** shall mean the executive committee of the franchise network created under Section 1.3 (Creation: National Executive Committee) hereof.
- 2.13       **"New Programs"** shall mean all amendments, alterations, or modifications to existing programs, services, and products offered by the Franchisor to the Franchisee and shall include all new ideas, proposals, and programs which are created or presented by any District Council or the Franchisor or any Franchisee for consideration by the National Executive Committee.
- 2.14       **"Operating Franchise"** shall mean a franchise which:
- 2.14.1     (a)     Has a Franchise Agreement between the Franchisor and a Franchisee that is in force and in good standing.
- 2.14.2     (b)     Meets all Mandatory Operating Requirements.
- 2.14.3     (c)     Is current with all accounts payable to Completion Services Inc. and the Franchisor.
- 2.14.4     (d)     Complies with the high ethical standards of the Franchise Network. (A franchise whose Franchise Agreement has been canceled or terminated shall not qualify as an "Operating Franchise.")
- 2.15       **"Paul Davis Emergency Services (PDES)"** shall mean the Franchises granted the right to operate Paul Davis Emergency Services franchises.
- 2.16       **"Paul Davis Restoration (PDR)"** shall mean the Franchises granted the right to operate Paul Davis Restoration franchises.
- 2.17       **"Proposal"** shall have the meaning set forth in Section 8.1 (Procedures for Recommendations: General).

# **PAUL DAVIS OPERATIONS MANUAL**



**BOOKLET ONE  
COOPERATIVE PROGRAMS**  
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## INTRODUCTION

This booklet contains programs accepted by the General Council and is, by reference, an integral part of each Franchise Agreement. Each article included in this booklet has been approved by the required percentage of the council members of the General Council and by the Franchisor.

Franchisees are required to participate in the programs included in this manual. The cost is to be determined from time to time by the General Council. Upon request by the General Council or the NEC the Franchisor will provide an annual report, to each Franchisee, on each of the cost sharing programs in this booklet.

Any program to which the Franchisees contribute a monthly fee may be canceled at the end of each year by a two-thirds vote of the Franchisees present and voting at the General Council or District Council meeting(s) unless another program time frame has been established.

The Franchisor and Completion Services, Inc. ("CSI"), is granted the right of offset to use any funds coming into its possession for the benefit of a particular Franchisee to pay any existing debt to CSI or the Franchisor, whether arising as a result of cooperative programs or any other legitimate business reasons.

Each franchise (defined as a single franchise agreement) shall pay a single cooperative charge for each cooperative program as set forth in the provisions for that program.

## **PENALTIES FOR FAILURE TO PAY COOPERATIVE PROGRAM FEES**

ANY FRANCHISE FAILING TO PAY ALL COOPERATIVE PROGRAM FEES ON A CURRENT BASIS WHOSE ACCOUNT BECOMES THIRTY (30) DAYS PAST DUE SHALL SUFFER THE FOLLOWING PENALTIES:

1. The franchise shall lose its right to vote in any General Council or District Council meetings.
2. The franchise shall not receive any services provided through the Franchisor for software, national sales, advertising, toll-free telephone service, consultation, etc.
3. The franchise, its employees, and its Associates shall not be eligible to receive any awards or recognition.

## **PROCEDURE FOR INSTITUTING PENALTIES**

The Franchisor shall:

1. Notify the chairman of the Compliance and Procedures Committee.
2. Give the non-complying Franchisee a ten (10) day notice in which to either bring the franchise into compliance or initiate an arbitration to seek an extension of time for compliance.
3. Any extension of time granted shall be from the time the arbitration is filed with the Franchisor and shall not exceed sixty (60) days. However, a request for further time may be filed with the Arbitration Committee twenty (20) days prior to the expiration of any previously granted extension.

If the Franchise fails either to bring its account current or obtain an extension of time from an Arbitration Committee and bring its account current during such extension, the penalties listed above shall be instituted immediately.

## **NO RELEASE OF OBLIGATION TO PAY**

Implementation of any or all of the above penalties shall not in any way alter or relieve the noncomplying Franchisee of its obligation to pay for all cooperative programs, services, royalties, etc.

## **TERMINATION OF FRANCHISE**

If the non-complying Franchise does not bring its account current within sixty days of the implementation of any or all of the above penalties, the Franchisor shall issue a notice of intent to terminate the franchise and if Franchisee still does not bring his account current within the remedy time, terminate the franchise.

## **ARTICLE I**

### **COMPUTER SOFTWARE SUPPORT AND ENHANCEMENT PROGRAM**

- 1.1.1 Each franchise will contribute \$75 per month, or such other amount as may be from time to time approved by the General Council, for computer services and for new computer programs.
- 1.1.2 In exchange for the monthly fee, Franchisor shall provide to Franchisee:
  - 1.1.2.1 1. Software and computer systems support for problems that:
    - 1.1.2.1.1 a. Are not user created.
    - 1.1.2.1.2 b. Result from following the system.
    - 1.1.2.1.3 c. Are caused by programming error.
    - 1.1.2.1.4 d. Do not result from a hardware failure.
    - 1.1.2.1.5 e. Are related to data conversion for computer system upgrades.
  - 1.1.2.2 2. All enhancements to Franchisor's existing computer programs and all new computer programs developed by Franchisor in relation to this franchise.
- 1.1.3 Franchisee acknowledges that support, enhancements, and new programs will be provided through distributed media mailed to Franchisees or via download through the Franchisor website.
- 1.1.4 Franchisee agrees that should any support or services be required of the Franchisor outside of the Franchisor's office, then Franchisee will reimburse Franchisor for all expenses incurred by Franchisor's personnel in providing the service.
- 1.1.5 PDES Franchises operate under a different computer system and do not participate in or pay fees for the Computer Software Support and Enhancement Program.

## **ARTICLE II**

### **JOINT QUALITY REVIEW PROGRAM**

- 1.2.1 Quality control is the function of the Franchisor and Franchisees and has to do with compliance with operating procedures. It was made a part of the Cooperative Programs in an effort to reduce expense to the Franchisees.
- 1.2.2 Joint Quality Reviews will be conducted by a Franchisor representative under the coordination of a Regional Manager (RM) employed by the Franchisor. The Franchisor shall be responsible for performing reviews on at least 10% of the franchises in the PDR network each year or more if required to promote uniform quality in the network. Each new (new sale or resale) franchise will be reviewed in the first 6 to 12 months of operation. The remaining reviews will be either scheduled, requested, or randomly selected based on indications that the franchise is experiencing difficulties or could benefit from special assistance.
- 1.2.3 The Joint Quality Review process will place special emphasis on support assistance. This review covers areas such as: computer reports; franchise files; operational requirements; and contracts.
- 1.2.4 The monthly charge to each franchise shall be \$50, or such other amount as may be from time to time approved by the General Council. The General Council shall determine a new monthly charge, from time to time, to reflect the change in expenses incurred by the Franchisor for this program.
- 1.2.5 If the Joint Quality Review process uncovers quality issues, the Franchisor representative shall notify the Franchisee of such issues and set a reasonable time for the correction of such issues (not less than thirty (30) days nor more than one hundred twenty (120) days).
- 1.2.6 The Franchisor will not reveal any of the information obtained through the Joint Quality Review to anyone other than (1) the Franchisee(s) or general manager of the franchise; (2) the Franchisor staff; (3) an Arbitration Committee, if so requested, and if the information is related to an issue in an arbitration; (4) the Compliance and Procedures Committee; and (5) the members of the NEC.
- 1.2.7 At the completion of each Joint Quality Review:
- 1.2.7.1 1. A confidential written report shall be given to the Franchisee covering the results of the review.
- 1.2.7.2 2. The Franchisor representative shall have the right to make copies of all forms, reports, and contracts provided as part of the review process, using the Franchisee's copying facilities and to remove such copies from the premises to be retained in a confidential manner by the Franchisor.
- 1.2.8 If during the normal course of the Joint Quality Review, cross territory infringements are found, the Franchisor shall notify both Franchisees of such infringements.

- 1.2.8.2.1 PDES Franchises operate under a different quality review program and do not participate in or pay fees for the Joint Quality Review Program.



## **ARTICLE III**

### **STRATEGIC MARKETING PLAN**

#### **1.3.1      Authority, Purpose, and Oversight**

1.3.1.1      The Strategic Marketing Plan ("SMP") was adopted by Franchisee vote as a U.S. cooperative program at the 1999 Spring District Council meetings and shall continue until modified or terminated by vote of the NEC and District Councils. Both PDR Franchises and PDES Franchises shall fully participate in the SMP.

1.3.1.2      The purpose of the SMP is to provide funding and management to engage in activities such as market research, advertising campaigns, brand development and promotion, public relations, development of promotional materials, development and support of pilot programs for new product offerings and product delivery systems, and other activities for the benefit of the Franchise Network.

1.3.1.3      The NEC has ultimate oversight authority over the SMP. In connection with the approval of the annual SMP budget, the NEC shall establish measurable goals for the SMP. At the January NEC meeting the SMP Chairperson shall present an annual report of the SMP's activities, accomplishments and achievement of goals for the preceding year.

1.3.1.4      In order to facilitate communication between the NEC and Strategic Marketing Committee ("SMC"), the SMC Chairperson shall attend NEC meetings as a non-voting member.

1.3.1.5      The Franchisor has ultimate responsibility for the strategic planning process and for determining the strategic direction of the Franchise Network. The Franchisor will seek input from the NEC and the Franchise Network in developing strategic plans and will periodically produce written plan documents. It is understood the strategic plan will be a dynamic plan, subject to continuing revision based on current market conditions and opportunities. The role of the SMC will be to provide input to the Franchisor for the strategic planning process, develop and/or review marketing plans to support the strategic plan, determine the best uses of SMP funds to support the strategic plan, and monitor and assist in the execution of the marketing plan.

#### **1.3.2      Strategic Marketing Committee (SMC)**

1.3.2.1      The SMP will be managed by the Strategic Marketing Committee ("SMC") which shall operate under the direction and control of the NEC.

1.3.2.2      The SMC shall be composed of eight Franchisee members, one from each U.S. District, and three Franchisor representatives.

1.3.2.2.1.1      For any open Franchisee positions, the respective District President shall nominate not less than two proposed franchisees. The SMC Chairperson shall select the member from the proposed franchisees, subject to approval by the NEC. All SMC Franchisee members must be current franchise owners in good standing. Any SMC Franchisee member may be removed by vote of the NEC. SMC Franchisor members shall be selected by the Franchisor.

- 1.3.2.2.1.2 SMC Franchisee representatives shall serve for three year terms commencing January 1<sup>st</sup> and may serve for up to two consecutive terms, with additional consecutive terms subject to specific NEC approval. Terms shall be staggered to provide continuity with the initial terms expiring as follows: Districts 1 and 6 – 12/31/09; Districts 2, 4, and 7 – 12/31/10; and Districts 3, 5, and 8 – 12/31/11.
- 1.3.2.2.1.3 The SMC shall elect from among its Franchisee members a Chairperson and a Treasurer, subject to approval by the NEC. The SMP Chairperson shall call all SMC meetings, establish the meeting agenda, and preside over the all SMC meetings. In the absence of the SMP Chairperson the SMC shall elect an interim Chairperson. The Treasurer shall oversee the budgeting and expenditure of SMC funds.
- 1.3.2.5 SMC meetings may be conducted by teleconference or in-person. All associated meeting expenses will be paid from the SMP fund. A quorum, consisting of at least six members including at least one Franchisor representative, is required for all SMC meetings. Decisions shall be made by majority vote of all members present and voting. Roberts Rules of Order shall govern all SMC meetings.
- 1.3.3 Funding
- 1.3.3.1 Each PDR Franchise shall contribute to the SMP fund by payment of an SMP fee consisting of: (a) a fixed monthly payment of \$125 per month, plus (b) a variable monthly payment of thirty-three hundredths of one percent (0.33%) of closed Gross Sales up to \$5 million in annual sales (\$16,500 maximum variable fee/\$18,000 maximum fixed and variable fees).
- 1.3.3.2 The Franchisor shall use a portion of the PDES marketing fee to make monthly payment of the SMP fee on behalf of the PDES Franchise Network. The SMP fee applicable to the PDES Franchise Network shall be equal to the amount of sales reported by PDES Franchises times the PDR Franchise Network SMP Percentage for the prior calendar year. The PDR Franchise Network SMP Percentage shall be the total contribution to the SMP by PDR Franchises divided by the total sales reported by PDR Franchises. For example, if in the year 2009 PDR Franchise contributions to the SMP total \$2,000,000 and PDR Franchise sales total \$500,000,000, then the PDR Franchise Network SMP Percentage would be 0.4% and the Franchisor would pay 0.4% of PDES Franchise reported sales in 2010.
- 1.3.3.3 The Franchisor shall not contribute to the SMP fund (except as provided in section 1.3.3.2). The Franchisor shall spend an amount equal to at least 50% of the annual franchisee contribution to the SMP fund on other marketing personnel, programs and activities. Within sixty days of the Franchisor's fiscal year end the Franchisor shall provide an annual accounting of such expenditures to the SMC Treasurer and shall make a cash contribution to the SMP fund in the event that the Franchisor's expenditures are less than 50% of the annual franchisee contribution.
- 1.3.3.4 The Franchisor shall maintain separate accounts and books and records for the SMP fund and shall provide to the SMP Treasurer at least monthly financial statements showing all SMP receipts and disbursements with comparison to budget for the SMP fund.
- 1.3.4 SMP Royalty Rebate

- 1.3.4.1 For any year in which total Franchise Network sales exceeds the prior year's sales by at least 7.5%, the Franchisor shall pay to qualifying Franchisees a rebate from royalties equal to 33.3% of the effective royalty on such excess sales (up to a cap of \$67 million in sales).
- 1.3.4.2. The SMC may from time to time establish a scorecard or other qualifying criteria (which may be different for PDR Franchises and PDES Franchises) for Franchisee participation in the SMC rebate. The SMC rebate shall be distributed to individual qualifying Franchises in proportion to their contribution to the SMC fund (including for PDES Franchises contributions made on their behalf by the Franchisor). The rebate may be offset against any sums due the SMC fund.
- 1.3.5 Budgeting and Spending Authority
- 1.3.5.1 Prior to the August NEC Meeting, the Franchisor shall provide an SMC revenue estimate to the SMC Treasurer for the coming year. The SMC shall incorporate the revenue estimate into its annual budget which shall be submitted to the NEC for approval at the August NEC Meeting. The budget shall provide for a reserve fund of not less than 10% and not more than 15% of annual SMP revenues. Each SMC member shall present the approved budget at their next respective District Council meeting.
- 1.3.5.2 The SMC shall have authority to make all spending decisions within the NEC approved budget, provided that any single expenditure over \$50,000 shall require specific NEC approval. The SMC may deviate from the approved budget by up to 20% per line item, provided that the total budget amount is not exceeded. The SMC Chair, with the approval of the SMC Treasurer and the Franchisor, shall have authority to authorize non-budgeted expenditures of up to \$15,000 maximum per year.
- 1.3.5.3 The SMC shall make an annual performance assessment of all vendors with annual billings in excess of \$50,000 and will solicit requests for proposals (RFPs) at least every third year.
- 1.3.5.4 All disbursements require approval by both the Franchisor VP of Business Development and the SMC Treasurer. All checks shall be signed by the Franchisor CFO. The Franchisor CEO may act in the absence of the VP of Business Development or the CFO.
- 1.3.6 Marketing Operations Specialist
- 1.3.6.1 The SMC may hire a full-time Marketing Operations Specialist funded by the SMP fund to support the SMC's activities and programs. The Marketing Operations Specialist shall be under the day to day supervision of the Franchisor VP of Business Development. The duties of the Marketing Operations Specialist shall be as assigned by the Franchisor VP of Business Development and the SMC Chair.
- 1.3.7 PDES Marketing Fund
- PDES Franchises contribute to a separate PDES marketing fund for marketing activities outside of the SMP. The operation of the PDES marketing fund is governed by the terms of the PDES franchise agreements.

## ARTICLE IV

### JOB COMPLETION AND PAYMENT GUARANTEE FUND

- 1.4.1 On February 16, 1986, at the Tampa, Florida, meeting, the General Council voted (by 80% roll call vote) to establish a Job Completion and Payment Guarantee Fund (the "Guarantee Fund"), effective March 1, 1986, as a part of the Operations Manual, with the NEC to determine the final form of the program. In April, 1986, the NEC formed a Florida Corporation known as **Completion Services, Inc.** ("CSI"), to maintain and administer the Fund. The Board of Directors of CSI is composed of the members of the NEC. The officers of CSI shall be the same officers as the NEC President, Treasurer, and Assistant Treasurer. By vote at the Fall 2007 District Meetings, an Indemnity and Insurance Reimbursement Fund (the "Indemnity Fund") was established to provide funding for discretionary non-Guarantee Fund payments made to protect and maintain the reputation and goodwill of the PDR network. The Guarantee Fund and the Indemnity Fund are collectively referred to as "the Funds." By vote at the Fall 2009 District Meetings the PDES Franchise System was included in CSI with each PDR Franchise owning one (1) share of CSI and each PDES Franchise owning one fifth (1/5<sup>th</sup>) of a share of CSI.
- 1.4.1.1 I. The purposes and operations of CSI shall be as follows:
- 1.4.1.1.1 A. Manage the Funds and guarantee the proper completion of all insurance related jobs sold by the Franchise Network in accordance with the Guarantee Certificate.
- 1.4.1.1.2 B. Enhance and aid Franchisees in the operation and performance of the franchise. This could include, but is not limited to, additional programs, national discounts, volume buying power, national insurance policies, and the payment of legal costs from the Fund in satisfaction of CSI's indemnification obligation under the Hold Harmless contained in the Introductory section. This future direction shall always be under the control of the CSI Board of Directors with approval of the majority of the shareholders.
- 1.4.1.1.3 C. Submit to the District Councils proposals in which CSI would be used as a vehicle to serve as a purchasing cooperative, provided such efforts do not include extending credit to any person using this service.
- 1.4.1.1.4 D. Submit to the District Councils proposals in which CSI would be used as a vehicle to enter venture efforts designed to improve or strengthen the Franchisees' position with the insurance industry, provided such efforts are reasonably projected to provide minimum risk to CSI, with strong potential to provide profits to CSI on an ongoing basis
- 1.4.1.1.5 E. Submit to the District Councils proposals in which CSI would be used as a vehicle to provide management and information services to the franchisees in order to facilitate better management techniques

- 1.4.1.1.6 F. Submit to the District Councils proposals in which CSI would be used as a vehicle to provide a resource to CSI to recognize potential risk to the CSI Funds.
- 1.4.1.1.7 H. Enter into written agreements with insurance companies providing specific guarantees and indemnities for jobs undertaken by PDR Franchises. Such agreements, which may contain terms other than the terms of the standard Guarantee Certificate, must be approved by both the EFC and the NEC and must be secondary to the obligations of the individual franchise and available insurance. CSI may use the Indemnity Fund to fund insurance company requirements, including the purchase of insurance policies, above and beyond the CSI certificate, as approved by the NEC and EFC.
- 1.4.1.2 II. The Funds shall be under control of the CSI Board of Directors who shall meet at least once each year, and more often if necessary, to oversee the proper operation, use, and management of the Funds. Meeting expenses incurred by members of the Board of Directors in performing their duties in the general management of the Fund shall be reimbursed.
- 1.4.1.3 III. The Guarantee Fund shall be established in the following manner:
  - 1.4.1.3.1 A. For all new PDR Franchises sold by the Franchisor, the Franchisor shall contribute \$1,000 to the Guarantee Fund to establish the new Franchise's account. This provision shall not apply to any Franchise established as a result of a full or partial resale of an existing Franchise or to any PDES Franchise.
  - 1.4.1.3.2 B. Each PDR Franchise shall pay 1/2% of its monthly sales (or 1% in the case of resales of existing franchises) into the Guarantee Fund until the required account balance has been paid by each franchise to a minimum of \$11,000 or any other amount stipulated in its franchise agreement. The Franchisor shall pay 1/2% of monthly PDES sales to a minimum of \$3,000 per PDES Franchise or any other amount stipulated in its franchise agreement (currently \$3,000 for the first 100,000 of population and \$2,000 for each additional 100,000 or portion thereof).
    - 1.4.1.3.2.1 The Executive Finance Committee ("EFC") may, at its discretion, increase the monthly contribution from 1/2% to 1% of monthly sales for a franchise that has not reached the required account balance and has a claim paid on its behalf. This does not alter the franchise's responsibility to reimburse the full amount of the claim in accordance with sections 1.4.1.8.4 through 1.4.1.8.4.4.
  - 1.4.1.3.3 C. In the event the Guarantee Fund falls below the minimum level of the required account balance per franchise, then the Board of Directors shall have the authority, in their sole discretion, to assess the franchises for the amount of such deficit, provided, however, that no assessment shall be made if the deficit resulted from payment of a claim or judgment in excess of the stated maximum amount of a Guarantee Certificate or if the Guarantee Fund balance has been fully depleted. Any such assessments shall be considered as loans

from the franchises and shall be repaid as rapidly as possible from the earnings of the Guarantee Fund.

- 1.4.1.3.4                      D.     These assessments shall be made by the Board of Directors as follows:
- 1.4.1.3.4.1                      1.     The total deficit in the Guarantee Fund shall be determined.
- 1.4.1.3.4.2                      2.     Each franchise shall be assessed an equal share of the deficit, but with PDES franchises assessed at the rate of 1/5<sup>th</sup> the assessment of a PDR franchise.
- 1.4.1.3.4.3                      3.     The assessed share shall be paid in monthly installments equal to 1/4% of each previous month's sales, until paid in full.
- 1.4.1.3.4.4                      4.     Each of these 1/4% of sales payments shall be recorded as loans by CSI and repaid from the first available profits.
- 1.4.1.3.5                        E.     All new franchises shall be considered operational when an office is opened, telephones are installed, and sales calls are being made.
- 1.4.1.3.6                        F.     CSI shall refund a Franchise's deposit two (2) years following the date of the last to occur of: (1) the termination or transfer of the franchise, (2) the completion of all the franchise's work in progress, or (3) the cessation of franchise operations, provided that in the case of transfers of PDES Franchises the deposit shall be immediately assigned to the new PDES Franchise. The deposit shall be adjusted for the Franchise's proportionate share of any accrued fund deficit or surplus as of the date of the termination or transfer. A Franchise may assign the payout of its deposit to a purchasing franchisee but such assignment shall not effect the purchasing franchisee's obligation to establish a separate CSI account balance as set forth in B above.
- 1.4.1.3.7                        G.     The following provisions shall be included in the Tri-Party Agreement required by the Franchisor for the transfer of a PDR Franchise and shall govern the transfer of and reimbursement for PDR Franchisee deposits held by CSI:
- 1.4.1.3.7.1                      "7.a. Pursuant to the terms of the Purchaser's Franchise Agreement, all franchisees are required to maintain a deposit account balance in the Job Completion and Payment Guarantee Fund maintained by CSI (the "CSI Account"). The required amount of the CSI Account balance for each franchisee shall be determined from time to time by the Board of Directors of CSI. Purchasing Franchisee shall, on a month-to-month basis, pay one percent (1%) of its previous month's sales to CSI. until Purchasing Franchisee's CSI Account balance equals the required account balance.
- 1.4.1.3.7.2                      7.b.   Selling Franchisee's CSI Account balance is \$\_\_\_\_\_ as of \_\_\_\_\_, 200\_. CSI shall retain Selling Franchisee's CSI Account balance until the second anniversary date of this Agreement and CSI shall pay out Selling Franchisee's CSI Account

balance, subject to adjustment as provided in paragraphs 7.c. and 8 below and for any other sums Selling Franchisee may owe PDRI or CSI, on \_\_\_\_\_, 200\_\_.

- 1.4.1.3.7.3      7.c.      If there is either a positive or a negative retained earnings, including current profit or loss, shown on the most recent financial statement of CSI prior to the signing of this Agreement, the sum shown as Selling Franchisee's CSI Account balance shall be adjusted as follows:
- 1.4.1.3.7.3.1      (1)      For a positive retained earning balance, the CSI Account balance shall remain unchanged and Selling Franchisee's pro rata share of such positive retained earnings shall be paid by CSI to Selling Franchisee no more than thirty (30) days after notification, by Selling Franchisee, of the sale.
- 1.4.1.3.7.3.2      (2)      For a negative retained earning balance, the CSI Account balance shall be reduced by Selling Franchisee's pro rata share of such negative retained earning and such reduction shall be entered into all books and records maintained by CSI, PDRI, and the Franchisee
- 1.4.1.3.7.3.2      (3)      In the event the franchise closes prior to the Payout Date, then the Payout Date shall be extended until the second anniversary date of the completion of the last open job and any warranty claims arising from Purchasing Franchisee's operation of the franchise shall be satisfied first from the Purchasing Franchisee's CSI Account and then from the Selling Franchisee's CSI Account.
- 1.4.1.3.7.4      7.d.      In the event Selling Franchisee is selling only a portion of the franchise territory rather than the entire franchise, then section 7.b. and 7.c. shall not apply.
- 1.4.1.3.7.5      8.      Funds for the full payment of warranty claims arising from Selling Franchisee's operation of the Franchise shall come from the following sources in CSI's discretion:
- 1.4.1.3.7.5.1      a.      Purchasing Franchisee using sums due Selling Franchisee under any right of set-off until such right is exhausted;
- 1.4.1.3.7.5.2      b.      Selling Franchisee's CSI Account balance;
- 1.4.1.3.7.5.3      c.      Selling Franchisee; and
- 1.4.1.3.7.5.4      d.      General funds of Purchasing Franchisee."
- 1.4.1.3.7.6      The EFC, at its discretion, may allow a franchise buyer to assume the seller's CSI balance (subject to adjustment for current population and formula) if the buyer (with majority controlling interest) is a current PDR owner of at least five years with no outstanding warranty issues and an acceptable pay record to CSI, SMP and PDRI.
- 1.4.1.3.8      H.      For PDES Franchises CSI shall pay out Selling Franchisee's CSI Account balance to PDRI, subject to adjustment for positive or negative retained earnings (as provided in section 1.4.1.3.7.3

above) and for any other sums Selling Franchisee may owe CSI. A provision requiring both the Selling Franchisee and the Purchasing Franchisee of a PDES franchise to indemnify CSI from any claims arising from the franchise shall be included in the Tri-Party Agreement required by the Franchisor for the transfer of a PDES Franchise.

- 1.4.1.3.9 I. The account records for all Canadian Franchisees shall be recorded and maintained in Canadian currency. Each Canadian Franchisee's pro rata share of any deficit or surplus shall be converted to Canadian currency using the conversion rate on the date of the distribution of the deficit or surplus share.
- 1.4.1.4 IV. Funds Depository:
  - 1.4.1.4.1 A. The EFC shall:
    - 1.4.1.4.1.1 1. Maintain and deposit the Funds in accounts with approved financial institutions.
    - 1.4.1.4.1.2 2. Maintain current checking account balances required to conduct normal business.
    - 1.4.1.4.1.3 3. Invest the balance of the Funds in accordance with the CSI investment policies.
    - 1.4.1.4.1.4 4. Provide semi-annual reports to the Board of Directors, the NEC, and its CPA, with all stockholders receiving annual reports.
    - 1.4.1.4.1.5 5. Determine who shall sign and countersign checks.
    - 1.4.1.4.1.6 6. Maintain a reserve account to protect the integrity of the Funds and support the original intent of the Guarantee Fund, which is to guarantee payment and completion of jobs.
    - 1.4.1.4.1.7 7. Make other investments only when approved by 80% of the EFC.
  - 1.4.1.4.2 B. At least every two years CSI shall obtain a review of its financial statements by a Certified Public Accountant. At the discretion of the NEC, CSI may from time to time obtain an audit of its financial statements by a Certified Public Accountant.
- 1.4.1.5 V. The EFC:
  - 1.4.1.5.1 A. The EFC shall consist of five members: (1) the NEC President; (2) the NEC Treasurer; (3) the NEC Assistant Treasurer; (4) an NEC member at large; and (5) one Franchisor representative. The Treasurer of the NEC shall be the chairman of the EFC. In order to familiarize themselves with the operation of the EFC, EFC members-elect may attend the Fall EFC meeting immediately prior to the start of their terms as non-voting observers.



- 1.4.1.5.2            B.     The duties of the EFC shall be:
  - 1.4.1.5.2.1            1.     To approve the hiring, and monitor the daily operation, of all CSI employees.
  - 1.4.1.5.2.2            2.     To determine the validity of each claim made against the Fund on a case-by-case basis giving due consideration to the wording of the CSI Guarantee Certificate and to approve or deny payment of claims after proper consideration and arrange acceptable reimbursement of such payments from the franchise on whose behalf the claim was paid.
  - 1.4.1.5.2.3            3.     To defuse situations that, although not necessarily claims, are deemed damaging to the good of the network as a whole. At the request of the Franchisor and with the concurrence of the EFC, approve an expenditure to be limited per "claim" of up to \$2000 on the cognizance of the CSI manager, and a further \$3000 if approved by the EFC. All monies paid out to be initially funded equally by the Franchisor and CSI, and any reimbursements from whatever source or sources would be paid back equally to each paying party.
  - 1.4.1.5.2.4            4.     To respond to claims made by an insurer, as a result of a lien or threat of a lien by a tradesman, by asserting that:
    - 1.4.1.5.2.4.1            (a)     Our Franchisees may be required to place funds in escrow to cover the amount of the lien if it is perfected, an action which will fully protect the interest of the property owner.
    - 1.4.1.5.2.4.2            (b)     In the event the Franchisee is unable to escrow the funds, CSI may provide the insurer with a letter guaranteeing the amount of the lien if it is perfected.
- 1.4.1.6            VI.     Administration of CSI
  - 1.4.1.6.1            A.     The administrative functions of CSI shall be the responsibility of the CSI Administrator, under the supervision of the EFC. At the discretion of the EFC, the CSI Administrator may be an employee of CSI or may be a third party (which may be the Franchisor) to whom the administrative functions have been outsourced under a written administrative service agreement.
  - 1.4.1.6.2            B.     It shall be the responsibility of the CSI Administrator to:
    - 1.4.1.6.2.1            1.     Maintain accurate records of all income, expenses, assets, and liabilities (including individual Franchisee balances).
    - 1.4.1.6.2.2            2.     Prepare an annual budget for the Funds and the administrative functions of CSI and report on budget variances historically and prospectively as required by the EFC.
    - 1.4.1.6.2.3            3.     Work in close cooperation with the Board of Directors, the EFC, and the Franchisor and make arrangements for meetings of the Board of Directors and the EFC.

- 1.4.1.6.2.4                      4.      Issue Guarantee Certificates, distribute information concerning the guarantee program, and investigate process all claims made against the guarantee program.
- 1.4.1.6.2.5                      5.      Cooperate with the selected CPA in obtaining the required financial statement reviews and audits.
- 1.4.1.6.2.6                      6.      Issue stock certificates and maintain shareholder records.
- 1.4.1.6.3                      C.      All CSI employees shall be subject to the supervision of the EFC and the EFC shall determine their job requirements and compensation.
- 1.4.1.7                      VII.    The position of the Franchisor:
  - 1.4.1.7.1                      A.      The Franchisor's President or CEO shall serve on CSI's Board of Directors and on the EFC, but a representative of the Franchisor corporation may serve in the place of the President or CEO on the EFC.
  - 1.4.1.7.2                      B.      In the event a claim is made against the Guarantee Fund requiring completion of a job the Franchisor shall assist in finding or provide supervisory personnel to go to the job site and supervise the completion of the job, the Franchisor being reimbursed by the Fund as a part of the overall claim for all cost of any nature incurred in the performance of these duties.
  - 1.4.1.7.3                      C.      In the event that claims paid on behalf of a terminated franchise exceed the amount of that franchise's account balance, then the Guarantee Fund shall be reimbursed for such deficit by all royalties collected by the Franchisor from any new franchise established in the terminated franchise's former territory unless agreed upon otherwise by the EFC.
- 1.4.1.8                      VIII.   Responsibilities of individual franchise owners to CSI:
  - 1.4.1.8.1                      A.      To make all required contributions to the Fund as required in 1.4.1.3.2 through 1.4.1.3.3.
  - 1.4.1.8.2                      B.      To provide financial statements prepared by an outside CPA, if requested.
  - 1.4.1.8.3                      C.      To provide corporate guarantees, including the franchise instrument itself, as security for any funds owed to CSI by that particular franchise for contributions or claims.
  - 1.4.1.8.4                      D.      In the event a claim is paid by CSI on any job for a particular Franchisee, then that Franchisee shall either:
    - 1.4.1.8.4.1                      1.      Reimburse the full amount of the claim within thirty (30) days. After thirty (30) days, outstanding balances will be charged interest at prime plus one and one-half (1½) percent, or

- 1.4.1.8.4.2                      2.      Provide a note to CSI bearing interest at two percent (2%) above prime at an institution where CSI has deposits, payable in twelve (12) equal installments, or
- 1.4.1.8.4.3                      3.      Obtain permission from the EFC for another method of reimbursement.
- 1.4.1.8.4.4                      NOTE:      Full amount of the claim, as stated in 1.4.1.8.4.1 above, shall include a charge of \$75 per hour to cover the expense of investigating and paying said claim.
- 1.4.1.8.5                      E.      To name CSI as an additional insured on its general liability policy and to provide a copy of such certificate to CSI within 10 days of the renewal date (as stated in 3.5).
- 1.4.1.9                      IX.      Cost of Operations:
- 1.4.1.9.1                      A.      The office manager is authorized under the supervision of the EFC to pay all normal operating costs out of the Fund proceeds for:
  - 1.4.1.9.1.1                      1.      Office space
  - 1.4.1.9.1.2                      2.      Telephone
  - 1.4.1.9.1.3                      3.      Filing systems
  - 1.4.1.9.1.4                      4.      Computer hardware and software
  - 1.4.1.9.1.5                      5.      Furniture
  - 1.4.1.9.1.6                      6.      Accounting
  - 1.4.1.9.1.7                      7.      Legal fees
  - 1.4.1.9.1.8                      8.      Postage, printing, stationery, etc.
  - 1.4.1.9.1.9                      9.      Expenses of the members of the Board of Directors, the NEC and the EFC related to attendance of meetings
  - 1.4.1.9.1.10                      10.      Miscellaneous justifiable expenses
- 1.4.1.10                      X.      Letter of Credit:
- 1.4.1.10.1                      A.      CSI's Board of Directors is authorized to obtain:
  - 1.4.1.10.1.1                      1.      Letters of credit
  - 1.4.1.10.1.2                      2.      Lines of credit
  - 1.4.1.10.1.3                      3.      Loans and notes
  - 1.4.1.10.1.4                      The cost of all such items shall be considered as a normal cost of doing business for CSI.
- 1.4.1.11                      XI.      Certificates to Insurance Companies:
- 1.4.1.11.1                      A.      Each Franchisee shall notify the office manager of all companies, adjusters, and agents to whom the Guarantee Certificate will be mailed. The office manager shall mail such certificates with a cover letter to the Franchisee. The office manager shall maintain an

- accurate and current list of all persons and companies to whom the certificate has been mailed.
- 1.4.1.11.2      B.      A copy of the Guarantee Certificate is available upon request from the office manager.
- 1.4.1.11.3      C.      Franchisees are allowed to use the Guarantee Certificate on commercial insurance losses as a closing tool by showing it to and discussing it with the owners and/or property managers of the damaged property on which they have prepared or are to prepare a bid.
- 1.4.1.11.4      D.      The Franchisor shall use the guarantee provided by CSI as a tool in obtaining national accounts with large commercial property owners and/or property managers.
- 1.4.1.12      XII.      It is anticipated that the Funds shall reach a total sum that will enable it not only to cover all expenses, but to also make a profit for those who have established the Fund, so that when a profit is shown, the Board of Directors may present alternative plans for the use of such profits for final determination by the General Council.
- 1.4.1.12.1           The funds deposited by each Franchisee in the Guarantee Fund shall be shown by each Franchisee as a deposit in its financial statement.
- 1.4.1.13      XIII.      A copy of the stock certificate approved by the Board of Directors is available from the office manager upon request.
- 1.4.1.14      XIV.      Any controversy or claim arising out of or relating to any agreement or relationship between CSI and any Franchisee, Franchisor, insurer, or stockholder which cannot be settled by the parties thereto, shall be settled by arbitration. Each party shall select one arbitrator and the two of them shall select a third party and a majority of the three shall decide the issue, and such decision shall be binding on each of the parties to the arbitration. A representative of the Franchisor shall serve as advisor to the committee but shall not be present during any deliberation of the committee. The committee shall determine which party or parties pay the expenses of the arbitration and may require at its own discretion a deposit to cover said expenses. All such arbitration shall be administered through the Franchisor in accordance with the arbitration procedures set forth in Booklet Two of the Paul Davis Operations Manual.
- 1.4.1.15      XV.      Notwithstanding the provisions of paragraph 1.4.1.14 above, if either party hereto shall institute litigation against the other party to enforce any rights or obligations under this agreement, the prevailing party shall be entitled to recover from the other party all costs and expenses (including reasonable attorney's fees) incurred by the prevailing party in connection with such litigation.
- 1.4.1.16      XVI      Indemnity and Insurance Reimbursement Fund ("Indemnity Fund").
- 1.4.1.16.1           The purpose of the Indemnity Fund is to protect and maintain the reputation and goodwill of the PDR network by providing funding for CSI to make discretionary reimbursements for claims arising from franchise operations

that are not reimbursable under the Guarantee Certificate. Any such reimbursements are at the absolute sole discretion of CSI and no party shall have any right to reimbursement.

- 1.4.1.16.2 By vote of the Canadian District Council the Canadian Franchisees have elected to not participate in the Indemnity Fund.
- 1.4.1.16.3 Effective January 1, 2009, CSI shall assess each PDR Franchise a monthly Indemnity Fund fee based on the following sliding scale for cumulative closed gross sales for each calendar year:
- a. 0.10% fee for sales from \$0 to \$2,000,000;
  - b. 0.08% fee for sales from \$2,000,000.01 to \$4,000,000;
  - c. 0.06% fee for sales from \$4,000,000.01 to \$8,000,000; and
  - d. 0.04% fee for sales in excess of 8,000,000.
- 1.4.1.16.4 The Franchisor shall use a portion of the PDES marketing fee to make monthly payment of the Indemnity Fund fee on behalf of the PDES Franchise Network. The Indemnity Fund fee applicable to the PDES Franchise Network shall be equal to the amount of sales reported by PDES Franchises times the PDR Franchise Network Indemnity Percentage for the prior calendar year. The PDR Franchise Network Indemnity Percentage shall be the total contribution to the Indemnity Fund by PDR Franchises divided by the total sales reported by PDR Franchises. For example, if in the year 2009 PDR Franchise contributions to the Indemnity Fund total \$450,000 and PDR Franchise sales total \$500,000,000, then the PDR Franchise Network Indemnity Percentage would be 0.085% and the Franchisor would pay 0.085% of PDES Franchise reported sales in 2010.
- 1.4.1.16.5 CSI shall separately account for the total Indemnity Fund balance and the total Guarantee Fund balance, but the Funds may be commingled for cash management and investment purposes. Individual Franchisee Indemnity Fund balances shall not be maintained and no individual Franchisee shall have any claim to the Indemnity Fund.
- 1.4.1.16.6 The Indemnity Fund shall be used to fund reimbursements arising from formal reimbursement and indemnity agreements (other than the Guarantee Certificate) between CSI and specific insurance companies and for liability insurance policies to cover indemnities offered to insurance companies by CSI or PDRI. All such agreements shall be approved by the NEC in general form and approved by the EFC in specific form. All payments made pursuant to such agreements shall be approved by the EFC.
- 1.4.1.16.7 The Indemnity Fund may also be used to fund payments in individual cases to protect and maintain the reputation and goodwill of the Franchise Network that are not covered by the Guarantee Certificate or other formal agreements. The EFC shall have approval authority for individual case payments up to \$50,000. All payments in excess of \$50,000 shall require NEC approval. Approval votes may be made in-person, telephonically, or by e-mail.

# **PAUL DAVIS OPERATIONS MANUAL**



## **BOOKLET TWO COUNCIL PLAN OF OPERATION**

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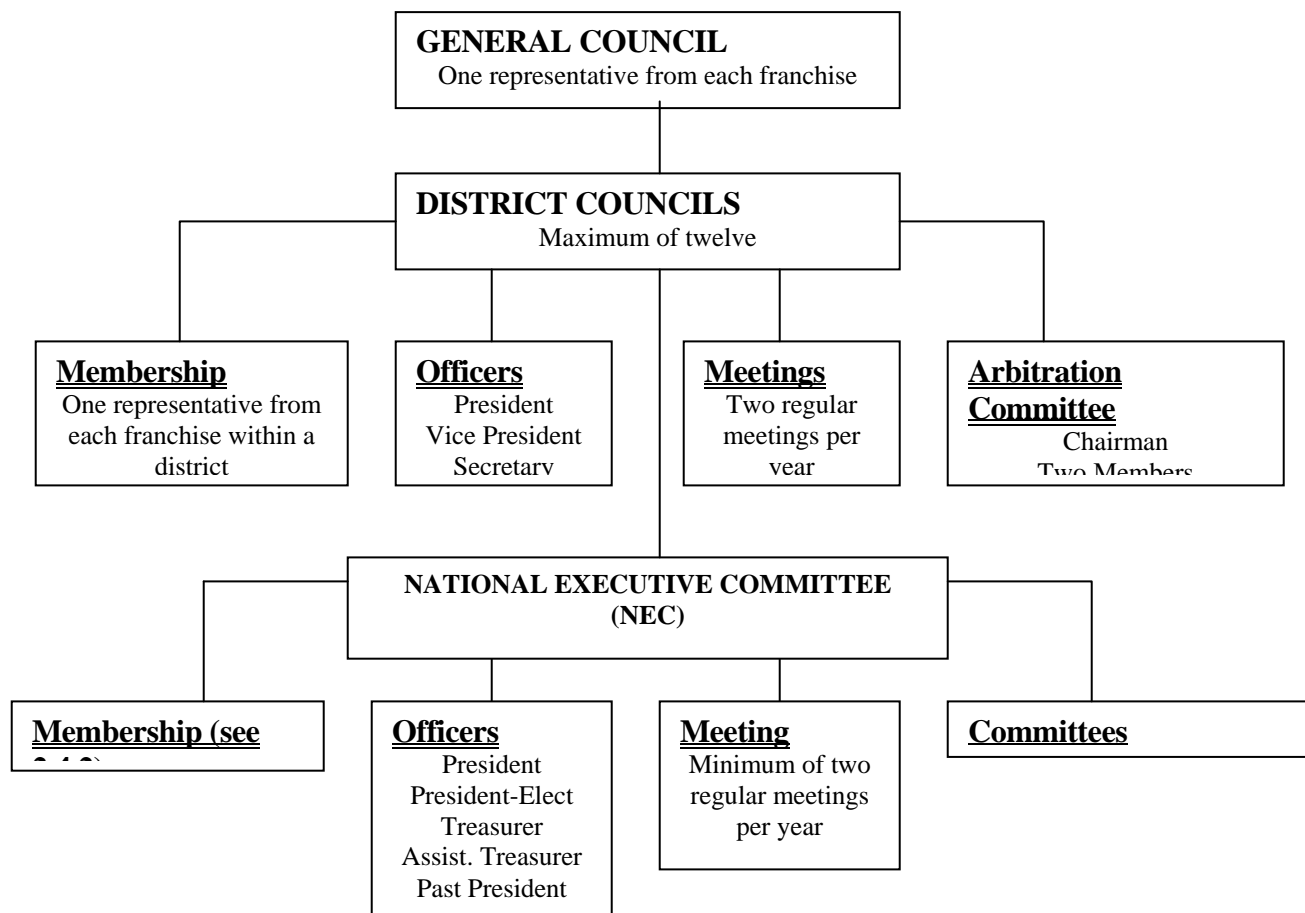
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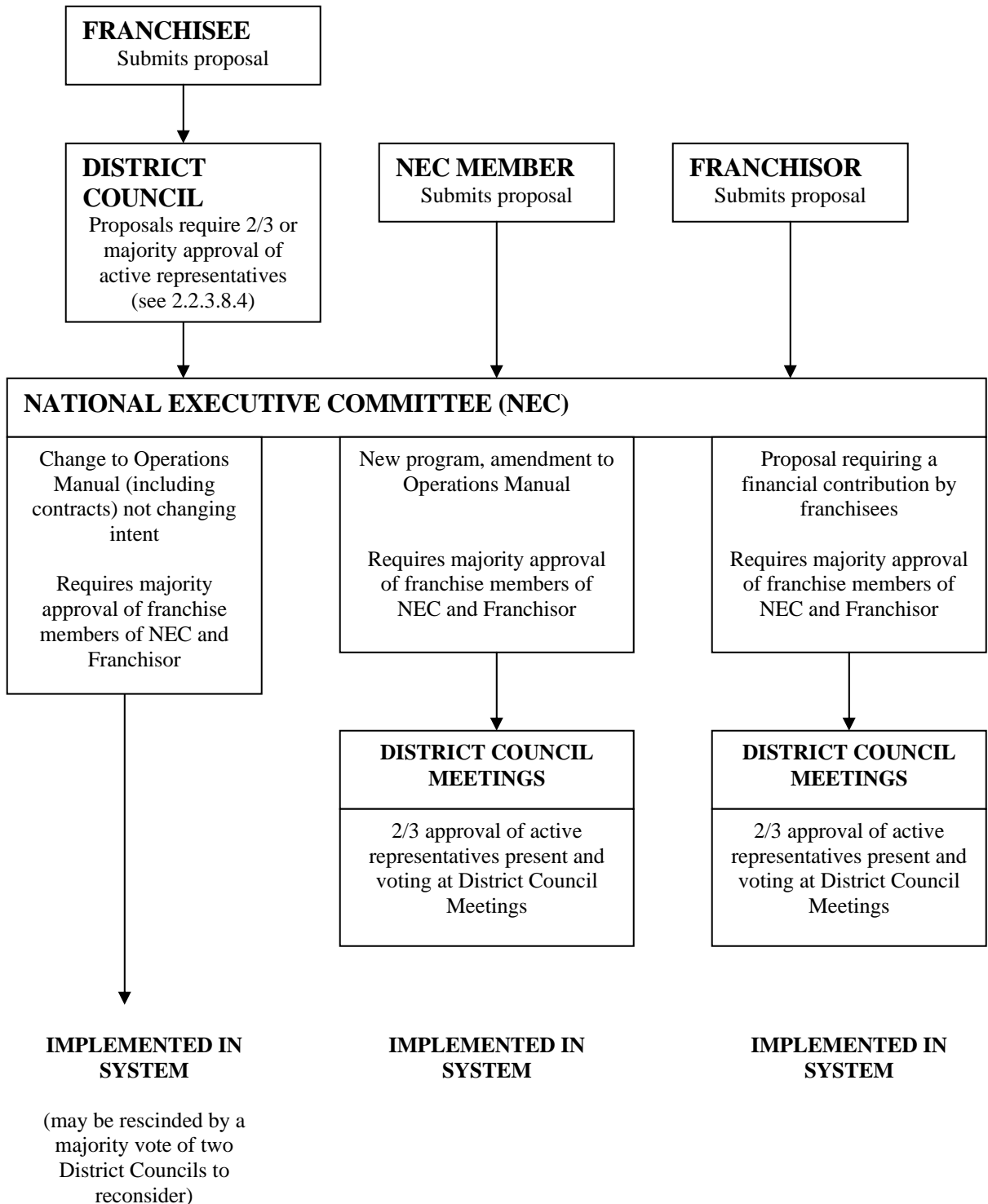
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## PAUL DAVIS FRANCHISE COUNCIL STRUCTURE

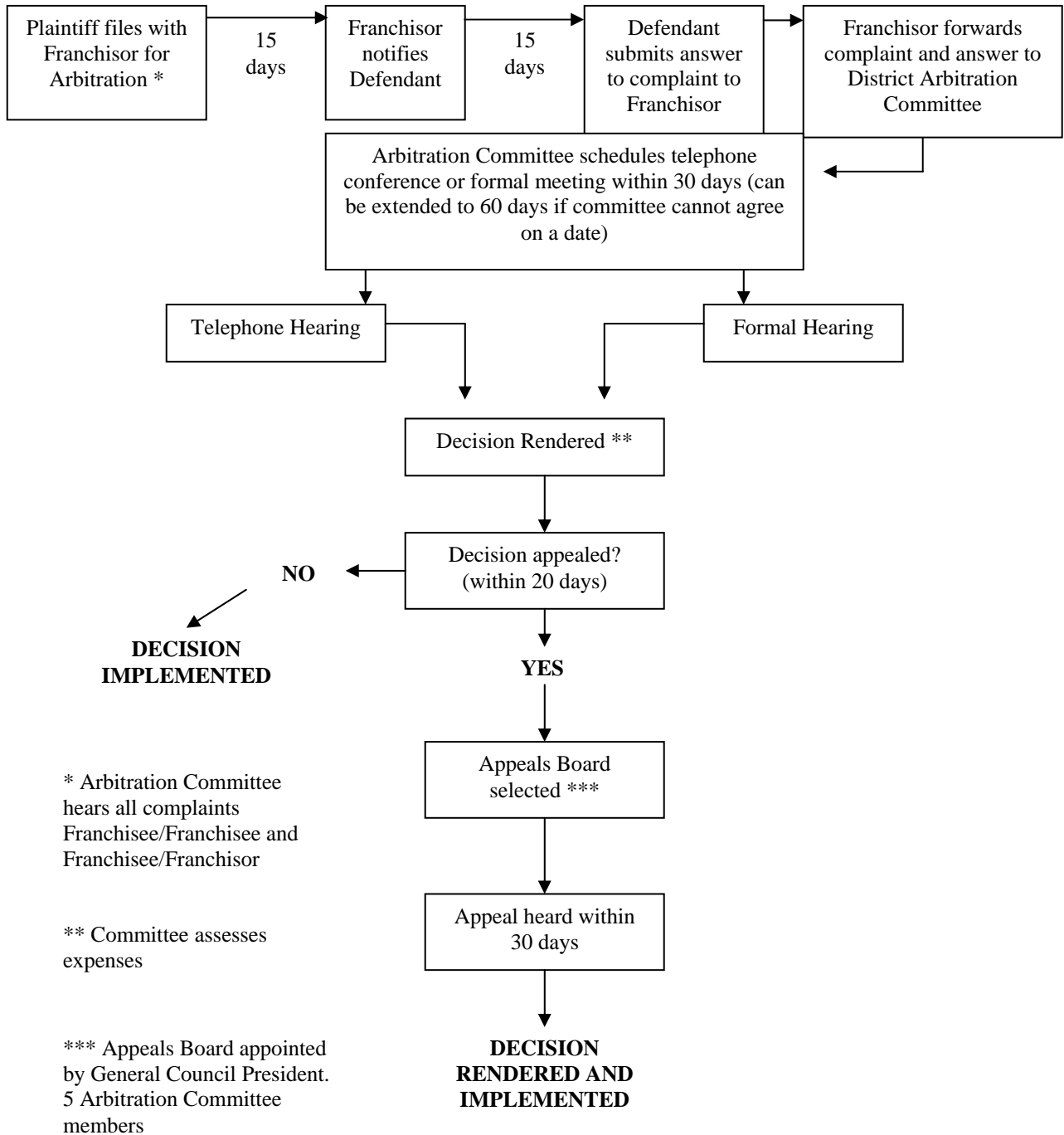




## PAUL DAVIS LEGISLATIVE TRACK



## PAUL DAVIS ARBITRATION PROCESS



# PLAN OF OPERATION - PAUL DAVIS COUNCIL

## ARTICLE I CREATION

### 2.1.1 **Background**

2.1.1.1 Under the terms of Franchise Agreements between the Franchisor and its various Franchisees, it is provided that the Franchisor shall establish a District Council for each operating district that is established by the Franchisor.

2.1.1.2 This Booklet Two has been adopted to provide rules and regulations for the governance and operation of the General Council, NEC, District Councils, and system of arbitration for Paul Davis franchisees and the Franchisor.

### 2.1.2 **District Councils**

2.1.2.1 The Franchisor shall create District Councils consisting of one (1) active representative for each of the operating franchises located as close geographically to one another as is practicable.

2.1.2.2 Franchisees shall be assigned to District Councils by the Franchisor and, if requested by a Franchisee, the Franchisor shall, if operationally practical, change a Franchisee to such different District Council as shall be agreeable to the requesting Franchisee and the Franchisor.

2.1.2.3 The powers, duties, and functions of the District Councils are set forth in Article II (District Councils).

### 2.1.3 **National Executive Committee (NEC)**

2.1.3.1 A National Executive Committee, consisting of a representative of the Franchisor, a representative of the Canadian Master Franchisor, and active representatives from each District Council to be elected in accordance with and to have the powers, duties, and functions set forth in Article IV (National Executive Committee), is hereby created.

### 2.1.4 **General Council**

2.1.4.1 A General Council, consisting of one active representative from each operating franchise, as well as one representative of the Franchisor and one representative of the Canadian Franchisor, to have the powers, duties, and functions set forth in Article VI (General Council), is hereby created.

### 2.1.5 **Arbitration Committees**

2.1.5.1 Arbitration Committees for each District Council, consisting of three (3) active and one (1) alternate member of each District Council, to have the power, duties, and function set forth in Article XIII (Organization of Arbitration Committees), are hereby created.

## ARTICLE II DISTRICT COUNCILS

### 2.2.1 **Functions**

2.2.1.1 The purpose of each District Council shall be to:

- 2.2.1.2 (a) Discuss, review, and consider new and improved methods of operations for the Franchise Network.
- 2.2.1.3 (b) Submit recommendations for amendments to the Operations Manual.
- 2.2.1.4 (c) Hear reports.
- 2.2.1.5 (d) Consider and act upon new programs.
- 2.2.1.6 (e) Vote on all Proposals submitted to it under Article VIII (Procedures for Recommendations).
- 2.2.1.7 (f) Discuss issues affecting Franchises with the Franchisor.
- 2.2.1.8 (g) Engage in such other activities as shall further the foregoing purposes.
- 2.2.1.9 (h) Propose, discuss, and accept District Cooperative Programs pertaining only to the members of the specific district voting on such proposal, provided each such District Cooperative Program is approved by the Franchisor and the NEC.
- 2.2.1.10 (i) Any District Cooperative Program approved by district vote as outlined in 2.2.3.8 shall be binding on all members of the district.

### 2.2.2 **Qualifications**

- 2.2.2.1 Membership in each District Council shall be limited to each operating franchise in the district.
- 2.2.2.2 Each operating franchise shall be represented on the District Council by one (1) active representative from such franchise or by one active member of multiple franchises owned by the same owner(s).

### 2.2.3 **Meetings**

#### 2.2.3.1 **Time**

2.2.3.1.1 Meetings shall be held as follows:

- 2.2.3.1.1.1 One (1) regular meeting of each District Council each year between April 15 and June 15 designated as the "spring meeting."
- 2.2.3.1.1.2 One (1) regular meeting of each District Council each year between October 15 and December 15 designated as the "fall meeting."

2.2.3.1.1.3 Special meetings of the District Council shall be held upon call of the District President or the District Executive Committee.

2.2.3.2 **Attendance**

2.2.3.2.1 An active representative of an operating franchise shall be entitled to attend meetings of its District Council.

2.2.3.2.1.1 The only persons allowed to attend a District Council meeting are:

2.2.3.2.1.1.1 (a) Duly appointed franchise representatives, with spouses if so desired.

2.2.3.2.1.1.2 (b) Co-equal owners of a franchise, so long as one of these owners is the only duly appointed "franchise representative."

2.2.3.2.1.1.3 (c) A Franchisor representative.

2.2.3.2.1.1.4 (d) Guests invited by the District President and/or the Franchisor.

2.2.3.3 **Place**

2.2.3.3.1 Regular district meeting locations are at the discretion of the district. Any meeting that takes place outside of the geographical territory of the district requires the agreement of two-thirds (2/3) of the franchises present at any regular or special meeting of a District Council.

2.2.3.3.2 Special meetings shall be held at a place selected by the District Executive Committee within the geographic territory of the District Council.

2.2.3.4 **Notice**

2.2.3.4.1 A District Council Officer shall give written notice of all District Council meetings to the Franchisor and all franchisees in the District at least thirty (30) days prior to such meetings.

2.2.3.5 **Conduct of Meetings**

2.2.3.5.1 Meetings of the District Council shall be presided over by the District President, the District Vice President or, in their absence, the District Secretary.

2.2.3.5.2 The District Secretary shall keep accurate minutes of all matters considered and acted upon at the meeting.

2.2.3.6 **Proxies**

2.2.3.6.1 Only an active representative who is present in person shall be counted for the purposes of determining a quorum.

2.2.3.6.2 No active representative of an operating franchise may authorize any proxy or attorney-in-fact to act for him on any matter to come before a meeting of the District Council.

2.2.3.7 **Quorum**

- 2.2.3.7.1 Those members present at any regular meeting of a District Council shall constitute a quorum for the purpose of conducting any business that shall have appeared on the written agenda, which was prepared and distributed to the district members prior to the meeting.
- 2.2.3.7.2 For any special meeting or teleconference, a quorum consisting of sixty percent (60%) of the qualified members of the district shall be present in person in order to conduct any item of business other than to adjourn the meeting.
- 2.2.3.8 **Voting**
- 2.2.3.8.1 District Councils may vote on any matters presented by the NEC at any regular meeting or at any special meeting.
- 2.2.3.8.2 In all matters requiring a vote by the District Council, only a duly appointed franchise representatives may vote. All PDR Franchises in existence on December 31, 2009 shall have two (2) votes. All PDR Franchises started after December 31, 2009, and all PDES Franchises shall have one (1) vote except if the Franchise's reported sales for the prior calendar year exceeded \$1,000,000 then they shall have two (2) votes. The \$1,000,000 threshold for two votes may from time to time be adjusted for changes in the consumer price index with the approval of the NEC.
- 2.2.3.8.3 At the discretion of the Franchisor, a Franchisor representative may attend any district meeting and be present for all discussions.
- 2.2.3.8.4 The following votes shall be required on the following described actions:
- 2.2.3.8.4.1 (a) Two-thirds (2/3) of the vote of the active representatives present and voting at all meetings of the District Councils shall be required to approve any proposal involving:
- 2.2.3.8.4.1.1 (i) The adoption of a new program.
- 2.2.3.8.4.1.2 (ii) An amendment to the Operations Manual.
- 2.2.3.8.4.1.3 (iii) The alteration, modification, or rejection of any action taken by an Arbitration Committee.
- 2.2.3.8.4.1.4 (iv) A financial contribution by franchises.
- 2.2.3.8.4.2 (b) A majority vote of the active representatives present and voting at all meetings of the District Councils shall be required for approval of all other actions.
- 2.2.3.8.5 A secret written ballot may be taken on any proposal or other matter coming before a District Council for vote when such ballot shall be requested by any active representative qualified to vote.
- 2.2.3.8.5.1 (a) The District President shall announce at the beginning of the meeting that requests for secret ballots may be made privately by any member and shall ask prior to each vote if a secret ballot is desired.

- 2.2.3.8.6 All ballots, secret or open, shall be tabulated and the results announced as each item is voted.
- 2.2.3.8.7 District Councils may vote on District Cooperative Programs at any regular or special meeting or by the following procedure:
  - 2.2.3.8.7.1 (a) The District President shall mail to each Active Representative a description of the proposed District Cooperative Program and a voting ballot.
  - 2.2.3.8.7.2 (b) Each Active representative shall consider the proposal and return the ballot to the District President by mail or fax within 10 days.
  - 2.2.3.8.7.3 (c) Failure to return the ballot within 10 days shall be deemed a vote of approval.
  - 2.2.3.8.7.4 (d) Upon approval of the required percentage of Active Representatives, the District Cooperative Program must be submitted to the NEC and the Franchisor for approval before implementation.
- 2.2.4 **Limitations of Powers**
  - 2.2.4.1 No proposal shall be effective until the vote required by all District Councils in accordance with 2.8.5 (Vote Required) shall have been cast.
  - 2.2.4.2 All franchises shall be bound by any action taken in accordance with this section.

## **ARTICLE III OFFICERS OF DISTRICT COUNCILS**

### **2.3.1      General**

2.3.1.1      The officers of the District Council shall consist of a District President, a District Vice President, and a District Secretary.

2.3.1.2      No two (2) offices shall be held by the same person.

### **2.3.2      Election and Term**

2.3.2.1      All officers of the District Council shall be elected at the spring District Council meeting. All such officers shall hold office for a two (2) year period, beginning January 1 of the year immediately following the year in which they are elected.

2.3.2.2      No officer may be elected to more than two successive terms to the same office.

2.3.2.3      District Council Presidents-elect shall attend the NEC meeting prior to the commencement of their terms of service as observers and shall be entitled to receive standard reimbursement for their expenses.

### **2.3.3      Election Year**

2.3.3.1      Even numbered councils shall elect officers in even numbered years and odd numbered councils shall elect officers in odd numbered years.

### **2.3.4      Qualifications**

2.3.4.1      No person shall be eligible to become or remain an officer who is not an active representative of an operating franchise.

2.3.4.2      No employee, officer, or consultant to the Franchisor shall serve as a District Council Officer.

### **2.3.5      Duties**

2.3.5.1      The following officers shall have the following duties:

2.3.5.1.1      (a)      **District President** - The District President shall:

2.3.5.1.1.1                      (i)      Call and preside over all District Council meetings and District Executive Committee meetings.

2.3.5.1.1.2                      (ii)      Serve as a member of the NEC.

2.3.5.1.1.3                      (iii)      Serve as a representative of his district, expressing the views, suggestions, and problems of its members.

2.3.5.1.2      (b)      **District Vice President** - The District Vice President shall:



- 2.3.5.1.2.1 (i) Preside in the absence of the President.
- 2.3.5.1.2.2 (ii) Be responsible for all preparations for district meetings.
- 2.3.5.1.2.3 (iii) Perform the duties of the President in the event the District President is the NEC President.
- 2.3.5.1.3 (c) **District Secretary** - The District Secretary shall:
  - 2.3.5.1.3.1 (i) Attend and keep complete and accurate records of all meetings of the District Council and the District Executive Committee.
  - 2.3.5.1.3.2 (ii) Handle all correspondence.
  - 2.3.5.1.3.3 (iii) Perform such other duties as shall be imposed upon him by the District Executive Committee or the District President.

## 2.3.6 **Vacancies**

- 2.3.6.1 Vacancies in any office due to death, resignation, removal, or disqualification shall be filled by the District Council at any regular meeting or special meeting.
- 2.3.6.2 Election or appointment to fill a vacant office or position shall not count in the calculation of the time limit for service in that particular office or position.
- 2.3.6.3 A district may, at the option of its President, choose to fill a vacancy by a telephone conference call, in which all members have been invited to participate, at a date set no less than five (5) days in advance. The cost of such telephone conference call shall be borne equally by the members of the district filling the vacancy.

## 2.3.7 **Notification**

- 2.3.7.1 Each District Secretary shall notify the Franchisor of the name of all officers elected by the District Council within ten (10) days after their election.

## 2.3.8 **District Executive Committee**

- 2.3.8.1 Each District Council shall have a District Executive Committee consisting of the District President, the District Vice President, and the District Secretary.
- 2.3.8.2 The term of each member of the District Executive Committee shall coincide with his or her term of office.
- 2.3.8.3 The District Executive Committee shall have and exercise the full power of the District Council in the management of the business and affairs of the District Council during the interim between meetings of the District Council, provided however, that the District Executive Committee shall not be empowered to take any action requiring a vote of the District Council under 2.2.3.8 (District Councils: Meetings: Voting).
- 2.3.8.4 A majority of the District Executive Committee shall be necessary to constitute and shall constitute a quorum for the transaction of all business.

## **ARTICLE IV**

### **NATIONAL EXECUTIVE COMMITTEE (NEC)**

#### **2.4.1      Function**

2.4.1.1      The NEC shall have the power to make changes, additions, and deletions to the Paul Davis Operations Manual so long as such changes, additions, or deletions do not substantially change the intent of the Council in establishing the Operations Manual as the basis of operations for The Franchise Network.

2.4.1.2      All Franchisees shall be notified in writing of such approved changes, additions, or deletions.

2.4.1.3      The approved changes, additions, or deletions shall become effective upon approval but shall be rescinded if any two District Councils receive objections from within their membership and cast a majority vote to reconsider.

2.4.1.4      In case of such vote to reconsider being cast by two District Councils, the NEC shall reconsider the questioned item(s) at its next meeting and if it feels the questioned change, addition, or deletion is still valid, shall submit such item(s) to all District Councils for vote.

#### **2.4.2      Membership**

2.4.2.1      The NEC shall consist of:

2.4.2.1.1      (a)      The District President of each District Council.

2.4.2.1.2      (b)      The NEC President, if not a District President.

2.4.2.1.3      (c)      The Vice President of the NEC President's district, if the NEC President is the President of his/her district (see 2.5.1.3).

2.4.2.1.4      (d)      A representative of the Canadian Franchisor, with privileges equal to other NEC members but without veto power.

2.4.2.1.5      (e)      A representative of the U.S. Franchisor.

2.4.2.1.6      (f)      The SMP Chairperson, if not already an NEC member (see Booklet I, III.C)

2.4.2.1.7      (g)      The NEC Treasurer, if not a District Representative (see 2.5.3.2).

2.4.2.2      When the most recent past President of the NEC is not a franchisee member of the NEC, he or she serves as an "ex-officio" member, attending meetings and participating but only voting when serving in the absence of the President.

#### **2.4.3      Election and Term**

2.4.3.1      The term of office of each franchise member of the NEC shall coincide with his/her term of office as a District Council Officer, with the exception of the

following positions, which may be filled by at-large members (as referred to in the stated section numbers):

2.4.3.1.1 (a) NEC President (see 2.5.3.3)

2.4.3.1.2 (b) SMP member (see Booklet I, section III.C)

2.4.3.1.3 (c) NEC Treasurer (see 2.5.3.2)

2.4.3.2 No franchise member shall serve more than two (2) consecutive terms.

#### 2.4.4 **Vacancies**

2.4.4.1 If the office of any franchise member of the NEC shall become vacant by reason of death, resignation, disqualification, or removal, the District Council that such franchise member represents shall elect a successor.

2.4.4.1.1 The election of the successor may be accomplished by telephone conference call provided each district representative has been notified, in writing, of the conference call time no less than five (5) days prior to the call and that at least a majority of the district representatives participate in the conference call.

2.4.4.2 Election or appointment to fill a vacant office or position shall not count in the calculation of the time limit for service in that particular office or position.

#### 2.4.5 **Removal**

2.4.5.1 Any franchise member of the NEC may be removed from office with or without cause by the District Council that such franchise member represents.

#### 2.4.6 **Meetings**

##### 2.4.6.1 **Frequency**

2.4.6.1.1 The NEC shall meet once a year between January 15 and March 1 and once each year between August 5 and September 20. In addition to these two meetings there may be a third meeting held during the Paul Davis National Convention.

##### 2.4.6.2 **Notice**

2.4.6.2.1 At least five (5) days notice shall be given to the Franchisor and to each franchise member in advance of any annual, regular, or special meeting of the NEC. Special meetings of the NEC shall be held upon request of the NEC President or the Franchisor. These meetings may be held by teleconference.

##### 2.4.6.3 **Attendance**

2.4.6.3.1 Attendance in person at any meeting shall constitute waiver of notice of such meeting.

2.4.6.3.2 If a regular member cannot attend, their place shall be taken by the Vice President of the District Council.

2.4.6.3.3 In order to familiarize themselves with the operation of the NEC, District Presidents-Elect may attend the Fall NEC meeting immediately prior to the start of their terms as non-voting observers.

2.4.6.4 **Time and Place**

2.4.6.1 The time, date, and place of each meeting shall be held at such place as the NEC-President and a majority of the Franchisee members shall determine.

2.4.6.5 **Procedure**

2.4.6.5.1 The NEC President shall preside at all meetings of the NEC, and in his absence the Past President shall preside. In the absence of both the NEC President and the NEC Past President, the NEC President-elect shall preside.

2.4.6.5.3 An employee of CSI will, while transcribing the minutes of each meeting, note action required and notify each person responsible for such action.

2.4.6.6 **Quorum**

2.4.6.6.1 A representative of the Franchisor and a majority of the franchise members of the NEC shall constitute a quorum for the transaction of all business to come before any meeting.

2.4.6.7 **Voting**

2.4.6.7.1 The vote of the Franchisor and a majority of all franchise members of the NEC present and voting at a meeting shall be required on all matters, except that a vote of the Franchisor and a majority of the franchise members present and voting at a meeting shall be required for the presentation of a proposal to the District Councils.

2.4.6.7.2 The Past President will only vote when serving as a representative of his/her district.

2.4.6.8 **Minutes**

2.4.6.8.1 Franchisees will be provided copies of NEC meeting minutes within 45 days after the close of NEC meetings.

2.4.7 **Expenses**

2.4.7.1 Reimbursement of expenses incurred or authorized by the NEC in each calendar year, as set forth in the Plan of Operation for the Paul Davis General Council, shall be paid from the general fund of Completion Services, Inc., the cost shared equally by all Paul Davis Restoration Franchisees in existence on December 31st of that calendar year, provided that the amount for individual PDES Franchises shall be one fifth (1/5<sup>th</sup>) the amount for individual PDR Franchises.

2.4.7.2 Said cost shall be charged to each Franchisee as either a reduction of its share of net earnings or an increase in its share of net cost for the operation of Completion Services, Inc. for that year.

## **ARTICLE V OFFICERS OF THE NEC**

### **2.5.1        Officers**

2.5.1.1        The officers of the NEC shall consist of:

2.5.1.1.1      (a)      An NEC President.

2.5.1.1.2      (b)      An NEC President-elect.

2.5.1.1.3      (c)      An NEC Treasurer.

2.5.1.1.4      (d)      An NEC Assistant Treasurer

2.5.1.1.5      (e)      An NEC Past President

2.5.1.2        No two (2) offices may be held by the same person.

2.5.1.3        When the NEC President assumes office, that person will no longer serve as his district's representative on the NEC. The Vice President of the district that the NEC President is in will become that district's NEC representative, and as such, will attend the NEC meetings and be the voting member for that district. The NEC President will run the business of the NEC, and the Vice President of the NEC President's district will run the business of that district. The district will not have two votes in the NEC meetings; the NEC President will only vote as a tie-breaker.

### **2.5.2        Membership on Franchisor's Board**

2.5.2.1        The duly elected and acting NEC President shall be elected to the Board of Directors of the Franchisor for a term corresponding to his/her term as NEC President.

### **2.5.3        Qualifications**

2.5.3.1        To be eligible to become an NEC officer, one must be an elected member to the NEC.

2.5.3.2        Nominees to the NEC/CSI Treasurer position shall be any past or present member of the EFC. If the nominee is not a member of the NEC, the nominee would not have voting rights on the NEC.

2.5.3.3        The NEC president shall be nominated and elected from any past or present NEC member in good standing.

### **2.5.4        Election and Term**

2.5.4.1        Officers of the NEC shall be elected by the General Council.

2.5.4.2        Each officer of the NEC shall hold office for a term of one (1) year commencing January 1 and ending December 31 two years after he/she is elected.

2.5.5        **Nominating Committee**

2.5.5.1        The nominating committee for NEC Officers shall consist of:

- 2.5.5.1.1        (a)     The NEC President (shall serve as committee chair)
- 2.5.5.1.2        (b)     The NEC Past President
- 2.5.5.1.3        (c)     The NEC President Elect
- 2.5.5.1.4        (d)     The Canadian Franchisor representative.
- 2.5.5.1.5        (e)     The US Franchisor representative.

2.5.5.2        The committee chair shall be responsible for coordinating and recording all actions taken by the committee. The chair will, as soon as practical after the final District Council spring meeting, obtain and distribute to each committee member a list of NEC members for the following year. The committee may conduct its meetings by mail, email and/or telephone prior to the annual general council meeting and shall nominate the following positions for the next calendar year:

- 2.5.5.1.1        (a)     The NEC President Elect
- 2.5.5.1.2        (b)     The NEC Treasurer (EFC chair)
- 2.5.5.1.3        (c)     The NEC Assistant Treasurer (EFC member)
- 2.5.5.1.4        (d)     EFC at Large Member

2.5.5.6.1        The slate of officers shall be presented to the NEC at its PDR convention meeting and ratified prior to presentation at the General Council meeting.

2.5.6        **Duties of Officers**

2.5.6.1        The officers of the NEC shall have the following duties:

2.5.6.1.1        (a)     **NEC President** - the NEC President shall:

- 2.5.6.1.1.1        (i)     Call meetings of the NEC at the request of three (3) or more franchise members of the NEC.
- 2.5.6.1.1.2        (ii)     Preside at all NEC meetings.
- 2.5.6.1.1.3        (iii)    Report annually to the General Council on the activities of the NEC for that year.
- 2.5.6.1.1.4        (iv)     In general, supervise the business, affairs, and operations of the NEC.
- 2.5.6.1.1.5        (v)     Set the agendas for meeting in cooperation with the Franchisor.

2.5.6.1.2        (b)     **NEC President-elect** - The NEC President-elect shall:

- 2.5.6.1.2.1 (i) Preside at all meetings of the NEC in the absence of the NEC President and NEC Past President.
- 2.5.6.1.2.2 (ii) Maintain order in the conduct of all meetings.
- 2.5.6.1.2.3 (iii) Preside over all Compliance and Procedures Committee meetings and activities.
- 2.5.6.1.2.4 (iv) Perform such other duties as shall be assigned to him by the NEC.
- 2.5.6.1.3 (d) **NEC Treasurer** - The NEC Treasurer shall:
  - 2.5.6.1.3.1 (i) Be responsible for all assessments turned over to him/her by the NEC in accordance with Article VII (Assessments).
  - 2.5.6.1.3.2 (ii) Make annual reports to the General Council of all receipts and disbursements and other duties performed as NEC Treasurer during the calendar year.
  - 2.5.6.1.3.3 (iii) Preside over EFC meetings and activities.
  - 2.5.6.1.3.4 (iv) Perform such other duties as assigned to him/her by the NEC or the CSI Board.
  - 2.5.6.1.3.5 (v) Serve as NEC Secretary.
- 2.5.6.1.4 (e) **NEC Assistant Treasurer** - The NEC Assistant Treasurer shall assist the NEC Treasurer in the performance of the duties of that office.
- 2.5.6.1.5 (f) **NEC Past President** - The NEC Past-President shall:
  - 2.5.6.1.5.1 (i) Serve as advisor to the NEC President.
  - 2.5.6.1.5.2 (ii) Preside in the absence of the NEC President.
  - 2.5.6.1.5.3 (iii) Participate in NEC discussions, offering opinions and recommendations.

## 2.5.7 **Vacancies**

- 2.5.7.1 Vacancies in any office due to death, resignation, removal, or disqualification shall be filled by majority vote of the NEC for the unexpired term of such office.
- 2.5.7.2 Election or appointment to fill a vacant office or position shall not count in the calculation of the time limit for service in that particular office or position.

## ARTICLE VI GENERAL COUNCIL

### 2.6.1 **Function**

2.6.1.1 The General Council shall:

2.6.1.1.1 Provide a forum for all operating franchises to hear reports, attend seminars and panel discussions, learn new and improve existing skills, and participate in annual award banquets.

2.6.1.1.2 Formulate, consider, and review new programs, new marketing plans, and joint venture operations with the Franchisor for the benefit of all Franchisees.

2.6.1.1.3 Generally provide a means for Franchisees to keep themselves informed about matters of common interest to the franchise network.

### 2.6.2 **Powers**

2.6.2.1 The General Council shall have and exercise only the following powers:

2.6.2.1.1 (a) To elect officers of the NEC.

2.6.2.1.3 (b) To levy assessments in accordance with Article VII (Assessments).

### 2.6.3 **Qualification**

2.6.3.1 Each operating franchise that is a member of a District Council shall be qualified to be a member of the General Council, and one (1) active representative from each operating franchise shall be qualified to attend all meetings of the General Council.

### 2.6.4 **Agenda**

2.6.4.1 The agenda for all meetings of the General Council shall be prepared by the NEC President in cooperation with the Franchisor, and submitted to each member of the General Council at least fifteen (15) days prior to such meeting.

### 2.6.5 **Meetings**

2.6.5.1 The following provisions shall govern all General Council meetings:

#### 2.6.5.1.1 (a) **Time**

2.6.5.1.1.1 Annual meetings of the General Council shall be held at a time and date each year selected by the NEC.

2.6.5.1.1.2 Special meetings of the General Council may be called upon thirty (30) days' prior written notice by the NEC President or the Franchisor.

#### 2.6.5.1.2 (b) **Place**



- 2.6.5.1.2.1 The place of all annual meetings shall be selected by the NEC.
- 2.6.5.1.2.2 The place of all special meetings shall be selected by the Franchisor in consultation with the NEC President.
- 2.6.5.1.3 (c) **Conduct of Meetings**
- 2.6.5.1.3.1 The NEC President shall preside at all meetings of the General Council, or in his absence, the NEC Past President shall preside, or in his absence the NEC President-elect, or if none of them is present and acting, then such person as shall be chosen by a majority of the active representatives present shall preside.
- 2.6.5.1.3.2 The Executive Director shall keep accurate minutes of all action and matters considered at the meetings.
- 2.6.5.1.4 (d) **Proxies**
- 2.6.5.1.4.1 Only active representatives of operating franchises who are present in person shall be counted for the purpose of determining a quorum.
- 2.6.5.1.4.2 No member or active representative may authorize any proxy or attorney-in-fact to act for him/her in any matter to come before a meeting of the General Council.
- 2.6.5.1.5 (e) **Quorum**
- 2.6.5.1.5.1 The presence of a duly authorized representative of the Franchisor and all present active representatives of members of the General Council shall constitute a quorum at any meeting of the General Council.
- 2.6.5.1.5.2 The active representatives present, though less than a majority, may adjourn a meeting of the General Council or recess the meeting to a certain day.
- 2.6.5.1.6 (f) **Voting**
- 2.6.5.1.6.1 The following votes shall be required on the following actions:
- 2.6.5.1.6.1.1 (i) Two-thirds (2/3) of the vote of the active representatives present and voting at a meeting shall be required to approve any assessment made under Article VII (Assessments).
- 2.6.5.1.6.1.2 (ii) Two-thirds (2/3) of the active representatives present and voting at a meeting shall be required for all other actions.
- 2.6.5.1.6.2 Individual Franchises shall have the same number of votes as they have in District Council votes as provided in section 2.2.3.8.2.

## **ARTICLE VII ASSESSMENTS**

### **2.7.1      General**

- 2.7.1.1      The General Council shall have sole authority to levy assessments of franchises for the purpose of paying the cost, fees, and expenses of any experts retained or hired by the NEC and for paying the reasonable out-of-pocket expenses incurred by the franchise members and officers of the NEC in connection with their attendance at meetings of the NEC, if such expenses are for any reason not covered under the provisions of 2.4.7 (National Executive Committee: Expenses).
- 2.7.1.2      Assessments may also be levied for such other purposes as two-thirds (2/3) of all operating franchises present and voting shall approve, as defined under 2.6.5.1.6.1.1.

### **2.7.2      Procedure**

- 2.7.2.1      Any proposed assessment shall be presented to the NEC and, if approved, shall be submitted to the annual meeting or any special meeting of the General Council.
- 2.7.2.2      No assessment shall be effective unless approved by the vote of two-thirds (2/3) of all active representatives of operating franchises present and voting at such annual or special meeting, as defined in 2.6.5.1.6.1.1.
- 2.7.2.3      Any assessment so approved shall be payable equally by each Franchise, but with individual PDES Franchises paying an amount equal to one fifth (1/5<sup>th</sup>) the amount payable by a PDR Franchise, in such installments and at such times as the NEC or the General Council shall approve.

### **2.7.3      Collection**

- 2.7.3.1      After approval of an assessment, the NEC Treasurer may request the Franchisor to include billings for the same in the Franchisor's regular billings.
- 2.7.3.2      The Franchisor shall forward to the NEC Treasurer any payments received by Franchisor during the preceding month on said assessment on or before the fifteenth (15th) day of the following month.
- 2.7.3.3      The Franchisor shall incur no liability for the nonpayment by any franchise of its assessment, and all collection proceedings shall be handled by the Executive Finance Committee.

## **ARTICLE VIII PROCEDURES FOR RECOMMENDATIONS**

### **2.8.1      General**

- 2.8.1.1      Recommendations for new programs, for amendments to the Operations Manual, and for any other change in the operations of the franchises (any such recommendation being herein called a "Proposal") may be submitted by District Councils, by the Franchisor, or by any Franchisee.
- 2.8.1.2      All such proposals shall be transmitted to the Executive Director and shall be included in the agenda for the next meeting of the NEC.
- 2.8.1.3      Any Franchisee may submit a proposal by the following procedure:
- 2.8.1.3.1      a.      Request that the District Council President include the proposal on the agenda for the next District Council meeting.
- 2.8.1.3.2      b.      Present the proposal to the District Council and obtain a majority vote of the active representatives in favor of its consideration by the NEC.
- 2.8.1.3.3      c.      If approved at the District Council meeting, the District Secretary will forward the proposal to the Executive Director, noting the above approval, with the request that the proposal be placed on the agenda for the next NEC meeting.
- 2.8.1.3.4      d.      The Franchisor, if requested, shall assist in preparing the format and content of the proposal for submission to the NEC

### **2.8.2      Special Action by the NEC**

- 2.8.2.1      At Franchisor's discretion, the Franchisor shall mail to each franchise member a description of the proposal to be considered.
- 2.8.2.2      Each franchise member shall consider the proposal and notify the Franchisor within ten (10) days of his approval or disapproval thereof.
- 2.8.2.3      The failure by any franchise member to approve or disapprove the same within such ten (10) day period shall be deemed approval.
- 2.8.2.4      Upon approval of two-thirds (2/3) of the franchise members of the NEC and the Franchisor, the proposal shall then be submitted to all District Councils for their consideration.

### **2.8.3      Meeting to Consider Recommendations**

- 2.8.3.1      At a meeting of the NEC called to consider a proposal, a vote of the Franchisor and two-thirds (2/3) of the franchise members present and voting at a meeting shall be required for the presentation of a proposal to the District Council.

2.8.3.2 If the proposal is not approved by such vote, the Franchisor may either cancel all efforts to seek approval of the proposal or, if the Franchisor feels that the proposal would be in the best interests of the Franchisees, the Franchisor may present the proposal to all Franchisees for vote at District Council meetings with a notice in bold fact type stating: **"THIS PROPOSAL HAS BEEN REJECTED BY THE NATIONAL EXECUTIVE COMMITTEE BY A VOTE OF \_\_\_\_\_ FOR AND \_\_\_\_\_ AGAINST THE SAME."**

2.8.4 **Approval by the NEC**

2.8.4.1 If the NEC and the Franchisor approve a proposal and determine that the same would be beneficial and acceptable to the Franchisees or if the Franchisor has submitted the proposal to a vote of all Franchisees under Article VIII (Procedures for Recommendations) the Franchisor shall submit the proposal in writing to all District Councils not less than fifteen (15) days prior to any meeting at which a vote is to be taken on the matter. At the discretion of the Franchisor, a Franchisor representative may attend the meeting of each District Council for discussion on the proposal.

2.8.5 **Vote Required**

2.8.5.1 The following votes at District Council meetings shall be required for any proposal to become effective:

2.8.5.1.1 (a) If the proposal requires a financial contribution by franchises, a two-thirds (2/3) vote of all active representatives voting at District Council meetings shall be required.

2.8.5.1.2 (b) If the proposal involves a new program, an amendment to the Operations Manual, or the rejection of any action that was approved by a four-fifths (4/5) vote, a two-thirds (2/3) vote of all active representatives voting at District Council meetings shall be required.

2.8.5.1.3 (c) If the proposal involves any other matter than those set forth in (a) and (b) above, a majority vote of all active representatives voting at District Council meetings shall be required.

2.8.5.2 At the discretion of the NEC, District Council votes may be conducted via the internet (e-mail and PDRI web site). In conducting an internet vote all motions originating from a District Council must be presented to the NEC by the District President and reviewed by the District Secretary, all franchisees must be notified of the motion (containing rationale), the NEC shall specify a period (minimum of 5 days) for open comment and reply, and final results posted within 24 hours.

2.8.6 **Effective Date**

2.8.6.1 Proposals appropriately approved by the NEC, General Council, or District Councils shall become effective on the first day of the month following one complete calendar month after the NEC, General Council, or last District Council meeting to approve said proposals.

2.8.6.2 The Franchisor shall within thirty (30) days of the last notification, notify all Franchisees in writing of the result and shall prepare all necessary forms, manual amendments, contracts, and other documents to carry out such vote.

2.8.7        **Changes to Operations Manual**

- 2.8.7.1        The NEC may by two-thirds (2/3) vote of its members present and voting, without approval by the District Councils, change wording in the Operations Manual concerning contracts, where it deems such change to offer greater protection, ease of operation, or profitability to the Franchisees so long as such change does not change the intent of the Council in establishing the Operations Manual.

2.8.8        **Applicability of Proposals to Canadian Franchises**

- 2.8.8.1        At the request of the Canadian Franchisor or the President of the Canadian District Council, the NEC may designate any proposal as applicable only to Canadian Franchisees. A vote of the Canadian Franchisor and two thirds (2/3) of the Franchisees present at the Canadian District Council Meeting shall be required for any such proposal to become effective and it shall apply only to Canadian Franchisees and the Canadian Franchisor.

- 2.8.8.2        In the event any proposal fails to pass by a two thirds (2/3) vote of the Canadian Franchisees then such proposal shall be deemed applicable only to U.S. Franchisees and a two thirds (2/3) vote of the Franchisees present at the U.S. District Meetings shall be required for such proposal to become effective and it shall apply only to U.S. Franchisees and the U.S. Franchisor.

2.8.9        **Applicability of Proposals to PDR Franchises or PDES Franchises**

- 2.8.9.1        The Franchisor may, in its discretion, designate any Proposal as applicable only to PDR Franchises or to PDES Franchises and in such a case only the designated Franchise Network shall vote and if approved the Proposal shall only apply to the designated Franchise Network.

## **ARTICLE IX AMENDMENTS**

- 2.9.1 Anything herein to the contrary notwithstanding, no amendment to the Operations Manual or to the provisions of this Plan of Operation shall become effective until approved by the Franchisor and by two-thirds (2/3) of all District Council members voting who have approved it in accordance with Articles II (District Councils) and VIII (Procedures for Recommendations) hereof.

## **ARTICLE X SAVINGS CLAUSE**

- 2.10.1 Nothing herein shall be deemed to alter or amend any provision in the Franchise Agreements between the Franchisor and the Franchisees, and in the event of a conflict between any such provisions and the provision of this Plan of Operation, the Franchise Agreements shall govern.

## **ARTICLE XI EFFECTIVE DATE**

- 2.11.1 This Plan of Operation shall become effective upon approval by two-thirds (2/3) majority vote of those member representatives of franchises present and voting at the February 1986 meeting of the Paul Davis Council and shall become Booklet Two of the Operations Manual.



## ARTICLE XII ARBITRATION - GENERAL

### 2.12.1 Definitions

2.12.1.1 As used in this part, the following terms shall have the meaning set opposite each:

- 2.12.1.1.1 (a) "**Alternate**" - The non-voting representative of a franchise elected to an Arbitration Committee.
- 2.12.1.1.2 (b) "**Appeals Board**" - The National Arbitration Board established by the President of the NEC in accordance with 2.13.3.2 (Organization of Arbitration Committees: Appeals Board) hereof to hear appeals from an Arbitration Committee or an Interdistrict Committee.
- 2.12.1.1.3 (c) "**Arbitration Committee**" - A District Arbitration Committee created in accordance with 2.13.2 (Organization of Arbitration Committees: Arbitration Committees) hereof.
- 2.12.1.1.4 (d) "**Arbitration Coordinator**" – The individual to whom the Franchisor has assigned the responsibility for performing the ministerial tasks of the arbitration process. This individual may be an employee of the Franchisor or an outside party.
- 2.12.1.1.5 (e) "**Arbitration Proceeding**" - Any hearing, action, appeal, or other proceeding initiated by a party and submitted to an Arbitration Committee, an Interdistrict Committee, or an Appeals Board in accordance with this part, for the purpose of resolving any claim or dispute by, between, and among parties.
- 2.12.1.1.6 (f) "**CSI**" - Completion Services, Inc., a Florida corporation and the successors and assigns thereof (See Booklet One, Article IV).
- 2.12.1.1.7 (g) "**Districts**" - Geographical areas in the United States or Canada in which operating Franchisees, located contiguous to one another, are grouped together by the Franchisor for administrative purposes.
- 2.12.1.1.8 (h) "**District Councils**" - The administrative body made up of all the franchises in a district in accordance with 2.1.2 (Creation: District Councils).
- 2.12.1.1.9 (i) "**Franchisee**" - Any person to whom a franchise has been granted by the Franchisor and who has entered into and executed a Franchise Agreement with the Franchisor.
- 2.12.1.1.10 (j) "**Franchisor**" - Paul Davis Restoration, Inc., a Florida corporation and the successor and assigns thereof.

- 2.12.1.1.11 (k) **"Franchise Advisor"** - The nonvoting representative designated by the Franchisor to sit on an Arbitration Committee, an Interdistrict Committee, or an Appeals Board.
- 2.12.1.1.12 (l) **"General Council"** - The General Council consisting of all Franchisees, created in accordance with 2.1.4 (Creation: General Council).
- 2.12.1.1.13 (m) **"Indemnified Party"** - A person who is indemnified under 2.12.4.1 (Arbitration - General: Hold Harmless) hereof.
- 2.12.1.1.14 (n) **"Interdistrict Committee"** - An Arbitration Committee set up in accordance with 2.13.3.1 (Organization of Arbitration Committees: National Committees: Interdistrict Committee) hereof to hear and determine claims or disputes between Franchisees who are located in different districts.
- 2.12.1.1.15 (o) **"Legal Costs"** - The costs, fees, and expenses more particularly described in 2.12.4 (Arbitration - General: Hold Harmless) hereof.
- 2.12.1.1.16 (p) **"Master Franchisor"** - A Franchisor licensed to franchise Paul Davis franchises in specific geographic areas.
- 2.12.1.1.17 (q) **"Member"** - A voting representative of a franchise elected to an Arbitration Committee who is authorized to hear, determine, and vote on any issues submitted to an Arbitration Committee.
- 2.12.1.1.17.1 "Member" shall also include a member of an Interdistrict Committee and the Appeals Board.
- 2.12.1.1.18 (r) **"National Executive Committee"** or **"NEC"** - The committee consisting of representatives from each district and a representative of the Franchisor created in accordance with 2.1.3 (Creation: National Executive Committee).
- 2.12.1.1.19 (s) **"Franchise System"** - The insurance restoration system developed by the Franchisor and all support services, organizations, and persons comprising the same, including without limitation, all persons qualifying as "party" under 2.12.1.1.20 ("Party").
- 2.12.1.1.20 (t) **"Party"** - Any person who initiates or against whom is initiated an arbitration proceeding.
- 2.12.1.1.20.1 The class of persons who, for purposes hereof, are included within the term "party" are Franchisees, prospective Franchisees, former Franchisees, the Franchisor, and Master Franchisors.
- 2.12.1.1.21 (u) **"Person"** - A natural person or a firm, association, partnership, corporation, trust, joint venture, or other entity, including, without limitation, a Franchisee, a party, a prospective Franchisee, former Franchisees, the Franchisor, and any and all of the foregoing who make up or comprise the Franchise System.

- 2.12.1.1.22 (v) **"Prospective Franchisee"** - A person who has received disclosure material issued by the Franchisor and proposed to become a Franchisee by the execution of a Franchise Agreement.
- 2.12.1.1.23 (w) **"Representative"** - The person designated by a Franchisee, the Franchisor, CSI, a prospective Franchisee, or any other person, comprising the Franchise System to speak for and on behalf of that party in connection with any arbitration proceeding and any matter related directly or indirectly thereto.

## 2.12.2 **Resolution of Disputes and Claims**

- 2.12.2.1 Any and all disputes or claims between two or more persons involving the application, interpretation, or meaning of or the rights, duties, obligations, or privileges of any person under any receipt, Franchise Agreement, Operations Manual, contract, agreement, certificate, bond, or other instrument growing out of the operation of the Franchise System or entered into between any two or more persons, whether involving a claim or dispute in tort, in contract, or otherwise, including, without limitation, any claim or dispute arising out of the operation of a franchise shall be settled by arbitration in accordance with the provisions of Article XII (Arbitration - General) and XIII (Organization of Arbitration Committees) hereof.
- 2.12.2.2 The provisions of Article XII (Arbitration – General) and Article XIII (Organization of Arbitration Committees) shall be governed by the Federal Arbitration Act, 9 U.S.C section 1, et. seq.
- 2.12.2.3 Arbitration procedures not covered in Booklet Two of this Operations Manual shall be as set forth in the American Arbitration Association Commercial Arbitration Rules.
- 2.12.2.4 Before filing a request for arbitration, the party seeking dispute resolution shall confer with the opposing party or parties in good faith to resolve the disputed issues.
- 2.12.2.5 In the event the parties are not able to resolve the issues, the party requesting arbitration shall include in the Statement of Claim a statement certifying that he or she has conferred with the opposing party or parties in and they have been unable to reach an agreement.

## 2.12.3 **Binding Nature of Arbitration**

- 2.12.3.1 The adoption of these Articles XII and XIII or the execution and delivery of a Franchise Agreement by the Franchisor and a prospective Franchisee at any time after such adoption or the written consent to these Articles XII (Arbitration - General) and XIII (Organization of Arbitration Committees) by a Franchisee or the participation by a party in an arbitration proceeding or the assent to these Articles XII (Arbitration -General) and XIII (Organization of Arbitration Committees), however expressed, by any Franchisee shall be deemed the agreement of each Franchisee, party, or other persons comprising the Franchise System subject to the following:
- 2.12.3.1.1 (a) Arbitration in accordance with these Articles XII (Arbitration - General) and XIII (Organization of Arbitration Committees) shall be the sole and

exclusive method of settling and resolving any and all disputes or claims arising between any persons in the Franchise System.

- 2.12.3.1.2 (b) No action, suit, proceeding, or other claim of any nature involving any matter, whether in tort, contract, or otherwise, shall be brought by any person in any court or administrative agency having jurisdiction over any matter covered hereby.
- 2.12.3.1.3 (c) Any decision, ruling, or finding by an Arbitration Committee, an Interdistrict Committee, an Interdistrict Committee, or the Appeals Board shall be final and binding on the parties thereto, subject to, in case of any decision, ruling, or finding by an Arbitration Committee or an Interdistrict Committee, any appeal rights set forth in 2.13.3.2 (Organization of Arbitration Committees: National Committees: Appeals Board) hereof.
- 2.12.3.1.4 (d) Any decision or ruling, by an Arbitration Committee, Interdistrict Committee, or the Appeals Board shall be final, may be entered in any court having jurisdiction thereof, and shall be appealable in accordance with the laws of that jurisdiction.

#### 2.12.4 **Hold Harmless**

- 2.12.4.1 (a) Each Franchisee and each party to an arbitration proceeding and all other persons affected by an arbitration proceeding shall be deemed to have released each member, alternate, and the Franchisor Advisor of each Arbitration Committee, Interdistrict Committee, Appeals Board and Special Arbitration Board; each member and officer of the NEC and the Compliance and Procedures Committee; Completion Services, Inc. ("CSI"), and each of its officers and directors; and the Arbitration Coordinator (each of the foregoing members, alternates, officers, directors, Franchisor Advisors, and Arbitration Coordinators are hereafter referred to as an "Indemnified Party"); and the estate, personal representative, successors, legatees, and devisees of any Indemnified Party, of and from any liability of any nature for and on account of any decision, ruling, or finding rendered by an Indemnified Party or any act or things performed or omitted by an Indemnified Party, if done or omitted in good faith and for a purpose which the Indemnified Party believed to be in the best interest of the Paul Davis Franchise System.
- 2.12.4.1.1 CSI shall indemnify and hold harmless each Indemnified Party against all judgments, including interest, fines, amounts paid, or agreed upon in settlement, reasonable costs, and expenses, including attorneys fees and any other liability, cost, fee, or expense that may be paid or incurred by an Indemnified Party as a result of any claim, action, suit, or proceeding, whether civil, criminal, administrative, or otherwise, prosecuted or threatened to be prosecuted (collectively, the "Legal Costs").
- 2.12.4.2 (b) Such indemnification shall not depend upon whether or not the Indemnified Party is a member, alternate, officer, director, Franchisor Advisor, or Arbitration Coordinator at the time of such claim, action, suit, or proceeding is begun, prosecuted, or threatened, nor on whether or not the liability to be indemnified was incurred or the act or omission occurred prior to the adoption of these Articles XII (Arbitration - General) and XIII (Organization of Arbitration Committees).

- 2.12.4.3 (c) In addition to, and not in derogation of any rights to indemnification hereunder, CSI shall be fully authorized to advance legal costs to every Indemnified Party at such times, in such amounts, and in such manner as CSI, in its discretion, shall determine, provided however, that legal costs shall not be advanced if CSI determines that the facts then known to it preclude the Indemnified Party from indemnification under these Articles XII (Arbitration - General) and XIII (Organization of Arbitration Committees).

2.12.5 **Effective Date**

2.12.5.1 Articles XII (Arbitration - General) and XIII (Organization of Arbitration Committees) shall become effective upon the last to occur of the following:

- 2.12.5.1.1 (a) Approval, in accordance with the procedures set forth in Booklet Two, by the NEC and the General Council.
- 2.12.5.1.2 (b) Approval by the Board of Directors of CSI.
- 2.12.5.1.3 (c) Approval by the Board of Directors of the Franchisor.

2.12.6 **Time Limitation**

2.12.6.1 Any dispute or claim which is subject to arbitration hereunder shall be filed with the Arbitration Committee as follows:

- 2.12.6.1.1 (a) If the law of the state of the party filing the claim so allows, then within two (2) years of the date of the occurrence or event giving rise to the dispute or claim.
- 2.12.6.1.2 (b) If the law of the state of the party filing the claim prohibits a contractual limitation on the statute of limitations for actions, then within a reasonable time of the occurrence or event giving rise to the dispute or claim and in no event later than the last day allowed under the applicable statute of limitations of the state of the filing party.

2.12.7 **Amendment**

2.12.7.1 Articles XII (Arbitration - General) and XIII (Organization of Arbitration Committees) or any part of them may be altered, amended, modified, or canceled upon approval of the alteration, amendment, or modification by the persons specified in 2.12.5 (Arbitration - General: Effective Date) hereof.

2.12.7.2 By the adoption of Articles XII (Arbitration - General) and XIII (Organization of Arbitration Committees), all arbitration proceedings hereafter instituted will be conducted in accordance with Articles XII and XIII.

2.12.8      **Library of Arbitration Rulings**

2.12.8.1      All records of and rulings for all arbitration claims shall become a part of and serve as non-binding historical precedents for the benefit of all District Arbitration Committees, the Interdistrict Arbitration and Appeals Committee, the Franchisor, and the franchises. Such data and findings shall be perpetually archived and available for use of each duly elected Arbitration Committee. A quarterly report shall be issued by the Franchisor, providing a listing of complaint findings as follows:

- |                              |                               |
|------------------------------|-------------------------------|
| (1) District #               | (4) Party defending complaint |
| (2) Party bringing complaint | (5) Finding of committee      |
| (3) Nature of complaint      |                               |

2.12.8.2      Records and rulings shall be made available to a District Arbitration Committee and the Interdistrict Arbitration and Appeals committee upon request. Records and rulings shall also be available to individual franchisees if the request comes from the majority owner of the requesting franchise.

2.12.8.3      The library will be maintained by the Franchisor and funded by (1) a \$50.00 filing fee payable by the party filing a complaint and (2) by \$25.00 request fee from the franchise requesting the finding. There shall be no charge to an Arbitration Committee.

## **ARTICLE XIII**

### **ORGANIZATION OF ARBITRATION COMMITTEES**

#### **2.13.1        Structure**

2.13.1.1        The arbitration committees of the Franchise System shall consist of a District Arbitration Committee for each district (the "Arbitration Committee"), an Interdistrict Arbitration Committee (the "Interdistrict Committee"), and a National Appeals Board (the "Appeals Board"), each of which shall have the powers, duties, obligations, and privileges set forth in this Article.

2.13.1.2        Each district shall establish an Arbitration Committee.

2.13.1.3        Arbitration claims shall be assigned, in the order received, to Arbitration Committees on a rotational basis using District number sequence (i.e. the first claim received is assigned to District 1, the second claim to District 2, and so on), except in cases where the claim involves Franchisees in different districts and such assignment would result in the arbitration being heard by either Franchisee's own District, then the claim shall be assigned to an Interdistrict Committee. In order to implement this provision, the first claim received following adoption of this assignment system shall be assigned to District 1.

2.13.1.4        Where the claim or dispute involves Franchisees in different districts, the Interdistrict Committee shall be created in accordance with 2.13.3.1 (Organization of Arbitration Committees: National Committees: Interdistrict Committee) hereof.

2.13.1.5        The General Council President shall establish Appeals Boards.

2.13.1.6        The District Committees shall be permanent standing committees and Appeals Boards shall be ad hoc committees.

2.13.1.7        Interdistrict Committees shall be temporary, ad hoc committees, created solely for the purpose of hearing an Interdistrict claim or dispute.

#### **2.13.2        Arbitration Committees**

##### **2.13.2.1        (a)        Composition**

2.13.2.1.1        Each Arbitration Committee shall consist of three (3) members and one (1) alternate.

2.13.2.1.2        Each member shall serve for a three (3) year term and the expiration of each such term shall be staggered over a three (3) year period so that only one (1) member's term shall expire each year.

2.13.2.1.3        The member with the greatest seniority on the Arbitration Committee shall be the chair.

2.13.2.1.4        The vacancy created by the expiration of a member's term shall be filled by the alternate.

- 2.13.2.1.5 A Franchisor advisor shall serve as a nonvoting member of each Arbitration Committee during the committee deliberation, except in any case where the Franchisor is a party to the arbitration.
- 2.13.2.1.6 Franchisor advisor shall not be present during any voting by the Arbitration Committee.
- 2.13.2.1.7 No single franchise shall have more than one (1) member on an Arbitration Committee.
- 2.13.2.1.8 Seniority on an Arbitration Committee shall be based on the date of election to an Arbitration Committee.
- 2.13.2.1.9 On the initial creation of an Arbitration Committee, seniority shall be based on the date of execution of a Franchise Agreement between the Franchisor and the franchise with which the member is affiliated.
- 2.13.2.2 (b) **Election**
- 2.13.2.2.1 Three (3) members and one (1) alternate shall be elected initially to an Arbitration Committee by each district at the fall district meeting in which an Arbitration Committee is created.
- 2.13.2.2.2 An alternate shall be elected at each fall district meeting thereafter.
- 2.13.2.2.3 All elections shall be by majority vote of the Franchisees in that district present and voting at the district fall meeting.
- 2.13.2.3 (c) **Vacancy**
- 2.13.2.3.1 (i) If a vacancy occurs on an Arbitration Committee, each member shall move up to the next senior position and the most junior position shall be filled by the alternate.
- 2.13.2.3.1.1 If the vacancy occurs because the claim or dispute to be heard involves the franchise with which the member is affiliated, the alternate shall sit in the stead of the disqualified member until that matter is finally settled.
- 2.13.2.3.1.1.1 The disqualified member shall not be prohibited from acting on any other matters not involving his franchise brought before the Arbitration Committee during his term of office.
- 2.13.2.3.2 (ii) Any vacancy occurring on an Arbitration Committee, including any vacancy resulting from the promotion of an alternate to a member, may be filled between biannual meetings of the district, by affirmative vote of a majority of the Franchisees in the district conducted by means of a telephone, mail, or email poll by the President of the District Council and confirmed in writing, by the President, to the Franchisor.
- 2.13.2.3.3 (iii) Election or appointment to fill a vacant office or position shall not count in the calculation of the time limit for service in that particular office or position.



2.13.2.4 (d) **Disqualification**

2.13.2.4.1 (i) A member shall be disqualified to hear and determine any claim or dispute if:

2.13.2.4.1.1 (A) The member has an interest as a shareholder, officer, director, or employee, in the franchise involved in such claim or dispute.

2.13.2.4.1.2 (B) The member reasonably believes he or she will be unable to render an objective and impartial decision or has discussed the matter before the Arbitration Committee with anyone, including any party, other than another Arbitration Committee member or the Franchisor advisor to the Arbitration Committee.

2.13.2.4.1.3 (C) The member is related by blood or marriage to a party to an arbitration proceeding.

2.13.2.4.1.4 (D) The franchise that the member represents is not in full compliance with all mandatory operational requirements at the time of the presentation of the arbitration file for a particular arbitration proceeding.

2.13.2.4.1.5 (E) The member is excused according to the following procedure:

2.13.2.4.1.5.1 (1) Any party to an arbitration may, within fifteen (15) days of receipt of notice of the identity of the arbitration panel members, excuse any member without cause.

2.13.2.4.1.5.2 (2) When such an excuse is timely made, the Arbitration Coordinator must notify the current NEC President who, within five (5) business days of notification, shall appoint any other qualified Franchisee from any district to serve on the panel.

2.13.2.4.1.5.3 (3) Within five (5) business days after the NEC President has made his/her appointment, either party to a proceeding may challenge a member for good cause, which decision shall be determined by the Compliance and Procedures Committee of the NEC.

2.13.2.4.2 (ii) A member shall be permanently disqualified if:

2.13.2.4.2.1 (A) He/she ceases to be affiliated as a shareholder, officer, director, or employee of a franchise, or he/she ceases to serve as its District Council representative.

2.13.2.4.2.2 (B) The Franchisee with which he is affiliated ceases to be the holder of a franchise.

- 2.13.2.4.2.3 (C) The franchise that the member represents is not in full compliance with all mandatory operational requirements at the time of the presentation of the arbitration file for a particular arbitration proceeding.
- 2.13.2.4.2.4 (D) The Arbitration Committee of the district to which he belongs determines that he is guilty of a dishonest act or of bringing ill repute on the Franchise System.
- 2.13.2.5 (e) **Conduct of Arbitration Proceedings**
- 2.13.2.5.1 **Initiation of Arbitration.**
- 2.13.2.5.1.1 An arbitration proceeding is commenced by the Claimant filing with the Franchisor (who shall forward to the Arbitration Coordinator) a written Statement of Claim and an Arbitration Expense Deposit payable to CSI.
- 2.13.2.5.1.2 The Statement of Claim shall identify the parties and set out the relevant facts and remedies sought. Copies of all relevant documents relating to the claim shall be attached to the Statement of Claim. The Statement of Claim shall include a remark certifying the Claimant has attempted in good faith to resolve the dispute prior to initiating the arbitration. The Arbitration Coordinator shall make a cursory review of the Statement of Claim and if it appears incomplete (due to missing pages, exhibits and the like) the Arbitration Coordinator shall return it with appropriate explanation to the Claimant for correction and resubmission. This review is not a substantive review.
- 2.13.2.5.1.3 The Arbitration Expense Deposit shall be \$2,500 for all arbitrations other than requests for Voluntary Closure and \$1,250 for arbitrations in which Voluntary Closure is the sole relief requested. CSI shall retain \$250 of the deposit as a nonrefundable fee for its administrative expense. The deposit (net of the \$250 administrative fee) shall be used by CSI to pay arbitration expenses as incurred; with final responsibility for arbitration expenses determined by the Arbitration Committee as provided in this Article. When the deposit is 75% expended, CSI may notify the Arbitration Committee Chair and the Chair shall determine whether to require an additional deposit and whether to suspend the arbitration pending receipt of the additional deposit.
- 2.13.2.5.1.4 The Arbitration Coordinator shall send a copy of the Statement of Claim to the Respondent and at the same time shall notify both the Claimant and Respondent of the assigned Arbitration Committee, identifying the names of the Arbitrators and the name and location of each Arbitrator's franchise and the parties shall have fifteen (15) days from receipt of such notice to excuse any Arbitration Committee members pursuant to section 2.13.2.4.1.5.1. No party or potential party to an arbitration shall knowingly discuss any aspect of the arbitration or potential arbitration with any member of an Arbitration Committee.
- 2.13.2.5.1.5 The Respondent shall file an Answer, and may also file a Statement of Counterclaim, within fifteen (15) days of receipt of the Statement of Claim with copies of all relevant documents relating to the Answer or

Counterclaim attached. If the Answer or Statement of Counterclaim contains a request for any relief other than the denial of the relief requested in the Statement of Claim, then Respondent shall include an Arbitration Expense Deposit as required in section 2.13.2.5.1.3. If such Arbitration Deposit is not provided then the respective Counterclaim shall not be considered.

- 2.13.2.5.1.6 The Arbitration Coordinator shall forward the Answer and Statement of Counterclaim to the Claimant and the Claimant shall have fifteen days from receipt of the Statement of Counterclaim to file an Answer to Counterclaim.
- 2.13.2.5.1.7 All arbitration submissions (including Statements of Claim and Answers) exceeding twenty five pages, or which are tabbed, bound, oversized, or in color, shall be submitted in a minimum of six copies in order to provide a complete set of documents for both parties, the arbitration file, and each of the Arbitration Committee members.
- 2.13.2.5.1.8 Amended Statements of Claim, Answers, Counterclaims, and Answers to Counterclaims may be only submitted at the discretion of the Arbitration Committee.
- 2.13.2.5.1.9 No materials concerning an arbitration proceeding shall be sent to any member of the Arbitration Committee until all expected material is in hand, at which time the Arbitration Coordinator shall forward complete packages of all materials to each Arbitration Committee Member and the parties to the arbitration.
- 2.13.2.5.2 Scheduling of Arbitration Hearing.
- 2.13.2.5.2.1 All arbitration hearings shall be conducted telephonically, unless either party requests an in-person hearing. A request for an in-person hearing shall be in writing and submitted to the Arbitration Coordinator within five (5) days of receipt of the complete package of arbitration materials. The Arbitration Committee Chair may require from the party requesting the in-person hearing an additional Arbitration Expense Deposit in the amount of the anticipated cost of conducting an in-person hearing. If such additional Arbitration Expense Deposit is not made within ten (10) days of the request then the hearing shall be conducted telephonically unless the Arbitration Committee expressly grants additional time for payment.
- 2.13.2.5.2.2 Both parties are responsible to fully cooperate in scheduling the hearing. The Arbitration Coordinator shall poll the parties and the Arbitration Committee members to determine acceptable dates and times for the hearing (and locations for in-person hearings). The final date and time (and location, if applicable) for the hearing shall be determined by a majority of the Arbitration Committee with the goal of scheduling the hearing with thirty (30) days if reasonably practical.
- 2.13.2.5.2.3 The Arbitration Coordinator shall provide written notice of the hearing to the parties at least fifteen (15) days before the scheduled hearing date. This notice of hearing may be waived by the parties in writing or by participating in the hearing.

2.13.2.5.3 Conduct of Arbitration.

2.13.2.5.3.1 The Arbitration Committee shall have authority to establish appropriate rules and regulations to govern all arbitration proceedings. The Arbitration Committee Chair shall preside at all arbitration proceedings and shall have full power to make all evidentiary and procedural rulings and control and direct the conduct of the arbitration.

2.13.2.5.3.2 Parties to an arbitration may be represented by counsel.

2.13.2.5.3.3 Unless otherwise agreed by the parties, the Arbitration Committee shall consider only the issues before it as set forth in the Statement of Claim, Answer, Statement of Counterclaim, and Answer to Counterclaim.

2.13.2.5.3.4 In the conduct of arbitration proceedings, the Arbitration Committee shall be relieved of all judicial formalities, including rules of evidence, and may abstain from following the strict rule of law as to such judicial formalities. However, fairness and consideration shall be observed in all arbitration proceedings so that each party shall have an opportunity to be heard and to present their position.

2.13.2.5.3.5 At the commencement of an arbitration hearing the Arbitration Committee Chair shall first examine his ability to act in total fairness and, after having made a positive determination, shall then question each member of the Arbitration Committee to assure their fairness. If a member is biased against either party or the issue before the Arbitration Committee, that member shall be excused from acting as a committee member to the arbitration.

2.13.2.5.3.6 The Arbitration Committee or its representative has the right to inspect all records and books of the franchise, including access to the premises of the Franchisee involved in arbitration. No Franchisee is allowed access to the premises of another Franchisee without his permission.

2.13.2.5.3.7 Each party shall make available at the arbitration proceeding, all employees, agents, representatives, subcontractors, tradesmen, or other persons having any knowledge of the subject matter of the arbitration proceeding. Such persons shall not be required to travel more than fifty (50) miles to participate in an arbitration proceeding and the Arbitration Committee may interview such persons by telephone if the hearing is not within this distance.

2.13.2.5.3.8 The party that seeks the testimony of these persons is responsible for all expenses incurred by that person, but the Arbitration Committee shall have the discretion to charge these costs to the unsuccessful party. No party shall be penalized if circumstances prevent production of such persons, beyond the loss of evidence that could have been presented through such testimony.

2.13.2.5.4 Arbitration Decision.

2.13.2.5.4.1 Subject to the right of appeal set forth in section 2.13.3.2, the decision of a majority of the Arbitration Committee shall be final and binding on the

parties and judgment upon the award rendered by the Arbitration Committee may be entered in any court having jurisdiction thereof.

- 2.13.2.5.4.2 The arbitration decision shall be in writing, prepared and signed by the Arbitration Committee Chair, and shall be rendered on or before thirty (30) days after the conclusion of the arbitration hearing. The Arbitration Committee Chair may request the assistance of the Arbitration Coordinator in drafting the decision.
- 2.13.2.5.4.3 Copies of the decision of the Arbitration Committee shall be distributed by the Arbitration Coordinator to each party, the Arbitration Committee members, the Franchisor, CSI and the members of the NEC.
- 2.13.2.5.4.4 Any payments from the CSI Guarantee Fund mandated by a decision shall be made upon requisition by the Arbitration Committee Chair or a representative of the Franchisor.
- 2.13.2.6 (f) **Expenses**
- 2.13.2.6.1 (i) All actual expenses incurred by each arbitration committee member, the alternate, the Arbitration Coordinator, the Franchisor, and the Franchisor advisor in connection with an arbitration proceeding shall be advanced by CSI, provided, however, that such reimbursable expenses shall not include expenses incurred by the Franchisor as a party to the arbitration. In the case of in-person arbitration or appeal hearings, each arbitration committee member shall be paid a fee of \$400 per day, in addition to actual expenses.
- 2.13.2.6.1.1 When requesting payment of expenses from CSI, the chairman of the Arbitration Committee shall submit an itemized invoice, with documentation reasonably acceptable to the Executive Finance Committee of CSI.
- 2.13.2.6.2 (ii) CSI shall be repaid for expenses advanced by it in such manner and subject to such terms and conditions and by such party as a majority of the Arbitration Committee shall determine. In making such decision, the Arbitration Committee shall be guided by the following:
- 2.13.2.6.2.1 (A) If the claim or dispute is brought against a Franchisee by a person not affiliated with a Franchisee or with the Franchise System, the Franchisee involved in the arbitration proceeding shall pay such expenses.
- 2.13.2.6.2.2 (B) If the claim or dispute is among Franchisees or between a Franchisee and the Franchisor, the expenses shall be paid by the losing party or, if neither party is the losing party, then against the party initiating the arbitration proceeding.
- 2.13.2.6.2.3 (C) In determining who shall pay the expenses of an appeal of implementation of penalties or cancellation of a franchise due to failure to meet mandatory operating requirements, the following shall govern:

2.13.2.6.2.3.1 (1) If the Franchisor has implemented such penalties on cancellation in accordance with the requirements of the Paul Davis Operations Manual, then all costs shall be paid by the franchise.

2.13.2.6.2.3.2 (2) If the Franchisor is determined to have acted unfairly or has maliciously ignored the provisions of the Paul Davis Operations Manual, all expenses shall be paid by the Franchisor.

2.13.2.6.3 (iii) In the case of an arbitration or appeal which is withdrawn, settled, or otherwise does not result in a final decision, or in the case of any decision which does not specify responsibility for arbitration expenses, the party initiating the arbitration or appeal shall be responsible for arbitration expenses, provided, however, that the parties may agree to an allocation of arbitration expenses and submit such agreement in writing to CSI.

2.13.2.7 (g) **Special Provisions**

2.13.2.7.1 (i) If any provision of Article XII (Arbitration – General) and Article XIII (Organization of Arbitration Committees) of Booklet Two shall be held invalid for any reason whatsoever or in violation of any law of the United States of America, the District of Columbia, or any state, Article XII and Article XIII shall be considered divisible as to such provision; such provision shall be deemed deleted from Article XII and Article XIII, and the remainder of Article XII and Article XIII shall be valid and binding. In the event the composition of the arbitration committee shall be held to be biased or otherwise invalid, three commercial arbitrators shall be selected as follows: Each party shall select an arbitrator and the two of them shall select a third. Unless prohibited by applicable state law, the rules set forth in Article XII and Article XIII shall govern all arbitrations by commercial arbitrators (except with respect to the selection and removal of arbitration committee members). If such selection methodology shall be ruled to be invalid under applicable state law, any controversy or claim shall be settled by arbitration in accordance with the Commercial rules of the American Arbitration Association (“AAA”) utilizing AAA arbitrators.

2.13.3 **National Committees**

2.13.3.1 (a) **Interdistrict Committee**

2.13.3.1.1 (i) If a claim or dispute involves franchises from two districts, then the chairmen of the Arbitration Committees in each such district shall serve as members of an Interdistrict Committee along with a chairman for said committee chosen by the President of the council from a neutral district.

2.13.3.1.1.1 A Franchisor Advisor shall also serve as a nonvoting member thereof, except in any case where the Franchisor is a party to the arbitration.

- 2.13.3.1.2 (ii) All arbitration proceedings before an Interdistrict Committee shall be governed by the provisions of 2.13.2.4, 2.13.2.5 and 2.13.2.6, thereof.
- 2.13.3.2 (b) **Appeals Board**
- 2.13.3.2.1 (i) The President of the NEC is authorized to create an Appeals Board, consisting of the chairman of five (5) Arbitration Committees, to hear and determine appeals from the decision of an Arbitration Committee or an Interdistrict Committee. If insufficient Arbitration Committee Chairmen are willing or able to serve, the President may select any Arbitration Committee member to participate on the Appeals Board.
- 2.13.3.2.1.1 The President shall designate one of such members as chairman of the Appeals Board.
- 2.13.3.2.1.2 No Arbitration Committee chairman shall serve on an Appeals Board to consider an appeal from a decision of an Arbitration Committee or an Interdistrict Committee wherein he acted as a member or chairman during such decision.
- 2.13.3.2.1.3 A Franchisor advisor shall also serve as a nonvoting member thereof, except in any case where the Franchisor is a party to the arbitration.
- 2.13.3.2.1.4 The Appeals Board shall have authority to overrule, confirm, modify, or amend a decision of an Arbitration Committee or an Interdistrict Committee or increase or decrease any sums awarded in connection therewith.
- 2.13.3.2.2 (ii) An appeal of an Arbitration Committee or an Interdistrict Committee arbitration decision shall be commenced by filing with the Arbitration Coordinator, within twenty (20) calendar days of the receipt of the arbitration decision by the appealing party: (a) a written Notice of Appeal, of not more than five (5) pages, setting forth the basis of the appeal, (b) an additional arbitration expense deposit of \$1,000, and (c) payment of any arbitration expenses assessed against the appealing party by the Arbitration Committee or Interdistrict Committee. Within fifteen (15) days of receipt of the Notice of Appeal, the other party may file a Response to Notice of Appeal of not more than five (5) pages. The Arbitration Coordinator shall forward the Notice of Appeal, the Response to Notice of Appeal, and all written matters considered by the Arbitration Committee to the Appeal Board, who, within twenty (20) days, and without further participation by the parties, shall rule either: (a) to conduct an appeal hearing, or (b) to deny the appeal, in which case the arbitration decision shall be final and binding. If the Appeal Board rules to conduct an appeal hearing, then the Appeal Board chair shall determine the amount of the additional expense deposit required from the appealing party and the appealing party shall submit such deposit within ten (10) days. Failure to submit any additional expense deposit so required shall

result in the denial of the appeal and the arbitration decision shall be final and binding.

- 2.13.3.2.2.1 The Appeals Board may review all written matters considered by the Arbitration Committee or the Interdistrict Committee and shall base its decision on the record before the Arbitration Committee or the Interdistrict Committee and on arguments presented to it orally or in writing by the parties to the appeal.
- 2.13.3.2.2.2 The provisions of 2.13.2.4, 2.13.2.5.2 through 2.13.2.5.8 and of 2.13.2.6 hereof shall govern such appeals.
- 2.13.3.3 (c) **Special Arbitration Board**
- 2.13.3.3.1 All Chairmen of the Arbitration Committees shall serve as a Special Arbitration Board.
- 2.13.3.3.2 The President of the NEC shall appoint one District Arbitration Committee Chairman to serve as Chairman of the Special Arbitration Board.
- 2.13.3.3.3 The Special Arbitration Board shall hear all issues concerning the Franchisor, a franchisee, a group of franchisees, or any other party subject to arbitration, which will affect a multi-district segment of the Franchise System.
- 2.13.3.3.4 Any franchisee, group of franchisees, or the Franchisor may request arbitration by the Special Arbitration Board on any issue wherein a multi-district segment of the Franchise System could be affected by the outcome.
- 2.13.3.3.4.1 For a Special Arbitration to proceed, a majority of the members of the Special Arbitration Board shall agree the issue will affect a multi-district segment of the Franchise System.
- 2.13.3.3.5 Filing of a request for arbitration by the Special Arbitration Board will be according to 2.13.2.5.
- 2.13.3.3.6 In all Special Arbitration Board arbitration proceedings, the NEC shall serve as the representative of the Franchise System.
- 2.13.3.3.7 A Franchisor representative shall serve as a nonvoting member of the Special Arbitration Board and may not be excused, except in any case where the Franchisor is a party to the arbitration.
- 2.13.3.3.8 The decision of the Special Arbitration Board shall be binding on all parties.
- 2.13.3.3.8.1 Appeals to any decision of the Special Arbitration Board will be heard by the American Arbitration Association (AAA).
- 2.13.3.3.9 Any party to Special Arbitration shall have the right to excuse, without cause, any member of the Special Arbitration Board as it exists at the time a request for Special Arbitration is filed.



- 2.13.3.3.9.1 Any excused member of the standing Special Arbitration Board will be replaced by a three-fourths majority vote of the Special Arbitration Board members.
- 2.13.3.3.9.2 Any Special Arbitration Board replacement member selected may be excused by either party for due cause, if a majority of the other members of the Special Arbitration Board determine the moving party has established such due cause.

# **PAUL DAVIS OPERATIONS MANUAL**



## **BOOKLET THREE COVENANTS AND AGREEMENTS**

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## ARTICLE I MUTUAL COVENANTS

### 3.1.1      **A.      Background**

3.1.1.1      Under the terms of the Franchise Agreements between the Franchisor and the Franchisees, the Franchisor and each Franchisee have made certain commitments that are essential to the operation of the franchise network. These commitments include but are not limited to a covenant by the Franchisor to grant to the Franchisee an exclusive territory (the "Exclusive Territory"), which represents the geographic boundaries within which the Franchisee may do business undisturbed by other existing or potential Franchisees and a covenant by the Franchisee not to compete with the Franchisor or other Franchisees through the unauthorized use of information imparted during the course of dealing as a franchise. The National Executive Committee has determined that it is in the best interest of the franchise network to establish that these covenants bind the Franchisor as well as the Franchisees and each Franchisee as related to every other Franchisee.

### 3.1.2      **B.      Franchise Territories and Cross Territory Procedures**

3.1.2.1      **1.      Franchise Territory.** The Franchisor has granted to each Franchisee an exclusive Franchise Territory within which the Franchisee promises to operate the franchise. These Cross Territory procedures have been established to provide a fair and equitable method of servicing accounts and contracting jobs across established Franchise Territory lines. The goal of these procedures is to provide the most responsive service possible to the insurance industry while at the same time respecting each Franchisee's right to the economic benefits of their Franchise Territory.

3.1.2.2      **2.      Franchisees Soliciting Outside of Their Franchise Territory.** Contacts for sales and marketing calls, including agents, adjusters, claim centers and other insurance company personnel or other business sources, may be located within the Franchise Territory of another Franchisee. Franchisees may make sales and marketing calls in any Franchise Territory for the purpose of soliciting business within their own Franchise Territory or in open territories. Although permission to make such calls is not required, good business practice and common courtesy suggest that joint marketing calls with the local Franchisee should be considered for economy and efficiency.

### 3.1.2.3      **3.      Franchisees Contracting Outside of Their Own Territories**

3.1.2.3.1      **a.      Cross Territory Fees.** Cross Territory fees shall be due on all services performed within the Franchise Territory of another Franchisee unless specifically exempted in subsection 3.d below.

The Cross Territory fee for residential services is five percent (5%) of the total sale amount. "Residential services" are defined as services performed on a structure covered by a residential policy (regardless of whether such services are related to the residential policy). The Cross Territory fee for commercial services is two percent (2%) of the total sale amount. "Commercial services" are defined as services performed on a structure covered by a commercial policy (regardless of whether such services are related to the commercial policy). Cross Territory fees are due on the earlier of: (i) the day the first draw or payment is received, or (ii) forty five (45) days after the day the work is commenced.

3.1.2.3.2

**b. Cross Territory Reporting.** All contracts signed by any Franchisee in the Franchise Territory of another Franchisee shall be reported within ten (10) business days on a Cross Territory Form (located in Chapter 4 of the PDR Procedures Manual) to the Franchisee in whose Franchise Territory the services are to be provided.

Upon request and receipt of payment, the Franchisor will provide sales reporting to the requesting Franchise for the territory identified in their individual Franchise Agreement. The report will include zip codes, IRMS job numbers, sales dollars per IRMS job number, and the Franchise that reported the sales. The report will contain this data for a twelve month period ending on the last day of the previous complete month prior to the request. The cost will be \$150 per report. Any Franchise delinquent on their royalty payments, SMC payments, CSI payments or local/district co-op payments will not be eligible to receive this report.

3.1.2.3.3

**c. Cross Territory Penalties.** Failure to report Cross Territory infringements and/or pay Cross Territory fees shall result in the following penalties:

3.1.2.3.3.1

(1) The penalty for failure to report within ten (10) business days shall be 10% of the gross sale.

3.1.2.3.3.2

(2) intentionally deleted.

3.1.2.3.3.3

(3) The penalty for failure to pay Cross Territory fee when due shall be 1 and 1/2% per month of the amount due.

3.1.2.3.3.4

(4) In any case in which an Arbitration Committee shall determine that a franchise or its representative(s) have violated the intent of this section, a mandatory penalty of 20% (total of all penalties in this section) of all jobs contracted through such violation shall be imposed.

3.1.2.3.3.5

(5) If any franchise shall be found to have intentionally violated the intent of this agreement at a second and

separate arbitration proceeding, the penalty, in addition to the above, shall be termination of the franchise.

3.1.2.3.3.6 (6) A Franchisee who is owed Cross Territory fees and penalties shall have a right of lien on any CSI deposit funds of the owing Franchisee, subject to all conditions of access to those funds stated on the reverse side of the CSI stock certificate.

3.1.2.3.3.7 (7) Any claim for Cross Territory fees or penalties must be brought within one year of the date a Franchisee has information that a violation has occurred.

3.1.2.3.4 d. **Exemptions from Cross Territory Fees.** The following situations are exempt from Cross Territory fees:

3.1.2.3.4.1 (1) Services done in any territory which is not part of a Franchise Territory.

3.1.2.3.4.2 (2) Services done in any territory where the Franchisee has not yet commenced operating, is under a Voluntary Closure, or has been terminated.

3.1.2.3.4.3 (3) Services completed in the territory of a Franchisee that has been officially removed from a Franchisor organized and/or coordinated program, from any third party network program and/or any other organized program for failure to perform, with such removal initiated by the company representative, the adjuster, agent or any other approved representative, and approved by the District Executive Committee, but only for services requested by the particular company representatives who have removed the Franchisee in whose territory the services are to be performed.

3.1.2.3.4.4 (4) In any case where a Franchisee has referred the request to the local Franchisee and the local Franchisee declines the request or is not available to respond to the request.

3.1.2.3.4.5 (5) In any case where individual franchises have agreed in writing to waive Cross Territory fees.

3.1.2.3.4.6 (6) Services done for a 3<sup>rd</sup> party network or insurer DRP in the territory of a Franchisee that has been removed from that 3<sup>rd</sup> party's network (such as Contractor Connection) or that insurer's DRP for failure to meet that insurer's standards of performance. This exception shall not apply in any case where the Franchisee has elected to not participate in a network or has not been selected to be in the network. If this exemption is in effect at the time of a transfer or resale then

this exemption shall continue, provided that this exemption shall terminate once the new (transferred) franchise has met the minimum time eligibility for the program.

3.1.2.3.4.7

(7) Effective July 1, 2005 (or 18 months after start-up for new franchises), drying jobs performed in compliance with the Applied Structural Drying ("ASD") MOR are exempt from cross-territory fees if done in the territory of a franchise that has failed to comply with the ASD minimum standards. To qualify for this exemption the Franchisor must have issued notice that the failing franchise has been assessed the monetary penalty for failing to comply with the ASD MOR. Reinstatement of the cross-territory fees would begin immediately after the offending franchise has approval from the C&PC that they are in compliance.

(8) All services performed by a PDES Franchise in the territory of another PDES Franchise are exempt from Cross Territory fees.

3.1.2.4

**4. Special Procedures for CATs.** A Franchisee may, with the permission of the local Franchisee, establish an office and conduct business in any Franchise Territory that is in an area declared a catastrophe area by the insurance industry. The insurance industry as used herein consists of those companies that insure residential and commercial property against loss caused by sudden and accidental events, and the industry standard for a catastrophe is an event identified with a CAT serial number by Property Claims Services (PCS), a division of American Insurance Services, Inc., wherein losses will exceed \$5 million and claims will exceed 1,000.

3.1.2.4.1

This right is subject to the prior approval of the District Executive Committee in whose area the catastrophe has been declared. Applicable fees must be paid to local Franchisees in whose Franchise Territory work is performed. Renewal of District Executive Committee approval must be obtained every six months. The District Executive Committee may require, at any time, that the visiting Franchisee cease accepting new contracts, complete all unfinished contracts, pay all bills, and withdraw from the territory.

3.1.2.4.2

The Franchisee establishing an office in another territory as a result of a catastrophe shall deposit 2% of all collections for services performed in said territory with CSI for a period ending two years after the completion of the final contract signed in said territory. The cost of warranty work on said territory shall be covered by the 2% fund so long as there is a positive balance. The cost of any warranty work not covered by the 2% fund shall be paid by the Franchisee contracting the work in said territory. Two years after the completion of the final contract signed in said



territory, the balance of the 2% fund shall be returned to the Franchisee.

3.1.3           **C.      Trade Secrets**

3.1.3.1           **1.      Trade Secrets Defined.** The Franchisor and each Franchisee possess certain secret and confidential information which relates to and is an essential part of an operating franchise, including, but not limited to, contract forms, job cost accounting techniques, customer lists, appraisal techniques, data contained in Franchisor's computer software, sales techniques as applied to the insurance industry, and sources of construction suppliers, methods, techniques, formulas, and data now existing or hereinafter developed or acquired relating to the operation of a franchise but not including information or techniques in the public domain and generally known and used by general contractors other than through disclosure by the Franchisor or a Franchisee. All of the foregoing are hereinafter referred to as the "Trade Secrets."

3.1.3.1.1           Trade Secrets shall be defined to include the Job Cost Accounting System but shall not be defined to include the Estimating System nor shall it include any subsequent revisions or modifications to such Estimating System.

3.1.3.2           **2.      Right of Use of Trade Secrets.** The Franchisor is the sole owner of the Trade Secrets but has authorized the General Council to oversee the operation of the franchise network, including the use of Trade Secrets by the franchises and modification of any Trade Secret in the ordinary course of business or for the benefit of the franchise network and to make no use thereof which may reasonably be expected to cause harm to the franchise network, the Franchisor, or any Franchisee.

3.1.3.3           **3.      Covenant Not to Disclose.** Each party acknowledges the value of the Trade Secrets to the franchise network and hereby covenants to:

3.1.3.3.1           (a)      Use the Trade Secrets in strict accordance with the Procedures Manual and with directions given from time to time by the Franchisor.

3.1.3.3.2           (b)      Not use the Trade Secrets in any other business or capacity during or after the term of this agreement.

3.1.3.3.3           (c)      Maintain the absolute confidentiality of the Trade Secrets during and after the term of this agreement.

3.1.3.3.4           (d)      Not duplicate, copy, or otherwise reproduce any written or software materials containing the Trade Secrets without prior authorization.

- 3.1.3.3.5 (e) Observe and implement those procedures established by the General Council and set forth in the Procedures Manual to control the use and disclosure of Trade Secrets by employees and Associates.
- 3.1.3.3.6 (f) Immediately notify Franchisor or the General Council in writing of any suspected or actual unauthorized use of the Trade Secrets by a third party.
- 3.1.3.3.7 Nothing contained in these covenants shall preclude the Franchisor from using the Estimating System in any other business or capacity whatsoever.
- 3.1.3.4 **4. Covenant to Secure Materials.** The Franchisor and Franchisee shall keep all Operations Manuals, Procedures Manuals, other written materials, and computer software containing the Trade Secrets in a secure location and shall maintain control over such materials at all times. Franchisee shall disclose the Trade Secrets to employees only to the extent required for such employees to perform their duties of employment. The Franchisor and each Franchisee agree that the Franchisee will require any employee or Associate who has access to the Trade Secrets to enter into an agreement that binds the employee or Associate to the covenants and restrictions set forth in this section.
- 3.1.3.5 **5. Changes to Trade Secrets.** The NEC retains the right to make additions, deletions, and revisions to the Trade Secrets. Such changes shall become binding upon the parties upon notification thereof, and each party agrees to take all steps necessary to implement such changes and to update all written materials evidencing such changes.
- 3.1.3.6 **6. Covenant Not to Compete.** Both the Franchisor and the Franchisee acknowledge that operation or ownership of a competitive business would threaten the security of the Trade Secrets and the success of the franchise network. The parties further acknowledge that, having received access to and use of the Trade Secrets, neither the Franchisor nor the Franchisee could operate a competitive business offering insurance restoration of homes or commercial buildings or offering home improvements without making use of the Trade Secrets. The Franchisor and the Franchisee further covenant to abide by the non-competition terms set forth in the Franchise Agreement.

3.1.4            **D.      Dispute Resolution**

3.1.4.1            The breach of any covenant contained in this Booklet Three shall be resolved pursuant to the arbitration provisions set forth in 2.7 and 2.8 of the Operations Manual.

3.1.5            **E.      Covenants to Share Contracts**

The Franchisees agree to provide copies of all contracts containing non-competition and trade secrets clauses to the Franchisor. Copies of said contracts shall be made available to and collected by quality control inspectors on each visit to each franchise. The purpose of this provision is to provide security against theft.

## ARTICLE II

### STATEMENT OF PRINCIPLES

- 3.2.1 We adhere to the truth, "There is Strength in Unity." Although we are proud of our individual ownership, we are equally proud of and dedicated to the concept of oneness as an organization.
- 3.2.2 We feel strongly that while the entire organization should care for each individual member, the well-being of the organization transcends that of any single member.
- 3.2.3 We recognize that, of all the parties in our marketplace, none is so important as the property insurance industry and its individual field claims personnel and management. We will conduct our business in such a way as to be an invaluable asset to them in their efforts to settle property losses. To accomplish this, we commit ourselves without reservation to the following pledge:
- 3.2.3.1 ■ **We will approach every task you assign us with absolute honesty and integrity.**
- 3.2.3.2 ■ **We will put your interest above all others including our own.**
- 3.2.3.3 ■ **Our purpose in preparing an appraisal will always be to arrive at the lowest equitable price the adjuster and property owner can use to settle the claim.**
- 3.2.3.4 ■ **We will never misrepresent the scope or cause of loss in order to obtain an authorization to make repairs.**
- 3.2.3.5 ■ **We will provide any service you need at no cost, having proved over the years that sales is a natural by-product of our service.**
- 3.2.3.6 ■ **We believe and practice the old Rotary motto: "He profits most who serves the best."**
- 3.2.4 We acknowledge the four requisites to fulfilling this pledge are:
- 3.2.4.1 1. Total honesty and integrity in all relationships.
- 3.2.4.2 2. Professionalism in every aspect of business.
- 3.2.4.3 3. Sound business management and accountability through adherence to the Paul Davis operational system.
- 3.2.4.4 4. Commitment to continuing industry-related education.
- 3.2.5 By making this "Statement of Principles" a part of our written council organizational structure, we signify our acceptance of and pledge our adherence to the principles contained herein.

## **ARTICLE III CATASTROPHE RESPONSE STRATEGY FOR LOCAL FRANCHISE OPERATORS**

- 3.3.1           The Franchise Network, being aware of the special needs of its insurer clients in catastrophe situations, pledges its efforts in such cases to:
- 3.3.1.1           1.       Place the interest of those insurers who have a formal relationship with the Franchise Network first in its priority list when the local insurer personnel are in agreement and have been consistently working with franchise operators in the catastrophe area.
- 3.3.1.2           2.       Dedicate our estimating efforts toward providing as many estimates as practical under the circumstances to all insurer personnel.
- 3.3.1.2.1           If the insurer is willing to pay for appraisals, then local franchise operators will endeavor to bring in qualified, outside, insured (including E&O coverage) help to provide these appraisals.
- 3.3.1.3           3.       Dedicate our work force to providing "Emergency Services" to policy holders of our insurer clients on the following bases:
- 3.3.1.3.1           a.       When the insurer is willing to make payment directly to the contractor without withholding the deductible, the franchise operator will perform the emergency service at the insurer's request.
- 3.3.1.3.2           b.       When the insurer will not accept payment responsibility, the franchise operator will only perform the emergency services when paid in advance by the property owner.
- 3.3.1.3.3           c.       Having given its best efforts to meeting the service needs of its insurer clients, the Franchise Network will turn their attention to sales.
- 3.3.2           Nothing herein written is meant to infer that local franchise operators will forego sales efforts in the early stages of a catastrophe. They will simply be the third priority.

## **ARTICLE IV THE PAUL DAVIS STRATEGY STATEMENT**

- 3.4.1      **A.     FOCUS.**     Paul Davis Franchise Network is a group of individually owned and operated businesses working interdependently under an umbrella organization in a "niche" market, which is insurance restoration contracting.
- 3.4.2      **B.     PURPOSE.**     The primary purpose is to differentiate ourselves in the marketplace by placing emphasis on providing honesty, integrity, dedicated service, competitive pricing, and quality workmanship to the property insurance industry, while placing the interest of the insurer above all others, including our own.
- 3.4.3      **C.     OBJECTIVE.**     The objective is to obtain a minimum ten percent share of the total property insurance loss market.
- 3.4.4      **D.     METHOD.**     Our method is to work in a spirit of ever-increasing unity through the Paul Davis General Council, building credibility and influence in the market place far beyond the ability of any individual business by continually contributing value to the loss management process.
- 3.4.5      **E.     RESOURCES.**     Our resources are the people who work with us as managers, Associates, Job Cost Accountants and tradesmen. Success in accomplishing our objective depends to a very large degree on how we manage these resources.
- 3.4.6      **F.     BUSINESS PLAN.**     The business plan is to increase our market share through the use of lower unit prices, more conservative scopes, better service, and better workmanship than our competitors can provide. This combination will provide the largest volume of business which, when combined with a guaranteed percentage of gross profit and low overhead, will produce the highest percentage of before tax profit.

## **ARTICLE V**

### **MANDATORY OPERATING REQUIREMENTS FOR PAUL DAVIS RESTORATION FRANCHISES**

3.5 All PDR Franchises are required to comply with the following Mandatory Operating Requirements.

3.5.1 **A. Mandatory Operating Requirements**

3.5.1.1 **1. Franchise Office**

3.5.1.1.1 Each Franchise shall at all times maintain a properly furnished office with exterior signage identifying the franchise and appropriate for the office location. The franchise office shall be located in a commercial location within the boundaries of the franchise territory and not within a residence. The franchise office shall be staffed and open to the public at least eight daytime hours of each normal business day and shall be dedicated solely to the operation of the Paul Davis Restoration franchise.

3.5.1.1.2 All Canadian offices shall locate a professional Paul Davis Systems sign on the exterior of the office location to be seen by the public. This will include signs at the end of a driveway or on the painted surface of the outside office door. This should be visible for the JQR review.

3.5.1.2 **2. Franchise Insurance**

3.5.1.2.1 Each Franchise shall provide to the Franchisor Certificates of Insurance evidencing that the Franchise has at all times obtained general liability and auto insurance with the following minimum coverage:

3.5.1.2.1.1	1.	\$2,000,000	General Aggregate
3.5.1.2.1.2	2.	\$1,000,000	Occurrence
3.5.1.2.1.3	3.	\$2,000,000	Products Completed Operations Aggregate
3.5.1.2.1.4	4.	\$1,000,000	Personal Injury
3.5.1.2.1.5	5.	\$50,000	Fire Legal Liability
3.5.1.2.1.6	6.	\$5,000	Medical Payment

3.5.1.2.2 and has obtained Workers' Compensation Insurance to meet all statutory requirements or minimum coverage available if statutory requirements do not apply. Any Franchise that takes possession or control of customers contents must have coverage for those contents in their possession (Bailee's Insurance) with a minimum coverage of \$250,000.

3.5.1.2.3 The Certificates of Insurance shall name both the Franchisor and CSI as additional insureds as follows:

3.5.1.2.3.1 U.S. Franchises: **Paul Davis Restoration, Inc.,**  
One Independent Drive, Suite 2300 Jacksonville,  
Florida 32202,  
and

**Completion Services, Inc.,**  
221 North Hogan Street, #234  
Jacksonville, Florida 32202

- 3.5.1.2.3.2 Canadian Franchises: **Paul Davis Systems Canada, Ltd.,**  
38 Crockford Blvd., Toronto, Ontario, M1R  
3C2,  
and  
**Completion Services, Inc.,**  
221 North Hogan Street, #234  
Jacksonville, Florida 32202.
- 3.5.1.2.4 And provide a 30-day cancellation notice, if available in the policy provisions.
- 3.5.1.2.5 In the event a Franchise fails to obtain the above-required insurance coverage, Completion Services, Inc, or the Franchisor may obtain such insurance coverage and the Franchise shall be obligated for the cost of obtaining such insurance.
- 3.5.1.2.6 If an owner owns multiple franchises and obtains a single GL/CPL policy covering those franchises then, then the required minimum coverage is \$1 million per occurrence and \$1 million aggregate per franchise (e.g. 3 franchises require \$3 million aggregate).
- 3.5.1.3 **3. Financial Reporting Requirements**
- 3.5.1.3.1 Each Franchise shall provide the following financial reports to the Franchisor:
- 3.5.1.3.1.1 1. Monthly: Gross sales for the previous month shall be reported on or before the seventh (7th) calendar day of each month.
- 3.5.1.3.1.2 2. Quarterly: Financial statements (including Income Statement and Balance Sheet) and the Job Progress Summary (JPS) Report shall be submitted within thirty (30) days of the end of each quarter. The JPS shall include all open and completed jobs and any temporary estimates for all associates.
- 3.5.1.3.1.3 3. Annually: Financial statements (including Income Statement, Balance Sheet, and Statement of Cash Flow), together with corporate tax returns (or extension), shall be submitted within ninety (90) days of the end of the franchise's fiscal year. (If an income tax return extension has been filed then the actual return shall be due at the end of the extension period.) Annual financial statements shall be compiled by a CPA.
- 3.5.1.4 **4. Job Cost Accountant**
- 3.5.1.4.1 Each franchise shall at all times employ a full-time Job Cost Accountant ("JCA") who has either been trained or approved by the Franchisor. New



franchises are required to have a full-time JCA prior to making sales. All job cost functions shall be performed on-site in the Franchise office.

- 3.5.1.4.2 In cases where two or more Franchises are owned by the same owner, the Franchisor may, in writing, allow this requirement to be met by a centralized JCA function with such additional requirements as the Franchisor deems appropriate.

3.5.1.5 **5. Communication/Telephone System**

- 3.5.1.5.1 Each Franchise shall maintain a telephone system with a sufficient number of land lines to allow simultaneous receipt of fax, two incoming voice calls, and internet/e-mail communication (if via telephone). Each Franchise shall maintain internet access and e-mail capability.

- 3.5.1.5.2 Franchise telephones must be answered either “Paul Davis Restoration” or “PDR” by franchise personnel during office hours.

- 3.5.1.5.3 During all non-office hours, the Franchise telephones must be answered either via roll-over to employee home or cell telephones or via an answering service with franchise personnel assigned to receive all calls. Answering machines may not be used.

- 3.5.1.5.4 All “live” or “warm transfers” of customer calls transferred by the Paul Davis Claims Reception Center (Call KC) must be received 24 hours per day, 7 days per week, by franchisee employees qualified to manage emergency service response. This requirement may be met using combinations of franchise office phones and employee cell phones but answering machines, voice mail, or answering services may not be used for this purpose. Franchisees shall use the Paul Davis Call Portal on PD Café to update and maintain current call trees with the Claims Reception Center (Call KC).

In the event of a localized storm or other occurrence that creates a large number of losses, it may not always be possible to abide by this MOR. In these cases the MOR is temporarily suspended until the office can return to its normal operating volume.

3.5.1.6 **6. Contracts**

- 3.5.1.6.1 Each Franchise shall require all franchise employees to execute the Non-Solicitation, Non-Competition and Non-Disclosure Agreement (as modified to comply with applicable local law) found in Chapter IV of the Paul Davis Restoration Procedures Manual.

3.5.1.7 **7. Use of Tradename and Logo**

- 3.5.1.7.1 Each Franchise shall operate exclusively under the tradename “Paul Davis Restoration” and such other tradenames as approved in writing by the Franchisor. Each Franchise shall use the Franchisor’s trademarks and

logos only in accordance with the SMP Tool Box or other instruction found on the Franchisor's web site.

3.5.1.8

**8. Servicing Franchise Territory**

3.5.1.8.1

Each Franchise is required to provide insurance restoration, cleaning, loss mitigation, and 24 hour - 7 day per week emergency services for its entire franchise territory.

3.5.1.8.2

In the case of Franchisor sponsored or organized national or regional programs, if a Franchise has chosen not to participate in the program or does not meet program requirements (a "Non-Participating Franchise"), then a neighboring participating Franchise may have its service territory expanded to include some or all of the Non-Participating Franchise's franchise territory, but only for the specific program for which the Franchise is not participating and only for such period of time as the Franchise is not participating. All such expansions of service territory must be approved by the PDRI Regional Manager of Vice president of Operations.

3.5.1.9

**9. PDR Software**

3.5.1.9.1

Each franchise shall, within ninety (90) days of its availability as a general release, install and maintain on the Franchise computer system the latest version/update of the PDR Software.

3.5.1.9.2

Each franchise must participate in PDEXchange (by September 30, 2004), or successor system, and synchronize monthly at a minimum.

3.5.1.10

**10. Performance of Work**

3.5.1.10.1

To protect the entire franchise network against the loss of "independent contractual agent" status for tradesmen and recognizing that this status is the one single means whereby we can be guaranteed a "fixed production cost," the General Council has required that all work contracted by a Paul Davis Restoration franchise must be performed in one of three ways:

3.5.1.10.1.1

1. By qualified tradesmen who have executed a current valid Tradesman Agreement with the franchise, using at least minimum job cost percentage guidelines for each work trade specialty code as approved by the General Council.

3.5.1.10.1.2

2. By qualified tradesmen or contractors who have submitted a written proposal and signed jointly with the Franchisee an individual contract, with specifications, for each job undertaken on any job on which the minimum job cost percentage guidelines approved by the General Council are not used.

3.5.1.10.1.3

3. By employees who have signed an employee contract and on whom all required insurances and taxes are paid on a regular basis, with full disclosure and reporting filed with the appropriate agencies and copies maintained in the Franchisee files.

- 3.5.1.10.2 All employees shall be identified in the vendor file or other appropriate files as such.
- 3.5.1.10.3 Because of the great danger to which the entire franchise system is exposed by dishonesty or deception in these areas, the failure to meet this requirement, when discovered, shall be reported immediately to the Franchisor for immediate hearing. If corrections are not made, the franchise may be subject to termination.
- 3.5.1.11 **11. Payments of Sums Due to Franchisor**
- 3.5.1.11.1 Each Franchise shall pay all sums due to the Franchisor and to Completion Services, Inc., as and when due.
- 3.5.1.12 **12. Franchise General Manager**
- 3.5.1.12.1 Each Franchise shall employ a full-time General Manager. The General Manager may be a franchise owner who has completed the full new owner program or a franchise employee who has successfully completed either Training Program A or B below.
- 3.5.1.12.1.1 **Training Program A:** This abridged GM training is targeted to individuals with a minimum of two years successful experience as a full functioned Associate in a PDR office having sold and managed including at least 80 separate projects totaling in excess of \$600K. These individuals will attend the following portions of the PDR New Owners Training School: job costing, financial management, business plan review, OSHA, hazardous materials, safety, human resource management, sales and marketing and demonstrate proficiency in the core competencies by scoring at least 70% on a written exam. Individual must also obtain IICRC Water Damage certification to be qualified as a General Manager.
- 3.5.1.12.1.2 **Training Program B:** For all others, the individual must complete the entire PDR New Owners Training School and pass all tests. Individual must also obtain IICRC Water Damage certification to be qualified as a General Manager.
- 3.5.1.13 **13. Required Certifications**
- 3.5.1.13.1 Each franchise shall have owners or employees who collectively have all of the following certifications:
1. IICRC Water Damage Restoration (WRT),
  2. IICRC Fire and Smoke Restoration (SRT),
  3. IICRC, ACAC or RIA Mold Remediation or shall meet the requirements of the franchise's state for a Mold Remediation Contractor, provided that such state requirements meets or exceeds the minimum standards, including a written exam, of IICRC, ACAC, or RIA certification, and
  4. Either IICRC Applied Structural Drying (ASD) or Vortex Drying

- 3.5.1.13.2 This requirement must be met by new franchises within twelve months of completion of New Owners School.
- 3.5.1.14 **14. Third-Party Customer Satisfaction/Quality Survey**
- 3.5.1.14.1 Each franchise shall participate in the SMP's national third-party customer satisfaction/quality survey. Participation will become mandatory effective July 1, 2003. All PDR offices that join the network subsequent to the July 1, 2003 effective date will be required to begin participating within 30 days of opening their office for business.
- 3.5.1.14.2 Participation shall be defined as submitting all completed jobs on a monthly basis for surveying.
- 3.5.1.15 **15. Vehicles**
- 3.5.1.15.1 All newly purchased, franchise registered, lettered vehicles shall be painted white.
- 3.5.1.16 **16. Applied Structural Drying Minimum Standards**
- 3.5.1.16.1 Effective July 1, 2005 (or 18 months after start-up for new franchise), all franchisees must meet the following Applied Structural Drying ("ASD") minimum standards.
- 3.5.1.16.1.1 1. All drying jobs must be supervised by a project manager who has obtained IICRC ASD certification (or Vortex Certification prior to 12/31/2004);
- 3.5.1.16.1.2 2. Each Franchise must possess the following meters: (a) moisture probe/detector; (b) non-penetrating moisture meter; (c) penetrating moisture meter; an (d) thermo hygrometer, and use such meters as appropriate for all drying jobs; and
- 3.5.1.16.1.3 3. The SMP Psychrometric/Moisture Content Log with the SMP Determining Dehumidifier Requirements sheet, or similar log required by a specific insurance company or third party must be completed for all drying jobs.
- 3.5.1.17 **17. Required Notice of Intent to Institute Legal Action**
- A Franchisee intending to take legal action (excluding the placement of statutory liens and action in small claims court) against a property owner, insurance company, or independent adjusting firm must first notify PDRI (by fax or e-mail to the attention of the Vice President of Operations) at least seven (7) days prior to the initiation of any such legal action.
- 3.5.1.18 **18. Required In-House Mitigation Capability**

3.5.1.18.1 All Franchises shall maintain in-house mitigation capability which at a minimum shall include the following.

3.5.1.18.1.1 1. Employment of a full-time mitigation technician who possesses the following minimum certifications: a) IICRC Water Damage (WRT); b) IICRC, ACAC, or RIA Mold Remediation (or state license equivalent); c) IICRC Applied Structural Drying (ASD); and d) IICRC Fire and Smoke Restoration (SRT).

3.5.1.18.1.2 2. Sufficient equipment to dry a 1,500sf Class II water loss using ASD standards.

3.5.1.18.1.3 3. A properly signed vehicle or trailer dedicated to mitigation use.

3.5.1.18.2 Overflow work in excess of the above standards may be subcontracted to local independent mitigation contractors but may not be subcontracted to national competitors, including Belfor, BMS Cat, DKI, Cotton, Instar, Puroclean/Purofirst, Service Master, ServPro, Stanley Steemer, and Steamatic. All Subcontracted work shall be overseen by Franchise personnel to ensure compliance with PDR and ASD standards.

3.5.1.19 **19. Minimum Job File Requirements**

Physical job files containing complete and accurate records documenting the work performed must be maintained for all jobs. At a minimum job files will contain (if applicable) a completed work authorization, approved estimate, supplements/change orders, color/style selection sheets, building permits, subcontractor invoices, required ASD documentation, job photos, completion certificate, copies of customer checks, Schedule, Job Status reports, Job Closing reports, and any other documentation signed by the customer. Job files shall be maintained for a minimum of five (5) years. All job files for active jobs and jobs completed within the last two years shall be maintained at the Franchise office.

3.5.2 **B. Penalties for Failure to Comply with the Mandatory Operating Requirements**

Any Franchise failing to comply with any Mandatory Operating Requirement shall be subject to the following penalties:

3.5.2.1 **1. Monetary Penalties:** For failure to comply with any Mandatory Operating Requirement, the Franchisor may assess the Franchise a fee of one hundred dollars (\$100) per incident or per month in the case of a continuing failure (such as the failure to maintain a franchise office). **All monetary penalties shall be paid into the SMP fund or successor marketing fund, or in the case of Canadian franchises into the Canadian marketing fund.**

3.5.2.2 **2. Network Participation Penalties:** For failure to comply with any Mandatory Operating Requirement:

- 3.5.2.2.1 a. The Franchise shall lose its right to vote in any General Council or District Council meetings.
- 3.5.2.2.2 b. The Franchise shall not receive any services provided through the Franchisor for software and software support, marketing and advertising programs, claims assignments via toll free telephone or internet systems, consultation, etc.
- 3.5.2.2.3 c. The Franchise, its employees, and its Associates shall not be eligible to receive any awards or recognition.
- 3.5.2.3 **3. Franchise Termination:** The Franchisor, after providing the Franchise a Notice of Intent to Terminate identifying the specific default and allowing an opportunity to cure the default, may terminate the Franchise for failure to comply with any Mandatory Operating Requirement.
- 3.5.2.4 **4. Penalties Nonexclusive; No Release of Obligation:** The foregoing penalties are non-exclusive and may be implemented individually or collectively. The implementation of any or all such penalties shall not relieve the franchise of its obligation to comply with the Mandatory Operating Requirements.
- 3.5.3 **C. Procedure for Implementation of Penalties**
- The Franchisor shall adhere to the following procedures in implementing penalties for failure to comply with a Mandatory Operating Requirement:
- 3.5.3.1 **1. Monetary and Network Participation Penalties:** The Franchisor shall provide the Franchise with a Notice of Non-Compliance and Penalty Assessment identifying the failure to comply with the Mandatory Operating Requirement and providing notice to the Franchise of the assessment of penalties. The Franchise shall have fifteen days to present evidence that the claim of non-compliance is erroneous, otherwise the penalty shall not be subject to later challenge. The Franchisor shall add any monetary penalties assessed to the Franchise's next monthly statement.
- 3.5.3.2 **2. Franchise Termination:** The Franchisor shall provide the Franchise with a Notice of Intent to Terminate identifying the failure to comply with the Mandatory Operating Requirement and notifying the Franchise of the Franchisor's intent to terminate the franchise. The Franchisee shall have fifteen days (or longer period if required by state law) in which to cure the non-compliance. If the Franchise fails to cure the non-compliance within the specified cure period then the Franchisor may terminate the Franchise.

## **ARTICLE VI MANDATORY OPERATING REQUIREMENTS FOR PAUL DAVIS EMERGENCY SERVICES FRANCHISES**

- 3.6 A. The following Mandatory Operating Requirements are essential in maintaining the quality and consistency of the PDES Franchise System and are therefore mandatory for every Franchisee. Failure to comply with these Operating Standards shall be a material default under the Franchise Agreement. The Franchisor (without vote by the District Councils) may from time to time add, delete, or modify these Mandatory Operating Requirements as needed to meet the changing needs of the industry and our customers as determined by PDRI in its sole discretion and Franchisee agrees to comply with any such changes.
- 3.6.1 1. **Franchise Office:** The Franchisee Office shall be located within the Franchise Territory specified in the Franchise Agreement. Franchisee shall operate the Franchise Business and no other business or activity from the Franchise Office. The Franchise Office may be located in Franchisee's home if such location is allowed by applicable law and regulation and is reasonably practical.
- 3.6.2 2. **Franchise Insurance**
- 3.6.2.1 Franchisee shall procure and maintain insurance providing the following coverages:
- a. Worker's Compensation Insurance coverage for Franchisee's employees that meets the statutory requirements of the state in which Franchisee operates.
  - b. Employer's Liability Insurance with limits of not less than \$300,000 each occurrence and in aggregate.
  - c. Commercial General Liability Insurance with limits of not less than \$1 million per occurrence and \$2 million aggregate.
  - d. Contractor's Pollution Liability Insurance with limits of not less than \$1 million per occurrence and in aggregate.
  - e. Business Automobile Liability Insurance (including Automobile Non-Ownership Liability) with a combined single limit of not less than \$1 million per occurrence.
  - f. Umbrella or Excess Liability Insurance with limits of not less than \$2 million each occurrence and in aggregate.
  - g. Bailee Insurance for personal property in the care, custody or control of Franchisee with limits of not less than \$250,000 per occurrence and in aggregate.

3.6.2.2 Franchisee shall provide PDRI Certificates of Insurance evidencing the above insurance and naming PDRI as an additional insured and shall provide a 30-day notice of cancellation.

**3.6.3 Licenses:** Franchisee shall obtain a business license and any other licenses required by the jurisdictions in which they will operate the franchise business, which may include specialty licenses or certifications to engage in mold remediation, biocide application, demolition, and construction.

**3.6.4 PDES Computer and Software**

3.6.4.1 PDRI will loan Franchisee a laptop computer with which to operate the franchise. Franchisee shall be responsible for any loss or damage to the computer. Franchisee will not use the computer for any purpose not directly related to the franchise business and will not load any software applications on the computer without PDRI approval.

3.6.4.2 PDRI will loan Franchisee copies of its proprietary claims management software (Tsunami) and its mobile mitigation management software (MICA) and will provide Franchisee access to web-based Quickbooks accounting software. Franchisee will timely process all franchise transactions through the supplied software.

3.6.4.3 Franchisee is required to obtain, at Franchisee's expense, Xactimate estimating software. Franchisee acknowledges that some insurance clients and third party networks may require the use of different estimating software.

**3.6.5 Reporting and Recordkeeping**

3.6.5.1 Franchisee shall maintain complete and accurate job files to document all work done. All leads, losses, contacts, photos, documents and job information must be entered or uploaded into PDI. All data fields must be properly updated as soon as possible (not more than 24 hours) to insure proper communication with clients and customers and accuracy of management reports. All water mitigation claims must be processed using the MICA Mitigation Suite software to insure proper processing of loss data, standardization of reporting and compliance with the IICRC S500 standards.

3.6.5.2 Franchisee shall maintain, and make available to PDRI, adequate books and records to accurately reflect the operation of the franchise and such books and records shall be stored at Franchisee's principal place of business for a period of not less than five years. These records shall include but not be limited to: job files, bank statements, check registers, canceled checks, receipt and disbursement records, financial statements, general and subsidiary ledgers, computer generated reports, and Franchisee's federal and state tax returns. Franchisee shall maintain its accounting records in accordance with a chart of accounts approved by PDRI. All financial transactions must be entered into the PDES version of QuickBooks web within 24 hours of the transaction.

3.6.5.3 Franchisee shall provide to PDRI the following reports and financial statements by the date indicated:



- a. Monthly Statement of Gross Receipts is due by the third (3<sup>rd</sup>) business day of following the month.
- b. Quarterly Quickbook Financial Statements are due within thirty (30) days following the end of the quarter.
- c. Annual Financial Statements prepared in accordance with generally accepted accounting principles are due within ninety (90) days following the end of the fiscal year and are required to be compiled, but not audited, by a certified public accountant.
- d. Franchisee shall submit copies of Federal tax returns filed by Franchisee or Principal Owner if requested by PDRI.

**3.6.6. Telecommunications:** Franchisee shall procure and maintain the following telecommunications capabilities:

- a. HTC Touch Pro windows compatible mobile phone with voice and data service.
- b. USB compatible high speed Rev A air-card for wireless communication.
- c. A dedicated landline for business use.
- d. Facsimile capability using either a dedicated fax line with fax machine or e-fax service.
- e. Due to the emergency nature of the PDES business, phones must be answered by a qualified individual 24 hours per day, seven days per week. Answering machines or voice mail must not be used for this purpose. Office phones may be rolled over to cell phones provided those phones remain in an area where they have continuous uninterrupted service, otherwise an answering service is needed to provide the required level of response.

**3.6.7 Franchise Equipment:** Franchisee shall procure and maintain the following equipment:

- 3.6.7.1 Franchisee shall acquire and maintain in good working condition a full size extended van with a minimum load capacity of 3/4 ton and with facility to secure all required in a safe and orderly fashion. All franchise vehicles must be clean and properly branded with the then current PDES trademarks and specified color schemes provided through the PDES authorized vehicle graphics vendor.
- 3.6.7.2 Franchisee shall, at a minimum, acquire and maintain the PDES standard drying equipment package. All franchise equipment shall be maintained in clean, sanitary, and good working condition.

**3.6.8      Local Advertising and Promotion:** On an annual basis Franchisee shall spend a minimum of \$10,000 or 5% of the prior year's revenues on local advertising and promotional activities.

**3.6.9      Performance of Work and Service Standards:**

3.6.9.1      Franchisee shall perform all work in a high quality and workman like manner and shall comply with all industry and customer specified standards and with any written protocol established by a Certified Industrial Hygienist. All structural drying shall comply with IICRC ASD and s500 standards. All mold remediation shall comply with IICRC s520 standards. Franchisee shall maintain a safe and secure work site, free of debris or hazards. The privacy of the property occupants should be respected.

3.6.9.2      PDES is recognized for superior customer service and rapid response to emergencies. The minimum service standards include calling the property owner within 30 minutes of receiving a claim, being on site ready to perform emergency services within two hours of receiving a claim. The initial loss inspection report must be uploaded into PDI and sent to the adjuster as directed by the insurer within 24 hours of receiving the loss. Exceptions would include where the property owner is unavailable, the property is inaccessible or the claim is dispatched during a catastrophe. In these cases, the insurer must be notified of the accessibility problems and informed of attempts to secure access.

**3.6.10      Paper Products:** To insure consistency and protection of the Paul Davis brand, all PDES paper products must be secured through the Paul Davis authorized vendor. These materials include but are not limited to, business cards, letterhead, envelopes, thank you cards and marketing materials.

**3.6.11      Uniforms:** All franchise employees must wear the PDES uniform with

**3.6.12      Employee Recruiting**

The development and retention of qualified and experienced employees is essential for franchise operations. Franchisees expend substantial effort and expense in training and developing employees. In the event a Franchisee hires an employee of another PDES Franchisee (including 30 days following termination of the employee for any reason), Franchisee shall pay to the former franchisee employer the sum of \$5,000. Such payment shall be due within thirty (30) days of the employee's first day of employment.

**3.6.13      B.      Penalties for Failure to Comply with the Mandatory Operating Requirements**

Any Franchise failing to comply with any Mandatory Operating Requirement shall be subject to the following penalties:

3.6.13.1      **1.      Monetary Penalties:** For failure to comply with any Mandatory Operating Requirement, the Franchisor may assess the Franchise a fee of one hundred dollars (\$100) per incident or per month in the case of a continuing failure.

- 3.6.13.2                    **2. Network Participation Penalties:** For failure to comply with any Mandatory Operating Requirement:
- 3.6.13.2.1                    a. The Franchise shall lose its right to vote in any General Council or District Council meetings.
- 3.6.13.2.2                    b. The Franchise shall not receive any services provided through the Franchisor for software and software support, marketing and advertising programs, claims assignments via toll free telephone or internet systems, consultation, etc.
- 3.6.13.2.3                    c. The Franchise, its employees, and its Associates shall not be eligible to receive any awards or recognition.
- 3.6.13.3                    **3. Franchise Termination:** The Franchisor, after providing the Franchise a Notice of Intent to Terminate identifying the specific default and allowing an opportunity to cure the default, may terminate the Franchise for failure to comply with any Mandatory Operating Requirement.
- 3.6.13.4                    **4. Penalties Nonexclusive; No Release of Obligation:** The foregoing penalties are non-exclusive and may be implemented individually or collectively. The implementation of any or all such penalties shall not relieve the franchise of its obligation to comply with the Mandatory Operating Requirements.
- 3.6.13.5                    **C. Procedure for Implementation of Penalties**
- The Franchisor shall adhere to the following procedures in implementing penalties for failure to comply with a Mandatory Operating Requirement:
- 3.6.13.5.1                    **1. Monetary and Network Participation Penalties:** The Franchisor shall provide the Franchise with a Notice of Non-Compliance and Penalty Assessment identifying the failure to comply with the Mandatory Operating Requirement and providing notice to the Franchise of the assessment of penalties. The Franchise shall have fifteen days to present evidence that the claim of non-compliance is erroneous, otherwise the penalty shall not be subject to later challenge. The Franchisor shall add any monetary penalties assessed to the Franchise's next monthly statement.
- 3.6.13.5.2                    **2. Franchise Termination:** The Franchisor shall provide the Franchise with a Notice of Intent to Terminate identifying the failure to comply with the Mandatory Operating Requirement and notifying the Franchise of the Franchisor's intent to terminate the franchise. The Franchisee shall have fifteen days (or longer period if required by state law) in which to cure the non-compliance. If the Franchise fails to cure the non-compliance within the specified cure period then the Franchisor may terminate the Franchise.

## **ARTICLE VII**

### **PROCEDURE FOR INSTITUTING PENALTIES**

- 3.7.1 When any report of a failure to institute all mandatory requirements shall be called to the attention of the Franchisor, the following procedures shall be instituted:
- 3.7.1.1 1. The Franchisor shall in every case make its best effort to verify such failure prior to proceeding.
- 3.7.1.1.1 This effort may include such investigation as is necessary, and if the failure is verified, such investigation expenses shall be paid for by the non-complying Franchisee.
- 3.7.1.2 2. If the failure relates to any mandatory requirement other than insurance coverage, lack of a JCA, contract, software, performance of work, or qualifications to contract with an Associate, the procedures shall be:
- 3.7.1.2.1 (a) The Franchisor shall issue a Notice of Intent to Terminate ("NIT").
- 3.7.1.2.2 (b) The offending Franchisee shall have fifteen (15) days to either correct the failure or file, in the office of the Franchisor, an appeal to an Arbitration Committee to either disprove the charge or obtain an extension of time, up to sixty (60) days, from the filing of the NIT.
- 3.7.1.2.3 (c) If the failure is not disproved or cured with the time allotted in this section or as granted by the Arbitration Committee, then the Franchisor shall issue final Notice of Termination of the Franchise Agreement with no provision for further arbitration.
- 3.7.1.3 3. If failure relates to lack of a JCA, contracts, software, or performance of work, the procedure shall be:
- 3.7.1.3.1 (a) Franchisor shall issue a Notice of Intent to Terminate.
- 3.7.1.3.2 (b) The offending franchise shall have fifteen (15) days to either correct the failure or initiate an arbitration to either disprove the charge or obtain an extension of time, up to sixty (60) days from the filing of the NIT.
- 3.7.1.3.3 (c) If the failure is not disproved or cured within the time allotted in this section or as granted by the Arbitration Committee, then the franchise shall be terminated, either on the date stated in the NIT or on the last day of the extension granted by the Arbitration Committee, whichever is later. No further arbitration shall be allowed.
- 3.7.1.4 4. If the failure relates to the mandatory requirement for insurance, then the procedure shall be:

- 3.7.1.4.1 (a) Completion Services, Inc. may purchase insurance coverage for the Franchisee, at the Franchisee's expense, to protect the interest of Completion Services, Inc. until the franchise is terminated or the failure is cured.
- 3.7.1.4.2 (b) The Franchisor shall issue Notice of Termination, which will become effective on the earliest day allowed by the Franchise Agreement.
- 3.7.1.4.3 (c) There shall be no rights of arbitration concerning the violation of this requirement, and no Arbitration Committee shall hear any other arbitration proceeding initiated by the offending Franchisee so long as the violation of this mandatory requirement remains uncured.
- 3.7.1.4.4 (d) The Franchisee may cure any violation of this mandatory requirement, either by providing proof of proper insurance coverage or by obtaining permission from the appropriate Arbitration Committee to reimburse CSI for its expense incurred in obtaining said insurance coverage. This reimbursement shall be on a monthly basis and shall include any past due premiums, plus the current month, and one month in advance. Failure to maintain payment of premiums one month in advance is cause to withdraw the approval for such method of curing the failure.
- 3.7.1.4.5 (e) To eliminate unnecessary risks, CSI may send Notice of Cancellation of all CSI Guarantee Certificates, either delivered or for which a guarantee has been implied, any and all lists of adjusters and agents available to CSI being permissible to use in this process.

## ARTICLE VIII COMPLIANCE AND PROCEDURES COMMITTEE (“C&PC”)

- 3.8.1           A.     The Compliance and Procedures Committee (“C&PC”) shall consist of the President-elect of the NEC, at least 3 at-large members (NEC membership is not required), and a representative of the US or Canadian Franchisor, according to the matter to be considered.
- 3.8.1.1               **Any member of the Compliance and Procedures Committee shall be removed from office if such member’s franchise is not in compliance with the Mandatory Operating Requirements. A new member shall be elected in accordance with the procedure set forth in 2.4.5.1.1.**
- 3.8.2           B.     The President-elect of the NEC shall serve as chairman of the C&PC.
- 3.8.3           C.     When a circumstance exists which places the reputation or operation of the Paul Davis name, Franchise Network, or CSI at risk and which is not specifically covered as to procedure in this Booklet Three, the C&PC shall be made aware of this circumstance.
- 3.8.4           D.     The C&PC may, based on its perception of the problem:
- 3.8.4.1               1.     Request the Franchisor to investigate and provide additional information.
- 3.8.4.2               2.     Provide suggestions as to how to deal with the circumstance and any franchises involved to work out the problem.
- 3.8.4.3               3.     Request that a special systems audit be made of any franchise involved in the situation, at that Franchisee’s expense.
- 3.8.4.4               4.     Recommend Notice Intent to Terminate be issued to the franchise, with the final approval of termination subject to the findings of an Arbitration Committee.
- 3.8.4.5               All business of the C&PC may, at its option, be conducted by telephone conference call.
- 3.8.4.6               All expenses authorized by the C&PC for a Franchisor or Franchisee or incurred by the C&PC, unless decided otherwise by the Committee, shall be paid by the franchise about which the question of compliance was raised.
- 3.8.4.7               If the C&PC determines a Franchisee, Franchisor, CSI, or any other party raises a question of compliance without cause, it must direct the questioning Franchisee, Franchisor, CSI or any other party to pay all expenses incurred to investigate and decide the issue. In any event such question of compliance is raised by more than one party, the C&PC must direct that such expenses be divided evenly and paid by all parties raising the question of compliance.

- 3.8.5           E.       Extraordinary actions:
- 3.8.5.1               When the circumstances indicate that CSI, the reputation and operation of the Franchise Network, or an established national relationship with any insurer may be placed at risk as a result of said circumstances, the C&PC shall have full authority to recommend any action that it feels is necessary, subject to approval through a telephone conference of the appropriate Arbitration Committee. Such recommended action may include, but is not limited to:
- 3.8.5.1.1           1.       A request for a special systems and/or financial audit of the franchise.
- 3.8.5.1.2           2.       A survey of all agents and adjusters listed in the Franchisee's adjuster listing or with whom the Franchisee conducts business, to determine if any problems exist.
- 3.8.5.1.3           3.       A survey of all property owners with whom the franchise has contracts, to determine if any problems exist.
- 3.8.5.1.4           4.       A survey of all vendors with whom the franchise maintains accounts, to see if any problems exist.
- 3.8.5.2               If the C&PC believes that the problem is serious enough, or if it feels the situation will worsen or if the Franchisee is uncooperative, then the committee shall authorize the Franchisor to issue a Notice of Intent to Terminate to the franchise effective fifteen (15) days from receipt. The non-complying franchisee shall have fifteen (15) days from receipt of the NIT to either correct the failure or file, in the office of the Franchisor, an appeal to the appropriate Arbitration Committee, to either disprove the charge or obtain an extension of time, up to sixty (60) days, from the filing of the NIT.
- 3.8.5.3               The committee may, at its sole option, request a hearing by the appropriate Arbitration Committee. The hearing shall be conducted by telephone within ten days of the C&PC request.
- 3.8.5.4               The purpose of the committee request is to prevent a franchise from using arbitration as a delaying process, thereby allowing a situation to worsen.
- 3.8.5.5               This action does not take away the Franchisee's right to appeal the arbitration ruling. However, any appeal must be made within five (5) days, and the Appeals Board must hear the appeal and render a decision within ten days of the appeal.
- 3.8.6               F.       In order to protect the Franchise Network's relationships with insurers, the C&PC shall approve the admission of a franchise previously removed from a regional or national program to a new regional or national program.
- 3.8.7               G.       The C&PC may, at its sole option, suspend any franchise from any established relationship with any insurer(s) if it determines that the franchisee is not meeting Franchise Network's commitments to the

insurer(s). Such suspension will be effective on the date the franchise is notified of suspension. The suspended franchise may be restored to participation in the specific insurer relationship upon satisfaction of quality standards established and reviewed by the C&PC. Upon notification to the committee that the suspended franchise has taken corrective action, the committee shall investigate and determine within 30 days if reinstatement is appropriate. Otherwise such suspension may be arbitrated in due course and the franchisee reinstated if the appropriate arbitration committee so decides.

- 3.8.8           H.     The Committee is required to reveal the source or sources of the complaints on which it bases an investigation and/or action.
- 3.8.9           I.     Subcommittees to the C&PC shall be as follows
  - 3.8.9.1           1.     The name of such subcommittees shall be "Regional Compliance and Procedures Subcommittee."
  - 3.8.9.2           2.     There shall be one three-member Regional Compliance and Procedures Subcommittee formed to work with each Franchisor Field Representative responsible for maintaining relationships with insurer representatives of established insurer relationships.
  - 3.8.9.3           3.     The membership of each Regional Compliance and Procedures Subcommittee will consist of two selected District Vice Presidents plus the Franchisor Field Representative. If there are not sufficient District Vice Presidents, District Secretaries may serve in their stead. These District Vice Presidents or District Secretaries will be selected by the District Presidents.
  - 3.8.9.4           4.     The Regional Compliance and Procedures Subcommittee shall have all powers invested in the C&PC except the following:
    - 3.8.9.4.1                 - Recommendation of termination.
    - 3.8.9.4.2                 - Request a hearing by an Arbitration Committee.
    - 3.8.9.4.3                 - Removal of a franchise from an established insurer relationship.
  - 3.8.9.5           5.     A Regional Compliance and Procedures Subcommittee may recommend the actions excluded in "4." above to the C&PC for implementation and the C&PC shall act on such recommendation within ten working days.



## **ARTICLE IX**

### **PROCEDURE FOR CLOSING A FRANCHISE BY FRANCHISE OWNER**

- 3.9           The following Voluntary Closure Procedures apply only to PDR Franchises.
- 3.9.1           A.     No franchise owner may cease full time operation of the franchise without the prior written consent of the Franchisor.
- 3.9.2           B.     A franchise owner wishing to cease full time operations of the franchise without suffering immediate termination shall make a written request to the Franchisor, through the Franchisor, asking for permission to cease full time operations while retaining a right to sell the franchise territory to recover funds under the following plan.
- 3.9.2.1           1.     The Franchisee will:
- 3.9.2.1.1               (a)     Finish all work in progress.
- 3.9.2.1.2               (b)     Pay all accounts to vendors and tradesmen.
- 3.9.2.1.3               (c)     Pay all accounts to Completion Services, Inc.
- 3.9.2.1.4               (d)     Pay all accounts to the Franchisor.
- 3.9.2.1.5               (e)     Honor all warranty work.
- 3.9.2.1.6               (f)     Maintain proper insurance until all jobs are completed and paid.
- 3.9.2.2           2.     The Franchisee shall cease all operations of any nature under the name of Paul Davis Restoration or Signature Professional Cleaning, or any other name that has been approved by the Franchisor.
- 3.9.2.3           3.     The franchise must be listed for sale with a written agreement with a business broker or other viable means to sell within fifteen (15) days of the granting of a request to close.
- 3.9.3           C.     The Franchisor may grant approval for the franchise owner to retain all interest in the franchise rights for a period of twelve (12) months from a closing date set by the Franchisor, provided the franchise remains current with all cooperative payments.
- 3.9.4           D.     The Franchisor may grant approval for the franchise owner to retain all interest in the franchise rights for a period of six (6) months from the closing date set by the Franchisor, with no continuing payments to be made by the franchise.
- 3.9.5           E.     Failure by a franchise to maintain full operation of the franchise for thirty (30) days or to fail to answer phones for a period of thirty (30) days, without prior approval of the Franchisor, shall be deemed as abandonment of the

franchise, and that franchise shall be terminated without further rights to arbitration.

- 3.9.6 F. Should a franchisee request arbitration, the arbitration committee must do the following:
- 3.9.6.1 1. Give each consideration in a formal meeting in person or by telephone conference call, subject to all arbitration procedures outlined in Booklet Two, Articles 13 and 14.
  - 3.9.6.2 2. Consider the effect of such closing on other Franchisees and/or national accounts.
  - 3.9.6.3 3. Agree to monitor the performance of the franchise during the granted term and request immediate cancellation in the event obligations are not fulfilled.
  - 3.9.6.4 4. Verify pre-closing compliance with the C&PC and audit insurer accounts and vendors if there is evidence of risk to the Franchise Network.
  - 3.9.6.5 5. Consider a request from other parties to operate within the franchise territory prior to resale.

## **ARTICLE X OTHER CAUSES OF TERMINATION**

- 3.10.1           A.     The following list of causes for termination are taken from the Franchise Agreement and the Paul Davis Operations Manual and made a part of this Booklet Three of the Operations Manual.
- 3.10.1.1           1.     Failure to report sales accurately and in timely manner
- 3.10.1.2           2.     Failure to pay sums due to CSI in a timely manner
- 3.10.1.3           3.     Failure to pay all cooperative programs established by the General Council in a timely manner
- 3.10.1.4           4.     Failure to pay franchise renewal fee in a timely manner
- 3.10.1.5           5.     Transfer of more than forty-nine percent of the Franchisee stock without the prior written approval of the Franchisor
- 3.10.1.6           6.     Failure to commence operation of the franchise in a timely manner
- 3.10.1.7           7.     Failure to maintain working capital equal to not less than ten percent of the previous year's sales
- 3.10.1.8           8.     Failure to provide at least quarterly financial statements, prepared by an independent CPA in an acceptable form, to the Franchisor and to CSI.
- 3.10.1.9           9.     Failure to pay all sums of any nature due to the Franchisor in a timely manner
- 3.10.1.10          10.    Failure to maintain and operate franchise business in accordance with good business practices and in accordance with the rules, regulations, methods, and procedures contained in the Procedures Manual and this Operations Manual
- 3.10.1.11          11.    Closing of the franchise office without prior written consent of the Franchisor.
- 3.10.1.12          12.    Filing of bankruptcy, adjudication of bankruptcy, any assignment for the benefit of creditors, appointment of a trustee, or receiver in bankruptcy for Franchisee
- 3.10.1.13          13.    A breach of the terms and conditions of the Franchise Agreement
- 3.10.1.14          14.    Failure to enforce, to the fullest extent possible, the non-competition agreement and trade secrets provisions of the Franchise Agreement, the Operations Manual, the Procedures Manual, and the contracts

- 3.10.1.15            15.    Making or attempting to make any payment in cash, goods, or services, which could reasonably be construed as a kick-back or pay-off, to any insurer or insurer's agent
- 3.10.1.16            16.    Working with or in cooperation with any public adjuster or public adjuster's agent or representative
- 3.10.1.17            17.    Offering or performing adjusting services, such as taking statements or accepting proofs of loss, etc.
- 3.10.2                B.    In the case where one of the above violations occur, the Franchisor may at its option:
  - 3.10.2.1            1.    Refer such violation to the C&PC for advice and counsel.
  - 3.10.2.2            2.    Issue Notice of Intent to Terminate.
  - 3.10.2.3            3.    Issue Notice of Termination.
  - 3.10.2.4            4.    Monitor as appropriate.
- 3.10.2.2            All such actions are subject to appeal to arbitration by the Franchisee involved in such failure to comply.

# **EXHIBIT I**

## **Paul Davis Emergency Services Procedures Manual – Table of Contents**

# **PAUL DAVIS EMERGENCY SERVICES**

## **PROCEDURES MANUAL**

### **Table of Contents**

1.	Branding Guidelines	17 pages
2.	Vendors / Strategic Sourcing	3 pages
3.	About PDES – Philosophy	2 pages
4.	Ethics	25 pages
5.	“6” Steps to Customer Service	47 pages
6.	Operating Requirements	96 pages
7.	Sales & Marketing	48 pages
8.	Human Resources	70 pages
9.	PDES Business Model	6 pages
10.	Contacts/ Forms	39 pages
11.	Vehicle Graphics	10 pages
12.	Equipment Package	3 pages
13.	MICA Software Guide	42 pages
14.	IT Procedures	4 pages
15.	Contacts Procedures	13 pages
16.	Projects Procedures	13 pages
17.	Customer Invoicing Procedures	12 pages
18.	Sales Reporting Procedures	10 pages
19.	Payment Receipt Procedures	2 pages
20.	Web Content	9 pages
21.	Accounting	16 pages
22.	Xactimate/Net Guide	16 pages
23.	XactAnalysis Guide	116 pages
24.	Carrier Accounts	26 pages

Total pages 645

**RECEIPT****STATE:** \_\_\_\_\_

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 Paul Davis Restoration, 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.

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, Washington 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.

If Paul Davis Restoration, 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, DC 20580 and the state agency listed in Exhibit D.

Issuance date: **April 1, 2012.**

The names, principal business addresses, and telephone numbers of each franchise seller for this franchise offering are as follows: \_\_\_\_\_

PDRI authorizes the agent listed in Exhibit D to receive service of process for PDRI in your state.

I received a Franchise Disclosure Document, dated **April 1, 2012** that included the following exhibits:

EXHIBIT A	FRANCHISEE LIST
EXHIBIT B-1	FINANCIAL STATEMENTS
EXHIBIT B-2	GUARANTEES OF PERFORMANCE
EXHIBIT C	FRANCHISE AGREEMENT
EXHIBIT D	SCHEDULE OF STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS
EXHIBIT E	STATE ADDENDA
EXHIBIT F	PROMISSORY NOTE
EXHIBIT G	COMPLIANCE CERTIFICATION
EXHIBIT H	PAUL DAVIS OPERATIONS MANUAL
EXHIBIT I	PAUL DAVIS EMERGENCY SERVICES PROCEDURES MANUAL – TABLE OF CONTENTS

\_\_\_\_\_  
Date Received

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

(FRANCHISEE'S COPY)

\_\_\_\_\_  
Printed Name of Prospective Franchisee

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