

Senate Education and Employment References Committee
Questions on Notice – 24 September
Melbourne, VIC

Inquiry into the impact of Australia's temporary work visa program on the Australian labour market and on the temporary work visa holders

Question number	Hansard page number	Witness	Question asked by	Answered
1	13-14	Mr Fraser	Chair	
2	14	Mr Fraser	Chair	
3	14	Mr Fraser	Chair	
4	15	Mr Fraser	Senator McKenzie	
5	19	Mr Fraser	Senator McKenzie	
6	20	Mr Fraser	Senator McKenzie	
1	24	SDA	Chair	Yes
2	29	SDA	Senator McKenzie	Yes
3	31	SDA	Senator McKenzie	Yes
1	44	Dr Tess Hardy	Senator McKenzie	Yes
1	48	7-Eleven	Chair	Yes
2	50 - 51	7-Eleven	Chair	Yes
3	50	7-Eleven	Chair	Yes
4	50	7-Eleven	Senator O'Neill	Yes
5	53	7-Eleven	Senator Rice	Yes
6	53-54	7-Eleven	Senator Rice	Yes
7	57	7-Eleven	Senator McKenzie	Yes
8	57-58	7-Eleven	Senator McKenzie	Yes
9	59	7-Eleven	Senator Peris	Yes
10	60	7-Eleven	Senator McKenzie	Yes
11	60	7-Eleven	Senator McKenzie	Yes
12	60	7-Eleven	Senator Rice	Yes
13	61	7-Eleven	Chair	Yes
14	62	7-Eleven	Chair	Yes
15	63	7-Eleven	Senator O'Neill	Yes
1	66	Fair Work Ombudsman	Chair	Yes
2	66-67	Fair Work Ombudsman	Chair	Yes
3	67	Fair Work Ombudsman	Chair	Yes
4	68	Fair Work Ombudsman	Senator Rice	Yes
5	71	Fair Work Ombudsman	Senator McKenzie	Yes
6	73	Fair Work Ombudsman	Senator O'Neill	Yes

Senate Education and Employment Committee

Inquiry into the impact of Australia's temporary work visa program on the Australian labour market
and on the temporary work visa holders

QUESTIONS ON NOTICE to the SDA – Thursday 24 September 2015 Melbourne

1. HANSARD, PAGE 24

CHAIR: How much were they deducting for super and for tax?

Mr Waseem: I am not sure of the amount. There was a percentage, but I am not sure what it was.

CHAIR: But you do not have a pay slip that shows those deductions, you have just got your group certificate?

Mr Waseem: I just have my group certificate, not the salary.

CHAIR: Mr Dwyer, is that something you could table?

Mr Dwyer: Yes, we can table that

2. HANSARD, PAGE 29

Senator McKENZIE: When the Rudd government cut resources to the Fair Work Ombudsman, was the SDA public in its request for resources for the Fair Work Ombudsman? Did you make any noise about cuts to the Fair Work Ombudsman at that time?

Mr Dwyer: I do not recall—

Senator McKENZIE: Could you take it on notice to check the union records on what advocacy the SDA had with the Rudd government when it cut the resources to the Fair Work Ombudsman, which the coalition has now reinstated?

Mr Dwyer: Yes, I could.

3. HANSARD, PAGE 31

Senator McKENZIE: No matter where you have come from. Exactly. My last question is: does the SDA support the removal of—

CHAIR: No, Senator McKenzie, I said—

Senator McKENZIE: restrictions for student visa holders?

CHAIR: that was the last question. Mr Dwyer, please do not answer the question. I indicated to Senator McKenzie—

Senator McKENZIE: Well, I will ask it on notice.

CHAIR: Fine.

Senator McKENZIE: Would the SDA support the removal of the restriction on the working hours of international students? We have heard that 20 hours is not enough—does the SDA support the removal of the 20 hours?

The Shop, Distributive and Allied Employees' Association

A: Level 6, 53 Queen Street, Melbourne, VIC 3000 P: 03 8611 7000 E: general@sda.org.au W: sda.org.au ABN: 99 789 302 470

NATIONAL PRESIDENT

Joe de Bruyn

NATIONAL SECRETARY

Gerard Dwyer

Dear Committee Secretary,

**RE: STANDING COMMITTEE ON EDUCATION AND EMPLOYMENT - INQUIRY INTO THE
IMPACT OF AUSTRALIA'S TEMPORARY WORK VISA PROGRAM - SDA QUESTIONS
ON NOTICE**

I refer to your correspondence of 16 October and hereby provide the following responses to the 'Questions on Notice'.

Q1. Mr Wasseem's PAYG (Group Certificate) is attached as requested. Please note that this does not shed light on the superannuation contributions inside 7 Eleven as reportable contributions refer to amounts over and above the SGC 9.5%.

With regard to superannuation and payslips I can advise the following:

- Our engagement with 7 Eleven employees indicates only a small proportion of them received payslips
- Where superannuation is shown on those payslips it is often listed as a monthly contribution (see p4 of attachment 2 which has identity blacked out) and those monthly contributions do not reflect the amount that should have been paid. For example, Attachment 2 (4 payslips for September 2012) shows total gross earnings for the month of \$3005.75 but superannuation payments of only \$171.11 (see p4 of Attachment 2). Payment of 9.5% of the gross earnings recorded on the payslips would have yielded a superannuation payment to the employee of \$285.55 (\$87.44 more than the payslip shows).

Q2. There is no record of public advocacy by the SDA concerning funding cuts to the FWO.

Q3. The removal of the 20 hour per week (40 hours per fortnight) limit for the international student visa is a complex question. The existing limit is designed to strike a balance between the following issues:

- Viable income requirements for students
- Labour market impacts and
- Ensuring students are able to devote enough time to their studies which is their primary reason for being in Australia.

The issues uncovered in 7 Eleven demonstrate that these issues are not being appropriately balanced inside that chain. However, it would appear that the most effective way to ensure such a balance was regained would be to put in place a

mechanism which allowed employees to ensure their employer was observing their legal requirements which in turn would allow them to observe their visa and study obligations. The SDA submits that such a mechanism would be an 'amnesty visa' which could be automatically activated when an employee challenged their employer's breach of labour law minimums. This would mean the 40 hour per fortnight limit need not be disturbed as an employee/student would have reasonable recourse to enforce minimum wages for the hours worked. Receipt of award wages would allow employee/students to receive a satisfactory amount of income, maintain minimal impact on the labour market and allow employee/students to devote appropriate time to their studies.

Thank you for the opportunity to put the concerns of 7 Eleven workers on the record before your Standing Committee.

Yours sincerely,

GERARD DWYER

National Secretary-Treasurer

PAYG payment summary - individual non-business

Payment summary for year ending 30 June 2015

NOTICE TO PAYEE

If this payment summary shows an amount in the total tax withheld box, you must lodge a tax return. If no tax was withheld, you may still have to lodge a tax return. For more information on whether you have to lodge, or about this payment and how it is taxed, you can:

- visit www.ato.gov.au
- refer to TaxPack
- phone 13 28 61 between 8.00am and 6.00pm (EST), Monday to Friday

Period of payment Day/Month/Year 01/07/2014 to Day/Month/Year 07/09/2014

Payee's tax file number 378335846 **TOTAL TAX WITHHELD \$** 134

		A	B	D	E	Lump sum payments	Type
Gross payments	\$ 3518	\$	\$	\$	\$		
CDEP payments	\$	\$	\$	\$	\$		
Reportable fringe benefits amount FBT year 1 April to 31 March	\$	\$	\$	\$	\$		
Reportable employer superannuation contributions	\$	\$	\$	\$	\$		
Total allowances	\$	\$	\$	\$	\$		

Total allowances are not included in Gross payments above. This amount needs to be shown separately in your tax return.

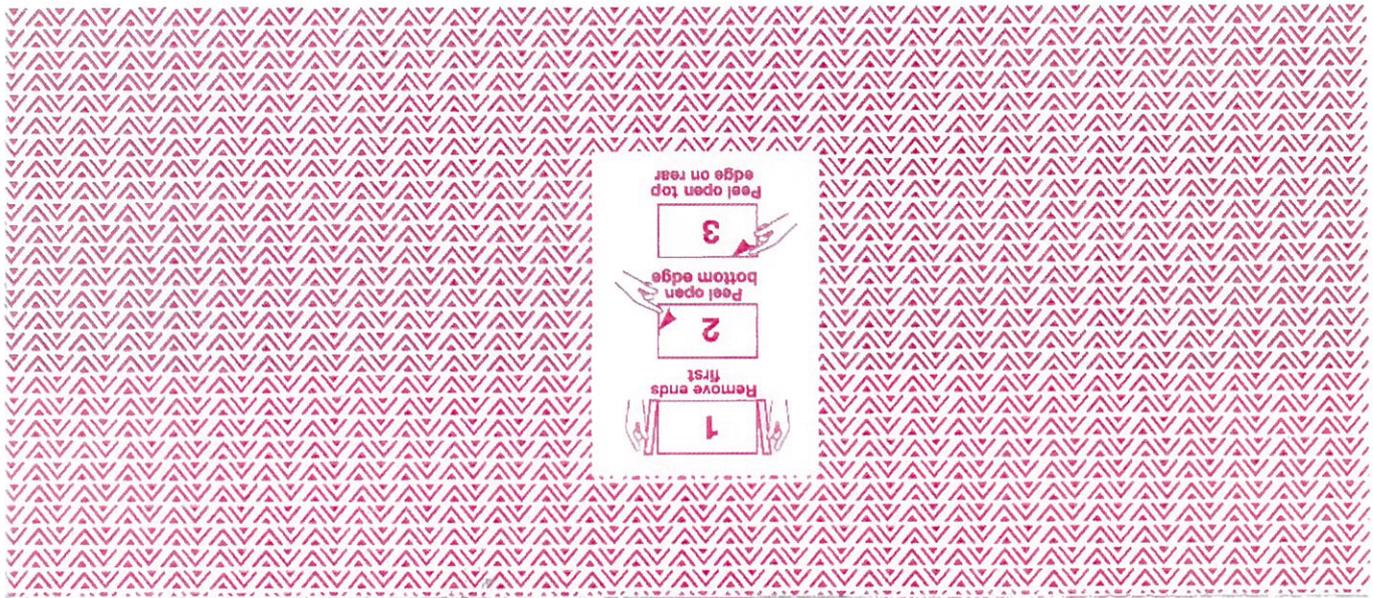
Payer details

Payer's ABN or withholding payer number 62143350145 Branch number 001

Payer's name FEKECHE INTERNATIONAL PTY LTD T/A 7-ELEVEN STORES PTY LTD

Signature of authorised person

Date 26/06/2015



7-ELEVEN STORES PTY LTD
357 FERNTREE GULLY ROAD
MOUNT WAVERLEY VIC 3149

POSTAGE
PAID
AUSTRALI

**** PRIVATE & CONFIDENTIAL ****

USSAMA WASEEM

EMPLOYEE PAY DETAILS						
Week	End	Pay Date	Employee No.	Name	Status	
09/09/2012	11/09/2012	300797			Casual	
Pay Point		Pay Advice	Classification	Location		
200 255 Chapel		1 OF 1		122 255 Chapel Street		

ELEMENTS				ALLOWANCES AND DEDUCTIONS		
Description	Rate	Hours	Value	Description	Tax Ind	Value
Normal	22.5000	26.7000	600.75			

SUMMARY OF EARNINGS					
Gross	Taxable Income	Pre Tax Allow/Deds	Post Tax Allow/Deds	Tax	NET INCOME
600.75	600.75	.00	.00	56.00	544.75

PAY DISBURSEMENT DETAILS				ENTITLEMENTS/ACCRUALS				
Method	Account No.	BSB Code	Bank	Amount	Description	Entitlement	Prorate	Total
EFT1				544.75				

OTHER DETAILS	

EMPLOYER MESSAGE	

YEAR TO DATE DETAILS				
YTD Gross	YTD Taxable Income	YTD Deductions	YTD Tax	YTD Net
2313.00	2313.00		205.00	2108.00

St. Marina Pty Ltd (ABN) 55120581893

Form 229613 Australian Davis Phipps Young Limited

EMPLOYEE PAY DETAILS

Week End	Pay Date	Employee No.	Name	Status
16/09/2012	18/09/2012	300797		Casual
Pay Point	Pay Advice	Classification	Location	
100 255 Chapel	1 OF 1		122 255 Chapel Street	

ELEMENTS				ALLOWANCES AND DEDUCTIONS		
Description	Rate	Hours	Value	Description	Tax Ind	Value
Normal	22.5000	37.3000	839.25			

SUMMARY OF EARNINGS

Gross	Taxable Income	Pre Tax Allow/Deds	Post Tax Allow/Deds	Tax	NET INCOME
839.25	839.25	.00	.00	122.00	717.25

PAY DISBURSEMENT DETAILS

Method	Bank	Amount	Description	Entitlement	Prorate	Total
FT1		717.25				

OTHER DETAILS

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EMPLOYER MESSAGE

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YEAR TO DATE DETAILS

YTD Gross	YTD Taxable Income	YTD Deductions	YTD Tax	YTD Net
3152.25	3152.25		327.00	2825.25

St. Marina Pty Ltd

(ABN) 55120581893

EMPLOYEE PAY DETAILS								
Week	End	Pay Date	Employee No.	Name	Status			
23/09/2012		25/09/2012	300796		Casual			
Pay Point	Pay Advice	Classification	Location					
192 Prahran	1 OF 1		121 Prahran					
ELEMENTS				ALLOWANCES AND DEDUCTIONS				
Description	Rate	Hours	Value	Description	Tax Ind	Value		
Normal	22.5000	25.0000	562.50					
SUMMARY OF EARNINGS								
Gross	Taxable Income	Pre Tax Allow/Deds	Post Tax Allow/Deds	Tax	NET INCOME			
562.50	562.50	.00	.00	48.00	514.50			
PAY DISBURSEMENT DETAILS				ENTITLEMENTS/ACCRUALS				
Method	Account No.	RSA Code	Bank	Amount	Description	Entitlement	Prorate	Total
EFT1				514.50				
OTHER DETAILS								
EMPLOYER MESSAGE								
YEAR TO DATE DETAILS								
YTD Gross	YTD Taxable Income	YTD Deductions	YTD Tax	YTD Nat				
4567.52	4567.52		401.00	4166.52				
St. Marina Pty Ltd					(ABN) 55120581893			

EMPLOYEE PAY DETAILS								
Week	End	Pay Date	Employee No.	Name	Status			
30/09/2012	02/10/2012	02/10/2012	300796		Casual			
Pay Point		Pay Advice	Classification	Location				
192 Prahran		1 OF 1		121 Prahran				
ELEMENTS				ALLOWANCES AND DEDUCTIONS				
Description	Rate	Hours	Value	Description	Tax Ind	Value		
Normal	22.5000	35.7000	803.25	*REST EMPLOYER SPONSORED DIVISION	E	171.11		
SUMMARY OF EARNINGS								
Gross	Taxable Income	Pre Tax Allow/Deds	Post Tax Allow/Deds	Tax	NET INCOME			
803.25	803.25	.00	.00	110.00	693.25			
* Employer Superannuation Contribution relates to period commencing 01/09/2012 up to 30/09/2012								
PAY DISBURSEMENT DETAILS				ENTITLEMENTS/ACCURALS				
Method	Account No.	BSB Code	Bank	Amount	Description	Entitlement	Prorata	Total
EFT1				693.25				
OTHER DETAILS								
EMPLOYER MESSAGE								
YEAR TO DATE DETAILS								
YTD Gross	YTD Taxable Income	YTD Deductions	YTD Tax	YTD Net				
5370.77	5370.77		511.00	4859.77				
St. Marina Pty Ltd				(ABN) 55120581893				

7-Eleven Stores Pty. Ltd.

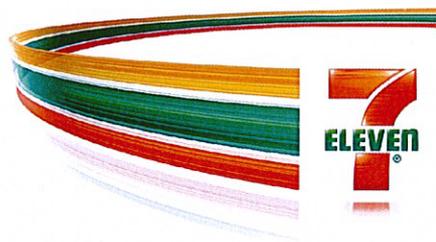
ABN 48 095 299 427

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29 October 2015

Education and Employment Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email:

Dear Dr. Hodder

Re: Senate Temporary visa program hearing on 24th September, 2015

I refer to the questions taken on notice by 7-Eleven, at the Senate Committee hearing on September 24.

I set out below the responses to each of the questions in the same order as they appear in Hansard.

Question 1 – Hansard page 48

(The Chair asked Ms Dalbo for details about the level of payroll non-compliance found in the 505 stores that had been audited as at the date of the Senate Committee Hearing.)

During the period 1 July 2015 to 15 October 2015 a total of 681 store reviews or audits were undertaken. The number of audits exceeded the number of current stores because there had been changeover of proprietors or issues detected on the first inspection where stores were below 85% of the overall score, necessitating revisits.

The nature of the audits is such that it is not confined to identifying underpayment of wages and extends over a wide range of formalities and requirements associated with payroll (e.g. proper completion of rosters, time sheets and payroll records).

Across that broad range of investigation, informalities were detected in 56% of the reviews but these were primarily of a formal or strict compliance nature and did not necessarily indicate or identify underpayment.

Question 2 – Hansard pages 50-51

(The Chair requested that 7-Eleven table the memorandum circulated to franchisees concerning the additional income support offered beyond what is contemplated in the agreement.)

A copy of the memorandum entitled "Minimum Gross Income Guarantee" is enclosed with this letter.

Question 3 – Hansard page 50

(The Chair enquired about the number of times the informal income support process had been implemented.)

Over the past 5 years, 7-Eleven has paid a total of \$1,005,276.49 in additional income support to 25 stores. Enclosed is a spreadsheet entitled "Income Support" showing the payments made.

From time to time 7-Eleven have also made discretionary decreases in the 7-Eleven Charge. In particular, in financial year 2014/15, one store's charge was reduced by \$7,200.

Question 4 – Hansard page 50

(Senator O'Neill requested a copy of the terms of reference applying to the Panel chaired by Professor Allan Fels.)

A copy of the terms of reference is enclosed.

Question 5 – Hansard page 53

(Senator Rice asked Ms Dalbo about the number of instances of underpayment, payroll compliance and wage fraud that were uncovered through the 1,500 audits undertaken last year.)

In the period 30 September 2014 to 30 September 2015, a total of 173 breach and warning notices were issued to franchisees for payroll related non-compliances. As noted in the response to Question 1, "non-compliances" can range in relation to the degree or gravity and accordingly, not all non-compliances would result in a notice being issued.

Question 6 – Hansard pages 53-54

(Senator Rice asked Ms Dalbo for the number of franchise agreements terminated by 7-Eleven following a failure by the franchisee to rectify a breach notice.)

As noted by Ms Dalbo at the time of the hearing, 7-Eleven has conducted some terminations. However, none of these have been the result of a failure to rectify a breach notice.

For example, 7-Eleven recently terminated a franchise agreement in respect of a store in Perth. In that instance the termination was immediate but it was based on fraudulent conduct (an available ground under the Franchising Code) associated with the manner in which underpayment of staff had been effected. In two previous terminations fraudulent conduct also provided the grounds, but in those cases was not in any way associated payroll issues.

Question 7 – Hansard page 57

(Senator McKenzie requested that we provide details of the average profit and range of profit.)

For the financial year 2014/15, the average profit in stores which traded for that period (subject to temporary closures for maintenance) was \$167,332.77, with the range being a loss of \$48,815.07 to a profit of \$1,212,243.41.

Question 8 – Hansard pages 57-58

(Senator McKenzie requested that we provide details of the earnings data provided in respect of stores regarded as being in the lowest income band.)

For the financial year 2014/15, the average profit of those stores in the lowest income band was \$73,464.84 with the median being \$80,680.64. The range of earnings in this band was a loss of \$48,815.07 to a profit of \$116,081.60.

Question 9 – Hansard page 59

(Senator Peris enquired about the number of breach notices served in the past 12 months which did not relate to payroll compliance.)

Enclosed is a list of the total warning letters and breach notices provided to franchisees, between 1 September 2014 and 31 July 2015, for issues other than payroll compliance. As indicated in the enclosed list, 158 warning letters and breach notices were so provided.

Question 10 – Hansard page 60

(Senator McKenzie made a number of enquiries concerning the eLearning modules relating to employment obligations of franchisees.

Enclosed is a copy of the relevant sections of the eLearning material.

The “Basic Employment Conditions” module in the 7-Eleven franchisee eLearning program was launched in June 2010. As demonstrated by the enclosed material, I can also now confirm that the module does deal with an employee’s right to work in Australia to the extent that it notes that a non-Australian citizen requires a visa with work entitlements. Other implications on immigration laws are not addressed.

Question 11 – Hansard page 60

(Senator McKenzie requested that 7-Eleven table a copy of its franchise agreement.)

Enclosed is a copy of the current store agreement, including the fuel addendum (which applies only to fuel sites).

Question 12 – Hansard pages 60

(Senator Rice enquired about the payroll costs last year.)

The total payroll costs for the week ending 27 July 2014 (i.e. one year ago) was \$1,613,300 for the week. This related to 552 stores.

Question 13 – Hansard page 61

(The Chair asked about the number of stores in which payroll expenditure (through the 7-Eleven payroll system) has increased.)

I am advised that from the week ending 7 June 2015 to the week ending 20 September 2015, of a total 597 stores, 74.9% (or 447 stores) showed an increase in payroll expenditure. Of the remaining 150 stores, 24.8% (or 148 stores) showed a decrease in payroll expenditure. 2 stores did not indicate any change.

Question 14 – Hansard page 62

(The Chair enquired about which superannuation fund was the default fund used in respect of franchisee's employees.)

7-Eleven uses REST as the default superannuation fund for contributions in respect of employees of franchisees.

Question 15 – Hansard page 63

(Senator O'Neill asked Mr Wilmot whether rates could be manipulated in the payroll system or whether they were "set" and the duration for which this functionality has operated.)

The rates cannot be manipulated in the payroll system. 7-Eleven has been using the existing payroll system since 1 July 2011.

Please do not hesitate to contact me if I can offer any further information regarding the above responses or any other particular aspect of the questioning.

Yours faithfully

Russell Withers

Breaches	Total amount
Failure to Maintain 7-Eleven Image	53
Failure to Maintain 7-Eleven Food Safety Program	17
Breach of Provisions of Store Agreement	5
Failure to Bank Sales Receipts	3
Failure to Maintain Net Worth	14
Failure to Comply with 7-Eleven Policies regarding secure storage of change fund	1
Failure to Comply with 7-Eleven Security Policies	4
Not adhering to Training Requirements	6
Breach of Media Policy	1
Cash Handling Procedures	2
Failure to Declare All Sales	2
Breach of Safety and Security Procedures	4
Warnings	
Failure to Maintain 7-Eleven Image	9
Failure to Maintain 7-Eleven Food Safety Program	6
Breach of Provisions of Store Agreement	5
Improperly Processing Transactions	1
Not adhering to consigned fuel addendum.	1
Failure to Follow 7-Eleven Robbery Prevention Procedure	1
Breach of Media Policy	1
Failure to Comply with Franchise Material	21
Failure to Comply with Payroll Minimum Standards	1
Total number of breaches/warnings issued	158

ALL STORES

MINIMUM GROSS INCOME GUARANTEE

On 1 September 2015, Warren made the following announcement regarding an increase to the minimum gross income guarantee.

“To ensure that stores in the lower income bands have absolute certainty about their financial capacity, we are increasing the minimum gross income guarantee to \$310,000 per annum.”

The minimum gross income guarantee of \$310,000 per annum will take effect from 1 July 2015, and will be on a pro-rata basis.

Payments will be calculated and paid monthly, based on the stores 12 month moving annualised performance.

Payments will commence in accounting Period 03/2016, and will include any amounts owing for accounting Periods 1 and 2. Support payments will have the effect of reducing the 7-Eleven Charge, therefore increasing the Gross Income (Merchandise) line on the Income and Expense Statement.

As this support is above and beyond what is provided for in the store agreement, payments will be conditional on franchisees meeting all of their employer obligations.

If you have any queries regarding the minimum gross income guarantee, or any other commitment announced by Warren on 31 August 2015, your State Manager is as always available to discuss with you at your convenience.

Regards

Natalie Dalbo
General Manager Operations



7-ELEVEN STORES PTY LTD (7-ELEVEN)
(ACN 005 299 427)

TERMS OF REFERENCE FOR PANEL

Payroll compliance in 7-Eleven stores

To undertake an investigation into allegations of non-compliance by 7-Eleven's Franchisees with their payroll obligations and in particular to:-

1. Invite the submission by any person ("**Claimant**") who is, or has been, an employee of a 7-Eleven Franchisee of any claim for alleged underpayment of wages whilst so employed ("**Claim**") whether by reason of:-
 - (a) payment at a rate lesser than that required under the relevant Modern Award or any applicable enterprise agreement;
 - (b) understatement of hours worked;
 - (c) persons other than the Claimant having been paid for hours worked by the Claimant;
 - (d) non payment of penalty rates when applicable; or
 - (e) otherwise;
2. Review and assess each Claim and as considered appropriate, interview the Claimant and/or request the production from the Claimant of such notes, pay slips, records of payment or other documents or material as may be relevant to or support the Claim;
3. In relation to any Claim where the payroll service made available by 7-Eleven was availed of, requisition from 7-Eleven copies of such of the payroll records and documents pertaining to the Claimant as may be relevant to the Claim;
4. Where practicable make enquiry of and seek from the franchisee by whom the Claimant is or was employed such explanation, information, payroll and staff attendance records or other documents or material as may be deemed necessary or appropriate:
5. Interview and take statements from former co-employees of the Claimant or other persons considered to have an awareness of, or otherwise are able to provide information relevant to, the Claim;

6. Arrive at a determination in relation to each Claim as to:
 - (a) whether and for what amount the Claimant has been underpaid;
 - (b) the period during which the Claimant was underpaid; and
 - (c) the circumstances in which or the method by which such underpayment occurred;

7. As soon as practicable following the making of a determination in relation a Claim provide to 7-Eleven's Chief Executive Officer a report of the Panel's findings together a certification as to the amount of money by which the Claimant is considered by the Panel to have been underpaid.



copy of 02 - Basic Employment Conditions

Fuel Gauge	Induction
Target Country	✓
Target Location	✓
Target Account	✓
Instructions	
Pass Mark	100%
Active	✓
Mandatory	✗
Test Refresh	✗
Attached Content	None
Template	7 Eleven Style 1

Slide 1 Right to work in Australia

You must have the right to work legally in Australia. You can only work in Australia if you are:

- An Australian citizen
- An Australian permanent resident
- A New Zealand citizen, and were granted a visa with work entitlements on arrival
- A Non-Australian citizen holding a valid visa with work entitlements

Slide 2 Right to work in Australia

If you have a work visa then you are responsible for making sure you do not violate the conditions of your visa at any time, such as a restriction on the number of hours you may work each week.

Violating these conditions can lead to negative outcomes with the Department of Immigration. It is your responsibility to provide your Franchisee / Store Manager with information about your visa and any work restrictions.

You must also inform your store Franchisee / Store Manager immediately if your visa conditions or work rights change.



Slide 3 Right to work in Australia

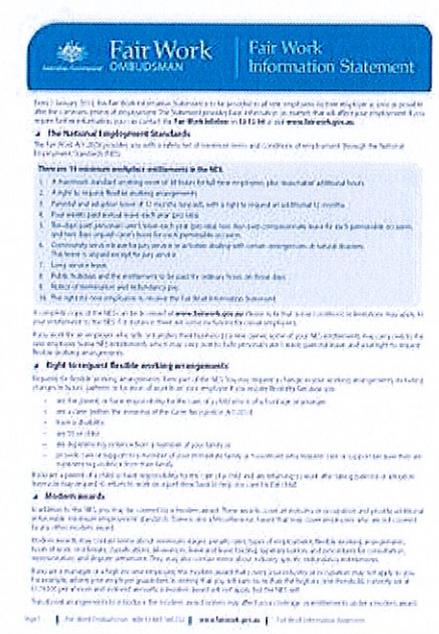
You must advise your Franchisee / Store Manager if you are rostered in excess of your maximum weekly hours, or if you are offered additional shifts which will cause you to exceed your maximum hours.

Slide 4 National Employment Standards (NES)

The basic employment entitlements for all employees in Australia are provided for under the National Employment Standards (NES).

When commencing employment with a new employer, all new employees must be provided with a Fair Work Information Statement which explains the minimum entitlements under the NES.

Click on the Resource button below to view the Fair Work Information Statement.





Slide 5

Modern Awards

In addition to the NES, many employees are also covered by an Award.

An Award is a document that sets out the employment conditions and pay rates for employees in a particular occupation or industry.

Modern Awards are Awards that have been developed by the federal government body called Fair Work Australia and apply nationally.

Modern Awards apply in our industry. If you work in one of our stores, unless you are the Franchisee or manager, you are covered by a Modern Award.

Slide 6

Modern Awards

The Modern Award which applies to you is determined by the type of store you work in:

Fuel store employees:

If you work in a Fuel Store you are covered by the Vehicle Manufacturing, Repair, Services and Retail Award 2010

Non-fuel store employees:

If you work in a store that does not sell fuel, you are covered by the General Retail Industry Award 2010

A copy of the Award is available in the Manuals and Files section of FRED.

Slide 7

Enterprise Agreements

Some employers develop and agree an Enterprise Agreement with their employees.

Enterprise Agreements can replace some or all of the terms of an Award. They are typically used to modify the employment conditions to better suit the needs of the specific business and its employees.

Enterprise Agreements are registered with and approved by Fair Work Australia. Enterprise Agreements cannot provide benefits which are less than the National Employment Standards. The employee should be better off overall under the Enterprise Agreement when compared to their Award.



Slide 8 Which of the following outlines the minimum basic employment conditions for all employees in Australia?

Answer 1: Enterprise Agreements

✔ **Answer 2:** National Employment Standards

Answer 3: General Retail Industry Award

Slide 9 Match the correct Award with the following type of 7-Eleven store.



General Retail Industry Award 2010



Vehicle Manufacturing, Repair, Services and Retail Award 2010

Slide 10 Types of Employment

Your type of employment is listed on your pay slip. There are three basic types of employment:

Full time permanent employment

- Full time employees normally work 38 hours per week (plus reasonable additional hours) and have ongoing employment.
- Full time employees are eligible for benefits such as paid annual leave, personal/carer's leave and long service leave.

Part time permanent employment

- Part time employees work fewer hours than full time employees but have similar benefits.
- Part time employees receive an amount of annual leave and accrue personal/carer's leave calculated according to the number of hours they work each week.

Casual employment

- Casual employees do not have a guaranteed number of hours each week and may be called to work on short notice.
- Casuals are not entitled to paid personal/carer's leave or annual leave and can be terminated without notice. However, casual employees are paid a higher hourly Award rate instead of getting these benefits.



Slide 11 Casual employees have an entitlement to paid annual leave and paid carer's leave.

Answer 1: True

 **Answer 2:** False

Slide 12 Employment forms

Before working your first shift, you are required to complete the following forms. These forms will get you set up in the 7-Eleven Payroll system.

- New Employee form
- Tax File Number Declaration form
- Superannuation form

Slide 13 New Employee Form

This form includes your personal details.

It is important that you include the correct bank account details or you will not be paid.

Make sure you keep these details up to date, for example, if you change bank accounts or if you move to a new address.



Slide 16

Which forms are you required to complete before working your first shift. Tick all that apply.

Answer 1: Change of Address form

Answer 2: New Employee form

Answer 3: Annual Leave form

Answer 4: Tax File Number Declaration form

Answer 5: Superannuation form



Slide 17 Payroll

Once you have started working, it is your responsibility to complete the Employee Time Book after each shift.

The Employee Time Book allows your Franchisee to complete the Weekly Time Sheet which they send to head office. The Payroll department uses the Weekly Time Sheet to process your pay.

You will be paid weekly. The money is deposited into the bank account you provided on the New Employee Form.

A pay slip will be available to you each week; please ask your Franchisee / Store Manager for it. The pay slip will tell you:

- How much you have been paid
- How much you have been taxed
- Your superannuation contribution

If you have any queries regarding your pay, please speak to your Franchisee / Store Manager.



Employee Time Book Store Number: _____

Employee Name: _____ Week ending (dd/mm/yy) _____ / _____

Day	Date (e.g. 1/1/11)	Start time (e.g. 8.30am)	Finish time (e.g. 4.30pm)	Hours (e.g. 8 hours)	Unpaid break start time (e.g. 1.00pm)	Unpaid break finish time (e.g. 1.30pm)	Unpaid break (e.g. 30 min)	Total hours worked (e.g. 7.5 hours)
Mon								
Tue								
Wed								
Thu								
Fri								
Sat								
Sun								
TOTAL:								

Leave taken: Annual leave _____ hours Personal (sick) leave _____ hours

Employee Signature: _____ Date (dd/mm/yy) _____ / _____

Slide 18 Purchases and Theft

You are able to have coffee and Slurpee free of charge during your shift. You should bring your own cup or use one of the staff cups your Franchisee provides.

You must pay for all other Company products that you consume before you take them. Failing to pay for a product can be considered theft. Staff theft is a serious matter and can lead to termination of employment. Matters related to theft or fraud may also be referred to the police.



Slide 19 Purchases and Theft

You need to be mindful of customer behaviour and the potential for theft in various forms. There are a number of procedures you are required to understand and follow in order to minimise the risk of theft, hold ups, attacks on people or property and fuel drive offs (in fuel stores).

Failure to follow these procedures is a serious matter as it increases the risk to you and others and also increases the potential for the loss of property and cash.

By law, staff cannot be required to reimburse the cost of damage or theft by others and at no time should they be expected to do so.

Employees may face disciplinary action for failing to follow safety and cash control procedures. Depending upon the seriousness of the circumstances this may include termination of employment.

Slide 20 An investigation shows that an incident of theft by a customer occurred because the employee on duty was in the store room and left the customer alone in the store for 10 minutes. The employee has not followed the correct procedure. As a result the employee may be:

- ✔ **Answer 1:** Disciplined
- Answer 2:** Required to pay back what was lost because it was his/her fault
- Answer 3:** Both of the above



Slide 21 Uniforms

As a store employee, you represent 7-Eleven. Your appearance shows our customers that you care about your job.

It is important you present a professional image at all times - neat and clean, with good grooming and personal presentation.

Your Franchisee will provide you with a 7-Eleven shirt and name badge. Wear your uniform with pride. The 7-Eleven uniform must be worn at all times when working in the store.

The uniform consists of:

- a 7-Eleven polo top or a 7-Eleven shirt (only available from the recommended uniform vendor)
- a 7-Eleven name badge (only available for purchase through 7-Eleven)
- black pants or a black skirt
- flat, black, covered shoes with non slip soles.

Please roll over images to view a close-up of the various uniforms available.





Slide 22 Uniforms and Personal Grooming

It is important you always meet the standards for uniform and personal hygiene.

When in 7-Eleven uniform you must always:

- keep jewellery to a minimum, that is a watch and wedding band
- restrain hair that is longer than shoulder length
- ensure your uniform is clean and ironed daily
- maintain good personal hygiene and cleanliness

You must NOT:

- wear open toe shoes or sandals - these do not meet safety standards
- wear denim jeans, tracksuit pants or other casual pants
- have a visible garment under your uniform.

Slide 23 Please tick 4 correct uniform requirements

✔ **Answer 1:** A clean and ironed 7-Eleven polo, shirt or t-shirts

Answer 2: Brown shoes and blue denim jeans

✔ **Answer 3:** Flat, black covered shoes with non-slip soles

✔ **Answer 4:** A 7-Eleven name badge

Answer 5: Faded denim jeans

✔ **Answer 6:** Black pants or black skirt

Slide 24 Tobacco, Drugs and Alcohol

The use of tobacco in the workplace, or the use of drugs or alcohol in our stores, creates a number of risks to you, your workmates, our customers and the general public.

You must not:

- Smoke in the store, or anywhere on the property apart from an approved smoking area
- Drink any product containing alcohol, while on duty or when wearing a 7-Eleven uniform
- Work in a store while under the influence of drugs or alcohol
- Bring illegal drugs into the workplace



Slide 25 Selling Tobacco

There are a number of laws and regulations that apply to the sale of tobacco

- It is against the law to sell tobacco products to people under 18 years of age. You must not knowingly sell tobacco products to anyone under this age, even if they say they are buying the products for someone else
- You must check the identification of anyone who looks like they might be under the age of 25 years
- Rules also apply in certain states about how tobacco can be displayed in the store.
- You must complete the Tobacco training modules in FRED to learn about the rules that apply

Slide 26 Illness and Injury

If you are sick and are unable to work, it is your responsibility to tell your Franchisee / Store Manager as soon as practical.

Store employees often work alone, so it is important to give your Franchisee / Store Manager as much notice as possible so that they can cover your shift.

You may be asked to provide evidence that you were ill, such as a doctor's note. Ask your store Franchisee / Store Manager about who you should contact if you are sick.

If you develop an illness or injury outside of work which will affect your ability to perform your job safely, you need to tell your Franchisee / Store Manager. You may be asked to provide a medical clearance showing that you are fit and able to work.



Slide 27 Bullying, Harassment and Discrimination

All employees are expected to treat each other in a fair and professional manner and not engage in any form of discrimination, harassment, sexual harassment or bullying.

It is against the law to harass or discriminate against another employee because of their sex, race, colour, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction, social origin, or because of temporary absence due to illness or injury.

Sexual harassment is against the law. Sexual harassment occurs when a person:

- Makes an unwelcome sexual advance
- Makes an unwelcome request for sexual favours
- Engages in any other unwanted or unwelcome sexual behaviour

Bullying is also illegal. Bullying is language or behaviour that can scare, degrade or humiliate someone.

If you notice bullying or harassment in the workplace, or if you feel that someone is bullying or harassing you, you should tell your Franchisee / Store Manager.

Slide 28 Your training

FRED contains online training which gives you important information about your job, 7-Eleven standards and safety information.

You must complete all the mandatory modules in FRED before your first shift. You have 45 days to complete all other training modules in FRED.

Income Support

Sum of	LC amnt	Column Labels	1223	1224	1233	1234	1235	1242	1264	2064	2065	2142	2145	2161	2167	2170	2172	2175	2260	2261	2318	4040	4043	4054	4155	4156	4157	Grand Total
31/07/2010											500.00			2,000.00		1,936.28											4,436.28	
30/09/2010					1,766.75																						1,766.75	
31/07/2011																									1,284.95	4,338.47	5,623.42	
31/08/2011	267.88		1,162.76	1,450.96								1,306.21		1,158.00		1,167.06								2,000.01			7,354.88	
30/09/2011												5,000.00		5,000.00		5,556.00								1,394.00			9,769.25	
31/10/2011																											5,000.00	
30/11/2011																	2,000.00									1,608.87	1,608.87	
31/12/2011													1,019.37				1,671.35								4,133.36		2,000.00	
31/03/2012																											6,824.68	
31/05/2012																2,118.10											2,453.64	
30/06/2012												2,413.15	3,210.78			3,087.16											2,994.78	
31/07/2012																											8,711.09	
31/08/2012																											5,000.00	
30/09/2012							1,346.53							1,101.31		1,164.15											8,611.99	
31/10/2012											520.73			521.08		454.71											1,496.52	
30/11/2012											5,000.00			5,000.00		553.33											5,000.00	
31/12/2012																1,150.66											20,553.33	
31/01/2013																											1,150.66	
14/02/2013																											5,000.00	
26/03/2013																				46,357.29	9,026.14						5,000.00	
31/03/2013																				41,790.09	1,897.95						43,688.04	
30/04/2013																				29,162.63							36,889.90	
31/05/2013					3,000.00	1,600.00			10,000.00		2,272.73		4,545.45		909.09												15,000.00	
30/06/2013										5,000.00				5,000.00		2,000.00											24,600.00	
31/07/2013			1,037.00								1,000.00			3,500.00		2,000.00											49,249.11	
26/08/2013																											97,084.47	
31/08/2013																											42,953.00	
20/09/2013																											5,493.00	
30/09/2013																											20,677.00	
31/10/2013																											5,000.00	
30/11/2013																2,000.00											66,808.00	
31/12/2013																											23,316.00	
1/01/2014			2,000.00																								8,337.00	
31/01/2014																											2,000.00	
28/02/2014																											3,989.00	
31/03/2014			4,000.00																								18,991.00	
28/04/2014																											4,000.00	
30/04/2014			2,000.00																								2,000.00	
31/05/2014			2,000.00																								2,000.00	
30/06/2014			2,000.00																								54,869.00	
31/07/2014			2,000.00																								2,714.00	
27/08/2014																714.00											21,149.00	
28/08/2014																											31,292.00	
31/08/2014			2,000.00																								2,000.00	
30/09/2014			2,000.00													1,047.00											25,441.00	
14/10/2014																											15,591.00	
30/10/2014																											13,628.00	
31/10/2014			2,000.00																								2,000.00	
30/11/2014			2,000.00																								13,812.00	
31/12/2014			2,000.00																								2,000.00	
29/01/2015																											20,332.00	
31/01/2015			2,000.00																								2,000.00	
28/02/2015			2,000.00																								17,127.00	
31/03/2015			2,000.00																								2,000.00	
22/04/2015																											6,219.00	
24/04/2015																											8,434.00	
30/04/2015			2,000.00																								2,000.00	
31/05/2015			1,867.00																								1,867.00	
16/06/2015																											6,585.00	
30/06/2015			4,367.00					2,000.00																			19,358.00	
31/07/2015			1,250.00					2,000.00																			9,873.00	
31/08/2015			1,250.00					2,000.00																			22,660.00	
30/09/2015			1,250.00																								17,064.00	
30/09/2015																											894.00	
Grand Total	267.88	43,021.00	1,162.76	6,217.71	1,600.00	1,346.53	6,000.00	10,000.00	16,206.61	500.00	5,210.78	33,151.42	2,000.00	17,188.20	12,330.60	2,272.73	710,366.24	56,130.17	1,024.00	3,000.00	2,902.09	3,187.00	57,903.13	4,678.96	7,608.59	1,005,276.49		

CoCd	G/L	Profit Ctr	Type	DocumentNo	Doc/ Date	Clearing	Clrng doc.	Pstng Date	LC amnt	Reference	Text
SEPL	89998	2142	SA	100430907	31/07/2010			31.07.2010	500	INCOME S/	Income Support June 2010
SEPL	89998	2167	SA	100430907	31/07/2010			31.07.2010	2,000.00	INCOME S/	Income Support June 2010
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SEPL	89998	1234	SA	101226011	30/09/2010			30.09.2010	1,766.75	INCOME S/	Income Support Aug 10
SEPL	89998	4156	SA	100854376	31/07/2011			31.07.2011	1,284.95	INCOME S/	Income Support June 2011
SEPL	89998	4157	SA	100854376	31/07/2011			31.07.2011	4,338.47	INCOME S/	Income Support June 2011
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SEPL	89998	2161	SA	101348143	31/08/2011			31.08.2011	1,306.21	INCOME S/	Income Support Jul 11
SEPL	89998	2172	SA	101348143	31/08/2011			31.08.2011	1,167.06	INCOME S/	Income Support Jul 11
SEPL	89998	4156	SA	101348143	31/08/2011			31.08.2011	2,000.01	INCOME S/	Income Support Jul 11
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SEPL	89998	2172	SA	101995378	30/09/2011			30.09.2011	5,556.00	INCOME S/	Income Support Aug 11
SEPL	89998	4156	SA	101995378	30/09/2011			30.09.2011	1,394.00	INCOME S/	Income Support Aug 11
SEPL	89998	4157	SA	101995378	30/09/2011			30.09.2011	1,661.25	INCOME S/	Income Support Aug 11
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SEPL	89998	4157	SA	103602206	30/11/2011			30.11.2011	1,608.87	INCOME S/	Income Support Oct 11
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SEPL	89998	2170	SA	102370405	30/09/2012			30.09.2012	1,164.15	INCOME S/	Income Support Aug 12
SEPL	89998	4155	SA	102370405	30/09/2012			30.09.2012	5,000.00	INCOME S/	Income Support Aug 12
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SEPL	89998	2161	SA	104383222	30/11/2012			30.11.2012	5,000.00	INCOME S/	Income Support Oct 12
SEPL	89998	2170	SA	104383222	30/11/2012			30.11.2012	553.33	INCOME S/	Income Support Oct 12
SEPL	89998	4155	SA	104383222	30/11/2012			30.11.2012	10,000.00	INCOME S/	Income Support Oct 12
SEPL	89998	2170	SA	105309841	31/12/2012			31.12.2012	1,150.66	INCOME S/	Income Support Nov 12
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SEPL	89998	2260	SA	106513128	14/02/2013			14.02.2013	46,357.29	INCOME S/	Inc Support Nov&Dec 2012
SEPL	89998	2261	SA	106513126	14/02/2013			14.02.2013	9,026.14	INCOME S/	Inc Support Nov 2012
SEPL	89998	2260	SA	107720087	26/03/2013			26.03.2013	41,790.09	INCOME S/	Income Support Feb 13
SEPL	89998	2261	SA	107720087	26/03/2013			26.03.2013	1,897.95	INCOME S/	Income Support Feb 13
SEPL	89998	2065	SA	108222762	31/03/2013			31.03.2013	2,272.73	INCOME S/	INCOME SUPPORT FEB13
SEPL	89998	2161	SA	108222762	31/03/2013			31.03.2013	4,545.45	INCOME S/	INCOME SUPPORT FEB13
SEPL	89998	2170	SA	108222762	31/03/2013			31.03.2013	909.09	INCOME S/	INCOME SUPPORT FEB13
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SEPL	89998	2260	SA	109255614	31/03/2013			01.04.2013	29,162.63	INCOME S/	INCOME SUPPORT MAR13
SEPL	89998	2064	AB	109255615	30/04/2013			30.04.2013	-10,000.00	INCOME S/	INCOME SUPPORT MAR13
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SEPL	89998	1234	SA	109956211	31/05/2013			31.05.2013	2,727.27	INCOME S/	INCOME SUPPORT APR 2013
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SEPL	89998	1235	AB	109956212	31/05/2013			31.05.2013	-1,454.54	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	1235	SA	109956211	31/05/2013			31.05.2013	1,454.54	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	1235	SA	109956213	31/05/2013			31.05.2013	1,600.00	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	2065	AB	109956212	31/05/2013			31.05.2013	-4,545.45	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	2065	SA	109956211	31/05/2013			31.05.2013	4,545.45	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	2065	SA	109956213	31/05/2013			31.05.2013	5,000.00	INCOME S/	INCOME SUPPORT APR 2013
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SEPL	89998	2161	SA	109956211	31/05/2013			31.05.2013	4,545.45	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	2161	SA	109956213	31/05/2013			31.05.2013	5,000.00	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	2170	AB	109956212	31/05/2013			31.05.2013	-1,818.18	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	2170	SA	109956211	31/05/2013			31.05.2013	1,818.18	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	2170	SA	109956213	31/05/2013			31.05.2013	2,000.00	INCOME S/	INCOME SUPPORT APR 2013
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SEPL	89998	4043	SA	109956211	31/05/2013			31.05.2013	1,363.64	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	4043	SA	109956213	31/05/2013			31.05.2013	1,500.00	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	4054	AB	109956212	31/05/2013			31.05.2013	-1,363.64	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	4054	SA	109956211	31/05/2013			31.05.2013	1,363.64	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	4054	SA	109956213	31/05/2013			31.05.2013	1,500.00	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	4155	AB	109956212	31/05/2013			31.05.2013	-4,545.45	INCOME S/	INCOME SUPPORT APR 2013
SEPL	89998	4155	SA	109956211	31/05/2013			31.05.2013	4,545.45	INCOME S/	INCOME SUPPORT APR 2013
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SEPL	89998	2260	SA	110674408	30/06/2013			30.06.2013	37,549.76	INCOME S/	Income Support May 13
SEPL	89998	2261	SA	110674408	30/06/2013			30.06.2013	3,972.08	INCOME S/	Income Support May 13
SEPL	89998	4043	SA	110676505	30/06/2013			30.06.2013	909.09	INCOME S/	INCOME SUPPORT MAY 2013
SEPL	89998	4155	SA	110676505	30/06/2013			30.06.2013	4,545.45	INCOME S/	INCOME SUPPORT MAY 2013
SEPL	89998	1224	SA	101145937	31/07/2013			31.07.2013	1,037.00	INCOME S/	INCOME SUPPORT JUNE 2013
SEPL	89998	2065	SA	101145937	31/07/2013			31.07.2013	1,000.00	INCOME S/	INCOME SUPPORT JUNE 2013
SEPL	89998	2161	SA	101145937	31/07/2013			31.07.2013	3,500.00	INCOME S/	INCOME SUPPORT JUNE 2013
SEPL	89998	2170	SA	101145937	31/07/2013			31.07.2013	2,000.00	INCOME S/	INCOME SUPPORT JUNE 2013
SEPL	89998	2260	SA	101267376	31/07/2013			31.07.2013	80,547.47	INCOME S/	Income Support
SEPL	89998	4040	SA	101145937	31/07/2013			31.07.2013	3,000.00	INCOME S/	INCOME SUPPORT JUNE 2013
SEPL	89998	4054	SA	101145937	31/07/2013			31.07.2013	1,000.00	INCOME S/	INCOME SUPPORT JUNE 2013
SEPL	89998	4155	SA	101145937	31/07/2013			31.07.2013	5,000.00	INCOME S/	INCOME SUPPORT JUNE 2013
SEPL	89998	2260	SA	101686499	26/08/2013			26.08.2013	39,652.00	INCOME S/	Income Support Jul 13
SEPL	89998	2261	SA	101686499	26/08/2013			26.08.2013	3,301.00	INCOME S/	Income Support Jul 13

SEPL	89998	4043 SA	101913284	31/08/2013	31.08.2013	493 INCOME SI Income Support July 2013
SEPL	89998	4155 SA	101913284	31/08/2013	31.08.2013	5,000.00 INCOME SI Income Support July 2013
SEPL	89998	2260 SA	102586727	20/09/2013	23.09.2013	20,677.00 INCOME SI Income Support Aug 13
SEPL	89998	4155 SA	102905105	30/09/2013	30.09.2013	5,000.00 INCOME SI INCOME SUPPORT AUG 13
SEPL	89998	2170 SA	104094700	31/10/2013	31.10.2013	2,000.00 INCOME SI Income Support Sep 2013
SEPL	89998	2260 SA	104255801	31/10/2013	31.10.2013	28,334.00 INCOME SI Income Support Sept 2013
SEPL	89998	2260 SA	105146678	31/10/2013	30.11.2013	34,311.00 INCOME SI Income Support October 13
SEPL	89998	2261 SA	105146679	31/10/2013	30.11.2013	2,163.00 INCOME SI Income Support October 13
SEPL	89998	2260 SA	105482152	30/11/2013	20.12.2013	23,316.00 INCOME SI Income Support - November 2013
SEPL	89998	1224 SA	106390303	1/01/2014	17.01.2014	2,000.00 INCOME SI Income Support Dec 2013
SEPL	89998	2260 AB	106526435	31/12/2013	22.01.2014	-7,579.09 INCOME SI Income Support - Dec 2013
SEPL	89998	2260 SA	106526432	31/12/2013	22.01.2014	7,579.09 INCOME SI Income Support - Dec 2013
SEPL	89998	2260 SA	106526514	31/12/2013	22.01.2014	8,337.00 INCOME SI Income Support - Dec 2013
SEPL	89998	2260 SA	108341953	31/01/2014	01.03.2014	9,453.00 INCOME SI Income Support - January 2014
SEPL	89998	2260 SA	108366355	28/02/2014	01.03.2014	18,991.00 INCOME SI Income Support - February 2014
SEPL	89998	2261 SA	108341953	31/01/2014	01.03.2014	-5,464.00 INCOME SI Income Support - January 2014
SEPL	89998	1224 SA	108957781	31/03/2014	31.03.2014	4,000.00 INCOME SI Income Support FEB 2014
SEPL	89998	2260 SA	109732346	28/04/2014	29.04.2014	26,447.00 INCOME SI Income Support - March 2014
SEPL	89998	1224 SA	110094459	30/04/2014	30.04.2014	2,000.00 INCOME SI Income Support for
SEPL	89998	1224 SA	111063303	31/05/2014	31.05.2014	2,000.00 INCOME SI Income Support for Arpil
SEPL	89998	1224 SA	111956684	30/06/2014	30.06.2014	2,000.00 INCOME SI Income Support for May
SEPL	89998	2260 SA	111937722	30/06/2014	30.06.2014	52,869.00 INCOME SI INCOME SUPPORT APRIL & MAY 2014
SEPL	89998	1224 SA	102391502	31/07/2014	31.07.2014	2,000.00 INCOME SI Income Support for June
SEPL	89998	2170 SA	102391502	31/07/2014	31.07.2014	714 INCOME SI Income Support for June
SEPL	89998	2260 SA	103099170	27/08/2014	27.08.2014	27,357.00 INCOME SI INCOME SUPPORT JUNE 14
SEPL	89998	2261 SA	103100092	27/08/2014	27.08.2014	24,792.00 INCOME SI INCOME SUPPORT JUNE 14
SEPL	89998	2260 SA	103132240	28/08/2014	28.08.2014	31,292.00 INCOME SI INCOME SUPPORT JULY 14
SEPL	89998	1224 SA	103575343	31/08/2014	31.08.2014	2,000.00 INCOME SI Income Support for July
SEPL	89998	1224 SA	104664496	30/09/2014	30.09.2014	2,000.00 INCOME SI Income Support for Aug
SEPL	89998	2170 SA	104664496	30/09/2014	30.09.2014	1,047.00 INCOME SI Income Support for Aug
SEPL	89998	2260 SA	104359481	30/09/2014	30.09.2014	21,370.00 INCOME SI INCOME SUPPORT AUGUST 14
SEPL	89998	2318 SA	104664496	30/09/2014	30.09.2014	1,024.00 INCOME SI Income Support for Aug
SEPL	89998	2260 SA	104878492	16/10/2014	16.10.2014	7,370.00 INCOME SI INCOME SUPPORT SEPT 14
SEPL	89998	2261 SA	104878492	16/10/2014	16.10.2014	8,221.00 INCOME SI INCOME SUPPORT SEPT 14
SEPL	89998	1224 SA	105817715	31/10/2014	31.10.2014	2,000.00 INCOME SI Income Support for Oct
SEPL	89998	2260 SA	106247493	30/10/2014	25.11.2014	13,628.00 INCOME SI INCOME SUPPORT OCT 14
SEPL	89998	1224 SA	106682991	30/11/2014	30.11.2014	2,000.00 INCOME SI Income Support for Nov
SEPL	89998	1224 SA	107830640	31/12/2014	31.12.2014	2,000.00 INCOME SI Income Support for Oct
SEPL	89998	2260 SA	107519293	30/11/2014	31.12.2014	11,812.00 INCOME SI Income Support Nov 2014
SEPL	89998	2260 SA	108537947	29/01/2015	29.01.2015	12,111.00 INCOME SI INCOME SUPPORT DEC 14
SEPL	89998	2261 SA	108537947	29/01/2015	29.01.2015	8,221.00 INCOME SI INCOME SUPPORT DEC 14
SEPL	89998	1224 SA	108664339	31/01/2015	31.01.2015	2,000.00 INCOME SI Income Support for Dec
SEPL	89998	1224 SA	109998336	28/02/2015	28.02.2015	2,000.00 INCOME SI Income Support
SEPL	89998	2260 SA	109744930	28/02/2015	28.02.2015	15,127.00 INCOME SI INCOME SUPPORT JAN 15
SEPL	89998	1224 SA	111148769	31/03/2015	31.03.2015	2,000.00 INCOME SI Income Support for Feb
SEPL	89998	2260 SA	111512930	22/04/2015	22.04.2015	6,219.00 INCOME SI INCOME SUPPORT FEB 15
SEPL	89998	2260 SA	111582827	24/04/2015	24.04.2015	8,434.00 INCOME SI INCOME SUPPORT MAR 15
SEPL	89998	1224 SA	112209801	30/04/2015	30.04.2015	2,000.00 INCOME SI Income Support for Mar
SEPL	89998	1224 SA	113311807	31/05/2015	31.05.2015	1,867.00 INCOME SI Income Support for Apr
SEPL	89998	1224 AB	114070872	31/05/2015	01.06.2015	-1,867.00 INCOME SI Income Support for Apr
SEPL	89998	2260 SA	113591147	16/06/2015	18.06.2015	6,585.00 INCOME SI INCOME SUPPORT APR 15
SEPL	89998	1224 AB	114070873	30/06/2015	30.06.2015	-1,250.00 INCOME SI Income Support for May
SEPL	89998	1224 SA	114051113	30/06/2015	30.06.2015	1,250.00 INCOME SI Income Support for May
SEPL	89998	1224 SA	114070876	30/06/2015	30.06.2015	1,250.00 INCOME SI Income Support for April
SEPL	89998	1224 SA	114070876	30/06/2015	30.06.2015	1,867.00 INCOME SI Income Support for May
SEPL	89998	1264 SA	114053080	30/06/2015	30.06.2015	2,000.00 INCOME SI Income Support for May
SEPL	89998	2260 SA	114048457	30/06/2015	30.06.2015	12,304.00 INCOME SI INCOME SUPPORT MAY 15
SEPL	89998	4054 SA	114053080	30/06/2015	30.06.2015	687 INCOME SI Income Support for May
SEPL	89998	1224 SA	100656616	31/05/2015	01.07.2015	1,867.00 INCOME SI Reversal
SEPL	89998	1224 SA	100656618	30/06/2015	01.07.2015	1,250.00 INCOME SI Reversal
SEPL	89998	1224 SA	101651851	31/07/2015	31.07.2015	1,250.00 INCOME SI Income Support for June
SEPL	89998	1264 SA	101651851	31/07/2015	31.07.2015	2,000.00 INCOME SI Income Support for June
SEPL	89998	2260 SA	101362248	31/07/2015	31.07.2015	6,623.00 INCOME SI Income Support for June 2015
SEPL	89998	1224 SA	102713095	31/08/2015	30.08.2015	1,250.00 INCOME SI Income Support for July
SEPL	89998	1264 SA	102713095	31/08/2015	30.08.2015	2,000.00 INCOME SI Income Support for July
SEPL	89998	4155 SA	102713095	31/08/2015	30.08.2015	894 INCOME SI Income Support for July
SEPL	89998	2260 SA	102720718	31/08/2015	31.08.2015	18,516.00 INCOME SI Income Support for Jul 15
SEPL	89998	1224 SA	103943594	30/09/2015	30.09.2015	1,250.00 INCOME SI Income Support for August
SEPL	89998	2145 SA	103943594	30/09/2015	30.09.2015	2,000.00 INCOME SI Income Support for August
SEPL	89998	2260 SA	103592982	30/09/2015	30.09.2015	13,814.00 INCOME SI Income Support for Aug 15

*

Store Agreement

7-Eleven Stores Pty Ltd
ACN 005 299 427

and

[FRANCHISEE]
[insert ACN/ARBN/ABN]



7-Eleven Store No. [Insert number]

Signed: [insert date]

Table of contents

Clause

	<i>Page</i>
Application of Legislation and Codes	4
Cooling Off Notice	5
7-ELEVEN System and Image	5
Article 1: Sub-licence	5
Licensed Property	8
Article 2: Licence	8
Article 3: Condition of the Licensed Property	11
Article 4: Maintenance, repairs and utilities	11
Article 5: Taxes & stamp duties	12
Initial Fees	13
Article 6: Fees	13
Investment, licences, open account and financing	14
Article 7: FRANCHISEE's investment and licences	14
Article 8: Open account and financing	14
Training	16
Article 9: Training	16
Store Set-Up	19
Article 10: Store set-up	19
Responsibility for losses and insurance	19
Article 11: Responsibility of SEA	19
Article 12: Responsibility of the FRANCHISEE	20
Advertising	21
Article 13: Advertising	21
Merchandising	22
Article 14: Initial inventory	22
Article 15: Continuing Inventory	22
Article 16: Merchandising assistance	23
Article 17: Vendor selection and retail pricing	24
Bookkeeping	24
Article 18: General	24

Article 19: Inventory records	25
Article 20: Other bookkeeping	25
Article 21: Physical audits	28
FRANCHISEE's draw	30
Article 22: FRANCHISEE's draw on anticipated profits	30
7-ELEVEN Charge	30
Article 23: 7-ELEVEN Charge	30
Term, expiration and termination	31
Article 24: Term and expiration	31
Article 25: Termination	31
Article 26: Procedure on expiration or termination	35
Assignment and transfer	38
Article 27: Assignment	38
Article 28: SEA's assignment of Agreement	39
Article 29: Procedure on transfer of franchise	39
General	40
Article 30: Definitions	40
Article 31: Notices	40
Article 32: Availability of the store	41
Article 33: 7-ELEVEN franchise systems manual	41
Article 34: Compliance with laws	41
Article 35: Independent contractor relationship	42
Article 36: Continuous operation	42
Article 37: Restraint of trade	43
Article 38: Non-waiver	44
Article 39: Disclosure	44
Article 40: Requests for information	45
Article 41: Complete agreement	45
Article 42: Force majeure	46
Article 43: Dispute resolution and mediation	46
Article 44: Applicable law	48
Article 45: Corporate FRANCHISEE	48
Article 46: Notices of Breaches of terms of Agreement	49
Article 47: Confidential Information	49
Article 48: Third Party Beneficiary Rights	50

This Agreement

is made on [insert date] between the following parties:

- 1 **7-Eleven Stores Pty Ltd**
ACN 005 299 427
of 357 Ferntree Gully Road, Mt Waverley, Victoria, 3149
(SEA)
and
- 2 [insert name of party if not company Franchisee] who is described as and has signed this Agreement as FRANCHISEE, jointly and severally if more than one
or
[insert name of party]
[insert ACN/ARBN/ABN]
of [insert address] (FRANCHISEE)
and
- 3 the persons who are described in Exhibit D and have signed this Agreement in their personal capacity and as NOMINATED DIRECTORS.
(NOMINATED DIRECTORS)

Recitals

- A. 7-ELEVEN Inc., a Texas corporation (formerly The Southland Corporation) (SEI) has developed a unique system for the identification, fixturation, layout, merchandising and operation of extended-hour retail stores, identified principally by the trade name and service mark "7-ELEVEN" and providing products including groceries, takeout foods and beverages, dairy products, non-food merchandise, specialty items and incidental services and emphasising convenience to the customer. The system has been and is being continually refined and modified based on experience and/or new marketing developments to meet and serve the changing preferences of the consumer (7-ELEVEN System).
- B. In connection with the operation of 7-ELEVEN stores pursuant to the 7-ELEVEN System, SEI uses the trade name and service mark "7-ELEVEN " and other related or ancillary trade marks, trade names, copyrights, emblems, designs, labels, signs, symbols and indicia devised and employed by SEI (Trade Marks) to identify and distinguish 7-ELEVEN stores and merchandise sold therein.
- C. SEI has achieved public acceptance of and a favourable reputation and substantial goodwill for 7-Eleven stores operated pursuant to the 7-ELEVEN System and the Trade Marks used in connection therewith (7-ELEVEN Image).
- D. In order to extend, enhance and more fully exploit the benefit of the 7-ELEVEN Image, SEI has entered into various agreements with SEA. By one such agreement with SEA and RG Withers Pty Ltd of 357 Ferntree

Gully Road Mt Waverley in Victoria (**Area Licence Agreement**), SEI has granted to SEA certain rights relating to the operation of individual franchising to independent sub-licensees of 7-Eleven stores, and the use in that connection of the 7-ELEVEN System and the Trade Marks. SEA is a wholly owned subsidiary of RG Withers Pty Ltd.

- E. The FRANCHISEE, recognising the advantages of the 7-ELEVEN System and the 7-ELEVEN Image, wants to:
- (i) acquire from SEA rights to participate in the use of the 7-ELEVEN System, the Trade Marks and the Trade Secrets and the exploitation of the 7-ELEVEN Image in connection with a business to be conducted by the FRANCHISEE at and upon the real property identified in Exhibit A to this Agreement (**Licensed Premises**), together with leave and licence to enter upon and be in and use the Licensed Premises with the improvements now or hereafter constructed on the Licensed Premises for that purpose;
 - (ii) acquire from SEA, to use in conjunction with the rights in (i) above, rights to use the chattels and equipment installed upon the Licensed Premises (as listed in Exhibit B to this Agreement) on or before the Effective Date (as defined in Exhibit E to this Agreement) as from time to time hereafter replaced, deleted and added to at the sole discretion of SEA (**Licensed Equipment**);
 - (iii) obtain from SEA the services to be provided by SEA as variously provided in this Agreement; and
 - (iv) conduct pursuant to the 7-ELEVEN System and in a manner which will enhance the 7-ELEVEN Image, a 7-Eleven store designated in paragraph (a) of Exhibit D to this Agreement and located at and upon the Licensed Premises at the address specified in Exhibit A to this Agreement (**Store**).

The parties agree

in consideration of the terms, covenants and conditions contained in this Agreement that SEA in its capacity and pursuant to the rights granted to it as licensee under the Area Licence Agreement, and the FRANCHISEE, jointly and severally if more than one, and where the FRANCHISEE is a company both the company and the NOMINATED DIRECTORS, jointly and severally if more than one, mutually agree as follows:

Application of Legislation and Codes

- (a) The parties acknowledge that this Agreement is an agreement to which the Franchising Code of Conduct 2014 (**Code**) or if the Store is a Fuel Site the Oilcode 2007 (**Oilcode**) (together **Codes**) applies.
- (b) If any repugnancy or inconsistency arises between a provision in this Agreement and a provision of the Act or the relevant Codes, the offending or inconsistent provision within this Agreement shall be:
 - (1) severed, or to the extent of any inconsistency read down or modified, provided that in so doing the provision continues to have

- commercial efficacy and is not inconsistent with the general intent of the parties as evidenced by this Agreement; or
- (2) if it can not be severed or read down whilst maintaining the commercial efficacy and consistency with the general intent of the parties as evidenced by this Agreement then at the election of SEA:
- (A) the clause will be severed any way;
 - (B) the clause will not be severed; or
 - (C) the Agreement may be terminated in accordance with the provisions of Article 25.

Cooling Off Notice

- (a) Pursuant to clause 26 of the Code or clause 24 of the Oilcode, as appropriate, the FRANCHISEE is entitled to terminate this Agreement within 7 days after the earlier of:
 - (i) the entering into of this Agreement; or
 - (ii) the payment of any money under this Agreement.
- (b) The cooling off entitlement does not apply where this Agreement gives effect to a renewal, extension or transfer of an existing franchise agreement.
- (c) If the FRANCHISEE elects to terminate this Agreement as provided in (a) above, SEA shall within 14 days thereafter repay all money paid by the FRANCHISEE under this Agreement, less SEA's reasonable expenses. The reasonable expenses will be the cost of any travel, accommodation and training paid for by SEA in relation to the FRANCHISEE plus not more than \$500 being the consideration for the cost to SEA of preparing this Agreement and any other documentation in relation to the Store.

7-ELEVEN System and Image

Article 1: Sub-licence

- (a) For the consideration provided in this Agreement SEA, to the extent of SEA's rights under the Area Licence Agreement, hereby grants to the FRANCHISEE, and the FRANCHISEE hereby accepts, the right and sub-licence to participate in the use of the 7-ELEVEN System and exploitation of the 7-ELEVEN Image solely in conjunction with the FRANCHISEE's operation of the Store under this Agreement (**FRANCHISEE's Operation**). The FRANCHISEE's Operation is subject to all the terms, covenants and conditions of this Agreement.
- (b) The term of this Agreement will commence on the Effective Date and continue until, and end automatically upon, expiration of this Agreement as provided for in Article 24, or the termination of this Agreement as provided for in Article 25, or the transfer of the Store as provided for in Article 29, whichever is the earlier.

- (c) SEA shall provide to the FRANCHISEE in confidence either electronically or printed, at SEA's sole discretion, manuals and forms, including a 7-ELEVEN Franchise System Manual, and other materials included in the 7-ELEVEN System (**Franchise Material**). The Franchise Material:
- (i) includes restricted information and proprietary property belonging to and exclusively for the benefit of SEI and its licensees and their sub-licensees;
 - (ii) constitutes valuable trade secrets of SEI (**Trade Secrets**) and is protected by SEI's copyright; and
 - (iii) is for use solely in connection with the FRANCHISEE's Operation.
- The FRANCHISEE, and where the FRANCHISEE is a company the NOMINATED DIRECTORS, must become familiar with the Franchise Material.
- (d) The FRANCHISEE acknowledges that:
- (i) "7-ELEVEN" is a valid registered Trade Mark owned by SEI and licensed to SEA;
 - (ii) SEI has the sole right to use and permit the use of the Trade Marks and the Trade Secrets;
 - (iii) valuable goodwill is attached to the 7-ELEVEN System, the Trade Secrets, the Trade Marks and the 7-ELEVEN Image; and
 - (iv) by reason of the various agreements with SEI, SEA has acquired a licence to use the 7-ELEVEN System, the Trade Secrets, the Trade Marks and the 7-ELEVEN Image.
- (e) The FRANCHISEE's participation in the use and benefit of the Trade Marks shall be limited to:
- (i) enjoyment of the benefit of the 7-ELEVEN signs and other representations of the Trade Marks affixed upon the Licensed Premises and the Licensed Equipment (**Licensed Property**) on the Effective Date, and such replacements, deletions and additions to the Licensed Property as SEA from time to time thereafter considers to be desirable and at its own expense causes to be made, for the purpose of protecting and enhancing the 7-ELEVEN Image;
 - (ii) enjoyment of the benefit of any such use of the Trade Marks as SEA may itself make available in relation to the Store or the merchandise sold in the Store; and
 - (iii) use by the FRANCHISEE in relation to the Store, or merchandise sold in the Store, of any of the Trade Marks as SEA from time to time makes available to the FRANCHISEE for that purpose.
- (f) The FRANCHISEE shall use the Trade Marks only in the manner and to the extent specifically permitted by SEA from time to time and shall not use any of the Trade Marks in any manner which could jeopardise the 7-ELEVEN Image. Any breach of this sub-Article will be considered by SEA to be Fraudulent Behaviour as defined in Exhibit E to this Agreement.

- (g) The FRANCHISEE shall not imitate or aid anyone else to imitate any of the Trade Marks for any purpose, neither shall the FRANCHISEE carry out or make in connection with the FRANCHISEE's Operation or any goods sold from the Store, after being instructed by SEA not to do so, any use of other particular marks, names, symbols, labels or indicia which is inconsistent with or calculated to detract from the 7-ELEVEN Image. Any breach of this sub-Article will be considered by SEA to be Fraudulent Behaviour as defined in Exhibit E to this Agreement. Any termination of this Agreement for breach of this sub-Article will not be a bar to SEA commencing or continuing any action, claim or proceeding against the FRANCHISEE for its breach of this sub-Article.
- (h) The FRANCHISEE shall use the Trade Secrets and any of SEA's intellectual property only in the manner and to the extent specifically authorised by and permitted by SEA for the purposes of this Agreement and shall not use the Trade Secrets in any manner which could jeopardise the 7-ELEVEN Image. The FRANCHISEE shall not otherwise, directly or indirectly at any time, disclose or turn over any of the Trade Secrets, or any copies or excerpts thereof, to any person, except authorised Employees of the FRANCHISEE or as specifically directed by SEA, or imitate or aid anyone else to imitate the 7-ELEVEN System or the Trade Secrets, either for the FRANCHISEE's benefit or for the benefit of anyone else. Any breach of this sub-Article will be considered by SEA to be Fraudulent Behaviour as defined in Exhibit E to this Agreement. Any termination of this Agreement for breach of this sub-Article will not be a bar to SEA commencing or continuing any action, claim or proceeding against the FRANCHISEE for its breach of this sub-Article.
- (i) The FRANCHISEE shall promptly notify SEA of any suspected infringement of the Trade Marks, any known challenge to the validity of the Trade Marks, or any known challenge to SEI's ownership of, or of SEA or FRANCHISEE's right to use, the Trade Marks licensed hereunder.
- (j) FRANCHISEE acknowledges that SEI shall have the sole right, but not the obligation, to direct and control any administrative proceeding or litigation involving the Trade Marks, including any settlement thereof. SEI shall also have the sole right, but not the obligation, to take action against uses by others that may constitute infringement of the Trade Marks. If FRANCHISEE has used the Trade Marks in accordance with this Agreement and SEI elects to exercise its rights under this clause (j), SEI shall defend FRANCHISEE at SEI's expense against any third party claims, causes of action and proceedings arising from any use of the Trade Marks in connection with the Store or the FRANCHISEE's Operation of the business conducted or goods or services sold at the Store. If FRANCHISEE has not used the Trade Marks in accordance with this Agreement, SEI will defend FRANCHISEE, at FRANCHISEE's expense, against such third party claims, causes of action and proceedings. The FRANCHISEE will furnish all reasonable assistance from time to time required by SEI in connection with any such claim, cause of action or proceeding.
- (k) The FRANCHISEE shall diligently promote the business of the Store and shall cause the Store to be:

- (i) operated continuously throughout the term of and as provided in this Agreement;
- (ii) open for business as specified in paragraph (b) of Exhibit D, unless otherwise consented to in writing by SEA; and
- (iii) operated in accordance with the 7-ELEVEN System and the Franchise Material in a manner that enhances the 7-ELEVEN Image, including but not limited to:
 - (1) maintaining the required stock weight;
 - (2) maintaining the required cleanliness, presentation and layout standards;
 - (3) providing the required level of customer service;
 - (4) the wearing of 7-ELEVEN uniforms by all persons on duty in the Store; and
 - (5) the wearing of 7-ELEVEN name-tags by all persons on duty in the Store,

at all times and in a manner consistent with the 7-ELEVEN Image as defined by the current Image Appraisal and operating standards as published and made available to the FRANCHISEE in the Franchise Material and assessed and reported to the Franchisee in image appraisals. Any breach of sub-Article 1(k) will be considered by SEA to be a Material Breach as defined in Exhibit E to this Agreement.

- (l) This Agreement is entered into by SEA with the person(s) named on the signature page, and upon the representation and agreement that they will be the FRANCHISEE of and will actively and substantially participate in the operation of the Store.
- (m) Where the FRANCHISEE is a company, this Agreement is entered into by SEA and that company upon the representation and agreement that it will be the FRANCHISEE of the Store and the NOMINATED DIRECTORS will actively and substantially participate in the operation of the Store.
- (n) No changes in the FRANCHISEE and/or control of the Store or the FRANCHISEE's Operation shall be made without SEA's prior written approval.
- (o) SEA will use its best endeavours to carry on and conduct its business in a proper and efficient manner and to ensure that any undertaking, scheme or enterprise to which this Agreement relates is carried on and conducted in a proper and efficient manner.

Licensed Property

Article 2: Licence

- (a) SEA hereby confers upon the FRANCHISEE leave and licence to enter upon, be in and use the Licensed Premises, and (subject to the reservation in sub-Article 2(j)) to use the Licensed Equipment in conjunction therewith, solely for the purpose of operating the Store at and upon the

Licensed Premises in accordance with this Agreement, and for no other purpose, subject to all of the terms covenants and conditions contained in this Agreement from the Effective Date until the expiration or termination of this Agreement (as provided for in Articles 24 and 25 respectively of this Agreement).

- (b) The FRANCHISEE's rights under this Agreement in respect of the Licensed Premises shall rest in contract only, and nothing contained in or done pursuant to this Agreement shall create in or confer upon the FRANCHISEE any tenancy or estate or interest whatsoever in or over the Licensed Premises, and all of the rights of the FRANCHISEE pursuant to this Agreement shall be those of a licensee only and do not comprise or include any further or other rights.
- (c) If closing of the Store is necessitated by any condemnation of or casualty damage to the Licensed Premises and/or the Licensed Equipment or by application of any law, and neither the FRANCHISEE (as provided in sub-Article 25(a)) nor SEA (as provided in sub-Articles 25(c) (ii), (iii), or (iv)) elect to terminate this Agreement, the respective obligations of the FRANCHISEE and SEA under this Agreement shall be suspended from the date the Store is closed until the date the FRANCHISEE's Operation is resumed.
- (d) The FRANCHISEE acknowledges that all or a portion of the Licensed Premises and/or the Licensed Equipment may either be owned by SEA or held by SEA under a lease on the Effective Date, and that any of the Licensed Premises and/or Licensed Equipment then owned may thereafter be sold and leased back to SEA. If at any time any of the Licensed Premises and/or Licensed Equipment is held by SEA under a lease, neither SEA nor the FRANCHISEE shall cause a breach of that lease.
- (e) If the Licensed Premises are held under a lease as described in Exhibit A to this Agreement (**Lease**), SEA shall, whenever the Lease is varied or amended in a manner material to this Agreement, furnish to the FRANCHISEE in writing a revised version of Exhibit A to this Agreement. Any revised versions of Exhibit A so furnished shall be dated and initialled by the parties and shall be attached to and thereafter be part of this Agreement in substitution for the previous Exhibit A.
- (f) The FRANCHISEE acknowledges that SEA has no obligation to renew or exercise any option to extend the Lease.
- (g) SEA may at its sole discretion remove any of the Licensed Equipment from the Store or may replace any of the Licensed Equipment or may install any additional Licensed Equipment including cash registers and point-of-sale computers which SEA believes is necessary or desirable for the proper operation of the Store as a 7-Eleven store.
- (h) SEA will from time to time provide the Franchisee with a revised version of the list of Licensed Equipment for inclusion in Exhibit B; replacing the existing list. Any such revised list will recognise the removal, replacement or provision of any chattel or equipment that forms part of the Licensed Equipment. Any such list shall be dated and initialled by the parties and shall be attached to and thereafter be part of this Agreement in substitution for the previous Exhibit B.

- (i) This Agreement shall not create in or confer upon the FRANCHISEE any right of exclusive occupation or enjoyment of either the Licensed Premises or any of the Licensed Equipment, and SEA may at any and all times exercise all its rights as owner or lessee, as the case may be, including (without in any way limiting the generality of this provision) its rights to possess, enjoy and use the whole or any part of the Licensed Premises and/or the Licensed Equipment save only insofar as the exercise of such rights would prevent the operation of the lease and licence hereby conferred upon the FRANCHISEE.
- (j) SEA shall have the right at all times to vary the terms of the contractual licences contained in Article 2 upon service of reasonable notice upon the FRANCHISEE and, without limiting the generality of the foregoing, SEA shall have the right to carry out repairs, renovations, maintenance, modifications, extensions or alterations or to remodel the Store either or both internally and externally in such manner as SEA deems fit or to install further facilities including, but not limited to, direct banking facilities, computer terminals, gasoline sales facilities, sign boards and advertising. For these purposes, SEA shall have the right to enter the Store and where considered necessary by SEA, the FRANCHISEE shall vacate all or such part of the Store as SEA may in its absolute discretion require and for such period and upon such terms as SEA may in its absolute discretion require.
- (k) Nothing in this Agreement shall confer on the FRANCHISEE an exclusive right or franchise to operate other than from the Licensed Premises and SEA shall be entitled to set up 7-Eleven stores within the vicinity of the Licensed Property upon such basis and in such manner as it deems fit.
- (l) The FRANCHISEE shall not add any improvements, fixtures or equipment to the Licensed Property, or remove or alter any signs or identification which appear upon any part of the Licensed Property, or affix or display any additional signs or identification or otherwise make any changes in or to the Licensed Property, without the prior written consent of SEA. Any additions and changes made to the Licensed Property shall become the property of and belong to SEA unless otherwise specified in any such consent given by SEA.
- (m) The FRANCHISEE acknowledges that the Licensed Equipment may now or hereafter from time to time comprise equipment which is made available to SEA by manufacturers and suppliers of merchandise pursuant to agreements between SEA and such manufacturers and suppliers under which the entitlement of SEA to continue to retain and have the use of such equipment is conditional upon or subject to purchases of merchandise being made by 7-Eleven stores from that manufacturer or supplier. Where equipment of the nature described in this sub-Article is subsequently installed on or made available for use within the Store, SEA shall provide particulars of such equipment to the FRANCHISEE. Equipment falling within that description and which is presently installed on or located in the Store is listed and described in Exhibit B under Equipment on Loan. SEA shall give the FRANCHISEE the details of such agreements which are relevant to the FRANCHISEE and in particular the merchandise ordering expectations of the manufacturers or suppliers of such equipment. The

FRANCHISEE acknowledges that equipment to which this sub-Article relates may be repossessed by the proprietor of such equipment if the terms of the agreements relating to it are not complied with.

Article 3: Condition of the Licensed Property

The opening of the Store for business under this Agreement shall be conclusive evidence that:

- (i) on or prior to the Effective Date, the Licensed Property was examined by the FRANCHISEE;
- (ii) no representations as to the condition or state of repair of the Licensed Property were made by SEA to the FRANCHISEE which are not expressed in this Agreement or the Change-Over Condition Report (as defined in Exhibit E to this Agreement); and
- (iii) the FRANCHISEE accepted the Licensed Property in its condition on the Effective Date.

Article 4: Maintenance, repairs and utilities

- (a) The FRANCHISEE, at the FRANCHISEE's expense, shall:
 - (i) take good care of the Licensed Property, the Licensed Equipment and all other equipment used in the FRANCHISEE's Operation;
 - (ii) maintain the Licensed Premises (including, but not limited to, the nature strips and any landscaped areas) in a clean, attractive, orderly and sanitary condition;
 - (iii) inspect daily the Licensed Property, and all other fittings and equipment used in the FRANCHISEE's Operation to establish that it is in good repair and operating condition;
 - (iv) clean and maintain daily, to the extent that this is not carried out by the contractors organised by SEA as referred to in sub-Article 4(c)(ii), the Licensed Property, and all other fittings and equipment used in the FRANCHISEE's Operation as set out in the cleaning and maintenance schedule provided to the FRANCHISEE by SEA;
 - (v) report to SEA within 24 hours, in the format provided by SEA, any defects or faults found in the Licensed Property, and all other fittings and equipment used in the FRANCHISEE's Operation; and
 - (vi) reimburse SEA for the contractors hired by SEA for all necessary janitorial services on the Licensed Premises including, but not limited to, cleaning of the parking and walkway areas and the interior of the Store, in accordance with a schedule set out by SEA and provided to the FRANCHISEE.
- (b) If the FRANCHISEE does not comply with sub-Article 4(a) in respect of the Licensed Property and all other fittings and equipment used in the FRANCHISEE's Operation, SEA will debit the FRANCHISEE's Financial Records (as defined in Exhibit E to this Agreement) with an administrative cost of \$50 on each occasion such failure by the FRANCHISEE is recognised and brought to the FRANCHISEE's attention by SEA. SEA may also debit the Financial Records with any

extra costs or charges that SEA incurs as a result of any emergency or extra maintenance any contractor is caused to complete due to such failure by the FRANCHISEE.

- (c) SEA, at its expense, shall:
 - (i) repaint and repair the interior and exterior of the Store, replace plate glass in the front windows and front doors of the Store, repair the floor covering, exterior walls, roof and foundation of the Store and repair the parking lot on the Licensed Premises, when deemed necessary by SEA for the purpose of preserving the 7-ELEVEN Image;
 - (ii) organise and pay for specified contract maintenance and cleaning contracts for the Store for the purpose of preserving the 7-ELEVEN Image in accordance with the cleaning and maintenance schedule provided by SEA;
 - (iii) maintain the structural soundness of the improvements on the Licensed Premises; and
 - (iv) pay for sewer, water, gas, heating oil and electricity for the FRANCHISEE's Operation (**Utilities**), but shall not:
 - (1) be required to provide any of the Utilities in addition to those available on the Effective Date; or
 - (2) be responsible for any reduction in, or stoppage or failure of, any of the Utilities.
- (d) If in SEA's opinion any expenses incurred by it pursuant to sub-Articles 4(c)(i) - (iv) have been caused by the FRANCHISEE's failure to comply with the obligations imposed upon it pursuant to this Agreement, failure by the FRANCHISEE to notify SEA of any events of which SEA is required to notify the lessor of the Licensed Premises, or by the neglect or abuse by the FRANCHISEE of any part of the Licensed property, then SEA may debit the Financial Records for an amount equivalent to the sum incurred by SEA resulting therefrom.
- (e) SEA and its authorised representatives and contractors are entitled at all times to have full access to the Licensed Property. They are also entitled to inspect the Licensed Property and the Inventory (as defined in Exhibit E of this Agreement), and to conduct maintenance, repair, cleaning and painting of or replacements to the Licensed Property.

Article 5: Taxes & stamp duties

- (a) SEA shall pay all rates and land taxes on the Licensed Premises.
- (b) The FRANCHISEE shall pay all taxes, including GST and stamp duties, relating to this Agreement and all other stamp duties and taxes including but not limited to payroll and income taxes attributable to the FRANCHISEE's Operation. Any tax periodically levied as of a specified time shall be prorated over such period.
- (c) Unless expressly included, the consideration for any supply under or in connection with this Agreement does not include GST. To the extent that any supply made under or in connection with this Agreement is a taxable

supply, the recipient must pay, in addition to the consideration provided under this Agreement for that supply (unless it expressly includes GST) an amount (**additional amount**) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The recipient must pay the additional amount at the same time as the consideration to which it is referable.

- (d) The supplier must issue a tax invoice to the recipient of a taxable supply to which sub-Article 5(c) applies no later than 7 days following payment of the GST inclusive consideration for that supply.
- (e) If either party is entitled under this Agreement to be reimbursed or indemnified by the other party for a cost or expense incurred in connection with this Agreement, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the party being reimbursed or indemnified.
- (f) Words used in this Article 5 which have a defined meaning in the GST Act have the same meaning as in that Act unless the context otherwise indicates.
- (g) The parties agree that:
 - (i) SEA may create and issue a recipient created tax invoice in respect of any taxable supply made by the FRANCHISEE to SEA under this Agreement; and
 - (ii) the FRANCHISEE will not issue a tax invoice in respect of a taxable supply made by the FRANCHISEE to SEA in respect of which SEA has issued a recipient created tax invoice.
- (h) SEA warrants that:
 - (i) it is registered under the GST Act; and
 - (ii) it will notify the FRANCHISEE if it ceases to be registered under the GST Act or ceases to satisfy any of the requirements to issue recipient created tax invoices.
- (i) The FRANCHISEE warrants that:
 - (i) it is registered under the GST Act; and
 - (ii) it will notify SEA if it ceases to be registered under the GST Act.
- (j) SEA hereby indemnifies the FRANCHISEE for any additional GST liability as a result of an understatement of the GST payable by the FRANCHISEE in respect of any taxable supply for which SEA has issued a recipient created tax invoice under this Agreement.

Initial Fees

Article 6: Fees

- (a) The FRANCHISEE has paid to SEA, in cash or by bank cheque on the Execution Date, a franchise fee in the amount specified in paragraph (l) of

Exhibit D to this Agreement (**Franchise Fee**), receipt of which is hereby acknowledged by SEA.

- (b) Save and except in the circumstances contemplated by sub-Article 9(d) or sub-Article 32(b) of this Agreement, the FRANCHISEE shall not be entitled to require nor make any claim against SEA for repayment of the Franchise Fee or any part thereof.
- (c) The FRANCHISEE will, in addition to the Franchise Fee, pay to SEA \$5,000 as an application fee (**Application Fee**). The Application Fee is non-refundable except as provided in sub-Article 32(b) of this Agreement.

Investment, licences, open account and financing

Article 7: FRANCHISEE's investment and licences

- (a) The FRANCHISEE shall invest the amount specified in paragraph (c) of Exhibit D (**Investment**) which is:
 - (i) part of the value at cost (as provided in sub-Article 19(e)) of the Inventory; and
 - (ii) the amount of the FRANCHISEE's Cash Register Fund for the Store.
- (b) The FRANCHISEE shall pay as Operating Expenses (as defined in Exhibit E to this Agreement) the cost of any initial and ongoing business licences, software licences, permits and bonds (as provided for in Article 34).
- (c) The FRANCHISEE has paid to SEA in cash on the Execution Date all or a portion of the items listed in paragraphs (a) and (b) above, which amount is specified in paragraph (c) of Exhibit D.

Article 8: Open account and financing

- (a) The unpaid balance of the Investment and the cost of initial and ongoing business and software licences and permits shall be debited to an open account that SEA shall establish and thereafter maintain for the FRANCHISEE (**Open Account**). SEA will, provided that the FRANCHISEE is not in breach of sub-Article 20(j) and its Net Worth (as defined in Exhibit E to this Agreement) is above the minimum Net Worth (as specified in paragraph (g) of Exhibit D), make available to the FRANCHISEE, if the FRANCHISEE so desires, through the Open Account, financing necessary for:
 - (i) the FRANCHISEE's purchases of merchandise for sale from the Store (excluding Consigned Merchandise as defined in Exhibit E to this Agreement) (**Purchases**);
 - (ii) Operating Expenses;
 - (iii) the unpaid balance of the Investment; and
 - (iv) the cost of initial and ongoing business and software licences and permits.

- (b) The unpaid balance in the Open Account (which is the amount financed by SEA) at the beginning of each Accounting Period (as defined in Exhibit E to this Agreement) shall bear interest at a rate equal to the published Westpac Indicator Lending Rate, or, where applicable, the Lending Rate of the successor body to Westpac, or, if such is not available, the overdraft rate charged by SEA's bankers on Prime Loans in excess of \$100,000 applicable as at the first day of the next Accounting Period plus one (1) per centum. Interest shall be debited to the Financial Records each Accounting Period and the unpaid balance in the Financial Records (including such interest) shall be repayable as provided in this Agreement.
- (c) All Purchases and Operating Expenses shall be debited to the Financial Records, and all Sales Receipts (as defined in sub-Article 20(j)(i)(1) of this Agreement) deposited or delivered pursuant to sub-Article 20(j) shall be credited to the Financial Records.
- (d) The FRANCHISEE, at the FRANCHISEE's expense, may, subject to sub-Articles 8(e) and (f), at any time and from time to time, obtain from a source other than SEA such financing as the FRANCHISEE requires for Purchases and Operating Expenses. The FRANCHISEE will advise SEA of all details of such financing and any changes or alterations to any financing as may occur from time to time.
- (e) Prior to the Effective Date, the FRANCHISEE shall execute and furnish to SEA a security charging the FRANCHISEE's rights and interests in the Opening Inventory (as defined in Article 14 of this Agreement), the Inventory and the Sales Receipts with the payment of the unpaid balance which may exist in the Open Account from time to time (**Security Interest**). The security so executed and furnished shall be in the form set out in Exhibit G to this Agreement, or in such other form as SEA may approve or reasonably require, and the FRANCHISEE shall, regardless of the balance of the Open Account, make complete or execute all documents which are required or deemed desirable by SEA for the purposes of perfecting the charge intended to be created. SEA shall register the Security Interest with the Australian Securities and Investment Commission. The cost of such registration will be debited to the Financial Records.
- (f) The FRANCHISEE shall not be entitled under any circumstances, without SEA's express consent in writing, to mortgage, charge, pledge or otherwise use their Security Interest including, but not limited to, the Opening Inventory, the Inventory, the Sales Receipts, the Licensed Property, or their interest in this Agreement. Any such arrangement shall be void as against SEA from the beginning and of no effect.
- (g) The parties acknowledge and agree that:
 - (i) the unpaid balance in the Open Account is a debt or credit arrangement pursuant to item 2 of Regulation 40-5.09(3) of the GST Regulations; and
 - (ii) the provision of the debt or credit arrangement referred to in sub-Article 8(g)(i) by SEA is a financial supply for GST purposes.

Training

Article 9: Training

- (a) The FRANCHISEE hereby designates the individual(s) specified in paragraph (d) of Exhibit D to this Agreement (**Training-Store Trainees**) to receive instruction in a 7-Eleven store utilised by SEA for training (**Training-Store Training**).
- (b) At least one of the Training-Store Trainees shall be an undersigned FRANCHISEE, or where the FRANCHISEE is a company at least one of the Training-Store Trainees shall be a Nominated Director. If the FRANCHISEE elects to designate only one individual for the Training-Store Training, the FRANCHISEE may at a later date, if Article 9 is then in effect, designate a second individual for the Training-Store Training as provided in Article 9.
- (c) SEA, at its expense, shall:
 - (i) provide the Training-Store Training, which shall consist of instruction, training and practical experience in operating a 7-Eleven store through participation by the Training-Store Trainees in the actual operation of a 7-Eleven store utilised by SEA for training, for the period and at the location specified in paragraph (e) of Exhibit D to this Agreement; and
 - (ii) pay the reasonable expenses incurred by the Training-Store Trainees and any attendees at any Ongoing Training in their participation in the Training Store Training or the Ongoing Training including air fares, car hire and basic accommodation where deemed necessary by SEA.
- (d) SEA may terminate the participation of any of the Training-Store Trainees at any time if their performance, in the sole judgment of SEA, is not satisfactory and this Agreement may thereupon be terminated by SEA by notice to the FRANCHISEE in which event Article 6(b) will apply.
- (e) If the FRANCHISEE, or where the FRANCHISEE is a company the NOMINATED DIRECTORS discontinue participation by the Training-Store Trainees in the Training-Store Training for any reason other than termination by SEA, or if the FRANCHISEE terminates this Agreement, no refund of the Franchise Fee shall be due to the FRANCHISEE from SEA.
- (f) SEA shall issue to the FRANCHISEE, or where the FRANCHISEE is a company the NOMINATED DIRECTORS, after completion of the Training-Store Training in a manner satisfactory to SEA, a certificate of completion (**7-ELEVEN FRANCHISEE Training Certificate**), issuance of which is a condition precedent to this Agreement becoming effective.
- (g) The FRANCHISEE must use all reasonable endeavours and take all such steps as are reasonably and lawfully valid to the Franchisee to ensure that he or its Nominated Directors, as appropriate, and their representatives and all persons employed by it in connection with the conduct of the business from the Store (**Employees**) complete the training program made available

by SEA for new Employees (**New Employee Training Program**) and any Ongoing Training.

- (i) The New Employee Training Program shall be conducted during such hours as SEA in its absolute discretion from time to time determines and directs and shall take place at a SEA training store in the State in which the Store is situated as nominated by SEA.
- (ii) The New Employee Training Program shall include CD-Rom training, Petrol handling training, LPG handling training, Food Safety and handling training and any other necessary training as may be required from time to time.
- (iii) Within one month of the Effective Date, or in the case of Employees retained subsequent to the Effective Date, within one month of the date on which employment with the FRANCHISEE first commenced, the FRANCHISEE must enrol Employees in and thereafter ensure their attendance at and participation in the New Employee Training Program.
- (iv) A refusal or material neglect on the part of the FRANCHISEE to secure the attendance and involvement of the Employees in the New Employee Training Program shall be deemed to be a Material Breach of this Agreement (as provided in Exhibit E to this Agreement) by the FRANCHISEE.
- (v) The FRANCHISEE shall be responsible for and shall attend to payment of all salary, wages, allowances and other entitlements accruing due to Employees by reason of their attendance at or travel to the place of the New Employee Training Program or any Ongoing Training.
- (vi) In respect of Employees who give substantial attendance at and satisfactorily complete the New Employee Training Program, SEA shall issue to the FRANCHISEE a certificate of completion (**New Employee Training Certificate**).
- (vii) Where a New Employee Training Certificate is not issued in respect of any Employee, SEA may make recommendations to the FRANCHISEE regarding the performance capabilities, fitness or suitability of that Employee for a position of employment in the Store and the FRANCHISEE shall have regard to such recommendation in assessing the appropriateness of the continuation of that Employee's employment.
- (h) The FRANCHISEE shall provide Employees with adequate ongoing training in relation to the use of any machinery and all safety and security systems in the Store.
- (i) The FRANCHISEE shall keep records pertaining to its and its Nominated Directors', Employees' and representatives' training including any training records it is required by law to keep.
- (j) SEA can demand that an individual FRANCHISEE or the Nominated Directors, as appropriate, attend and complete further training courses provided by SEA at any time (**Ongoing Training**).

- (k) SEA can demand that the FRANCHISEE cause its Employees or representatives, or any of them, to attend at Ongoing Training.
- (l) The Ongoing Training shall be conducted on such days and during such hours as SEA in its absolute discretion from time to time determines and directs and shall take place at a location, or the SEA training store in the State in which the Store is situated as nominated by SEA, or SEA's training facility at its head office in Victoria.
- (m) The Ongoing Training can include:
 - (i) CD-Rom training;
 - (ii) petrol handling training;
 - (iii) LPG handling training;
 - (iv) food safety and handling training;
 - (v) ordering system training; and
 - (vi) any other training relevant to Operating the Store in accordance with this Agreement as SEA decides is required from time to time.
- (n) SEA will consider the FRANCHISEE's Operation and its performance in the management of its Store and any other professional training the FRANCHISEE, Nominated Directors, Employees or FRANCHISEE's representatives have undertaken particularly as evidenced by the FRANCHISEE's training records when deciding whether to demand the FRANCHISEE, Nominated Directors, Employees or FRANCHISEE's representatives attend at any Ongoing Training.
- (o) When considering the FRANCHISEE's Operation and management of the Store in accordance with Article 9(n), SEA's considerations will include the FRANCHISEE's and its Nominated Directors, Employees or representatives:
 - (i) promotion of the 7-ELEVEN Image;
 - (ii) use of the 7-ELEVEN Marks;
 - (iii) food safety and handling;
 - (iv) stock ordering;
 - (v) staff management;
 - (vi) petrol handling and safety;
 - (vii) LPG handling and safety;
 - (viii) adaptation and use of information technology systems;
 - (ix) requirement for information technology and other support;
 - (x) adherence to SEA promotions; and
 - (xi) the level of customer service provided in the Store.
- (p) Any refusal or material neglect by the FRANCHISEE or the Nominated Directors to secure the attendance and involvement of its Employees or representatives in any Ongoing Training shall be deemed to be a Material Breach of this Agreement (as provided for in Exhibit E to this Agreement) by the FRANCHISEE.

- (q) In respect of FRANCHISEEs Nominated Directors, Employees or representatives who substantially attend at and satisfactorily complete any Ongoing Training, SEA will issue to the FRANCHISEE a certificate of completion of the Ongoing Training (**Ongoing Training Certificate**).
- (r) Where an Ongoing Training Certificate is not issued by SEA in respect of any Nominated Director, Employee or representative, SEA may make recommendations to the FRANCHISEE regarding the performance capabilities, fitness or suitability of that person for employment in the Store and the FRANCHISEE shall have regard to such recommendation in assessing the appropriateness of the continuation of that Employee's or representative's employment.
- (s) The FRANCHISEE agrees to pay to SEA up to \$5,000 in any calendar year for the Ongoing Training on each such occasion that it is required.

Store Set-Up

Article 10: Store set-up

- (a) SEA, at its expense, shall clean and stock the Store with the Opening Inventory and provide such other merchandising and bookkeeping as is required to make the Store ready to open for business on the Effective Date.
- (b) The FRANCHISEE acknowledges that it will conduct all necessary inspections and due diligence of the Store before the Effective Date.

Responsibility for losses and insurance

Article 11: Responsibility of SEA

- (a) SEA shall, at its expense and subject to sub-Articles 11(b) to (g):
 - (i) provide and pay the costs of available insurances with an insurance company of good repute, authorised to carry on insurance business in Australia, for damage caused by fire, storm, tempest, rainwater, flood, earthquake, aircraft impact, explosion, malicious damage, riots, strikes and civil commotion to the Licensed Property and provide and pay the costs of such insurances as required by any lease over the Licensed Property;
 - (ii) arrange with an insurance company of good repute, authorised to carry on insurance business in Australia, insurance indemnifying SEA, SEI, and the FRANCHISEE (amongst others) as insureds, for the amount specified in paragraph (c) of Exhibit C to this Agreement against legal liability to pay compensation for personal injury or property damage caused by an occurrence in connection with the FRANCHISEE's Operation, subject to the policy terms, exclusions and conditions in and attached to Exhibit C; and
 - (iii) indemnify the FRANCHISEE for losses, at replacement cost value, of Stock in Trade, Inventory, Store Supplies and Money, in the

event of accidental physical loss, destruction or damage not otherwise excluded, and subject further to the listed sub-limits and subject to the insurance policy indemnity and exclusions and conditions listed in paragraphs (a) and (b) of Exhibit C to this Agreement or provide and pay the costs of available insurances that provides a similar indemnity.

- (b) It is a requirement of this Agreement that a wet floor/slippy sign be displayed in clear view of the general public (type and standard of sign must be approved by SEA) when the floor area is wet due to cleaning, customer traffic or for any other reason. If any incident occurs as a result of the wet floor surface where no wet floor/slippy sign has been used, then a deductible as described in Exhibit C to this Agreement will apply to each and every claim under the policy referred to at Article (a)(ii) of this Article. The FRANCHISEE must pay any such deductible.
- (c) SEA's obligations under sub-Article 11(a)(iii) to indemnify the FRANCHISEE to the extent set out in Exhibit C are subject to the conditions listed at paragraph (b) of Exhibit C.
- (d) The insurance arranged by SEA in accordance with sub-Article 11(a)(ii) may be altered by SEA. Any such alteration will be made by notice given by SEA to the FRANCHISEE specifying the alteration and shall take effect on the expiration of 30 days from the giving of that notice.
- (e) All proceeds of insurance arranged by SEA and any other proceeds (including proceeds of any litigation) received by either SEA or the FRANCHISEE in respect of losses of the kinds referred to in this Article 11 will be paid to and retained by SEA.
- (f) Subject to sub-Article 11(g), all amounts in respect of which indemnity is paid to the FRANCHISEE under Article 11 in respect of losses to Inventory, Sales Receipts and Store Supplies shall be credited to the Open Account. The crediting of such amounts to the Open Account shall constitute full and complete satisfaction and discharge by SEA of its obligations in respect of those losses.
- (g) The FRANCHISEE acknowledges that the insurance arranged by SEA in accordance with sub-Article 11(a)(ii) or (iii) does not cover any loss of or damage to the FRANCHISEE's or its Employees', agents', representatives', or directors' personal property.

Article 12: Responsibility of the FRANCHISEE

- (a) The FRANCHISEE shall be responsible for all losses to the Inventory and Store Supplies and all losses of Sales Receipts.
- (b) The FRANCHISEE, at the FRANCHISEE's request and expense, shall:
 - (i) take out and maintain throughout the term of this Agreement proper employer's indemnity insurance in regard to liability and claims on account of accident or injury to Employees, whether arising by virtue of any enactment relating to workers' compensation or employer's liability or at common law, and shall otherwise comply with the provisions of any such enactment;

- (ii) take out and maintain the insurance mentioned in (i) above with an insurance company of good repute authorised to carry on insurance business in Australia;
 - (iii) deposit each relevant policy from time to time obtained in respect of such insurance with SEA with evidence that the premium thereon has been paid in advance;
 - (iv) give 30 days prior written notice to SEA in the event of cancellation or modification of any such insurance policies; and
 - (v) whenever for any purpose of complying with the requirements of this paragraph the FRANCHISEE renews any such policy, immediately deposit with SEA evidence of the payment of the premium for such renewal, under any new policy.
- (c) The FRANCHISEE shall indemnify and hold SEA and SEI harmless from liability for any representations by, and for any loss or damage caused by any act or omission of the FRANCHISEE or the FRANCHISEE's agents, representatives, servants, Employees or invitees.
- (d) The parties to this Agreement shall co-operate with one another and with any insurance company in the investigation, prosecution and/or defence of any matter which either of the parties is responsible for or liable to indemnify the other or others against or which relates to a claim under any insurance or indemnification provided or required to be provided pursuant to this Agreement. Such co-operation includes the FRANCHISEE notifying SEA within 24 hours from when it identifies an insurance related matter that could give rise to an insurance claim as described in Articles 11 and 12 and Exhibit C to this Agreement. Failure of the FRANCHISEE to so co-operate shall relieve SEA of all responsibility and obligations which it would otherwise have under Article 11 in relation to any such matter or claim. Such failure will cause the FRANCHISEE to be responsible for all related losses.

Advertising

Article 13: Advertising

- (a) Periodically, SEA at its expense or at the expense of merchandise vendors, and to the extent it deems appropriate in its sole discretion, shall:
- (i) provide the FRANCHISEE with banners, signs and in-store advertising materials (including point-of-sale materials) developed by SEA for use in 7-Eleven stores or available from merchandise vendors recommended by SEA. The FRANCHISEE recognises and agrees that such advertising materials are part of and necessary to maintain and enhance the 7-ELEVEN System and the 7-ELEVEN Image and the FRANCHISEE agrees to use all such materials provided as directed by SEA; and
 - (ii) arrange general institutional advertising of and relating to 7-Eleven stores, the 7-ELEVEN Image and the Trade Marks. The FRANCHISEE recognises that SEI may arrange and place

institutional advertising of and in respect to the 7-ELEVEN Image, 7-Eleven stores and the Trade Marks, at its expense and to the extent SEI in its sole discretion may desire.

- (b) Subject to this Agreement and with the written consent of SEA, the FRANCHISEE, at the FRANCHISEE's expense, may engage in advertising of the Store or of merchandise to be sold in the Store. SEA will not consent to advertising proposed to appear on products or services arranged by or available from SEA.
- (c) The FRANCHISEE acknowledges that the promotional programs arranged by SEA are an integral part of the 7-ELEVEN System and the 7-ELEVEN Image. The FRANCHISEE covenants that it will comply with all directions relating to promotional programs notified by SEA to the FRANCHISEE. Without limiting the generality of the foregoing, whenever and for so long as any particular merchandise or line of merchandise is the subject of a promotional campaign arranged by SEA, the FRANCHISEE covenants that it will order and place and maintain in stock during the whole period of the campaign that merchandise in such quantity or volume as is reasonable and appropriate to the Store having regard to its size, location, and general level of trading. If any issue arises in that regard, SEA shall in its discretion determine the quantity or volume of the merchandise which the FRANCHISEE should place, display and maintain in Inventory in any particular case.

Merchandising

Article 14: Initial inventory

- (a) SEA shall procure for the FRANCHISEE and the FRANCHISEE shall purchase (where permitted by applicable law) an initial Inventory for use in the Store (**Opening Inventory**).
- (b) The title to the Opening Inventory shall not pass to the FRANCHISEE until it has been physically delivered to the Store or the Effective Date whichever is the later.

Article 15: Continuing Inventory

- (a) In addition to the Opening Inventory, the FRANCHISEE shall select, purchase and at all times thereafter carry in the Inventory, merchandise for sale from the Store that is adequate to provide customers of the Store with merchandise of a type, quality, quantity and variety consistent with the 7-ELEVEN Image and display such merchandise in a manner consistent with the 7-ELEVEN Image. As to items such as "Slurpee", "munch", hot drinks, fountain drinks and any other future products which are customarily sold in standardised containers bearing specific 7-ELEVEN Trade Marks, the FRANCHISEE shall use only such standardised containers or storage which conform to the type, style and quality and bear the distinctive identification designated by SEA.
- (b) The FRANCHISEE acknowledges that suppliers of stock recommended by SEA (including those that may be owned or affiliated with SEA) may

offer stock at prices or on terms which are more favourable than those which are offered or obtainable from other suppliers of comparable merchandise. Such favourable pricing or terms, which are of benefit to the FRANCHISEE, are referable to and linked with the volume of merchandise ordered by SEA and the FRANCHISEE on the recommendation of SEA.

- (c) The FRANCHISEE shall purchase or otherwise acquire items of stock only from Bona Fide Suppliers (as defined in Exhibit E to this Agreement) who are engaged in the business of supplying retailers at normal wholesale prices.
- (d) The FRANCHISEE shall demand Tax Invoices and Tax Receipts for any Purchases it makes and shall forward all Tax Invoices and Tax Receipts to SEA within 7 days.
- (e) If SEA is of the reasonable opinion that the FRANCHISEE could have purchased equivalent stock at a price significantly less than the price paid by the FRANCHISEE, considering recommendations made by SEA, then SEA for all accounting purposes can deem such stock to have been acquired at a price which it believes is the Fair Wholesale Price (as defined in Exhibit E to this Agreement) of such stock.
- (f) The FRANCHISEE is not required to purchase merchandise from merchandise vendors recommended by or owned by or affiliated with SEA or to purchase merchandise recommended by SEA. However, if the FRANCHISEE purchases stock from suppliers other than those recommended by SEA as providing favourable pricing or trading terms, as anticipated by this Article, at a price in excess of the Fair Wholesale Price, then SEA may charge the FRANCHISEE a fee of \$75.00 for each such Tax Invoice processed to cover SEA's administrative costs of processing such stock purchases.
- (g) The FRANCHISEE must carry as part of its Inventory stock items, whether 7-ELEVEN branded or not, nominated by SEA as being essential to the 7-ELEVEN System and the 7-ELEVEN Image. Such stock items must be held on the Store's Inventory in quantities nominated by SEA.
- (h) The FRANCHISEE acknowledges that SEA may from time to time alter the system of ordering and receiving stock. The FRANCHISEE will at all times conform to the requirements of SEA's stock ordering and receipt system. If the FRANCHISEE does not so comply, SEA may charge the FRANCHISEE a fee of up to \$150 to cover SEA's administrative costs of processing each stock order.

Article 16: Merchandising assistance

SEA, at its expense, shall periodically provide the FRANCHISEE with:

- (a) lists of merchandise vendors recommended by SEA, some of which may, from time to time, be owned by or affiliated with SEA;
- (b) lists of merchandise items recommended by SEA for purchase by the FRANCHISEE;

- (c) lists of recommended maximum selling prices (inclusive of any GST applicable) recommended by SEA for merchandise (**Recommended Price**). ;
- (d) information concerning promotional programs available through SEA or through merchandise vendors recommended by SEA;
- (e) general bulletins describing merchandising recommendations under the 7-ELEVEN System; and
- (f) periodic analyses, by product category, of merchandise items purchased by the FRANCHISEE for sale from the Store.

Article 17: Vendor selection and retail pricing

- (a) The FRANCHISEE is required to purchase merchandise bearing the Trade Marks, or items, products or combinations of items or products which are exclusive to SEA retail operations, and only from sources authorised by SEA to produce or deal in such items.
- (b) The FRANCHISEE acknowledges the importance and necessity, in terms of customer confidence and protection, to the 7-ELEVEN System of ensuring that merchandise is not sold at prices that are in excess of those published by SEA for 7-Eleven stores.
- (c) Notwithstanding any provision otherwise contained in this Agreement, to facilitate the timely and efficient compilation and maintenance of records and accounts by SEA pertaining to the ordering, costing and retailing of merchandise, SEA may by written notice to the FRANCHISEE from time to time conclusively determine and limit the range of merchandise which may be acquired and resold from the Store. In making any such determination SEA shall not exclude or seek to exclude merchandise or items of merchandise which, having regard to the locality of the Store, previous trading experience, demonstrated customer demand or other particular circumstances, it would be unreasonable and financially detrimental to the interests of the FRANCHISEE to exclude.

Bookkeeping

Article 18: General

- (a) To provide SEA with complete information on the FRANCHISEE's Operation, to ensure that SEA is receiving the correct 7-ELEVEN Charge (as defined in Article 23) and to protect the Security Interest, SEA shall have the right to and at its expense shall prepare and maintain complete bookkeeping records on the FRANCHISEE's Operation (**Bookkeeping Records**).
- (b) The FRANCHISEE or its financial or legal advisers may inspect any of the Bookkeeping Records maintained by SEA at its State Office at any time during normal business hours provided an agreed appointment time has been made with the SEA District Manager or his/her designated representative.

- (c) SEA may inspect any records of the FRANCHISEE's Operation prepared or obtained by the FRANCHISEE at the Store at any time during normal business hours. The FRANCHISEE shall provide SEA with whatever assistance SEA reasonably requires to conduct such inspections.

Article 19: Inventory records

- (a) Inventory records pertaining to the Store will be maintained and regularly published by SEA and provided to the FRANCHISEE.
- (b) SEA will, each Accounting Period, provide the FRANCHISEE with financial reports pertaining to the Store in a format conforming to Australian Accounting Standards. Such reports will include details of the Open Account.
- (c) The cost of stock on the Effective Date will be established by a Physical Audit (as defined in Article 21 of this Agreement) of the cost of that stock on the Effective Date. The cost of stock articles will be no more than the current Fair Wholesale Price of the stock.
- (d) To ensure that the Bookkeeping Records are accurate the FRANCHISEE shall permit SEA, without notice to the FRANCHISEE, to survey the Inventory at any time during normal business hours.
- (e) The value at cost of the Inventory at any point in time shall be determined by deducting from the book Inventory the value of all Consigned Merchandise, deposit bottles and vending supplies.

Article 20: Other bookkeeping

- (a) SEA shall prepare (based on the Bookkeeping Records and information furnished by the FRANCHISEE) and provide to the FRANCHISEE:
 - (i) copies of financial statements for the Store, including a statement of income and expenditures and a balance sheet, for each Accounting Period and for each financial year during the term of this Agreement (**Financial Statements**), within 30 days after the end of each applicable period (except as provided in sub-Article 26(b)(v));
 - (ii) payroll money for the FRANCHISEE's payroll for the Store (within the time prescribed by applicable law); and
 - (iii) the FRANCHISEE's draw amounts (as provided in Article 22).
- (b) The FRANCHISEE shall:
 - (i) prepare on forms, whether in hard or electronic format, provided by SEA at such times as designated by SEA and furnish to SEA:
 - (1) daily summaries of all Purchases;
 - (2) daily reports of all Sales Receipts;
 - (3) weekly time and wage authorisations for the Employees; and
 - (4) such additional reports as SEA may require from time to time, and

- (ii) deliver or furnish to SEA in hard or electronic format a copy of drafts, orders, receipts and invoices for all Purchases, and copies of bills and receipts for all Operating Expenses.
- (c) Where SEA has agreed terms of trading with a supplier the FRANCHISEE may make purchases from that supplier so as long as the FRANCHISEE is not in breach of sub-Articles 20(b) and 20(j) and its Net Worth is above the minimum Net Worth. Where the FRANCHISEE makes such purchases, SEA will pay for those purchases in accordance with its agreed terms of trading with that supplier and will debit the value of those purchases to the FRANCHISEE's Open Account accordingly.
- (d) Provided that the FRANCHISEE is not in breach of sub-Articles 20(b) and 20(j) and the Net Worth is above the minimum Net Worth, SEA shall in a timely manner pay on the FRANCHISEE's behalf, on receipt of any invoice for goods or services which in SEA's opinion is reasonably traceable to the Store, has been bona fide incurred and does not entail any direct or indirect rebate, commission or benefit to the FRANCHISEE (not declared to SEA) and debit the Financial Records with:
 - (i) all drafts and invoices for Purchases, including purchases from merchandise vendors other than those recommended by SEA and of merchandise items other than those recommended by SEA, provided such merchandise is purchased from a Bona Fide Supplier;
 - (ii) Operating Expenses which SEA, in its sole discretion, deems are a necessary expense in the operation of a 7-ELEVEN franchise; and
 - (iii) the FRANCHISEE's payroll for the Store provided that nothing in this Agreement shall oblige SEA to make any payment on behalf of the FRANCHISEE the effect of which would be to reduce the FRANCHISEE's Net Worth below the minimum Net Worth.
- (e) SEA may make transactions discussed in sub-Article 20(d) by electronic means.
- (f) The Franchisee:
 - (i) hereby authorises SEA to collect all discounts and allowances applicable to Purchases which are not deducted from the face of the FRANCHISEE's receipts or invoices;
 - (ii) will report to SEA all discounts and allowances received by the Franchisee and SEA will use the information in accordance with Article 20(f); and
 - (iii) covenants to inform SEA of full particulars of all gratuities, enticements and other benefits of any description made by or on behalf of any supplier to the Franchisee or any other party arising from the purchase by the Franchisee of stock and if SEA believes such benefit has been given or received, it will treat a sum it deems to be equivalent to the value of such benefit as part of the Cost of Goods Sold by the Store.
- (g) That portion of all discounts and allowances which are allowed to or reasonably traceable to Purchases or the value of any miscellaneous

discounts and allowances attributable to merchandise and are not specifically allocated to, or cannot be reasonably traced to Purchases and which are paid to SEA by merchandise vendors shall be credited to the Cost of Goods Sold (as defined in Exhibit E to this Agreement) less the cost to SEA of:

- (i) any in-store point-of-sale material, banners, signs, handbills and promotional materials provided by SEA;
 - (ii) any media advertising giving benefit to the 7-ELEVEN System, Trade Marks and 7-ELEVEN Image specifically relating to an arranged promotion with a merchandise vendor; and
 - (iii) the travel and accommodation expenses of a representative of the FRANCHISEE attending at SEA's annual Franchisee Conference.
- (h) SEA's collection and treatment of any discounts and allowances in accordance with Article 20(f) and (g) will be audited annually by an independent auditor the results of which will be included in SEA's Disclosure Statement.
- (i) To the extent the information in sub-Article 20(g) is reflected in the Bookkeeping Records, SEA will assist the FRANCHISEE in obtaining information required for, and in the preparation and filing of, all applicable sales tax, stamp duty, payroll tax, GST and other tax reports and returns relating to the FRANCHISEE's Operation (except the FRANCHISEE's income tax returns).
- (j) To facilitate payment by SEA on behalf of the FRANCHISEE of drafts and invoices for Purchases and Operating Expenses, and to protect the Security Interest, the FRANCHISEE in addition to preparing and furnishing the summaries and reports required in sub-Article 20(b) shall:
- (i) in hard or electronic format deposit in a bank designated by SEA on each day on which trading banks are ordinarily open for business within the State or Territory in which the Store is located all:
 - (1) merchandise sales receipts, whether cash, cheque, vendor draft, credit instrument or otherwise (**Sales Receipts**);
 - (2) discounts credits and rebates received by the FRANCHISEE; and
 - (3) miscellaneous income from the FRANCHISEE's Operation, except cash expended by the FRANCHISEE for properly reported and substantiated Purchases or for Operating Expenses and on request by SEA deliver to SEA a verified duplicate deposit receipt therefor bearing the said bank's stamp; or
 - (ii) if directed in writing by SEA, deliver up such Sales Receipts and discounts for collection by any nominated security service organisation on such days as are appointed by such notification, and deliver to SEA on such days as may be designated by SEA an acknowledgment of receipt from the appointed security service organisation (as the case may be); or

- (iii) when requested by SEA, deliver the Sales Receipts (except cash expended, reported and substantiated as discussed in sub-Article 20(j)(i)) to an authorized representative of, or a person designated by, SEA, or at a place designated by SEA, on such days as may be designated by SEA. The costs involved in the collection of Sales Receipts in this manner shall, if improving safety and security of such receipts or ensuring those receipts are being banked daily, be borne by the FRANCHISEE and debited to the Financial Records.
- (k) Upon receipt of such verified duplicate deposit receipts or such Sales Receipts, and upon receipt of a report by the FRANCHISEE of the Sales Receipts expended by the FRANCHISEE for Purchases or Operating Expenses, SEA shall credit the Financial Records with the amount thereof.
- (l) If the FRANCHISEE fails to furnish or deliver to SEA each summary, report, draft, receipt, invoice, bill or duplicate deposit receipt as provided in sub-Articles 20(b) and (j) or else as provided in sub-Articles 20(f)(ii) and (iii), a charge of five dollars (\$5) per day per item as consideration for SEA's administrative costs for the FRANCHISEE's failure to so comply, calculated from and including the date due until receipt thereof by SEA, may be made by SEA and debited to the Financial Records.
- (m) If the FRANCHISEE fails to comply with any of the obligations imposed under sub-Articles 20(j), a charge of fifty dollars (\$50) per day as consideration for SEA's administrative costs for the FRANCHISEE's failure to so comply, calculated from and including the day following and concluding on the date of receipt of monies which the FRANCHISEE has failed to deposit or deliver, may be made by SEA and debited to the Financial Records.

Article 21: Physical audits

- (a) The FRANCHISEE and SEA acknowledge that periodic physical audits of the Inventory, Sales Receipts, the Cash Register Fund and Store Supplies (**Physical Audits**) are necessary to account properly for the FRANCHISEE's Operation. The FRANCHISEE shall, whenever any Physical Audit of the Store is to be carried out pursuant to this Agreement, properly prepare the Store for a Physical Audit at the FRANCHISEE's expense in accordance with procedures demonstrated to the FRANCHISEE during the Training-Store Training or Ongoing Training. If the Store is not properly set up for a Physical Audit according to such procedures, SEA shall be entitled to cancel the Physical Audit and to reappoint another time and in such event the FRANCHISEE shall be charged such fee as is then currently charged to SEA by its auditors for audits of a similar nature, which amount shall be debited to the Financial Records.
- (b) Each Physical Audit which becomes final and binding (as provided in sub-Article 21(g)) shall be reflected by SEA on the Bookkeeping Records, and each Physical Audit (except the Physical Audits by SEA of the Opening Inventory and the Closing Inventory) shall consist of a physical count and computation of the total Weighted Average Cost of the Inventory.

- (c) To protect the Security Interest and permit SEA to maintain the Bookkeeping Records, SEA shall have the right, at its expense, to make or cause to be made, Physical Audits at any time after at least 72 hours prior notice (oral or written) to the FRANCHISEE (except as provided in sub-Articles 21(d) and (g)).
- (d) Notwithstanding any other provision of Article 21, SEA, at its expense, may make or cause to be made Physical Audits at any time during normal business hours, without advance notice to the FRANCHISEE:
- (i) if the Net Worth, as reflected in the Bookkeeping Records, is less than the minimum Net Worth;
 - (ii) if the last Physical Audit by SEA reflected an Inventory Overage or Inventory Shortage (as defined in Exhibit E to this Agreement) of more than \$300;
 - (iii) within 24 hours of the FRANCHISEE notifying SEA, or SEA learning of a robbery, burglary or theft of, or the mysterious disappearance of, any of the Licensed Property, Inventory, Sales Receipts, Cash Register Fund, bank drafts or Store Supplies from the Store, or of casualty or other physical damage or loss to any of the Licensed Property, the Inventory, Sales Receipts, Cash Register Fund, bank drafts or Store Supplies; or
 - (iv) upon SEA taking control and exclusive possession of the Licensed Property pursuant to Articles 25, 26 and 27.
- (e) SEA, at its expense, shall make or cause to be made at least one Physical Audit each calendar quarter which quarterly Physical Audit may be made pursuant to either sub-Articles 21(c) or (d).
- (f) The FRANCHISEE, at the FRANCHISEE's expense, upon 72 hours advance notice (oral or written) to SEA, may cause Physical Audits (if the FRANCHISEE so desires) to be made by an independent firm of accountants reasonably acceptable to SEA. In addition, upon the FRANCHISEE's request, SEA shall make such Physical Audits as the FRANCHISEE may desire for such fee as is then currently charged to SEA by its auditors for audits of a similar nature which amount shall be debited to the Financial Records.
- (g) If the provisions of Article 21 are complied with, each Physical Audit shall be final and binding unless the FRANCHISEE notifies SEA, within 24 hours after completion of the Physical Audit, that it believes the conduct of a Physical Audit to be incorrect and provides to SEA bona fide specific reasons why it has formed such opinion. In such an event, SEA, at its expense, will make or cause to be made a re-audit within a reasonable time after it receives such notice.
- (h) SEA and any persons employed by it, or auditors or accountants engaged by it, shall have access to the Licensed Property, the Inventory, Sales Receipts, Cash Register Fund, bank drafts, Store Supplies and the FRANCHISEE's operating records for the Store at any time during normal business hours for the purpose of making, observing or verifying any Physical Audit.

- (i) SEA shall provide the FRANCHISEE with a report showing the value of the Inventory at Weighted Average Cost (as defined in Exhibit E to this Agreement) reflected by each Physical Audit made by or for SEA immediately after completion of such Physical Audit, which report shall be promptly adjusted, if necessary, and verified.
- (j) The FRANCHISEE shall provide SEA with a copy of the report showing the value of the Inventory at Weighted Average Cost reflected by each Physical Audit made by or for the FRANCHISEE within 24 hours after receipt by the FRANCHISEE of such report.
- (k) The FRANCHISEE and SEA acknowledge that accurate Physical Audits can be made while the Store is open for business and neither the FRANCHISEE nor SEA shall require the Store to be closed during any Physical Audit.

FRANCHISEE's draw

Article 22: FRANCHISEE's draw on anticipated profits

- (a) So long as the FRANCHISEE is not in breach of Article 20 and the Net Worth as demonstrated in the Bookkeeping Records is not less than the minimum Net Worth, SEA shall:
 - (i) remit to the FRANCHISEE weekly, and debit the Financial Records with, an amount determined and provided in paragraph (h) of Exhibit D to this Agreement; and
 - (ii) at the end of each Accounting Period, remit to the FRANCHISEE and debit the Financial Records with an amount equal to the excess of the Net Worth over total assets as reflected on the balance sheet provided by SEA for such Accounting Period.
- (b) SEA may, in its discretion, determine to make payments to the FRANCHISEE by direct deposit to the FRANCHISEE's bank account and the FRANCHISEE shall on request notify SEA of the name, account number, bank and branch number of the FRANCHISEE's account for the purpose of deposits pursuant to this Article.

7-ELEVEN Charge

Article 23: 7-ELEVEN Charge

- (a) In consideration of this Agreement, at the end of each Accounting Period until the FRANCHISEE's permanent departure from the Licensed Property, the FRANCHISEE shall pay to SEA, and SEA shall debit the Financial Records with, an amount equal to 57 percent of the Gross Profit (as defined in Exhibit E to this Agreement) (**7-ELEVEN Charge**).
- (b) SEA shall reduce the 7-ELEVEN Charge, if necessary, in order that the Gross Income (as defined in Exhibit E to this Agreement) received by the FRANCHISEE for each Accounting Period shall be at least equal to the amount specified in paragraph (j) of Exhibit D to this Agreement.

- (c) The FRANCHISEE covenants to do nothing the effect of which is calculated to or which may reasonably result in a reduction of the 7-ELEVEN Charge except as may be expressly authorised by this Agreement.

Term, expiration and termination

Article 24: Term and expiration

- (a) The term of this Agreement shall commence on the Effective Date and continue until termination of this Agreement as provided in Article 25, or until expiration of this Agreement on the earlier of:
- (i) the expiration of the primary term, or cancellation or termination of the Lease; or
 - (ii) the expiration of the extended term of the Lease (if an option to extend the primary term of the Lease has been exercised by SEA on the Effective Date or is exercised by SEA during the term of this Agreement); or
 - (iii) 10 years after the Effective Date; or
 - (iv) SEA's exercise of its Option to Purchase in accordance with Article 27 of this Agreement.
- (b) The term of this Agreement may be extended or renewed only by mutual agreement in writing between the FRANCHISEE and SEA.

Article 25: Termination

- (a) This Agreement may be terminated by the FRANCHISEE at any time by giving SEA not less than 30 days prior notice of termination. If the FRANCHISEE abandons the Store prior to the due date for possession to be handed back to SEA, SEA may, at its option, operate the Store for the balance of such period in which event SEA shall be entitled to debit the Financial Records for all expenses incurred by it in operating the Store. For the purposes of this sub-Article, the Operating Expenses incurred by SEA shall be as certified in writing by SEA's District Manager.
- (b) This Agreement may be terminated at any time by mutual agreement in writing between SEA and the FRANCHISEE (clause 29(2) of the Code or clause 38 of the Oilcode as appropriate).
- (c) Subject to the provisions of sub-Articles 25(f) and (g), this Agreement may be terminated by SEA at any time by giving the FRANCHISEE reasonable notice of termination (in any event not more than 30 days (clause 27(3) of the Code or clause 35(3) of the Oilcode as appropriate)) upon the occurrence of any one or more of the following events, each of which events the FRANCHISEE hereby acknowledges constitutes good cause for termination:
- (i) a Material Breach of this Agreement (as defined in Exhibit E to this Agreement) in relation to the FRANCHISEE's Operation (clause 27 of the Code or clause 35 of the Oilcode as appropriate);

- (ii) a condemnation or transfer in lieu of condemnation affecting the Licensed Premises which results in a determination by SEA, in its sole discretion, not to continue the Licensed Premises as a 7-Eleven store (clause 28 of the Code or clause 36(1)(e) or (h) of the Oilcode as appropriate);
 - (iii) casualty damage to the Licensed Premises which cannot reasonably be repaired or replaced within 30 days after the occurrence of such casualty (clause 28 of the Code or clause 36(1)(e) or (h) of the Oilcode as appropriate); or
 - (iv) any closing of the Store as a result of any applicable law (clause 28 of the Code or clause 36(2)(b) of the Oilcode as appropriate).
- (d) Subject to the provisions of sub-Article 25(g), this Agreement is entered into by SEA in reliance upon the qualifications of the undersigned FRANCHISEE and, if applicable, the NOMINATED DIRECTORS. Where the FRANCHISEE is a natural person and an undersigned FRANCHISEE dies or becomes incapacitated, or where the FRANCHISEE is a company and a Nominated Director dies or becomes incapacitated (each of which events the FRANCHISEE hereby acknowledge constitutes a good cause for termination), then the FRANCHISEE hereby agrees to the immediate termination of this Agreement under clause 29(2) of the Code or clause 38 of the Oilcode as appropriate, by SEA giving the FRANCHISEE reasonable notice thereof,

PROVIDED HOWEVER that:

- (i) Where the FRANCHISEE includes more than one natural person and only one FRANCHISEE dies or becomes incapacitated, SEA shall, prior to termination, upon the written request of the surviving FRANCHISEE or the FRANCHISEE not so incapacitated, execute with such FRANCHISEE a new store agreement (**New Agreement**) in the then current form, provided it does not substantially differ in any material or financial terms from this Agreement.
- (ii) Where the FRANCHISEE is a company and there is more than one Nominated Director, and only one Nominated Director dies or becomes incapacitated, SEA may, in its absolute discretion, specify such conditions as it deems fit as to the appointment of a replacement director and/or Nominated Director and the transfer of the deceased or incapacitated Nominated Director's shareholding in the FRANCHISEE. Upon such conditions being complied with, SEA shall execute with the FRANCHISEE a New Agreement in the then current form, provided it does not substantially differ in any material or financial terms from this Agreement.
- (iii) Where the FRANCHISEE is a natural person and an undersigned FRANCHISEE dies or becomes incapacitated, or where the FRANCHISEE is a company and a Nominated Director dies or becomes incapacitated, SEA may, at its option, operate the Store for the time it takes to obtain a new FRANCHISEE should this Agreement be terminated in accordance with this Article or to replace a Nominated Director in accordance with this Article. SEA

shall be entitled to debit the Financial Records for all expenses incurred by it in operating the Store during any such time. For the purposes of this sub-Article, SEA's operating expenses shall be as certified in writing by SEA's District Manager.

- (iv) For the purposes of sub-Article 25(d), the term "incapacitated" shall be defined as the circumstance where a FRANCHISEE or Nominated Director, as the case may be, is either physically unable due to illness or injury to carry out the duties and obligations imposed on him/her for any consecutive period of six weeks, or becomes at any time committed to a mental institution or is in a mental state which in the reasonable opinion of SEA would not allow him/her to properly carry out the obligations imposed on him/her pursuant to this Agreement.
- (e) Notwithstanding anything else contained in this Article, this Agreement may be terminated immediately by SEA at any time upon the occurrence of any one or more of the following events, each of which events the FRANCHISEE acknowledges constitutes good cause for immediate termination (clause 29 of the Code or clause 36 of the Oilcode as appropriate):
 - (i) the FRANCHISEE ceases to hold a licence which the FRANCHISEE must hold in order to carry on the FRANCHISEE's Operation;
 - (ii) the FRANCHISEE becomes bankrupt, insolvent under administration or an externally administered body corporate;
 - (iii) the FRANCHISEE voluntarily abandons the franchised business or the franchise relationship;
 - (iv) the FRANCHISEE is convicted of a serious offence, or if the FRANCHISEE is a company, a Nominated Director is convicted of a serious offence;
 - (v) the FRANCHISEE operates the franchised business in a way that endangers public health or safety (for the purpose of this sub-Article, the FRANCHISEE's staff and Employees are deemed to be "public"); or
 - (vi) the FRANCHISEE or a Nominated Director are fraudulent in connection with the operation of the franchised business, which includes behaviour defined as Fraudulent Behaviour in Exhibit E to this Agreement. For the purposes of sub-Article 25(e)(vi) and this Agreement, the FRANCHISEE and SEA agree that "fraudulent" in relation to the FRANCHISEE's Operation includes those things defined as Fraudulent Behaviour in Exhibit E to this Agreement and they each acknowledge that those things defined as Fraudulent are fundamental to the business efficacy of the Agreement the Franchise Operation and the trust and confidence reposed in each party by the other party; and

in relation to a Fuel Site only:

- (vii) the FRANCHISEE breaches this Agreement, otherwise than by behaviour described in paragraphs (i) to (vi) in this Article, at least 3 times; or
 - (viii) the FRANCHISEE is likely, by the continued occupation of the Store, to cause substantial damage to SEA's business, property or reputation; or
 - (ix) the FRANCHISEE fails to bank the Sales Receipts or any part of the money the FRANCHISEE receives for the sale or exchange of the Consigned Fuel.
- (f) Where in consequence of a breach by the FRANCHISEE of this Agreement, an entitlement on the part of SEA to terminate this Agreement arises including under sub-Article 25(c) but other than in accordance with Article 25(e), the notice to be given by SEA to the FRANCHISEE:
- (i) shall be in writing;
 - (ii) shall identify and give particulars to the FRANCHISEE of the breach giving rise to the notice;
 - (iii) shall inform the FRANCHISEE of the steps which are to be taken or the things which are to be done, if any, in order to remedy the breach as applicable;
 - (iv) shall specify the period within which the FRANCHISEE must rectify the breach, which period for Material Breaches under Article 25(c) need not be 30 days and for other breaches shall be not less than 30 days; and
 - (v) shall stipulate that if the FRANCHISEE fails to rectify the breach within the time limited by the notice, this Agreement will, at the expiration of that time, be terminated.
- (g) Where an entitlement on the part of SEA to terminate this Agreement arises either under sub-Articles 25(c), or (d) or (j), and the event giving rise to such entitlement is not or does not constitute a breach by the FRANCHISEE of this Agreement, or under sub-Article 25(e) SEA shall give to the FRANCHISEE reasonable notice of the termination. That notice shall:
- (i) be in writing;
 - (ii) set out the reasons for the proposed termination; and
 - (iii) stipulate a date on which this Agreement is to terminate.
- (h) Upon the expiration of the time set forth in any notice of termination issued by SEA pursuant to Article 25, except for any notice given in relation to sub-Article 25(e), the term of this Agreement shall automatically expire unless:
- (i) such notice of termination is withdrawn or extended in writing by SEA;
 - (ii) the FRANCHISEE rectifies any default identified in such notice; or

- (iii) where the notice is one to which sub-Article 25(g) applies, the FRANCHISEE invokes the mediation procedure under this Agreement and the mediation of the dispute has not concluded.
- (i) If in SEA's reasonably formed opinion the FRANCHISEE fails over a sustained period of time to achieve a satisfactory operational performance of the Store, SEA may give notice to the FRANCHISEE of its assessment of such unsatisfactory performance and by the same or any subsequent notice require the FRANCHISEE to take all such steps, do all such things and use all reasonable endeavours to effect a sale and transfer of the franchised business to a third party within such period as is stipulated in such notice (being a period not less than 60 days from the date of service of the notice). In determining whether operational performance is satisfactory or otherwise, SEA shall have regard to all aspects associated with the conduct of the franchised business by the FRANCHISEE including (but not limited to) scores on Image Appraisals, level of customer service and any other measures or criteria relevant to the determination of operational performance or the identification of performance inconsistent with SEA's standards.
- (j) This Agreement shall terminate automatically upon termination, however arising, of the Area Licence Agreement, unless following termination of the Area Licence Agreement, SEI succeeds to the rights and obligations of SEA under this Agreement.
- (k) If SEA gives notice of termination of this Agreement and such termination is disputed by the FRANCHISEE in accordance with the dispute resolution procedures in Article 43 of this Agreement, then during the period in which the termination is in dispute, SEA may at its option operate the Store for the time it takes to resolve the dispute and, should this Agreement be terminated notwithstanding the dispute, obtain a new FRANCHISEE. SEA shall be entitled to debit the Financial Records for all expenses incurred by it in operating the Store during any such time. For the purposes of this Article, SEA's operating expenses shall be as certified in writing by SEA's District Manager.

Article 26: Procedure on expiration or termination

- (a) On expiration or termination the FRANCHISEE shall:
 - (i) transfer the Inventory, as determined by a Physical Audit made by or for SEA as of the date such expiration or termination is effective (**Closing Inventory**), either to a person of the FRANCHISEE's choosing (provided the FRANCHISEE complies with the requirements of sub-Article 26(d) below), or to SEA and transfer to SEA the Sales Receipts, Cash Register Fund, bank drafts and Store Supplies;
 - (ii) without additional notice of any kind (except as required by law and not waivable, all other notices including notice required by law which is waivable being hereby expressly waived by the FRANCHISEE), peaceably depart permanently from and deliver up the Licensed Property in a high degree of cleanliness with all

- maintenance arrangements up to date and all 7-ELEVEN Image issues addressed to the satisfaction of SEA;
- (iii) cease permanently from using the Trade Marks and the Trade Secrets;
 - (iv) return to SEA the FRANCHISEE's copy of the Franchise Material and either return to SEA, or destroy or cause to be destroyed pursuant to SEA's instructions, all the Trade Secrets then in the possession, or under the direct or indirect control, of the FRANCHISEE, but nothing in this sub-Article requires the FRANCHISEE to return to SEA any Financial Records or other reports provided by SEA;
 - (v) pay into the Open Account from the proceeds of the sale of the business, including any component for goodwill or other source, sufficient funds that provide security to SEA's satisfaction for the payment of further or other amounts which may become due to SEA by the FRANCHISEE upon delivery of its final Financial Statements in order to restore the Net Worth of the Store to the minimum Net Worth;
 - (vi) pay SEA, upon delivery of its final Financial Statements (as provided in sub-Article 26(b)(v)), any debit balance in the Financial Records; and
 - (vii) do all things and execute all further documents necessary to give full effect to the expiration or termination including executing any finance, contractual or licensing documents between it and any third party.
- (b) After expiration or termination and surrender of the Licensed Property to SEA, SEA shall:
- (i) credit the Financial Records with the Cash Register Fund and either the amount received pursuant to sub-Article 26(d)(ii) or the value at cost of the Closing Inventory (as provided in sub-Article 26(e)) resulting from the FRANCHISEE's transfer of the Closing Inventory;
 - (ii) A debit the Financial Records with a \$2,000 closing fee; and
B debit the Financial Records with the value of any part of the Licensed Property that in its opinion is damaged, not marketable or unusable in the Operation of the Store which damage, lack of marketability or use has been caused by the FRANCHISEE, Employees or any of the FRANCHISEE's representatives;
 - (iii) credit the Financial Records with \$1,000 if the FRANCHISEE has returned the FRANCHISEE's copy of the 7-ELEVEN Franchise Systems Manual and any other manual relevant to the 7-ELEVEN System;
 - (iv) debit the Financial Records with, and remit to the FRANCHISEE within 30 days after the last day of the Accounting Period in which

- expiration or termination occurs, the amount, if any, by which the minimum Net Worth is exceeded;
- (v) deliver to the FRANCHISEE within a reasonable time (in any event not more than 60 days after the last day of the Accounting Period in which expiration or termination occurs) final Financial Statements; and
 - (vi) provided the FRANCHISEE has complied with its obligations under this Article 26 and that the parties have reached an agreement about any reconciliation reached in the final Financial Statements, remit to the FRANCHISEE, upon delivery of the final Financial Statements, any remaining or mutually agreed credit balance in the Financial Records.
- (c) Upon expiration or termination, SEA shall at its option have the right (without waiving any other rights or remedies provided in this Agreement or at law or in equity), to:
- (i) enter and take sole possession and control of the Licensed Property, to the entire exclusion of the FRANCHISEE; and/or
 - (ii) operate the Store and/or licence others to use the Licensed Property.
- (d) Upon expiration or termination, the FRANCHISEE may transfer the Closing Inventory, free of the Security Interest, to a person other than SEA only if, as conditions precedent to such transfer:
- (i) the transfer is effective upon expiration or termination;
 - (ii) the proceeds from such transfer paid to the FRANCHISEE in cash are at least equal to the lesser of the value at cost of the Closing Inventory or the balance due to SEA on the Open Account;
 - (iii) any unpaid balance which exists in the Open Account as at the close of business on the date of expiration or termination and any other amount due to SEA by the FRANCHISEE is paid in full and the FRANCHISEE makes arrangements and provides security, to the satisfaction of SEA, for the payment of any further or other amount which may become due to SEA by the FRANCHISEE upon delivery of the final Financial Statements; and
 - (iv) SEA is satisfied that the provisions of sub-Article 29(a), as applicable, have been adhered to.
- (e) If the Closing Inventory is transferred to SEA, the value at cost of the Closing Inventory (excluding, at SEA's option, Bad Merchandise as defined in Exhibit E to this Agreement and merchandise of a type, quantity, quality or variety which is not consistent with the 7-ELEVEN Image) shall be computed as provided in Article 19.

Assignment and transfer

Article 27: Assignment

- (a) The FRANCHISEE shall not, except as provided in this Article and Article 29 of this Agreement, voluntarily or by operation of law:
- (i) encumber this Agreement or the FRANCHISEE's interest thereunder;
 - (ii) assign (which for the purposes of this Agreement refers to the FRANCHISEE disposing of the remainder of the term of this Agreement), transfer (which for the purposes of this Agreement refers to the FRANCHISEE disposing of its interests and the transferee beginning a new term and Agreement as agreed with SEA), part with or share possession of or grant any licence or otherwise deal with or dispose of the FRANCHISEE's estate or interest in this Agreement or any licences, rights or interests of the FRANCHISEE under this Agreement, nor by any act or deed procure such assignment, transfer, parting with or sharing possession of, or granting of any licence or dealing or disposal, nor declare itself trustee of such estate or interest; or
 - (iii) permit the Licensed Property to be used or processed by another, or attempt to create any rights relating to the Licensed Property in favour of a third party.
- (b) Where the FRANCHISEE is a company or a trustee or both, the FRANCHISEE shall not without the prior written consent of SEA (which consent shall be in the absolute discretion of SEA) make or suffer or permit to be made any change in or in addition to the directors of the FRANCHISEE or any amendment or alteration to the constituent documents of the FRANCHISEE or make or suffer or permit to be made any change in control of the FRANCHISEE.
- (c) SEA will not unreasonably withhold its consent referred to in sub-Article 27(b) but it will charge, and the FRANCHISEE agrees to pay, an administrative fee, which may be as high as the Franchise Fee, as consideration for that consent.
- (d) The FRANCHISEE hereby grants to SEA an option to purchase, at SEA's sole election, the FRANCHISEE's interests in the remainder of the term of this Agreement including the Closing Inventory at any time within 12 months from the Effective Date (**Option to Purchase**).
- (e) If SEA elects to exercise its Option to Purchase it must inform the FRANCHISEE in writing of its election to do so (**Purchase Notice**). The Purchase Notice must stipulate the date the FRANCHISEE will transfer its interests in this Agreement unencumbered to SEA which will be not less than 14 days from the date of the Purchase Notice.
- (f) SEA, in accordance with Article 21(d)(iv), may cause a Physical Audit of the Store to occur within 48 hours of the date the Purchase Notice is received by the FRANCHISEE.

- (g) If SEA exercises its Option to Purchase, SEA will credit the Financial Records:
 - (i) with the amount the FRANCHISEE paid for the goodwill associated with the Store on the provision to SEA by the FRANCHISEE of the Tax Invoice or agreement evidencing the goodwill payment; and
 - (ii) with the amount the FRANCHISEE has paid as the Franchise Fee.
- (h) Article 26 of this Agreement shall otherwise apply to the assignment of this Agreement by the FRANCHISEE to SEA on SEA's exercise of its Option to Purchase as though the Purchase Notice was an expiration or termination of this Agreement.

Article 28: SEA's assignment of Agreement

SEA shall have the right to transfer or assign this Agreement and all or any part of its rights or obligations under this Agreement to any person or legal entity, including without limitation, to SEI or any subsidiary of SEI or any person who succeeds to SEA's rights and obligations under the Area Licence Agreement, and any assignee of SEA shall become solely responsible for all obligations of SEA under this Agreement from the date of assignment.

Article 29: Procedure on transfer of franchise

Prior to expiration or termination, the FRANCHISEE may in accordance with Article 27 assign or transfer the FRANCHISEE's interest in relation to the Store to another (**Transferee**), provided this Agreement has not been terminated and no termination is pending but only if, as conditions precedent thereto:

- (a) SEA accepts the Transferee in writing as suitable under its then current franchise qualification requirements including the requirement that the Transferee pay to SEA the Franchise Fee, which acceptance SEA shall not unreasonably withhold;
- (b) the FRANCHISEE in writing authorises SEA to accept, and the Transferee executes in favour of and in a form acceptable to SEA, a legally binding waiver and release by the Transferee of all existing and future claims on the part of the Transferee against SEA for or in connection with any amount paid by the Transferee to the FRANCHISEE, any agreement made between the Transferee and the FRANCHISEE and any representations made by the FRANCHISEE to the Transferee;
- (c) the Transferee enters into and executes a written agreement with SEA in respect of the Store, which is satisfactory to SEA and is either in the form of a new store agreement, in the terms of SEA's then current form of store agreement for the franchising of 7-Eleven Stores, or, at SEA's option, is in the form of an agreement whereby the Transferee assumes and binds itself to SEA to fulfil all obligations and liabilities of the FRANCHISEE under this Agreement, and the Transferee also completes to the satisfaction of SEA the then required training; and
- (d) the FRANCHISEE executes in favour of SEA and in a form acceptable to SEA:

- (i) a deed of mutual termination of this Agreement to be effective upon the transfer, or at SEA's option, an assignment of this Agreement to the Transferee, in either case in terms satisfactory to SEA; and
- (ii) an indemnity indemnifying SEA, in terms satisfactory to SEA, in respect of any claims against SEA by the Transferee for or in connection with any amount paid by the Transferee to the FRANCHISEE, any agreement made between the Transferee and the FRANCHISEE or any representations made by the FRANCHISEE to the Transferee.

General

Article 30: Definitions

- (a) Terms used in this Agreement which are defined in context are indexed in paragraph (a) of Exhibit E.
- (b) Other terms used in this Agreement and in the Exhibits and Addendums annexed to this Agreement are defined and have the meanings respectively assigned to them in paragraph (b) of Exhibit E.
- (c) Terms used in this Agreement which are used in relation to insurance are otherwise defined in Exhibit C.

Article 31: Notices

- (a) Any notice required or permitted under this Agreement (except as otherwise provided in this Agreement) shall be in writing and either delivered or mailed return receipt requested postage fully prepaid and addressed as follows:
 - (i) if to the FRANCHISEE, either to the address of the Store or to the FRANCHISEE's residence address, or if the FRANCHISEE is a company, either to the address of the Store or to the registered office of the FRANCHISEE as last notified to the Australian Securities and Investment Commission; or
 - (ii) if to SEA, to the address of the State Office.
- (b) The FRANCHISEE's residence address, or if the FRANCHISEE is a company the address of the registered office, will be as set out in Exhibit I to this Agreement provided that if the FRANCHISEE changes its residence, or if the FRANCHISEE is a company the address of the registered office, it shall give notice to SEA specifying its new residence address or registered office which shall then become its residence address or registered office for service.
- (c) The address of SEA's State Office will be as set forth in Exhibit D provided that, if SEA changes its State Office, it shall give notice to the FRANCHISEE specifying the new State Office address which shall then become the address of SEA's State Office for the purpose of this Agreement.

- (d) Whenever in this Agreement a document, record, report or other written instrument can be provided by the FRANCHISEE in hard copy or electronic format, SEA has the right to choose its preferred format at its sole discretion.

Article 32: Availability of the store

- (a) SEA will use its best efforts to make the Store available to the FRANCHISEE pursuant to this Agreement within a reasonable period.
- (b) If SEA is unable to make the Store available to the FRANCHISEE within 60 days after the 7-ELEVEN FRANCHISEE Training Certificate is issued as provided in Article 9, SEA may, or upon written request of the FRANCHISEE shall, return to the FRANCHISEE the Franchise Fee and the Application Fee. If the Store is made available to the FRANCHISEE within such period and the FRANCHISEE fails to accept the Store, or if the FRANCHISEE accepts the Store after such period or if this Agreement is terminated for any reason after acceptance of the Store, the FRANCHISEE shall not be entitled to any refund of the Franchise Fee.

Article 33: 7-ELEVEN franchise systems manual

The FRANCHISEE shall receive from SEA a 7-ELEVEN Franchise Systems Manual (**7-ELEVEN Manual**) during training. If this Agreement does not become effective or upon its expiration or termination (including under Articles 9(d) and (e)), the FRANCHISEE shall return the 7-ELEVEN Manual and any other manual relevant to the 7-ELEVEN System to SEA.

Article 34: Compliance with laws

- (a) The FRANCHISEE, at the FRANCHISEE's expense, shall obtain any and all licences, permits or bonds necessary for the FRANCHISEE's Operation and shall comply with any law applicable to the FRANCHISEE's use and occupancy of the Licensed Property or the FRANCHISEE's Operation. Without limiting the generality of the foregoing, the FRANCHISEE shall not engage in any trade practice or other activity which is harmful to or reflects unfavourably on:
 - (i) the 7-ELEVEN Image;
 - (ii) the Trade Marks;
 - (iii) the Trade Secrets;
 - (iv) the 7-ELEVEN System; orwhich constitutes misleading or deceptive conduct or unfair competition or is in violation of any applicable fair trade law.
- (b) The FRANCHISEE shall promptly notify SEA of any claim, demand, investigation, prosecution or suit based upon or arising from the FRANCHISEE's Operation, or relating in any manner to the Store. SEA shall be entitled to deduct from the Financial Records a sum equivalent to the loss, costs, including any lawyers or consultant's costs, or damages suffered by SEA arising from any failure by the FRANCHISEE to comply with such obligations.

- (c) The FRANCHISEE shall notify SEA within 48 hours of any knowledge it has of any attempt by any other person, firm or corporation to use the Trade Marks or the Trade Secrets, and shall co-operate with SEA in defending or prosecuting any action, or obtaining any ruling from governmental agencies or courts, which SEA believes is desirable.
- (d) The FRANCHISEE and SEA shall each comply with and assist the other to comply with the *Privacy Act 1988* (Cth).

Article 35: Independent contractor relationship

- (a) It is the intention and understanding of SEA and the FRANCHISEE that the FRANCHISEE shall be an independent contractor and shall control the manner and means of the FRANCHISEE's Operation.
- (b) The FRANCHISEE shall have the sole right to employ and discharge such Employees as in the FRANCHISEE's judgment may be necessary. Such Employees shall be employees or agents of the FRANCHISEE. The FRANCHISEE shall exercise full and complete control over, and shall have full responsibility for, the conduct of the Employees and any and all labour relations, including the hiring, firing, supervision, disciplining, compensation (and taxes relating thereto) and work schedules of the Employees.
- (c) The FRANCHISEE and its agents, representatives, servants and Employees shall under no circumstances hold themselves out to be or be considered to be or held out to be agents, representatives, servants or employees of SEA.
- (d) The FRANCHISEE shall have no right or authority and shall not attempt to negotiate or enter into contracts, consignments or commitments of any nature:
 - (i) in the name of or on behalf of SEA;
 - (ii) that provide for successor liability; or
 - (iii) to make any agreements or incur any debts or liabilities of any kind in the name of or on behalf of SEA.
- (e) Nothing in this Agreement will make SEA a trustee for the FRANCHISEE in respect of any amount received from, or on account of, the FRANCHISEE and in respect of all transactions on the Open Account the relationship between the parties will be that of debtor and creditor only.
- (f) The FRANCHISEE acknowledges and agrees that any designee, employee, or agent of SEA, or an independent contractor, may perform any duty or obligation imposed on SEA by the Agreement, as SEA may direct.

Article 36: Continuous operation

- (a) The FRANCHISEE and SEA acknowledge the importance, to both the 7-ELEVEN Image and to consumer acceptance, of the Store being open for operation as provided in this Agreement.
- (b) If for any reason the Store is not open for operation during any portion of a day as provided in paragraph (b) of Exhibit D, SEA will exercise its right

to enter the Licensed Premises and shall have and exercise the right to immediately take control and exclusive possession of, and deal with:

- (i) the Licensed Equipment;
- (ii) the Inventory;
- (iii) the Sales Receipts;
- (iv) the Cash Register Fund;
- (v) the bank drafts; and
- (vi) the Store Supplies,

without notice of any kind, except notice as required by law and, subject to the terms, covenants and conditions contained in this Agreement, to continue the operation of the Store for the benefit and account of the FRANCHISEE and SEA or its heirs, legal representatives, administrators or executors, as applicable, pending a resolution of the reason for the Store's closure, not being an abandonment of the Store, or any dispute arising under this Agreement or until expiration or termination (in accordance with Article 25), whichever is earlier. If SEA operates the Store in accordance with this Article, SEA shall be entitled to debit the Financial Records for all expenses incurred by it in so operating the Store. For the purpose of this Article, SEA's expenses for operating the Store shall be certified in writing by a SEA Manager.

Article 37: Restraint of trade

- (a) The FRANCHISEE and, where the Franchisee is an incorporated entity, the NOMINATED DIRECTORS in consideration for SEA entering into this Agreement covenants and agrees that it will not:
 - (i) during the term of this Agreement; and
 - (ii) during the period of 30 days from the expiry, termination, assignment or transfer for any reason, of this Agreement for an area within 3 kilometres of the Store,
on its (or their own) behalf, or through any entity related to or connected with them or in any partnership or other business arrangement, own, operate, control or direct any other business or commercial operation of a similar kind to a 7-Eleven store or the FRANCHISEE's Operation or the 7-Eleven System, including, but not limited to, any convenience store or Fuel station (**Restraints**).
- (b) The FRANCHISEE and SEA agree that the Restraints are reasonable and intend them to operate without abridgement or restriction.
- (c) SEA considers this Article as fundamentally important to this Agreement and the FRANCHISEE's Operation. However, it will consider any requests by the FRANCHISEE or NOMINATED DIRECTORS for them to enter into agreements with SEA in relation to their operation of other 7-Eleven stores.

Article 38: Non-waiver

- (a) No act or omission by SEA shall be deemed a waiver of:
 - (i) any right under this Agreement; or
 - (ii) any breach by the FRANCHISEE of any of the terms, covenants or conditions contained in this Agreement,unless SEA executes and delivers to the FRANCHISEE a written waiver of such right or breach, designated as a "waiver", which has been duly executed by either the SEA State Operations Manager, a member of the National Executive or a Director.
- (b) The waiver by either party of any right under this Agreement or of any breach of any of the terms, covenants or conditions contained in this Agreement shall not be deemed to be a waiver of such right thereafter or of any prior or subsequent breach of the same or any other such term, covenant or condition.
- (c) SEA shall have the right, upon any breach by the FRANCHISEE of any of the terms, covenants or conditions contained in this Agreement, and during any period between expiration or termination and the FRANCHISEE's permanent departure from the Licensed Property, to:
 - (i) accept the 7-ELEVEN Charge or any other amount due to SEA from the FRANCHISEE;
 - (ii) allow the FRANCHISEE to continue to use the Licensed Property, the Trade Marks or the Trade Secrets; or
 - (iii) continue to provide any or all of the services to the FRANCHISEE.
- (d) Regardless of SEA's knowledge of any prior or continuing breach by the FRANCHISEE or the NOMINATED DIRECTORS of any of the terms, covenants or conditions contained in this Agreement, or of expiration or pending termination, no act or omission by SEA, including acceptance of the 7-ELEVEN Charge or any other amount due to SEA from the FRANCHISEE, or performance of any of the services, shall be deemed to be a waiver by SEA of such breach or expiration or termination, or in any way a consent by SEA to any continued use of the Licensed Property by the FRANCHISEE, it being expressly acknowledged by the FRANCHISEE that, in such event, the FRANCHISEE shall be a licensee at will or trespasser only and not entitled to any notice to depart from or deliver up the Licensed Property.

Article 39: Disclosure

- (a) The FRANCHISEE acknowledges that at least 14 days prior to the execution of this Agreement the FRANCHISEE received copies of each of the documents specified in Exhibit F to this Agreement.
- (b) The FRANCHISEE hereby consents to disclosure by SEA of any information in its possession concerning the Store and/or the FRANCHISEE's Operation which SEA deems to be necessary or expedient to comply with any law or request of any governmental agency

or party to any judicial administrative or arbitration proceeding or for any other purpose.

- (c) SEA will make available to the FRANCHISEE such details as the FRANCHISEE reasonably requires with respect to all matters strictly relating to this Agreement.
- (d) SEA undertakes to keep and maintain at its registered office an up-to-date register of all the FRANCHISEE's of 7-Eleven stores, and to make that register available for inspection, free of charge, to the FRANCHISEE at any time when that office is required to be open and accessible to the public.

Article 40: Requests for information

- (a) Any queries objections or requests for further and better information raised by the FRANCHISEE against SEA relating in any manner to the Store or relating to the operation of this Agreement shall be raised within 30 days from the date of SEA first giving the FRANCHISEE the information, whether by report, record, document or otherwise.
- (b) If no objection is raised by the FRANCHISEE with SEA during such 30 day period, the FRANCHISEE shall be deemed to have accepted and agreed to be bound by the contents of such information.

Article 41: Complete agreement

- (a) The FRANCHISEE warrants that all details provided to SEA prior to SEA agreeing to enter into this Agreement are true and correct in every particular.
- (b) Subject always to sub-Article 41(a), this Agreement and any other agreements specified in Exhibit D contain all agreements between the FRANCHISEE and SEA (oral or written) and cover their entire relationship concerning the Store. All and any prior or contemporaneous promises, representations, agreements or understandings in connection with the Store are expressly merged into this Agreement and any others specified in Exhibit D.
- (c) The introductory paragraphs of this Agreement and the Exhibits and any Addendums attached to this Agreement are incorporated in this Agreement by reference and shall be considered a part of this Agreement. The headings used herein are for convenience only and are not to be considered in any question of interpretation or construction of this Agreement.
- (d) Words importing persons shall include companies and vice-versa, words importing singular number shall include the plural number and vice-versa and words importing any one gender shall include any other gender.
- (e) If any provision of this Agreement, other than Article 23, shall be held invalid, the remainder of this Agreement shall not be affected thereby and shall continue in full force and effect.
- (f) No agent or representative of SEA is authorised to make any modifications, additions or amendments to, or waivers of, this Agreement, unless in writing and executed by SEA under the hand of a SEA State Operations Manager, a member of the National Executive or a Director.

- (g) The FRANCHISEE, and where the FRANCHISEE is a company the NOMINATED DIRECTORS, acknowledge that they have entered into this Agreement after making a free and independent appraisal of the arrangement encompassed by this Agreement and after obtaining proper professional advice in appraising the proposal and in advising on the contents of this Agreement, including the Guarantee in Exhibit H of this Agreement, and the FRANCHISEE hereby covenants that they have not been induced to enter into this Agreement upon representations made or implied for and on behalf of SEA about the sales history or potential of the Store or about the profit potential of the enterprise.

Article 42: Force majeure

Neither SEA nor the FRANCHISEE shall be responsible in damages to the other for any failure or delay in performance of any obligations in this Agreement due to:

- (i) any governmental action or regulation;
- (ii) war, civil commotion, earthquake, fire, flood or other disaster or similar event; or
- (iii) any other event beyond such party's control, provided however that such party shall take all steps reasonably possible to rectify such failure as soon as possible or avoid or reduce the period of such delay and to mitigate damages caused by such failure or delay.

Article 43: Dispute resolution and mediation

- (a) Save in respect of any dispute, notice or termination of this Agreement by SEA under sub-Article 25(e), the complaint handling and dispute resolution procedure set out in the following paragraphs of this Article shall apply to any complaint or grievance by the FRANCHISEE or any dispute or issue arising under this Agreement (clauses 38 and 39 of the Code and 44 of the Oilcode).
- (b) Any complaint or grievance by the FRANCHISEE or any dispute or issue arising under this Agreement must be referred in the first instance to and discussed with the responsible SEA District Manager with a view to achieving resolution at store level.
- (c) If the FRANCHISEE elects not to utilise the procedure available under sub-Article 43(b) or if that procedure is followed and does not produce resolution of the complaint, grievance, dispute or issue, the matter must be referred by the FRANCHISEE for the consideration of SEA's State Operations Manager.
- (d) Any reference to SEA's State Operations Manager of a complaint, grievance, dispute or issue must:
 - (i) be in writing;
 - (ii) provide an outline or information as to the nature of the complaint, grievance, dispute or issue;
 - (iii) indicate what outcome the FRANCHISEE seeks to achieve; and

- (iv) specify what action the FRANCHISEE thinks will result in settlement of the complaint, grievance, dispute or issue.
- (e) Where a matter is referred to SEA's State Operations Manager in accordance with sub-Article 43(d), the parties shall use all reasonable endeavours to reach agreement as to how to resolve the complaint, grievance, dispute or issue.
- (f) If a resolution cannot be achieved within 21 days of the referral of a complaint, grievance, dispute or issue to SEA's State Operations Manager, then either the FRANCHISEE or SEA may refer the matter to a mediator.
- (g) If the parties are unable to agree under Article 43(f) about who should be the mediator, either the FRANCHISEE or SEA may request the Mediation Adviser (appointed by the Minister under the Code) or, in relation to a Fuel Site the parties must notify the Dispute Resolution Adviser (appointed by the Minister under the Oilcode) to appoint a mediator for that purpose.
- (h) The mediator appointed may decide the time and place for mediation and each of the parties must attend the mediation and try to resolve the complaint, grievance, dispute or issue.
- (i) Each of the parties shall bear its costs of any mediation unless the parties otherwise agree.
- (j) The parties must pay for their own costs of attending the mediation, including any legal or other adviser's costs.
- (k) The procedure set out in this Article 43 for resolution of disputes does not affect the rights of either SEA or the FRANCHISEE to institute legal proceedings under this Agreement.
- (l) The FRANCHISEE's, if more than one, and where the FRANCHISEE is a company the NOMINATED DIRECTORS, agree that the provisions of Article 43 will apply to any complaint, grievance, dispute or issue arising between the FRANCHISEE's or between the NOMINATED DIRECTORS not involving SEA, under this Agreement or in relation to the FRANCHISEE Operation, and SEA's State Operations Manager will nominate any required mediator.
- (m) SEA can independently refer any complaint, grievance, dispute or issue to a mediator or to the Mediation Adviser or Dispute Resolution Adviser, as appropriate, if in its reasonable opinion any complaint, grievance, dispute or issue between it and the FRANCHISEE remains unresolved after the failure of its reasonable attempts to rectify it.
- (n) If SEA refers any complaint, grievance, dispute or issue to a mediator, then the terms of sub-Articles 43(g) to (k) inclusive will apply to it.
- (o) When invoking its rights under sub-Article 43(m), SEA's complaint, grievance, dispute or issue must:
 - (i) be in writing to the mediator;
 - (ii) provide an outline or information as to the nature of the complaint, grievance, dispute or issue;
 - (iii) indicate what outcome SEA seeks to achieve; and

- (iv) specify what action SEA thinks will result in settlement of the complaint, grievance, dispute or issue.
- (p) Nothing contained in this Agreement shall bar SEA's right to obtain injunctive relief against threatened conduct that will cause it loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

Article 44: Applicable law

- (a) This Agreement is deemed to have been made in the State in which the Store is situated.
- (b) Where any dispute arising under this Agreement is to be adjudicated on by a court of law, the dispute shall be determined by the relevant court of applicable jurisdiction in the State in which the Store is situated according to the laws of that State.

Article 45: Corporate FRANCHISEE

- (a) Where the FRANCHISEE is a company, the following shall apply:
 - (i) The FRANCHISEE shall, prior to the execution of this Agreement, appoint at least one natural person, such person to be approved by SEA in its absolute discretion and recorded in Exhibit D, to be a Nominated Director. A Nominated Director shall be a Director and substantial Shareholder in the FRANCHISEE and shall be jointly and severally liable with the FRANCHISEE for due and punctual performance of each of the covenants, obligations, terms and conditions contained in this Agreement which make reference to such NOMINATED DIRECTORS or which are only capable of performance by a natural person; and
 - (ii) Where the FRANCHISEE is constituted as a sole director company, the Nominated Director and in the case of all other companies, at least two NOMINATED DIRECTORS, or if there are less than two NOMINATED DIRECTORS, the Nominated Director and another Director of the FRANCHISEE acceptable to SEA in its absolute discretion, shall execute the Deed of Guarantee in Exhibit H to this Agreement and the liabilities and obligations contained in Exhibit H shall not in any way be limited or read down by reference to sub-Article 45(a) provided always that SEA may in its absolute discretion acquire further guarantees from any person whatsoever.
- (b) Upon the request of SEA, the FRANCHISEE shall deliver true and correct copies of the FRANCHISEE's constitution to SEA together with true and correct copies of all minutes of meetings of the FRANCHISEE's board of directors and shareholders.
- (c) The FRANCHISEE warrants that it is a company duly incorporated in an Australian State or Territory and shall remain a company and that it shall incur no liabilities except pursuant to this Agreement, and shall not, either directly or indirectly, engage in any business except pursuant to this Agreement. The FRANCHISEE further warrants that the information

provided to SEA and included in Exhibit I to this Agreement is true and correct in every particular as at the Effective Date.

- (d) The FRANCHISEE warrants that neither the FRANCHISEE nor any of its shareholders have been or are a party to any contract agreement or restriction of any nature, which does or might conflict with or be breached by the execution, delivery or consummation of this Agreement.
- (e) The execution of this Agreement has been unanimously and duly approved by the FRANCHISEE's board of directors in accordance with its constitution and requires no other approvals. Certified copies of the minutes evidencing such approval have been provided to SEA.

Article 46: Notices of Breaches of terms of Agreement

- (a) SEA may issue to the FRANCHISEE a notice informing the FRANCHISEE of any breach by the FRANCHISEE of any term of this Agreement including but not limited to Material Breaches or Fraudulent Behaviour (**Breach Notice**);
- (b) SEA issuing any Breach Notice does not affect any other right that SEA has under this Agreement to terminate or take any other action in relation to any breach by the FRANCHISEE of any term of this Agreement;
- (c) If SEA issues any Breach Notice, the FRANCHISEE agrees that it will pay to SEA an administrative charge as determined by SEA from time to time as consideration for SEA issuing the Breach Notice; and
- (d) The administrative charge will include SEA's expenses reasonably incurred in investigating the breach, and enforcing its rights under this Agreement including without limitation any and all fees paid to solicitors or collection agents in connection with the breach.

Article 47: Confidential Information

- (a) In consideration for SEA providing the FRANCHISEE with:
 - (i) the Franchise Material;
 - (ii) access to the Trade Marks;
 - (iii) access to the Trade Secrets;
 - (iv) access to and the use of the 7-ELEVEN System; and
 - (v) access to all other information, knowledge, know-how, and techniques which SEA or SEI designates as confidential,

separately or together the **Confidential Information**, the FRANCHISEE and, where the FRANCHISEE is an incorporated entity, the NOMINATED DIRECTORS covenant and agree not to use the Confidential Information at any time for any purpose other than for the purpose of considering to acquire a 7-Eleven Franchise or in the FRANCHISEE's Operation of the Store under this Agreement, or as otherwise authorised in writing by an officer of SEA.

- (b) The FRANCHISEE and, where the FRANCHISEE is an incorporated entity, the NOMINATED DIRECTORS covenant and agree not to disclose the Confidential Information to any third party at any time

without SEA's prior written consent given by an officer of SEA or unless the disclosure is:

- (i) to the FRANCHISEE's professional advisers; or
 - (ii) required by law.
- (c) The FRANCHISEE and, where the FRANCHISEE is an incorporated entity, the NOMINATED DIRECTORS acknowledge and confirm to SEA that the Confidential Information is of a secret or confidential nature and of considerable commercial value to SEA and if disclosed to any third party other than in the manner authorised by SEA and this Agreement is likely to be detrimental to SEA and cause SEA damages or loss some of which may not be quantifiable.
- (d) If the FRANCHISEE or, where the FRANCHISEE is an incorporated entity, the NOMINATED DIRECTORS are unsure as to whether data or information disclosed to the Franchisee constitutes Confidential Information the FRANCHISEE must continue to treat the data and information as confidential, seek advice from SEA as to whether or not the data and information constitute Confidential Information and act in accordance with SEA's response to that request.
- (e) The FRANCHISEE acknowledges that any failure to comply with the requirements of this Article 47 will cause SEA and SEI irreparable injury, and the FRANCHISEE agrees to pay all court costs and reasonable attorney's fees incurred by SEA or SEI in obtaining specific performance of, or an injunction against violation of, the requirements of this Article 47.

Article 48: Third Party Beneficiary Rights

The FRANCHISEE and SEA acknowledge and agree that SEI irrevocably shall be a third-party beneficiary under this Agreement with the independent right to exercise each right of the FRANCHISEE and SEA, and to enforce each obligation of the FRANCHISEE and SEA under this Agreement. The parties acknowledge and agree that (save in respect of any extension or renewal of the term of this Agreement with no other material modification of this Agreement, or any non-material modification of the terms hereof) they shall not have the right to amend the terms of this Agreement without SEI's prior written consent. If either party fails to take action within a reasonable time to exercise any right held by that party under the terms of this Agreement, or to enforce any obligation, SEI may take action to exercise such right or to enforce such obligation. Each of the parties agrees, if requested by SEI, to participate, at such party's expense, in any such action or enforcement in such manner as SEI may reasonably request. The parties acknowledge that SEI shall, upon any failure of any party to comply with the requirements of this Agreement, have the right to obtain specific performance of, or an injunction against violation of, the requirements of this Agreement, together with such other remedies as may be available in equity or at law, and that the FRANCHISEE or SEA, as the case may be, shall pay all of SEI's court costs and reasonable attorney's fees incurred in connection therewith.

IN WITNESS HEREOF the parties to this Agreement have made this Agreement this [insert day] of [insert month] [insert year] intending to be legally bound by the terms of this Agreement.

Signed for
7-Eleven Stores Pty Ltd
by its representative:

Name _____
State Operations Manager

Name _____
Franchise Manager

in the presence of:

Name _____
Witness

Name _____
Witness

Address and telephone number of SEA State Office [insert]:

357 Ferntree Gully Road

Mt Waverley Victoria 3149

Telephone 9541 0711

FRANCHISEE's name/s, residential address and telephone number:

[insert names]
[insert address]
[insert address]
Telephone [insert telephone no]

[insert names]
[insert address]
[insert address]
Telephone [insert telephone no]

Name (please print)

Name (please print)

in the presence of:

Name
Witness

Name
Witness

FRANCHISEE's full name/s, Australian Company Number, Registered office and telephone number:

[insert company name]
ACN [insert]
Registered Office
[insert address]
[insert address]
Telephone [insert telephone no]

Executed by
[insert FRANCHISEE's name]
by being signed by those persons who are authorised to sign for the Company:

Director

Director

Full name (please print)

Full name (please print)

Usual address

Usual address

Executed by
[insert FRANCHISEE's name]
by being signed by the person who is authorised to sign for the Company:

Sole Director and Sole Company Secretary

Full name (please print)

Usual address

Executed by
[insert name of NOMINATED DIRECTOR]
In the presence of:

Full name (please print)

Usual address

Executed by
[insert name of NOMINATED DIRECTOR]
In the presence of:

Full name (please print)

Usual address

Exhibit A

Licensed Premises

(Recitals E(i) and (iv) and Article 2(e))

7-Eleven store No: [Insert number]

- (a) The FRANCHISEE accepts the Licensed Premises in its condition on the Execution Date except as specifically noted in this Exhibit.
- (b) The plot plan for the Licensed Premises is[/not] attached.
- (c) The Licensed Premises is:
 - (i) Owned by SEA and the legal description of the Licensed Premises is set out in the Certificate of Title attached;
or
 - (ii) All or partly leased by SEA and the legal description of the Licensed Premises is set out in the Lease attached.
- (d) The remainder of the primary term or the current extended term of the Lease expires on [insert date].
- (e) The following are particulars of special use restrictions and special charges relating to the FRANCHISEE's Operation:
 - (i) State and Local Ordinances as described on Town Planning Permit attached
 - Zoning: [insert]
 - Exclusives: [insert]
 - Condemnation: [insert]
 - Other: [insert]
 - (ii) Other restrictions:
Use/merchandise restrictions as described on Town Planning Permit attached.
 - (iii) Compliance with the category of exempt shops under the *Shop Trading Reform Act 1996* (Vic), *Shops and Industries Act 1962* (NSW); or the *Trading (Allowable Hours) Act 1990* (Qld) as amended, as appropriate to the Store's location.

(f) Under the Lease, in respect of all or part of the Licensed Premises leased by SEA, the following conditions apply:

Special charges: [insert]

Maintenance: [insert]

Co-operative advertising: [insert]

Common area (including landscaped areas): see attached plant inventory

Other: [insert]

Exhibit B
Licensed equipment
(Recital E(ii) and Article 2(h) and (m))

7-Eleven store No: **[insert number]**

The FRANCHISEE accepts the Licensed Equipment in its condition on the Execution Date except as specifically noted in this Exhibit.

Specific description of all Licensed Equipment

[insert descriptions or excel spreadsheet]

Equipment on loan

[insert descriptions]

Exhibit C

(Articles 11(a)(ii) and (iii), (c), 12(d) and 30(c))

Responsibility for losses and insurance

This is not an insurance binder, certificate or policy

7-Eleven store No: [insert number]

(a) Indemnity and exclusions

The sub-limits referred to in sub-Article 11(a)(iii) are:

- (i) Fire and extraneous perils: replacement value of Stock in Trade, Inventory and Store Supplies.
- (ii) Accidental Damage: \$25,000 for any one claim.
- (iii) Money representing Cash Receipts, which comprises:
 - (A) Money in cash registers: the amount up to but not exceeding \$1,000 (paragraph (a)(vii)(B) does not apply to this paragraph).
 - (B) Money in safe: the amount up to the value of the cash deposits retrospective to the last possible banking day for a single loss.
 - (C) Money in Transit: the amount up to the value of the cash deposits retrospective to the last possible banking day for a single loss in respect of Store Income whilst in transit directly between the Store and the bank designated by SEA for the deposit of Store Income.
- (iv) Theft of property (excluding Money and electronic products such as mobile phonecards):
 - (A) any one claim in respect of the replacement value at cost for Inventory and Store Supplies other than tobacco products taken in any robbery or Burglary at the Store up to \$15,000; and
 - (B) any one claim in respect of the replacement value at cost of tobacco products taken in any robbery or Burglary at the Store up to \$30,000.
- (v) For non-24 hour trading stores, tobacco products (other than those stored in the overhead and/or wall mounted holders in and around the sales counter area) must be stored in a locked cigarette storage cabinet (type and standard of cabinet must be approved by SEA) at all times.
- (vi) In the event of a Burglary, no insurance policy contemplated by this Agreement will respond to any claims relating to tobacco products stolen from areas other than the locked cigarette storage

cabinet and the overhead and/or wall mounted holders in and around the sales counter area.

(vii) The following deductibles shall apply to each and every claim under the policy:

(A) in the event of loss caused by earthquake, subterranean fire or volcanic eruption, the lesser of \$20,000 or 1% of the value of the property at the location the subject of the claim; and

(B) for all other claims, \$2,000.

The Franchisee shall pay all such deductibles.

(b) **Conditions of indemnity**

SEA's obligations under sub-Article 11(a)(iii) to provide insurance indemnify the FRANCHISEE are subject to the following conditions:

(i) Notice of any loss which may give rise to a claim for such indemnity must be given to a representative of SEA immediately, and in any event no later than 24 hours after such loss occurs. Within 72 hours after discovery of any such loss, the FRANCHISEE must furnish to SEA a proof of loss report in the form required and provided by SEA. Failure by the FRANCHISEE to comply punctually and fully with any of these requirements in respect of any loss shall relieve SEA of any responsibility to provide insurance indemnify the FRANCHISEE from that loss.

(ii) If there is electronic security equipment in the Store, SEA shall not be liable to provide insurance indemnify the FRANCHISEE in respect of any loss by Burglary (including Safe Burglary) unless that equipment was fully operational at the time the Burglary occurred.

(iii) SEA shall not under any circumstances be liable to indemnify the FRANCHISEE from any losses of whatever nature caused by or arising from a wilful act of the FRANCHISEE or the Employees, neither shall indemnity extend to any losses which are otherwise the FRANCHISEE's responsibility under this Agreement.

(c) **Public liability policy**

Under the insurance arranged as stated in sub-Article 11(a)(ii), SEA and the FRANCHISEE will be insured, as insureds, for up to \$20,000,000 against legal liability to pay compensation for personal injury or property damage caused by an occurrence in connection with the FRANCHISEE's Operation, subject to the policy exclusions and conditions annexed to this Exhibit C.

(d) **Definitions**

For the purpose of this Exhibit, the following definitions apply:

Accidental Damage means physical loss, destruction or damage (subject to "Exclusions - Applicable to all Sections") caused other than by fire, lightning, aircraft and/or aerial devices and/or Articles dropped

therefrom, sonic boom, explosion, implosion, spontaneous combustion and/or overheating, smoke and/or steam, earthquake, subterranean fire and/or volcanic eruption, subsidence, collapse, landslip, tidal surge or action from the sea, storm, tempest, wind, rainwater, flood, water and/or other liquids discharged, overflowing and/or leaking from apparatus, appliances, pipes, sprinkler and/or any other systems, riots, strikes, civil commotion, malicious persons, impact by vehicles, animals and water-borne craft, Burglary, theft, breakage of glass, loss of Money, inland transit, fraudulent or dishonest acts, fusion, machinery breakdown and boiler explosion.

Burglary means:

- (i) theft consequent upon actual forcible and violent entry upon the Licensed Premises or any attempt thereat; and
- (ii) theft or any attempt by a person feloniously concealed on the Licensed Premises;

but excludes larceny or theft unless accompanied by violence or forcible or violent entry to or from the Licensed Premises.

Money means current coin, bank notes, currency notes, cheques including non-negotiable cheques, credit card sales, vouchers, postal orders, money orders, unused postage and revenue stamps.

Money in Transit means Money in transit to and from the Store whilst in the personal custody of the insured, including whilst such Money is contained in the night safe of any bank where the insured transacts business, provided the liability of the company for Money in night safes shall cease at bank closing time on the next bank business day following deposit therein, and in the case of Money drawn as wages and/or salaries and carried by the insured, also whilst at the place of business and places of disbursement until paid away provided that the company's liability in respect of Money not paid out on the day of withdrawal from the bank shall be limited to an amount not exceeding 40% of the particular withdrawal and provided further that during non-business hours such Money be kept in a securely locked safe.

Safe Burglary means the felonious abstraction of Store Income from a vault, safe or security drop box approved by SEA and located within the Store, when all doors of each vault, safe or security drop box are duly closed and locked and entry thereto is by actual force and violence evidenced by visible marks made by tools, explosives, electricity or chemicals thereon.

Stock in Trade (Inventory and Store Supplies) means stock-in-trade and/or merchandise manufactured, the property of the insured or held in trust or on commission for which the insured is legally responsible whilst at the place of business.

Store Income means all monies relating to the sale of merchandise, gasoline and any other income received from time to time.

- (e) The deductible referred to in sub-Article 11(b) is \$500.

Exhibit D

General

(Introduction, Recital E(iv), Articles 1(k)(ii), 6(a), 7(a) and (c), 8(a), 9(a), (c)(i), 22(a)(i), 23(b), 31(c), 36(b), 41(b) and 45(a)(i))

7-Eleven store No: [insert number]

- (a) The FRANCHISEE's Operation shall be designated as Store Number [insert number].
- (b) The Store shall be open for business as a:
 - (i) 24 hour operation; or
 - (ii) Trading hours of operation of [insert time] to [insert time] each day.
- (c) The cash payment by the FRANCHISEE upon execution of this Agreement is \$[insert amount], consisting of a contribution toward the Investment in the Inventory in the amount of \$[insert amount], and in the Cash Register Fund in the amount of \$[insert amount], and payment for licences, permits and bonds (Operating Expenses) in the amount of \$[insert amount].
- (d) The individual(s) to receive the Training-Store Training are:
[insert names]
[insert names]
- (e) The Training-Store Training will commence at 8.30 am on [insert date] at [insert training location].
- (f) The NOMINATED DIRECTORS approved by SEA are:
[insert names]
[insert names]
- (g) The minimum Net Worth shall be \$35,000.00.
- (h) The FRANCHISEE's draw on anticipated profits for an Accounting Period shall be \$[insert amount] each week. The amount remitted to the FRANCHISEE shall be reduced by an amount equal to the amount by which the FRANCHISEE's draw plus the amount of the FRANCHISEE's payroll for the Store for the previous draw period exceeds the greater of:
 - (i) 11% of the Net Sales (as defined in Exhibit E and excluding gasoline sales, if any) for the previous draw period; or
 - (ii) \$750.00.

- (i) The 7-ELEVEN Charge shall be 57%.
- (j) The Total Gross Income (as defined in Exhibit E) for an Accounting Period shall be at least equal to \$328.77 per day (the equivalent of \$120,000 per calendar year) multiplied by the number of days in such Accounting Period.
- (k) Copies of the documents specified in Exhibit F were received by the FRANCHISEE from SEA at least 14 days prior to the Execution Date.
- (l) The Franchise Fee shall be \$[insert amount]
- (m) The address of SEA's State Office is [insert address]
- (n) Other special provisions: [specify]

Exhibit E

Definitions

7-Eleven store No: [insert number]

(a) **Index of terms defined in context in the Agreement:**

7-ELEVEN Charge	Article 23(a)
7-ELEVEN FRANCHISEE Training Certificate	Article 9(f)
7-ELEVEN Image	Recital C
7-ELEVEN Manual	Article 33
7-ELEVEN System	Recital A
Agreement	Opening Wording
Application Fee	Article 6(c)
Area Licence Agreement	Recital D
Bookkeeping Records	Article 18(a)
Breach Notice	Article 46(a)
Closing Inventory	Article 26(a)(i)
Code	Introduction
Codes	Introduction
Confidential Information	Article 47(a)
Employees	Article 9(g)
Execution Date	Signature page
Financial Statements	Article 20(a)(i)
Franchise Fee	Article 6(a)
Franchise Material	Article 1(c)
FRANCHISEE	Parties Recitals
FRANCHISEE's Operation	Article 1(a)
Investment	Article 7(a)
Lease	Article 2(e)
Licensed Equipment	Recital E(ii)
Licensed Premises	Recital E(i)
Licensed Property	Article 1(e)(i)
New Agreement	Article 25(d)(i)
New Employee Training Program	Article 9(g)
New Employee Training Certificate	Article 9(g)(vi)
Nominated Director	Parties Recitals and Article 45(a)(i)
Oilcode	Introduction

Ongoing Training	Article 9(j)
Ongoing Training Certificate	Article 9(q)
Open Account	Article 8(a)
Opening Inventory	Article 14
Option to Purchase	Article 27(d)
Physical Audit	Article 21(a)
Purchase Notice	Article 27(e)
Purchases	Article 8(a)(i)
Recommended Price	Article 16(c)
Restraints	Article 37(a)
Sales Receipts	Article 20(j)(i)(1)
SEA	Parties Recitals
Security Interest	Article 8(e)
SEI	Recital A
Store	Recital E(iv)
Trade Marks	Recital B
Trade Secrets	Article 1(c)(ii)
Training-Store Trainees	Article 9(a)
Training-Store Training	Article 9(a)
Transferee	Article 29
Utilities	Article 4 (c)(iv)

(b) **Other definitions:**

Accounting Period means a defined retail period as regularly published by SEA. This may be a calendar month, but may become a traditional retail period of 4-4-5 (each of these representing weeks periods). If the Effective Date or expiration or termination occurs during any retail period, that portion of the period which follows the Effective Date or precedes expiration or termination shall be an Accounting Period.

Bad Merchandise means out-of-date date-coded merchandise or merchandise which is damaged or deteriorated other than as a result of the FRANCHISEE's failure either to properly inspect and/or maintain the Store's refrigeration equipment, to maintain appropriate Inventory levels (including product build up sheets where recommended by SEA) or to rotate the Inventory.

Bona Fide Supplier means any person or entity carrying on the business of supplying products or services in the area in which the Store is located on a commercial and competitive basis and shall not include any entity associated in any manner with the FRANCHISEE or any entity which has entered into an arrangement whether formal or otherwise with the FRANCHISEE which is not consistent with the FRANCHISEE being a bona fide at arms length customer.

Cash Register Fund means that amount of money provided by FRANCHISEE as per paragraph (c) of Exhibit D for cash register operational purposes.

Cash Variation means the difference between:

- (i) Sales Receipts (as reflected on the FRANCHISEE's cash register logs) less such of the Sales Receipts as have been expended by the FRANCHISEE for Purchases or for Operating Expenses and so reported to and verified by SEA; and
- (ii) Sales Receipts deposited or delivered to SEA pursuant to paragraph (j) of Article 20.

Change-Over Condition Report means the report prepared by SEA and its nominated contractors detailing the condition of the Licensed Premises and the Licensed Equipment.

Consigned Merchandise means merchandise provided by a supplier to the FRANCHISEE for sale in the Store over an agreed period on a sale-or-return basis and which does not immediately increment the Inventory.

Cost of Goods Sold means the value at cost of the Inventory sold for the Accounting Period.

Effective Date means the date on which the Store first opens for business under this Agreement.

Fair Wholesale Price means:

- (i) where the stock was available from a supplier of stock with whom SEA has a negotiated price for the supply of such stock for its stores, the price available from that supplier; or
- (ii) where the stock is not available from a supplier of stock with whom SEA has a negotiated price for the supply of such stock for its stores, a price at which SEA deems is the price at which an independent retailer would have been able to purchase the stock on the basis of reasonable quantities on normal trade volumes.

Financial Records means all Inventory, income and expense reports and balance sheets.

Fraudulent Behaviour means any one or more of the following events and SEA and FRANCHISEE acknowledge that the behaviour and matters defined as Fraudulent are fundamental to the business efficacy of the Agreement, the Franchise Operation and the trust and confidence reposed in each party by the other party:

- (i) FRANCHISEE fails to limit its use of the Trade Marks, Trade Secrets, and SEA's intellectual property to participation in the use thereof in the manner and to the extent provided in this Agreement;
- (ii) FRANCHISEE fails to use the Licensed Property solely in connection with the FRANCHISEE's Operation;
- (iii) FRANCHISEE fails to notify SEA of Purchases, Sales Receipts or the FRANCHISEE's retail selling price changes as provided in this Agreement;
- (iv) FRANCHISEE fails to use standardised trademarked containers;

- (v) FRANCHISEE purchases or sells any product bearing the trade name or service mark "7-ELEVEN" which has been obtained from a source not authorised to produce or deal in such goods;
- (vi) FRANCHISEE, or any person on behalf of the FRANCHISEE, misrepresents or misstates information or omits to provide information required as a part of the qualification process;
- (vii) FRANCHISEE or NOMINATED DIRECTORS or any of them fail to comply with any provisions of sub-Article 1(g) of this Agreement;
- (viii) FRANCHISEE refuses to permit SEA to take any Physical Audit as provided in Article 21 of this Agreement;
- (ix) FRANCHISEE refuses to permit SEA access to the Licensed Property as provided in this Agreement;
- (x) FRANCHISEE fails to comply with a notice served by SEA pursuant to sub-Article 25(i) of this Agreement;
- (xi) FRANCHISEE allows the Net Worth to be or fall below the amount specified in paragraph (g) of Exhibit D;
- (xii) FRANCHISEE fails, whether directly or indirectly, to properly record, deposit, deliver up, report or account for Sales Receipts as required by sub-Article 20(j) of this Agreement;
- (xiii) FRANCHISEE fails to deliver invoices for cash or Sales Receipts expended as required by sub-Article 20(b) of this Agreement;
- (xiv) FRANCHISEE fails to comply with any of the obligations in Article 1 of this Agreement;

Gross Income means Gross Profit less the 7-ELEVEN Charge.

Gross Profit means Net Sales less the Cost of Goods Sold.

GST means goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST Act or otherwise on a supply.

GST Act means the "A New Tax System (Goods and Services Tax) Act 1999" as amended.

GST Regulations means the "A New Tax System (Goods and Services Tax) Regulations 1999" as amended.

Inventory means all stock and merchandise held in the Store for sale or for return including the records pertaining to any sales of electronic products such as mobile phone cards.

Inventory Overage means the difference at cost, if any, remaining after the book inventory at cost (as reflected on the Bookkeeping Records) is deducted from the total cost value of the Inventory (as reflected by a binding Physical Audit).

Inventory Shortage means the difference at cost, if any, remaining after the total cost value of the Inventory (as reflected by a binding Physical Audit) is deducted from the book inventory at cost (as reflected on the Bookkeeping Records).

Inventory Variation shall be equal to the Inventory Overage or Inventory Shortage, and is charged or credited, as applicable, to the Operating Expenses.

Material Breach shall include any one or more of the following events:

- (i) FRANCHISEE violates any provision of Article 27 of this Agreement;
- (ii) FRANCHISEE jeopardises the goodwill of the Trade Marks, the Store, the 7-ELEVEN System or the 7-ELEVEN Image;
- (iii) FRANCHISEE causes a breach of the Lease;
- (iv) FRANCHISEE fails to maintain the Licensed Property as provided in this Agreement;
- (v) FRANCHISEE fails to obtain prior approval of SEA for additions to the Licensed Property;
- (vi) FRANCHISEE fails to remit or cause to be remitted insurance proceeds or payments;
- (vii) FRANCHISEE fails to maintain employers' indemnity insurance as provided in this Agreement;
- (viii) FRANCHISEE fails to indemnify SEA as provided in this Agreement;
- (ix) FRANCHISEE fails to permit SEA to audit the Inventory as provided in this Agreement;
- (x) FRANCHISEE fails to provide any records or reports to SEA as provided in this Agreement;
- (xi) FRANCHISEE fails to comply with any applicable law;
- (xii) FRANCHISEE fails to comply with any provisions of any other Addendums executed between SEA and the FRANCHISEE;
- (xiii) FRANCHISEE fails to maintain an independent contractor relationship with SEA in breach of Article 35 of this Agreement;
- (xiv) FRANCHISEE fail to pay taxes as provided in this Agreement;
- (xv) FRANCHISEE fails to maintain an adequate Inventory, or purchase goods from other than a Bona Fide Supplier as provided in Article 15 of this Agreement;
- (xvi) FRANCHISEE fail to obtain or continue licences, permits or bonds necessary for the FRANCHISEE's Operation;
- (xvii) FRANCHISEE breaches sub-Article 25(i) of this Agreement in relation to satisfactory performance of the Store;
- (xviii) FRANCHISEE fails to secure the attendance of the Employees at ongoing training as provided in Sub-Article 9(j) or Sub-Article 9(k) of this Agreement or
- (xxi) ..FRANCHISEE fails to attend or fails to secure the attendance of NOMINATED DIRECTORS or of the Employees at ongoing training as provided in Sub Article 9(j) or Sub Article 9(k) of this Agreement.

(xxii) FRANCHISEE engages in conduct which constitutes Fraudulent Behaviour as defined in this Exhibit.

Net Sales means the total amount reflected on the applicable point of sale register electronic journals for the FRANCHISEE's sales, rentals, royalties, fees and commissions relating to the FRANCHISEE's Operation, less over-rings, refunds to customers, taxes collected incidental to sales and GST liabilities in respect of taxable supplies made in the course of the FRANCHISEE's Operation.

Net Worth means the value of FRANCHISEE's assets employed in the FRANCHISEE's Operation less the FRANCHISEE's liabilities from the FRANCHISEE's Operation;

Operating Expenses means the expenses of the FRANCHISEE's Operation (or the credits therefor) incurred by FRANCHISEE including for:

- (i) Payroll;
- (ii) Payroll tax, employers indemnity insurance premiums and payroll insurance premiums;
- (iii) Inventory Variation;
- (iv) Cash Variation;
- (v) General maintenance and repairs, laundry expense and janitorial services (only as applicable to the FRANCHISEE's obligations);
- (vi) Telephone;
- (vii) Store Supplies;
- (viii) Licences, permits and bonds;
- (ix) Interest;
- (x) Returned cheques;
- (xi) Inventory and business taxes;
- (xii) Special charges noted in paragraph (e) of Exhibit A;
- (xiii) Stamp duties and taxes;
- (xiv) Other miscellaneous expenditures which SEA, in its sole discretion (regardless of the classification thereof by the FRANCHISEE or for income tax purposes), determines to be Operating Expenses, and
- (xv) all amounts relating to training, travel and accommodation of Employees whilst attending a New Employee Training Program or Ongoing Training.

Stock in Trade is defined in Exhibit C.

Store Supplies means consumable items that have no retail value but are used incidental to the sale of products (ie paper bags).

Total Gross Income means the total income received in respect of the FRANCHISEE's Operation including, but not limited to, revenue on sale

of products and services, gasoline commission and other commissions less the 7-ELEVEN Charge.

Weighted Average Cost means the average cost of an item specific to the Store, net of all applicable purchasing rebates, and exclusive of any GST.

Exhibit F

(Article 39(a) and Exhibit D)

Documents Received by Franchisee from SEA

7-Eleven store No: [insert number]

- (a) "Becoming a 7-Eleven Franchisee" compact disk;
- (b) The 7-Eleven Franchise System Brochure;
- (c) The SEA Store Agreement **SA/04/09**;
- (d) Store financial information for the last [insert number] months;
- (e) Image Appraisal;
- (f) Wage Determination applicable to the State;
- (g) Disclosure document; and
- (h) The Franchising Code of Conduct (1 July 1998).

Exhibit G

(Article 8(e))

Indenture

7-Eleven store No: [insert number]

This indenture is made by and between

The person or persons who are described and have executed this Indenture as
Chargors jointly and severally if more than one

[insert name of party]
[insert ACN/ARBN/ABN]
of [insert address]
(FRANCHISEE)

and

7-ELEVEN STORES PTY LTD
ACN 005 299 427
of 357 Ferntree Gully Road, Mt. Waverley, Victoria
(SEA)

Recitals:

- A. FRANCHISEE's and SEA are parties to an agreement in writing made on the Store Agreement Execution Date specified in the Schedule hereto (Store Agreement) whereby SEA has granted to FRANCHISEE's the right and sub-licence to participate in the use of the 7-ELEVEN System and the exploitation of the 7-ELEVEN Image (both as defined in the Store Agreement) in conjunction with FRANCHISEE's operation under and subject to all the terms covenants and conditions of the Store Agreement, of a 7-ELEVEN store (also as defined in the Store Agreement) which is to be located at the address shown in the Schedule hereto.
- B. Paragraph (e) of Article 8 of the Store Agreement (**Agreement**) obliges FRANCHISEE's to enter into this Indenture and SEA entered into the Agreement partly in consideration of the agreement of FRANCHISEE's to enter into this Indenture.

The parties agree

in consideration of, among other things, the mutual promises contained in this agreement:

1. In this Indenture unless the context of subject otherwise requires:
 - (a) FRANCHISEE's includes the person named above as FRANCHISEE's and his legal personal representatives or in the case of a corporation its successors, and where there is more than one person comprised in the expression "FRANCHISEE's" each of them and each of their legal personal representatives or successors as the case may be;
 - (b) Words importing persons include corporations;

- (c) Words importing any gender include every gender;
 - (d) Words importing the singular number or plural number include the plural number and singular number respectively;
 - (e) Where there is more than one person comprising FRANCHISEE's any covenant or agreement on the part of FRANCHISEE's binds them and each of them jointly and severally;
 - (f) **SEA** includes any person to whom the Store Agreement is assigned by SEA in accordance with Article 28 thereof;
 - (g) Expressions to which a meaning is assigned in the Store Agreement have the same meanings respectively where used in this agreement as they have in the Store Agreement.
2. FRANCHISEE's as beneficial FRANCHISEE thereof hereby charges in favour of SEA:

- (a) the Opening Inventory (as defined in Article 14 of the Store Agreement);
- (b) all merchandise other than gasoline from time to time held by FRANCHISEE's whether at the Store or elsewhere for sale from the Store including deposit bottles vending supplies and consigned merchandise (all of which merchandise is hereinafter together with the said Opening Inventory called **the Inventory**); and
- (c) the Sales Receipts (as defined in paragraph (j) of Article 20 of the Store Agreement);

(all of which property is hereinafter called the **Charged Assets**) and all the estate right title and interest property claim and demand at law or equity of FRANCHISEE's in and to the Charged Assets and each of them with the payment to SEA of the amount of the unpaid balance which may exist in the Open Account from time to time and the amount of any debit balance in the Open Account payable at any time in accordance with paragraph (a) of Article 26 of the Store Agreement (all of which amounts are hereinafter called **Moneys Hereby Secured**).

3. For the consideration aforesaid FRANCHISEE's hereby covenant and agree with SEA as follows:

- (a) To pay SEA the Moneys Hereby Secured as provided in the Store Agreement and paragraph (d) of this clause or on demand by SEA at any time following any breach or non-observance by FRANCHISEE's of any of the covenants or agreements herein contained (whichever shall first occur);
- (b) That FRANCHISEE's will not revoke or annul any of the powers and authorities herein granted to SEA;
- (c) That except as permitted by clause 5 hereon FRANCHISEE's shall not without the prior consent in writing of SEA at any time during the continuance of this

Indenture sell lease hire or otherwise dispose of any of the Inventory or expend use or dispose of any of the Sales Receipts or remove all or any of the Inventory or Sales Receipts from the Store or from any place to which (whether mediately or immediately) any of the Inventory or Sales Receipts may thence be removed to any other place;

- (d) That FRANCHISEE's so far as lawful shall forthwith pay to SEA all costs charges and expenses of and incidental to the preparation execution stamping registration and renewal of these presents and of any discharge hereof and any amount paid by SEA in making good any default by FRANCHISEE's under the covenants herein contained or implied and all costs charges and expenses which may from time to time hereafter be incurred expended or paid by SEA in doing or performing any act matter or thing which SEA is empowered by this Indenture to do or perform or in relation to the exercise of enforcement or attempted exercise or enforcement of any rights powers or remedies by virtue of this Indenture or otherwise all of which payments costs charges or expenses shall be payable on demand by SEA and shall form part of the Moneys hereby Secured;
- (e) That FRANCHISEE's shall from time to time and at all times hereafter upon the request of SEA and at FRANCHISEE's expense do and execute all such other acts and deeds for better or more satisfactorily assigning or otherwise assuring the Charged Assets unto SEA and for enabling SEA to obtain possession of the same or any of them and for otherwise giving full effect to this Indenture;
- (f) FRANCHISEE's shall not grant or agree to grant to any person or company any further security or securities over the Charged Assets or any of them unless the written consent of SEA shall have first been obtained and unless FRANCHISEE's and the proposed mortgage or mortgagees shall have complied with the conditions of any consent given or agreed to be given by SEA;
- (g) If default shall be made by FRANCHISEE's in payment of all or any part of the Moneys hereby Secured as hereinbefore provided or in the performance or observance of any of the covenants or agreements herein contained and on the part of FRANCHISEE's to be performed or observed or upon the Expiration or Termination howsoever arising of the Store Agreement then and in such second event it shall be lawful for SEA and its servants and agents immediately thereupon or at any time or times thereafter so long as any of the Moneys Hereby Secured shall remain unpaid to SEA notwithstanding the acceptance of moneys after any such default and notwithstanding any previous or other default and notwithstanding the currency or any promissory note or bill of exchange representing such moneys or any part thereof and notwithstanding any other matter or thing

whatsoever and without the necessity of any further consent or concurrence on the part of FRANCHISEE's to enter by force if necessary upon any land or premises whereon the Charged Assets or any of them may happen to be and seize and take possession of all or any of them and whether SEA shall or shall not have so taken possession of its own accord absolutely to sell and dispose of all or any of the Inventory either together or in lots and either by public auction or private contract or partly by one mode and partly by the other and with liberty to purchase the same at any auction and to rescind or vary any contract for sale and resell the same at its discretion with all original powers and without being liable for any loss to be occasioned by such resale or in any other manner whatsoever and at such time or times and for such price or prices and with such credit to the purchaser or purchasers thereof and with liberty to impose such terms of payment with or without special or other conditions and with power to allow the purchase money or any part thereof to remain on mortgage of all or any of the Inventory sold or on other security or without security or in such manner as to SEA or the person or persons exercising the power of sale it shall seem reasonable and to convey and assign all or any of the Inventory when sold;

- (h) No purchaser or other person paying any money to SEA shall be bound to enquire whether any default shall have been made under this security or into the necessity or proprietary of any such collecting and getting in or sale as aforesaid nor be affected by express notice to the contrary.
- (i) Upon any sale under the power hereinbefore contained all or any of the inventory may be sold together with any other property whether real or personal under mortgage or other security from FRANCHISEE's to SEA by one contract at one price or in any other manner which SEA may deem expedient;
- (j) Every receipt which shall be given by SEA or its agents for any sum or sums of money as payable to or to be received by SEA under or by virtue of this Indenture shall be sufficient and effectual discharge to the person or persons paying the same for so much money as in such receipt shall be expressed to be received and such person or persons shall not be liable to see to the application or be answerable for the loss misappropriate or non-application of the same or any part thereof;
- (k) SEA shall stand possessed of the moneys arising from any such sale as aforesaid or otherwise coming to SEA by virtue of this Indenture upon trust in the first place to pay or recoup all costs charges and expenses of the collecting and getting in entry seizure and sale of all or any of the Charged Assets or the exercise by SEA of any of the powers aforesaid and incidental to this security for the time being

including (if not previously paid) the costs of the preparation execution registration renewal and perfecting of this security and in the next place to apply the said moneys in or towards satisfaction or providing for the payment of the Moneys Hereby Secured and then to credit the surplus (if any) of the said moneys to the Open Account;

- (l) SEA shall not be answerable or accountable for any loss of any kind whatsoever or for any misapplication or non-application of any money which may happen in or about the exercise or execution of any of the aforesaid powers;
4. Where SEA takes possession of any of the said Sales Receipts pursuant to clause 3 hereof SEA shall credit the Open Account with the amount thereof.
5. FRANCHISEE's may at any time deposit or deliver Sales Receipts as provided in paragraph (j) of Article 20 of the Store Agreement, and until the termination of the Store Agreement howsoever arising and subject to SEA 's rights under paragraph (g) of clause 3 hereof, FRANCHISEE's may:
 - (a) dispose of any of the Inventory in the ordinary course of FRANCHISEE's Operation, and
 - (b) expend cash representing Sales Receipts in payment for Purchases made and Operating Expenses incurred in the ordinary course of FRANCHISEE's Operation and reported to SEA.
6. Subject to clause 7 hereof, if FRANCHISEE's shall pay the Moneys Hereby Secured to SEA as provided herein and shall observe and perform all the covenants and agreements herein contained and on the part of FRANCHISEE's to be observed and performed then this Indenture shall become void and upon the transfer of the Inventory to SEA and payment to SEA of any debit balance in the Open Account as provided in paragraph (a) of Article 26 of the Store Agreement, SEA shall sign and deliver to FRANCHISEE's such memorandum of discharge of this security and of the payment of the Moneys Hereby Secured as may reasonably be required.
7. Anything to the contrary contained in this Indenture notwithstanding SEA shall not be obliged to release from this Indenture all or any of the Charged Assets until all orders, drafts, cheques, bills of exchange, promissory notes and other instruments credited or representing Amounts Credited to the Open Account have been duly paid or honoured to the extent and in such manner that there is no possibility of SEA not receiving or being obliged to repay the amount thereof or being subject to any liability whether contingent or otherwise or becoming subject to liability whether contingent or otherwise or unless provision for any such non-receipt, obligation to repay, liability or possibility of liability is made to the satisfaction of SEA.

8. For the purpose of giving full effect to this Indenture FRANCHISEE's hereby irrevocably appoint SEA and each Director and the Secretary for the time being of SEA severally to be the Attorney of FRANCHISEE's in the name of FRANCHISEE's or in the name or names of the said Attorney or otherwise to enter into and take possession of the Charged Assets or any of the Charged Assets forcibly or otherwise and to ask for demand sue for recover and receive from the person or persons who for the time being may be liable to pay the same or who may be in possession thereof or who may otherwise be liable in that behalf and on non-payment or non-delivery thereof to commence prosecute and at pleasure discontinue any actions suits or other proceedings whatsoever for the recovering or obtaining possession of the same and to adjust settle compromise and compound all actions suits proceedings accounts transactions disputes and things whatsoever relating to the Charged Assets or any of them and on delivery or receipt of all or any of the Charged Assets to sign and to give good and sufficient receipts and discharge for the same respectively and to make perfect sign and execute any assignment transfer and assurance of delivery of all or any of the Charged Assets not passing at law by the effect of the assignment hereinbefore contained to SEA and also from time to time to enter upon the premises wherever the Charged Assets or any of them may be for the purpose of exercising all or any of the powers and giving effect to the provisions of this Indenture and for all or any of the purposes aforesaid to appoint one or more substitute or substitutes agent or agents under or in place of them or him and to revoke such appointment at pleasure and generally to do perform and execute all such acts deeds matters and things as may be necessary for the purpose of giving complete effect to this Indenture in as full and ample a manner to all intents and purposes whatsoever as FRANCHISEE's might or could do if this Indenture had not been made FRANCHISEE's hereby agreeing to confirm whatsoever SEA or each Director or the Secretary for the time being of SEA or their substitute or substitutes agent or agents shall do or cause to be done by virtue of this Indenture.
9. If SEA shall grant to FRANCHISEE's at any time or indulgence or waive any or any part of any breach of any covenant or provision of either this Indenture or the Store Agreement by FRANCHISEE's the same shall not affect or prejudice SEA's rights hereunder or be deemed to be a continuing waiver of such covenant or provision or part thereof or as a waiver of any future breaches of the same or any other covenant or provision herein contained.
10. (1) The powers of sale and seizure implied by Part III of the Fourth Schedule to the Property Law Act 1958 and Section 101 of the said Act respectively shall be exercisable at the option of SEA on this security becoming enforceable in addition to and not in derogation from the powers and authorities conferred on SEA by this Indenture;
- (2) In the last paragraph of Part III of the Fourth Schedule to the Property Law Act 1958 there shall be deemed to be

included before the words "subject as" the words "and for enabling him and those deriving title under him to gain possession thereof".

11. FRANCHISEE's shall save harmless and keep indemnified SEA and its officers servants and agents and each of them from and against all actions claims counter-claims set-offs liabilities costs charges and expenses brought made or asserted against or incurred or suffered by SEA or its officers servants and agents or any of them arising out of or in connection with anything done or omitted by SEA or by its officers servants and agents or any of them under or in pursuance of these presents.
12. The provisions of any statute or regulation thereunder postponing or otherwise restricting or prejudicing the rights powers or remedies of SEA shall not apply to this Indenture insofar as the same may lawfully be excluded.
13. A demand requisition or notice whatsoever from SEA to FRANCHISEE's for the purpose of or under in pursuance of these presents may (in addition to any other means of service permitted by law) be served by delivering the same to FRANCHISEE's or any one of them personally or by addressing the same to FRANCHISEE's or any one of them (not necessarily by their or his full name) and posting or otherwise sending the same to FRANCHISEE's or any one of FRANCHISEE's or leaving the same for FRANCHISEE's or any one of them at FRANCHISEE's residence, address for service of notices under the Store Agreement or at any other place reasonably believed by SEA to be the place of business or residence of FRANCHISEE's or any one of FRANCHISEE's.

Schedule

Store Agreement execution date : [insert]

7-ELEVEN store address: [insert]
[insert]

Telephone : [insert]

Full names and addresses of chargors: [insert]
[insert]
[insert]

Telephone : [insert]

**The common seal of
7-ELEVEN Stores Pty Ltd**
is fixed to this document
in the presence of:

Director

Authorised Signatory

Name (please print)

Name (please print)

Address

Address

Executed by
[insert FRANCHISEE's name]
by being signed by those persons who are authorised to sign for the Company:

Director

Director

Full name (please print)

Full name (please print)

Usual address

Usual address

Executed by

[insert FRANCHISEE's name]

by being signed by the person who is authorised to sign for the Company:

Sole Director and Sole Company Secretary

Full name (please print)

Usual address

Exhibit H

(Articles 41(g) and 45(a)(ii))

Guarantee

7-Eleven store No: [insert number]

TO: 7-Eleven Stores Pty Ltd (hereinafter called SEA which expression shall where the context so admits be deemed to mean and include SEA and its transferees successors or assigns). In consideration of SEA having agreed to enter into the agreements described in Item 1 of the Schedule (hereinafter called "the said agreements") with the FRANCHISEE named and described in Item 2 of the Schedule hereto at the request of the persons named and described in Item 3 of the Schedule hereto (hereinafter called the "Existing Guarantors") and separately at the request of the person named and described as Item 4 of the Schedule (hereinafter called "the Additional Guarantor") the Additional Guarantor unconditionally Guarantees to SEA the due and punctual payment of all sums of money which the FRANCHISEE named in the said agreements may be or hereafter be liable to pay to SEA under or pursuant to the said agreements or any of them or arising from the breach of the said agreements or any of them and the due and punctual performance by the FRANCHISEE as Licensee of each of the covenants obligations terms and conditions contained in the said agreements or any of them and on the part of the FRANCHISEE to be performed and observed and that Guarantor further agrees:

1. That this Guarantee shall be a continuing Guarantee and shall be irrevocable and shall remain in full force and effect until all of the moneys guaranteed have been paid to SEA and all of the terms and conditions and obligations contained in the said agreements have been duly and punctually observed and performed by the FRANCHISEE.
2. That this Guarantee is without prejudice to and shall not be affected by nor shall the rights or remedies of SEA against the Existing Guarantors or the Additional Guarantor be in any way prejudiced or affected by any waiver or indulgence whether as to time or otherwise given to any moneys or the performance of any obligations by the FRANCHISEE under the said agreements or any of them.
3. That this Guarantee is in addition to and not in substitution for any other security which SEA may hold in respect of the said agreements or any of them and may be enforced without first having recourse to any such security and without taking any steps or proceedings against the FRANCHISEE whether pursuant to the said agreements or any of them or any security or otherwise notwithstanding that any security or the said agreements or any of them shall be in whole or in part enforceable by reason of any rule of law or equity.
4. That the liability of the Additional Guarantor hereunder shall not be affected by the insolvency liquidation death incapacity or bankruptcy of the FRANCHISEE or the Existing Guarantors or any of them.

5. That to the extent (if any) that the Guarantee hereby entered into may be void or unenforceable by reason of the fact that all of any of the obligations of the FRANCHISEE pursuant to the said agreements or any of them may not be enforceable or may cease to be enforceable against the FRANCHISEE the Additional Guarantor agrees personally and for the Additional Guarantor's administrators and executors to indemnify SEA in respect of any loss damage costs or expenses suffered by SEA as a result of any failure by the FRANCHISEE to pay all or any of the moneys hereby guaranteed or as a result of any failure by the FRANCHISEE to duly and punctually perform and observe all or any of the terms conditions and obligations contained in the said agreements or any of them.
6. The liability of the Additional Guarantor hereunder shall be deemed to be joint and several with that of the Existing Guarantors.
7. That in the event of the FRANCHISEE entering into an arrangement with its creditors or in the event of the liquidation of FRANCHISEE the Additional Guarantor will not prove in such bankruptcy assignment of liquidation in competition with SEA and the Additional Guarantor hereby authorises SEA to prove in such bankruptcy assignment or liquidation for all moneys which the Additional Guarantor has paid hereunder and to retain any amounts received until SEA shall with the aid thereof have been paid 100 cents in the dollar in respect of all moneys hereby guaranteed.

Schedule

1. The agreements guaranteed are as follows:
 - (a) The "Store Agreement" dated the [insert date] and all Exhibits and Annexures thereto, including but not limited to Exhibits A, B, C, D and E.
 - (b) The charge dated the [insert date] set out in Exhibit G to the "Store Agreement".
 - (c) All other agreements, exhibits or annexures of whatsoever nature between the FRANCHISEE and SEA whensoever agreed upon or executed, whether before or after the execution of this Guarantee.
2. The FRANCHISEE are [insert name] whose registered office is at: [insert address and telephone no]
3. The Existing Guarantors are:

[insert names]	[insert names]
[insert address]	[insert address]
[insert address]	[insert address]
Telephone [insert telephone no]	Telephone [insert telephone no]
4. The Additional Guarantor is:

[insert name]

[insert address]

IN WITNESS WHEREOF the Additional Guarantor has executed these presents this [insert date].

Signature

Name (please print)

in the presence of:

Name
Witness

Name
Witness

Exhibit I
(Articles 31(b) and 45(c))
Company details

7-Eleven store No: [insert number]

Name of company: [insert]

Australian Company Number: [insert]

Date of registration/incorporation: [insert]

Registered office: [insert]
[insert]
Telephone [insert]

Directors' names & addresses: [insert]
[insert]
[insert]
Telephone [insert]

[insert]
[insert]
[insert]
Telephone [insert]

NOMINATED DIRECTORS' names & addresses: [insert]
[insert]
[insert]
Telephone [insert]

[insert]
[insert]
[insert]
Telephone [insert]

Secretary's name and address: [insert]
[insert]
[insert]
Telephone [insert]

Authorized capital:

[insert]

Issued capital:

[insert]

Shareholders' names & addresses:

[insert]

[insert]

[insert]

Telephone [insert]

[insert]

[insert]

[insert]

Telephone [insert]

Beneficial owners of shares:

[insert]

Company acts as trustee:

[insert if applicable]

Name of trust:

[insert if applicable]

Type of trust:

[insert if applicable]

Date of trust deed:

[insert if applicable]

Settlor:

[insert if applicable]

Appointor:

[insert if applicable]

Named beneficiaries:

[insert if applicable]

Unit holders:

[insert if applicable]

Beneficial owner of units:

[insert if applicable]

Signed by all Directors of the FRANCHISEE as being true and correct in every particular:

Director [Insert name]

Director [Insert name]



Multiple Store Addendum

The parties agree

- 1 This Addendum forms part of the store agreements (to which it is attached) for Store Numbers:
[Insert number] made on **[insert date]**; and
[Insert number] made on **[insert date]** (separately and together the **Store Agreements**) between the following parties:
 - 1 **7-Eleven Stores Pty Ltd**
ACN 005 299 427
of 357 Ferntree Gully Road, Mt Waverley, Victoria, 3149
(SEA)
 - 2 **[insert name of party]** who is described as and has signed the Store Agreement as FRANCHISEE, jointly and severally if more than one
or
[insert name of party]
[insert ACN/ARBN/ABN]
of **[insert address]**
as executed by persons who are described in Exhibit D and have signed the Store Agreement as NOMINATED DIRECTORS.
(FRANCHISEE)
- 2 The terms used herein shall have the meanings defined in the Store Agreements.
- 3 In addition to the requirement that the FRANCHISEE must maintain the minimum Net Worth as specified in Item (g) of Exhibit D to each of the Store Agreements, the FRANCHISEE must maintain an aggregate balance in its combined Open Accounts at least equal to the aggregate minimum Net Worth value of all of the Store Agreements.
- 4 If the FRANCHISEE allows the minimum Net Worth, as specified in Item (g) of Exhibit D to any of the Store Agreements to fall below the amount so specified, then SEA can, without first requesting that the FRANCHISEE remedy such a breach or notifying the FRANCHISEE of its intention, transfer Net Worth in excess of the minimum Net Worth

from the Open Account of any other of the Store Agreements to restore that minimum Net Worth and remedy that breach.

- 5 Notwithstanding paragraph 4 of this Addendum, SEA may in its sole discretion terminate any or all of the Store Agreements in accordance with Article 25 of the Store Agreements if the FRANCHISEE allows the minimum Net Worth of any of the Store Agreements to fall below the minimum Net Worth amount specified in Item (g) of Exhibit D to the Store Agreements, even though the Net Worth under any other of the Store Agreements remains in excess of the Net Worth amount specified in Item (g) of Exhibit D to that Store Agreement.
- 6 Any event giving SEA a right to terminate any of the Store Agreements, specifically including but not limited to breaches for fraud and Fraudulent Behaviour, shall also give SEA the right in accordance with the provisions of Article 25 of the Store Agreements to terminate all of the Store Agreements.
- 7 In all other respects the Store Agreements are hereby ratified and re-affirmed.

Signed on [insert date]

Signed for

7-Eleven Stores Pty Ltd

by its representative (in accordance with Article 41(f) of the Store Agreement):

Name _____
State Operations Manager

Name _____
Franchise Manager

in the presence of:

Name _____
Witness

Name _____
Witness

Signed for

[insert FRANCHISEE's name]

in the presence of:

Secretary/Director

Director

Name (please print)

Name (please print)

in the presence of:

Name _____
Witness

Name _____
Witness

Card Payment Facility Addendum

7-Eleven store Number: [insert number]

THIS ADDENDUM forms part of the Store Agreement to which it is attached dated **[insert date]** made between 7-ELEVEN Stores Pty Ltd, ACN 005 299 427 (SEA), an Australian company having its registered office in Victoria at 357 Ferntree Gully Road, Mt Waverley and

The FRANCHISEES under the Store Agreement who have initialled this Addendum as FRANCHISEES.

- (a) Whereas SEA is desirous that all stores should provide card payment facilities for customers, the FRANCHISEE hereby elects and agrees to participate in such credit card and debit card programs as SEA may require.
- (b) Card payment facilities may include manually processed Credit Card facilities and/or Electronic Funds Transfer at Point of Sale (EFTPOS). The FRANCHISEE acknowledges and agrees that SEA may add or discontinue any facility or program at the absolute discretion of SEA.
- (c) The FRANCHISEE hereby authorises SEA to act on the FRANCHISEE'S behalf for the purpose of establishing, maintaining and processing such facilities, programs and payments, save and except that any costs as a result of default, misuse, abuse, improper processing or checking by the FRANCHISEE or the FRANCHISEE'S staff, Employees, servants or agents shall be deemed to be an expense of the FRANCHISEE.

FRANCHISEE/S _____ SEA _____ DATE [insert date]

- (d) All periodic charges, processing charges, fees, expenses or discounts attributable to the use of such programs or facilities shall be borne by SEA and the FRANCHISEE in the same proportion as that applicable to the Gross Profit 7-ELEVEN Charge for the relevant Accounting Period.

The terms used in this Addendum shall have the meanings defined in the Store Agreement.

FRANCHISEE/S _____ SEA _____ DATE [insert date]

Optical Surveillance Equipment Addendum

7-Eleven store No: [insert number]

THIS ADDENDUM is supplemental to and forms part of the Store Agreement (“**Store Agreement**”) made between **7-ELEVEN STORES PTY LTD** (ACN 005 299 427) of 357 Ferntree Gully Road, Mount Waverley, (“**SEA**”), the Franchisee named in the Store Agreement (“**FRANCHISEE**”) and the Nominated Director or Nominated Directors identified therein (“**NOMINATED DIRECTOR**”):

WHEREAS:

- A.** In the interests of better ensuring the security, protection and safety of **FRANCHISEE**’s officers, employees, customers and invitees **SEA** has installed (or proposes to install) optical surveillance equipment within the Licensed Premises.
- B.** The parties have agreed upon, and are desirous of recording, the arrangements which will apply in relation to such equipment and in relation to any additional equipment which **FRANCHISEE** may (with the approval of **SEA**) also install.

NOW IT IS AGREED

1. Interpretation and Definitions

- 1.1 “**Camera**” means a video camera or other device utilised for the purpose of visually recording activity and which forms part of **SEA**’s Equipment or **FRANCHISEE**’s Equipment.
- 1.2 “**Equipment**” means **FRANCHISEE**’s Equipment and/or **SEA**’s Equipment according to the context.
- 1.3 “**Financial Year**” means the 12 month period ending on 30th of June.
- 1.4 “**FRANCHISEE**’s **Equipment**” means the additional optical surveillance equipment (if any) installed or be be installed on the Licensed Premises by **FRANCHISEE** pursuant to Clause 4.

- 1.5 “**SEA’s Equipment**” means the optical surveillance equipment installed or to be installed on the Licensed Premises by SEA and being more particularly described in Exhibit B to the Store Agreement.
- 1.6 “**Recordings**” means the visual or video record (howsoever retained or stored) of activity within the Licensed Premises captured by the Equipment.
- 1.7 “**Term**” means the term of the Store Agreement.
- 1.8 Unless inconsistent with the context all words and phrases used in the Addendum shall have the meaning ascribed to them in the Store Agreement.
- 1.9 Where there is more than one NOMINATED DIRECTOR each shall be bound both jointly and severally by the acknowledgments, consents and undertakings contained in this Addendum.

2. Acknowledgement and Consent

FRANCHISEE acknowledges that the Licensed Equipment includes SEA’s Equipment and as occupier of the Licensed Premises FRANCHISEE hereby consents to the installation thereof (where that has not yet occurred) and to the use and maintenance of SEA’s Equipment by SEA during the Term.

3. Alterations and/ or Additions to Equipment

Save in respect of those locations within the Licensed Premises where installation is prohibited by law, FRANCHISEE and NOMINATED DIRECTOR acknowledge and agree that SEA shall be at liberty to install and from time to time during the Term add to, remove and/or relocate any Camera or Cameras forming part of SEA’s equipment in from or to such position or positions within the Licensed Premises as SEA in its sole discretion deems appropriate.

4. FRANCHISEE's Equipment

- 4.1 FRANCHISEE may, subject to the approval of SEA (which shall not be unreasonably withheld), install additional optical surveillance equipment in the Licensed Premises in such position(s) or location(s) therein as shall be agreed in consultation with SEA.
- 4.2 The cost of procuring, installing, maintaining and operating FRANCHISEE's Equipment shall be borne in all respects by FRANCHISEE.
- 4.3 For so long as FRANCHISEE's Equipment remains installed on the Licensed Premises, FRANCHISEE shall ensure that the same is regularly inspected, serviced, repaired and maintained and at all times kept in proper operational order.

5. Purchase / Removal of FRANCHISEE's Equipment

- 5.1 Unless SEA has served notice beforehand under Clause 5.2, on or before the expiry or sooner determination of the Store Agreement, FRANCHISEE shall remove FRANCHISEE's Equipment and make good to the Licensed Premises any damage occasioned by such removal.
- 5.2 FRANCHISEE grants to SEA an irrevocable option to purchase FRANCHISEE's Equipment exercisable by SEA giving notice in writing at any time during the term of the Store Agreement.
- 5.3 On the effecting of service of a notice under Clause 5.2 all property rights in FRANCHISEE's Equipment and the entitlement to possession thereof shall pass to SEA.
- 5.4 The amount payable by SEA for FRANCHISEE's Equipment shall be that amount which is equivalent to the lesser of:
 - (a) the amount paid by FRANCHISEE for the initial purchase of FRANCHISEE's Equipment (to be verified by production of Invoice or other satisfactory evidence), or

(b) where notice under Clause 5.2 is served in a Financial Year subsequent to the Financial Year in which FRANCHISEE's Equipment was purchased, the written down value thereof as recorded in FRANCHISEE's most recently lodged or prepared income taxation return provided that where a return for the Financial Year immediately preceding the date of notice under Clause 5.2 has not been lodged or prepared, the depreciated value shall be calculated by SEA's Chief Financial Officer applying the appropriate permitted depreciation allowance (for taxation purposes) to the original cost.

5.5 SEA shall pay to FRANCHISEE (or credit FRANCHISEE's Open Account with) the amount due in accordance with Clause 5.4 no later than 14 days following submission of an invoice therefor by FRANCHISEE together with the required supporting documents.

6. Recordings

FRANCHISEE and NOMINATED DIRECTOR acknowledge and agree that:

- (a) all proprietary and other rights in the recordings (to the extent that the same are permitted to be held) shall vest in and remain with SEA whether the recordings are made by SEA's Equipment or FRANCHISEE's Equipment,
- (b) in addition to accessing recordings for security purposes and as an aid in the detection of offences and/or the identification of offenders reference thereto may also be made by SEA for general compliance monitoring, and
- (c) in addition to that of customers and visitors to the Store, the activity and images which will be recorded by the Equipment will include those of NOMINATED DIRECTOR, the employees of the FRANCHISEE and the invitees of the FRANCHISEE.

7. Equipment – FRANCHISEE's obligations

FRANCHISEE and NOMINATED DIRECTOR covenant that they shall ensure that:

- (a) the view or normal operational scope of the Cameras is not in any way altered, obstructed or interfered with,

- (b) the Equipment remains connected to an active mains power outlet (or if directly wired that the supply thereto is not disconnected),
- (c) any damage, interference with or apparent malfunction of SEA's Equipment is immediately reported to SEA,
- (d) they and all employees of FRANCHISEE comply in all respects with any directions issued by SEA in relation to the use of the Equipment within the Licensed Premises and/or the display of signage pertaining thereto, and
- (e) each employee of FRANCHISEE is made aware of the arrangements effected by this Addendum and that (if required by SEA) the acknowledgment of each such employee in relation thereto is obtained.

DATED this [insert day] day of [insert month] [insert year]

(For SEA)

(For FRANCHISEE)

NOMINATED DIRECTOR

NOMINATED DIRECTOR

Consigned Fuel Addendum

7-Eleven store No: [insert number]

THIS ADDENDUM forms part of the Store Agreement to which it is attached dated [insert date] made between 7-Eleven Stores Pty Ltd, ACN 005 299 427 (SEA), an Australian company having its registered office in Victoria at 357 Ferntree Gully Road, Mt Waverley

and

The FRANCHISEES under the Store Agreement who have initialled this Addendum as FRANCHISEES.

- (a) The area of the parking lot designated for self-service fuel on the Plan attached to Exhibit A to this Agreement and such additional areas as are necessary in SEA's sole discretion for the installation, maintenance, repair and operation of the Fuel Equipment hereinafter defined and the unobstructed non-exclusive ingress and egress over and across the Licensed Premises and to the Store (together the "**Fuel Sales Area**") are reserved to SEA.
- (b) SEA at its expense has or will install in the Fuel Sales Area and may from time to time replace or add any fuel storage tanks, pumps, lights, intercommunication systems, elevated concrete islands, parking strips or pads signage, and related electrical and piping systems that SEA in its sole discretion may desire (the "**Fuel Equipment**"). A listing of the Fuel Equipment shall be prepared by SEA periodically and dated and initialled by the parties for verification.

FRANCHISEE/S _____ SEA _____ DATE [insert date]

- (c) The FRANCHISEE shall operate the Fuel Equipment as a service incidental to the FRANCHISEE'S Operation and shall use the Fuel Equipment solely for the retail sale of fuel provided by SEA on consignment (the "Consigned Fuel"). The FRANCHISEE shall use its best efforts to promote the retail sales of the Consigned Fuel during all hours the Store is open for business.
- (d) Title to the Consigned Fuel shall remain with SEA until it is either sold to a customer or otherwise disposed of by the FRANCHISEE. The Consigned Fuel shall at all times be subject to the direction and control of SEA.
- (e) All sales of the Consigned Fuel shall be for cash unless SEA in its sole discretion and then only to the credit limits established by SEA authorises the FRANCHISEE to accept designated credit cards for such sales. The Consigned Fuel shall be sold by the FRANCHISEE at retail prices established by SEA in its sole discretion from time to time. Title to the proceeds of all sales by the FRANCHISEE of the Consigned Fuel shall at all times be vested in and belong to SEA and the possession and control thereof by the FRANCHISEE shall be as trustees for the use and benefit of SEA and not otherwise and such proceeds shall not be expended by the FRANCHISEE for Purchases or Operating Expenses. The value and sales of the Consigned Fuel shall not be included in the Investment, Retail Book Inventory, Cost of Goods Sold or Net Sales (as defined in Exhibit E) and the Consigned Fuel shall not be a part of the Inventory.
- (f) The FRANCHISEE shall account to SEA for the Consigned Fuel and record, report the receipt and sale of and deposit all proceeds from all sales of the Consigned Fuel on forms to be provided by SEA and in the same manner as Purchases and Sales Receipts. The FRANCHISEE shall permit SEA to conduct Physical Audits of the Consigned Fuel and records relating thereto at any time during normal business hours. If the proceeds from sales by the FRANCHISEE of the Consigned Fuel as so reported and deposited are less than the sales of the Consigned Fuel reflected by the pump or dispenser meter readings, the difference shall be the sole responsibility of the FRANCHISEE and shall be included in the Operating Expenses (as defined in Exhibit E).

FRANCHISEE/S _____ SEA _____ DATE [insert date]

- (g) The FRANCHISEE shall not make or permit the FRANCHISEE'S employees agents or representatives to make any representations concerning the Consigned Fuel unless such representations have been previously approved by SEA in writing.
- (h) SEA shall have full and complete control of all trade names, trademarks, signage or such other materials to be used to describe or in the promotion or sale of the Consigned Fuel including any of the Trademarks and the FRANCHISEE shall display same in such manner as may from time to time be specified by SEA. Any advertising by the FRANCHISEE in the promotion or sale of the Consigned Fuel shall be submitted to SEA for its prior written approval before any use or dissemination of same.
- (i) The FRANCHISEE acknowledge that any loss in Fuel stock due to customer theft shall for the purpose of this clause be deemed to have been purchased by the FRANCHISEE from SEA.
- (j) The FRANCHISEE shall at the FRANCHISEE'S expense be responsible for all labour required in connection with the promotion and sale of the Consigned Fuel including but not limited to that necessary for the operation of the Fuel Equipment and the cleaning and care for the Fuel Sales Areas, and agree to measure, record and report to SEA, gasoline, diesoline or liquid petroleum gas measurements in the delivery vehicle underground and aboveground storage tanks before and after each delivery of fuel.
- (k) The FRANCHISEE agrees to notify SEA immediately upon discovery by the FRANCHISEE or its servants or agents of a shortage of fuel delivered. The FRANCHISEE agrees to indemnify SEA for any loss whatsoever arising out of the failure of the FRANCHISEE and its servants or agents to notify SEA of a shortage of fuel delivered or accurately measure gasoline, diesoline or liquid petroleum gas delivered.

FRANCHISEE/S _____ SEA _____ DATE [insert date]

- (l) The loss referred to in paragraph (k) of this addendum shall be the cost value of the shortage of fuel. The shortage of fuel shall be the volume difference between a reconciliation of the measure in the tanks prior to delivery, and the measure in the tanks together with the measured volume of sales at a subsequent time.
- (m) SEA shall at SEA 's expense be responsible for all Utilities used by the FRANCHISEE in connection with the Fuel Sales Area, all taxes relating to the Fuel Sales Area, and the Fuel Equipment, all permits relating to the installation or operation of the Fuel Equipment, all labour and materials necessary for the maintenance and repair of the Fuel Equipment unless occasioned by negligence or wilful misconduct of the FRANCHISEE or the FRANCHISEE'S agents, representatives or employees and all loss or damage to the Consigned Fuel resulting from fire, theft from fuel storage tanks, adulteration, seepage, acts of God and other causes unless caused by the negligence or wilful misconduct of the FRANCHISEE or the FRANCHISEE'S agents, representatives or employees. SEA shall have no liability for failure for any reason to provide fuel to the FRANCHISEE.
- (n) The FRANCHISEE shall receive as remuneration for the services performed in the promotion and sale of the Consigned Fuel and for the FRANCHISEE'S responsibilities relating to the Fuel Area and the Fuel Equipment a commission (the "Fuel Commission") in an amount equal to the Litres of the Consigned Fuel sold by the FRANCHISEE during each Accounting Period as reflected by the pump meter reading times 0.22 of one cent. The Fuel Commission shall be added to and deemed to include in Gross Income for the purposes of Article 23(b).
- (o) If the FRANCHISEE'S sales of the Consigned Fuel for any Accounting Period are not satisfactory to SEA, in its sole discretion, upon the request of SEA, the FRANCHISEE shall discontinue the sale of fuel and SEA shall have the right to make such other arrangements therefor as SEA in its sole discretion may desire including but not limited to operating the Fuel Equipment and the Fuel Sales Area itself or closing or removing the Fuel Equipment.

FRANCHISEE/S _____ SEA _____ DATE [insert date]

- (p) Except as otherwise expressly provided in this addendum, each provision of this Agreement shall be construed as applicable to the Fuel Sales Area, the Fuel Equipment and the Consigned Fuel.

- (q) If the FRANCHISEE fails to perform any of the provisions of paragraphs (a) – (j) inclusive of this Addendum, such failure shall be a Material Breach of the Store Agreement by the FRANCHISEE, which the FRANCHISEE hereby acknowledges constitutes good cause for termination.

- (r) For the purposes of this addendum “fuel” means leaded and unleaded petrol, diesoline and liquid petroleum gas products.

The terms used in this Addendum shall have the meanings defined in the Store Agreement.

FRANCHISEE/S _____ SEA _____ DATE [insert date]

Senate Education and Employment Committee

Inquiry into the impact of Australia's temporary work visa program on the Australian labour market
and on the temporary work visa holders

QUESTIONS ON NOTICE to Dr Tess Hardy – Thursday 24 September 2015 Melbourne

1. **HANSARD, PAGE 44**

Senator McKENZIE: Thank you very much, Dr Hardy. I want to go to the franchise code. Within that code, we go to the franchisee's business acumen, we ask questions about whether they have all the information they need about this model, we talk about the site, and we talk about how we are going to organise IP between the head honcho and the franchisee, yet nowhere in that document does it talk about the relationship between the franchisee and the type of employment standard that they are going to practise in their company. Do you think we need to amend the franchise code?

Dr Hardy: It is an interesting question, and I think that it goes back to the comments I made earlier, which the chair raised, in respect of: if there are problems with the business model, which regulator should be identifying those issues? It is a difficult question, to be honest. I am not sure. I would have to take that on notice.

While the precise terms and conditions of franchise agreements may vary between different franchisees and between distinct franchise networks, it is common for franchise agreements to contain express provisions to the effect that:

- 1) the franchisee is responsible for employing workers in the relevant outlets; and
- 2) the franchisee is required to comply with all applicable laws at all times.

In addition to any binding contractual obligations which apply to the franchisee under the commercial agreement with the franchisor, as an employer, the franchisee is automatically required to comply with all relevant workplace laws, including provisions of the *Fair Work Act 2009* (Cth) (**FW Act**).

In light of the statutory and contractual obligations that already apply to most franchisees, there appears to be little need to amend the Franchising Code of Conduct (**Franchising Code**) to clarify the 'employment standard' expected of franchisees.

Where franchisees have failed to meet the relevant and applicable employment standards, a number of consequences may flow. The Office of the Fair Work Ombudsman, or relevant unions, may pursue the franchisee for civil remedies under the FW Act. Further, the franchisor may seek to terminate the franchise agreement with the franchisee. However, exercise of the franchisor's right to terminate the franchise agreement is subject to the provisions of the Franchising Code and the

Australian Consumer Law more generally. Under the current provisions of the Franchising Code, it is not entirely clear that the franchisor can terminate the agreement without notice where there are reasonable grounds for believing that contraventions of the FW Act have occurred, or are likely. This is one aspect of the Franchising Code, amongst others, which may require further clarification and possible amendment.

Senate Education and Employment Committee

Inquiry into the impact of Australia's temporary work visa program on the Australian labour market
and on the temporary work visa holders

QUESTIONS ON NOTICE to the FWO – Thursday 24 September 2015 Melbourne

1. HANSARD, PAGE 66

Mr Campbell: PSP International Trading Pty Ltd.

CHAIR: As part of the enforceable undertaking, you often require that the employer make some kind of community contribution. Did you on this occasion?

Ms James: I think we would need to take that on notice.

CHAIR: That is fine.

Ms James: The enforceable undertaking will be on the website. I think, in this matter, the franchisee was under considerable financial pressure and so we were primarily concerned with putting money back into the hands of the workers, but we will check that and come back to you on notice.

ANSWER:

A copy of the enforceable undertaking executed with PSP International Trading Pty Ltd is available on the Fair Work Ombudsman website www.fairwork.gov.au.

The enforceable undertaking did not require the employer to make a community contribution.

CHAIR: Ms James, you said that you expressed concern to the head office of 7-Eleven. Who did you express that concern to and when?

Ms James: I will check the names of the individuals that we spoke with, but I think one of them was one of your witnesses earlier today. We have met with Natalie Dalbo, the national operations manager, on two occasions, and there have been a number of conversations as well. In fact, in a conversation in May this year, in a meeting at our own initiative, we met with Ms Dalbo and Sue Owen to discuss our preliminary findings.

ANSWER:

We met with 7-Eleven shortly after the commencement of our Inquiry, on **13 October 2014**. At this meeting we:

- explained the Inquiry we had recently commenced and why;
- explained that in complaints received from across states and locations there were very similar allegations around false recording of hours worked and wages paid;
- advised that the conduct we had seen in complaints was similar to that observed in Bosen, and that it was too similar to be a coincidence; and
- explained that the FWO was seeking to look into this further to try to work out why this was happening and where the behaviour was originating.

7-Eleven mentioned that community and cultural groups may be sharing information, and that Head Office were looking at how many payroll hours were worked per store and questioning stores that did not have enough hours to cover their operation.

We met with 7-Eleven again on **5 May 2015**. At this meeting we presented 7-Eleven with the preliminary findings of our Inquiry. We also:

- explained that the Inquiry commenced after FWO received intelligence both from requests for assistance and from various anonymous sources;
- advised the intelligence suggested non-compliance with minimum entitlements and false record keeping practices within the 7-Eleven network. Moreover on the back of that intelligence, in September 2014, we undertook unannounced Saturday nights visit to 20 city stores to gather evidence;
- advised that out of the 20 stores visited, the majority had provided information in response to notices to produce documents which was inconsistent with what our Inspectors had gathered on the night of the visits; and
- explained the FWO could not be 100% confident in the compliance of any of the stores. The level of non-compliance with record keeping practices, and in particular false record keeping practices, was particularly disappointing. Some stores had provided fraudulent records and/or information to the FWO which was a serious offence.

In addition to the meetings described above, officers of the Fair Work Ombudsman have had and will continue to have ongoing email and telephone engagement with representatives of Head Office.

CHAIR: What do you say to their evidence that pre the *Four Corners* program and post the *Four Corners* program there was a 16 per cent jump in their payroll? I think it is more than that, but because they have given us the figures I have not had a chance to work it out.

Ms James: I could not comment on that. There are obviously some complexities in the way they manage their business, and there might be a number of reasons for that.

CHAIR: They certainly did not tell us that they had put on more staff. They said there had been a 16 per cent jump and that the payroll at that point was similar to the payroll that they paid last week, which was something like \$2.485 million, and that prior to the *Four Corners* program it was \$1.84 million.

Ms James: I look forward to reading the transcript. I am sure my inspectors will as well, and that they will find this information a very interesting source for our ongoing inquiries.

CHAIR: When you read the transcript—perhaps you could take it on notice and make some comment about a 16 per cent jump in pay?

ANSWER:

The Fair Work Ombudsman is not in a position to make comment.

Senator RICE: Presumably, when you took action in 2009, and then again in 2014, you informed head office at that stage. What did you ask at that stage, and did they deliver on those prior occasions?

Ms James: I would have to go back and look at the detail.

ANSWER:

7-Eleven came to our attention in 2009. In response, the Fair Work Ombudsman carried out two audit activities. The second of which, we designed after a request from 7-Eleven Head Office for advice and assistance.

Following our audit activities in 2009/2010, 7-Eleven Head Office gave an assurance that they would consider the information that had been provided, were taking the matters raised very seriously and would look into it further.

In 2014 we became concerned again about conduct in 7-Eleven stores. As a result we commenced an Inquiry, which is currently ongoing. In the course of the Inquiry, 7-Eleven Head Office has provided information and documentation to the Fair Work Ombudsman upon request.

Ms James: It depends. For example, we have an arrangement called a 'compliance partnership' which we enter into with businesses which want to ensure they have good practices in place. We often say to them, 'Include a clause that enables you to terminate your contract with any supplier that is not paying its workers properly.' Of course, you need a bit of due process—time to fix it et cetera. I would be very concerned if there were anything in the franchising arrangements that protected a scenario where someone was underpaying and the franchisor could not deal with that.

Senator McKENZIE: Yes. The evidence we heard from 7-Eleven essentially said that they could not terminate. I would like you to have a look at the franchising code and, on notice, go to exactly the question you just asked yourself then, Ms James.

Ms James: I am happy to do that. Personally, I find it surprising that something in a code prevented them or made it unlawful for them to—

Senator McKENZIE: I would really appreciate your opinion on his evidence around termination of contracts, the franchising code.

ANSWER:

Responsibility for the Franchising Code of Conduct pursuant to the *Competition and Consumer Act 2010* is vested in the Australian Competition and Consumer Commission (ACCC). Questions about the application of the Code are best directed to the ACCC.

Senator O'NEILL: Dr Hardy and Professor Tham gave evidence today; I am not sure whether you heard their evidence.

Ms James: I was unable to. I had some technical errors with my computer this afternoon.

Senator O'NEILL: I wonder if I can ask you on notice to make comments on their submission, particularly the accessorial liability, which you did mention at one point. What is the legal liability of people?

ANSWER:

Regarding the legal liability of accessories, section 550 of the *Fair Work Act 2009* (Cth) (**FW Act**) provides that a person who is “knowingly involved in” a contravention of a civil remedy provision is taken to have contravened that provision. A person is taken to be “involved in” a contravention if:

- they aided, abetted, counselled, procured or induced the contravention; or
- they conspired with others to effect the contravention; or
- they were in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the contravention.

To succeed against an accessory under section 550 of the FW Act, the Fair Work Ombudsman must firstly prove the contraventions against the primary contravenor (e.g. the employer). Then, the Fair Work Ombudsman must prove accessorial liability.

The legal test for accessorial liability requires the FWO to have sufficient evidence to prove that an alleged accessory:

- had actual knowledge of the essential facts that make up the elements of the particular contravention of the Act alleged to have been breached (which encapsulates the concept of being “wilfully blind”, that is they deliberately shut their eyes to those facts); **and**
- they were an intentional participant in the alleged conduct.

Negligence or recklessness is not enough to prove accessorial liability. To bring a successful section 550 action, an applicant must present sufficient probative evidence to sustain an allegation to the standard required to prove that a person or corporate entity had “actual knowledge” of particular facts at a point in time.

By way of a more straightforward example, in a case where the Fair Work Ombudsman sought to establish accessorial liability in the case of a failure by an employer to comply with a notice to produce records issued, the Fair Work Ombudsman would need to firstly prove that the employer had not complied with the statutory notice. Thereafter the Fair Work Ombudsman would need to prove that any accessory actually knew all of the following:

- the notice to produce had been received by the employer;
- that the notice to produce required the production of particular material by a particular date; and
- that no such material had been produced by the required date.

The Fair Work Ombudsman considers holding individuals and others accountable for contraventions in which they are involved is an appropriate compliance tool. Accordingly, in each matter considered for litigation action, the Fair Work Ombudsman will assess whether there is sufficient evidence and public interest in joining accessories pursuant to section 550. Overwhelmingly, the accessories joined to Fair Work Ombudsman proceedings are directors and or managers. However, the Agency has also joined as accessories companies and persons involved in a supply chain where contraventions of workplace laws were occurring, as well as internal and on at least one occasion, external, advisors.

In 2014–15, we initiated 50 civil penalty litigations. Thirty-three matters were decided in court, including 31 commenced in prior years. This resulted in court-ordered penalties of more than \$2.3 million.

Twenty-six of these matters involved an accessory, someone other than the business who was involved in the contravention, such as a director. In these matters, penalties of \$1,909,093 were ordered, including \$571,889 against the relevant individuals.

