

## Analysis of Significant Changes

### 7-Eleven, Inc. Individual Store Franchise Agreement Issued June 15, 2018-Updated August 15, 2018

No.	Section(s)	Subject	Change	Comment/Impact on Franchisee
1	2	Independent Contractor	Franchisee must identify itself as the owner and operator of the Store.	Requiring a franchisee to state that he or she is an independent contractor, does not change the pervasive control that is actually exercised by SEI over day-to-day Store operations.
2	3, 6(c), 4(a) and 6(c)	Grand Opening Fee	\$8,000 added for franchise agreements executed on or after January 1, 2019.	A coercive threat hanging over the franchisee; SEI states that it will only apply to changeovers after January 1, 2019.
3	4, 6(b)	Store Managers	Franchisees with more than one store must have an approved manager; managers must complete training to the satisfaction of SEI; replaced managers must also be trained.	While claiming to distance itself from employment related issues, for legal and not business reasons, SEI will set up a manager training program and prohibit employment of managers who are not C.O.O.L certified. This adds additional expense to the franchisee. SEI reserves the right to require current managers to be trained.
4	5(d)(1)	In Term Non-Compete	Changed to prohibition on involvement in a competitive business with more than 50 stores that offers franchises	No longer focused on product mix; ½ mile radius retained.
5	5(d)(2)	Post Term Non-compete	Provision deleted.	This means that once the agreement expires, a franchisee can be in the convenience store business anywhere. This is one of the very few changes that favor the franchisee.
6	7(b)	Internet Sales	No compensation to the franchisee.	This provision is related to the loyalty and delivery programs described in section 17. SEI is reserving to itself the revenue from all Internet and digital sales as well as the power to force franchisees to incur some or all of the expenses relating to those transactions. Yet, franchisee contributed advertising funds will no doubt support these initiatives.

7	8(a)(2)	Premises Rentals	No credit to the franchisee for rentals received for use of the premises.	Another potential benefit to franchisees that is taken away without justification or explanation. SEI claims in an FAQ that come from Redbox and ATM equipment will continue to be shared.
8	8(a)(3) and 20(b)	Maintenance Expenses	Franchisee may incur costs and be required to make Purchases for SEI Equipment and in-store music service subscriptions.	Perpetuates the built-in conflict of interest with SEI ownership of the equipment and franchisee responsibility for maintenance.
9	10 and Exhibit D	Gross Profit Split	GGPS until SEI gives notice to convert to GGPS-OS (Graduated Gross Profit Split on Steroids).	This provision gives SEI power to require the franchisee to start paying GGPS-OS whenever it decides to do so.
10	11	Draws	Withdrawals now governed by the operations Manual.	SEI is reserving the right to limit the frequency withdrawals; weekly or even monthly withdrawals are no longer guaranteed. SEI gets the benefit of the float.
11	12(c)(3), 19(h) and 19(m)	Wage/Hour/Immigration laws	Franchisee required to certify compliance, participate in e-verify and pay for an outside auditor to confirm compliance; non-compliance is an event of default with a 5 day cure period.	SEI claims to be distancing itself from employment related issues but it is becoming an agent of federal and state government with this requirement; there is no estimate of the frequency and cost of the outside auditor.
12	12(e)	Franchisee Payroll	SEI not obligated to provide franchisee payroll.	Another expense transferred over to the franchisee; only SEI endorsed ADP payroll will integrate with store accountings; a transparent attempt to distance SEI from employment-related issues for legal but not business purposes.
13	12(e)	Vendor Payments	Will be "enabled" not paid by SEI.	The significance of this change is not explained or clear. Does this mean that franchisees will be required to actually implement these payments in the future?
14	13(a)	Operating Credit	\$200/month for 60 months.	An apparent but time- limited offset for the imposition of payroll expenses on the franchisee.

15	13(d)	Minimum Net worth	Reduced to \$10,000 when SEI decides to do so; \$5,000 for subsequent stores.	This change was opposed by the FAC as irresponsible; SEI states in an FAQ that will implement the change within 90 days. The inventory deposit will not be changed.
16	14	Re-Audits	Within a reasonable time, not 24 hours; error threshold raised from 1% to 2%.	There is no definition of what a reasonable time is. Threshold for when SEI pays for the audit has been doubled, with SEI increasingly disavowing responsibility for audit errors.
17	14	Audits	No guarantee of quarterly audits; Franchisee must cooperate with Audits.	Less frequent audits make unraveling discrepancies and inaccuracies exponentially more difficult; there is no assurance that SEI will not seek to pass the expense of these audits on to franchisees. SEI first stated that they will begin with twice yearly audits-then backed off.
18	15(a)	Initial Inventory	SEI not obligated to help clean and stock the Store.	Another benefit taken away from franchisees.
19	15(j)	Pricing	No guaranty or promise that SEI will get the best pricing and advantageous payment terms.	This is an acknowledgment that the supply chain is not being operated primarily for the benefit of franchisees; an apparent response to the complaint from some franchisees that they can sometimes purchase inventory cheaper at big box retailers than from the SEI-controlled supply chain.
20	16(e) and 26(b)(3)	Foodservice Standards	Franchisee entitled three days written notice to cure, reduced from 30 days.	This is a substantially shortened cure period which would only be justified if there was a threat to public health and safety.
21	17(a) and 26(b)(9)	Loyalty Programs	Franchisee must participate in all customer loyalty programs and the cost of redeeming all points earned rests with the franchisee. The details of these programs are left to SEI's future discretion. Failure to comply is an event of default with a 15 day cure period.	This section is a blank check written by SEI on the franchisee's bank account with no limit on what loyalty point redemptions could cost the franchisee. In addition, it will be franchisee contributions to the advertising fund that will promote these programs

22	17(b) and 26(b)(9)	Adequate Delivery Service	Franchisee is solely responsible for the cost of whatever delivery programs are mandated by SEI in the future. This may include the obligation to employ additional personnel and to acquire and insure multiple motor vehicles in the future. Failure to comply is an event of default with a 15 day cure period.	This section could require the franchisee to shoulder substantial additional labor costs as well as purchasing or leasing one or more motor vehicles in order to make these deliveries. SEI will claim that this provision allows them to force franchisees to undertake these costs and not receive any portion of the benefit.
23	17(c)	Digital Commerce	Franchisee must participate and invest in whatever digital commerce programs are mandated by SEI, including the cost of computer-related equipment facilitating pickup at and delivery from the Store.	This section is written broadly in a manner that would suggest that SEI can issue mandates from time to time requiring investment in digital hardware and require a franchisee to incur the additional costs to implement pickup and delivery, with no guarantee of a corresponding benefit.
24	18	Indemnification and Insurance	Contractual indemnification has been totally eliminated. SEI responsible only for fire and casualty loss to the Store building and the Equipment.	This traditional element of the franchise system has been discarded, transferring nearly all of the insurance responsibility and associated cost to the franchisee, and requiring that the franchisee name SEI as additional insured under all of these policies. We estimate that the typical franchisee will pay approximately \$170-\$230 per month for these insurance requirements. There are also broad indemnification provisions which may not be insurable.
25	19(c)	Meetings at Store	The franchisee must be personally present for meetings at the Store whenever requested by SEI.	Meetings with store managers or employees will not suffice. This could prove very onerous to franchisees.
26	Page E-9	Hours of Operation	24 hours a day, seven days a week.	Franchisees may no longer close on Christmas Day.
27	19(m)	Notice of violations	Franchisee must notify SEI if it receives notice of any possible violation of law from any government agency.	This section reflects SEI's concern over its legal exposure for violations of law which occur at the franchised Store-and may relate to investigations by Homeland Security and ICE.

28	20(b)	Maintenance Contracts	SEI reserves the right to use itself or its affiliates as the equipment maintenance contractor; SEI also reserves the right to stop arranging for performance of the maintenance services and to require the franchisee to use contractors it approves for required maintenance.	This section codifies the built-in conflict of interest that SEI has created by forcing franchisees to maintain equipment beyond its useful life, with SEI repeatedly refusing to commit to capital investments to replace worn out equipment on a schedule that meets industry standards.
29	22(a)	Advertising Fee	Flat 1% of GP starting January 2019.	This change provides relief to franchisees with gross profit above \$342,855 and an increase for those below that number. SEI states its intention (but refuses to make a commitment) to make this contribution corporate stores starting January 1, 2019.
30	23(c)	Use of Marks	Cannot use SEI trademark on employment related materials or domain name, email address or other online use or presence.	This change is driven by SEI's attempt to distance itself from employment related issues.
31	24(j)	Renewal Fee	The renewal fee is a flat \$50,000 (not 20% of the franchise fee that would be charged for that store).	This is among the highest franchise renewal fee known to exist in all franchise systems in the U.S and is not coupled with any commitment to store renovation or refurbishment.
32	24	Renewal Terms	A single renewal term of unspecified duration.	There is no floor on how short the term of the renewal franchise agreement might be. After that renewal, no further renewals are promised.
33	24(h)	Form of Renewal Agreement	The form of renewal agreement may be materially different from the expiring agreement and materially different from the agreement being offered to franchisees for new stores.	In this section, which is unprecedented in franchising, SEI is reserving the right to create custom renewal agreements for renewing franchisees, which will not be the same as that being offered to new franchisees entering the system or even other franchisees renewing at the same time.

34	25(b)	Transfer by Franchisee	Any transfer of an interest in a franchisee entity requires SEI consent.	If the franchisee is a corporation or limited liability company, the transfer of as little as 1% of the ownership could trigger all of the transfer requirements under the franchise agreement.
35	25(c)	Right of First Refusal	SEI has 15 days (not 10 days) to exercise; closing can be in up to 60 days (not 10 days).	The 15 day right refusal is not materially worse for the franchisee than 10 days. And the extension of 60 days to close if SEI does not exercise its right of first refusal, actually benefits the franchisee.
36	26	Termination	This vital section has been completely rewritten in a fashion that is very difficult to discern the changes, perhaps purposely so. In the previous agreement there was only one event of default for which there was no notice and no cure period. Now there are 12 such events. And the cure periods for many events of default have been shortened substantially. For example, the cure period of Foodservice standards has been changed from 30 days to 3 days.	There is a new cross default provision which states that for certain kinds of defaults, a default under one agreement is a default under all other franchise agreements held by the franchisee or its affiliates.  SEI's characterization of these wholesale changes as a "streamlining" is intentionally misleading.
37	26(e)	Store Transfer	New location must be comparable.	There is no definition of what constitutes a "comparable" location.
38	26(f)	SEI Management of Store	Any criminal proceeding or incident may trigger; SEI takes 5% of GP plus out of pocket expenses.  When it takes over a store, SEI will charge a management fee of up to 5% of gross profit plus its out-of-pocket expenses.	This change means that any criminal proceeding, however minor the offense, or any incident at the Store, even if it does not lead to criminal proceeding, could lead to an SEI takeover of the Store.  There is no limit on or definition of "out-of-pocket expenses."
39	29	Mediation	Not required; either party can opt out or terminate at any time; SEI pays 50% (not 2/3 of the costs); does not apply to non-curable defaults.	Mediation can often be used to resolve disputes through the intervention of a neutral person. SEI has recently made a mockery of the mediation alternative by refusing to participate or to negotiate. This change reflects SEI policy.

40	30(a)	Governing Law	Texas law governs.	This is an attempt to deprive franchisees of the benefit of franchise relationship laws in their home states that may be of benefit to franchisees. 18 states have such laws.
41	30(c)	Costs and Attorney Fees	SEI recovers legal fees even if no legal proceeding is filed and even if it does not prevail.	This is a characteristically one-sided provision which means that even if the franchisee wins the case, SEI can recover their legal fees and the franchisee cannot.
42	30(d)	Jury trial	Waived by both parties.	This is a mutual waiver of the constitutional right to a jury trial.
43	30(e)	Limitation of Claims	Must be filed within two (2) years of when the claim arises, whether or not the franchisees knows that there is a claim.	This clause is designed to cut off claims if not filed within two years, even if the franchisee has no idea that a claim exists.
44	31(h)	Notices	May be sent by email only.	Franchisees will be required to constantly monitor email communications from SEI.
45	31(n)	Business Judgment	SEI may make decisions based on what is good for it or the system, no matter its impact on the franchisee.	This is a transparent attempt to void the implied covenant of good faith and fair dealing, which exists in all 50 states, and which obligates both parties not to do anything to deprive the other party of the intended fruits of the bargain. It purports to allow SEI to make decisions based on its own self-interest without considering the impact on the franchisee.
46	F-109	Amendment for Existing 2004 Franchisees	Five year term 50-50 GPS preserved for five years.  A single five-year renewal. Renewal agreement may be materially different than the expiring agreement of those being offered to prospective franchisees.	This section gives franchisees the ability to preserve a 50-50 GPS for five years from the protective order that point of the new agreement. It limits the franchisee to a single five-year renewal term (10 years in all) and raises the prospect of being forced into GGPS-OS during the single five-year renewal term. This is a gun to the head of those who are on a 2004 agreement.

47	F-112	Amendment for Existing Franchisees	Current GGPS preserved through December 31, 2029; GPPS-OS for the remainder of the term.	<p>For those currently on GGPS, SEI proposes 10 years before it imposes GGPS-OS; if the franchisee does not choose to renew early on this basis (with all the other detriments reflected in this early renewal agreement), the threat is that at the actual renewal date of the current agreement, GGPS-OS will be imposed immediately.</p> <p>This is also a gun to the head of those who are on current GGPS.</p>
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