

FREE TIPS AND INFORMATION:

What is in a Franchise Agreement?

By Shelley Pearson



Franchise agreements differ from franchise to franchise and industry to industry, however they will all have one particular aspect in common – both parties' shared desire for success. The partnership between the franchisee and the franchisor has to be such that both parties are profitable. If the franchisor is not profitable, the franchisee's source for support will diminish. If the franchisee is not profitable - this works against the franchisor's goal for continued successful growth. Failing franchisees will not attract new franchisees!

Franchise agreements are by their very nature one-sided in favour of the franchisor and any prospective franchisee must understand this fundamental difference to general business agreements. When seeking legal guidance on the franchise agreement, the prospective franchisee must ensure that he/she engages a franchising lawyer (preferably a BFA affiliated one) as a general solicitor will not have the specialist knowledge needed when dealing with these agreements. A franchise agreement is not negotiable.

The main objectives of a franchise agreement are to:

- Accurately reflect all promises made
- Set out the terms to protect the Trade Name and integrity of the system
- Outline the rights and obligations of both parties

Key terms generally covered within the agreement:

- Franchise fees (upfront /monthly/royalty) and term
- Best endeavours of the franchisee
- Exclusivity (e.g. territories, products, suppliers)
- Accounting records and performance statistics of the franchisee
- Insurance
- The sale of the business; option to renew the agreement; termination of the agreement by the franchisor
- Competition
- Death of the franchisee

A franchise agreement is generally between 40 and 60 pages long. Should a prospective franchisee receive a much shorter agreement, this may be an indication that the agreement is not as comprehensive as it should be.

Always seek professional independent franchising legal advice before committing to anything. To find out which franchising lawyers to contact, please go to the British Franchise Association's website (www.thebfa.org).

Sedona West works with key BFA affiliated franchising lawyers during the course of its client work

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