



# FRANCHISES

Starting a business is risky. Research shows that 90% of businesses fail within the first 3 years. One of the main reasons for this high failure rate is largely due to the steep learning curve many first time business owners experience in the first year or two of operating their business.

Buying into a franchise business reduces this risk significantly, because of the established systems and support provided by the franchisor. However, before making the commitment to purchasing a franchise business, it is essential that you carry out a comprehensive due diligence investigation on the franchise system and the business itself. Set out below are some key points that you should consider when purchasing a franchise business.

## START-UP COSTS

There is no standard of what a reasonable franchise purchase price is, which is why it is important that you do your research into the industry in which the franchise operates to see what other similar franchises have been, or are being sold for. You should also contact existing franchisees to find out what their relationship is like with the franchisor. This will help to establish the extent of the support and assistance that the franchisor provides to its franchisees, and identify any restrictions on the franchisee's autonomy in running the franchise business. Basically, you will need to establish whether the franchise purchase price you pay, will be for something of significant value to you.

## EXCLUSIVE TERRITORY

A common provision in franchise agreements is the inclusion of a 'non-exclusive territory' clause. This type of clause allows franchisors to grant the right to operate the franchise to more than one franchisee in a particular area. This can have a considerable impact on the success of a franchise business, as the franchisee may go from having a monopoly within an area to sharing it with a number of other franchise owners. This right is usually at the absolute discretion of the franchisor.

## INITIAL TRAINING

The franchisor should provide you with initial training on the franchise systems, and also provide you with a manual covering all aspects of the business from plant and equipment and employment of staff down to cleanliness of the business premises. However, the period of training will come down to the terms negotiated between you and the franchisor. You should inquire about any ongoing training and support the franchisor provides to the franchisee's staff and the cost of it.

## SUPPLY OF GOODS AND PLANT AND EQUIPMENT

Often a franchisor will have preferred, or mandatory, suppliers that they deal with. The franchisor should provide you with a list of these. (Normally, you would expect this information to be included within the franchise agreement and/or systems documentation.) Where the franchisor **requires** its franchisees to use specified suppliers, this is usually to ensure consistency of quality and supply at the best value. However, this may **not** always be the case and may sometimes be detrimental to the franchisees — preventing them using a better supplier from their point of view.

## TERMINATION

On what basis can the franchisee terminate the agreement and what happens to the initial investment in plant and equipment, and any goodwill. Also consider whether there is any restraint of trade imposed on the franchisee following any termination of the franchise agreement, which may prevent the franchisee from operating a similar business in competition with its former franchise business.

## SUITABILITY FOR YOU

Although franchises are great for budding business people (as you learn how to manage a business through the established systems and support provided by the franchisor) it is still very important to ensure that your skills and abilities are suited to the industry in which the franchise operates. This includes the proposed staffing of the business. For example, if you propose to have your family working in the franchise, are they competent to operate within the business on a day-to-day basis. You will also need to consider any operational requirements by the franchisor which may include requirements on employees.

## MORE INFORMATION

At Wakefields, we have a team of experienced commercial lawyers dedicated to providing comprehensive legal services to you. So, if you are thinking of purchasing a franchise business or any other type of business, come and talk to us first, so that we can ensure that you are armed with all of the relevant information. With our help, your business purchase will go smoothly, allowing you to focus on what really matters—making a success of your new venture. Call us or send us an email for more information.

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