

FRANCHISE

GLOSSARY

By Gianni Iliades Founder of Eurognosi, former President of the Franchise Association Owner of LUXURY RESORTS (QUALITY BRAND VILLAS (www.qbvillas.com) & QUALITY BRAND SPACES (www.qbspaces.com))



QUALITY BRAND OFFICES

ACKNOWLEDGEMENT OF RECEIPT

The final page of a Franchise Disclosure Document (FDD), which, once signed and returned, confirms to the franchisor the date you received the document.

ADVERTISING CO-OP

A participatory body of franchisees—occasionally including the franchisor—that contributes money to a common fund to pay for regional or national advertising programs. Administration of advertising co-op funds varies from company to company. In most cases, a committee of franchisees administers the fund. Alternatively, a special advertising committee made up of both franchisees and the franchisor may oversee the use of the funds.

ADVERTISING COMMITMENT

This is an amount that a franchisee commits to spending on advertising and promotion in the local market. These monies are controlled by the individual franchisee and used to promote the franchisee's individual business.

ADVERTISING CONTRIBUTION

The monies that a franchisee is required to contribute to the advertising fund or the advertising co-op. These funds are used to pay for system-wide advertising and promotional expenses. The way advertising contributions are made varies from company to company. Many franchise agreements specify a percentage of gross sales to be spent on advertising; the breakdown of expenditures for local, regional, and/or national advertising may also be specified.

ADVERTISING FUND

Like an advertising co-op, this fund is administered and controlled by the franchisor.

AGENT

A person authorized by another (often called a “principal”) to act on his behalf.

ANGEL INVESTOR

An individual or group of individuals who provide capital for a business start-up, usually in exchange for convertible debt or ownership equity. Angel investors invest their own personal funds, unlike venture capital firms that manage the pooled money of others in a managed fund. In some cases, if a family member or a friend were to lend you money to start a business, they also would be referred to as an angel investor.

ANTITRUST LAW

Laws adopted to outlaw or restrict business practices considered monopolistic or that restrain trade. Outside the U.S., antitrust laws are often referred to as “competition” laws.

APPROVAL | CONSENT

In franchising, this is a provision within the franchise agreement requiring that a party who wishes to act must obtain the consent or approval of the other party. For example, the franchise agreement may require that before the franchisee can transfer interest in the franchise, he/she must obtain “approval/consent” from the franchisor.

APPROVED SUPPLIER | VENDOR

An approved supplier/vendor is an entity that has been approved by the franchisor to sell products and/or services to franchisees of its system. Items sold by approved suppliers may include equipment, ingredients, and other materials or items for use in operating the franchise business. The franchisor will generally approve several suppliers for each item and the franchisee may purchase the items from any of the approved suppliers. In some instances, a franchisor approves only one approved supplier of a specific product (i.e., a soft drink supplier) for purposes of system-wide uniformity. Also, see “Designated Supplier/Vendor.”

ARBITRATION

In disputes between a franchisee and a franchisor, submitting the dispute for determination to private, unofficial persons or “arbitrators.” Agreement to arbitrate must be stated, for example, in the franchise agreement, and arbitration findings are binding on both parties. A court’s only basis for review of an arbitrator’s decision is whether it was arbitrary, capricious, and an abuse of the arbitrator’s discretion or beyond the arbitrator’s authority.

AREA DEVELOPER

The franchisor awards a single franchisee the right to operate more than one unit within a defined area, under a development agreement and based on an agreed-upon development schedule.

AREA REPRESENTATIVE

A type of franchisee that can own and operate franchise outlets, represent the franchisor in selling new franchises, and provide ongoing local support to existing franchisees in a designated market. The area representative normally receives a portion of the royalty fees (and possibly the up-front franchise fee) payable by the franchisees to the franchisor. Area representatives may operate in a variety of geographical configurations, including metropolitan areas, a single state, or a combination of states. The area representative is not a party to the franchise agreement, which is between the franchisor and the franchisee. See, for comparison, “Master Franchisee.”

ASSIGNMENT

Contractual authority of a franchisee to give away, sell, or otherwise transfer or dispose of all or certain ownership rights in the franchise agreement, the franchised outlet, and/or interest in the legal entity that owns the franchise. Assignment rights vary from the franchisor to franchisor and may include the right to sell the business and transfer the franchise agreement to the buyer, or to transfer ownership and rights to the family; and/or for the estate to sell the franchise upon the owner’s death or disability. Virtually all franchise agreements limit assignment in one way or another.

BREAKAWAY FRANCHISEE

A franchisee who has unilaterally terminated their franchise agreement. Obligations of a breakaway franchisee may include some or all the following: payment of substantial damages to the franchisor, resale of the business to the franchisor, or an obligation to abide by a post-term, non-compete covenant.

BUNDLE OF RIGHTS

All those rights and obligations that pass to the franchisee under the terms of a franchise agreement. These may include such items as the right to use the trade name, right to knowledge of trade secrets, right to use the format of the business, right to build equity, and right to manage day-to-day operations in the prescribed manner.

BUSINESS BROKER

An intermediary who manages the sale and/or purchase of an existing franchised business. Brokers can represent either seller, buyers, or both.

BUSINESS FORMAT FRANCHISING

The franchising system wherein the franchisee buys from the franchisor a total blueprint for doing business. Usually included are the license of a trading name, the trademark, access to trade secrets, and a clearly defined method and set of guidelines for conducting the business.

BUSINESS PLAN

A business plan is a formal statement of a set of business goals, the reasons why they are believed attainable, and the plan for reaching those goals. It may also contain background information about the organization or team attempting to reach those goals.

BUSINESS VALUATION

The practice of valuing an existing business. There are many approaches to Business Valuation, including but not limited to Multiple Earnings, Fair Market Value, Book Value, Replacement Value, Present Value, Future Value, Going Concern Value, Asset Value, Liquidation Value, etc.

BUY-BACK OPTION

A term of the franchise agreement wherein if the franchisee goes out of business the franchisor retains the right to buy back all assets at a pre-agreed price. The buy-back is an option that the franchisor retains, and it is not a promise.

CAMERA-READY ADVERTISING

Artwork and typeset materials that are ready for printing. Camera-ready advertising is for use in print media (newspapers, magazines, store signs, handbills, flyers, brochures, etc.). Since the cost of producing professional, camera-ready advertising is generally shared by all franchisees, the cost per franchisee is usually quite reasonable.

CASH-FLOW PROJECTIONS

A spreadsheet that shows a month-by-month forecast of cash flow coming into the business and expected disbursements, including payroll, rent, insurance, debt, etc. A person considering entering a business, including a franchise, should carefully examine their cash-flow projections to determine whether there will be adequate working capital for the new business.

CASH|INITIAL CASH REQUIRED

One of several terms—the meanings of which vary from the franchisor to franchisor—that are used to describe cash monies that the franchisee must spend prior to opening for business. Any of the following terms may be used in this context: cash required, initial cash required, investment, down payment, equity investment.

COMPANY-OWNED OUTLET

In a franchised system, the outlets are owned by the franchisor (or, sometimes, its affiliates).

COMPETING OPERATION

When a franchisee establishes, operates, owns, or has a financial interest in any business that offers products or services the same or like those of the franchise, the franchisee may be said to have a “competing operation.” Many franchise agreements restrict all competing operations during the term of the franchise; they may also restrict any competing activity or business after the term within a specific area and for a limited period (those parts of the franchise agreement are referred to as the “non-compete clauses”).

CONVERSION FRANCHISING

The process by which existing independent businesses or dealers within an industry become franchisees when they assume the trade name and trade dress of the franchisor. Conversion franchising has been particularly widespread in the real estate industry.

COPYRIGHT

Generally, the exclusive right of the author or creator to protect his or her creation, such as a movie, book, music, or another expression. As it relates to franchising, copyrights most often apply to confidential written material (such as the operating manual, proprietary recipes, and the like). Under a franchise agreement, the franchisor usually licenses the franchisee to use those copyrighted materials in the operation of the franchised business for the term of the agreement.

COVENANT OF GOOD FAITH | FAIR DEALING

At the heart of a franchise is an agreement that sets out the essential contractual obligations governing the relationship between the franchisor and the franchisee. The franchise agreement, however, cannot spell out all the obligations that a franchisor may owe the franchisee, and it has been argued that the franchisor also has an implied duty of “fair dealing” not contained explicitly in the franchise agreement. Courts usually find that the implied covenant of good faith and fair dealing cannot be used to contradict clear provisions in an agreement.

COVENANTS AGAINST COMPETITION

The clause or term of a franchise agreement in which the franchisee agrees not to engage in or maintain any interest in a business activity that competes with the franchise business.

DEFAULT

The neglect or failure of either party—franchisee or franchisor—to fulfill obligations and/or take the steps required under the contract.

DEFERRED BALANCE

A sum of money that the franchisee owes to the franchisor. A deferred balance is generally some remainder of the total amount initially paid for items such as equipment, fixtures, inventory, or construction/rent.

DEMOGRAPHICS

A range of factors that may influence consumer behavior in a specific trade territory such as age, income, home prices, and socio-economic conditions.

DESIGNATED SUPPLIER|VENDOR

A designated entity from which franchisees are required to purchase certain products and/or services necessary to operate a franchise business. This usually applies to proprietary products and/or private label products manufactured to the franchisor's standards and specifications but might also apply to other products that the franchisor believes are critical to the success of the franchise system. Also, see "Approved Supplier/Vendor."

DEVELOPMENT AGREEMENT

A term used to describe the agreement traditionally used to grant multi-unit development rights to franchise developers or multi-unit franchisees. In the development agreement, the franchisor grants semi-exclusive "development rights" to a developer, which in turn agrees to establish a specific number of franchised units within a certain geographic area (called a "development area") in accordance with a predetermined "development schedule." Before the developer opens each franchised business, it typically is required to sign a franchise agreement for that franchise. The developer typically pays a "development fee" to the franchisor, a portion of which may be credited toward the initial franchise fee due under the unit franchise agreements.

DISCLOSURE DOCUMENT

The document contains information about the franchisor, the franchise being offered, and the terms and conditions of the legal relationship into which the franchisee will enter.

DISCOVERY DAY

An event set up by the franchisor so that potential franchisees may learn more about becoming a franchisee. A discovery day typically takes place at the franchisor's headquarters and is often the final step in the due diligence process. It provides the opportunity to meet the management team, support team, and trainers face-to-face. Occasionally called "Meet the Team Day" or "Open House."

DISCRIMINATION

Treating one franchisee differently from another. Several statutes and legal cases restrict a franchisor's ability to discriminate among businesses that are similarly situated.

DISTRIBUTOR

An individual or company through whom a manufacturer sells his products to retailers and/or consumers. Conventional distributors may handle several lines of competing products, whereas franchised distributors typically only handle the products of one franchisor. Franchised distributors operate exactly as other independently owned, franchised businesses, receiving training, management, and advertising support from the franchisor.

DUAL DISTRIBUTION

When a franchisor operates a company-owned outlet on the same marketing level as its franchisees.

DUE DILIGENCE

Due diligence refers to the process of making sure that someone is what they say they are and can do what they claim, (e.g., Does the product or system really work? Does the franchise really have customers?).

ENCROACHMENT

Any franchise—or the franchisor—attempting to sell products or services within an area of territory that has been assigned to or designated exclusively for another owner.

ENTREPRENEUR

A person who is willing to assume the responsibility, risk, and rewards of starting and operating a business.

EQUITY INTEREST

Any legal ownership of the franchise business or the corporation that owns the franchise business.

ESTIMATED INITIAL INVESTMENT

A detailed listing of all fees and expenses you should expect to incur in starting a franchised business. This listing represents the total amount that a franchisee would need to pay or get financed, including fees paid to the franchisor and goods/services purchased from third parties.

EXCLUSIVE TERRITORY

A territory assigned to a franchisee within which a franchisor agrees not to operate a facility (or grant a license to another party to operate a facility) that is the same as the franchised business, under the same marks, and under the same system. Most franchisors reserve rights with respect to other methods of distributing products or services (such as internet sales). Not all franchisors offer exclusive territories.

EXPIRATION OF TERM

In a franchise agreement, the date upon which the contract expires if it is not renewed.

FINANCIAL PERFORMANCE REPRESENTATION

Any oral, visual, or written representation to a prospective franchisee or for general dissemination in the media which states or suggests a specific level or range of potential or actual sales, income, gross, or net profit.

FORUM SELECTION

A term in the franchise agreement that designates the state and court in which disputes are to be litigated.

FRANCHISE AGREEMENT|CONTRACT

The legal document that sets forth the rights and obligations of the franchisee and the franchisor. Commonly included is information about territory, location, training, management, renewal, termination, dispute resolution, suppliers, quality control, product standards, advertising, etc.

FRANCHISE COACH

An independent agent or middleman who acts as an intermediary between the franchisor and a prospective franchisee. Franchise coaches are commonly paid on a success basis by the franchisor. As agents of the franchisor, franchise coaches are required to act in accordance with all laws and regulations governing the sale of franchises.

FRANCHISE FEE

A sum of money the franchisee pays to the franchisor when the franchise agreement is signed. The fee may cover a variety of expenses, including but not limited to training costs, on-site startup costs, and promotional charges. Also called a “License Fee” or “Initial Fee.”

FRANCHISE RELATIONSHIP LAWS

State laws regulating certain aspects of the franchise relationship, such as how and when a franchisor can terminate the franchise agreement, where lawsuits concerning the franchise relationship must be brought, and the circumstances under which a franchisor can refuse to permit the franchisee to renew the franchise agreement.

FRANCHISE REPRESENTATIVE

An employee of the franchisor whose responsibility it is to regularly visit with and assist franchisees within an assigned geographic area. Franchise representatives, also called field representatives, may inspect locations for quality and cleanliness; help franchisees solve management or technical problems; troubleshoot; give moral support; act as liaison between franchise owner and franchise company; and offer advertising and marketing advice.

FRANCHISE SALES MATERIAL

Promotional and/or instructional materials made available to individuals who inquire about purchasing a franchise. Such “kits” commonly contain disclosure documents, a description of the business and history of the company, financial information, testimonials from current franchise owners, preliminary information about fees and costs, etc.

FRANCHISE SALESPERSON

An agent of the franchisor whose business it is to market and sell franchises. The franchise salesperson’s role is to meet with prospective franchisees, present disclosure materials, gather the prospect’s financial information, answer questions, assist with obtaining financing, and facilitate the signing of a franchise agreement.

FRANCHISE TERM

The length of time for which a franchisee is granted licensing and other rights under the franchise agreement.

FRANCHISED OUTLET|UNIT

Within a franchise system, a business location or site that is independently owned by an individual(s) to whom the franchisor has granted certain rights. For comparison see “company-owned outlet.”

FRANCHISEE

The individual or individuals who own and operate a business under a licensing agreement granted by a parent company known as the franchisor. Franchisees are commonly entitled to use the franchisor’s trademark and/or trade name; sell and/or market the franchisor’s products and/or services; have access to the franchisor’s pertinent trade secrets; receive management and other training; enjoy marketing and advertising support; build equity interest in the business; and benefit from the goodwill of the franchisor. Franchisees can also be called “Franchise Owners.”

FRANCHISEE ADVISORY BOARD

A franchisor-sponsored organization of franchisees, either appointed by the franchisor and/or elected from among the franchisees at large, who represent or speak for the franchisees in discussions with the franchisor. Practices vary but franchise advisory boards may, with the approval of all franchisees, levy assessments; run marketing, advertising, and training programs; and represent grievances to the franchisor. Also called “Franchisee Advisory Council.”

FRANCHISEE ASSOCIATION

An independent association of franchisees who work together to address the issues that affect all franchisees within a given franchise system. Franchisee Associations generally speak for all franchisees who have chosen to join the association and are independent of, and not directed by, the franchisor. Also see “Franchisee Advisory Board.”

FRANCHISEE TRAINING

Education and instruction on how to properly run the business, which the franchisor provides to the franchisee after the franchise agreement is signed. The training may be provided as part of the initial fee or may be an added expense for the franchisee. The training may take place at the franchisor’s training facility, at the franchisee’s actual business location, or both.

FRANCHISEE VALIDATION

During the process of investigating a franchise opportunity a prospective franchisee will interview current and past franchisees, obtaining unfiltered opinions about the quality of the franchise system.

FRANCHISEE|FRANCHISOR RELATIONS

Refers to the way franchisee and franchisor representatives interact. Such relations may be generally positive and cooperative, or they may encounter periods of stress and distrust. To ensure smooth franchisee/franchisor relations, many franchisors have established franchise advisory boards comprised of franchisees who meet regularly with company representatives. Also see “Franchisee Advisory Board.”

FRANCHISING

A method of marketing products and/or services under which a franchisor licenses its trademark and operating system and/or know-how to a franchisee in exchange for both on-going fees paid by the franchisee to the franchisor during the term of the franchise and the franchisee’s agreement to follow the franchisor’s standards and specifications for the franchise system. Franchise arrangements have been subdivided into two broad classes: 1) Product distribution arrangements in which the dealer is to some degree, but not entirely, identified with the manufacturer/ supplier; and 2) entire business format franchising, in which there is complete identification of the dealer with the buyer.

FRANCHISOR

The franchisor owns the business system and associated trademarks or trade names. Franchisors allow franchisees to use these under license in a designated area and for a fee. They then support their franchisees both in starting their business and in continued support. Also called “Franchise Company.”

FULL-TIME WORK REQUIREMENT

This is a franchise system with a franchise agreement that requires the franchisee to be involved in the daily operations of the business on a full-time basis.

GOODWILL

The positive reputation or image that a franchisor has earned from the public. Although goodwill cannot be measured in precise monetary terms, image, reputation, public awareness, and acceptance all contribute to a company’s value or worth. Typically, the goodwill associated with a trademark does not legally transfer to the franchisee.

GROSS SALES

Total value of all sales prior to adjusting for costs or discounting.

GROUP PURCHASING POWER

In franchising, the ability of a group of store operators, including franchisees and company-owned units, to obtain a lower price for goods and materials when such goods and materials are purchased in large quantity. Also implied is the groups’ greater influence with the supplier in terms of timely delivery, service, and so on.

GUARANTEE

A promise or assurance, especially one in writing, that something is of specified quality, content, or benefit; or that it will perform satisfactorily for a given length of time.

INDEPENDENT CONTRACTOR

For tax and legal purposes, an individual who is not classified as an employee but who is deemed to be in business for him- or herself.

INFRINGEMENT

A trespass or encroachment upon one’s rights; used especially in relation to invasions of the rights secured by patents, copyrights, and trademarks.

INITIAL INVESTMENT

The required amount of money required for a new franchisee to open and operate a location for at least three months. This must include all “start-up” expenses but may not be reflective of total investment.

INJUNCTION

A judicial process or order requiring the person(s) to whom it is directed to do a particular act or to refrain from doing a particular act.

INTERNATIONAL FRANCHISING

Refers to the expansion of franchising beyond national borders. A growing number of franchisors are currently operating franchised and/or company-owned outlets outside their home country.

JOINT AND SEVERAL LIABILITY

Where multiple parties, such as shareholders or parties owning a franchised unit, share equal financial and legal responsibilities and therefore are together subject to all lawsuits or legal actions filed by creditors or other plaintiffs.

LEASE SECURITY PAYMENT

A payment made to the individual(s) who grants a lease on the property where a franchise is located. The lease security payment is most often paid by the franchisee to protect the leaseholder against losses in case of business failure or default.

LETTER OF INTENT

A written statement of intention to perform an act. In franchising, the franchisor sometimes provides to the prospective franchisee a letter of intent stating the company’s intention to offer a franchise agreement. In commercial banking practices, a letter of intent, or commitment agreement, may state the bank’s intention to make a loan to the prospective franchisee. Letters of intent are usually not binding legal commitments.

LICENSOR

In franchising, another term for “franchisor.” The term is also used to describe the party who grants another the right to use its trademark in connection with the sale of the licensor’s products without the use of the licensor’s operating system.

LIQUID CAPITAL

Assets held in cash or in something that can be readily turned into cash. Also known as “Liquid Assets.”

LOGOTYPE

A franchisor's trademark or name, as it is distinctively designed or written.

MANAGEMENT FEE

A sum of money the franchisee pays for continuing management aid and assistance. Such fees may be included in the royalty or service fee or may be an additional charge.

MANAGER OPERATED/RUN

A franchise system that does not require the franchisee to be personally involved in the daily operations of the franchised unit on a full-time basis. An operation that is well suited for investors and part-time involvement.

MARKETING PLAN

Generally, a marketing plan is a written document that details the necessary actions to achieve one or more marketing objectives. Regarding franchising, the marketing plan is a term that is often used as a short-hand way of describing the second element of the term "franchise" under the FTC's Franchise Rule.

MASTER FRANCHISEE

A system whereby a franchisor grants to a party (usually referred to as the Master Franchisee) the right to operate franchised businesses and to grant sub-franchises to third parties, within an agreed-upon geographic area. The Master Franchisee serves as if it were the "franchisor" within the sub-franchise territory, providing localized support services within the territory. The Master Franchisee typically retains a portion of the royalty as compensation for its services.

MAXIMUM INVESTMENT LEVEL

Maximum amount an investor is both comfortable and qualified investing (cash and borrowed) into a business. This amount generally includes both cash and debt.

MULTIUNIT FRANCHISEE

A franchisee that owns and operates more than one franchised location.

MUTUAL EVALUATION PROCESS

The understanding that both the franchisor and the prospective franchisee are evaluating each other during the due-diligence process to determine if it would be mutually beneficial to move forward into a franchise relationship.

NET WORTH

An individual's total assets minus their total liabilities.

NON-COMPETE CLAUSE

The provision in a franchise agreement which prohibits a franchisee from owning, operating, or having an interest in any competing business offering the same or similar products or services as those provided by the franchise. A non-competition clause may also prohibit the franchisee from involvement in any such competing business for a specified length of time following nonrenewal or termination of the franchise agreement. Also called “Non-Competition Clause”.

OPENING COSTS

Total franchisee cost to start the business and remain operating for a reasonable period (typically defined as three months). Opening costs may include franchise fees, costs of real estate and or rent, zoning and business licenses, financing expenses, inventory expense, equipment, training fees, working capital, payroll, insurance, and salaries for employees. Please see “Cash/Initial Cash Required.”

OPERATIONS MANUAL

The document detailing the operation of a particular franchised business. Operations manuals—also called franchise manuals—describe such items as: quality control requirements; recommended hours of operation and financial and management practices; the correct use of any trademarks or trade names; forms and written materials for use in business operations; payment of fees and royalties; approved suppliers; and so on. Increasingly, operations manuals also address other matters, such as systemwide policies concerning data, environmental and energy standards, health, and safety matters, etc.

OWNER BENEFIT

This is a descriptive term that describes business income minus all “true” business expenses. Any benefit a franchisee receives from the business—either through pass-through expenses, retirement contributions, dividends, distributions, or salary—is considered part of Owner Benefit. Other terms include “Owners Discretionary Profit” or “Earnings Before Interest Taxes Depreciation and Amortization (EBITDA) Plus Add-Backs.”

PERSONAL LIVING EXPENSES

The amount of money required for you and your family to live. Also called “Family Expenses.”

PRE-OPENING PROMOTION

Special marketing, promotion, or advertising that precedes by some length of time the opening of a new franchised or company-owned outlet. Pre-opening promotion heightens consumer awareness and puts the new business on sound footing.

PREFERRED LENDER

A lender that specializes in franchise financing and has a pre-existing relationship with a target franchisor.

PRICE FIXING

A criminal violation of federal antitrust statutes in which several competing businesses reach a secret agreement (conspiracy) to set prices for their products or prevent real competition and keep the public from benefiting from the competition. “Horizontal price fixing” among competitors at the same level of commerce (for example, two or more franchisees) is typically “per se” illegal. Under a series of decisions reached by the U.S. Supreme Court, parties such as franchisors are permitted to specify a maximum and a minimum resale price, which may still be reviewed under federal antitrust law under the “rule of reason” standard.

PRODUCT LIABILITY

In franchising, the term implies the risk assumed by franchisor and franchisee in providing the franchised goods and/or services to the consuming public.

PRODUCT SPECIFICATIONS

Commonly spelled out in the operations manual, product specifications are precise and detailed descriptions and/or designations of ingredients, materials, goods, and other items used in the operation of the business.

PRODUCT STANDARDIZATION

Related to quality control, product standardization is the franchisor’s effort to provide in every franchised and company-owned outlet, goods and/or services which are uniform in quality, appearance, and character.

QUALITY CONTROL

The practices of a franchisor in supervising, regulating, and directing how business will be conducted in a franchised or company-owned outlet. Strict quality control is the franchisor’s most important method of insuring a uniform high-quality of product and services in all outlets.

RELEVANT MARKET

A way of identifying a market area according to its geography. In franchising, the term usually identifies the area in which a particular business entity has control.

RENEWAL

Most franchise agreements are for a specified period; at the end of that period the franchisee generally has the option to renew at a specified fee and upon signing the then current franchise agreement. The franchise agreement presented at renewal time may be substantially different from the one originally signed; for example, the royalties and advertising fees may be higher.

RIGHT OF FIRST REFUSAL

A franchisee's contractual right to purchase—if he so decides and if he can meet all conditions of sale established by the franchisor—any additional franchised outlets that may be for sale in the future within a pre-defined territory. This can also apply to a franchisor's right to repurchase a franchised unit at the same price as offered by a third party.

ROYALTY FEE

A regular and continuing payment made by the franchisee to the franchisor, often paid on a weekly or monthly basis. The royalty may be a percentage of sales, a fixed recurring fee, or a combination. Royalties commonly cover use of a trademark and trade name and constitute a fee for services performed by the franchisor such as training and assistance, marketing, advertising, accounting, and so on. Also called "service fees" and/or "license fees."

RULE OF REASON

Under federal antitrust law, a method for judging illegality. Under the laws, certain practices are presumed to be illegal "per se" without regard to the precise harm they have caused or the business justification for their use. Other practices are judged under the "Rule of Reason," under which the practices are generally deemed illegal only if, on balance, they harm competition.

SERVICE FRANCHISING

A type of franchising which primarily provides a service, assistance, or advice to the consumer. Service franchises are typically business format franchises and include, but are not limited to, the following: tax preparation, accounting, haircutting, staffing, window-washing, business coaching, real estate, maid services, dry cleaning, painting, etc.

SITE

The specific premises from which the franchisee is to conduct business. Also called "location" and "facility."

SITE SELECTION

The process of choosing the location for a franchised business. Professional site selection involves knowledge of such considerations as demographics, traffic patterns, buying habits, market characteristics, wage and employment patterns, zoning, and other land use regulations, building and health code ordinances, and real estate patterns.

TERMINATION

A declaration by the franchisor that part or all the rights and obligations—of both parties—under the franchise contract cease or have ceased as of a certain date. Certain responsibilities and/or claims and damages may survive this termination, however. The conditions under which a franchise may be terminated by the franchisor are commonly addressed to in the franchise agreement.

TRADE DESIGN

A term that refers to the visual appearance of an item, such as the interior or exterior of a building or a product's packaging. Typically, trade dress denotes some distinctive quality or look that is not functional, and that signals to consumers that the products, services, or the establishment is associated with a particular brand. The overall visual way a franchise business presents itself to the public, including the interior and exterior design of buildings, its choice of color, use of dress of its employees, and so on.

TRADE NAME

Individual names and surnames, firm names, and trade names used by franchise companies to identify their business.

TRADE SECRET

A process, method, plan, formula, or other information unique to a franchisor that gives it an advantage over competitors. Appropriate legal provisions written into the franchise agreement, such as a covenant not to compete, are important in protecting trade secrets.

TRADEMARK

Any word, name, symbol, or device or any combination thereof adopted and used by a franchisor to identify its goods and/or services and distinguish them from those manufactured or sold by others. A careful franchisor grants only clearly defined or restricted use of its trademark. Such restrictions are spelled out in the franchise agreement and are therefore commonly referred to as “contractually limited use” of the trademark.

TRAINING COST|EXPENSE

The money a franchisee pays for education and instruction. Training expenses may or may not include such items as: travel to and from the training location; room and board during training; the cost of tuition, books, and supplies; and on-site startup aid. Practices vary, but training costs may be covered by the franchise fee.

TURN-KEY OPERATION

A term used to describe a franchise that is so thoroughly organized, fully equipped, and professionally set up that the new franchisee need only “turn the key” to commence business.

TYING

Under antitrust law, tying is a requirement imposed upon a buyer to purchase one product on the condition that the buyer also buy another product from the same seller. Whether alleged “tying” is illegal under antitrust law is often based on the facts of a particular case and claims of tying are typically judged under the “rule of reason” standard.

UNILATERAL TERMINATION

Wherein one of the parties to the franchise agreement decides, without the other’s agreement, to put an end to the business relationship. Unilateral termination may be allowable with “good cause” and/or for pre-agreed reasons spelled out in the franchise agreement. Either the franchisor or the franchisee may seek to unilaterally terminate a contract; whether it is legal to do so will depend on circumstances and on the terms of the contract.

VARIABLE COST

Any costs that change significantly with the level of output, such as material costs.

VENTURE CAPITAL

A person or group of individuals who invest in a business venture, providing capital for start-up or expansion. Venture capitalists are looking for a higher rate of return than would be given by more traditional investments.

VERTICAL RESTRAINTS

Restrictions imposed by a franchisor on its “downstream” customer or franchisee. An example of such restraint may be a limitation on where a franchisee may offer and sell products or services.

VISION STATEMENT

A well-written vision statement will provide both direction and motivation to help you move toward a better future of your design. A well-developed vision statement includes measurement standards and target dates.

WAIVER / ΠΑΡΑΙΤΗΣΗ

In a typical franchise agreement, there is an “anti-waiver” clause, which states that one party’s acceptance of late performance or non-performance of an obligation by the other party does not waive the requirement that the same obligation be met in the future.

WORKING CAPITAL

A financial metric that represents liquidity available to a business or organization. A company can have both assets and profit but be short of liquidity if its assets cannot readily be converted into cash. Positive working capital is required to ensure that a firm can continue its operations and that it has sufficient funds to satisfy both maturing short-term debt and upcoming operational expenses.



QUALITY BRAND OFFICES