

Franchising your business can be an exciting growth opportunity, but the agreement you sign will shape that relationship for years. This checklist outlines the main topics you will want to cover when negotiating or reviewing a franchise agreement. It is a general guide, not a substitute for legal advice, and additional requirements may apply under federal or state law.

1. GRANT OF RIGHTS AND EXCLUSIVITY

- Define exactly what rights the franchisee is receiving.
- Specify whether the franchisee has exclusive rights within a certain territory, sales channel, or method of distribution.
- Clarify any “carve-outs” that allow the franchisor to operate in the same market.

2. TERRITORY

- Identify the precise geographic area the franchisee will operate in.
- Outline any performance milestones needed before expansion.

3. OPERATING OBLIGATIONS

- Require adherence to the franchisor’s operating manual and brand standards.
- Set minimum working capital and inventory levels.
- Address premises upgrades and who pays for them.
- List the services the franchisor will provide.
- Clarify how involved the franchisee must be in daily operations.

4. FEES & ROYALTIES

- State the initial franchise fee and all ongoing royalties.
- Explain how royalties are calculated.
- Include any late payment interest terms.
- List other required payments (training, advertising, renewal, transfers, etc.).
- Compare fees to other franchisees, if applicable.

5. ACCOUNTING & AUDIT

- Set financial reporting requirements.
- Give the franchisor rights to audit books and records.
- Consider uniform reporting standards or software.

6. EQUIPMENT, SUPPLIES & PRODUCTS

- Identify required sources for equipment, supplies, or inventory.
- State any product sales restrictions.
- Note if the franchisee can join group purchasing programs.

7. TRAINING

- Detail initial and ongoing training requirements.
- Clarify who covers training costs.
- Explain what happens if training is not completed.

8. INTELLECTUAL PROPERTY

- Confirm franchisor ownership of all trademarks, copyrights, trade secrets, and patents.
- Define permitted use of the IP.
- Include protection if franchisor IP infringes third-party rights.
- Assign responsibility for registering and renewing IP.
- State rights to modified IP created during the term.

CHECKLIST

FRANCHISE AGREEMENT

9. CONFIDENTIALITY

- Protect the franchisor's confidential information.
- Define what counts as confidential.
- Ensure all involved parties are bound during and after the agreement.
- Include reciprocal protection for the franchisee's confidential information.

10. ADVERTISING & MARKETING

- State required contributions to a central advertising fund.
- Set minimum local advertising spend or percentage of sales.
- Give the franchisor approval rights over marketing content.
- Clarify any advertising commitments in the franchisee's market.

11. INDEMNITY & INSURANCE

- Require the franchisee to indemnify the franchisor for certain claims.
- Specify minimum insurance coverage and name the franchisor as an additional insured.

12. ASSIGNMENT & TRANSFER

- Set limits on the franchisee's ability to transfer the business.
- Require franchisor consent and outline approval criteria.
- State any transfer fees.
- Include rights of first refusal for the franchisor.
- Address transfers due to death, disability, or ownership changes.

13. NON-COMPETE & NON-SOLICITATION

- Restrict competition during and after the agreement.
- Prohibit soliciting employees of the franchisor or other franchisees.
- Define the time period and geographic area covered.

14. TERM & RENEWAL

- Set the initial term of the agreement.
- Outline renewal terms and conditions.
- Include any required upgrades or fees for renewal.
- State whether a new agreement is signed at renewal.

15. TERMINATION

- List grounds for termination (non-payment, breach, bankruptcy, etc.).
- Include cure periods and notice requirements.
- Consider liquidated damages for default.
- Address the franchisor's right to purchase the business after termination.

16. GENERAL CONTRACT TERMS

- Include standard clauses like governing law, attorney's fees, and execution in counterparts.