

REGULATION
made under the
UNIFORM FRANCHISES ACT
DISCLOSURE DOCUMENTS

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Interpretation

1. (1) In this Regulation,

“affiliate” has the same meaning as in the *Canada Business Corporations Act*.

(2) In this Regulation, a franchise or business is the same type as an existing franchise or as the franchise being offered if it is operated or to be operated under the same trade-mark, trade name, logo or advertising or other commercial symbol as that franchise.

Risk warnings

2. Every disclosure document shall contain, presented together at the beginning of the document, the statements that,

- (a) a prospective franchisee should seek information on the franchisor and on the franchisor's business background, banking affairs, credit history and trade references;
- (b) a prospective franchisee should seek expert independent legal and financial advice in relation to franchising and the franchise agreement prior to entering into the franchise agreement;
- (c) a prospective franchisee should contact current and previous franchisees prior to entering into the franchise agreement; and
- (d) lists of current and previous franchisees and their contact information can be found in this disclosure document.

Required information about the franchisor

3. Every disclosure document shall contain,

- (a) the business background of the franchisor, including,
 - (i) the name of the franchisor,
 - (ii) the name under which the franchisor is doing or intends to do business,
 - (iii) the name of any associate of the franchisor that will engage in business transactions with the franchisee,
 - (iv) the franchisor's principal business address and, if the franchisor's principal business address is outside *[insert jurisdiction]*, the name and address of a person authorized to accept service in *[insert jurisdiction]* on the franchisor's behalf,
 - (v) the business form of the franchisor, whether corporate, partnership or otherwise,
 - (vi) if the franchisor is a subsidiary, the name and principal business address of the parent,
 - (vii) the business experience of the franchisor, including the length of time the franchisor has operated a business of the same type as the franchise being offered, has granted franchises of that type or has granted any other type of franchise,

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- (viii) if the franchisor has offered a different type of franchise from that being offered, a description of every such type of franchise, including, for each type of franchise,
 - (A) the length of time the franchisor has offered the franchise to prospective franchisees, and
 - (B) the number of franchises granted in the five years immediately before the date of the disclosure document;
 - (b) the business background of the directors, the general partners and the officers of the franchisor, including,
 - (i) the name and current position of each person,
 - (ii) a brief description of the prior relevant business experience of each person,
 - (iii) the length of time each person has been engaged in business of the same type as the business of the franchise being offered, and
 - (iv) the principal occupation and the employers of each person during the five years immediately before the date of the disclosure document;
 - (c) a statement indicating whether, during the 10 years immediately before the date of the disclosure document, the franchisor, the franchisor's associate or a director, general partner or officer of the franchisor has been convicted of fraud, unfair or deceptive business practices or a violation of a law that regulates franchises or business, or if there is a charge pending against the person involving such a matter, and the details of any such conviction or charge;
 - (d) a statement indicating whether the franchisor, the franchisor's associate or a director, general partner or officer of the franchisor has been subject to an administrative order or penalty under a law that regulates franchises or business or if the person is the subject of any pending administrative actions to be heard under such a law, and the details of any such order, penalty or pending action;
 - (e) a statement indicating whether the franchisor, the franchisor's associate or a director, general partner or officer of the franchisor has been found liable in a civil action of misrepresentation, unfair or deceptive business practices or violating a law that regulates franchises or business, including a failure to provide proper disclosure to a franchisee, or if a civil action involving such allegations is pending against the person, and the details of any such action or pending action; and

- (f) details of any bankruptcy or insolvency proceedings, voluntary or otherwise, any part of which took place during the six years immediately before the date of the disclosure document, in which the debtor is,
 - (i) the franchisor or the franchisor's associate,
 - (ii) a corporation whose directors or officers include a current director, officer or general partner of the franchisor, or included such a person at a time when the bankruptcy or insolvency proceeding was taking place,
 - (iii) a partnership whose general partners include a current director, officer or general partner of the franchisor, or included such a person at a time when the bankruptcy or insolvency proceeding was taking place, or
 - (iv) a director, officer or general partner of the franchisor in his or her personal capacity.

Required information about the franchise

4. (1) Every disclosure document shall contain, presented together in one part of the document,

Costs of establishing the franchise

- (a) a list of all of the franchisee's costs associated with the establishment of the franchise, including,
 - (i) the amount of any deposits or initial franchise fees, or the formula for determining the amount, whether the deposits or fees are refundable and, if so, under what conditions,
 - (ii) an estimate of the costs for inventory, supplies, leasehold improvements, fixtures, furnishings, equipment, signs, vehicles, leases, rentals, prepaid expenses and all other tangible or intangible property and an explanation of any assumptions underlying the estimate, and
 - (iii) any other costs associated with the establishment of the franchise not listed in subclause (i) or (ii), including any payment to the franchisor or franchisor's associate, whether direct or indirect, required by the franchise agreement, the nature and amount of the payment and when the payment is due;

Other fees

- (b) the nature and amount of any recurring or isolated fees or payments, other than those listed in clause (a), that the franchisee must pay to the franchisor or franchisor's associate, whether directly or indirectly, or that the franchisor or franchisor's associate

imposes or collects in whole or in part on behalf of a third party, whether directly or indirectly;

Guarantees, security interests

- (c) a description of the franchisor's policies and practices, if any, regarding guarantees and security interests required of franchisees;

Estimate of operating costs

- (d) if an estimate of annual operating costs for the franchise, or of operating costs for the franchise for another regular period, is provided directly or indirectly, a statement specifying,
 - (i) the assumptions and bases underlying the estimate,
 - (ii) that the assumptions and bases underlying the estimate are reasonable, and
 - (iii) where information that substantiates the estimate is available for inspection;
- (e) if an estimate of annual operating costs for the franchise, or of operating costs for the franchise for another regular period, is not provided, a statement to that effect;

Earnings projection

- (f) if an earnings projection for the franchise is provided directly or indirectly, a statement specifying,
 - (i) the assumptions and bases underlying the projection, its preparation and presentation,
 - (ii) that the assumptions and bases underlying the projection, its preparation and presentation are reasonable,
 - (iii) the period covered by the projection,
 - (iv) whether the projection is based on actual results of existing franchises or of existing businesses of the franchisor, franchisor's associates or affiliates of the franchisor of the same type as the franchise being offered and, if so, the locations, areas, territories or markets of such franchises and businesses,
 - (v) if the projection is based on a business operated by the franchisor, franchisor's associate or affiliate of the franchisor, that the information may differ in respect of a franchise operated by a franchisee, and
 - (vi) where information that substantiates the projection is available for inspection;

Financing

- (g) the terms and conditions of any financing arrangements that the franchisor or franchisor's associate offers or assists any person to offer, directly or indirectly, to the franchisee;

Training

- (h) a description of any training or other assistance offered to the franchisee by the franchisor or franchisor's associate, including where the training or other assistance will take place, whether the training or other assistance is mandatory or optional and, if it is mandatory, a statement specifying who bears the costs of the training or other assistance;
- (i) if no training or other assistance is offered to the franchisee by the franchisor or franchisor's associate, a statement to that effect;

Manuals

- (j) if any manuals are provided to the franchisee by the franchisor or franchisor's associate, a summary of the material topics covered in the manuals or a statement specifying where in *[insert jurisdiction]* the manuals are available for inspection;
- (k) if no manuals are provided to the franchisee, a statement to that effect;

Advertising

- (l) if the franchisee is required to contribute to an advertising, marketing, promotion or similar fund, a description of the fund, including the franchisor's policies and practices in respect of,
 - (i) the franchisor's obligation to conduct advertising, marketing, promotion or similar activity,
 - (ii) the franchisor's expenditure of money from the fund on advertising, marketing, promotion or similar activity in franchisees' locations, areas, territories or markets,
 - (iii) participation by franchisees in a local or regional co-operative for advertising, marketing, promotion or similar activity,
 - (iv) the amount and frequency of franchisees' contributions to the fund,
 - (v) contributions by the franchisor, franchisor's associate or affiliate of the franchisor to the fund, including the amount and frequency of their contributions, if any,

- (vi) the portion of the fund, if any, that is or may be spent primarily for the recruitment of prospective franchisees,
 - (vii) the administration of the fund, including the portion of the fund, if any, that is or may be spent for its administration and the persons who administer the fund,
 - (viii) the availability to franchisees of financial statements or reports of contributions to or expenditures from the fund, the basis upon which such statements or reports are prepared and how the costs of the preparation of such statements or reports are accounted for, and
 - (ix) the availability to franchisees of other reports of the activities financed by the fund and how the costs of the preparation of such reports are accounted for;
- (m) if the franchisee is required to contribute to an advertising, marketing, promotion or similar fund,
- (i) a statement describing,
 - (A) the amount or percentage of the fund that has been spent on advertising, marketing, promotion or similar activity in each of the two completed fiscal years immediately before the date of the disclosure document,
 - (B) the amount or percentage of the fund, other than the amount or percentage described in sub-subclause (A), that has been retained or charged by the franchisor, franchisor's parent or franchisor's associate in each of the two completed fiscal years immediately before the date of the disclosure document, and
 - (C) the amount or percentage of any surplus or deficit of the fund in each of the two completed fiscal years immediately before the date of the disclosure document, and
 - (ii) another statement describing,
 - (A) the projected amount or basis of the contribution of the franchisee for the current fiscal year,
 - (B) the projected amount of the contributions of all franchisees for the current fiscal year,

- (C) a projection of the amount or percentage of the fund to be spent on advertising, marketing, promotion or similar activity for the current fiscal year, and
 - (D) a projection of the amount or percentage of the fund to be retained or charged by the franchisor, franchisor's parent or franchisor's associate in the current fiscal year;
- (n) a statement as to whether the franchisee must expend money on the franchisee's own local advertising, marketing, promotion or similar activity;

Purchase and sale restrictions

- (o) a description of any restrictions or requirements imposed by the franchise agreement with respect to,
- (i) obligations to purchase or lease from the franchisor or franchisor's associate or from suppliers approved by the franchisor or franchisor's associate,
 - (ii) the goods and services the franchisee may sell, and
 - (iii) to whom the franchisee may sell goods or services;
- (p) a description of the franchisor's right to change a restriction or requirement described in subclause (o) (i), (ii) or (iii);

Rebates, etc.

- (q) a description of the franchisor's policies and practices, if any, regarding rebates, commissions, payments or other benefits, including the receipt, if any, by the franchisor or franchisor's associate of a rebate, commission, payment or other benefit as a result of purchases of goods and services by franchisees;
- (r) a description of the sharing of the rebates, commissions, payments or other benefits described in clause (q) with franchisees, either directly or indirectly;

Territory

- (s) a description of the franchisor's policies and practices, if any, regarding,
- (i) the granting of specific locations, areas, territories or markets by the franchisor or franchisor's associate,
 - (ii) the approving of locations, areas, territories or markets by the franchisor or franchisor's associate, including the material factors considered in such approvals,

- (iii) changes in franchise locations, areas, territories or markets required or approved by the franchisor or franchisor's associate, including the material factors considered in such changes and conditions that may be imposed on an approval of a change,
- (iv) modifications to franchisees' locations, areas, territories or markets that may be made by the franchisor or franchisor's associate,
- (v) the terms and conditions of any option, right of first refusal or other right of franchisees to acquire an additional franchise within their location, area, territory or market, and
- (vi) the granting of exclusive locations, areas, territories or markets to franchisees including,
 - (A) any limitations on franchisees' exclusivity,
 - (B) who determines the locations, areas, territories or markets, the factors that are considered in making the determination and how the locations, areas, territories or markets are described, and
 - (C) whether continuation of location, area, territory or market exclusivity depends on franchisees achieving a certain sales volume, market penetration or other condition and, if so, the franchisor's rights and remedies if franchisees fail to meet the condition;

Proximity

- (t) a description of the franchisor's policies and practices, if any, on the proximity between an existing franchise and,
 - (i) another franchise of the franchisor or franchisor's associate of the same type as the existing franchise,
 - (ii) any distributor or licensee using the franchisor's trade-mark, trade name, logo or advertising or other commercial symbol,
 - (iii) a business operated by the franchisor, franchisor's associate or affiliate of the franchisor that distributes similar goods or services to those distributed by the existing franchise under a different trade-mark, trade name, logo or advertising or other commercial symbol, or
 - (iv) a franchise of the franchisor, franchisor's associate or affiliate of the franchisor that distributes similar goods or services to those distributed by the

existing franchise under a different trade-mark, trade name, logo or advertising or other commercial symbol;

- (u) a description of the franchisor's policies and practices, if any, regarding,
 - (i) compensation to franchisees by the franchisor, franchisor's associate, affiliate of the franchisor or any distributor or licensee for any right they may have to operate a business of the same type as the franchise being offered or to distribute goods or services similar to those distributed by the franchise being offered in franchisees' locations, areas, territories or markets, and
 - (ii) the resolution by the franchisor of conflicts between the franchisor, franchisor's associate, affiliate of the franchisor or any distributor or licensee and franchisees respecting locations, areas, territories, markets, customers and franchisor support;

Trade-marks and other proprietary rights

- (v) a description of,
 - (i) the rights that the franchisor or franchisor's associate has to trade-marks, trade names, logos or advertising or other commercial symbols,
 - (ii) any patents, copyrights, proprietary information or other proprietary rights associated with the franchise,
 - (iii) the status of the trade-marks, trade names, logos, advertising or other commercial symbols, patents, copyrights, proprietary information and other proprietary rights, any known or potential material impediments to their use and any known or alleged material infringements of them, and
 - (iv) the franchisor's or franchisor's associate's right to modify or discontinue the use of any trade-mark, trade name, logo, advertising or other commercial symbol, patent, copyright, proprietary information or other proprietary right;

Licences

- (w) a description of every licence, registration, authorization or other permission the franchisee is required to obtain under any applicable federal, provincial or territorial law or municipal by-law to operate the franchise;

Personal participation

- (x) a description of the extent to which the franchisee is required to participate personally and directly in the operation of the franchise or, if the franchisee is a corporation, partnership or other entity, the extent to which the principals of the corporation, partnership or other entity are so required;

Termination, renewal and transfer of the franchise

- (y) a description of all the provisions in the franchise agreement that deal with the termination of the agreement, the renewal of the agreement and the transfer of the franchise and a list of where these provisions are found in the agreement; and

Schedules of franchisees, former franchisees, etc.

- (z) a statement that there are attached to the document,
 - (i) a schedule of franchisees of the franchisor, franchisor's associates or affiliates of the franchisor that currently operate franchises of the same type as the franchise being offered,
 - (ii) a schedule of businesses of the same type as the franchise being offered that are currently being operated by the franchisor, franchisor's associates or affiliates of the franchisor,
 - (iii) a schedule of former such franchisees and businesses, and
 - (iv) a schedule of franchise and business closure information.

(2) For the purpose of clause (1) (f), an earnings projection includes any information given by or on behalf of the franchisor or franchisor's associate, directly or indirectly, from which a specific level or range of actual or potential sales, costs, income, revenue or profits from franchises or businesses of the franchisor, franchisor's associates or affiliates of the franchisor of the same type as the franchise being offered can easily be ascertained.

Schedule of current franchisees

5. (1) The schedule of current franchisees referred to in subclause 4 (1) (z) (i) shall contain franchisee contact information for every franchise of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered, in Canada.

(2) If there are fewer than 20 franchises in Canada as described in subsection (1), the schedule shall also contain franchisee contact information for every franchise of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered, in the country geographically closest to Canada.

(3) If there are fewer than 20 franchises in total in Canada and in the country geographically closest to Canada as described in subsections (1) and (2), the schedule shall also contain franchisee contact information for every franchise of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered, in the country where the largest or next-largest number of such franchises have been granted, and so on, until the schedule contains franchisee contact information for 20 or more franchises.

(4) For greater certainty, if the schedule is required to include franchisee contact information for one or more franchises in a country other than Canada or the country geographically closest to Canada in order to contain franchisee contact information for 20 or more franchises, the schedule shall contain franchisee contact information for every franchise of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered, in that country.

(5) If the total number of franchises of the franchisor, franchisor's associates or affiliates of the franchisor of the same type as the franchise being offered in the world is less than 20, the schedule shall contain franchisee contact information for all such franchises.

(6) In this section,

“franchisee contact information” means the name, address and telephone number of the franchisee and the business address and telephone number of the franchise.

Schedule of current businesses

6. (1) The schedule of current businesses referred to in subclause 4 (1) (z) (ii) shall contain business contact information for every business of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered, in Canada.

(2) In this section,

“business contact information” means the business address and telephone number of the business and, if applicable, the name of the franchisor's associate or affiliate of the franchisor that operates the business.

Schedule of former franchisees and businesses

7. (1) The schedule of former franchisees and businesses referred to in subclause 4 (1) (z) (iii) shall contain,

- (a) the name and last known address and telephone number of every person who operated, in Canada and in any other country where a franchise included in the schedule of current franchisees required by section 5 is located, a franchise of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered in respect of which the franchise agreement was terminated or cancelled by the franchisor, franchisor's associate, affiliate of the franchisor or franchisee during the reporting period;
- (b) the name and last known address and telephone number of every person who operated, in Canada and in any other country where a franchise included in the schedule of current franchisees required by section 5 is located, a franchise of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered in respect of which the franchise agreement was not renewed

by the franchisor, franchisor's associate, affiliate of the franchisor or franchisee during the reporting period;

- (c) the name and last known address and telephone number of every person who operated, in Canada and in any other country where a franchise included in the schedule of current franchisees required by section 5 is located, a franchise of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered that was re-acquired by the franchisor, franchisor's associate or affiliate of the franchisor during the reporting period;
- (d) the name and last known address and telephone number of every person who operated, in Canada and in any other country where a franchise included in the schedule of current franchisees required by section 5 is located, a franchise of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered and who otherwise ceased to operate the franchise during the reporting period; and
- (e) the former business address and telephone number of every business, in Canada, of the franchisor, franchisor's associate or affiliate of the franchisor of the same type as the franchise being offered that ceased to operate as such a business during the reporting period and, if applicable, the name of the franchisor's associate or affiliate of the franchisor that operated the business.

(2) In subsection (1),

“reporting period” means the period beginning with the start of the most recently completed fiscal year before the date of the disclosure document and ending with the date of the disclosure document.

Schedule of franchise and business closure information

8. The schedule of franchise and business closure information referred to in subclause 4 (1) (z) (iv) shall contain,

- (a) for all franchises, in Canada and in any other country where a franchise included in the schedule of current franchisees required by section 5 is located, of the franchisor, franchisor's associates or affiliates of the franchisor of the same type as the franchise being offered, and for the period beginning with the start of the third-last completed fiscal year before the date of the disclosure document and ending with the date of the disclosure document,
 - (i) the number of franchises in respect of which the franchisor, franchisor's associate or affiliate of the franchisor terminated or cancelled the franchise agreement,

- (ii) the number of franchises in respect of which the franchisor, franchisor's associate or affiliate of the franchisor refused to renew the franchise agreement,
 - (iii) the number of franchises in respect of which the franchisee terminated or cancelled the franchise agreement,
 - (iv) the number of franchises in respect of which the franchisee refused to renew the franchise agreement,
 - (v) the number of franchises that were transferred by the franchisee,
 - (vi) the number of franchisees in which a controlling interest was transferred,
 - (vii) the number of franchises that were re-acquired by the franchisor, franchisor's associate or affiliate of the franchisor, and
 - (viii) the number of franchises that otherwise ceased to operate as a franchise of the franchisor, franchisor's associate or affiliate of the franchisor; and
- (b) the number of businesses, in Canada, of the franchisor, franchisor's associates or affiliates of the franchisor of the same type as the franchise being offered that ceased to operate as such a business in the period beginning with the start of the third-last completed fiscal year before the date of the disclosure document and ending with the date of the disclosure document.

Financial statements

9. (1) Every disclosure document shall contain,

- (a) an audited financial statement for the most recently completed fiscal year of the franchisor's operations, prepared in accordance with the generally accepted auditing standards set out in the *Canadian Institute of Chartered Accountants Handbook*; or
- (b) a financial statement for the most recently completed fiscal year of the franchisor's operations, prepared in accordance with generally accepted accounting principles and which complies with the review and reporting standards applicable to review engagements set out in the *Canadian Institute of Chartered Accountants Handbook*.

(2) Despite subsection (1), if 180 days have not yet passed since the end of the most recently completed fiscal year and a financial statement has not been prepared for that year, the disclosure document shall contain a financial statement for the last completed fiscal year that is prepared in accordance with the requirements of clause (1) (a) or (b).

(3) Despite subsection (1), if a franchisor has operated for less than one fiscal year or if 180 days have not yet passed since the end of the first fiscal year of operations and a financial statement for that year has not been prepared in accordance with the requirements of clause (1) (a) or (b), the disclosure document shall contain the opening balance sheet for the franchisor.

(4) Despite subsection (1), if the franchisor is based in a jurisdiction other than *[insert jurisdiction]*, the disclosure document shall contain financial statements prepared in accordance with generally accepted accounting principles for the jurisdiction in which the franchisor is based if,

- (a) the auditing standards or the review and reporting standards of that jurisdiction are at least equivalent to those standards described in clause (1) (a) or (b); or
- (b) the auditing standards or the review and reporting standards of that jurisdiction are not at least equivalent to those standards described in clause (1) (a) or (b), but the disclosure document contains supplementary information that sets out any changes necessary to make the presentation and content of such financial statements equivalent to those of clause (1) (a) or (b).

(5) In a circumstance described in clause (4) (a) or (b), the disclosure document shall contain a statement that the financial statements contained in the disclosure document are prepared in accordance with generally accepted accounting principles for the jurisdiction in which the franchisor is based and that the requirements of clause (4) (a) or (b), as the case may be, are satisfied.

Certificate of Franchisor

10. (1) A Certificate of Franchisor in Form 1 shall be completed and attached to every disclosure document provided by a franchisor to a prospective franchisee.

(2) A Certificate of Franchisor in Form 2 shall be completed and attached to every statement of material change provided by a franchisor to a prospective franchisee.

(3) A Certificate of Franchisor shall be signed and dated,

- (a) in the case of a franchisor that is not incorporated, by the franchisor;
- (b) in the case of a franchisor that is incorporated and has only one director or officer, by that person;
- (c) in the case of a franchisor that is incorporated and has more than one officer or director, by at least two persons who are officers or directors.

FORM 1
CERTIFICATE OF FRANCHISOR

Uniform Franchises Act

This Disclosure Document,

- (a) contains no untrue information, representation or statement, whether of a material fact or otherwise;
- (b) contains every material fact, financial statement, statement and other information that is required to be contained by the Act and the regulations made under it;
- (c) does not omit a material fact that is required to be contained by the Act and the regulations made under it; and
- (d) does not omit a material fact that needs to be contained in order for this Disclosure Document not to be misleading.

A Certificate of Franchisor shall be signed and dated as required by subsection 10 (3) of the Disclosure Documents regulation.

FORM 2
CERTIFICATE OF FRANCHISOR

Uniform Franchises Act

This Statement of Material Change,

- (a) contains no untrue information, representation or statement, whether of a material change or otherwise;
- (b) contains every material change that is required to be contained by the Act and the regulations made under it;
- (c) does not omit a material change that is required to be contained by the Act and the regulations made under it;
and
- (d) does not omit a material change that needs to be contained in order for this Statement of Material Change not to be misleading.

A Certificate of Franchisor shall be signed and dated as required by subsection 10 (3) of the Disclosure Documents regulation.