

# Buying a Franchise – What are you really buying?



MACDONALD  
LEWIS LAW

A franchise business has some unique characteristics and it is important that you understand what exactly these are. Some of these are:

1. **You get a licence** – part of what you are buying is a licence to operate your business using a proven system which has been developed by the franchisor and the franchisor's branding (eg trademarks etc). The system and goodwill associated with the franchisor's branding and market reputation should assist your business to be successful.
2. **Franchisor Support** – you are not on your own. A good franchise system will provide you with a good level of support to assist your business to be as successful as possible.
3. **Franchise Agreement** – you will sign an agreement which sets out the obligations of the franchisee and franchisor. This agreement is usually fairly detailed and one sided in favour of the franchisor. It has to be this way to ensure consistency among all franchisees and to protect the franchisor's intellectual property.
4. **Territory** – with some franchises you get a territory being an area in which you can solely operate the franchise. With other franchises you may not get a territory at all. You may be restricted to operating the franchise in a particular area.
5. **Term** – you only get the right to operate your business using the franchise system for a limited period of time. Often you may get the right to renew the franchise agreement for a further period of time on expiry of the initial term but only provided you are able to meet certain conditions.
6. **Training** – you will normally have to complete an initial training programme which is run by the franchisor. This training will teach you how to run your business using the franchise system and will also educate you on the rules of the system.
7. **Manual** – a well run franchise system will have a detailed manual which contains the rules and guidelines which franchisees must adhere to. The manual may be available on line or in hard copy form.
8. **Branding** – the franchise agreement will grant you the right to use the franchisor's branding in the operation of your business. Usually you will need to get the franchisor's consent to use its branding in any advertising.
9. **Obligations** – the franchise agreement will set out your obligations which usually include: payment of certain fees, reporting obligations, requirement to comply with the manual, the requirement to get the franchisor's consent in certain situations (eg advertising, selling the business) and confidentiality obligations. A breach of any of your obligations can lead to termination of your franchise agreement.

92 Parnell Road, Parnell, Auckland 1052 | P O Box 37851, Parnell, Auckland 1151  
P: +64 9 307 3324 | F: +64 9 307 3325 | [www.mllaw.co.nz](http://www.mllaw.co.nz) | [info@mllaw.co.nz](mailto:info@mllaw.co.nz)

**Important:** This information is provided as a guide only and is not intended to be legal advice. You are strongly recommended to consult the services of an experienced franchise lawyer if you are considering purchasing a franchise.

**10. Non-competition restrictions** – to protect the franchisor's goodwill and intellectual property you will probably be restricted from operating a similar business during the term and for a limited period when you cease to be a franchisee.

The above is only a summary of some of the provisions of the franchise agreements. Each franchise agreement will contain terms which are particular to a franchise system. It is essential that you get legal advice from a franchise lawyer before you enter into a franchise agreement.

**We can help!**

If you are looking at buying a franchise we would love to help you. Please call for more information.



**Rory MacDonald** by phone **(09) 307 3324** or by email [rory@mllaw.co.nz](mailto:rory@mllaw.co.nz)

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