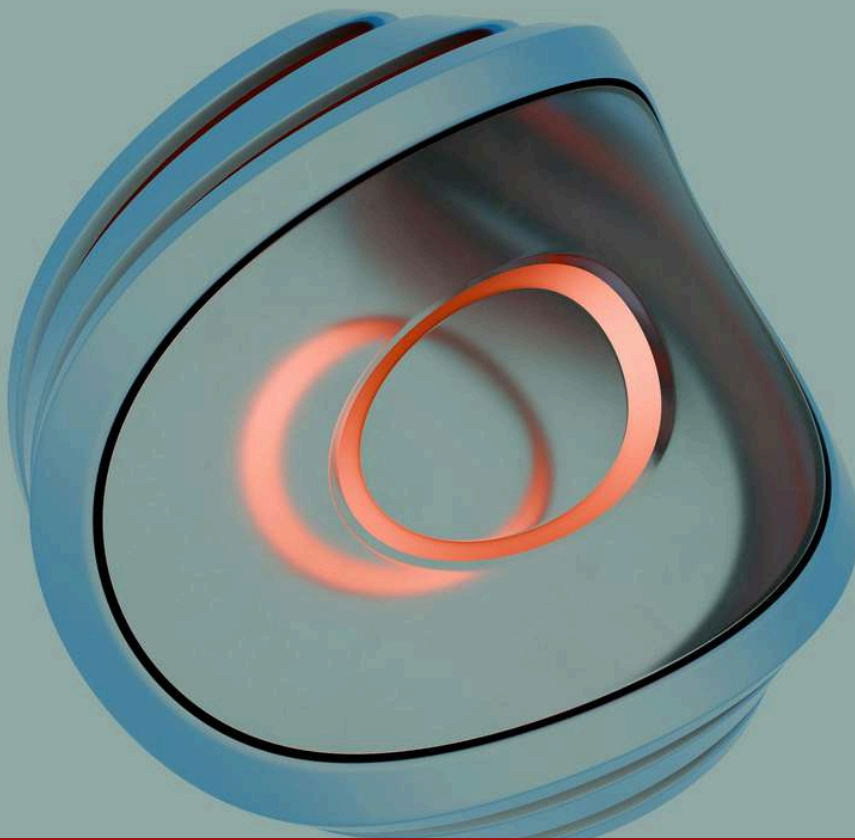


KEY TERMS IN THE FRANCHISE AGREEMENT (PART 1)



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KEY TERMS

IN THE FRANCHISE AGREEMENT (PART 1)

The franchise agreement is an important tool in establishing a cooperative relationship between the franchisor and the franchisee. Considered as a popular and effective form of business, the franchise agreement helps to ensure the consistency in the development and management of the store network, and also protect the interests of both parties.

However, in order to achieve a sustainable and successful franchise agreement, it is necessary to examine some important terms. These terms provide legal basis for the relationship between the franchisor and the franchisee, clearly specifies rights and obligations of each party, as well as operating rules and standards.

1. TERM OF INTERPRETATION

- This term does not directly stipulate the rights and obligations of parties, however, the parties should not skip or sketchily regulate this term.
- Although it is term of explaining some terms used in the agreement, the parties refer to it when explaining terms, rights and obligations of parties in the agreement.
- For a franchise agreement from abroad to Vietnam, term of interpretation should include some important terms such as: Trademark, Store, Guidance Documentations, Commercial Rights, Franchisee, Franchisor, Business secret, etc.

2. TERM OF FRANCHISE CONTENT

This is compulsory and key term of the parties in the franchise transaction, so this term needs to be fully recorded and closely linked with other terms in the agreement. As usual, this term needs to include some of main points, as follows:

- Agreement of the parties on the franchisor's agreement to provide the right to use, operate and do business under franchisor's business model for the franchisee, how long the franchise will be and when it begins.
- Which trademark that the franchisee will be allowed to use, specific information about the trademark, the number of trademark certificate, who trademark belongs to (if the franchisor is not initial franchisor)

- Business slogan, symbol, method of operation, design, operation, content on advertising banner, etc are also the contents that the parties must clearly agree in this term.
- Specific regulations on the scope of franchising that it is necessary to limit the scope of the franchisee's operation in a certain geographical area. The working rules between the parties that related to the change of operating location or expansion of the scope of operation, development of the current franchise model, incurred costs, etc will need to be specifically recorded by the parties in the agreement, this will facilitate the parties to have solutions when problems arise in reality.

Clear and detailed recording of the scope of franchisee's rights with franchised objects sometimes be seen too meticulous, however, in fact through the disputes in the operation of franchise model, we find that most of disputes arise from the parties not fully understanding the limit of the scope of franchising. This leads to each party understand in the way they perceive without relying on any specific agreement.

3. TERM OF TRADEMARK MANAGEMENT AND USE

Depending on whether the enterprise is a franchisee or a franchisor, the content this term is created to protect rights of the legitimate user and legitimate trademark owner.

For the franchisor, in all cases, the franchisor is the legitimate owner of intellectual property rights of the franchised object. Simultaneously, in order to ensure the integrity of the trademark, not to create any confusion or affect the competitiveness, the franchisor will require the franchisee not to use any contents of trademark, trade name, business slogan, etc to operate another business model in any capacity as owner, partner, consultant, etc.

For the franchisee, when choosing to do business under franchise model, the franchisee needs to agree with the franchisor about the form of handling any changes, additions related to the Trademark and other relevant intellectual property objects.

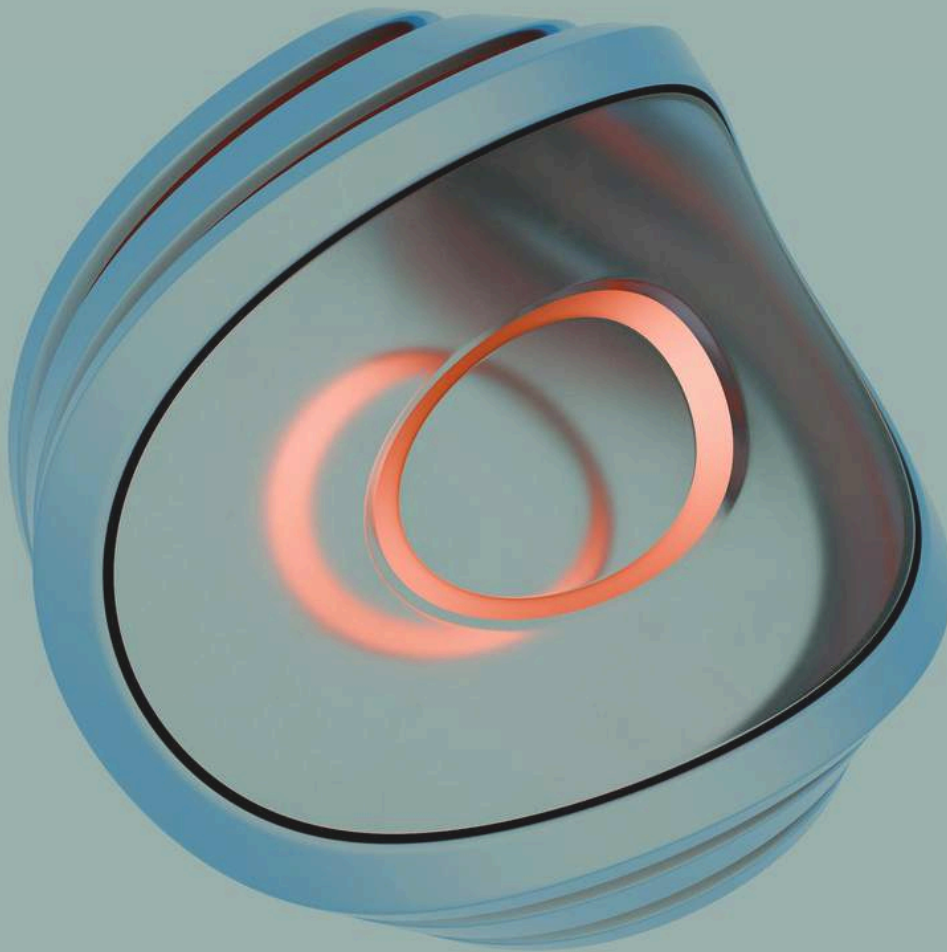
4. TERM OF PERSONNEL TRAINING

Initial training when establishing and periodically training during the franchisee's operation is essential, so which point should the parties pay attention to with that content?

- First of all, the parties need to agree on the content – document – time and place for training;
- Responsibility for informing the franchisor's training schedule so that the franchisee and HR can schedule as well as accompanying legal documents if training is conducted outside the territory of Vietnam.
- Training fees that initial training fees and subsequent additional training fees will be divided as belonging to the responsibility of the franchisor and franchisee. Training fees include fees related to training as transportation, accommodation, documents, etc, this is also one of important issues that the parties need to agree in the agreement.
- Additional training program is understood as the periodic training in the operation of the franchisee. This training can be training activities about management, marketing, human resources, etc, which helps to enhance the competitiveness in the market of the franchisee.
- In some franchise transactions, to ensure the image of the franchisor, the competitiveness of franchised object, the franchisor requires the additional training is compulsory.

In an increasingly competitive and complicated context, it is extremely important to understand and properly apply the important terms in Franchise Agreement. This helps ensure that both franchisor and franchisee have solid base to enjoy business benefits and sustainable development. In the next article, we will share with you some other important terms that the parties need to keep in mind when establishing franchise agreement.

The article contains general information which is of reference value, in case you want to receive legal opinions on issues you need clarification on, please get in touch with our Lawyer at info@cdlaf.vn



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