

Business Set Up & Growth Through Franchising & Other Structures

September 30, 2025

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Topics

- 8:30 A.M.** **Registration and Coffee**
- 8:45 A.M. Login Time Opens for Webcast Participants
- 8:55 A.M.** **Welcome and Introduction**
 - *Josh F. Brown*, Program Chair and Moderator
- 9:30 A.M. Program Begins
- 10:30 A.M.** **Coffee Break**
- 10:45 A.M. Program Continues
- 12:15 P.M.** **Adjourn**

September 30, 2025

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**Business Set Up and Growth
Through Franchising
and Other Structures**



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September 30, 2025

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Josh F. Brown, Taft Stettinius & Hollister LLP, Indianapolis



Josh Brown is chair of Taft's Franchise and Distribution group. He combines his legal experience, business background, and entrepreneurial skills to help clients grow their businesses with a particular focus on franchising and other licensing opportunities. He is passionate about helping entrepreneurs make smart franchise decisions and prepare for growth and expansion. Josh counsels franchisors through legal challenges and helps identify and pursue potential franchise opportunities.

In between private practice, Josh was a law clerk for the Honorable Nancy H. Vaidik of the Indiana Court of Appeals. Prior to that, Josh worked in business management, sales, marketing, and operations for several businesses, including two franchise systems. Clients partner with Josh because he understands the industry and the challenges with starting, managing, and growing a small business.

Josh is the creator and host of *Franchise Euphoria*, a top-rated podcast, and a frequent author and presenter on topics related to franchising. When not working, he enjoys spending time with his family, traveling, and playing golf.

Christina Laun Fugate, Ice Miller LLP, Indianapolis



Christina Fugate chairs Ice Miller's Franchise and Distribution team. More than just an advocate for her clients, Christina is dedicated to serving as a trusted advisor who helps clients solve problems and expand their businesses. Responsive, thoughtful and strategic, Christina is a counsellor who remains focused on her client's end game.

An understandable, diplomatic communicator who takes the time to really listen to what each client needs to succeed, Christina advises entrepreneurs and emerging franchisors in determining whether franchising is the right model to grow and maintain their brands and whether they are ready to franchise. Christina counsels clients on compliance with state and federal regulatory issues and offers extensive skill in advising growing and experienced franchise systems. With more than a decade of experience representing franchise clients in a variety of commercial litigation matters, Christina advises on resolving disputes pertaining to contracts, non-competition covenants, protection of trademarks and trade secrets, among others.

A smart and practical advocate, Christina provides litigation counsel to a number of different clients in a variety of industries. She regularly defends Fortune 500 manufacturers, distributors and retailers against product liability, warranty and indemnification claims. She also frequently counsels clients with respect to real estate disputes and general competitive business litigation, as well as assists clients in conducting internal investigations.

An active member of the International Franchise Association, Christina completed the Association's Certified Franchise Executive designation. She is also an active member of the ABA Forum on Franchising, has written several articles for the ABA Franchise Journal and has been a featured speaker at the Forum's annual meeting. In the community, Christina serves as President of Butler University's Central Indiana Alumni Chapter and a member of the Dean's Advisory Council for Butler University's Lacy School of Business. She is also a member of the IndyCREW Board of Directors, President of Heritage Place of Indianapolis, Inc., and Secretary of Project 44, Inc. Notably, Christina is the co-founder of the Women's Network Forum.

Craig M. Fugate, Fugate Gangstad Lowe LLC, Carmel



Craig Fugate is the managing partner and co-founder of the firm. Craig is a business, franchise and real estate attorney licensed to practice law in Indiana. His practice focuses primarily on assisting franchisees and other entrepreneurs in transactional law including franchisee representation, business structuring, entity organization, financing transactions, acquisitions and sales of businesses, drafting and reviewing contracts, and real estate lease and purchase transactions.

Craig was admitted to the bar in 2008. Since 2008, Craig has worked in and with small and medium sized companies as well as Fortune 500 companies. In 2012 Craig formed Fugate Legal which became Fugate Gangstad in 2019.

Craig provides general counsel services to several small businesses, represents new and existing franchisees in franchise purchases and renewals, advises his clients in real estate lease and purchase transactions, and helps entrepreneurs form their business entities and draft the necessary documents to protect their assets.

Additionally, Craig uses his MBA in finance and his business experience to advise clients on general business issues enabling them to have expert business advice without having to hire a consultant or another employee. Craig enjoys becoming an integral part of his clients' businesses.

Craig is a member of the American Bar Association's Forum on Franchising and Business Law Division.

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Section One

Introduction to Franchising and Related Concepts

Josh F. Brown
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Section One

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Taft/

Introduction to Franchising and Related Concepts

ICLEF

September 29, 2025

Introduction to Franchising and Related Concepts

Good [morning/afternoon/evening] everyone,

Thank you for joining me today. I am excited to delve into the multifaceted world of franchising, a dynamic business model that has shaped the landscape of commerce in our modern economy.

In this presentation, we will explore several key topics essential for understanding franchising, including:

1. **What is a Franchise?**
We will start by defining what a franchise is, highlighting its characteristics, benefits, and how it operates within the broader business ecosystem.
2. **What is an FDD?**
Next, we will discuss the Franchise Disclosure Document (FDD), its significance, and the critical information it provides to potential franchisees.
3. **What is a Franchise Agreement?**
We will then explain the franchise agreement, the legal contract that binds the franchisor and franchisee, and the key terms and conditions it typically includes.
4. **Registration Requirements (Federal and State)**
We will look into the registration requirements for franchises at both the federal and state levels, emphasizing the legal framework that governs franchising in the U.S.
5. **State Relationship Laws**
Understanding state relationship laws is crucial for both franchisors and franchisees. We will discuss how these laws impact the franchisor-franchisee relationship.
6. **Business Opportunity Laws**
We will also touch upon business opportunity laws, which can overlap with franchising and the implications for businesses operating in this space.
7. **Business Structures for Franchising**
We will explore the various business structures that can be utilized in franchising, helping you understand how to set up a franchise effectively.
8. **Avoiding Accidental Franchises**
It's vital to know how to avoid the pitfalls of accidentally creating a franchise. We will discuss the key factors to consider preventing this from happening.

By the end of this presentation, you will have a comprehensive understanding of franchising and the related concepts that are crucial for anyone considering entering this field or looking to expand their business.

Let's get started!

What is a Franchise?

A franchise is a specific type of business arrangement where one party, known as the franchisor, grants another party, the franchisee, the rights to operate a business under the franchisor's trademark or brand. This arrangement typically involves a contractual relationship that outlines the rights and obligations of both parties.

Key Characteristics of a Franchise:

- **Trademark Licensing:**
 - The franchisee is permitted to use the franchisor's trademark or trade name in the operation of their business. This is a significant aspect that distinguishes franchises from other business models.
- **Operational Support:**
 - Franchisors often provide franchisees with comprehensive training, marketing support, and operational guidelines to ensure consistency across all franchise locations.
- **Payment of Fees:**
 - Franchisees typically pay an initial franchise fee and ongoing royalties based on sales, which contribute to the franchisor's brand development and support services.
- **Franchise Agreement:**
 - The relationship is governed by a franchise agreement, which details the terms and conditions of the franchise, including rights, responsibilities, and duration.

Legal Support from Indiana Case Law

In Indiana, the legal definition of a franchise is influenced by both statutory law and case law. According to the **Indiana Franchise Act** (IC 23-2-2), a franchise is defined as a contract or agreement between two or more persons by which:

1. **A franchisee is granted the right to sell or distribute goods or services under a marketing plan or system** prescribed in substantial part by the franchisor.
2. **The franchisee is granted the right to use a trademark, service mark, trade name, or other commercial symbol** that is owned or controlled by the franchisor.
3. **Franchisee is required to pay a franchise fee.**

Relevant Case Law



Continental Basketball Association, Inc., v. Ellenstein Enterprises, Inc., 669 N.E.2d 134 (Ind. 1996)

Seminal franchise case by the Indiana Supreme Court defining a franchise and discussing, among other things, the intersections between the Indiana Franchise Act and the Indiana Deceptive Franchise Practices Act.

Enservco, Inc. v. Indiana Securities Div., 623 N.E.2d 416 (Ind. 1993)

Here, the Indiana Supreme Court disapproved of two prior court of appeals cases *Moll v. South Central Solar Systems*, 419 N.E.2d 154 (Ind. Ct. App. 1981) and *Master Abrasives Corp. v. Williams*, 469 N.E.2d 1196 (Ind. Ct. App. 1984) to the extent that those cases required proof of culpability or scienter as an element of franchise fraud. The Court further set forth that even though the elements of franchise fraud are not as extensive as the elements of common law fraud, a franchise fraud action must nevertheless plead the facts and circumstances alleged to constitute fraud, deceit, or misrepresentation with at least the same degree of particularity and detail as would be necessary to maintain an action for common law fraud.

Wright-Moore Corp. v. Ricoh Corp., 908 F.2d 128 (7th Cir. 1990)

Seventh Circuit case that touches on multiple issues including choice of law and application of the Indiana Franchise statutes, whether the relationship of the parties is a franchise relationship or a mere distributorship agreement, the definition of a “franchise fee” under the Indiana franchise statutes, and termination rights under the Indiana franchise statutes as related to “good cause” terminations.

McLane v. Pizza King Franchises, Inc., 1987 WL 92061 (Ind.Super. 1987)

In this case, the Superior Court of Indiana examined the essential elements of a franchise, emphasizing the defining characteristics of a franchise relationship such that the franchisee's business operations are substantially associated with the franchisor's trademark, service mark, trade name, or advertising.

Whitten v. Kentucky Fried Chicken Corp., 570 N.E.2d 1353 (Ind.App. 3 Dist., 1991)

This case highlighted that the degree of control exercised by the franchisor over the franchisee's operations is a critical factor in franchise relationships. The court noted that liability or obligations arising from the franchisor-franchisee relationship require more than a general right to make suggestions or recommendations; there must be substantive control over the franchisee's operations.

What is Not a Franchise

Understanding what does not constitute a franchise is equally important. The following arrangements typically do not qualify as franchises under Indiana law:

- **Independent Distributors:**
 - If the distributor operates independently without significant control or support from the supplier, it does not meet the franchise criteria.
- **Sales Representatives:**
 - Agreements that merely allow a sales representative to sell goods without the use of a trademark or marketing plan prescribed by the company do not constitute a franchise.
- **Licensing Agreements:**
 - Licensing agreements that do not involve a marketing plan or significant operational control by the licensor are not considered franchises.

Conclusion

In summary, a franchise is a structured business model involving a franchisor providing a franchisee the right to operate under its brand, supported by operational guidelines and trademark usage. Legal definitions and interpretations in Indiana, backed by case law, help clarify the essential elements of a franchise, distinguishing it from other business arrangements. Understanding these distinctions is crucial for anyone looking to enter the franchising space,

Business Structures for Franchising

When setting up a franchise system, both franchisors and franchisees must choose appropriate business structures that suit their operational needs, legal requirements, and financial goals. Below are common business structures used by franchisors and franchisees, along with examples and explanations.

Business Structures for Franchisors

1. Corporation (C-Corp or S-Corp)

- **Description:** A corporation is a legal entity that is separate from its owners (shareholders). This structure provides limited liability protection to its owners, meaning their personal assets are protected from business liabilities.
- **Example:** A well-known franchise, such as McDonald's, operates as a corporation. This allows it to raise capital through selling shares and provides a structured governance system.
- **Advantages:**
 - Limited liability protection.
 - Ability to raise capital through stock.
 - Perpetual existence.
- **Disadvantages:**
 - More regulatory requirements.
 - Double taxation for C-Corps (taxed at corporate and personal levels).

2. Limited Liability Company (LLC)

- **Description:** An LLC combines the pass-through taxation of a partnership with the limited liability of a corporation. It is a flexible structure that can be used for franchising.
- **Example:** A local coffee shop franchise might operate as an LLC to protect its owners from personal liability while benefiting from pass-through taxation.
- **Advantages:**
 - Limited liability protection.
 - Less formalities and paperwork than a corporation.
 - Flexible management structure.
- **Disadvantages:**
 - Varies by state in terms of regulations.
 - May not be as favorable for raising capital compared to a corporation.

3. Franchise Holding Company

- **Description:** This structure involves creating a separate entity specifically for holding the franchise rights. The holding company typically owns the trademarks and licenses them to the operating company (franchisor).
- **Example:** A franchisor may establish a holding company to manage its intellectual property and separate it from its operational activities.
- **Advantages:**
 - Protects the brand and intellectual property.
 - Limits liability exposure for operational activities.
- **Disadvantages:**
 - Can add complexity to the business structure.
 - Additional administrative costs.

Best Business Structures for Franchisees

1. Sole Proprietorship

- **Description:** A business structure where the individual owner is inseparable from the business for legal and tax purposes.
- **Example:** This structure is more common for a simple, owner-operated, service-based franchise that are low investment and involve minimal liability risk compared to high-volume operations like a fast-food restaurant.
- **Advantages:**
 - Simplicity.
 - Simple tax reporting.
 - Retention of all profits.

- Administrative ease.
- **Disadvantages:**
 - Unlimited personal liability.
 - Difficult to raise capital.
 - Self-employment taxes (owner must pay regular income tax and also self-employment taxes – social security and Medicare contributions).
 - Lack of business continuity – business tied directly to the owner making succession more difficult.

2. Limited Liability Company (LLC)

- **Description:** Similar to franchisors, franchisees can also operate as LLCs. This structure protects personal assets from business liabilities while allowing for flexible management.
-
- **Example:** A franchisee running a gym might choose to form an LLC to limit personal liability while benefiting from pass-through taxation.
- **Advantages:**
 - Limited liability protection.
 - Flexibility in management and taxation.
- **Disadvantages:**
 - Self-Employment Tax (Members of an LLC who actively work in the business are generally considered self-employed and must pay both the employer and employee portions of Social Security and Medicare taxes on all their business income.
 - Phantom Income taxation – Members pay taxes on the company's profits on their personal tax return, even if those profits are reinvested in the business and not distributed as cash to the members.
 - State-Specific Taxes and Fees – some states impose an additional tax or fee on LLCs, often called a franchise tax or capital values tax, which may not be charged to corporations or other entity types.
 - Difficulty attracting investors – Unlike a corporation, an LLC cannot issue shares of stock.

3. Partnerships

- **Description:** General Partnerships (all partners share equally in management and operations and unlimited personal liability for the business's debts and obligations); Limited Partnership (at least one general partner who has unlimited liability for business debts and manages the business and one or more limited partners who have limited liability); and Limited Liability Partnership (similar to LLC, LLP offers

limited liability protection to all partners with typically no personal liability for the debts of the business or for the negligence of other partners).

- **Example:** A good option when the goal is to combine complementary skills and resources. Also, a good option if you need to pool capital, want to share the workload, value a collaborative approach.
- **Advantages:**
 - Shared financial burden.
 - Shared workload and skills.
 - Tax simplicity (like an LLC, a partnership is a pass-through entity by default.
 - Less regulation (compared to a corporation).
- **Disadvantages:**
 - Personal liability for debts under certain scenarios.
 - Potential for disputes.
 - More complexities on exit of business.

2. Corporation (C-Corp or S-Corp)

- **Description:** Some franchisees may choose to operate as a corporation to benefit from limited liability protection and a formal structure.
- **Example:** A franchisee might establish a corporation to operate multiple franchise locations, allowing for better management of assets and liabilities.
- **Advantages:**
 - Limited liability protection.
 - Business continuity.
 - S-Corp – only pay payroll taxes on owners' reasonable salary and distributions of profits are not subject to self-employment tax.
- **Disadvantages:**
 - More regulatory requirements.
 - Potential double taxation for C-Corps.

Conclusion

Choosing the right business structure is crucial for both franchisors and franchisees as it impacts liability, taxation, and operational flexibility. Franchisors often opt for corporations, LLCs, or holding companies to manage their franchise systems, while franchisees may choose sole proprietorships, LLCs, partnerships, or corporations based on their individual circumstances and goals. Understanding these structures helps ensure compliance with legal requirements and supports the overall success of the franchise.

Accidental Franchise Structures: Understanding the Risks

1. Distributor Agreements

- **Description:** Often, businesses may enter into distribution agreements that allow distributors to sell products using the manufacturer's trademarks. If the manufacturer provides extensive marketing support or operational guidelines, this may unintentionally create a franchise relationship.
- **Risk:** If the relationship resembles a franchise and the manufacturer does not register as a franchisor or provide an FDD, it may face penalties for operating an unregistered franchise.

2. Licensing Agreements

- **Description:** Licensing agreements that allow the licensee to use a brand's trademark or intellectual property may inadvertently cross into franchise territory if they also include substantial operational control or marketing support.
- **Risk:** If the licensing agreement includes elements of control that align with the franchise definition, the licensing entity could be considered a franchisor and subject to franchise laws.

3. Joint Ventures

- **Description:** In a joint venture, two or more parties collaborate on a business project. If one party provides its trademark and significant operational assistance to the other, it may unintentionally create a franchise relationship.
- **Risk:** The party providing the trademark could be considered a franchisor and may face legal consequences for failing to register the franchise.

4. Sales Representative Agreements

- **Description:** Agreements that allow an individual to sell products on behalf of a company can become problematic if the representative is given a significant amount of control over their operations.
- **Risk:** If the representative is found to be operating under the company's trademark with significant support and receives commissions or fees, the relationship may be classified as a franchise.

5. Referral Agreements

- **Description:** If a business refers clients to another company and receives a fee in return, this can be a simple referral agreement. However, if the referring party provides substantial operational support or branding, it may create a franchise.

Risk: The referring party may unintentionally fall under franchise regulations if the arrangement resembles a franchise structure.

Legal Implications of Accidental Franchises

1. **Registration Violations:**

- Both the FTC and state franchise laws typically require franchisors to register their franchise offerings and provide a Franchise Disclosure Document (FDD) to potential franchisees. Failing to do so can lead to legal action and financial penalties.

2. **Liability Issues:**

- If classified as a franchisor without proper registration, the entity can be held liable for damages incurred by the franchisee, including lost profits and other claims.

3. **Potential for Litigation:**

- Franchisees who believe they have entered into a franchise agreement may pursue legal action against the franchisor for failing to provide necessary disclosures, leading to costly litigation.

4. **Rescission Rights:**

- Franchisees may have the right to rescind the agreement if it is determined that the relationship constitutes an unregistered franchise. This could result in significant financial losses for the franchisor.

5. **Reputational Damage:**

- Being labeled as an unregistered franchisor can damage a company's reputation and hinder future business opportunities.

Avoiding Accidental Franchises

To avoid the pitfalls of accidental franchises, businesses should:

• **Conduct a Thorough Legal Review:**

- Before entering into agreements that involve trademarks, operational support, or fees, consult with legal experts who specialize in franchise law to assess the relationship's structure.

• **Define Roles Clearly:**

- Clearly outline the roles and responsibilities of each party in agreements to avoid ambiguity that could lead to unintended franchise relationships.

• **Limit Control and Assistance:**

- If a business wishes to avoid being classified as a franchisor, it should limit the degree of control or assistance it provides to other parties in the relationship.

• **Consider Alternative Structures:**

- Explore alternative business models that do not fit the franchise definition, such as pure licensing or distribution agreements without significant operational control.

Legal Support from Indiana Case Law

- Indiana law recognizes the concept of accidental franchises, which occur when a business relationship unintentionally meets the statutory criteria for a franchise without the parties intending to create such an arrangement. Courts in Indiana have addressed disputes involving accidental franchises, particularly when the statutory definition of a franchise is met, and the parties disagree about whether their agreement constitutes a franchise.
- In [Master Abrasives Corp. v. Williams, 469 N.E.2d 1196 \(Ind.App. 4 Dist., 1984\)](#), the court found that a distributorship agreement constituted a franchise under Indiana law because it included a marketing plan and was substantially associated with the corporation's trademark. The court also found evidence of fraud under the Franchise Disclosure Act, affirming the judgment in favor of the individual who alleged violations of the franchise laws.

Conclusion

Accidental franchises can expose businesses to significant legal risks and liabilities. By understanding the criteria that define a franchise and recognizing the common structures that can lead to unintended franchise relationships, businesses can take proactive measures to avoid legal pitfalls. Engaging legal counsel and carefully structuring business relationships are essential steps in navigating the complex landscape of franchising.

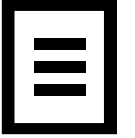
Business Set Up & Growth Through Franchising & Other Structures

Tuesday, September 30

9:00 A.M. - 12:15 P.M.

Taft/

What is a Franchise?



A franchise is a contract or agreement between two or more persons by which:

- **A franchisee is granted the right to sell or distribute goods or services under a marketing plan or system prescribed in substantial part by the franchisor.**
- **The franchisee is granted the right to use a trademark, service mark, trade name, or other commercial symbol that is owned or controlled by the franchisor.**
- **Franchisee is required to pay a franchise fee.**

Franchise Case Law



Continental Basketball Association, Inc., v. Ellenstein Enterprises, Inc., 669 N.E.2d 134 (Ind. 1996)

Seminal franchise case by the Indiana Supreme Court discussing, among other things, the intersections between the Indiana Franchise Act and the Indiana Deceptive Franchise Practices Act.

Enservco, Inc. v. Indiana Securities Div., 623 N.E.2d 416 (Ind. 1993)

Here, the Indiana Supreme Court disapproved of two prior court of appeals cases *Moll v. South Central Solar Systems*, 419 N.E.2d 154 (Ind. Ct. App. 1981) and *Master Abrasives Corp. v. Williams*, 469 N.E.2d 1196 (Ind. Ct. App. 1984) to the extent that those cases required proof of culpability or scienter as an element of franchise fraud. The Court further set forth that even though the elements of franchise fraud are not as extensive as the elements of common law fraud, a franchise fraud action must nevertheless plead the facts and circumstances alleged to constitute fraud, deceit, or misrepresentation with at least the same degree of particularity and detail as would be necessary to maintain an action for common law fraud.

Wright-Moore Corp. v. Ricoh Corp., 908 F.2d 128 (7th Cir. 1990)

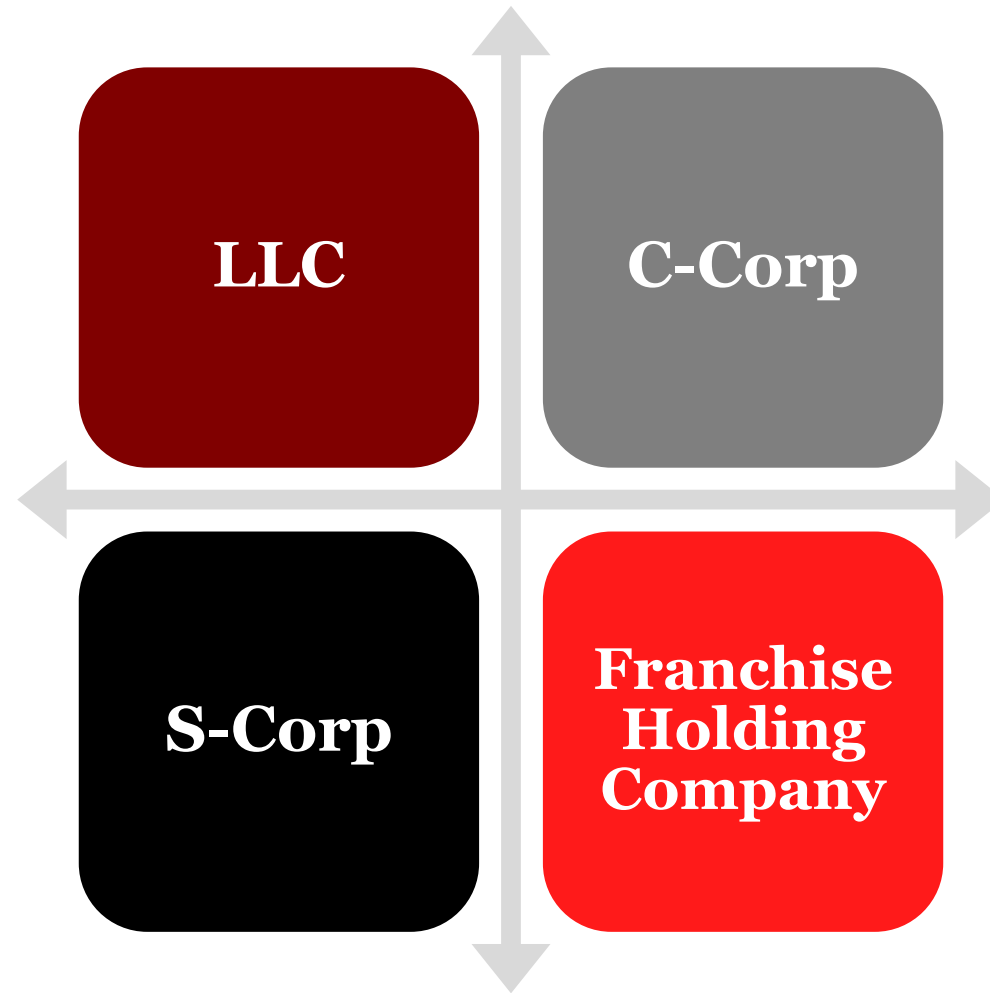
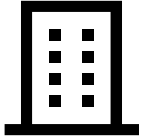
Seventh Circuit case that touches on multiple issues including choice of law and application of the Indiana Franchise statutes, whether the relationship of the parties is a franchise relationship or a mere distributorship agreement, the definition of a “franchise fee” under the Indiana franchise statutes, and termination rights under the Indiana franchise statutes as related to “good cause” terminations.

1

2

3

Franchise Business Structures



Avoiding Accidental Franchises



Structures to be wary of:

- Distributor Agreements
- Licensing Agreements
- Joint Ventures
- Sales Representative Agreements
- Referral Agreements

Josh Brown



Partner, Chair of Franchise Group
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[Bio Link](#)

Josh is chair of Taft's Franchise and Distribution group. He combines his legal experience, business background, and entrepreneurial skills to help clients grow their businesses with a particular focus on franchising and other licensing opportunities. He is passionate about helping entrepreneurs make smart franchise decisions and prepare for growth and expansion. Josh counsels franchisors through legal challenges and helps identify and pursue potential franchise opportunities. He is the creator and host of Franchise Euphoria, a top-rated podcast, and a frequent author and presenter on topics related to franchising

In between private practice, Josh was a law clerk for the Honorable Nancy H. Vaidik of the Indiana Court of Appeals. Prior to that, Josh worked in business management, sales, marketing, and operations for several businesses, including two franchise systems. Clients partner with Josh because he understands the industry and the challenges with starting, managing, and growing a small business.



Section Two

Registration Requirements

Christina Laun Fugate
Ice Miller LLP
Indianapolis, Indiana

Section Two

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Christina Fugate Bio for CLE

Christina Fugate is a franchise and litigation partner in the Indianapolis, Indiana office of the law firm Ice Miller LLP. Christina co-leads the firm's franchise and distribution practice, providing franchise and entrepreneurial clients with counseling and litigation services, from the initial creation of a franchise system and negotiation of the franchise relationship through dispute resolution. In addition to her franchise practice, Christina provides risk management and litigation services for a wide-range of commercial matters and clients nationwide.

Christina is an active member of the ABA Forum on Franchise and International Franchise Association. She has written several articles for the ABA Franchise Journal and former speaker at the ABA Forum on Franchise. Christina has been recognized as a "Legal Eagle" by the leading franchise industry publication, *Franchise Times*, and an Indiana Super Lawyer and recognized as one of the *Best Lawyers® in America* for litigation.

In addition to her law practice, Christina is a member of the Board of Directors of Road America, Inc., located in Elkhart Lake, Wisconsin. In the Indianapolis community, Christina serves as a member of the Board of Trustees for the Children's Museum of Indianapolis, chairs the Dean's Advisory Council for Butler University's Lacy School of Business, and serves on the Board of Directors for All Good Dawgs, Inc. (Butler University's NIL Collective), and Project 44, Inc. As a former collegiate tennis player at Butler University, she also serves as a volunteer for the United States Tennis Association.

Registration Requirements

Federal Law

Under federal law, the sale of franchises is governed by the Federal Trade Commission's Franchise Rule (the "FTC Franchise Rule"), codified at 16 CFR Part 436.

The FTC Franchise Rule does not require a franchisor to register their franchise offerings with the federal government; however, the FTC Franchise Rule mandates pre-sale disclosure to prospective franchisees. Franchisors must provide a prospective franchisee with an FDD at least fourteen (14) calendar days before the prospective franchisee signs any agreement or pays any fees.

The FTC Franchise Rule includes some exemptions from disclosure. These exemptions include:

- Large investment exemptions – if a prospective franchisee invests over \$1 million;
- Large franchisee exemption – if a prospective franchisee has significant experience or net worth.
- Fractional franchise exemption – if a franchise is a small part of an existing business.

State Franchise Registration Law

There are fourteen (14) states that require franchisors to register before offering or selling franchises. In most of these states, regulators review and comment on the FDD and may request revisions to the FDD or franchise agreement. While some states (like Michigan) use a simplified "notice only" system, this still qualifies as a form of registration. Franchise registrations are generally renewed annually. Below is a high-level overview of each state's requirements.

California

Franchise registration in California is governed by the California Franchise Investment Law, codified under Cal. Corp. Code § 31110 et seq. Before offering or selling franchises in the

state, franchisors must file a Uniform Franchise Registration Application with the DFPI. This filing must include the FDD, a consent to service of process (unless the franchisor is a California entity), a seller disclosure form, audited financial statements prepared in accordance with U.S. GAAP, and the applicable registration fee. Registrations must be renewed annually prior to expiration and

Hawaii

Franchise offerings in Hawaii are regulated under the Hawaii Franchise Investment Law, codified in Chapter 482E of the Hawaii Revised Statutes. Before offering or selling franchises, franchisors must register with the Hawaii Department of Commerce and Consumer Affairs through its Securities Online Portal. Required materials include the Uniform Franchise Registration Application, the proposed FDD, a notarized consent to service of process, seller disclosure forms, a guarantee of performance (if applicable), an auditor's consent letter, and the applicable filing fee. Registrations must be renewed annually or amended sooner if there are material changes to the FDD.

Hawaii also mandates that franchisors provide prospective franchisees with an FDD at least seven (7) days before the sale of a franchise. In addition to the FTC Franchise Rule disclosure requirements, Hawaii requires a statement in the FDD in boldface clarifying that filing under the Franchise Investment Law does not constitute approval or endorsement by the state.

Illinois

Franchise registration in Illinois is governed by the Illinois Franchise Disclosure Act, 815 ILCS 705 *et seq.* Franchisors intending to offer or sell franchises in the state must register with the Illinois Attorney General's Franchise Bureau unless exempt under the Act. To register, franchisors must submit a Uniform Franchise Registration Application, a complete FDD, a

consent to service of process, a seller disclosure form, and the applicable filing fee. Additional documents such as a guaranty of performance may also be required depending on the franchisor's financial condition. Registrations must be renewed annually, with renewal filings due within 120 days after the franchisor's fiscal year-end. If there is a material change to the FDD, a post-effective amendment must be filed promptly.

Indiana

In order to offer or sell a franchise in Indiana, franchisors must either register the franchise offering with the Indiana Secretary of State, Securities Division, or be exempt under the Indiana Franchise Act, Ind. Code § 23-2-2.5 *et seq.* In Indiana, franchisors must submit an FDD, seller disclosure form, uniform consent to service of process and pay a filing fee through the Indiana Securities Portal. Indiana is a notice filing state, meaning that a franchise registration becomes effective upon receipt by the Securities Division of the materials listed above.

Registration must be renewed annually.

Maryland

Franchise registration in Maryland is governed by the Maryland Franchise Registration and Disclosure Law, codified in Md. Code, Business Regulation Article, § 14-214. Any person intending to offer or sell a franchise in Maryland must register the offer with the Maryland Securities Commissioner before engaging in any promotional activity or sales, unless an exemption applies. To register, franchisors must submit a Uniform Franchise Registration Application, the proposed FDD, a consent to service of process, a seller disclosure form, and other required materials. Maryland also requires franchisors to file copies of any advertising or promotional materials intended for use in the state. Registrations must be renewed annually, and

franchisors are obligated to file amendments promptly upon any material change to the FDD or other submitted document.

Michigan

Michigan is a franchise registration state, but it operates under a “notice only” system. Under the Michigan Franchise Investment Law, M.C.L.A. 445.1507a, franchisors are only required to submit a “Notice of Intent” annually to the Michigan Attorney General, which Notice includes: the name of the franchisor, business name (DBA), principal business address, and a brief description of the franchised business, along with a fee to the Michigan Department of Attorney General. The Notice of Intent must be submitted annually.

Michigan also requires that the FDD be provided at least ten (10) days before signing a franchise agreement or accepting payment from a prospective franchisee.

Minnesota

Franchise registration in Minnesota is governed by Chapter 80C of the Minnesota Statutes, which regulates the offer and sale of franchises in the state. Franchisors must register with the Securities Division of the Minnesota Department of Commerce by submitting a Uniform Franchise Registration Application, a proposed FDD, a notarized consent to service of process, a seller disclosure form, and the required filing fee. All filings must be submitted electronically via Minnesota’s ComOnline portal. Registrations are valid for 12 months from the date of the commissioner’s order and must be renewed annually within 120 days of the franchisor’s fiscal year-end. Material changes to the FDD require an amendment filing within 30 days.

Minnesota also mandates that franchisors submit any advertisements directed at Minnesota residents to the Commissioner at least five business days before publication.

New York

To offer or sell franchises in New York, franchisors must comply with the New York Franchise Sales Act, codified in New York General Business Law § 683. The law requires franchisors to register with the Investor Protection Bureau of the New York Attorney General's Office before making any franchise offers or sales in the state, unless an exemption applies. All filings must be submitted through the NASAA Franchise Electronic Filing Depository (FRED), unless a hardship exemption is granted. Required materials include the Uniform Franchise Registration Application (with certification), the proposed FDD, a consent to service of process, a sales agent disclosure form, a costs and source of funds form, and the applicable filing fee. Registrations must be renewed annually within 120 days of the franchisor's fiscal year-end. If not renewed within this period, the registration expires and no franchise offers or sales may be made until a renewal is accepted. Amendments must be filed promptly upon any material change to the franchise system, financials, or operations. If the franchisor relies on financial statements of an affiliated company, a guarantee of performance form must also be submitted. Additionally, franchisors must submit two copies of any advertisements intended for use in New York at least seven days prior to publication, via the FRED system.

North Dakota

Franchise registration in North Dakota is governed by the North Dakota Franchise Investment Law, codified in N.D.C.C. § 51-19. Franchisors intending to offer or sell franchises in the state must register their FDD with the North Dakota Securities Department via the NASAA Electronic Filing Depository (EFD). Required materials include a cover letter, Uniform Franchise Registration Application, Franchisor's Costs and Sources of Funds, Auditor's Consent Form, Uniform Consent to Service of Process, Franchise Seller Disclosure Form, the proposed

FDD, and any advertising intended for use in the state. Franchisors must pay a registration fee, and the registration is valid for 12 months from the effective date. Renewals must be filed at least fifteen (15) business days before expiration and include marked changes to the FDD and any new advertising materials. Amendments must be filed promptly upon any material change.

South Dakota

Franchisors are required to comply with the South Dakota Franchise Investment Law, S.D. Code § 37-5B-1 *et seq.* South Dakota is a noticing filing state, meaning that a registration is not reviewed by an examiner and filing is effective upon receipt unless additional information is requested. Franchisors are required to submit a Franchise Notice Filing Application, FDD, uniform consent to service of process and initial filing fee among other materials. Renewals must be submitted within 120 days after the franchisor's fiscal year-end. South Dakota does not require amendment filings during the registration period. However, prospective franchisees must receive the current version of the FDD, including quarterly updates for material changes.

Virginia

To offer or sell franchises in Virginia, franchisors must comply with the Virginia Retail Franchising Act (Code of Virginia § 13.1-557 *et seq.*) and register with the State Corporation Commission (SCC), unless an exemption applies. Registration materials must be submitted either physically or via the NASAA Franchise Electronic Filing Depository (FRED) and include the Uniform Franchise Registration Application, the proposed FDD, a Uniform Consent to Service of Process, salesperson disclosure forms, and the applicable filing fee. Registrations must be renewed annually within 120 days after the franchisor's fiscal year-end, and renewal applications should be filed at least 30 days prior to the expiration. Amendments must be submitted within 30 days of any material change to the FDD or franchise offering.

Washington

Franchise registration in Washington is governed by the Washington Franchise Investment Protection Act (RCW 19.100). Before offering or selling franchises in the state, franchisors must register with the Securities Division of the Washington State Department of Financial Institutions, unless an exemption applies. Registration materials must be submitted through the NASAA Franchise Electronic Filing Depository (FRED) and include the Uniform Franchise Registration Application, the proposed FDD, a consent to service of process, salesperson disclosure forms, audited financial statements, and a filing fee. Washington also requires franchisors to submit all proposed advertising materials directed at state residents at least five (5) business days prior to use. Registrations are effective for one year and must be renewed annually at least 15 business days before expiration. Renewal filings must include a marked-up FDD showing changes, updated financials, and a renewal fee. Amendments must be filed as soon as reasonably possible following any material change to the FDD or the franchisor's financial condition.

Wisconsin

Franchisors must comply with the Wisconsin Franchise Investment Law (Wis. Stat. ch. 553), which requires registering a franchise with the Securities Division of the Wisconsin Department of Financial Institutions before franchisors offer or sell franchises in the state. Wisconsin does not conduct formal reviews of the FDD, and registration becomes effective immediately upon filing. Franchisors must use Wisconsin's Franchise E-Filing Portal to provide information to the state, such as the franchise name, application states, contact person for registration, consent to service of process and pay a filing fee. A copy of the FDD must be submitted electronically through the portal. Wisconsin does not require renewal registration, but

franchisors must re-register annually and each registration is provided a new number. Re-registration must occur within 120 days of the franchisor's fiscal year-end. Franchisors must also amend their registration within 30 days of any material change to the FDD.

State Business Opportunity and Other Laws

Franchisors must also comply with state-specific business opportunity laws, which vary significantly across jurisdictions. Some states, such as Florida and Utah, exempt franchisors from business opportunity registration if they are complying with the FTC Franchise Rule and submit an annual notice filing. Other states—like Connecticut, Kentucky, Nebraska and Texas—require a one-time exemption filing. Other states, such as South Carolina, condition exemption on the franchisor having a federally registered trademark. It is essential for franchisors to adhere to the current requirements in each state before offering or selling franchises there.

State Relationship Laws

Currently, nineteen (19) states (plus Puerto Rico and the U.S. Virgin Islands) have enacted franchise relationship laws. These states include:

1. Arkansas
2. California
3. Connecticut
4. Delaware
5. Hawaii
6. Illinois
7. Indiana
8. Iowa
9. Maryland

10. Michigan
11. Minnesota
12. Mississippi
13. Missouri
14. Nebraska
15. New Jersey
16. Rhode Island
17. Virginia
18. Washington
19. Wisconsin

Although each state's laws vary, there are commonalities. For example, franchisors generally must have good cause and provide written notice and opportunity to cure defaults under the franchise agreement before terminating. Some states require that franchisors not unreasonably withhold consent for a transfer of a franchise. Other states prohibit unfair treatment between franchisees and prohibit franchisors from restricting franchisees from joining associations. Many states also prohibit litigation or arbitration outside the franchisee's state. Furthermore, many states require that franchisors include a state addendum with the FDD or franchise agreement to acknowledge the state-relationship laws. Franchisors should be aware of these state relationship laws and disclosure requirements before offering or selling franchisees in those states.

Registration Requirements

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Ice Miller LLP



icemiller.com

Federal Law

FTC Franchise Rule governs (16 CFR Part 436).

No federal registration requirement.

FTC Franchise Rule requires FDD and 14-day disclosure.

Limited exceptions apply to disclosure requirements.

State Registration Laws

14 states are considered “registration states”: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, South Dakota, Virginia, Washington, and Wisconsin.



Registration requirements vary among states.



NASAA efforts to facilitate compliance through EFD.

State Business Opportunity and Other Laws

- The sale of franchises may also trigger business opportunity laws.
- One-time filing exemption states: Connecticut, Kentucky, Nebraska and Texas.
- Annual exemption states: Florida Utah.
- Exemptions based on federally registered trademark: South Carolina.

State Relationship Laws

State Laws

- 19 states (plus Puerto Rico and Virgin Island).
- Laws vary but have common themes: good cause for termination; prohibiting franchisors from unreasonably withholding consent to transfer; prohibiting unfair treatment, etc.
- Some states require a state addendum: California, Illinois, Michigan, Maryland, Minnesota, New York, Washington, Virginia.

Indiana Deceptive Franchise Practices Act

- Ind. Code 23-2-27 *et seq.*
- Prevents exclusive purchases.
- Protects against unreasonable non-compete clauses.
- Prevents terminating/not renewing a franchise without 90 days' notice.
- Prohibits encroachment by franchisor.
- Allows for private right of action.
- 2 years statute of limitation to pursue claims under the Act.

Section Three

What is a Franchise Disclosure Document and What is a Franchise Agreement?

Craig M. Fugate
Fugate Gangstad Lowe LLC
Carmel, Indiana

Section Three

What is a Franchise Disclosure Document and What is a Franchise Agreement?..... Craig M. Fugate

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Craig Fugate Bio for CLE

Craig Fugate practices franchise and business partner at Fugate Gangstad and Lowe LLC. Craig is the managing partner and handles all of the firm's franchise and the majority of the firm's business transaction and real estate law. As a franchise attorney, Craig primarily assists the firm's clients in reviewing and understanding the Franchise Disclosure Document along with negotiating the terms of the Franchise Agreement. These franchise clients often become real estate clients and general business clients as they move forward with their franchise.

Craig is a member of the ABA Forum on Franchise and regularly attends the Forum on Franchising to stay up to date on current franchise law and trends.

What Is a Franchise Disclosure Document

A Franchise Disclosure Document (“FDD”) is the document required to be prepared and provided by franchise sellers in the vast majority franchise offerings to prospective franchisees at least fourteen (14) days prior to the prospective franchisee either making a payment to the franchisor or signing a binding agreement. The FDD is governed by the Federal Trade Commission’s Franchise Rule (the “FTC Franchise Rule”), codified at 16 CFR Part 436. The rule applies to all franchise sellers including the franchisor, the franchisor’s employees, representatives, agents, subfranchisors, and third-party brokers. FTC Franchise Rule § 436.2. The FDD contains 23 Items as well as the Franchise Agreement.

The FDD is heavily regulated by the FTC. §436.3 sets forth the requirements for the Cover Page including: the format of the font for the words FRANCHISE DISCLOSURE DOCUMENT; samples of primary trademark; a brief description of the franchised business; and five (5) required statements that must be in each FDD addressing (1) the total investment, (2) reference to the fourteen (14) day requirement above, (3) acknowledgement that the Franchise Agreement governs the contractual relationship between the parties, (4) reference to a guide for purchasing a franchise published by the FTC, and (5) a sentence instructing potential franchisees to ask their state agency about any state laws.

§436.4 regulates the Table of Contents the FTC requires to be in all FDDs along with the requirement for page numbers and exhibits to be included and identified by letters. See Exhibit A. This regulation is not often the subject of litigation, but it does play the important rolls of ensuring clarity and uniformity across all FDDs, supporting state agencies in their audits of FDD filings, and ideally preventing franchise sellers from deceptive omissions.

When preparing the FDD, franchisors must follow the instructions in Subparts C and D of the FTC Franchise Rule. Failure to do so is considered an unfair or deceptive act under the FTC Franchise Rule and may be enforced under Sections 5, 13(b), and 19. FTC Franchise Rule §436.6. Each of the 23 Items must be fully addressed, clearly labeled, and if the franchisor determines that one or more item does not apply to the franchise opportunity, the franchisor must at least reference the type of information that is usually required to be disclosed. Franchisors may include state specific disclosures within the Items of the FDD or as attached exhibits.

FDDs must be updated annually within one hundred twenty (120) of the franchisor’s fiscal year end. Additionally, franchisors must update their FDDs quarterly if there are any material changes to the FDD. Once the new annual FDD is prepared or the quarterly update is complete, only the new or updated FDD may be circulated. Finally, and perhaps most importantly, “[w]hen furnishing a [FDD], the franchise seller shall notify the prospective franchisee of any material changes that the seller knows or should have known ...[regarding] any financial performance representation made in Item 19.” § 436.7(d).

Detailed Explanation of Required Items

Item 1: The Franchisor and Any Parents, Predecessors, and Affiliates

Item 1 requires a comprehensive overview of the franchisor and its related entities including the name and principal business address of the franchisor, as well as any parent companies and affiliates that either offer franchises or provide products or services to franchisees. It also requires disclosure of any predecessor entities that operated within the past ten (10) years. The franchisor must list all current and intended business names, identify its legal agent for service of process, and describe its legal structure (e.g., corporation or partnership) along with the state of incorporation. Additionally, the franchisor must explain whether it operates the same type of business it is franchising, outline its other business activities, and describe the business the franchisee will conduct. This section also includes a general overview of the market for the franchise's products or services, relevant industry laws or regulations, and the competitive landscape. Finally, it details the prior business experience of the franchisor, its predecessors, and affiliates, including how long each has operated the business type being franchised, how long they've offered franchises in that line, and whether they've franchised other types of businesses—along with descriptions, number of franchises sold, and duration of those offerings.

Item 2: Business Experience

In Item 2, franchisors must list the names and positions of key individuals responsible for managing franchise sales or operations. For each person, the franchisor must include a summary of their employment history over the past five (5) years, detailing job titles, employers, dates of employment, and locations.

Item 3: Litigation

Item 3 requires the franchisor to disclose any legal actions involving itself, its predecessors, parents, affiliates, or key individuals. This includes pending administrative, criminal, or material civil cases related to franchise, antitrust, or securities laws, fraud, or deceptive practices. It also covers any material civil actions involving the franchise relationship from the past fiscal year, and any convictions or civil liabilities from the past ten (10) years. Additionally, the franchisor must report any current injunctive or restrictive orders issued by public agencies. For each case, detailed information must be provided, including case title, filing date, parties involved, nature of the claims, outcomes, and status. This includes injunctive or administrative orders from state agencies.

Item 4: Bankruptcy

The franchisor's disclosure of any bankruptcy-related events from the past ten (10) years involving itself, its parents, predecessors, affiliates, or key individuals with management responsibilities is required in Item 4. This includes whether any of these parties filed for bankruptcy, received a discharge of debts, or were officers or general partners of entities that filed for bankruptcy during or shortly after their tenure. For each case, the franchisor must provide details such as the debtor's name and address, relationship to the franchisor, filing and discharge dates, court information, and case number.

Item 5: Initial Fees

Item 5 requires the franchisor to disclose all payments or commitments made to the franchisor or its affiliates before the franchisee's business opens. This includes lump-sum or installment payments for goods or services. The franchisor must disclose the amount of these fees, whether they are refundable, and under what conditions. If fees vary, the franchisor must provide the range or formula used to calculate them and explain the factors influencing the fee amount. Installment terms must also be disclosed either in this section or in Item 10.

Item 6: Other Fees

In Item 6, franchise must include a four column chart including (1) Type of Fee, (2) Amount, (3) Due Date, and (4) Remarks. The types of fees may include things such as royalties, construction, remodeling, training or purchasing cooperatives, inventory, or renewals to name a few. The Remarks section may include details such as definitions, whether the fee is payable to the franchisor or a third party, and whether the fees are refundable or uniform.

Item 7: Estimated Initial Investment

Item 7 also requires a chart, but the Estimated Initial Investment Chart includes five columns: (1) Type of Expenditure; (2) Amount; (3) Method of Payment; (4) Due Date and (5) To Whom the Payment is Made. Initial investment expenditures may include expenses such as the initial franchise fee, training expenses, real property expenses, equipment, fixtures, construction, decorating, opening inventory, and other prepaid expenses. Franchisors also must include an expense titled "Additional funds – [initial period]" which is to assist the franchisee in having sufficient funds during the initial period of operation. The amounts may be a range if the amount is unknown. The footnotes to the table must state whether each payment is refundable or the circumstances when each payment is refundable.

Item 8: Restrictions on the Sources of Products and Services

Item 8 requires the franchisor to disclose any obligations the franchisee has to purchase or lease specific goods or services—such as equipment, inventory, software, or real estate—from the franchisor, its affiliates, or approved suppliers. It must specify what items are required, who the approved suppliers are, and whether any franchisor officers have ownership interests in those suppliers. The franchisor must explain how alternative suppliers are approved or rejected, including criteria, fees, timelines, and revocation procedures. It must also disclose whether specifications are issued and how they are updated, whether the franchisor earns revenue from required purchases, and the proportion of these purchases to the franchisee's total spending. Additional disclosures include any supplier payments to the franchisor, purchasing cooperatives, negotiated supplier arrangements, and incentives tied to using specific products or suppliers.

Item 9: Franchisee's Obligations

In Item 9, franchisors must disclose the franchisee's principal obligations under the Franchise Agreement and other required or necessary contracts. This table references the section containing the obligation in both the Franchise Agreement and the FDD, providing prospective

franchisees and their reviewing attorney quick reference to specific obligations required to be listed by the FTC Franchise Rule §463.5(i). See Exhibit B.

Item 10: Financing

Item 10 requires requires the franchisor to disclose all financing arrangements offered to franchisees, including loans, leases, and installment contracts. It must detail what the financing covers, the lender's identity and relationship to the franchisor, interest rates, repayment terms, security requirements, guarantees, prepayment penalties, and default consequences. The franchisor must also disclose if franchisees waive legal defenses, if financing is sold or assigned to third parties, and whether the franchisor or its affiliates receive compensation for arranging financing.

Item 11: Franchisor's Assistance, Advertising, Computer Systems, and Training

Franchisors must outline the support they provide before and after the franchise opens in Item 11 and reference the section of the Franchise Agreement imposing the obligation for support. The first sentence of all Item 11s in all FDDS must begin with **"EXCEPT AS LISTED BELOW, [THE FRANCHISOR] IS NOT REQUIRED TO PROVIDE YOU WITH ANY ASSISTANCE."** FTC Franchise Rule §463.5(k). Pre-opening support may include help with site selection, permits, construction, hiring, and sourcing equipment or inventory. The franchisor also must disclose the typical timeline from signing to opening and factors that may affect it.

Ongoing support includes help with operations, employee training, product development, pricing, and problem-solving. Advertising disclosures cover the franchisor's obligations, use of media, advertising funds, cooperatives, councils, and how funds are spent. If franchisees must use specific computer systems or cash registers, the franchisor must describe the systems, costs, maintenance, upgrade requirements, and data access.

The franchisor must also provide a table of contents for its operating manual and details of its training program, including format, duration, and who conducts the training. Finally, Item 11 requires a detailed explanation of the franchisor's training program including a 4 column table with (1) Subject, (2) Hours of Classroom Training, (3) Hours of On-The-Job Training, and (4) Location. The franchisor must also the nature of the location, instructional materials, instructor experience, any charges and who must attend the training.

Item 12: Territory

This Item outlines the franchisee's territorial rights and related conditions. It specifies whether the franchise is tied to a specific location, whether any minimum territory granted, such as a defined radius or population area, and the conditions for relocating or opening additional outlets. Franchisee rights to acquire more franchises, including options or rights of first refusal, must also be disclosed.

The franchisor must state whether the territory is exclusive. If not, the franchisor must include the following statement: "You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control." FTC Franchise Rule §436.5(l)(5)(i). If

exclusivity is granted, the franchisor must explain any conditions that could affect it, such as sales performance or market changes, and the franchisor's rights to modify the territory.

For all territories, the franchisor must disclose any restrictions on soliciting or accepting orders within or outside the territory, including use of alternative sales channels like the internet or telemarketing. It must also disclose if similar goods or services are sold under different trademarks, and how conflicts between franchise systems are managed.

Item 13: Trademarks

Franchisors must disclose the principal trademarks the franchisee will use, including names, logos, and symbols, in Item 13. It must state whether each trademark is federally registered, provide registration details, and note any pending applications. If a trademark isn't federally registered, the franchisor must state: "We do not have a federal registration for our principal trademark. Therefore, our trademark does not have many legal benefits and rights as a federally registered trademark. If our right to use the trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses." FTC Franchise Rule §436.5(m)(4).

The franchisor must also disclose any legal disputes, limitations on trademark use, or agreements that may affect the franchisee's rights. This includes pending litigation, administrative rulings, or infringement claims. Additionally, the franchisor must explain its obligations to protect the franchisee's trademark use, the franchisee's responsibilities in reporting trademark issues, and any rights to control legal proceedings. If the franchisee may be required to stop using a trademark, the franchisor must outline the franchisee's rights and potential impacts. Finally, any known prior rights or infringing uses that could affect the franchisee's trademark use must be disclosed.

Item 14: Patents, Copyrights, and Proprietary Information

Item 14 requires the franchisor to disclose any patents, copyrights, or pending applications that are material to the franchise. This includes details such as the type, duration, registration numbers, and relationship to the franchise. The franchisor must also report any legal determinations or pending proceedings affecting these rights, and any agreements that limit their use.

Additionally, the franchisor must explain its obligations to protect these rights and defend the franchisee against infringement claims, including who controls litigation and whether indemnification is provided. If the franchisee may be required to stop using a patented or copyrighted item, the franchisor must outline the franchisee's rights. Finally, the franchisor must disclose any known infringements that could impact the franchisee and describe any proprietary information or trade secrets shared with the franchisee, such as confidential recipes or formulas.

Item 15: Obligation to Participate in the Actual Operation of the Franchise Business

If a franchisee is obligated to personally participate in the direct operation of the franchised business or whether such participation is recommended by the franchisor, the franchisor must disclose such obligation or recommendation in Item 15. Item 15 also requires the

franchisor to list any restrictions that must be placed on managers such as maintaining trade secrets and covenants not to compete.

Item 16: Restrictions on What Products the Franchisee May Sell

Item 16 includes restrictions on what franchisees may sell or restations that limit franchisee access to customers. Franchisors also must include whether franchisees are required to sell all goods and services authorized by the franchisor.

Item 17: Renewal, Termination, Transfer, and Dispute Resolution

Franchisors must include a table in Item 17 that references specific provisions in the Franchise Agreement that govern renewal, termination, transfer and dispute resolution and each section in the Franchise Disclosure Document. See Exhibit C.

Item 18: Public Figures

If a franchisor pays any compensation or other benefit to a public figure because of their use of the franchisor's products or endorsement of the franchisor's products, the franchisor must disclose the public figure's involvement with the management of the franchisor, if any, the public figure's total investment in the franchisor and the public figure's obligations to the franchisor.

Item 19: Financial Performance Representations

Item 19 requires franchisors to disclose any claims they make about potential or actual sales, income, or profits of franchised or company-owned outlets. These representations can be oral, written, or visual and must be included in the FDD if made during the franchise sales process. Franchisors are not required to make Financial Performance Representations. If they choose not to, they must include a specific disclaimer stating that no financial performance representations are made or authorized. If Financial Performance Representations are provided, they must be backed by a reasonable basis and written substantiation.

Financial Performance Representations can be based on historic performance or future projections. For historic Financial Performance Representations, franchisors must disclose details such as the group measured, time period, number of outlets, reporting rates, performance levels achieved, and distinguishing characteristics. They must also include a clear warning that individual results may vary.

Item 20: Outlets and Franchise Information

Under Item 20, franchisors must disclose the number of franchised and company owned stores in each of the franchisor's last three (3) fiscal years. The columns include (1) Outlet Type (franchised, company owned and total); (2) Year; (3) Outlets at Start of Year; (4) Outlets at End of year; and (5) Net Change. Franchisors must also provide tables with the above information on a state-by-state basis for the prior three (3) fiscal years and a table listing each transfer of a franchise by a franchisor in each state in during the three (3) prior fiscal years.

Item 20 also requires the franchisor to list the number of outlets in each state at the start of each of the last three (3) fiscal years, the outlets opened in each state, the terminations in each state, the non-renewals in each state, the number of franchised outlets reacquired by the franchisor in each state, any other outlets not operating in each state, and the total number of outlets operating in each state as of the end of the fiscal year.

The final table required to be provided by the franchisor under Item 20 is a table for the franchisor's projected openings in the next fiscal year four columns: (1) State; (2) Franchise Agreements Signed But Outlet Not Opened; (3) Projected New Franchised Outlets in the Next Fiscal Year; and (4) Projected Company-Owned Outlets in the Next Fiscal Year.

Finally, Item 20 requires the franchisor to disclose contact details for current franchisees and their outlets in each state. It must also disclose contact information for franchisees who left the system in the last fiscal year or have not communicated with the franchisor recently.

If selling a previously owned outlet, the franchisor must provide ownership history, reasons for changes, and periods of franchisor control. Additionally, the franchisor must disclose whether franchisees signed confidentiality agreements in the past three years, including a warning that some may not be able to speak openly.

Item 21: Financial Statements

Item 21 requires franchisors to disclose key financial documents in tabular format including balance sheets for the previous two (2) fiscal years and statements of operations, stockholder's equity and cash flows for the previous three (3) fiscal years. All financial statements must follow U.S. GAAP and be **audited** by an independent CPA, except for start-up franchisors, who may initially submit unaudited opening balance sheets with an accountant's consent letter. Additionally, franchisors must disclose financial statements of parents, affiliates, or sub-franchisors if those entities either guarantee the franchisor's obligations, perform post-sale duties, or hold controlling financial interests in subsidiaries.

In some cases, a franchisor may substitute its own audited financials with those of an affiliate, provided the affiliate guarantees all franchisor obligations and the guarantee is included in Item 22.

Item 22: Contracts

The franchisor must provide copies of all agreements that the franchisee must sign in Item 22, including but not limited to the Franchise Agreement, leases, options, and purchase agreements.

Item 23: Receipt

The final Item, Item 23, requires the franchisor to include two detachable acknowledgment pages at the end of the Franchise Disclosure Document. These pages serve as proof that the prospective franchisee received the FDD. The receipt must include: (1) a bold statement explaining the purpose of the disclosure document and the 14-day review period

before signing or paying; (2) the franchisor's name, business address, and phone number; (3) the issuance date of the FDD; (4) the name and address of the franchisor's registered agent; (5) a statement confirming receipt of the FDD and listing all attached exhibits; (6) space for the franchisee's signature and date; and (7) instructions for returning the signed receipt (e.g., mailing address, email, or fax).

The Franchise Agreement

The Franchise Agreement is the most important document in a franchising relationship. The Franchise Agreement is the legally binding contract between a franchisor and franchisee that lists all the obligations for both the franchisor and franchisee. Unlike the FDD, Franchise Agreements can be negotiated and individualized for franchisees through an addendum. Additionally, registration states may have required addendums for each state.

In Franchise Agreements, franchisees are granted the right to establish a franchised business with a license to use the franchisor's intellectual property, trade dress, business systems, operations manual and sources of supply in offering and selling the franchisor's designated products and services. The Franchise Agreements cover many of the same topics as the FDD and should always have the same obligations and responsibilities as what is contained in the FDD.

Because Franchise Agreements are not regulated by the FTC, franchisors are able to format their Franchise Agreements in any manner they wish outside of state regulations and vary widely based on industry and business model. Further, one single FDD may have multiple types of Franchise Agreements such as a franchise agreement for an individual, entity, multi-unit development agreements and non-traditional facilities, such as a McDonald's inside a Wal-Mart.

In general, in addition to the franchise specific information that is included in the FDD and cross referenced in the charts in the FDD, Franchise Agreements include common contractual provisions such as the parties, involved, franchise fees, territory and duration, training and support, franchisee obligations, termination provisions and governing law.

The typical sections of the Franchise Agreement include but are not limited to:

1. Grant and Term

This section will often include the franchisor granting the franchisee the right to use the franchisor's name, trademarks and proprietary systems for a set period. This section will also lay out the requirements for renewal terms.

2. Initial and Ongoing Support

The agreement should detail the scope of training and ongoing support provided by the franchisor, including initial onboarding, software updates, operational assistance, and marketing resources. It should also clarify whether training is limited to initial instruction or includes periodic, mandatory sessions, along with any associated costs.

3. Initial Fees and Ongoing Fees

This section details all of the costs associated with owning and operating a franchise including initial franchise fees, ongoing royalty payments, advertising fund contributions, operations expenses, other fees, and financial performance representations. This section should be cross referenced with Items 5 and 6 in the FDD.

4. Operations Standards and System Requirements

The agreement specifies operational standards, including business hours, technology platforms, and the products or services to be offered. These requirements are designed to maintain brand consistency across all franchise locations. It is important to understand which provisions are mandatory and which allow for flexibility.

5. Product Procurement and Vendor Relationships

Franchisors often mandate purchasing products or services from specific suppliers to maintain quality control. Others may allow approved alternatives.

6. Trademarks, other IP and Brand Manual.

Franchisors list all logos, trademarks and other branding assets that it is granting the franchisee the right to use. This section also includes the brand manual which governs where and how the logos and trademarks can be used by the franchisee.

7. Advertising

Franchisors require franchisees to spend a certain percentage of their income or profit on advertising in their territory. Additionally, franchisees are often required to contribute to a national or regional advertising fund. The agreement should specify the contribution amount, how the funds are allocated, and the extent of the franchisee's control over local marketing efforts.

8. Site Selection and Territory Rights

This section defines the geographic area in which the franchisee may operate and specifies whether exclusive territorial rights are granted. In competitive markets, territorial protection from other franchisees can provide a strategic advantage. The agreement also outlines the franchisee's role in site selection and any required approval from the franchisor.

9. Transfer and Assignment

Franchisors consistently include terms that require the franchisor's approval of any proposed transfer or assignment, and they often have the right of first refusal on any such change in ownership of a franchise.

10. Termination and Post-Termination

Termination clauses outline the conditions under either party can terminate the contract and often the calculation of damages or early termination. The key elements include grounds for termination, notice requirements, cure periods, immediate termination conditions, and post-termination obligations including financial settlements. This section may also outline dispute resolution mechanisms.

11. Indemnification and Insurance

Franchisors require franchisees to carry certain insurances depending on the industry including but not limited to general liability insurance, property insurance, and possibly cyber liability coverage. This protects both the franchisor and franchisee in the event of a lawsuit.

Further, many franchisors require franchisees to indemnify the franchisor for any claims related to the franchisee's operation of the franchised business.

12. Disputes and Forum Selection

Franchisors generally want all disputes to be mediated, arbitrated or litigated in their home state. Many registration states have provisions placing most alternative dispute resolution and litigation in the home state of the franchisee.

Ex. A.

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Ex. B

ITEM 9

FRANCHISEE'S OBLIGATIONS

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS DISCLOSURE DOCUMENT.

Obligation	Section in Agreement Disclosure Document Item
a. Site selection and acquisition/lease	
b. Pre-opening purchase/leases	
c. Site development and other pre-opening requirements	
d. Initial and ongoing training	
e. Opening	
f. Fees	
g. Compliance with standards and policies/operating manual	
h. Trademarks and proprietary information	
i. Restrictions on products/services offered	
j. Warranty and customer service requirements	
k. Territorial development and sales quotas	
l. Ongoing product/service purchases	
m. Maintenance, appearance, and remodeling requirements	
n. Insurance	
o. Advertising	
p. Indemnification	
q. Owner's participation/management/staffing	
r. Records and reports	
s. Inspections and audits	
t. Transfer	
u. Renewal	
v. Post-termination obligations	
w. Non-competition covenants	
x. Dispute resolution	

y. Other: (describe)

Exhibit C

ITEM 17

THE FRANCHISE RELATIONSHIP

This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this Disclosure Document.

Provision	Section in Franchise/Other Agreement	Summary
a. Length of the franchise term		
b. Renewal or extension of the term		
c. Requirements for franchisee to renew or extend		
d. Termination by franchisee		
e. Termination by franchisor without cause		
f. Termination by franchisor with cause		
g. “Cause” defined—curable defaults		
h. “Cause” defined—non-curable defaults		
i. Franchisee’s obligations on termination/non-renewal		
j. Assignment of contract by franchisor		
k. “Transfer” by franchisee—defined		
l. Franchisor approval of transfer by franchisee		
m. Conditions for franchisor approval of transfer		
n. Franchisor’s right of first refusal to acquire franchisee’s business		
o. Franchisor’s option to purchase franchisee’s business		
p. Death or disability of franchisee		
q. Non-competition covenants during the term of the franchise		
r. Non-competition covenants after the franchise is terminated or expires		
s. Modification of the agreement		
t. Integration/merger clause		

u. Dispute resolution by arbitration or mediation		
v. Choice of forum		
w. Choice of law		
Notes:		

What is a Franchise Disclosure Document and What is a Franchise Agreement?

Craig Fugate
Fugate Gangstad Lowe LLC

What Exactly is a FDD?

- Regulated by 16 CFR Part 439 (“FTC Franchise Rule”)
- MUST be received 14 days prior to any signatures/payments
 - Applies to all franchise sellers (agents/brokers/etc.)
- Specifically formatted cover page
- All FDD have the same table of contents with the same 23 Items labeled
- State Disclosures
- Updated at least annually



FRANCHISE DISCLOSURE DOCUMENT

McDonald's USA, LLC
a Delaware limited liability company
110 N. Carpenter Street
Chicago, Illinois 60607
(630) 623-3000
www.mcdonalds.com

The franchisee will own and operate a quick service restaurant offering a limited menu of value-priced foods using the McDonald's System.

The **total investment** necessary to begin operation of a traditional McDonald's franchise ranges from \$1,470,500 to \$2,642,000 (see Item 7 for small town oil, small town retail, and Satellite locations). This includes an initial franchise fee of \$45,000.00 (see Item 5 for small town oil, small town retail, and Satellite locations) that must be paid to the franchisor.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least **14 calendar days** before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact the Franchise Practice Group at 110 N. Carpenter Street, Chicago, IL 60607 and (630) 623-3000.

The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read all of your contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. **More information on franchising, such as "A Consumer's Guide to Buying a Franchise,"** which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at www.ftc.gov for additional information. **Call your state agency or visit your public library for other sources of information on franchising.**

There may also be laws on franchising in your state. Ask your state agencies about them.

How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

QUESTION	WHERE TO FIND INFORMATION
How much can I earn?	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibits R and S.
How much will I need to invest?	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
Does the franchisor have the financial ability to provide support to my business?	Item 21 or Exhibit A includes financial statements. Review these statements carefully.
Is the franchise system stable, growing, or shrinking?	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
Will my business be the only McDonald's business in my area?	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
Does the franchisor have a troubled legal history?	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
What's it like to be McDonald's franchisee?	Item 20 or Exhibits R and S lists current and former franchisees. You can contact them to ask about their experiences.
What else should I know?	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

What You Need To Know About Franchising *Generally*

Continuing responsibility to pay fees. You may have to pay royalties and other fees even if you are losing money.

Business model can change. The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

Supplier restrictions. You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

Operating restrictions. The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

Competition from franchisor. Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

Renewal. Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

When your franchise ends. The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit P.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

Special Risks to Consider About *This* Franchise

Certain states require that the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Illinois. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Illinois than in your own state.

Certain states may require other risks to be highlighted. Check the “State Specific Addenda” (if any) to see whether your state requires other risks to be highlighted.

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K.	McDonald's New Term Policy
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O.	List of Agents for Service of Process
P.	State Administrators
Q.	McDonald's Affiliates
R.	List of Franchised Restaurants
S.	List of franchisees who had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business
T.	State Specific Addenda

Item 1

The Franchisor, Any Parents, Predecessors and Affiliates

- Overview of franchisor and related entities
- Predecessor entities within past 10 years
- Legal agent for service of process
- Legal structure
- Does it compete with franchisees
- Institutional experience in franchising

Item 2

Business Experience

- Key individuals
- 5 years of employment history

Further inquiries about these laws.

Item 2 Business Experience

Except where noted below, all of the officers and directors listed below became employees of McDonald's on January 1, 2005. However, all have long histories with our predecessor and the date they joined our predecessor is listed below.

<u>Title</u>	<u>Name</u>	<u>Start Date</u>
Director and President	Joe Erlinger	April 22, 2002
Director	Ian Borden	July 25, 1994
Director	Angela K. Steele	May 9, 2011
U.S. Chief Restaurant Operations Officer	Mason Smoot	March 1, 1994
U.S. Chief Finance Officer	Tom Dillon	February 2, 2009
U.S. President National Field Operations	Myra Doria	January 1, 1996
U.S. Vice President – Franchising Strategy	Brad Bogan	June 17, 2019 (1)
U.S. Field Vice President	Albert Ahumada	October 30, 2007

(1) Brad Bogan is the U.S. Vice President - Franchising Strategy effective as of April 2022. From June 2019 to March 2022, he was the U.S. Field Vice President for the Denver Field Office. From January 2019 to June 2019, he was the Managing Director – Consumer/Retail Strategy, Operations and M&A Advisory for Deloitte in Chicago, Illinois.

(2) Derin Briggs is the U.S. Field Office Vice President for the Nashville Field Office effective as of February 7, 2022. From November 2019 to January 2022, she was the Division Vice President for Dollar General, and from October 2018 to November 2019, she was the Regional Director for Dollar General. From January 2019 to September 2018, she was the District Senior Director for Target, located in Austin and San Antonio, Texas.

(3) Robert Franklin is a Sr. Director – Operations Officer for the Bethesda Field Office effective January 2023. From November 2019 to January 2023, he was a Director of Value & Deal Strategy within US Finance & Insights, and from January 2019 to November 2019, he was a Lead Manager of Performance Management.

Items 3 and 4

- Item 3 – Litigation
- List legal actions against all related entities
 - All pending actions and cases in the last year
 - All judgments against in past 10 years related to franchising
 - Detailed information about each case
- Item 4 – Bankruptcy
- All bankruptcy events in the past 10 year for any related entity
 - Filing, discharge of debts, etc.

Items 5-8

Item 5: Initial Fee

- All payments and commitments made before the business opens
Also must disclose if refundable

Item 6: Other Fees

- Ongoing Fees
- Royalties, construction, training, cooperatives, renewals

Item 7: Estimated Initial Investment

- Initial franchise fee, initial training, property, renovations, equipment, opening inventory, prepaid expenses

Item 8: Restrictions on the Sources of Products and Services

- Does the franchisor make the franchisee purchase from certain suppliers/vendors
- Does the franchisor receive any payments from suppliers

This table lists your principal obligations under the franchise and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.

Obligation	Section in agreement	Disclosure document item
a. Site selection and acquisition/lease	Sections 1(a) and 1(b) of Franchise Agreement and Sections 2.01 and 2.04 of Operator's Lease	Items 7 & 11
b. Pre-opening purchase/leases	Section 12(b) of Franchise Agreement and Sections 2.04 and 2.06 of Operator's Lease	Items 7 & 8

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Item 9

Franchisee's Obligations

References the section in the Franchise Agreement and FDD

Obligation	Section in agreement	Disclosure document item
c. Site development and other pre-opening requirements	Sections 12(b), 12(c) and 12(d) of Franchise Agreement	Items 6, 7, & 11
d. Initial and ongoing training	Sections 3 and 6 of Franchise Agreement	Item 11
e. Opening	Section 12(b) of Franchise Agreement and Section 2.06 of Operator's Lease	Item 7
f. Fees	Sections 8(a) and 9 of Franchise Agreement and Sections 3.01(A) and 3.01(B) of Operator's Lease	Items 5, 6, 7, & 11
g. Compliance with standards and policies/operating manual	Sections 1(c), 1(d), 4, and 12 of Franchise Agreement and Section 2.08 of Operator's Lease	Item 11
h. Trademarks and proprietary information	Sections 2(a)(iii), 4, 11(c), 11(d), 11(e), and 28(g) of Franchise Agreement	Items 13 & 14
i. Restrictions on products/services offered	Sections 1(c) and 12(i) of Franchise Agreement and Section 2.08 of Operator's Lease	Items 8 & 16
j. Warranty and customer service requirements	Sections 1(a), 1(c), 12(a), and 12(h)(iii) of Franchise Agreement	Not Applicable
k. Territorial development and sales quotas	Not Applicable	Not Applicable
l. Ongoing product/service purchases	Sections 12(a), 12(g), 12(i), and 12(j) of Franchise Agreement	Item 8
m. Maintenance, appearance, and remodeling requirements (1)	Sections 12(a), 12(d), and 12(e) of Franchise Agreement and Sections 2.06, 2.08, 4.02, 4.03, and 6.05 of Operator's Lease	Item 11
n. Insurance (1)	Section 17 of Franchise Agreement and Section 6 of Operator's Lease	Item 8
o. Advertising	Section 5 of Franchise Agreement	Items 6 & 11
p. Indemnification	Section 24 of Franchise Agreement and Section 7.02 of Operator's Lease	Item 9
q. Owner's participation/management/staffing	Sections 1(e), 6, 12(g), and 13 of Franchise Agreement	Items 11 & 15
r. Records and reports	Section 10 of Franchise Agreement and Sections 3.02 and 3.03 of Operator's Lease	Item 11
s. Inspections and audits	Sections 10 and 12 of Franchise Agreement and Sections 3.03 and 7.01 of Operator's Lease	Items 6 & 11
t. Transfer	Section 15 of Franchise Agreement and Section 4.06 of Operator's Lease	Item 17
u. Renewal	Not Applicable. Section 28(a) of Franchise Agreement	Item 17
v. Post-termination obligations	Sections 11(b) and 20 of Franchise Agreement and Section 7.04 of Operator's Lease	Item 17
w. Non-competition covenants	Sections 11(a) and 11(b) of Franchise Agreement	Item 17
x. Dispute resolution	Not Applicable	Item 17

Item 10 Financing

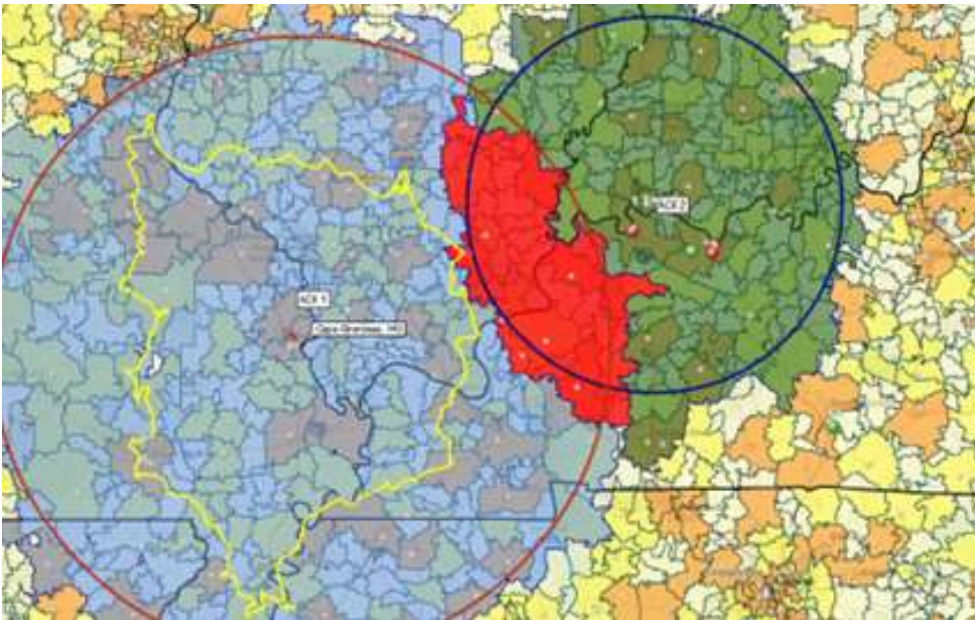
- Must disclose all financing arrangements offered to franchisees
 - Loans, leases, installment contracts, etc.
 - Lender, interest rates, repayment terms, security requirements, guarantees, prepayment penalties and default consequences
- Must disclose compensation for arranging financing

Item 11 – Franchisor’s Assistance, Advertising, Computer Systems and Training

- “EXCEPT AS LISTED BELOW, [THE FRANCHISOR] IS NOT REQUIRED TO PROVIDE YOU WITH ANY ASSISTANCE
 - FTC Franchise Rule §463.5(k).
- Pre-Opening
 - Site selection, permits, construction, hiring, sourcing equipment and inventory
- Ongoing
 - Employee training, product development, pricing, advertising, computer systems
- Operating Manual Table of Contents
- Training programs details

Item 12

Territory



- Is there is specific location
- Minimum territory (radius, population)
- Exclusive?
 - If not: “You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control.” FTC Franchise Rule §436.5(l)(5)(i).
 - Can exclusivity change?
- Order from outside of exclusive territory?

Item 13

Trademarks



- All Principal trademarks
 - Names, logos, symbols
 - Federally registered
 - If not, “We do not have a federal registration for our principal trademark. Therefore, our trademark does not have many legal benefits and rights as a federally registered trademark. If our right to use the trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.” FTC Franchise Rule §436.5(m)(4).
- State registration
- Legal disputes
- Limits on use

Item 14

Patents, Copyrights and Proprietary Information

- Disclose any issued and pending patents and copyrights
 - Type, duration, registration numbers
 - Any USPTO determinations or agreement affecting the patents and copyrights
- Obligation to protect and defend the rights
- Indemnification
- Franchisee's rights
- Any known infringement
- Proprietary information (aka the "secret sauce")

Items 15 - 18

ITEM 15: Obligation to Participate in the Actual Operation of the Franchise Business

Item 16: Restrictions on What Products Franchisee May Sell

Item 17: Renewal, Termination, and Dispute Resolution

Item 18: Public Figures

Item 19

Financial Performant Representations

- Disclose ANY claims they make about potential or actual sales, income or profits
- Are not required to make FRPs
- If they do make FRP, must have a reasonable basis and written substantiation
- Historical or Future

Of the approximately 12,605 domestic traditional McDonald's restaurants opened at least 1 year as of December 31, 2023, approximately 79% had annual sales volumes in excess of \$3,000,000; approximately 72% had annual sales volumes in excess of \$3,200,000; and approximately 65% had annual sales volumes in excess of \$3,400,000. The average annual sales volume of domestic traditional McDonald's restaurants open at least 1 year as of December 31, 2023, was \$4,001,000 during 2023. The highest and lowest annual sales volume in 2023 for these domestic traditional McDonald's restaurants was \$19,556,000 and \$1,098,000, respectively. The median annual sales volume of domestic traditional McDonald's restaurants open at least 1 year as of December 31, 2023, was \$3,837,000 during 2023.

Of the approximately 11,972 domestic traditional franchised McDonald's restaurants opened at least 1 year as of December 31, 2023, approximately 78% had annual sales volumes in excess of \$3,000,000; approximately 71% had annual sales volumes in excess of \$3,200,000; and approximately 64% had annual sales volumes in excess of \$3,400,000. The average annual sales volume of domestic traditional franchised McDonald's restaurants open at least 1 year as of December 31, 2023, was \$3,964,000 during 2023. The highest and lowest annual sales volume in 2023 for these domestic traditional franchised McDonald's restaurants was \$19,556,000 and \$1,098,000, respectively. The median annual sales volume of domestic traditional franchised McDonald's restaurants open at least 1 year as of December 31, 2023, was \$3,797,000 during 2023.

Of the approximately 633 domestic traditional McOpCo restaurants opened at least 1 year as of December 31, 2023, approximately 96% had annual sales volumes in excess of \$3,000,000; approximately 94% had annual sales volumes in excess of \$3,200,000; and approximately 89% had annual sales volumes in excess of \$3,400,000. The average annual sales volume of domestic traditional McOpCo restaurants open at least 1 year as of December 31, 2023, was \$4,711,000 during 2023. The highest and lowest annual sales volume in 2023 for these domestic traditional McOpCo restaurants was \$9,664,000 and \$1,873,000, respectively. The median annual sales volume of domestic traditional McOpCo restaurants open at least 1 year as of December 31, 2023, was \$4,612,000 during 2023.

Item 20

Outlets and Franchisee Information



Item 20 Outlets and Franchisee Information

Table No. 1
Systemwide Outlet Summary
For years 2021 to 2023

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2021	13,022	12,775	-247
	2022	12,775	12,764	-11
	2023	12,764	12,772	+8
Company-Owned	2021	657	661	+4
	2022	661	691	+30
	2023	691	685	-6
Total Outlets	2021	13,679	13,436	-243
	2022	13,436	13,455	+19
	2023	13,455	13,457	+2

Table No. 2
Transfers of Outlets from Franchisees to New Owners (other than the Franchisor) (1)
For years 2021 to 2023

State	Year	Number of Transfers
Alabama	2021	16
	2022	7
	2023	13
Alaska	2021	7
	2022	0
	2023	0
Arizona	2021	32
	2022	20
	2023	15

Item 20

Outlets and Franchisee Information



Table No. 3
Status of Franchised Outlets
For years 2021 to 2023

State	Year	Outlets at Start of the Year	Outlets Opened	Terminations (1)	Non-Renewals (2)	Reacquired by Franchisor (3)	Ceased Operations - Other Reasons (4)	Outlets at End of the Year
Alabama	2021	242	0	0	3	0	0	239
	2022	239	1	0	0	0	0	240
	2023	240	2	3	3	0	0	236

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State	Year	Outlets at Start of the Year	Outlets Opened	Terminations (1)	Non-Renewals (2)	Reacquired by Franchisor (3)	Ceased Operations - Other Reasons (4)	Outlets at End of the Year
Alaska	2021	31	0	0	3	0	0	28
	2022	28	0	0	0	0	0	28
	2023	28	0	1	0	0	0	27
Arizona	2021	273	3	0	20	0	0	256
	2022	256	6	0	0	0	0	262
	2023	262	7	0	0	0	0	269
Arkansas	2021	169	0	0	5	0	0	164
	2022	164	0	0	0	0	0	164

Item 20

Outlets and Franchisee Information



Table No. 4
Status of Company-Owned Outlets
For years 2021 to 2023

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired From Franchisee (1)	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Arizona	2021	11	0	0	0	0	11
	2022	11	0	0	0	0	11
	2023	11	0	0	0	0	11
California	2021	77	0	0	0	3	74
	2022	74	0	0	0	0	74
	2023	74	0	0	0	0	74
Florida	2021	98	0	3	1	0	100
	2022	100	1	47	0	2	146
	2023	146	1	0	0	0	147
Hawaii	2021	21	0	0	0	0	21
	2022	21	0	0	0	0	21
	2023	21	0	0	0	0	21
Illinois	2021	47	0	0	0	3	44
	2022	44	0	0	0	0	44
	2023	44	2	0	1	4	41
Indiana	2021	28	0	0	0	0	28
	2022	28	0	0	0	0	28
	2023	28	1	0	0	0	29
Iowa	2021	0	0	25	0	0	25

Table No. 5
Projected Openings As Of December 31, 2023 (1)

State	Franchise Agreement Signed But Outlet Not Opened	Projected New Franchised Outlet in the Next Fiscal Year	Projected New Company-Owned Outlet in the Next Fiscal Year
Alabama	0	1	0
Alaska	0	0	0

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State	Franchise Agreement Signed But Outlet Not Opened	Projected New Franchised Outlet in the Next Fiscal Year	Projected New Company-Owned Outlet in the Next Fiscal Year
Arizona	0	5	0
California	0	0	0

Items 21- 23

Item 21 Financial Statements

- 2 years of balance sheets
- 3 years of statements of operations, stockholder's equity and cash flows
- GAAP and audited unless start-up franchisor

Item 22 Contracts

- All agreements franchisee must sign

Item 23 Receipt

Receipt

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If McDonald's USA, LLC offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

[Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.]

If McDonald's USA, LLC does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state agency listed on Exhibit P.

The name, principal business address, and telephone number of the franchise sellers offering the franchise are McDonald's USA, LLC and Brad Bogan, 110 N. Carpenter Street, Chicago, Illinois 60607 (630) 623-3000.

The issuance date of this Franchise Disclosure Document is May 1, 2024, as amended January 1, 2025.

McDonald's USA, LLC authorizes the state agents listed in Exhibit O to receive service of process for it in the respective states.

I received a disclosure document dated May 1, 2024, as amended January 1, 2025, that included the following Exhibits:

- | | |
|--------------------------------------|---|
| A. Financial Statements | L. McDonald's Growth Policy |
| B. Franchise Agreement (Traditional) | M. New Term Offer Letter |
| C. Franchise Agreement (Satellite) | N. Loan and Related Documents |
| D. Franchise Agreement (Walmart) | O. List of Agents for Service of Process |
| E. New Restaurant Rider | P. State Administrators |
| F. BFL Rider | Q. McDonald's Affiliates |
| G. Operator's Lease | R. List of Franchised Restaurants |
| H. Assignment to an Entity | S. List of franchisees who had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business |
| I. Assignment Agreement | T. State Specific Addenda |
| J. Preliminary Agreement | |
| K. McDonald's New Term Policy | |

Date Received

Prospective Franchisee

Prospective Franchisee

Prospective Franchisee

Effective Date: May 1, 2024, as amended January 1, 2025

Return electronically signed and dated Receipt via DocuSign; or fax signed and dated Receipt to (630) 568-6271; or mail signed and dated Receipt to Franchise Practice Group Dept. 088, McDonald's USA, LLC, 110 N. Carpenter Street, Chicago, IL 60607.

What Exactly is a Franchise Agreement?

- Governs relationship – it is the legally binding contract, not the FDD
- Can be negotiated and individualized (through an Addendum)
- Right to use a license to establish a business under the rules in the FA
- Repetitive with the FDD – should always match
- Different formats based on industry and business model
- Can have multiple FAs in one FDD

Negotiations

1. Grant and Term
2. Initial and Ongoing Support
3. Initial Fees and Ongoing Fees
4. Operations Standards and System Requirements
5. Product Procurement and Vendor Relationships
6. Trademarks, other IP and Brand Manual
7. Advertising
8. Sight Selection and Territory Rights
9. Transfer and Assignment
10. Termination and Post-Termination
11. Indemnification and Insurance
12. Disputes and Forum Selection

