

# Guide Notes for Use with Disclosure Document Template

**This Guide has been prepared for use in conjunction with the Franchise Association of New Zealand Inc. Code of Practice.**

**Please refer to the Code of Practice which sets out the requirements for FANZ membership.**

**Guide notes are numbered to correspond with the relevant sections of Appendix A of the FANZ Code of Practice.**

**It is recommended for simplicity that your Disclosure Document follows the same order as the Code of Practice, although additional material can be added.**

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## INTRODUCTION

The purposes of a Disclosure Document are:

- a) To give to a prospective Franchisee, or a Franchisee proposing to enter into, renew or extend a franchise agreement, information from the franchisor to help the Franchisee to make a reasonably informed decision about the franchise
- b) And to give a Franchisee current information from the Franchisor that is material to the running of the franchised business.

## FRONT PAGE

**Enter** – System’s legal name, address and contact details as outlined in the template. Also include date on which the Disclosure Document is prepared.

**Section in the box** – This relates to the information required under Section 12 of the FANZ Code of Practice.

Sign and date the Disclosure Document.

This relates to Section 14 of the Code of Practice – Signatories should be the same persons as are required to execute any Franchise Agreement for the Franchisor Name should be legible underneath their signatures and include their office (eg “Director” or “Proprietor”).

### 1 FRANCHISOR DETAILS:

**Name:** Of the Franchisor

**Registered Office:**

Note Registered Office is the address registered at the companies office if the Franchisor is a limited liability company.

**Principal Place of Business;** *(Optional under the Code of Practice)*

But recommended to provide clarity if the registered office is somewhere else.

**Name under which the Franchisor carries on business in New Zealand relevant to the Franchise:** *(Optional under the Code of Practice)*

But adds to clarity if brand or trading name more recognised than the legal entity.

**Other relevant Trade or Industry Associations of which the Franchisor is a member:**

**2 Names, job descriptions, qualifications (if any) of the Franchisor's directors/executive officers/principals/proprietors:**

**3 Resume of the business experience of the Franchisor (and any related entities) and its directors / executive officers / principals including:**

- 3(a) Length of experience in the type of business offered in the Franchise:
- 3(b) Length of experience in operating or offering the Franchise:
- 3(c) Length of experience in operating or offering other Franchises and a description of those Franchises:

**4 FRANCHISOR FINANCIAL INFORMATION**

*Please refer to Appendix "B" of this document for details.*

**5 Details of any bankruptcies, receiverships, liquidations, or materially relevant debt recovery, criminal, civil or administrative proceedings which are current or have occurred, or for which judgement has been entered against the Franchisor (and any related entities) or any of its directors / executive officers / principals within the last five (5) years:**

**6 SUMMARY OF THE MAIN PARTICULARS / FEATURES OF THE FRANCHISE INCLUDING:**

- 6(a) Nature and period of existence of the Franchise system and how it has developed:
- 6(b) Details and examples of any Trade Mark, logo, symbol, etc used to market the Franchisor's goods / services and steps taken to protect these and details of any threatened or pending litigation in relation to these:
- 6(c) Details of payments to be made by the Franchisee to the Franchisor (including the method of calculation if applicable, and the amount to be refunded by the Franchisor if the Franchisee terminates the Franchise Agreement within the cooling off period):
- 6(d) Outline the particulars of any restrictions imposed on the Franchisee (e.g. territorial, or the offer of competing franchises):
- 6(e) Summarise the terms and conditions for the purchase of services/goods, fixtures, property, etc from the Franchisor.

Summarise the situation applying if the source of the goods/products supplied by the Franchisor fails, plus relevant comments/conditions with respect to rebates etc from suppliers:

- 6(f) Outline the basis of Franchisor's involvement/approval for site selection:
- 6(g) Summarise the terms and conditions relating to termination, renewal, goodwill and assignment of the Franchise:
- 6(h) Summarise the main obligations of the Franchisor (including initial and ongoing training to be provided):

**7 COMPONENTS THAT MAKE UP THE FRANCHISE PURCHASE**

Provide in table format a list the components, with (estimated) individual costs, totalled to reflect the full outlay.

Summarise those items which could be leased and (estimated) costs involved.

**8 FINANCIAL REQUIREMENTS BY THE FRANCHISOR OF THE FRANCHISEE**

Detail the rules and policy regarding non borrowed capital in the purchase price.

**9 FRANCHISES, FRANCHISEES AND OUTLETS:**

**9(a) List current outlets, including Franchisor owned outlets**

A list of existing Franchisees (including address and phone number of each and year commenced business) should be available for reference purposes.

If a full list be impractical then a list of all Franchisees in each city or town or region (as appropriate to the circumstances) should be provided.

**9(b)** The number of Franchises terminated or not renewed over the past year:

**9(c)** Details of current unresolved litigation with existing or former Franchisees:

Please also include any situation where arbitration has commenced and is unresolved.

**10 FINANCIAL PROJECTIONS – (Optional under the Code of Practise)**

Where earnings information for the Franchise is given it must be based on reasonable grounds and the basis or assumptions upon which the representations are made, shall be provided.

Include a clear statement whether or not depreciation and any salary/wages for the Franchisee and the cost of servicing loans are included.

Each page of the projections should be qualified with respect to its basis/assumptions. Place as a footer on each page.

Examples:

*These figures represent ACTUAL performance by either the Franchisor or a Franchisee. There is no guarantee that you will achieve these figures and nor is it intended that you should rely on them as a guarantee.*

OR

*These figures indicate the gross profit margins and revenue expenses at stated turnover levels which have been experienced by (the Franchisor in its own operations) or (the Franchisees on average in the last profit and loss accounts which have been supplied to the Franchisor). There is no guarantee that you will achieve the same results, nor is it intended that you should rely on them as a guarantee.*

Be aware that the issue of these warnings does not, by itself, provide protection from legal claims.

## **11 PREVIOUS HISTORY OF THE TERRITORY OR SITE TO BE FRANCHISED:**

Where the site or territory is agreed upon state whether the territory or site to be franchised has been subject to any trading activity, particularly a previous franchise in the same franchise system within the previous 5 years, and if so, the history and details including the circumstance of any cessation of the Franchise.

If the site/territory is still to be agreed, state that these details will be provided.

## **APPENDIX B**

### **FRANCHISOR FINANCIAL DATA CERTIFICATES**

#### **(a) Franchisor Financial Data**

Financial Information: the Franchisor must provide one of the following:

- (a) key financial data as set out in the Key Data Option below with the information completed. (Where the Franchisor has been established for less than two years then one year's data only need be provided;

or one or other of the following Options:

- (b) full sets of the Franchisor's accounts showing the position for the last two balance dates; or alternatively; or
- (c) where the Franchisor's accounts have been audited for a period ending within the preceding twelve months then a copy of the auditor's report, which must confirm the Franchisor's solvency as at the balance date reported on; or
- (d). confirmation that the Franchisor is a wholly-owned subsidiary of a public company whose shares are publicly traded on the New Zealand Stock Exchange the parent company's annual report and consolidated financial statements plus confirmation that the New Zealand Securities Commission has exempted the subsidiary from the provision of separate account;

#### **(b) Franchisor Financial Data Certificates**

Provide a solvency declaration in the format contained in the template, signed and dated by all directors/principals of the Franchisor.