

DEVELOPMENT OF PARTNERSHIP IN THE FRANCHISE OF FOOD AND BEVERAGE-SERVICE BUSINESS LINE

(Regulation of the Minister of Trade

No. 07/M-DAG/PER/2/2013 dated February 11, 2013)

BY GRACE OF GOD THE ALMIGHTY

THE MINISTER OF TRADE OF

THE REPUBLIC OF INDONESIA

Considering:

- a. the application of franchise to food and beverage business line has contributed greatly to economic developments so that it needs to be followed by the empowerment of small- and medium-scale businesses through the development of partnership;
- b. having regards to letter a, it is necessary to stipulate a regulation of the Minister of Trade on Development of Partnership in the Franchise of Food and Beverage-Service Business Line;

In view of:

1. Law Number 3 Year 1982 on Corporate Registry (Statute Book of the Republic of Indonesia Year 1982 Number 7, Supplement to Statute Book of the Republic of Indonesia Number 3214);
2. Law Number 5 Year 1999 concerning Prohibition on Monopolistic Practices and Unfair Business Competition (Statute Book of the Republic of Indonesia Year 1999 Number 33, Supplement to

Statute Book of the Republic of Indonesia Number 3817);

3. Law Number 32 Year 2004 on Regional Administration (Statute Book of the Republic of Indonesia Year 2004 Number 125, Supplement to Statute Book of the Republic of Indonesia Number 4437) as already amended several times and the latest by Law Number 12 Year 2008 (Statute Book of the Republic of Indonesia Year 2008 Number 59, Supplement to Statute Book of the Republic of Indonesia Number 4844);
4. Law Number 29 Year 2007 on Provincial Administration of Jakarta Capital Special Region as the Capital of the Unitary State of the Republic of Indonesia (Statute Book of the Republic of Indonesia Year 2007 Number 93, Supplement to Statute Book of the Republic of Indonesia Number 4744);
5. Law Number 20 Year 2008 on Micro, Small- and Medium-scale Businesses (Statute Book of the Republic of Indonesia Year 2008 Number 93, Supplement to Statute Book of the Republic of Indonesia Number 4866);
6. Law Number 39 Year 2008 on State Ministries (Statute Book of the Republic of Indonesia Year 2008 Number 166, Supplement to Statute Book

- of the Republic of Indonesia Number 4916);
7. Law Number 10 Year 2009 on Tourism (Statute Book of the Republic of Indonesia Year 2009 Number 11, Supplement to Statute Book of the Republic of Indonesia Number 4966);
 8. Government Regulation Number 44 Year 1997 on Partnership (Statute Book of the Republic of Indonesia Year 1997 Number 91, Supplement to Statute Book of the Republic of Indonesia Number 3718);
 9. Government Regulation Number 38 Year 2007 on the Sharing of Public Administration Affairs Between the Government, Provincial Administration and Regency/Municipal Administration (Statute Book of the Republic of Indonesia Year 2007 Number 82, Supplement to Statute Book of the Republic of Indonesia Number 4737);
 10. Government Regulation Number 42 Year 2007 on Franchise (Statute Book of the Republic of Indonesia Year 2007 Number 90, Supplement to Statute Book of the Republic of Indonesia Number 4742);
 11. Presidential Decree Number 84/P Year 2009 on the Establishment of the Second United Indonesia Cabinet as already amended by Presidential Decree Number 59/P Year 2011;
 12. Presidential Regulation Number 47 Year 2009 on the Establishment and Organization of State Ministries as already amended several times and the latest by Presidential Regulation Number 91 Year 2011;

13. Presidential Regulation Number 24 Year 2010 on Status, Tasks and Functions of State Ministries as well as First-echelon Organizational Structures, Tasks and Functions of State Ministries as already amended several times and the latest by Presidential Regulation Number 92 Year 2011;
14. Regulation of the Minister of Trade Number 31/M-DAG/PER/7/2010 on Organization and Working Mechanism of the Ministry of Trade as already amended by Regulation of the Minister of Trade Number 57/M-DAG/PER/8/2012;
15. Regulation of the Minister of Culture and Tourism Number PM.87/HK.501/MKP/2010 on Procedures for the Registration of Food and Beverage-Service Business;

DECIDES :

To stipulate:

THE REGULATION OF THE MINISTER OF TRADE ON DEVELOPMENT OF PARTNERSHIP IN THE FRANCHISE OF FOOD AND BEVERAGE-SERVICE BUSINESS

Article 1

Referred to in this ministerial regulation as:

1. Franchise shall be a special right owned by individual person or business entity to a business system with specific business characteristic in the framework of marketing goods and/or service, which has been proven successful and can be utilized and/or used by other party on the basis of a

franchise agreement.

2. Franchisor shall be individual person or business entity granting a right to utilize and/or use franchise which is owned by franchisee.
3. Franchisee shall be individual person or business entity granted right by franchisor to utilize and/or use franchise which is owned by the franchisor.
4. Cooperation by capital participation model shall be cooperation in the development of franchise outlet of food and beverage service business with specified percentage.
5. Restaurant shall be a business providing food and beverages, accompanied by the production, equipment and appliance needed for the storage and presentation in one fixed place which is not moving.
6. Food Stall shall be a business providing food and beverage, furnished with equipment and appliance needed for the storage and presentation in an immovable place.
7. Bar/Discotique shall be a business providing alcoholic and non-alcoholic beverages, furnished with equipment and appliance needed for the production, storage and/or presentation thereof, in a fixed place which is not moving.
8. Cafe shall be the provision of snacks and soft drink equipped by equipment and appliance needed for the production, storage and/or presentation thereof in a fixed place which is not moving.
9. Investment Value shall be the total amount of authorized capital spent for land and building (out-

let) , which is owned personally or rent, including business instrument needed to execute business activity.

10. Outlet shall be a place where business activity of food and beverage service is executed.
11. Minister shall be the minister in charge of public administration affairs in the trading sector.
12. Director General shall be the Director General of Domestic Trade.

Article 2

The scope of business line of food and beverage service in this ministerial regulation shall include:

- a. Restaurant;
- b. Food Stall;
- c. Bar/Discotique; and
- d. Cafe.

Article 3

Franchisors and franchisees of the restaurant, food stall, bar/discotique and cafe as meant in Article 2 may develop their business activities through the establishment of outlet, which is:

- a. owned and managed directly (company owned outlet) ;
- b. franchised; and/or
- c. cooperated by capital participation model.

Article 4

Franchisors and franchisees of the restaurant, food stall, bar/discotique and cafe may establish the

outlet owned and managed directly (company owned outlet) as meant in Article 3 letter a as many as 250 (two hundred and fifty) outlets at the maximum.

Article 5

- (1) In the case of a franchisor or franchisee of restaurant, food stall, bar/discotigue and cafe already having 250 (two hundred and fifty) outlets and planning to establish additional outlet, the establishment of the additional outlet shall be:
 - a. franchised; and/or
 - b. cooperated by capital participation model.
- (2) In the case of the franchisor or franchisee supplementing outlet through cooperation by capital participation model as meant in paragraph (1) letter b, the percentage of capital participation which is cooperated shall be as follows:
 - a. in the case of the investment vale being Rp 10,000,000,000 (ten billion rupiah) or less, capital participation of the other party shall be 40% at the minimum; or
 - b. in the case of the investment value exceeding Rp 10,000,000,000 (ten billion rupiah), capital participation of the other party shall be 30% at the minimum.

Article 6

Franchisor or franchise of restaurant, food stall, bar/discotigue and cafe in the establishment of additional out which is franchised and/or cooperated by the capital participation model as meant in Ar-

ticle 5 paragraph (1) shall prioritize to local small- and medium-scale businesses as franchisee and/or recipient of capital participation as long as they fulfill the requirements stipulated by the franchisor.

Article 7

- (1) Franchisor or franchise of restaurant, food stall, bar/discotigue and cafe shall be obliged to use domestically produced raw materials and business equipment as much as 80% (eighty percent) at the minimum.
- (2) In certain condition, the Minister may grant license to use domestically produced raw materials and business equipment less than 80% (eighty percent) after considering recommendation of appraisal team.
- (3) The appraisal team as meant in paragraph (2) shall constitute the appraisal team as governed in Regulation of the Minister of Trade No. 53/M-DAG / PER/8/2012 on the Implementation of Franchise.

Article 8

Franchisor of restaurant, food stall, bar/discotigue and cafe shall be obliged to foster franchisees and/or investors in the form of training and directive for the management of franchise business.

Article 9

- (1) The Minister shall delegate authority to supervise franchise of restaurant, food stall, bar/disciotique and cafe to the Director General.

- (2) The Director General shall coordinate central and regional institutions in executing the supervision as meant in paragraph (1).
- (3) Technical provision on the execution of supervision shall be regulated further by the Director General.

Article 10

Franchisor or franchisee of restaurant, food stall, bar/discothèque and cafe shall be obliged to report any change in the number of outlets which are owned and managed directly (company owned outlet), franchised and/or cooperated by capital participation model to the Director General attn. the Director of Trading Business Development, Ministry of Trade, with a copy made available to head of service in charge of trading affairs in local province and regency/city.

Article 11

Franchisors or franchisees of restaurant, food stall, bar/discothèque and cafe violating the provision as meant in Article 4, Article 5, Article 7, and Article 8 shall be liable to administrative sanction gradually in the form of:

- a. written warning maximally three times consecutively with the time interval 2 (two) weeks as from the date of warning issued by official issuing certificate of franchise registration;
- b. suspension of certificate of franchise registration maximally 2 (two) months unless the provision in the written warning as meant in letter a is fulfilled;

filled; and

- c. revocation of the certificate of franchise registration unless the provision as meant in letter b is fulfilled.

Article 12

- (1) Franchisors or franchisees of restaurant, food stall, bar/discothèque and cafe already having more than 250 (two hundred and fifty) outlets shall be obliged to adjust to the provision on the addition of outlet as meant in Article 5 in no later than 5 (five) years as from the enforcement of this ministerial regulation.
- (2) The adjustment as meant in paragraph (1) shall be reported every year to the Director General attn. the Director of Trading Business Development.

Article 13

The ministerial regulation shall come into force as from the date of promulgation.

For public cognizance, the ministerial regulation shall be promulgated by placing it in State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On February 11, 2013

THE MINISTER OF TRADE OF
THE REPUBLIC OF INDONESIA

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GITA IRAWAN WIRJAWAN

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