IN THE MATTER OF AN ARBITRATION PURSUANT TO THE ARBITRATION ACT, 1991, S.O. 1991, c. 17

BETWEEN:

ABC HOTEL LP BY ITS GENERAL PARTNER ABC MASTER GP INC.

Claimant

- and -

XYZ HOSPITALITY INC.

Respondent

BEFORE: Roger Lee, Arbitrator

COUNSEL: Charlene Pendleton, for the Claimant
Peter O'Leary, for the Respondent

AWARD

I. INTRODUCTION

1. This arbitration concerns a franchise dispute between ABC Hotel LP by its general partner ABC Master GP Inc. (the "Franchisee" or "ABC"), the Claimant, and XYZ Hospitality Inc. (the "Franchisor" or "XYZ"), the Respondent. The dispute arises from a Franchise Agreement dated August 24, 2015 (the "Franchise Agreement") for the operation of the Brand A Toronto Hotel (the "Hotel").

2. The Franchisee alleges that the Franchisor has effectively abandoned the Brand A brand in North America, has breached its contractual and statutory obligations, and has demonstrated bad faith. On this basis, the Franchisee asserts an implied right to terminate the Franchise Agreement on reasonable notice and seeks damages.

3. The Franchisor denies these allegations. It maintains that it has met all its obligations, that the Franchise Agreement does not permit unilateral termination by the Franchisee, and that any underperformance of the Hotel is due to the Franchisee's own failure to meet brand standards and complete necessary renovations.

II. JURISDICTION

4. My jurisdiction to hear and determine this matter is not in dispute. It is established by section 23.4 of the Franchise Agreement, which provides for the resolution of disputes by binding arbitration.

5. The Franchise Agreement was executed by both parties. The arbitration clause is valid and binding. This arbitration is conducted pursuant to the *Arbitration Act, 1991*, S.O. 1991, c. 17, as amended.

III. PROCEDURAL HISTORY

6. The Claimant initiated this arbitration by serving a Notice of Arbitration dated February 19, 2026.

7. The parties subsequently agreed to a mediation, which was held before me on June 12, 2026, at ADR Chambers in Toronto, Ontario.

8. The mediation did not result in a settlement.

9. The parties agreed that I would continue as sole arbitrator to determine the dispute based on the written record, comprising the Notice of Arbitration and their respective Mediation Briefs with attached documents.

IV. BACKGROUND

10. On August 24, 2015, the parties entered into the Franchise Agreement for the operation of the Hotel as a Brand A-branded property. The Franchise Agreement provided for an initial term of 15 years, expiring on August 23, 2030.

11. Section 4.2 of the Franchise Agreement granted the Franchisor, at its sole option, the right to renew the franchise for an additional five-year period (the "Extension Term").

12. At the time the Franchise Agreement was executed in 2015, there were seven Brand A Hotel locations in Canada. By 2026, this number had decreased to five.

13. The relationship between the parties began to deteriorate in the years following the execution of the Franchise Agreement. The record indicates that as early as June 30, 2020, the Franchisee expressed dissatisfaction to the Franchisor regarding the Brand A brand's recognition, lack of growth, and the level of support provided by the Franchisor.

14. Discussions concerning the costs of an early termination of the Franchise Agreement began between the parties in January 2021 and continued through 2024.

15. On March 2, 2025, XYZ's CEO, Dennis Kramer, was quoted in an online travel publication. The article, titled "XYZ Aims to Grow Luxury Brands in North America," quotes Dennis Kramer as stating that while XYZ has many midscale and limited-service brands, "the company will not grow those products in North America because the major brands here – including Brand B, Brand C, Brand D and Brand E – dominate the market and do a good job. However, he said the company's luxury brands will continue to grow…"

16. On May 22, 2025, the Franchisee sent a letter to the Franchisor detailing its history of concerns and requesting to work with the Franchisor to exit the Franchise Agreement immediately.

17. The Franchisor responded by letter dated July 8, 2025. In its response, the Franchisor acknowledged that "Brand A has not grown in Canada in the recent past" and was aware of certain operational challenges, including "delays in response times" and technical issues. However, the Franchisor did not agree to an early termination of the Franchise Agreement.

18. On August 28, 2025, counsel for the Franchisee sent a letter to the Franchisor formally inviting the commencement of negotiations for an early termination.

19. On September 11, 2025, counsel for the Franchisor replied, stating that an early termination of the Franchise Agreement was "not acceptable under any circumstances."

20. On February 11, 2026, the Franchisor delivered a "Notice of Extension of Franchise Agreement" to the Franchisee. Citing its rights under section 4.2 of the Franchise Agreement, the Franchisor exercised its sole option to renew the franchise for the five-year Extension Term, extending the term from August 24, 2030, until August 23, 2035. The notice stated, in part: "For greater certainty, this renewal by Franchisor does not require Franchisee's consent… Franchisee remains obligated to comply with the Franchise Agreement in all respects during the Extension Term".

21. On February 19, 2026, the Franchisee delivered its Notice of Arbitration, commencing these proceedings.

V. ISSUES FOR DETERMINATION

22. The issues for my determination are as follows:

    (i) Does the Franchise Agreement contain an implied right for the Franchisee to terminate without cause on reasonable notice?

(ii) If there is no implied right to terminate, has the Franchisor committed a breach of the Franchise Agreement of such a nature as to entitle the Franchisee to terminate it?

(iii) If the Franchisee does have the right to terminate the Franchise Agreement, what constitutes a reasonable notice period for termination in the circumstances?

VI. POSITIONS OF THE PARTIES

Issue (i): Implied Right to Terminate

A. The Franchisee's Position

23. The Franchisee submits that, as a matter of law, a right to terminate on reasonable notice should be implied into the Franchise Agreement. It argues that franchise agreements are a category of relational contract, like employment or partnership agreements, that depend on mutual trust, confidence, and satisfaction.

24. The Franchisee contends that where this trust and confidence has irrevocably broken down, it would be commercially unreasonable and unfair to require the relationship to continue.

25. It further submits that the Franchise Agreement is not intended to be a perpetual contract. The termination clauses are, in its submission, extremely limited and operate only in the Franchisor's favour, creating a one-sided relationship that empowers an arbitrator to imply a right of unilateral termination for the Franchisee on reasonable notice.

B. The Franchisor's Position

26. The Franchisor submits that I should not imply a right of termination into a franchise agreement that contains a fixed term with robust expiry and termination provisions. The Franchisor states the Franchise Agreement is such a contract.

27. The Franchisor argues that the Franchise Agreement contains a detailed, 15-year initial term and specific provisions governing expiry, renewal at the Franchisor's option, and termination for cause by either party in limited circumstances. It posits that implying a right to terminate without cause would be inconsistent with these express terms and the parties' clear intentions.

28. The Franchisor distinguishes case law where a termination right was implied, noting those cases often involved oral agreements or agreements of indefinite duration, unlike the detailed written agreement in this matter.

Issue (ii): Breach of Agreement

A. The Franchisee's Position

29. The Franchisee submits that the Franchisor has breached both its contractual obligations under the Franchise Agreement and its statutory duties under the *Arthur Wishart Act (Franchise Disclosure), 2000* (the "AWA").

30. Contractually, the Franchisee alleges the Franchisor has breached its obligations under sections 6.1.3 and 11.3 of the Franchise Agreement to "Maintain and administer the Reservation System, make available on-line distribution marketing assistance and provide the Sales and Marketing Services". The Franchisee points to a failure to provide adequate sales and marketing support, a lack of a local sales team, unresponsiveness, and recurring IT issues as evidence of this breach.

31. Statutorily, the Franchisee submits the Franchisor has breached its duty of fair dealing under section 3 of the AWA. This duty includes an obligation to act in good faith and in accordance with reasonable commercial standards. The Franchisee argues that the Franchisor's "abandonment" of the Brand A brand in North America, its failure to innovate and support the system, and its "high-handed" exercise of the renewal option in the midst of a dispute all constitute breaches of this duty.

B. The Franchisor's Position

32. The Franchisor denies that it has committed any breach, let alone a repudiatory breach that would justify termination. It argues that the threshold for repudiatory breach is exceptionally high and requires a breach so serious as to deprive the non-breaching party of substantially the whole benefit of the contract.

33. The Franchisor asserts that it has at all times met its contractual obligations to provide centralized brand delivery systems, including call centers, online booking sites, and sales and marketing services. It points to evidence that these systems account for a significant majority of the Hotel's room revenues and that the Hotel has been "extremely successful," consistently outperforming its competitors as measured by the RevPAR Index (RPI). The Franchisor argues this success demonstrates that the Franchisee has not been deprived of the benefit of the contract.

34. The Franchisor submits that its alleged "failure to grow the brand" is not a contractual obligation. It argues that it has nonetheless made significant and genuine efforts to maintain, promote, and expand the Brand A brand in Canada.

35. Further, the Franchisor contends that any underperformance of the Hotel is attributable to the Franchisee's own failure to meet its obligations under section 7.5 of the Franchise

Agreement to renovate the Hotel and maintain brand standards. It notes a 2024 site visit report ranked the Hotel among the lowest globally for Brand A, citing its dated design.

36. Finally, the Franchisor submits that the Franchisee's claim of repudiation is time-barred, as the Franchisee first raised these concerns in 2020 but did not elect to disaffirm the contract at that time.

Issue (iii): Reasonable Notice

A. The Franchisee's Position

37. The Franchisee submits that, taking into account the lengthy relationship and the Franchisor's neglect and failure to address concerns over at least five years, six months is a reasonable notice period to terminate the Franchise Agreement.

B. The Franchisor's Position

38. The Franchisor's position is that, if a termination right were implied, the notice period must match the liquidated damages calculation period in section 14.6 of the Franchise Agreement. This clause provides for liquidated damages equivalent to the lesser of 84 months of royalty fees or the number of months remaining in the term. The Franchisor argues this reflects the parties' pre-estimate of the minimum time needed to replace the Hotel.

VII. ANALYSIS

39. The dispute before me requires an analysis of the express and implied terms of the Franchise Agreement, an assessment of the parties' conduct in the context of their contractual and statutory obligations, and a determination of the rights and remedies available to them. I will address each of the three issues for determination in turn.

Issue (i): Does the Franchise Agreement contain an implied right for the Franchisee to terminate without cause on reasonable notice?

40. The Franchisee's primary submission is that a right to terminate the Franchise Agreement on reasonable notice ought to be implied as a matter of law. The foundation of this argument is that franchise agreements are relational contracts, dependent on mutual trust and confidence, and where that foundation has eroded, the relationship cannot be compelled to continue.

41. I am not persuaded by this submission in the context of the specific agreement before me. As a general principle, courts and arbitrators are hesitant to imply terms into a detailed, written commercial contract, particularly where the implied term would contradict or be inconsistent with the express provisions negotiated by the parties.

42. The Franchise Agreement is a comprehensive and sophisticated commercial document. Article 4 establishes a clear and finite term. It provides for an "Initial Term" of fifteen years, commencing on the Effective Date and expiring on the "Expiration Date." Further, section 4.2 grants the Franchisor, and the Franchisor alone, a "sole option" to renew the franchise for an additional five-year period. These provisions represent the parties' express agreement on the duration of their relationship.

43. Moreover, Article 14 of the Franchise Agreement, titled "DEFAULT AND TERMINATION," sets out a detailed regime governing the circumstances under which the agreement may be terminated prior to its expiry. Section 14.1 provides for automatic termination in events such as insolvency. Section 14.2 provides the Franchisor with a right to terminate immediately and without an opportunity to cure for certain serious defaults. Section 14.3 provides the Franchisor with a right to terminate upon notice with an opportunity to cure for other defaults.

44. The Franchisee's right to terminate is, by contrast, explicitly limited. Section 7.5.3 allows the Franchisee to terminate only in the event of significant damage to the Hotel by fire or other casualty, where the repair cost exceeds 40% of the fair market value. The parties clearly turned their minds to the issue of termination and chose to define the circumstances with considerable specificity.

45. To imply a broad, unilateral right for the Franchisee to terminate without cause on reasonable notice would run contrary to this detailed contractual framework. It would effectively re-write the Franchise Agreement that contained a negotiated 15-year term and render the specific termination provisions largely redundant. The existence of express terms concerning duration and termination makes it difficult, in my view, to conclude that the parties intended for there to be a concurrent, unstated right to terminate without cause.

46. The case authorities relied upon by the Franchisee are distinguishable. Cases where courts have implied a right to terminate on reasonable notice typically involve agreements of indefinite or perpetual duration, or oral agreements where the parties' intentions regarding term were not clear. The Franchise Agreement here is neither. It is for a fixed term. The presence of a fixed term and express termination provisions is a strong indication that the parties did not intend for there to be a right to terminate at will.

47. I therefore find that the Franchise Agreement is a complete expression of the parties' intentions regarding its duration and termination. It does not contain an implied right for the Franchisee to terminate without cause on reasonable notice.

Issue (ii): Has the Franchisor committed a breach of the Franchise Agreement of such a nature as to entitle the Franchisee to terminate it?

48. In the absence of an implied right to terminate, the Franchisee may only terminate the agreement if it can establish that the Franchisor has committed a repudiatory breach. A repudiatory breach is one that is so serious it deprives the innocent party of substantially the whole benefit of the contract, or indicates an intention on the part of the breaching party to no longer be bound by its essential obligations. The threshold to establish a repudiatory breach is exceptionally high.

49. The Franchisee's allegations of breach fall into two broad categories: a failure by the Franchisor to meet its contractual obligations to support the Brand A brand, and a breach of its statutory duty of fair dealing under the AWA.

50. The core of the Franchisee's complaint is that the Franchisor has abandoned the Brand A brand in Canada, allowing it to stagnate and decline while focusing on its luxury brands. The public statement of XYZ's CEO in March 2025 is presented as the primary evidence of this abandonment.

51. The Franchisor's obligations are set out in the Franchise Agreement. Section 6.1.3 requires it to "Maintain and administer the Reservation System, make available on-line distribution marketing assistance and provide the Sales and Marketing Services". I find that the evidence before me indicates XYZ has fulfilled these obligations.

52. The Franchisor has provided evidence, which I accept, demonstrating the significant value of its centralized brand delivery systems. Between 2022 and 2025, these systems—including XYZ's websites, call centers, and relationships with online travel agencies—accounted for between 76% and 88% of the Hotel's room revenues. The evidence also shows that the Hotel has been remarkably successful. Its RevPAR Index (RPI), a measure of performance against a set of identified competitors, was 136.1 in 2019 and 160 in 2022, meaning it significantly outperformed its competitors. The Hotel's gross operating profit margin through 2025 was above 45% - a strong indicator of financial health.

53. These figures do not support the conclusion that the Franchisee has been deprived of substantially the whole benefit of the contract. On the contrary, the evidence suggests the Franchisee has derived a substantial benefit from its association with the XYZ system. While the number of Brand A locations in Canada has decreased, the performance of the Franchisee's own Hotel has remained strong and has, in fact, improved over the term of the Franchise Agreement.

54. I now turn to the statement of XYZ's CEO. While I understand why the Franchisee is concerned by these remarks, I do not find that they constitute evidence of a repudiation of the Franchise Agreement. The comments were made in the context of a broad discussion

of XYZ's global strategy. A statement that XYZ would not be focusing on growing its midscale brands in North America because of market domination by competitors is not the same as a statement that XYZ is abandoning its existing contractual obligations to its current franchisees in Canada. And it does not indicate that the Franchisor is abandoning its essential obligations under the Franchise Agreement.

55. The Franchisor's conduct subsequent to these remarks is inconsistent with an intention to abandon the brand or its franchisees. XYZ continued to provide its central services. Moreover, in February 2026, nearly a year after the CEO's comments were published, XYZ exercised its contractual right to renew the Franchise Agreement for a further five years. This action, while unwelcome to the Franchisee, is the act of a party that sees a future in the brand and intends to be bound by the Franchise Agreement, not one that is abandoning it.

56. I also give weight to the Franchisor's position that the Franchisee bears some responsibility for the challenges at the Hotel. The Franchise Agreement, at section 7.5, obligates the Franchisee to maintain the Hotel in a condition consistent with brand standards and to undertake renovations as required. The Respondent has put forward evidence from a 2024 site visit report indicating that the Hotel was in need of significant updates, with a design that was over 25 years old in some areas, and that it ranked among the lowest of Brand A hotels globally. While the Franchisee may have valid reasons for its dissatisfaction, it is difficult to accept that all of the Hotel's challenges stem from the Franchisor's conduct when the Franchisee itself has not met all of its own obligations regarding the physical state of the property.

57. Finally, I must consider the statutory duty of fair dealing under the AWA. Section 3 of the AWA requires each party to a franchise agreement to act in good faith and in accordance with reasonable commercial standards in the performance and enforcement of the agreement. The Franchisee argues that the Franchisor's lack of innovation and its decision to extend the term amid a dispute constitute bad faith.

58. I do not find that the Franchisor's conduct rises to the level of a breach of the duty of fair dealing. The duty of fair dealing does not create new, substantive obligations for a Franchisor beyond those in the Franchise Agreement. It governs the manner in which contractual obligations are performed and contractual rights are enforced. A franchisor is not, by virtue of this duty, obligated to "grow the brand" in a specific way, such as by increasing the number of franchise locations, if that is not a term of the contract. The duty is to perform its existing obligations in good faith.

59. I find that XYZ has performed its central obligations. It has provided a reservation and marketing system that has generated significant revenue for the Franchisee. While the relationship has clearly become strained, and communication may at times have been

imperfect, the evidence does not support a finding of bad faith or commercially unreasonable conduct. Exercising a clear contractual right—the option to renew under section 4.2—is not, in and of itself, an act of bad faith, even if it is done at a time when the parties are in a dispute.

60. For these reasons, I am not persuaded that the Franchisor has committed a repudiatory breach of the Franchise Agreement or breached its duty of fair dealing under the AWA. The Franchisee is therefore not entitled to terminate the agreement on this basis.

Issue (iii): What constitutes a reasonable notice period?

61. Having found that there is no implied right to terminate on reasonable notice and that the Franchisor has not committed a repudiatory breach, the Franchisee has no present right to terminate the Franchise Agreement. The issue of what constitutes a reasonable notice period is therefore moot.

62. The Franchise Agreement remains valid and binding on both parties in accordance with its terms. It will expire on August 23, 2035, unless terminated earlier in accordance with its express provisions.

VIII. COSTS

63. The general principle in Canadian arbitration is that costs follow the event.

64. In this matter, the Franchisor has been entirely successful in its defence of the claims brought by the Franchisee. The Franchisee's claims have been dismissed. I therefore order legal and arbitrator's costs to be paid by the Franchisee to the Franchisor, in an amount to be agreed or, if no agreement can be reached, then in an amount I will determine after submissions.

IX. AWARD

65. For the reasons set out above, I determine and award as follows:

    a. The claims of the Claimant, ABC Hotel LP by its general partner ABC Master GP Inc., are dismissed in their entirety.

    b. I declare that the Franchise Agreement dated August 24, 2015, remains in full force and effect and is binding on the parties until its expiry on August 23, 2035, unless terminated earlier in accordance with its express terms.

    c. The Claimant shall pay to the Respondent its costs, as agreed or as determined by me after submissions by the parties.

d. This is a final award disposing of all issues in this arbitration.

Dated at Toronto, Ontario this 24th day of August, 2026.

Roger Lee, Arbitrator