

NORMATIVE - LEGAL REGULATION OF THE FRANCHISE AGREEMENT

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Аннотация: *Данная работа исследует нормативно-правовое регулирование договора комплексной предпринимательской лицензии. В работе рассматриваются нормативные акты и законодательство, регулирующие этот тип договора, и исследуются правовые аспекты, связанные с его заключением, исполнением и прекращением. В частности, рассматривается роль и значение франшизы в сфере предпринимательства. Исследование также содержит сравнительный анализ договора комплексной предпринимательской лицензии и его положительные аспекты, для более глубокого понимания правового регулирования этой темы.*

Ключевые слова: *нормативно-правовая база, контракт, комплексная предпринимательская лицензия, бизнес, предпринимательство, лицензии, правовые аспекты, формирование, исполнение, прекращение действия.*

Abstract: *This article explores the regulatory and legal regulation of the complex business license agreement. The paper examines the regulations and legislation governing this type of contract, and examines the legal aspects related to its conclusion, execution and termination. In particular, the role and importance of the franchise in the field of entrepreneurship is considered. The study also contains a comparative analysis of the complex business license agreement and its positive aspects, for a deeper understanding of the legal regulation of this topic.*

Keywords: *regulatory framework, contract, complex business license, business, entrepreneurship, licenses, legal aspects, formation, execution, termination.*

Abstract: *Ushbu ish kompleks tadbirkorlik litsenziyasi shartnomasini normativ-huquqiy tartibga solishni o'rganadi. Asarda ushbu turdagi shartnomani tartibga soluvchi qoidalar va qonunlar ko'rib chiqiladi va uni tuzish, bajarish va tugatish bilan bog'liq huquqiy jihatlar o'rganiladi. Xususan, franchayzingning tadbirkorlik sohasidagi roli va ahamiyati ko'rib chiqiladi. Shuningdek, ushbu mavzuni huquqiy tartibga solishni chuqurroq tushunish uchun kompleks tadbirkorlik litsenziyasi shartnomasining qiyosiy tahlilini va uning ijobiy tomonlarini o'z ichiga oladi.*

Kalit so'zlar: *normativ-huquqiy baza, shartnoma, kompleks tadbirkorlik litsenziyasi, biznes, tadbirkorlik, litsenziyalar, huquqiy jihatlar, shakllantirish, ijro etish, tugatish.*

The Comprehensive Business License Agreement is an important business tool that allows entrepreneurs to share intellectual property while maintaining autonomy in their operations. This contract is regulated by legal acts that determine its essence, the

conditions for its conclusion and execution, as well as the responsibility of the parties. The history of franchising in the Republic of Uzbekistan is relatively young, since this form of business activity began to develop actively in the country only recently. Currently, there is no separate law regulating franchising in the Republic of Uzbekistan. However, the Civil Code of the Republic of Uzbekistan includes a separate chapter on a comprehensive business license (franchising). Chapter 50 of the Civil Code of the Republic of Uzbekistan, which is called "Comprehensive business license (franchising)", provides the basic rules and regulations governing franchising relationships. These rules determine the legal status of franchising agreements, the conditions for the conclusion and execution of such agreements, as well as the rights and obligations of the parties.

This article contains articles from 862 to 874, which maximally reveal all the legal aspects of the complex business license agreement. The set of exclusive rights permitted under the contract may include trademark ownership, innovation, utility demonstration, mechanical blueprint, copyright, and so on. In this regard, the legitimate direction of a comprehensive understanding of the trade permit is subject to other guidelines, with the exception of the Civil Code. Such as, for example, the Law of the Republic of Uzbekistan "On Trademarks, Service Marks and Appellations of Origin" dated August 30, 2001, the Law of the Republic of Uzbekistan "On Accession of the Republic of Uzbekistan to the Treaty on Patent Law, adopted by a diplomatic conference on June 1, 2000 in Geneva " dated March 15, 2006, the Law of the Republic of Uzbekistan "On Copyright and Related Rights" dated July 20, 2006, etc.

So, the first article devoted to the topic we need is **Article 862. Comprehensive business license agreement**. According to the norms of this article, in accordance with the agreement on complex commercial permission (diversification), one party (complex licensor) undertakes to provide the other party (complex licensee) for a certain fee with a set of choice rights (permission package) , including the right to use the licensor's trade name and protected commercial data, as well as other objects of exclusive rights (trademark, brand and development, etc.) provided for by the agreement, as part of the trading activities of the licensee.

The franchise agreement gives commercial prominence and commercial prominence to a certain extent (in particular, indicating the smallest and (or) maximum volume of use), with or without indicating the region of use in connection with a certain area of traffic (transaction with goods, received from the licensor or supplied by the licensee, organization of administration, execution of works, use of exchange exercises, etc.)²⁵.

Be that as it may, commercial organizations and citizens registered as entrepreneurs can be parties to a comprehensive trade permit. Consent to a comprehensive trade permit can be concluded with or without a term. (perpetual contract)²⁶.

²⁵<https://lex.uz/docs/180550>

²⁶<https://lex.uz/docs/180550>

This is followed by **article 863 of the Civil Code of the Republic of Uzbekistan**, where **there is a requirement for the form of an agreement on a complex business license and its registration.**

A complex business license agreement must be drawn up in writing and registered with the body that registered the legal entity or individual entrepreneur acting as a licensor under this agreement. If this requirement is not met, the contract may be invalidated. State registration is carried out within no more than 1 (one) business day from the date of submission of documents to the registration authority. For state registration of a franchise agreement, a registration fee is paid to the bank account of the registering authority in the amount of 1/3 of the minimum wage²⁷.

The Regulations also indicate the grounds on which the registration authority may refuse state registration of a franchise agreement²⁸.

According to **Article 866 of the Civil Code of the REPUBLIC OF UZBEKISTAN**, a licensee is obliged: the licensor is obliged to transfer technical and commercial documentation to the licensee, as well as to provide other information necessary to use the rights granted to the licensee under the complex business license agreement. He must also instruct the licensee and his employees on issues related to the exercise of these rights. The licensor must issue the licenses provided for in the agreement and ensure their registration in accordance with the established requirements. In addition, the licensor must constantly provide technical and consulting support to the licensee, including assistance in training and professional development of personnel. The complex business license agreement may also provide for other obligations of the licensor²⁹.

And now let's dwell on the obligations of the licensee, they are spelled out in **article 867 of the Civil Code of the REPUBLIC OF UZBEKISTAN**, and so, the licensee is obliged:

- Use the trade name of the licensor in accordance with the instructions provided in the agreement.
- Ensure that the quality of goods, services or works produced, rendered or performed by the licensee on the basis of the contract fully corresponds to the quality of similar goods, services or works provided by the licensor itself.
- Comply with all instructions and instructions of the licensor, which are aimed at ensuring that the use of the exclusive rights included in the licensed package exactly matches the method and conditions with which they are used by the licensor. This includes guidelines for the exterior and interior design of commercial premises used by the licensee.
- Provide buyers or customers with all additional services that they can expect by purchasing goods or services from the licensor directly.

²⁷COMMENTARY TO THE CIVIL CODE OF THE REPUBLIC OF UZBEKISTAN Edited by Doctor of Law, Professor H. R. Rakhmankulov Doctor of Law Sh.M. Asyanova, Tashkent 2011

²⁸COMMENTARY TO THE CIVIL CODE OF THE REPUBLIC OF UZBEKISTAN Edited by Doctor of Law, Professor H. R. Rakhmankulov Doctor of Law Sh.M. Asyanova, Tashkent 2011

²⁹Civil Code of the Republic of Uzbekistan

- Respect the confidentiality of the licensor's trade secrets and other confidential commercial information received from him.
- Issue a specified number of sublicenses, if such an obligation is expressly provided for in the contract.
- Inform buyers or customers clearly and concisely that he is using a trade name, trademark, service mark, or other means of identification under a comprehensive business licence.

This is followed by section 869, which sets out **the licensor's liability for claims made against the licensee.**

The licensor bears subsidiary responsibility for the requirements imposed on the licensee regarding the non-compliance of the quality of goods (works, services) sold (performed, rendered) by the licensee under a complex business license agreement ³⁰.

According to the requirements for the licensee as a manufacturer of products (goods) of the licensor, the licensor shall be jointly and severally liable with the licensee ³¹.

The key distinguishing feature in the franchise agreement is that the licensor gives the right to the licensee to use his own, that is, the individual licensor's features. therefore, it is quite logical that the commented norm concludes, at least for certain cases, the guarantee of the licensor on the requirements imposed on the licensee by third parties.

We are talking about such requirements as combined with the quality of the provided functions (products, works, services). As a general rule, the right holder undertakes to bear subsidiary liability under such conditions. when goods, services, etc. sold by the licensee appear to be of poor quality, buyers may submit a claim for financial damages to the licensee. when the licensee is unable to pay creditors himself, the licensor must reimburse the remaining part of the material obligations for expenses.

However, in the case of a production franchise, the right holder must be jointly liable, that is, jointly and severally with the user. Thus, the lender in this case has the right to demand coverage of losses, both from the licensor and from the licensee, or from them together.

Amendment of the complex business license agreement. The contract is considered to be amended from the moment of registration of the relevant changes in the manner prescribed by Article 863 of this Code.

Any changes in the contract are subject to registration. in addition to the fact that changes affect individual rights that are protected by law, they are registered with the relevant authorities, including the patent office.

It should be noted that the amendment of the complex business license agreement is carried out in the same way as the execution of the agreement in connection with the norms on the Regulations on the procedure for state registration of complex business

³⁰<https://lex.uz/docs/180550>

³¹<https://lex.uz/docs/180550>

license agreements (franchising) , ratified by the Cabinet of Ministers on November 4, 2010 No. 244.

Termination of the complex business license agreement (Article 871).

A complex business license agreement concluded with an indication of a term may be terminated in accordance with the rules of Chapter 28 of this Code.

Each of the parties has the right to cancel the termless complex business license agreement at any time by notifying the other party six months in advance, unless the agreement provides for a longer notice period.

The contract of a complex entrepreneurial license is terminated in the event of termination of the right to a company name included in the license complex, without replacing it with a new company name.

Early termination of a complex business license agreement concluded with an indication of a term, as well as termination of an open-ended complex business license agreement, shall be subject to registration in the manner prescribed by Article 863 of this Code.

The contract of a complex business license is terminated both on the general grounds for termination of obligations, as well as on the specific grounds noted in the article explained.

The franchise agreement is terminated due to the disappearance of significant components of the set of exclusive rights given under the agreement. The essential elements include ownership of the company name and trade designation. These rights may be set off as waived when the licensor has forfeited them without acquiring other similar rights. The right to a company name is terminated upon liquidation and termination of the legal entity or its reorganization (except in cases of reorganization, when it does not entail the termination of the legal entity - the owner of the company name). The right to a trade symbol is lost if it is not used for a very long period of time.

The basis for terminating the agreement is its premature termination, subject to notification of the other party to the contract at least six months in advance. At the same time, premature termination, as well as the end of a franchise agreement signed without specifying a period, are subject to compulsory state registration, as well as the corresponding end of the use of a sole right by a person. From this hour, the contract is considered invalid for outsiders and third parties, which include the clients of the licensee.

It should be noted that the insolvency (bankruptcy) of each of the parties to the agreement still drags the rupture of the franchise license. Because the complex business license agreement is classified as a business contract, its operation cannot continue when one of the parties loses the status of an entrepreneur. although the original position did not find its reflection in the article being explained.

Keeping the complex business license agreement in force when changing the company name. *If the licensor changes its business name, the complex business license agreement is retained and is valid for the new business name of the licensor, unless the*

licensee requests termination of the agreement. If the contract remains valid, the licensee has the right to demand a commensurate reduction in the remuneration due to the licensor

³².

The owner of a company name has the right to change it in the prescribed manner, making the required changes to the entry in the relevant national register on its registration. By virtue of the rule being explained, changing the company name requires the user's approval. Otherwise, the user has the right to demand termination of the agreement and compensation for damages.

A change by the licensor of its trade name or trade designation will not in itself terminate the agreement. However, given that when a significant component of the set of exclusive rights is changed, the agreement loses its value to a significant degree for the licensee, he has the right to demand a reduction in the fee due to the licensor or termination of the agreement and compensation for losses.

When the trade mark or other symbol or distinctive feature of the licensor that is the subject of the franchise agreement is changed, the agreement has effect on the new mark or mark, unless the licensee requires termination of the agreement and damages.

Consequences of the termination of the exclusive right included in the license complex (Article 874 of the Civil Code of the Republic of Uzbekistan). *If during the validity period of the complex entrepreneurial license agreement the period of validity of the exclusive right included in the licensed complex has expired, or such right has terminated for another reason, then the agreement shall be retained minus the provisions relating to the terminated right, and the licensee, unless otherwise provided by the agreement, has the right to demand commensurate reduction in the remuneration due to the licensor*³³.

The end of an exclusive right, which is part of a set of rights given to a complex licensee under a franchise agreement, does not serve as a basis for terminating the contractual relationship, but leads to an amendment to the reciprocal promises of the complex licensee. Basically, the parties to the agreement come to a common opinion and, in this case, a proportional decrease in the remuneration paid by the licensee to the licensor.

The grounds for the termination of exclusive rights are taken into account in the laws on the protection of these rights. In the process of developing the criteria for an agreement on remuneration, it is necessary to prepare a mechanism for reviewing its size, because suitable conditions may appear. For example: change of the company name or trade designation of the copyright holder, termination of other exclusive rights, the use of which is given under the complex business license agreement.

In both options, the licensee has the right to establish the issue of a proportional decrease in the remuneration due to the licensor. The mechanism for such a reduction is preferably preliminarily established in the contract.

³²Civil Code of the Republic of Uzbekistan

³³Civil Code of the Republic of Uzbekistan

A franchise agreement is a legally binding settlement that sets out the terms and conditions of the franchisor to the franchisee. The franchise agreement also sets out the obligations of the franchisor and the obligations of the franchisee. The franchise agreement is signed by the person entering the franchise system.

The franchise agreement governs the authorized relationship between the franchisee and the legal entity and consists of necessary provisions for future action if the connection is to be terminated.

Agreements with reputable franchise corporations are usually non-negotiable. Most potential franchisees are looking for a proven and profitable system. Current franchisees are proud of their determination to enter the franchise. Successful franchising corporations have realized that the simplest strategy for administering their most profitable system is to have every franchisee participate in the same program, and that starts with a single contract. If any provisions of the franchise agreement raise immediate questions or concerns, ask the franchise firm to provide you with a letter of clarification regarding the points you are having problems with.

The franchise agreement also spells out many actions that cannot be performed. The franchise agreement will specify a wide range of actions that cannot be performed as a franchisee. Many of them are based on common sense, such as non-compete clauses. As the franchisor prepares to reveal to you many of its own products, processes, and services, it only makes sense for it to contractually protect its investment. This is also important to you as it will protect your interests as the overall franchise grows and additional franchisees are added.

Franchise agreements are usually one-sided. After studying the contract, even if you are not a lawyer, you will understand that it is written from the point of view of a corporation. One of the many primary purposes of a franchise settlement is to protect the franchise system as a whole. This consists of the model, the integrity of the operating system, and the behavior of the franchisee in the mix.

Many of the other rules that describe misconduct are designed to protect the integrity of the entire group, as well as to control the actions of franchise members that go beyond the vision of the franchise. In other words, such limits must be set, and they must be specific and cover many scenarios. This allows the entire enterprise to grow in a healthy manner and prevents injury and detrimental effects on all franchisees in the system.

Now let's provide an example of a typical complex business license (franchising) agreement, see Figure 4 in the appendices.

BENEFITS OF CONCLUDING A FRANCHISE AGREEMENT:

a) being a legally valid document, it binds all parties with binding obligations and requires compliance with the terms of agreements

b) assists in fulfilling the obligations set out in the agreement in a mutually acceptable manner

c) they offer to enforce the terms of the contract without any misunderstandings that lead to a longstanding relationship between the parties

d) avoids complex and costly litigation in the event of a dispute

e) serves as legally sound evidence as the terms and conditions are carefully drafted and agreed upon in advance

The franchising agreement must be drawn up for the mutual benefit of both the franchisor and the franchisee, and must also be valid for execution. In addition, they should be drafted in such a way as to improve understanding and avoid costly disputes.

In addition, there are various clauses that must be included in franchising agreements based on business commitments, which also require legal skill to draft a comprehensive agreement.

One of the benefits of becoming a franchisee is the ability to get all the benefits of being an entrepreneur while avoiding the risks associated with starting a new business. Franchises are a proven business model with a pre-built customer base. Buying a franchise is often less risky than starting a business from scratch, and while it may require a significant financial investment, it may be less than starting a company from scratch. Becoming a franchisee provides the entrepreneur with access to established and proven business processes and operating procedures, which helps reduce the risk of failure. In addition, the franchisee receives support and training from the franchisor, which helps develop entrepreneurial skills and increases the likelihood of successful business management. It is important to note that acquiring a franchise may also mean paying certain fees, such as license fees or royalties. These payments usually grant the franchisor the right to use the brand, trademarks, know-how and other intellectual assets, as well as to receive support and business model updates. However, these costs may prove to be more cost effective than investing in developing and establishing your own business.

In general, becoming a franchisee provides an entrepreneur with the opportunity to start a business based on a successful and established model, while minimizing risks and receiving support from the franchisor.

BIBLIOGRAPHIC LINKS:

1. Constitution of the Republic of Uzbekistan dated December 8, 1992 year (with the latest changes from May 1, 2023). // "The People's Word", 12/15/1992, No. 247
2. Decree of the Cabinet of Ministers of the Republic of Uzbekistan "On approval of the administrative regulations for the provision of public services for the state registration of agreements on a comprehensive business license (franchising)" dated June 24, 2022 No. 346
3. Civil Code of the Republic of Uzbekistan, part two dated 01.03.1997
4. Decree of the President of the Republic of Uzbekistan dated April 26, 2022 "On additional measures for the further development of the field of intellectual property" dated April 26, 2022 No. PP-221
5. Decree of the President of the Republic of Uzbekistan "On measures to improve public administration in the field of intellectual property" No. PP-4168 dated 08.02.2019
6. Commentary on the Civil Code of the Republic of Uzbekistan. Under the editorship of Doctor of Law, Professor Kh. R. Rakhmankulov Doctor of Law Sh.M. Asyanova , Tashkent 2011
7. Rustambekov I.R., Musaev S.F. International copyright and patent law. - T .: TGYuU, 2016.
8. Intellectual property: in the lens of attention of justice. Electronic source: <http://www.minjust.uz/ru/press-center/news/89991/>
9. <http://lex.uz>
10. <http://www.strategy.gov.uz>
11. <https://www.franchise-law.com>