

영문계약 심화

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유형별 계약서 예시

- 비밀유지 계약서(confidentiality agreement)
- 라이선스 계약서(license agreement)
- 대리점 계약서(distributorship agreement)
- 물품매매 계약서(sales agreement)

비밀유지 계약서 예시(의무가 일방에만 있는 경우)

Basic Nondisclosure Agreement

This Nondisclosure Agreement (the "Agreement") is entered into by and between _____ with its principal offices at _____ ("**Disclosing Party**") and _____, located at _____ ("**Receiving Party**") for the purpose of preventing the unauthorized disclosure of Confidential Information as defined below. The parties agree to enter into a confidential relationship with respect to the disclosure of certain proprietary and confidential information ("**Confidential Information**").

비밀유지 계약서 예시

1. **Definition of Confidential Information.** For purposes of this Agreement, "**Confidential Information**" shall include all information or material that has or could have commercial value or other utility in the business in which Disclosing Party is engaged. If Confidential Information is in written form, the Disclosing Party shall label or stamp the materials with the word "Confidential" or some similar warning. If Confidential Information is transmitted orally, the Disclosing Party shall promptly provide a writing indicating that such oral communication constituted Confidential Information.

비밀유지 계약서 예시

2. **Exclusions from Confidential Information.** Receiving Party's obligations under this Agreement do not extend to information that is: **(a) publicly known** at the time of disclosure or subsequently becomes publicly known through no fault of the Receiving Party; **(b) discovered or created by the Receiving Party before disclosure** by Disclosing Party; **(c) learned by the Receiving Party through legitimate means** other than from the Disclosing Party or Disclosing Party's representatives; or **(d) is disclosed by Receiving Party with Disclosing Party's prior written approval.**

비밀유지 계약서 예시

3. **Obligations of Receiving Party.** Receiving Party shall hold and maintain the Confidential Information **in strictest confidence for the sole and exclusive benefit of the Disclosing Party.** Receiving Party shall carefully **restrict access** to Confidential Information to employees, contractors, and third parties as is reasonably required and shall require those persons to sign nondisclosure restrictions at least as protective as those in this Agreement. **Receiving Party shall return** to Disclosing Party any and all records, notes, and other written, printed, or tangible materials in its possession pertaining to Confidential Information immediately if Disclosing Party requests it in writing.

비밀유지 계약서 예시

4. **Time Periods.** The nondisclosure provisions of this Agreement shall survive the termination of this Agreement and Receiving Party's duty to hold Confidential Information in confidence shall remain in effect **until the Confidential Information no longer qualifies as a trade secret or** until Disclosing Party sends Receiving Party **written notice releasing** Receiving Party from this Agreement, **whichever occurs first.**

5. **Relationships.** Nothing contained in this Agreement shall be deemed to constitute either party a partner, joint venturer or employee of the other party for any purpose.

비밀유지 계약서 예시

6. **Severability.** If a court finds any provision of this Agreement invalid or unenforceable, **the remainder of this Agreement** shall be interpreted so as best **to effect the intent** of the parties.

7. **Integration.** This Agreement expresses **the complete understanding** of the parties **with respect to the subject matter** and supersedes all prior proposals, agreements, representations, and understandings. This Agreement may not be amended except in a writing signed by both parties.

8. **Waiver.** The failure to exercise any right provided in this Agreement **shall not be a waiver** of prior or subsequent rights.

This Agreement and each party's obligations shall be **binding** on the representatives, assigns, and successors of such party. Each party has **signed** this Agreement through its authorized representative.

비밀유지 계약서 예시(의무가 쌍방에 있는 경우)

Mutual Confidentiality and Nondisclosure Agreement

This Mutual Confidentiality and Nondisclosure Agreement (the “NDA”) is made on this [DATE] by and between **ABC LTD.**, a public research institute in the State of New Jersey, having its principal administrative offices located at [ADDRESS] (“ABC”) and **XYZ LTD.**, with an office located at [ADDRESS] (“XYZ”). ABC and XYZ are referred to herein each individually as a “party” and collectively as the “parties”.

ABC and XYZ, the parties to **this NDA**, wish to explore a business opportunity with one another (hereinafter, the “Purpose”) under which **both parties may disclose their Confidential Information (as defined herein) to one another.**

NOW, THEREFORE, in consideration for the current or prospective business relationship between the parties and/or each party disclosing to the other their Confidential Information, and other promises and mutual agreements hereinafter contained, each party hereby agrees to keep such Confidential Information confidential and to maintain such confidence on the following terms.

라이선스 계약서 예시

EXCLUSIVE LICENSE AGREEMENT

This **exclusive** license agreement ("AGREEMENT") is effective [] ("**Effective Date**"), **by and between** ABC, a California corporation, whose legal address is 1111 Franklin Street, 12th Floor, Oakland, California 94607-5200, ("**ABC**") and XYZ, a corporation having a principal place of business at [] ("**LICENSEE**"). The parties agree as follows:

BACKGROUND

ABC has an assignment of

LICENSEE has provided ABC with a commercialization plan for ...

라이선스 계약서 예시

DEFINITIONS

1. "LICENSED FIELD OF USE" means.....
2. "LICENSED METHOD" means
3. "LICENSED PRODUCTS" means.....
4. "LICENSED SERVICE" means.....
5. "LICENSED TERRITORY" means.....
6. "NET SALES" means.....
7. "SUBLICENSE" means.....

라이선스 계약서 예시

GRANT

Subject to the limitations set forth in this AGREEMENT, **ABC hereby grants and LICENSEE hereby accepts an exclusive license** under ABC' PATENT RIGHTS to make, use, offer for SALE, import, and SELL LICENSED PRODUCTS and LICENSED SERVICES, and to practice LICENSED METHOD, in the LICENSED FIELD OF USE in the LICENSED TERRITORY(IES).

The licenses under Paragraph 3.1 will be **exclusive** for a term commencing on the Effective Date and ending on the date of the last-to-expire patent under ABC's PATENT RIGHTS.

Nothing in this AGREEMENT will be deemed to limit the right of ABC to publish any and all technical data resulting from any research performed by ABC relating to the INVENTION, and to make and use the INVENTION, LICENSED PRODUCTS, and LICENSED SERVICES and practice LICENSED METHOD and associated technology and to allow other educational and non-profit institutions to do so for educational and research purposes.

라이선스 계약서 예시

SUBLICENSES

ABC also **grants to LICENSEE the right to SUBLICENSE to AFFILIATES and third parties the right** to make, use, offer for SALE, import, and SELL LICENSED PRODUCTS and LICENSED SERVICES, and to practice LICENSED METHOD, provided that LICENSEE has exclusive rights under this AGREEMENT at the time of sublicensing. Every such SUBLICENSE will include:

- (a) a statement setting forth the date upon which LICENSEE's exclusive rights, privileges, and license hereunder will expire;
- (b)

라이선스 계약서 예시

LICENSE FEES

LICENSEE will pay to ABC a non-creditable, non-refundable **license issue fee** of USD [] due upon signing of this AGREEMENT. This fee is non-refundable and not an advance against royalties or other payments due under this AGREEMENT.

LICENSEE will pay to ABC an **annual license maintenance fee** of [] USD [] on the one (1) year anniversary date of the Effective Date.

LICENSEE will pay to ABC **earned royalties at the rate of [] percent (%) of the NET SALES** of LICENSED PRODUCTS, LICENSED SERVICES, and LICENSED METHODS.

Royalties will be payable on SALES covered by both pending patent applications and issued patents.

Royalties accruing to ABC will be paid to ABC quarterly within sixty(60) days after the end of each calendar quarter.

라이선스 계약서 예시

PROGRESS AND ROYALTY REPORTS

For the period beginning [date] LICENSEE will submit to ABC a semi- annual **progress report** covering LICENSEE's activities related to the **development and testing** of all LICENSED PRODUCTS, LICENSED SERVICES and LICENSED METHOD and the obtaining of necessary **governmental approvals**, if any, for marketing in the United States. These progress reports will be made for all development activities **until the first SALE** occurs in the United States.

라이선스 계약서 예시

BOOKS AND RECORDS

LICENSEE will keep full, true, and accurate **books and records** containing all particulars that may be necessary for the purpose of showing **the amount of royalties payable** to ABC.....

The fees and expenses of ABC' representatives performing such an examination will be borne by ABC. However, if an error in underpaid royalties to ABC of more than five percent (5%) of the total royalties due for any year is discovered, then the fees and expenses of these representatives will be borne by LICENSEE.

라이선스 계약서 예시

LIFE OF THE AGREEMENT

Unless otherwise terminated by the operation of law or by acts of the parties in accordance with the terms of this AGREEMENT, this AGREEMENT will be **in force from the Effective Date** and will **remain in effect for the life of the last-to- expire patent or last-to-be-abandoned patent application licensed** under this AGREEMENT, **whichever is later.**

Any **termination** of this AGREEMENT **shall not affect** the rights and obligations set forth in the following articles:

Article 2

Article 4

Article 13

Article 16

Definitions

Sublicenses

Disposition of Licensed Products Upon Termination

Use of Names and Trademarks

라이선스 계약서 예시

TERMINATION BY ABC

If LICENSEE should violate or fail to perform any term of this AGREEMENT, then ABC may give written notice of such default ("NOTICE OF DEFAULT") to LICENSEE.....

TERMINATION BY LICENSEE

LICENSEE will have the right at any time to terminate this AGREEMENT in whole or as to any portion of PATENT RIGHTS by giving notice in writing to ABC.....

라이선스 계약서 예시

DISPOSITION OF LICENSED PRODUCTS UPON TERMINATION

Upon termination of this AGREEMENT, **for a period of one hundred twenty (120) days after the date of termination** LICENSEE may complete and SELL any partially made LICENSED PRODUCTS and continue to render any previously commenced LICENSED SERVICES, and continue the practice of LICENSED METHOD only to the extent necessary to do so; provided, however.....

대리점 계약서 예시

Appointment

Company **hereby appoints Distributor as its exclusive Distributor** for the Products in the **Territory**. Distributor's sole authority shall be to solicit orders for the Products in the Territory in accordance with the terms of this Agreement. Distributor shall not have the authority to make any commitments whatsoever on behalf of Company.

대리점 계약서 예시

General Duties

Distributor shall use its best efforts to **promote the Products and maximize the sale** of the Products in the Territory. Distributor shall also provide reasonable **assistance to Company in promotional activities of Company** with respect to the Products. Distributor shall also provide reasonable **"after sale" support** to Product purchasers and generally perform such sales related activities as are reasonable to promote the Products and the goodwill of the Company in the Territory. Distributor shall **report monthly to Company** by written report due by the 15th of the following month concerning sales of the Products and marketing activities of the previous month.

대리점 계약서 예시

Conflict of Interest

Distributor warrants to Company that it does not currently represent or promote any lines or products that compete with the Products. During the term of this Agreement, Distributor shall not represent, promote or otherwise try to sell within the Territory any lines or products that, in Company's judgment, compete with the Products covered by this Agreement. Distributor shall provide Company with a list of the companies and products that it currently represents and shall notify Company in writing of any new companies and products at such time as its promotion of those new companies and products commence.

대리점 계약서 예시

Independent Contractor

Distributor is an independent contractor, and **nothing contained in this Agreement shall be construed** to (1) give either party the power to direct and control the day-to-day activities of the other; (2) constitute the parties as partners, joint venturers, co-owners or otherwise; or (3) allow Distributor to create or assume any obligation on behalf of Company for any purpose. Distributor is not an employee of Company and is not entitled to any employee benefits. All financial and other obligations associated with Distributor's business are the sole responsibility of Distributor.

대리점 계약서 예시

Product Availability

Company shall use its best efforts in filling orders submitted by Distributor in a reasonable and timely fashion. Company shall immediately notify Distributor of any known or anticipated delays in filling new or previously entered orders and the estimated duration of any delays so that Distributor may fairly represent this information to existing or potential customers. Under no circumstances shall Company be responsible to Distributor or anyone else for its failure to fill accepted orders, or for its delay in filling accepted orders, when such failure or delay is due to strike, accident, labor trouble, acts of nature, freight embargo, war, civil disturbance, vendor problems, or any cause beyond Company's reasonable control.

대리점 계약서 예시

Additional Responsibilities of Distributor

- A. **Forecasts.** Not later than the 15th day of every month, Distributor shall provide Company with a three (3) month rolling forecast of orders showing Products requested.
- B. **Expense of Doing Business.** Distributor shall bear the entire cost and expense of conducting its business in accordance with the terms of this Agreement.
- C. **Facilities.** Distributor shall provide itself with, and be solely responsible for, (1) such facilities, employees, and business organization, and (2) such permits, licenses, and other forms of clearance from governmental or regulatory agencies, if any, as are necessary for the conduct of Distributor's business operations in accordance with this Agreement.

대리점 계약서 예시

Additional Obligations of Company

A. **Assistance in Promotion.** Company shall provide Distributor with marketing and technical information concerning the Products, including samples of **brochures, instructional materials, advertising literature**, and other Product **data** in the English language. Distributor shall be responsible for translating these materials to other languages, the costs related to translation and printing of the translated materials as a cost of doing business.

B. **Assistance in Technical Problems.** Company shall assist Distributor and customers of the Products in all ways deemed reasonable by Company in the solution of any technical problems relating to the functioning and use of the Products.

C. **New Developments.** Company shall inform Distributor of any new product developments that are competitive with the Products and other market information and competitive information as discovered from time to time.

대리점 계약서 예시

Trademarks and Trade names

A. **Use.** During the term of this Agreement, Distributor shall have the right to indicate to the public that it is an authorized Distributor of Company's Products and to advertise within the Territory such Products under the trademarks, service marks, and trade names that Company may adopt from time to time ("Company's Trademarks"). Nothing herein shall grant Distributor any right, title, or interest in Company's Trademarks. At no time during the term of this Agreement or at any time thereafter shall Distributor challenge or assist others in challenging Company's Trademarks or the registration thereof or attempt to register any trademarks, service marks, or trade name confusingly similar to those of Company. Company indemnifies Distributor for all use of Company's Trademarks.

B. **Approval of Representations.** All presentations of Company's Trademarks that Distributor intends to use shall first be submitted to Company for written approval (which shall not be unreasonably withheld) of design, color, and other details or shall be exact copies of those used by Company.

물품매매 계약서 예시

Purchase and Sale. Subject to the terms and conditions of this Agreement, during the Term, **Seller shall, on a non-exclusive basis** (as limited pursuant to the last sentence of this Section 2.01), **sell to Buyer, and Buyer shall purchase from Seller, the Goods.**

물품매매 계약서 예시

TERMS OF AGREEMENT PREVAIL OVER BUYER'S PURCHASE ORDER

This Agreement is expressly limited to the terms of this Agreement and the Basic Purchase Order Terms contained in the applicable Purchase Order. The terms of this Agreement prevail over any terms or conditions contained in any other documentation and expressly exclude any of Buyer's general terms and conditions contained in any Purchase Order or other document issued by Buyer. In the event of any **conflict** between the terms of **this Agreement** and the terms of any **Purchase Order** or any other document issued by Buyer, the terms of **this Agreement prevail**.

물품매매 계약서 예시

Shipment and Delivery. Unless expressly agreed to by the Parties in writing, Seller shall select the method of shipment of, and the carrier for, the Goods to the Delivery Location. All prices are **FOB origin, freight prepaid and charged back.**

Title. Title to Goods ordered under any Individual Transaction in 2018 passes to Buyer **upon shipment of such goods**, and under any individual Transaction in 2019 and beyond passes to Buyer **upon delivery of such Goods to the Delivery Location.**

Inspection. Buyer shall **inspect the Goods within five (5) Business Days** of installation (“Inspection Period”) of the Goods and either accept or, if such Goods are Nonconforming Goods, reject such Goods.

물품매매 계약서 예시

Service Support/Replacement Parts.

- (a) Seller shall ensure that **full service support and parts** are available for a period of **five (5) years following the last date of production** of the Goods and its accessories.
- (b) Seller shall deliver **satisfactory new replacement parts within five (5) Business Days** from the time of order placement.
- (c) Seller shall **supply and deliver spare parts** to Buyer, at Seller's own expense, where Buyer makes a request for such spare parts within the **Warranty Period** as provided in this Agreement.

물품매매 계약서 예시

Price. Buyer shall purchase the Goods from Seller at the **applicable prices set forth on Exhibit C** (“Prices”).

Shipping Charges, Insurance, and Taxes. **Buyer shall pay** for, and shall hold Seller harmless from, all shipping charges and insurance costs.

Payment Terms. Seller shall issue a monthly invoice for each Individual Transaction entered into during the applicable monthly period. Buyer shall pay all invoiced amounts due to Seller within sixty (60) days from the delivery date of the Goods. Buyer shall make all payments in **US dollars** by check or wire transfer.

Invoice Disputes. **Buyer shall notify Seller in writing of any dispute with any invoice** (along with a reasonably detailed description of the dispute) **within ten (10) Business Days** from the date of delivery of the Goods.

Late Payments. Except for invoiced payments that Buyer has successfully disputed, Buyer shall pay **interest on all late payments, at the lesser of** the annual interest rate of eight percent (8%) or the highest rate permissible under applicable Law.

영문계약서

- **결국 계약서다**
- **영문계약서 특유의 스타일이 있다**
 - 국제거래인 점과 관련하여 포함할 내용을 점검하자
 - 중재, 준거법 등
 - 영문계약서에 포함되는 일반조항들은 계약서별로 큰 차이가 없다
 - 기간, 해지조항, 전문, 약인, 기타조항 등 검토는 익숙해지면 짧게
- **영문계약서별 주요 조항(당사자 권리/의무)은 가장 심혈을 기울여 볼 부분이다**
 - 필요한 내용을 충실히 기재한다
 - 중요한 내용은 세부사항을 잘 기재한다
 - 명확하게 기재한다
 - 법에 의해 무효가 될 부분이 없는지 살피고 수정한다
 - **한 종류의 계약서를 놓고 보면 주요 내용도 결국 비슷하다**
 - 예시 계약서를 참고하여 필요한 내용의 누락이 없는지 점검한다
 - 해당 계약에서 특히 반영하거나 생략할 부분은 그에 맞게 조율한다

감사합니다.
궁금하신 사항은 편히 연락주세요.



법률사무소 이손
손유진 변호사

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