



TRELLIS

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Controlling Your Art with License Agreements

DISCLAIMER: This outline is a general guide. Be sure to contact an attorney if you have questions or specific issues that need to be addressed.

If you create original art, like graphics, logos, animation, or photography, how can you sell your creations without actually giving away all your ownership of the art? Licensing provides a mechanism to allow for another's use (and for you to be paid for it) without having to completely sell off your rights to it. Licenses can be for limited periods of time or last forever. They can be paid for upfront one time only or be paid continuously based on how the artwork sells. A licensing agreement is an important contract to have between the artist and company utilizing the artist's work in order to keep a record of the terms agreed upon between the two. This can help prevent ownership disputes, lost revenue for either party's business, or misuse of the art, such as using it outside the scope of the permitted rights. This resource contains a few of the ways you could license your artwork and the various parameters you want to set within the license.

Afterward, be sure to check out our [artwork licensing agreement template](#) for sale in the Trellis Template Library™ which provides clear terms and customization options for the various parameters discussed in this resource.

Below are a few questions an artist can ask themselves when licensing their artwork and various options, parameters surrounding, and considerations for each:

1. Can I license the same creative somewhere else? Exclusive vs. Non-exclusive.

Exclusivity outlines how restrictive the license's reach is such as only to one company or within an industry or within a geographic region. A license that is exclusive to the one company would mean that the artist cannot sell or license that same art to anyone else while they are in contract with that company. An exclusivity clause could also say that the artist can't license or sell the artwork to anyone else within the area specified in the contract or within a specific industry. For example, if you license a pattern to be put on a pair of pajama pants, the license may be exclusive to the clothing industry, but you may be able to sell that same pattern to a company that makes other products like mugs or mousepads. Or the license may be exclusive to Pennsylvania for sale of products in Pennsylvania, but you could sell the artwork and license it to a company that only sells its products in California.

A fully non-exclusive license would mean the artist could license or sell the art to anyone else and aren't restricted by the license granted in first contract. This is obviously the best option for artists, but often times companies will look for some sort of exclusivity.

2. How will I get paid? Flat Rate vs. Royalties.

There are various ways to pay for or get paid for licensing artwork. Sometimes payment is made via a flat rate where a specific payment amount is determined beforehand with no relation to how many items containing the licensed artwork are sold. Another form of payment could be via royalties, which is a calculation for payment based on how many of the items containing the licensed artwork are sold. Royalties can be a specific dollar amount per item or a percentage of total sales or profit. Payment provisions in licensing agreements can also include a combination of the two, for example, a specific amount might be paid for the artwork up front and then additional royalties are provided to the artist based on how well the product sells. How a license is paid for is definitely a balance between the administrative burden of specific product sales that a company wants to take on and the artist's ability (or desire) to tie its compensation to how well a product containing the artwork sells.

3. How long will the license be active? In perpetuity vs. a limited term.

The agreement will also need to include information around how long the license is to last. A license lasting in perpetuity would mean the license is made to last either forever or until the parties otherwise end the license under their agreement's termination language (as explained in #5). A license set for a limited time period would expire and may require either renewal or the company to stop using or selling the artwork when the time period runs out. Having terms related to renewal and additional compensation if renewed can benefit the artist when there is a mechanism for additional payment, especially if the artist is not receiving ongoing royalties.

4. Is there anything else you want to include in the scope of your license? Limited vs. unlimited.

An artist may want to also include a specific scope related to the use of the licensed creative that identifies specific uses or other parameters on how and when the artwork can and cannot be used. For example, the artist may not allow the company using the art to skew or alter the images being used in such a way that modifies the original work. An unlimited license might allow the company to use the artwork in any way they want.

5. Do you want to be able to terminate the license if the company isn't holding up its end of the bargain? (The answer is yes. Yes, you do.)

If the company to whom an artist has licensed its creative is misusing it or using it in a way that is a clear violation of the scope or other terms of the licensing agreement between the two, then the artist will want to have a clear way to terminate the license and ensure that the company is no longer making money off of the license they've been granted. For example, if the company starts putting the artwork on a product that wasn't included in the industry originally outlined. Or, perhaps the license was surrounding photography to be used in a specific advertisement and that footage is now being used in another one of the company's ads.

6. How will you want to receive credit on the licensed items?

In some cases, the artist can include language in the licensing agreement that requires credit for the artist's work – remember they still own the art! – such as the artist's name and information somewhere on a product's label, or their name listed in the final credits of a film. Relatedly, the artist will likely want the ability to include the right to publicize their work being licensed, such as including images of licensed products on their portfolio.

A few next steps for moving forward with licensing or protecting your intellectual property:

- In our blog post, [Made to Last: Legal Protections and Tools Makers Should Consider](#), we discussed various ways how makers can help protect and properly account for the incredible things that they create, including licensing agreements. Check out the other ways you can protect your creative.
- If you're curious about intellectual property or interested in learning more ways you can protect the rights to your work, check out our [intellectual property toolbox resource](#) in the resource library.
- If you have a website, you want to make sure your work is protected and that you're keeping everything legit from a legal perspective so review [our web considerations blog post](#).
- Finally, we definitely recommend working with a lawyer to help you think of everything for your specific licensing needs. Your attorney can advocate for your needs, help negotiate the parameters that work best for you, and make sure the licensing agreement you sign includes the provisions you want it to. You worked hard to make that creative, make sure it is protected.