



TRELLIS

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A Few FAQs around Waivers & Releases

If you've ever participated in an event, sport, activity, or even signed a contract you have probably seen language around liability waivers and/or a release. But these aren't just for scuba diving and jumping out of airplanes. Waivers and releases are a common part of everyday business transactions. They can be helpful in helping customers make informed decisions, make it clear who owns certain rights, and they can protect businesses and people from certain types of actions surrounding their line of work. This Trellis Resource explains a few important details around, differences between, and offers some examples of the two.

What is a waiver?

A [waiver](#) is an agreement to refrain from using or pursuing a claim you would otherwise be able to without having signed the contract. Waivers are legal documents that let a party off the hook from liability, creating a promise that one person or business will not take legal action against another. (Check out our blog post breaking down [waivers vs. disclaimers](#) as well.)

What is a release?

A release is when you contractually give up a right you would otherwise have and you grant that right to another person.

Through a release, you can let someone off the hook from a contractual obligation or duty, or you can release certain rights.

What's the difference between a waiver and a release?

Both waivers and releases are related to the transferring of certain rights, and they are often intertwined. A waiver says you will refrain from enforcing your rights or get rid of them and a release often means you've given your rights up or to another party altogether. The examples below help explain this.

Here are a few examples:

- Liability Waiver

Liability waivers are documents that help protect businesses from legal claims by stating that the person signing acknowledges and accepts the risks associated with an activity in which they are about to engage. They can also protect businesses from negligence claims as well, although instances of intentional, reckless, or grossly negligent conduct cannot be waived in Pennsylvania.

Liability waivers can also be found in the language of most client, independent contractor, services agreements, and more. If you're signing or using [lawyer-drafted contracts](#), chances are there is a liability waiver related to the scope of that contract. For example, a hairstylist may ask you to sign their terms and conditions before performing coloring or chemical services on that 'do. These terms and conditions may also include a notice informing you of the risks associated with chemical treatments and a waiver, where you agree not to pursue legal action if your hair reacts differently or something goes awry. As mentioned above, this won't completely absolve a stylist of liability if they've done something egregious.

- **Photo Release**

A [Photo \(Use of Likeness\) Release](#) allows your business to use a photo, video, etc. of a customer or client. Those signing a photo release are giving up their right to not have their photo taken in the setting, and essentially handing those rights over to you for the purposes you've laid out in a release. It's a good idea to have attendees at an event, your clients and customers, your employees, and more sign a photo release that gives you the rights to take photos of them and use them, edit them – and even choose not to use them! -- in your advertising, on your website or social media, and for any purpose. Photo releases often also have waiver language in there, where the signing party would waive the right to sue you for that use.

- **Contract Termination and Release Agreement**

Contracts end. Not always for bad reasons, and not always on bad terms. Sometimes a project finishes up or things go differently than expected and parties would rather just terminate a contract. A contract termination and release is a formal agreement where parties to a contract agree to release one another from their obligations under a contract. This can protect businesses from trying to enforce certain components of a prior contract and gives everything a definitive end. There may be certain claims still from an original contract, but this type of release is a solid communication tool that can help prevent future misunderstandings.

One example of this is in the event a tenant and landlord mutually agree to terminate a lease before the term was originally supposed to end. They can sign a release from the lease obligations so that the landlord or tenant are on the same page that the tenant is no longer obligated to pay rent, and the landlord is no longer obligated to keep that unit available to the tenant.

- **Intellectual Property Release Agreement**

Similar to a photo release, an intellectual property release gives another party all or some of the rights associated with another's creative work. For example, say you're a photographer who was hired by a corporation to take photos of a fundraiser they were holding. That corporation may ask you to sign a release. Even though you took them, you've relinquished all of your rights to the photos and the corporation can use them however they want. They could make money off them, use them on their website or in advertising, and more. The corporation may still grant you a license to the photos to use on your portfolio, so if you're a creative, you want to make sure you really understand the scope of any releases, and if you do sign one, try to grant yourself the ability to still claim artist credit to any of your work. (Download our [licensing](#)

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[resource by clicking here](#) to learn more about that and some alternative options to releases for artists that gives them more protection.)

Where can I find a release or waiver for my business' needs?

We definitely recommend working with an attorney in your state for any specific release and waiver language as each industry is different and may require certain language, or not even allow some. You want to make sure the scope of each waiver or release – how much the release or waiver covers – is consistent with what you want them to include, as well as specific laws which may limit their breadth.

The Trellis Template Library™ offers a [basic liability waiver](#) for sale if your business is in need of some liability protections for in-person services, activities, or events. We also offer a [Photo \(Use of Likeness\) Release](#), which allows your business to use a photo, video, etc. of a customer or client and has them waive the right to sue you for that use. (You can also [get these two in a bundle!](#)) We also have an [agritourism liability waiver](#) which includes the unique considerations for bringing folks onto your farm business for certain activities in Pennsylvania. Check these out along with some other templates! And, if you're looking for a custom waiver or release, unique to your specific business or needs, drop us a line.