

## Contracts – A Beginner’s Guide

### It’s better to record the deal in writing

- It’s good practice to record contracts in writing. It helps stop a dispute coming down to your word against theirs, and the process of recording a deal in writing will often help clarify areas of ambiguity or potential misunderstandings.
- A written contract can be as formal or informal as you like – it’s OK to record an agreement in an email or letter so long as it sets out the deal clearly and the other party agrees to it in some recorded way (e.g. by countersigning the letter or sending a confirming email).
- You must keep a copy of the email/letter and the record of the other party’s agreement.

### Put everything in the contract

- Don’t leave anything out of the contract or assume that certain things will happen, as the law generally presumes that a written contract is the whole agreement.
- You should have a plan for worst case scenarios – think of the things that could go wrong and write in safeguards to deal with them.

### Is it a good deal for you?

- The law generally doesn’t care if you do a bad deal for yourself, so if you sign the contract you are probably stuck with it.
- You need to be careful as to what the written contract says – it should help clarify the deal, but it will also make it harder to get out of it.
- Think about whether you have some protection if things go wrong. Is the length of the contract too long? Do you have the right to terminate if you don’t get paid?

### Don’t be afraid to negotiate

- Even when you are told “*it’s our standard contract that everyone signs*”, you should feel free to negotiate. In the film/TV industry, modifications are often needed to “standard contracts” to make them fit particular situations.
- Read the contract carefully. If you don’t understand or like any aspect of it, ask for clarification or for the provisions to be changed.
- You should feel happy with the terms of a deal before signing it – if you are not, you should consider walking away. Why do a bad deal?
- However, keep in mind the other party’s interests and what they need from the deal. Contracts usually reflect a balance of each party’s interests.

### Get help and legal advice early

- Resist pressure to sign a deal on the spot or without time to properly read and reflect on it. It’s a very good idea to read it carefully and sleep on it. Talk it over with friends and colleagues in the same industry - are you being offered a fair deal compared to others in the industry?
- Get legal advice early – it’s much better to get advice early on to avoid signing a bad deal than spending money trying to get you out of a rotten deal you have signed. Early advice is an investment for the future.

### Think about who the contracting parties are

- From your side, is the correct person or entity signing the agreement? It may be appropriate for you to sign as an individual but equally there may be disadvantages to doing so – using a company may reduce personal risk and exposure and have other benefits. A lawyer or accountant can help with this.
- Who is the other party? Unless you are confident of who you are dealing with try and check the background of the other party. You may be able to do internet searches to help find out more.

### Don’t give away more than you need to

- Try and keep control of your production and only give away the rights or licences that you need to.
- If the other party doesn’t *need* a licence for something or looks unlikely to actually utilise that licence, maybe that licence shouldn’t be granted. An option or first right to offer or negotiate might be an alternative.
- Try and restrict licences by duration, scope (e.g. types of rights granted) and territory. Give away as little as possible unless you are paid the money to justify giving away more.

### Be careful what you agree to

- You will be in trouble if you agree to do something you can’t deliver (e.g. where you don’t have, and can’t get, the necessary right or clearances).
- Be careful about committing to timeframes and details about what you will deliver – make sure you can do all of it as required. If you can’t, you should negotiate a change.
- If you can, avoid exclusive deals, last rights of refusal, ongoing lengthy deals with no termination rights or open-ended options and other rights for future work.

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