

CONTRACT BASICS FOR ARTISTS*

I. If you sell (or are trying to sell) your art, you are in business.

A. Art is a commodity. (Merriam Webster: “something that is bought and sold”)

1. This does not mean that a work’s “commercial” value—the amount someone would pay for it—necessarily equates with its “essential” value—its ability to affect people spiritually, emotionally, psychologically.
2. This is not good or bad, it’s simply a fact; unless you are giving it away or making it as a hobby, your work is a commodity in the art market.

B. Art does not sell itself.

1. Creation is only the beginning.
2. Selling your work requires much more.
 - a. leases
 - b. supplies and equipment
 - c. exhibiting—framing; gallery representation; juried exhibitions; open studio
 - d. publicity—social media; websites, business cards; stationery; press releases
 - e. risk protection—insurance; legal
3. You must enter into relationships—business relationships—to accomplish most of these things.
 - landlords, retailers, framers, gallery owners and directors, graphic designers, insurance agents, lawyers

II. You are entering into contracts all the time.

A. A contract is nothing more than an exchange agreement.

1. Any time you agree to do something for someone else, in exchange for something in return, you have entered into a contract.
2. The business relationships you enter are all based on contracts (agreements to exchange your money for their products or expertise).

* Obligatory Disclaimer—This outline provides a general overview of some of the topics presented in the lunch-and-learn “Contract Basics for Creatives” at the Cedars Union on August 8, 2018. The information is presented for instructional purposes only and should not be regarded as legal advice. The goal is to give you *general* information and a *general* understanding of the law; it does not provide a complete statement of the law with respect to any of the issues discussed, nor does it provide specific legal advice. If you have specific legal questions, you should seek the advice of counsel.

B. Why should you care?

1. The terms of the agreements define what you are expected to do and what you get in return.
2. Understanding this, you can better control your lives as artists.
 - a. make sure you get paid *what* you expect to get paid, *when* you expect to get paid
 - b. make sure you retain your rights in your works
 - c. make sure you don't wind up being accused of agreeing to sell an entire edition of prints when you meant to sell only a single print

C. Elements of a Contract

1. **Offer**—proposal to enter into an agreement; a promise inviting acceptance in the form of a return promise
 - a. “I’ll buy your painting for \$5,000.” YES
 - b. “This painting would look great in my office.” NO
2. **Acceptance**—agreeing to the proposed offer
 - a. “I agree to sell you the painting for \$5,000.” (in response to the offer) YES
 - b. “I’ll sell it you for \$5,000, but you have to wait until next Thursday.” NO (this is a counteroffer, and the original offer is no longer on the table)
3. **Consideration**—something of value exchanged by each party
 - a. There must be an exchange—each party must give something of value—and it must be stated as part of the offer.
 - b. “I want to buy your painting, and I’ll pay you handsomely for it.” NO (price must be bargained for when the contract is formed)

D. Get it in writing!

1. Contracts can be oral or written.
2. Oral contracts cause problems.
 - a. In a dispute, it is difficult to prove what was agreed.
 - b. Statute of Frauds—oral contracts for the sale of objects valued at over \$500 are not enforceable.
3. no need for legalese
 - a. Sales Agreement
 - b. Bill of Sale

SALES AGREEMENT

Artist agrees to sell and Buyer agrees to buy the Artwork described below.

Description of Artwork

Title: _____

Date: _____

Size: _____

Edition: _____

Medium: _____

Price

Sale Price \$ _____

Sales Tax \$ _____

Total \$ _____

Payment: Buyer agrees to buy the Artwork for the total price stated above on or before [DATE].

Seller/Artist

Name: _____

Address: _____

Signature

Buyer

Name: _____

Address: _____

Signature

BILL OF SALE

This Bill of Sale memorializes the sale of the artwork described below.

Description of Artwork

Title: _____

Date: _____

Size: _____

Edition: _____

Medium: _____

Price

Sale Price \$ _____

Sales Tax \$ _____

Total \$ _____

Date of Sale: _____

COPYRIGHT RESERVED BY ARTIST

The Artwork may not be reproduced in any manner without the express written consent of the Artist.

Seller/Artist

Signature

Buyer

Name: _____

Address: _____

Signature: **Artwork received in good condition**