THE ARTIST’S RESERVED RIGHTS
TRANSFER AND SALE AGREEMENT
SECOND EDITION

The accompanying form is the second edition of the contract conceived by Seth Siegelaub and drafted by Robert Projansky, a New York attorney, in 1971. It has been revised by Mr. Projansky. The original contract was well-received by artists, but distribution was limited and its legal language was rather forbidding. The version published on this poster is much shorter, easier to read and easier to use.

WHAT THE CONTRACT DOES

The contract is designed to give the artist:
- 15% of any increase in the value of each work each time it is transferred;
- a record of who owns each work at any given time;
- the right to have the work remain unaltered by the owner;
- the right to be notified if the work is to be exhibited;
- the right to show the work for 2 months every 5 years (at no cost to the owner);
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The economic benefits would last for the artist’s lifetime, plus the life of a surviving spouse, plus 21 years, so as to benefit the artist’s children while they are growing up. The aesthetic controls would last for the artist’s lifetime.

WHEN TO USE THE CONTRACT

The contract form is to be used when the artist parts with each work FOR KEEPS:
- Whether by sale, gift, or trade for things or services;
- Whether it’s a painting, a sculpture, a drawing, a non-object piece or any other fine art;
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The contract does nothing unless your friend is willing to sign it. If you offer to give your friend a good price, but don’t want to sign, tell him that this will be standard for your work.

You can point out to the reluctant buyer:
The contract doesn’t cost anything unless your work appreciates in value; most art doesn’t;
- If the artist makes a profit on your work, you get only a small percentage of it—about the equivalent of a waitress’s tip;
- If you can offer to sell your prospective 15% payment in something other than money, or to give him a partial credit against a new work;
- Or you can agree to put in an original value that’s more than what he’s paying, giving him a free ride on any prospective profit;

Of course, if a collector buys a work refusing to sign the contract, he will have to rely on good will when he wants you or your dealer to appraise, restore or authenticate it. Why he should expect to find good will there is anybody’s guess.

Is the buyer really going to pass up your work because you asked him to sign this contract? Work that he likes and thinks is worth having? If the answer is yes, given the fact that it doesn’t cost him a thing to give you, the artist, the respect that you as the creator of the work deserve—if that will keep him from buying, he is too stubborn and foolish for anyone to tell you how to illuminate him. Non-use of the contract is a dumb criterion for selecting art.

ENFORCEMENT

First, let’s put this in perspective: most people will honor the contract because most people honor contracts. Those who are likely to cheat you are likely to be the same ones who gave you a hard time about signing the contract in the first place. Later owners will be more likely to cheat you than the first owner, but there are strong reasons why both first and future owners of your work should fulfill the contract’s terms.

What happens if owner #1 sells your work to owner #2 and doesn’t send the transfer form? (He’s not sending your money, either.) Nothing happens. (You don’t know about it yet.)

Sooner or later you do find out about it because the grapevine will get the news to you (or your dealer) anyway. Then, if owner #1 doesn’t come across you sue him. He will be stuck for 15% of the profit he made or 15% of the increase in value to the time you heard about it, which may be much more. Also, note that if you have to sue to enforce any right under the contract, Paragraph 14 gives you the right to recover reasonable attorney’s fees in addition to any other remedy to which you may be entitled. Clearly, owner #1 would be foolish to take the chance.

As to satisfying values, there will be as much pressure from new owners to put in high values as there is from old owners to put in low values. In 95% of the cases the amount of money to be paid the artist won’t be enough to make them lie to you (in unison).

SUMMARY

We realize this contract, like its predecessor, will disturb some dealers, museums and high-powered collectors, but the ills it remedies are universally acknowledged to exist and no other practical way has ever been devised to cure them. Its purpose is to put you—the artist—in the same position as the man behind the rent-a-car counter. He didn’t write his contract, either, but he says: if you want it, sign here. You do the same.

Using this contract doesn’t mean all your art world relationships will be strictly business hereafter or that you have to enforce every right down to the last penny. Friends will still be friends and if you want to waive your rights you can, but they will be YOUR rights and the choice will be YOURS.

The contract in its prior form has been used by many artists—known, well-known and unknown. Use it. It’s enforceable. The more artists and dealers who use it, the better and easier it will be for everybody to use it. It requires no organization, dues, meetings, registration or government agency—just your desire to protect the integrity of your art.

What it gives you, the artist, is a legal tool you can use to establish continuing rights in your work at the time you transfer it. Whether or not you use the contract is up to you. Consider the contract as a substitute for what is available otherwise: nothing.

This has been created for no recompense to the author for just the pleasure of attacking a challenging problem, and it is based on the feeling that there should ever be a question about artists’ rights in reference to their art, the artist is more right than anyone else.

Please POST, REPRODUCE and USE this poster freely. The poster is not to be sold. The cost of the production, printing, and distribution of this document has been underwritten by Associated Councils of the Arts, 1564 Broadway, NY, NY 10036. If you use this contract please let us know. Address all substantive queries to Artists’ Rights Association, 27 West 15th St., NY, NY 10011.
WHEN TO USE THE CONTRACT

The contract form is to be used when the artist parts with each work FOR KEPS:

- by sale, gift, or trade for things or services:
- whether it's a painting, a sculpture, a drawing, a non-object piece or any other fine art,
- whether to a friend, a collector, another artist, a museum, a corporation, a dentist, a lawyer—anyone.

It's NOT for use when you lend your work or consign it to your dealer for sale, it IS for use when your dealer sells your work (or if he buys it himself).

HOW TO USE THE CONTRACT

1. Photocopy the contract form. You'll need 2 copies for each transfer. Save this original to make future copies and for reference.
2. Fill out both copies, using the checklist instructions in the margin.
3. You may want to enter "Artist's address" as c/o your dealer.
4. Note that the contract speaks in terms of a "sale"; the word "sell" is used for the sake of simplicity (likewise we use the word "purchaser" because it's the most all-inclusive word for this purpose). In a sense, even if you are giving or trading your work you are selling— it is for the promises in the contract plus anything else you get.
5. In paragraph 1 enter the price OR the value of the work. You can enter any value that you and the new owner agree upon. If it sells for more he will have to pay you 15% of the increase, so the higher the number you put in originally the better the break the purchaser is getting. If you are giving a friend a work or exchanging with another artist (be sure to use separate contracts for the latter situation) you might want to enter a very low value so you would get some money even if he resells it at a bargain price.
6. If there are any changes make any small changes directly on the form, making sure that both parties initial all such strikeouts and changes.
7. If you don't have room on the form for the changes you want, add them on separate sheets entitled "Rider to Contract" and be sure both are signed by parties and dated.
8. You should consult an attorney for extensive changes.
9. You and the purchaser sign both copies so each will have a legal original.
10. Before the work is delivered be sure to cut out the NOTICE from the lower right corner of one copy and affix it to the work. Put it on a stretcher bar or under a sculpture base or wherever it will be aesthetically invisible yet findable. Protect it with a coat of clear polyurethane or the like.
11. If your work simply has no place on it for the NOTICE or your signature—in which case you should always use an ancillary document which describes the work, which bears your signature and which is transferred as a legal part of the work—glue or copy the NOTICE on that document.

RESALE PROCEDURE

When a work is resold the seller makes three copies of the TRANSFER AGREEMENT AND RECORD ("TAR") from the original contract, fills them out entering the value that he and the next owner have agreed upon, and both of them sign all three copies. The seller keeps one, sends one to the artist with the 15% payment (if required) and the other one to the new owner with a copy of the original agreement, so he will know his responsibilities to the artist and have the TAR form if the work is resold again.

THE DEALER

If you have a dealer he will be very important in developing your use of the contract. He should make use of the contract a policy of the gallery, thereby giving the artists in the gallery collective strength against those individuals who don't really appreciate artists.