

Contract Terminology for Touring Exhibitions

Touring exhibitions require the creation of contracts and agreements between the many parties involved. This will include agreements between the Tour Organiser and Originating Venue/s, the Tour Organiser and Creatives, the Tour Organiser and Lenders, and the Tour Organiser and each Host Venue. Contracts can be legally binding (meaning they can be enforced in court) or non-legally binding. Below are a few examples of contracts that may be in use during a touring exhibition. This is a non-exhaustive list designed to provide a general outline for specific circumstances. Seeking legal advice from specialised agencies or legal departments is advised and recommended.

Memorandum of Understanding (MOU)

An MOU is generally not intended to be legally binding unless it expressly says otherwise. An MOU is often relied upon as a statement of mutual intentions rather than enforceable obligations. The purpose of an MOU is to outline the proposed objectives of the arrangement, the roles, responsibilities and expectations of each party, and the framework within which the parties intend to work together. Key elements to include are the purpose of the agreement, the responsibilities and expectations of each party, a timeline of key events or actions, the duration of the MOU, and any specific terms of the MOU.

This type of agreement can be useful when two parties are exploring a potential collaboration, such as when an artist and gallery decide to embark on a tour, but require funding, so an MOU is put in place while funding is sought. It is often a preliminary step before a formal contract.

Loan Agreement

A Loan Agreement is a legally binding document with a purpose to formalise borrowing an artwork or object, or in some cases, formalise funding arrangements for exhibitions. The agreement should include:

- Detailed description of works/objects with insurance values
- Financial commitments
- Terms and conditions of the loan
- Duration of the loan
- Liability for loss, damage, or force majeure
- Condition reporting and care requirements
- Transport and storage responsibilities
- Indigenous Cultural and Intellectual Property (ICIP) requirements
- Dispute resolution

The [Arts Law Centre of Australia](#) has contract templates that can be purchased and downloaded for touring, collaborative partnerships, commissions, and many other related areas.

Licensing Agreement

A Licensing Agreement is a legally binding document that grants permission to reproduce or use content, including artworks, without transferring any ownership or moral rights. This may form a part of a Loan Agreement or may be a separate document. The agreement may include financial compensation for use and can encompass permission to print imagery on both physical and online platforms, such as magazines, websites, merchandise, and marketing. This agreement should outline scope of rights, duration of use, fees or royalties, and attribution requirements. Refer to the [Copyright Agency](#) and [Creative Commons](#) for resources and advice on licensing.

Curatorial/ Producer Contracts

A contract with a curator, cultural producer, or other collaborator is a legally binding document. Typically, a contract of this nature will cover professional services including exhibition development, consultation, and exhibition management. This document should be clearly understood by all parties, and will need to include the scope of services, terms of payment, any timelines or deadlines, where responsibility falls for transport and artwork care, a dispute resolution process, and insurances for the exhibition and for the parties. Having clear information about the expectations of each party and how these expectations are expected to be fulfilled, alongside a schedule of regular updates or check-ins is advisable. Refer to [Arts Law Centre of Australia](#) for contract templates.

Key Terms

Intellectual Property (IP): Refers generally to “products of the mind” and includes copyright and moral rights, as well as other IP regimes including registrable forms administered by IP Australia, such as trade marks, designs and patents, for instance. Copyright and moral rights embody the legal rights creators hold over their original (human-authored) works, including paintings, sculptures, photography, writing, performance, and digital media. Copyright ensures creators control reproduction, display, adaptation, and commercial use of their work, while contracts clarify permissions and may specify attribution, licensing, or other agreed uses for a specified duration. Refer to [IP Australia](#) for more information about registrable IP, and Arts Law and the Australian Copyright Council for information about copyright and moral rights (and see below).

Copyright: Gives owners (often the creators) exclusive rights to do certain acts with material they own. These rights are protected by the *Copyright Act 1968* (Cth). The Copyright Act gives legal protection for people who express original ideas and information in certain forms, the duration of copyright protection, what is considered an infringement of copyright, exceptions to infringement, and outlines the requirements to use copyright material. This is in force until 70 years after the year of death of the creator.

Moral Rights: Moral rights are the inalienable, personal rights that authors (creatives) have to be attributed, not falsely attributed, and not to have their work subjected to derogatory treatment, as contained in the Copyright Act. The creator must be credited (attributed) accurately as such, and the work must be displayed in a way that respects the integrity of the creator's intentions. This also means that the work may not be altered without the creator's written permission.

Indigenous Cultural and Intellectual Property (ICIP): In all MOUs, contacts, and agreements it is advisable in an Australian context to include an ICIP clause. This acknowledges that First Nations individuals and communities retain control over their cultural expressions when participating in exhibition projects. This includes acknowledging cultural ownership, detailing permissions and consent, relaying cultural protocols or restrictions, and leaving space for attributions to include crediting cultural content, First Nations' Country, different types of knowledge, or other forms of recognition. Refer to [Terri Janke and Company](#) for more information on ICIP in a legal context.

Force Majeure: This is a clause in contracts that allows each party to pause or end contractual obligations if extraordinary events occur. This could include a natural disaster, a pandemic, war or conflict, or other extraordinary occurrences. It is key to outline the terms of force majeure within a contract and outline the financial, caretaking, and insurance obligations for each party should this need to come into play. This will include the right to terminate a contract or renegotiate the terms of a contract, depending on the nature of the event.

This resource was created with advice from the Arts Law Centre of Australia.