

The Inventors Guide to Licensing a Product

Be Convincing, Clear, and Concise

Insist on clarity over form.

Set the pace. Make haste slowly.

A good deal allows both sides to be winners. Compromise is okay.

No deal is better than a bad deal.

Write up your own agreement or note key points and have your attorney dot the "i"s and cross the "t"s.

Your options in agreements are limited only by your creativity.

If company needs time to consider your product, agree to an "Exclusive Look Agreement" for a fee (eg: \$1,000).

Licensing Contract contains:

Nature of the license, exclusive or nonexclusive

Negotiate yourself. No one has more to gain or lose. You are the captain!

Avoid committees. Solve simple problems simply!

Negotiate with an executive in a decision-making position. Executives are responsible for profits, not lawyers. Lawyers are paid to set rules and follow them.

Written words live, spoke words die.

When in doubt, ask. Asking a dumb question is far easier than correcting a dumb mistake.

Keep it short and to the point!

In any standard contract, boilerplate terms should be treated as variables.

Enjoy yourself, you are entering a long-term relationship. Base it on compatible terms.

Define what is being licensed

Geographic or market limitations - Exclusivity deserves clear, distinct guidelines on performance (Performance Clause) within a give period of time and in following periods of time.

Future inventions generated off of yours. "Improvements" benefit you as well.

Term and termination of the agreement

Right to audit the books

Royalty rate, payment terms, and any up-front payments:

Required: "standard royalty" on the net sales of each unit sold. 5%

A negotiated advance against future royalties. No strings attached. You have performed the research and development. This is worth something. Consider your expenses to date

in developing (not manufacturing) the product and patenting fees.

This should be reasonable to receive as a minimum for earnest money on behalf of the licensing company. Above this, it is reasonable to be compensated for the period of time it requires the licensing company to get the product out there. You already offer it for sale, so now you have no earnings coming in.

To be fair, the advance may be considered in two parts:

- 1) One that is up front and clear of any ties to future royalties (R& D)
- 2) Second, one that is tied to future royalties for which the company earns back this amount on initial sales. (Good Faith money)

Net sales = gross sales less returns and allowances, freight out and cash discounts.

Patent expenses

Infringement by others

Right to sublicense

Patent assignment

Product Liability Coverage

Inheritance clause - address to whom the rights would be transferred to in case of licensors death.