



## **20 Terms and Conditions to Include in Your Influencer Agreement**

**Compliance and Ethics**

**Employment and Labor**

**Sports and Entertainment**



An influencer contract is a newer type of agreement that companies can use to promote their products through social media. Although new, it does share many of the core characteristics of a business contract. Make sure these 20 terms are included before inking the deal with the latest social media sensation.

1. It should be a **written contract**, not oral nor verbal.
2. **Term:** A start and an end date.
3. **Scope of Work** specific platforms, frequency, music, message, visual effects, hashtag/tags, etc.

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- 4. **Compensation**, including payment amount and process of payment, and also what is not compensated, like the use of name, image, or likeness (NIL).
- 5. **Indemnification (or moral clause)**: Influencer's work is truthful, non-fraudulent, and can be documented. Ensure that the influencer will reimburse the agency or brand from wrongful conduct if the agency or brand gets sued because of the influencer's actions.
- 6. **IP ownership rights**: Influencer's NIL shall focus on (i) influencer's full name or any abbreviation or derivative thereof, whether trademarked or not (ii) an image, photograph, or drawing and/or a sequence of images or video of influencer, and/or (iii) a recording of influencer's voice. Influencer understands that NIL may be edited, copied, exhibited, published, or distributed at the discretion of company.
- 7. **Approval**: final authority to approve before distribution waiver of any right to inspect or approve the finished product wherein NIL appears publicly.
- 8. **Content Retentions Rights**: Who owns what?
- 9. **Applicable state, federal, global laws and regulations**, such as the FTC's "clear and conspicuous" disclosure.
- 10. **Exclusivity**: define category/competitors.
- 11. **Confidentiality Clause**: protect terms and conditions.
- 12. **Delivery Format**: means of delivering final product.
- 13. **Derivative Content Rights**: final rights to the final product or new asset that comes from original campaign.
- 14. **Metrics**: keep track of them to measure ROI.
- 15. **Liability insurance**: require the influencer purchase and maintain liability insurance.
- 16. **Venue Law**: disputes will be resolved in a specific location.
- 17. **Governing Law Clause**: disputes will be resolved by applying specific laws (national and global).
- 18. **Mediation/Arbitration**: establish dispute resolution process.
- 19. **Attorney Fees Clause**: prevailing party reimbursed.
- 20. **Signature**: Physical signature on the agreement (original, copy, or digital version of the conclusion are all valid).

This article is part of a larger series on how influencers and in-house counsel can work together. Read "[Under the Influence](#)" for unique risks facing the company's reputation and brand and read [an interview with Brad Shear](#), an in-house lawyer with over a million followers on TikTok.

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Jocelyn A. Merced previously worked as a law clerk to the Honorable Bernadette N. DeCastro in the Civil Division of the Superior Court of New Jersey - Hudson County. While a law clerk, she handled a diverse caseload, including employment law cases requiring determinations as to the discoverability of certain documents.

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