

**Contracts - Part 3 - Protect your revenue + grow your team
(S3E64)**

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00:06 Autumn Witt Boyd: Welcome to the Legal Road Map® Podcast, for online and e-commerce entrepreneurs. I'm your host, lawyer Autumn Witt Boyd, I'm an experienced copyright and trademark lawyer. With my team at the AWB firm I leverage, grow and protect multimillion dollar online businesses. My goal in every episode is to teach you about the sophisticated legal and business strategies to build your own seven or eight-figure business. If you're a new business owner, go back and listen to episodes 1 through 12. You'll learn the basics to set up a strong legal foundation. The Legal Road Map Podcast is sponsored by the AWB firm. You can find show notes for every episode, and learn more about how we help our clients achieve their next level goals at awbfirm.com.

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00:52 AB: Hi everybody, lawyer Autumn Witt Boyd here, with our weekly Facebook Live and podcast episode. This is installment number three in our month-long series in November, all about contracts for your online business. So today, we are going to be focusing on two really important areas. As I mentioned, I missed a week 'cause I was sick and lost my voice. So we're kind of squeezing two topics into one this week, but I will keep it not too long. We're gonna talk about protecting your revenues, which I really think is the number one contract that you should focus on for your business. If you don't do anything else, I hope that you have a solid contract to protect whatever your main stream of revenues is. I think it's super duper important. So we're gonna talk about how that looks different for different kinds of businesses, whether you're a service, product different kinds of service and product providers. We're gonna go over six different kinds of contracts depending on the kind of revenue. We'll also talk about online businesses who are selling digital products. So that is going to be the protecting your revenue portion of this episode.

01:52 AB: Then at the end, I'm going to go into just really high level overview of some contracts you may need as you grow your team. So we hear a lot about NDAs and non-competes, so I will dive into a little bit of an overview on those areas as well. So definitely listen to the end if you are growing your team, if you're working with contractors or employees and you are not having them sign anything, and I'll give you my top tip, which I did not realize could potentially be an issue in time until I was talking about this with a client recently who's working with contractors. So definitely, stay tuned to the end about that. Before I dive in to talking about these particular types of contracts, I wanted to be sure that you guys have all heard about the AWB firm's Black Friday sale. Today is Tuesday, November 20th, our sale starts Friday, November 23rd, so that's this Friday. And if you're listening to this a bit after the fact, our sale will continue until Wednesday, November 28. Because if you're like me, you may be spending time with your family or visiting friends or doing some other in-person shopping on actual Black Friday and through the next couple of days. So, we will continue it all the way through Wednesday, November 28.

03:00 AB: You can go to our website and you'll find all of our contracts, will get a free GDPR compliant Privacy Policy. So if you listened to last two week's episode you know you must have a privacy policy, if you are collecting any personal information from anyone from your website. We are giving away a free Privacy Policy with any purchase. And then if you're on my email list, you are gonna get a special code for an extra 25% off your whole purchase and we only put these contracts on sale once a year, this is our only sale. So you definitely don't wanna miss it if you are needing to snag some contracts for your business. Those are all on our website at awbfirm.com/contracts-templates, plural. If you just go to awbfirm.com, you will be able to find the right place if you click on products and services, they're right there as well. And we'll have the code for the free Privacy Policy number will be on that page so you don't really need to do anything to be able to take advantage of that, but if you're not already on our email list now is the time to join. You can do that on the front page at awbfirm.com, you can go to our podcast sign-up page, that will also give you our free five-minute IP audit. So if you're wondering what kind of copyrights, trademarks, trade secrets might be hiding in your business and maybe you could be leveraging or should be protecting, that is a great resource that's on our podcast page at awbfirm.com/podcast.

04:16 AB: And actually there's another download right there on the contract template page. If you scroll all the way down, you can find a free kind of guide to writing your own contracts. So what are some terms that you might want to include and what do they mean in plain English. So lots of helpful resources depending on what you need for your business right now, definitely sign up for our email list and get that extra 25% off those contract templates.

04:37 AB: Alright. Let's dive in. So protecting your revenues. As I mentioned, I get a lot of questions about, "Do I need to form an LLC?" or, "Registering for business license? Taking on a partner." All these different kinds of more advanced business issues that people wanna talk about early on. But what I really want you to focus on is making sure that you have your revenues locked down. So however it is that you are making money in your business, I want you to be using a solid contract for that. A lot of my clients and a lot of our listeners are in the service industry. This is actually really cute. I'll share a funny story. My kids, I have twin boys who are in first grade and they are doing a little unit at their school, learning about their community, and as part of that they are learning about businesses and they are having to start their own little business. So they came home with this work sheet last night and they had to choose, is their business going to provide goods or services? And those are legal terms that I use all the time when I'm filling out trademark applications, so I love getting to go over that with them. In case you are wondering, one child wants to sell water guns and the other one wants to make his own Pokemon drawings.

05:42 AB: So we will see, they're gonna vote on the most popular business concepts and then several of them will get to actually execute these at an upcoming event. But so if you are a services provider, which I think my kids had a hard time racking their brains around, but a lot of us are, you are gonna want at least one contract and maybe another one. So your basic contract, this is 101 services. So I'm thinking of you graphic designers, web designers, web developers, business coaches, business strategists, a lot of you in the social media world, so if you're a social media strategist or if you run Facebook ads for people, any of these kinds of businesses, I'm gonna consider a service-based business. You're working one-on-one to take something off of someone else's plate, and you actually provide a service, you do something for them. I would also put virtual assistants in this category or any kind of virtual team member providing support. If you've got

maybe a project manager or what we sometimes call an online business manager. All of these people are providing client services, so you wanna have a really nice contract that is between you the service provider and your client.

06:48 AB: And this is true whether you have formed an LLC, or you are just one person working out of your home and you're providing services to people. It doesn't matter if you are still a person, we call that a sole providership. That's your automatic business entity if you have not formed one with the state. Whether you are still just one person maybe more of a freelancer or solopreneur or if you've actually set up a company, maybe you've got some other team members. Either way, you need to have a solid contract with your clients. This is gonna look pretty similar for most of these people that I just mentioned. So there's gonna be some basic elements that you wanna be sure you include, you wanna outline what are you doing? Are you providing services? What kind of services? Are there deliverables involved in your contracts? So we see this a lot with graphic designers and web designers, that you say, "I'm gonna provide three logo designs or two versions of a letterhead and a business card." or, "Six different pages, six different designs of website pages and two landing pages and an opt-in." Or, there's lots of ways that this can work, but think about what exactly are you going to be doing and can you go down a list and check it off as you provide these services.

07:53 AB: As I mentioned in my previous episode, really the goal of your contract is so that there are no surprises. You want everybody to be on the same page at the beginning, you want to set the expectations so that you can have a nice productive relationship with your clients. So that client services agreement is going to set out what are you doing? How much are they going to pay you for it? And if there's any kind of schedule for payments or schedule for when you are delivering your services or maybe it's a combination, maybe you... I see this sometime, we just had family photos taken, so you like to see those on the website soon, we're using them for our Christmas cards, and this photographer has the option, she could actually print our Christmas cards for us or provide us a CD with all of the images on them. So sometimes you do have a physical piece of something in addition to the services that you're providing, you wanna make sure you just filled that all out. What is included and what does it cost? A schedule for providing that and any kind of payment terms.

08:47 AB: Also really important is that we include some sort of way that either party can cancel. So if you are working in someone's business and let's say you're a virtual assistant, so you're providing really ongoing support, that may look different than if you're a graphic designer and you're just doing a quick one-time project. So it's not gonna look the same in every situation, but you wanna think about that, if they wanna fire you or if you wanna fire them, how is that gonna look? How are you going to be paid for your services? How are they gonna make sure that they got what they paid for? So you always want some sort of cancellation or termination provision. Again, we hope things go well, but sometimes you have a miserable client that is not a good fit for you or sometimes the client is not happy with your work and there needs to be a way for you to part ways in, again, a way that everybody knows what that will look like in advance, so termination or cancellation is absolutely critical.

09:41 AB: The other thing you wanna think about, with a services agreement is what happens to the intellectual property. So you are probably, if you're in the creative field, you're creating either something that could be a copyright or a trademark. And who owns that at the end of the project? I

know a lot of creatives want to maintain ownership of that copyright, and I want you to just think about whether you really need to own it or whether you just need to hold it until you're paid in full and then you could really transfer it. I did have a client once who had done a catalog shoot for a client, and they kind of had a disagreement about ownership of the copyright in those images. And it was product images of the client's products. It was a physical, a cosmetic type product. And so my client really wanted to maintain ownership of the copyrights and we had a conversation about, is that really important? How are you going to use those for anything else? Is that really gonna be something useful in your portfolio or could you just assign the copyrights over to the client? So these are things to think about. Does it make sense for you to own the copyright? I do think it's a good idea for most creatives to maintain copyright ownership until they are paid in full, because that is your little bit of leverage, to make sure that you actually do get paid, but you might consider whether you need to hold on to that copyright till the end.

10:58 AB: Something else that often comes up with creative type work, is whether you're going to deliver the native files. So let's say you're working in InDesign or Photoshop, or any other of the programs that you're using to create your clients work. Sometimes the client will ask for that because they want to then take it to someone in-house to do further revisions or they might wanna take it to another designer, another artist. And again, you've got to decide, is that something you wanna turn over or is that something that you wanna really keep? It could go either way. This is just an expectation setting. I think most of the times that we have conflicts with our clients, it's where the client thought it was gonna go one way, and we thought it was gonna go another way, and neither of us talked about it so we didn't put all those expectations on the table in the beginning, we didn't put them in writing, so when we had to think about it later, we were opposed. And that's never where you wanna be. So again, something to think about on the front-end, talk about with the client and make sure that you're on the same page there. And again, if this is something that's really important to you but the client wants it, that may be something where you can negotiate a little bit extra money, or if the client decides then that it's not so important, maybe you could do a discount or something like that. So there's lots of ways around this.

12:05 AB: So these are some of the things to think about. Again, this is not everything that's gonna be in your contract, but this is some of the things you wanna be looking for and thinking about if you are one of these types of service providers. Now, you may also, if you are one of these creative service providers, often we will see process where you maybe meet with a potential client, you understand what they're looking for, you give them a proposal. And maybe the proposal has three different options, maybe it has a really fancy version, a kind of middle version and a pretty basic version of the level of service you're gonna provide, and at three different price points, may have three different schedules as well. So if you are using a proposal, you wanna make sure that your contract either has that proposal attached, and they've circled [chuckle] whichever version they're going with, or maybe you attach your contract to the proposal. And so it's all kind of one piece, and it's all signed at one point.

12:53 AB: What I don't like is where you have a proposal and then a contract, and they don't reference each other, there's no listing of services in the contract, so you're not even really sure what you're providing. You want definitely the proposal and the contract to work hand-in-hand, if it's not just one agreement. I really like to have just one agreement, but I do understand there are times when a proposal is necessary and you might need to give some different options, so you just wanna

be sure by the time you're signing that contract we're not talking about different options anymore, we have decided what we're gonna do or if it's still left a little bit open, there's some sort of process or procedure to figure out, at what point are we gonna make a decision and that there's clear pricing and timelines for all of that. So, in addition to your client services contract, you may have a proposal that you need and we do have templates for both of these in our contract store if you're looking for those, both for the proposal and the client services contract.

13:42 AB: Other types of service businesses they might need a little different contract. We work with a fair number of event planners, and so that is just a totally different kind of service. It's got different kinds of considerations. You're gonna wanna think about things like, what if you get sick on the wedding day? Can you have a substitute? In addition to all the things we already talked about like being really clear about what you're providing, are you doing the rehearsal dinner as well as the wedding or just the day of the wedding? All these things just needs to be spelled out very clearly. If you have a limited number of meetings or what's your phone and email availability, all of those things again spelled out very clearly so that everybody knows what they're getting. But you might also have some terms in there about, if you're traveling to an out-of-town wedding, what kinds of accommodations are you being provided? How are you being either the people who are hiring you are paying for your travel and accommodations or they're gonna reimburse you mileage or air fare. All of those things just need to be set out.

14:35 AB: And there's an especially tricky issue with event planners, which is, sometimes the people paying it for the wedding or the event are different from the people who are making the decisions. So you may have parents or another third party who are paying the bill, but the bride and groom are actually... Or the bride and bride, or the groom and groom maybe actually making the decisions. So that adds just a layer of complexity and you wanna be sure that you have a contract that addresses that and makes clear who's responsible for payment who gets to make decisions. Who are you supposed to be talking to? All of that, you wanna have that really, really clear on the front end for our event planners.

15:11 AB: I'm gonna move on to products in just a second, but I wanted to mention also, I have a lot of clients who are coaches; business coaches, life coaches, diet coaches, health all kinds of different coaching. And that is gonna be, again, it's a little different relationship than a web designer or a graphic designer like we were talking about initially. And so, again, you're gonna want a little bit of a different contract. And I hope this is helping you see that if you're a life coach, you can't necessarily borrow your friend who's a web designer, you can't borrow their contract because it's not gonna talk about the right things, it's not going to protect you in the ways that you need to be protected. So if you are a life coach, a health coach, some sort of coach, you're gonna have slightly different terms. You might wanna have, often will have how many calls, individual calls or group calls, if it's part of a group program. You're gonna have things in there. You're probably gonna have more disclaimers than some of these other kinds of businesses.

16:03 AB: So, things like if you are a business coach, that you are not a lawyer or a tax pro, so you might give a disclaimer that you are not giving any legal advice or any tax advice. If you are in the diet coaching arena or health and wellness, you might need some disclaimers that you're not a doctor, and you might also want some language about that you can make recommendations but that really the outcome is dependent on the client and what kinds of actions they take. That really the the

ball is in their court. You can make recommendations, you can help them work through decisions but you're not at the end of the day, really responsible for the outcomes. You can't promise any outcomes. This is especially important if you're a business strategist or a business coach. You never wanna be promising that you're gonna make someone a million dollars, because you obviously don't have control over what that person actually does in their business. You can give them all the right ideas, all the good tips, all the strategies, but if they don't follow them the outcome is really up to them. So you're gonna wanna have some language in there about that.

17:04 AB: You may also, especially if you're dealing with mindset or any kind of mental health, have some language in there about seeking help if you're depressed or if you're suicidal, there can just be really complex issues. Often when you're coaching a lot of things come up that may be more closer to the medical realm. We also include usually language about confidentiality in our coaching agreement. So as a coach, you're not a licensed professional, you don't have a confidentiality duty under the law and you don't get what we call the doctor-patient Privilege. So that means, in every state, it's the same as the lawyer-client privilege or similar, where the law wants to encourage you to be open and honest and forthright with these professionals and so they give you a privilege, which means that if you get sued, nobody can force your lawyer to testify against you. They can't put me on the stand to talk about what my clients have told me. Same thing for doctors. There's doctor-patient confidentiality rules and a privilege that means you can't put a doctor on the stand to talk about what they've told or what they've talked about with the patient.

18:06 AB: So as a coach, you don't have any privileges under the law, so you may wanna put something in your contract that just reminds your client that you will do your best to keep things confidential, but there is no privilege. And if you were subpoenaed, if you were required by law enforcement or by a court to go testify, you could have to do that. There's no law protecting you from doing that, so you wanna let the client know about that. So a couple of different things to think about if you're a coach in your contract, in addition to everything else that we already talked about things like termination, refunds payment plans, all of those kind of basics. You definitely wanna have in there too.

18:43 AB: Alright. So what if you sell products? So if you are just selling at a retail store, your own retail store or if you have a website, you do e-commerce, there's not really a contract that you need to have with your customers, if you're selling a really high-end commissioned piece. Maybe you're an artist. And so you're taking custom orders. There may be a little bit more that you wanna have, again, to protect you and the client, just how does the order process work, what is the timeline? What are they paying you, if there's payment plans, all of that, again cancellation, refunds, all of that. If you're doing a commission or a higher-end custom work, you would wanna think about that. But for your every day candles, jewelry, things that are not one of a kind, that are just kind of off the shelf. I'm looking behind me, all the things on my bookshelf. Any of that kind of stuff, books all those kinds of things. Generally, you're not gonna have a contract with your purchaser, it's a pretty low dollar amount. You may have some policies on your website that is basically like a contract, but it's probably gonna be pretty simple.

19:48 AB: However, if you get into the wholesale arena that may change a little bit. So now you've probably got some rules that you have with your wholesale clients, maybe have rules about how much they can discount your items or you have minimum orders or maybe you even will extend

credit to some of your customers. All of those things need to go in a product wholesale agreement. You just, again, wanna make sure everybody's on the same page at the outset and that you have any policies or procedures in writing, 'cause your wholesale customers. It's probably gonna be a higher dollar amount. It's a more of an ongoing relationship. What happens if you ship them 100 candles and they only sell three and they wanna send them back to you, will you take them back or are your hands washed at that point? And it's really on the customer, the retailer to clear out the inventory. Do you have rules? I think we've all heard of a lot of brands that do not allow their products to go on sale. Because that waters down their reputation or they don't want people to be able to find things that are discounted at one place and they're full price at another place. So if you have some of those kinds of policies that would be something to include in your whole sale agreement, so that is something to think about for you product sellers.

20:58 AB: Now, we talked a little bit in last week's episode, that was episode 63 of the Legal Road Map® podcast, about sellers of digital products. So I'm not gonna go into that too much this time. Just a quick reminder and go back and listen to that, if you haven't already. The key if you're selling online courses, even really a group program, or any kind of digital download. So like my contract templates, if you have an e-book or checklist, so any kind of other product that's a download or that lives online, like a course. Videos, if you have an audio series or something like that, any kind of... We think about information products or educational. You are gonna wanna have what are called Terms of Use. Some people call them terms and conditions, I like to call them terms of use. And that is your contract with your purchaser. And the reason why you need to have that is that it is a little bit of a different relationship than just me buying a candle off the shelf.

21:52 AB: And so you're gonna want to have some terms that tell people how they can use your stuff, if there's a community element or anything else other than just access to the actual product, how does that all work? And then similar to what we talked about with the coaches, if you're doing any kind of teaching in some of those areas, like business or health and wellness, you may have some disclaimers that you need to add as well. So again, go back and listen to last week. I'm not gonna get too deep into the terms of use, but again, we do have these templates in our contract store as well. So if that's something you're selling something you need, go check that out.

22:27 AB: Alright. We've got three more kinds of contracts, we're gonna talk about three more streams of revenue. And I hope this is helpful. If you hadn't thought about all the different kinds of revenue you could be making in your business, maybe this has given you some ideas. So this one is for my friends who are doing live events, so either a conference or a retreat or a meet-up, any time that you are providing a venue bringing people together, maybe putting on a speaker or having an activity, you want to have a contract with your attendees. A lot of us are used to signing these at the registration table. I will tell you, people will probably not read them but it is helpful. Again, this is gonna set out any rules that you have for people who come to your conference or your meet up or your event, it's also going to include a waiver hopefully, that will protect you in the event that, let's say, "Sally has a little too much wine at the mixer and she falls down or Suzie is really not in great shape, but decides to try and do the pretzel move in yoga and hurts herself.

23:21 AB: All of these kinds of things where it's really it's not your fault as the event host, something bad happens at the event you're hosting, now you are opened up to a lawsuit, and so you wanna protect yourself from things that are really out of your control. So that's where a waiver

might come into play. I also like to include in my event agreements, what we call a model release. I don't know if you knew that you're a model. As soon as you're in a photograph. But many states do have rules and regulations that don't allow a business to use someone else's photograph, an image of their face, that's recognizable, to promote their business without their permission. And so including a model release in your attendee agreement just means that if someone comes to your event, they are agreeing that you can take their picture and that you can use it in your marketing efforts.

24:05 AB: We see this a lot with people. Maybe the first year you have a retreat, you bring in a photographer to take beautiful photographs or video so that you can use it to promote the next year's retreat, and show people how much fun it was. If you are in that scenario, you wanna make sure that you can use those photos, that you don't then have to go track down all hundred people who are in those photos and try and get their permission after the fact, which is a total nightmare. You wanna get that permission on the front end. And then if they decide that that is not something they're interested in, if one of your attendees really doesn't want their picture taken, then you can either say, "Well, if you're coming you're gonna be in photos, so this may not be the event for you." Or you can say, Okay, if you don't wanna be in photos. Maybe you put something special on their name tags, so that the photographer knows not to include them in pictures or you put them in a certain part of the room so the photographer is not catching that part of the room. There's lots of ways you can deal with this, but again, dealing with it upfront, knowing that on the front end.

25:00 AB: And I often will include these as a Terms and Conditions, as part of an online check-out procedure, so you can get this all taken care of in advance. And not just trying to get people to sign these at the door, which again, total nightmare trying to process that as you're trying to get people signed in. So that's something to think about with your event attendees, you are definitely gonna want an agreement with hopefully a waiver and a model release.

25:22 AB: Alright. So the fifth contract that you might need, the fifth kind of revenue you might have in your business is from sponsorships. We see this a lot with bloggers and people who have podcasts or maybe are YouTubers, kind of in the more entertainment area, but you also may have them... Like we were just talking about with events. Maybe part of your event is underwritten by sponsors who come in and maybe throw a party for you, or come and talk about their services, or maybe you have a market place and they give you a percentage of their sales. There's lots of different ways this can look like, but you are definitely gonna wanna have an agreement any time someone is either doing a revenue share with you, or paying you for a sponsorship. You wanna make sure it's really clear what you're providing to them, are you including their name and logo on all the materials?

26:05 AB: Are you putting it on a banner? Are they allowed to contact your attendees? So you're gonna share your attendees contact information with them, are they only allowed to contact them during the event? Lots of different things to think about here. There's no standard set of terms, but there's definitely, like we were talking about at the beginning, there are some things that you're always gonna wanna include a clear list of what services are being provided, what are the payment terms, what are you charging? How does either side decide to terminate if it's not working out, you will probably want some intellectual property terms here. So let's say you have a beautiful logo for your podcast, and your sponsors now wanna put that on their website, so that they can say, we sponsor the Legal Road Map® podcast. They want to kinda piggy-back on the good will in your

brand. And it might work the same way too. You might be really proud that you have a sponsor of a certain caliber and you wanna put their logo on your website for your podcast or your blog, so you're gonna wanna have some terms in there about how you can use each other's intellectual property.

27:07 AB: And then we've seen some really interesting sponsorships, lately, especially in the podcasting world, where sponsors are actually kind of under writing creative content. I've seen Gamut media do this a lot, where they are actually... The podcast company has creative control, but it's sponsored by another company, so it's a really intricate relationship. Those contracts are gonna be more complicated than just a 30-second spot in the mid-roll of your podcast, but if you are thinking about some of those relationships, you are definitely gonna wanna have a really tight agreement that just make sure, again, on the front end that everybody is on the same page about expectations, who's doing what, who owns what, who's paying what? And how we can get out of it if we decide that it's not a good fit long term. So that's things to think about with any kind of sponsors and I would say also with revenue share, if you've got an event, maybe you're doing a market place or something like that, things to think about there.

28:01 AB: So the last... Number six, the last revenue stream that I'm gonna talk about that you might want to protect, is going to be if you have an affiliate or referral program. So this kind of piggy-backs on what I was just talking about with revenue sharing. If you have maybe a e-course or a digital product or even with your services, and you want other people to promote it for you. And you are willing to share some of your revenue with them, in exchange for them doing that, sometimes, this is called a referral fee or a commission. There's lots of different ways that you can talk about it, but in the end, it is basically the same thing. It's always gonna be a revenue share of some sort. Whether it's a flat fee or a percentage, you are gonna want to have an agreement, again, that says how that's all gonna work. So there's some specific things with an affiliate agreement, that you need to think about. And these are going to be; How are you going to track which purchases came from which affiliate or which referral? Are you gonna have a special link that they have to use, and then that kind of tags them in your system as coming from let's say I'm the affiliate.

29:03 AB: Someone clicks on my special link that either has a little code or something, my name at the end of it or something. And then if they purchase after clicking on that link that's tagged in the system, so that the system knows that person came from Autumn, or you may give them a special coupon code so they have to enter that code at check out. It says, "Tell us who sent you to us or give us your referral code," and they type it in there. There's pluses and minuses to all of these things. Some of this is really a tech question, you're going to want to make sure this is actually gonna work with all of your systems of how you run whatever it is that you're selling, to make sure that you're tracking things correctly. Some of these will put a cookie on the purchaser's website. What happens if they click on mailing and then they see that my friend Jane is also an affiliate, and so they click on her link, but then they want me to get the commission, how do you make sure that all works? That is a tech puzzle that can be figured out. It's not as complicated as it might seem, but you want your affiliate agreement to reflect whatever tech you're using, so that it is all clear and it all matches up and it makes sense. This is, again, why it is sometimes risky to borrow your friend's affiliate agreement, if it does not really work under your own systems and processes.

30:11 AB: Like I talked about with a sponsor agreement, something you wanna think about with

your affiliate or referral agreement also, is if someone else is promoting your business or promoting your product or event, how are they allowed to promote it? Are they able to use your logo, are they able to create their own graphics, their own copy, or are they gonna be required to use things that you've provided? I know a lot of people are really careful about their graphic design and they want everything to be consistent and cohesive and beautiful, and I get that. So if you are going to put some boundaries around what your affiliates or your referral sources can do when they talk about you, again, just needs to be in your affiliate agreement, needs to be really, really clear. And then also, you wanna think about how often are you going to pay people? Some of these digital products may just be a \$10 product and you give them 10% or 20%, so that's a pretty small dollar amount. A lot of my clients want to have a minimum commission pay-out before they're having to go through the trouble of processing it. You probably don't wanna be sending out \$2 checks every month to all of your affiliates, maybe you wanna wait until it reaches \$100 or \$500. So you get kind of a critical mass before you're having to do all that administrative work.

31:24 AB: So other things to think about there. I do have a lot of clients who do pay-outs just via PayPal. And I will say the trick with that is that if someone changes their PayPal account, or shut it down, you may not be able to pay them. So there's a little bit more overhead and just administration with that, making sure that everything is up-to-date and keeps running smoothly with that. So those are these six kinds of revenue streams that we're gonna think about protecting with the contract, running through them one more time. Obviously, if you're doing one-on-one client services, you're gonna want a client contract and a proposal perhaps, if you're doing products, you wanna think about a wholesale agreement. If you're doing digital products, terms of Use, listen to last week's episode for more about that. With your events, you're gonna want a contract for your attendees, this may be called a waiver or a release, and if you're taking sponsorships for your blog, your podcast, your events, definitely, you're gonna wanna lock that down in writing. And then lastly, an affiliate or a referral program. I guess affiliate or referral program is a kind of an outgoing of revenues rather than an incoming of revenues, but hopefully your affiliates are your referral sources are helping you increase your revenue, that's a way to protect that.

32:31 AB: Alright. We are already at 33 minutes, so I'm gonna kinda zip through a couple of things you might need as you're growing your team. We have a lot of episodes of the podcast on this topic, so I'm gonna refer back to them will also link to them in the show notes. If you want more in-depth content on this, definitely go back and listen, because we have a lot. Episode 12 in the first season, that's what my friend, Ashley Cox, of SproutHR, she's an HR consultant. We talked about all things, who should be a contractor who should be an employee. How do you classify your workers as well as just kind of some general things to think about if you're working with employees or contractors? Episode 37, 49, 50 and 51. We did a whole series on working with a virtual team. So all of those will be really helpful.

33:12 AB: In 37, I interviewed one of the attorneys who works with me now at the AWB firm, Michelle Coakley. So we talked about some kind of more higher-level issues with contractors and employees. So definitely check all of those out. I am gonna go over four quick kinds of contracts you may wanna think about as you're growing your team. So the first one, this is really gonna be for employees and contractors, which is gonna be a non-disclosure agreement, these are sometimes called confidentiality agreements. It's gonna allow you, as the business owner, to protect your trade secrets. These are all the things that help you have a competitive advantage over your competition.

This is a special source in your business. So it could be things like customer list, potential customer list, prospect list. If you have recipes or special processes you use in your business, that you don't want your competitors to know about, it could be your checklist, your manuals, the way you do things, any of that can be considered a trade secret. And the way you keep those protected, the way you keep an employee from taking that and going to work for one of your competitors, or a contractor, is to ask them to sign a non-disclosure agreement and actually keeping things secret, so that's gonna be your NDA or confidentiality agreement.

34:20 AB: If you're working with contractors, you are definitely going to want to have an agreement with them, this is what I spoiled in the beginning and said that I was gonna talk about, if you were working with a company that is providing someone to work in your business, maybe a business coach or a virtual assistant and they have a company, they may have their own agreement that they ask you to sign, and that's a great idea they should. If that is the case, you probably do not want them to also sign your independent contractor agreement because the terms could conflict. So you're gonna wanna read through theirs make sure that it covers everything that you would want if it were your contract, and if not, you can add a couple little things to the end, if there's one or two pieces missing. For example, if they don't have a non-disclosure term as part of that agreement, you may wanna have them sign your NDA.

35:07 AB: If there is something about an intellectual property that is not included in there, you might wanna add that to the agreement. But you usually don't wanna have two different contracts on the same subject matter, because it's very likely that they will conflict and then that is very confusing. And if you ever did have to go to court, it is a big mess. So you're probably gonna wanna sign either theirs or yours, that can be a negotiation point of whose contract gets signed, because they're usually each probably tilted a little bit towards the person who wrote it, but if you're working with contractors, you're gonna wanna sign either theirs or yours.

35:36 AB: The fourth one I wanna talk about is a non-competition agreement. This is typically going to be used with employees not contractors. Because again, go back and listen to all those episodes I just listed. But typically with a contractor, the whole name of the game is that they can work for multiple people, they are basically running as a business. So they should have multiple clients. You should not be their only client, if you are it starts to look more like you're an employer-employee relationship. So, we don't typically use a non-competition agreement with a contractor. But there could be circumstances. Again, your mileage may vary, you're always gonna wanna look at the independent circumstances and what makes the most sense for your business and for your situation. So, a non-compete is a maybe with a contractor, it's a probably with employees, but this is going to depend on your state. There are some states that will not enforce non-competition agreements. California is one of them, there are others. So this is something where you really need to do the research, talk with a lawyer in your own state or who can research your state's rules. And make sure that you're not asking someone to sign something that is not enforceable, that won't work. So a non-compete is a maybe.

36:40 AB: And I just realized I forgot to give my standard disclaimer, so I'm gonna give it now. I am a lawyer, I am not your lawyer unless we sign an engagement agreement, we agree to work together. Please take everything in this podcast as information, it is not legal advice. So you definitely wanna talk with your own lawyer if you have questions about any of this, so you can get

your own individual advice.

36:57 AB: The last kind of contract you may need with an employee, and again, I'm probably not covering every single contract that you may ever need, but these are some really common ones, and this would be an employment agreement. Now, again, we don't always use these. A lot of states, and Tennessee, is one of them where I practice, we are what's called At-will employment states, and so we can fire someone really for any reason or no reason at all, someone could walk in, if I were an employee and say, "I don't like your pink sweater. I think I'm gonna fire you today." And that is okay as long as it's not a prohibited reason. So they can't fire me because of a protected status. And that's gonna be things like gender, race, religion, disability. I'm probably forgetting some. My friend, Michelle is our employment guru, and not me but all those federally protected status, I think veterans may be protected in some circumstances or if you're out on family medical leave, you may be protected in some circumstances.

37:51 AB: If you're firing someone because of one of those reasons, that is a prohibited reason, that's not okay, but if you're an At-will state, otherwise you have a lot of flexibility of hiring and firing for any reason, as long as it's not a prohibited reason. And so we often in At-will states will not use employment agreements, because it kind of gives the employee a claim on a job that you wouldn't otherwise have to give them, and it can sometimes give you obligations of having to do things to justify terminating an employee, where otherwise you wouldn't have to do that. So again, that's an area where your mileage may vary, you wanna check on what state you're in. When we do see employment contracts, it's typically with a higher level employee, so an executive level employee, or sometimes we have... What I talked about recently, in the series that we did about selling a business. If someone comes in and purchases your business, but they want you to stay on for a year to help run it, and they don't want you to go off to Tahiti and enjoy your big payout, they wanna keep you locked down a little bit. You might have an employment agreement in that scenario. Again, it's a little bit different than your typical employment arrangement. So again, employee contract? Maybe, that's another one that you will wanna consider, but is not applicable in every scenario.

39:07 AB: And so all of these contracts that I've been talking about, the great news is they are all in our contract store. So as I mentioned at the beginning, we do have our Black Friday sale coming up, and even if you missed that sale, if you're listening to this after the fact. These contracts are really great value, right now, recorded this in November 2018. Our pricing is 149 to I think 349. So they're very affordable even if you are at the beginning of your business, and I think it's a great idea, go ahead and start using a contract template right out of the gate. I think it's a really important investment in your business, protecting those revenue streams. And then as your business grows and you figure out what revenue streams are the most important and you need a little more one-on-one help, then it's time to start working with a lawyer one-on-one, to create something custom, but a contract template is a great idea right at the outset.

39:53 AB: Thank you for joining me. This episode is airing on Monday, on the podcast, Monday, November... Let's see if I can do my math, 26th. So you've got two more days to get the Black Friday deals. So go to awbfirm.com/contract-templates to check those all out. And I will talk to you next week. Everybody have a great Thanksgiving. If you are catching this before then, I will talk to you guys after.

[music]

40:25 AB: Did you know that you could be making more money from your copyrights and trademarks? Intellectual property is probably the most valuable asset in your creative business, but most entrepreneurs don't know how to identify it, and you can't monetize what you can't find. Download my free five minute IP Audit Worksheet at awbfirm.com/podcast, you'll find out what parts of your brand, logo, images, website courses, digital downloads, or other content could be protected by intellectual property laws. And you'll create an inventory of your most valuable trademarks, copyrights, patents, or trade secrets. So you'll know what's worth protecting as you build a more profitable and sustainable business. Get your five-minute IP audit worksheet now at awbfirm.com/podcast.

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