
Artist Management and Studio Agreements

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Common Third-Party Agreements

Recording Contract

Producers

Session Musicians/Sound Engineers

Booking Agents

Business and Personal Managers

Publicists

Modern Trends: 360 Deals

360 Deals are “all encompassing” deals offered by record labels.

In return for a larger percentage of profits the label provides all of the bands services such as:

- Concert booking
- Merchandise Sales
- Endorsement Deals

These deals allow labels to get profits from the above services that the standard record label model did not allow.

These are controversial because it asks the artist to pay a higher percentage, but they can also take some of the hassle away from bands by allowing the label to handle all of their services.

These deals are becoming more popular to record labels because it decreases the risk required to sign a band and allows them to focus on the idea of “band branding.”

Producer Agreements

Key Clauses

- Recording schedule
- Roles and expectations of the Producer
- Total number of tracks (and names if completed)
- Producer's Points
- Possession of the Masters
- Ownership of copyrights

The schedule and expectations keeps the project on track and the list of tracks makes it clear which songs are referenced in the agreement

Points (music speak for percentage), know the industry standard

Masters will usually be retained by Producer, until he/she is paid, then transferred to Artist.

Sample Producer Agreement

a) Conditioned upon Producer's full and faithful performance of all the terms and provisions hereof, Artist shall pay Producer, as an advance recoupable by Artist from any and all royalties payable by Artist to Producer hereunder, the sum of \$ _____ DOLLARS, half payable upon commencement of recording, and the balance upon the delivery to you of the Masters.

b) Notwithstanding anything contained in (a) above to the contrary:

(i) in the event the Masters are released on any label other than _____ or its subsidiary or affiliate label or labels, Producer shall not receive a royalty in connection with the sale of such records;

(ii) in the event the Masters are released on the _____ label or a subsidiary or affiliate label, Producer shall be paid in respect to the sale of such phonorecords a royalty rate of three percent (3%) of the suggested retail price of each phonorecord sold and paid for in the United States. Payments of royalties from foreign sources shall be ONE HALF of the United States royalty rate. All fees paid to Producer hereunder shall constitute recoupable advances which shall be recouped prior to further payment of royalties.

“Joint Works”

Authors intend contributions be merged into **inseparable and interdependent parts** of a unitary whole

Each have right to independently exploit subject to a duty to account

Works Made For Hire

Works created by employees are deemed authored by the employer

- Employer-Employee relationship determined by factual analysis, not agreement between parties

Work of an Independent Contractor is owned by Commissioning Party **only if**

- Pre-existing written agreement, and
- One of nine categories of works: contribution to collective work,* part of movie, translation, supplement, test, answer, material, atlas

Collective Work

“Work such as a periodical issue, anthology, encyclopedia in which a number of contributions, ***constituting separate and independent works in themselves***, are assembled into a collective whole.”

17 U.S.C. Section 101

Right of Termination

An Author may terminate a transfer of the Authors rights under the Copyright Act, 35 years after that transfer.

This DOES NOT apply to Work for Hires.

Recording Session Agreements

Key provisions:

- Compensation
- Work made for hire
- Assignment

When a band hires a musician to perform only for a single recording session, is that musician in a work for hire situation? Is that musicians providing a contribution to a collective work?

Sample Recording Session Agreement

1. Session Player agrees that each recording or derivative thereof (collectively “Work”) created at the below recording session(s) is a work made for hire, a commissioned work, and a contribution to a collective work. If such Work is legally determined to not be a work made for hire, Session Player assigns to Recording Artist all rights therein, including without limitation to copyright and Session Player will execute and deliver to Recording Artist any additional documents Recording Artist desires to confirm same and if Session Player fails to promptly do so Recording Artist may sign such documents in Session Player’s name.

Sample Sound Engineer Agreement

Copyrights: Each song listed in this Agreement, will be considered a work made for hire for Recording Artist, if any such song is deemed not to be a work made for hire, all rights, title, and interest in the Master which are attributable to the Sound Engineer's participation in its authorship will be deemed transferred to Recording Artist by this Agreement and this Agreement may be filed with the Register of Copyright as an official transfer of copyright if such be necessary. All songs listed under this Agreement, from the inception and records derived therefrom, shall be the sole property of Recording Artist, free from any claims whatsoever by Sound Engineer or any other person; and Recording Artist shall have the exclusive right to claim ownership of and register the copyright to those Masters in his name and the owner and author of them to secure any and all renewals and extensions of such copyright throughout the world.

Booking Agent Agreements

Key provisions include:

- Term
- Compensation
- Power of attorney: do not to give the agent any power outside of the scope of their employment in this provision.

Current trend: Third party booking websites. Potential clients can search website and book directly with bands. This agreement is typically defined by the service agreement on the website, and non-negotiable.

Sample Booking Agent Agreement

Compensation:

(a) Musician agrees to pay the following commissions on the gross funds directly or indirectly received by musician for each engagement:

1. Twenty (20%) percent of the gross funds received for a single night or two consecutive night engagements at the same venue.
2. Fifteen (15%) percent of all gross funds received for three or more consecutive night engagements at the same place.

(b) Commissions shall be due and payable to agent by check or money order. Funds must be payable to agent for the full amount due within seventy-two (72) hours after completion of engagement. In the event musician fails to pay any commissions when due, agent may, at his her discretion, refuse to secure further engagements for musician until said commissions are paid. The refusal to secure further engagements for musician because of failure to pay shall not constitute a breach on the part of agent to secure the minimum number of engagements provided within.

Difference between Personal Manager and Business Manager

Personal Manager

- Long term career planning, focused on the long run
- Close relationship with Artist to advise on career decisions
- Should have important industry connections

Business Manager

- Money focused, usually an accountant
- Minding the money in and out – paying the bills and paying the Artist
- Keeps everyone honest and focused.

Manager Agreements: Business & Personal

Key Clauses:

- Term/ Options
- Manager's Duties
- Commission
- Power of Attorney
- Sunset Clause

Make sure you have a firm understanding of where the Manager's commission is derived from: "All Entertainment, Musical Career, etc."

Is the Sunset Clause reasonable or over extended

Know the Industry standard for Commissions!!

Personal Management Sample Clause: Commission

As consideration to you for your acceptance of this employment and for your agreement to perform your required services for me hereunder, I agree to pay you, as and when received by me, a sum equal to _____ (Not to exceed maximum rate shown on fee schedule.) per cent of all compensation (including salaries, earnings, royalties, bonuses, shares of profit and all other direct or indirect forms of income from my professional interests) earned and/or received by and/or accruing to me during the term hereof. As a further part of your consideration hereunder, I also agree to pay you, as and when received by me, a sum equal to the percentage set forth above in this paragraph of all compensation (as above defined) earned and/or received by and/or accruing to me after the expiration of the term hereof, for as long as I shall either directly or indirectly be employed or receive compensation under any employment or contracts entered into and negotiated for during the term of this agreement and/or under any renewal or extension of any such contracts and/or employment and/or under any employment and/or contracts entered into by me at any time in substitution or replacement of any employment or contracts entered into prior to the expiration of said term...

Publicist Agreements

Key Clauses

- Shorter Term
- Control of Image/ Bio
- Power of Attorney

Artist should have final say as to use of his/her image and bio.

Publicist will want Power of Attorney to enter into agreement, but this should be avoided if at all possible. Retain more control over use of image

Sample Publicists Agreement

(a) Publicist hereby informs Artist that stories and items may contain incorrect information about the Artist; such information may result from Publicist being misinformed or because the publication in which the story or item appears made an intentional error and/or omission, or for other reasons. Publicist hereby informs Artist that Artist may suffer embarrassment and annoyance because of correct and incorrect publicity. Artist declares that he understands that he may suffer mental anguish and monetary loss because of publicity. Artist hereby authorizes Publicist to release any and all information about him.

(i) Artist agrees that Publicist does not need to clear copy with the Artist.

(ii) Publicist will keep a copy of all releases and articles the Publicist can amass in a file at Publicist's office which the Artist can make use of.

(b) Artist promises to supply Publicist with many different pictures and copies of resumes at Artist's cost. Pictures shall be 8" x 10". Publicist hereby notifies Artist that Publicist will be handicapped in his work if he does not receive pictures and resumes in the quantity requested.