

# COMMON CONTRACTS In the Music Industry

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## What are some common types of music industry agreements, and when should I enter into one?

Let's look at some common types of music industry contracts which you may come across as an artist or as someone who works within the music industry in another capacity. It's important to note that there are times a contract can cover multiple agreements in one document.

### Management Agreements

A management agreement is a contract between a manager and an artist which sets out how the manager will look after the business, career development and promotion of an artist.

Management agreements will usually cover things like management and artist obligations, the manager's authority to do things on behalf of the artist, and how the manager gets paid for their services, i.e. the manager's commission. Management agreements can have a long-term impact on both the artist's career and the manager's business, so it's important that the agreement is fair and clearly documented in writing so both parties understand their rights and obligations.

### Booking Agent Agreements

A booking agent agreement is a contract between a booking agent and an artist whereby the booking agent is authorised to seek and secure live performances and tours on behalf of the artist. In return, the booking agent is paid a commission earned on the income from the gig or tour. Usually, a booking agent commission will be calculated on the gross income earned from the gig or tour, which is the amount earned without any deductions.

Unlike most other music agreements, it is not as common for there to be a written booking agent agreement between the parties and is more common to be a 'handshake' agreement which means that it's not a signed contract. In this instance, there will most likely still be a legal contract formed which allows the agent to commission gigs or tours that they book and determines whether the arrangement is exclusive or non-exclusive. It's important to have a good understanding of how the booking agent agreement will work in your situation, particularly if it's not in writing, to try to avoid any misunderstandings or issues down the track.

## Distribution Agreements

A distribution agreement is a contract between an artist or indie label and a distributor for the release and distribution of sound recordings. Distribution agreements can cover digital and/or physical releases and would cover the services that the distributor provides, how the recordings will be distributed and sometimes services like DSP pitching, synchronisation pitching and marketing. Distribution agreements will also cover how much the distributor commissions or charges to distribute the recordings.

Sometimes distribution agreements will be a written agreement signed by both parties, and sometimes the agreement will consist of online terms & conditions available on the distributor's website. It's important to understand how a distribution agreement will impact your situation, in particular, what recordings it covers, how long it will be in place and how the distributor charges for their services.

## Master Licence Agreements

A master licence agreement is a contract usually between a label (referred to as the licensee) and an artist or another label (referred to as the licensor) where the licensor grants certain rights in relation to specific recordings (referred to as masters) to the licensee so that they can release and exploit (ie make money from) those masters. Usually, under this type of agreement, the licensor has usually made the relevant masters and is granting an exclusive licence to the licensee in the copyright of the masters for a set period of time (often referred to as the licence period). During the licence period, the licensee will be responsible for marketing and exploiting the masters, collecting the income earned from that exploitation and splitting that income with the licensor (referred to as royalties). Sometimes the licensee will pay the licensor an advance or contribute funding towards making recordings (and associated assets) and/or marketing costs. It's important to have a written agreement between the parties of a master licence agreement so that it's clear what is being licensed, how long the licence period is, whether there are any exclusivity requirements of the applicable artist, how the income is split and accounted for and what obligations each party has under the agreement.

## Recording Agreements

A recording agreement is a contract between a record label and an artist where the artist is agreeing to provide their exclusive recording services to the label for a period of time, or they are agreeing to make a certain number of sound recordings for the label. Usually, under a recording agreement, the label will pay for the making of the recordings (and associated videos, artwork, marketing costs etc.), and then the label owns the copyright in those materials, usually forever. In return, the label will pay the artist royalties earned from the recordings and sometimes also advances. Under a recording agreement, the label will generally be more involved in the decision-making and administration side of making and releasing the recordings as opposed to distribution or master licence agreements, where the artist may be more involved/in control of these aspects. It's important to have a written agreement between the parties of a recording agreement so that it's clear how long the artist is exclusively signed to the label, how copyright ownership works in relation to the recordings, how the income is split and accounted for and what obligations each party has under the agreement.

## Publishing Agreements

A publishing agreement is a contract between a publisher and a songwriter and relates to the exploitation of the songs written by the songwriter. There are a range of publishing agreements, some which cover all the songs written by the songwriter prior to and during the agreement and some which cover specific songs, or songs written in a specific period of time. A publishing agreement will usually require that the songwriter assign (transfer) over copyright ownership in their songs to the publisher for a specified period of time in exchange for a split of income earned from the songs. The publisher's job is to try to maximise income earned from the songs, which might include things like securing synchronisation opportunities, having others cover the songs, and setting up co-writing or collaboration opportunities.

Publishing agreements can be long term, which means it's important for an artist to fully understand before they enter into it, the nature of the agreement, how it may impact their career in the future and their rights and obligations under the agreement.

## Band Agreement

A band agreement is a contract between members of a band. Usually, bands will operate as a partnership which is a legal relationship. A band agreement will therefore set out the rules around how the partnership operates and what authority the band members have in relation to the partnership. The band agreement will usually include rules around decision-making between band members, intellectual property ownership (i.e. recordings, songs, videos, artwork etc), income splits and accounting, who owns the band name and what happens if someone leaves the band.

It's important to have a written band agreement in place so that each member is clear on their rights and obligations and to avoid misunderstandings around income splits and credits. A band agreement will be particularly important when a member leaves the band, or a new person joins the band.

## Producer Agreement

A producer agreement is a contract usually between an artist and a producer, however sometimes it will be between a label and a producer. A producer agreement will usually cover things like, the services to be provided by the producer (e.g. recording, production, mixing etc), specify the recordings covered by the agreement, delivery requirements, set out how the producer is paid (e.g. a fee and/or a producer royalty), copyright ownership and credit obligations. It's in the interests of both the producer and the artist/label to have a written producer agreement in place to avoid misunderstandings or conflicts down the track and to set expectations for both parties.

**\*\* Please be aware this is general information and not legal advice. You should always seek legal advice from an experienced entertainment lawyer before entering into any music industry agreement.**