

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

Chapter 1 : All-in-One Music Contract Pack | MusicLawContracts

To quote the first paragraph of the Introduction to our book Music, Money and Success: The Insider's Guide To Making Money In The Music Business, "In today's world of constant technological changes and innovations, shifting income streams, global concentration of the record and music publishing businesses, the importance of social networking.

When offered a recording contract with a label On this page you will find information about: Make sure you know how and when you will be paid. Ideally you will be given a cash advance in lieu of future royalties. Try to secure higher royalties after reaching a certain figure, or after the first year. Ask what happens if you split up. In most cases each member will remain individually signed to the label. Advice on royalties Try to secure higher royalties after reaching a certain sale figure. Try to increase your rate of royalty with each new year of the contract. Pay particular attention to the royalty rates that apply to digital download sales, and ensure these do not include any reductions. Advances Advances are a financial sign of good faith from the record company. They should always be non-returnable and only recoupable from any future record royalties. If a long-term contract is offered, the advance should be large enough to provide the members of the band with a reasonable living wage until any initial costs have been met and royalties are being received. When will I be paid? Most companies will render a statement of account to their artists twice yearly, within 60 or 90 days of the end of June and December. What should be deducted? The MU feels that only the cost of recording and personal advances should be offset against royalty income. Also, never agree to cross-collateralisation of advances against non-royalty income, such as PPL, or income from other contracts. How long will the agreement be for? A typical deal with a major record company might be for one year plus four options, calling for five albums. However, past judgements in British courts seem to have frowned upon the restrictive nature of long-term recording agreements and, especially with small labels who are unable to guarantee sufficient annual advances, you should aim for as short a deal as possible. Tips for agreement length If a guaranteed annual advance is insufficient for the members of the band to live on, then you should only commit yourself to one album. There should be a time limit of one year within which this should be recorded and released, and if the period is defined by reference to the release, then ensure there is a maximum duration beyond which that period cannot extend if there is no release. Even with larger companies who can afford advances, if recordings have not been released in the major markets of the world within a certain time, you should be able to terminate the agreement. Who owns the recordings? It is important to remember that because the record company has initially commissioned and paid for the recordings, in the eyes of the law they are the owners and not you. The agreement will make this clear and assign all copyrights in the recording to them. Read more However, if you have made and paid for recordings yourself then you probably own copyright in them. So if a label expresses interest in releasing them you should think seriously about whether to assign your copyright to the label or simply grant them a licence to exploit the recordings. If this situation arises, the MU generally always advises that you license your recordings and retain copyright in them yourself, unless there is a very good reason to assign them. A recording agreement will require you to give consent for the company to exploit your performances contained on the recordings by selling records and authorising others to broadcast them. The MU feels that these consents ought to apply only to record sales and the right to give others permission to broadcast recordings. Also ensure that session musicians sign the appropriate MU consent form and that a copy is sent to the Union. What will the record company require of me? That you record exclusively for them although you should be allowed to do non-featured session work provided that you credit the record label on the sleeve or booklet. That any tracks recorded for them will not be re-recorded for any other company for several years after the end of the agreement. That you do not have outstanding agreements with any other label. That you give permission for them to use approved photographs and biographical details for publicity purposes. That you will devote a reasonable amount of time to interviews and promotional activities. That you give them consent, in advance, to sell your recorded performances by dint of any future technologies. Read

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

more Any agreement needs a clause which commits the label to secure releases in the UK for tracks recorded, or at least to enter into an agreement with an established record company whereby they are obliged to release at least one album. In the event that the record label fails to achieve the above, the artist should ensure that they have the right to have the unreleased masters assigned to them if they come to an arrangement to repay the un-recouped recording costs or give the production company an override royalty upon such masters. The artist should try to negotiate so that they only have to do one of the above, but their success will, as always, depend on bargaining power.

Re-recording restriction Recording agreements almost invariably seek to prevent the artist from recording any song that has been recorded during the term of an exclusive agreement for a period after that agreement ends. The artist should, however, seek to limit the effect of the restriction to recordings released during the term of an exclusive agreement, or within a short period thereafter. Recording agreements will almost always contain a clause that warrants that the record company will be able to obtain such a licence. However, in the US and Canada the mechanical licence fee is fixed by statute with the rate varying according to the length of the composition and the year recorded. Equally, you should expect a clause whereby the artist also warrants that the record company will be able to secure synchronisation licences enabling the making of videos and that where the videos are used purely for promotional purposes, this licence will be free of charge. It is very important that if an artist has signed a publishing deal prior to entering into a recording agreement, they ensure their publisher agrees to the contents of such clauses.

Videos As well as the right to make records, the production company will require the exclusive right but not the obligation to make videos. It is unlikely that the artist will be able to secure many rights of approval as the production company will not want to be fettered in the rights it can grant a third party. The costs of videos will be an expense deductible from gross income.

Group provisions Expect to see a clause in most label deals spelling out what happens if one or more of the artists assuming that they are a band rather than an individual leave or are expelled, or if the band splits. Read more The label will want to ensure that it has the option to do one or more of the following: Retain the services of the leaving member s. Retain the services of the remaining member s. Terminate the agreement with respect to the leaving member s. Terminate the agreement with respect to the remaining member s. If a band splits, it is important to ensure that separate royalty accounts are maintained by the production company in respect of the leaving and remaining members.

Production agreements are similar to recording agreements but differ in terms of what happens to the recording. Read more Commonly, a studio owner or a manager with studio access signs a band to a recording agreement not with the intention of releasing the recorded material themselves, but instead selling the act or its recordings on to a major or large independent record company. If you are offered free studio time but have not signed a production agreement, the MU offers Standard Contract M5 , a short studio agreement to cover the position until the terms of a production agreement have been negotiated. This is an agreement between the record company and the artist whereby the artist agrees that, in the event of default by the production company, the record company can enforce its rights directly against the artist. Read more It is important that the artist be allowed to take independent legal advice on the terms of any such inducement letter. It is often difficult to fight against these clauses, but it should at least be ensured that the record company cannot be entitled to a longer term or more options or a greater minimum commitment than is contained in the production agreement. This is comfortable for some artists, but others might take the view that the label is taking a cut of lucrative revenue streams.

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

Chapter 2 : Music Publishing Contracts | Simple Music Contracts

(1) Single Song Agreement: This type of music publishing contract is an agreement between the writer and the music publisher in which the writer grants certain rights to a publisher for one or more songs. In single song publishing contracts, the writer is paid a one-time recoupable advance.

Or check out these FAQs: What is Berklee Online? What does Berklee Online offer? We offer award-winning online courses , multi-course certificate programs , a Bachelor of Professional Studies degree, a Master of Music degree, and a Master of Arts degree. Who is Berklee Online designed for? Our programs provide lifelong learning opportunities to people interested in music and working in the music industry. The courses range from beginner to advanced graduate level What kind of subjects are taught? Hundreds of study options are available in subjects including songwriting, music production, music business, music theory, guitar, voice, arranging, harmony, ear training, electronic music production, bass, keyboard, drums, contemporary writing, and more. Do online students receive the benefits of an on-campus Berklee education? Certificate programs and online courses are offered on an open enrollment basis. Degree programs require an application and supporting documentation. See the Admission Requirements for more details. Berklee Online degree students are eligible to request a Berklee ID. Upon acceptance into the program, degree students are also given a berklee. Courses Can I take non-credit courses in a certificate? All courses in a certificate program must be taken for credit. Can I waive some for-credit courses into a certificate? All for-credit courses that have been awarded a passing grade and that align with a certificate program may transfer into that program. Can I upgrade from a lower-level certificate to a higher-level certificate? Berklee Online offers two certificate options: When a student wants to change their lower-level certificate to a higher-level certificate or vice versa prior to the completion of the program. There are no additional fees for this option other than the cost of additional courses, and you will only earn one certificate upon completion. When a student wants to earn more than one certificate by having the courses from their lower-level certificate waived into a higher-level certificate. Faculty Who teaches Berklee Online courses? Berklee faculty and seasoned professionals teach our courses. Financial Aid Am I eligible for financial aid? Financial assistance is available for Berklee Online degree programs. This assistance may come from a variety of sources including federal awards, outside scholarships, and private loans. Federal financial aid is not available for non-degree programs. Non-degree students typically finance their costs out-of-pocket or with a private loan. Review our payment options. Graduation What happens if I turn in my graduation application late? Because we must coordinate with the Boston campus for Commencement, it is essential that students planning to walk in the ceremony submit their graduation application by If you submit your application late, you will need to wait until the following year to walk. We ask all students planning to graduate within the current academic year to apply for graduation by December 1, regardless of their plans to participate in Commencement. Late application for students who do not wish to walk will result in processing delays for your academic record and diploma, and your name may not be listed in the ceremony program. Walking in Commencement and graduating are two separate things. You can walk in Commencement when you are nine 9 credits or less away from completing your degree requirements by the end of the spring term. Berklee Online degree students are not required to walk in Commencement in Boston. You graduate when you have met all of the following criteria: Attained at least a 2. You will not officially graduate and receive your diploma until you meet all of the eligibility requirements. I just finished my last term at Berklee Online! Is there anything I need to do? If you have already filled out a graduation application, you will want to double-check the " Graduation Checklist " to ensure you have taken care of all of the various items associated with graduating. If you have not filled out a graduation application, you will need to do that as soon as possible. You will not be able to graduate until we have received and processed your graduation application. When will I get my diploma? You will receive your diploma within weeks of completing your degree requirements. Please keep in mind that instructors have up to two 2 weeks to

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

submit final grades after the term concludes. Diplomas are mailed to the address you include on your graduation application. If your mailing address changes after you have submitted your graduation application, be sure to update us at graduation online. Keep in mind that if you are walking in Commencement, you will not receive your official diploma at the ceremony.

Transfer Credits Can I find out how many transfer credits I am eligible for before I apply to the degree program? If you are interested in applying to the Bachelor of Professional Studies degree program and would like an estimate of the amount of transfer credit you would receive, you can request an unofficial transfer evaluation by emailing a copy of your transcripts to the Berklee Online Transfer Team at [transfer online](#). Be sure to include your name, major of interest, and any additional questions you may have. You can expect to receive your assessment within business days.

What should I do? The earlier you contact us with questions or concerns regarding your evaluation, the easier it will be for us to address any issues. Therefore, it is very important when you first receive your official transfer evaluation that you review the information carefully. If none of those exclusions apply, please fill out a Transfer Credit Equivalency Re-evaluation form for the courses you wish to have reconsidered. Sometimes, we are not able to locate specific information for a course online and we are not able to determine an equivalency, but we are always happy to review additional material which will help us make that determination. No, credits completed at Berklee or through the prior learning process do not count towards the 60 transfer credit limit. This maximum is for credit-bearing exams and undergraduate-level coursework completed externally.

What is a credit deficiency and why do I need to make up credit? Credit deficiencies are caused by transferring a course that is less than three (3) credits to fulfill a three (3) credit Berklee Online requirement. Students with a credit deficiency will be short of the minimum number of credits required to graduate once they have completed their program requirements. In order to be eligible to graduate, you will need to make up the credits you are deficient in. While the Transfer Team does their best to avoid giving students credit deficiencies, it is not always possible. You can make up the credits you are deficient in by completing additional Berklee Online coursework, by applying for prior learning credit, or by completing additional external coursework in the area in which you are deficient. Note all external courses will first need to be approved by the Transfer Team.

Can transfer credit fulfill prerequisites? Generally, transfer credit cannot be used to fulfill prerequisites unless we determine that the course you completed is a direct equivalent to one of the courses we offer at Berklee Online. Keep in mind that there are some courses which require you to pass a placement exam. For these you will need to achieve a passing grade on the test to fulfill the prerequisite, otherwise you will need to complete the appropriate Berklee Online course.

Can I transfer credits to Berklee Online after I have started the degree program? To determine if the coursework you already completed or are considering taking is eligible to fulfill your remaining degree requirements, contact the Transfer Team at [transfer online](#).

I am a Berklee campus student. Can I transfer courses from Berklee Online to my campus-based program? Are Berklee Online courses transferable to other institutions? Berklee Online is regionally accredited by the New England Association of Schools and Colleges, the same association that accredits our main campus and other leading academic institutions such as Harvard University and MIT. We recommend getting a course pre-approved by an institution before enrolling. Moreover, a recent study revealed that the average annual tuition at for-profit colleges is more than twice as expensive as Berklee Online.

How much does a certificate program cost? The registration fee and all courses for the term you wish to begin in must be paid in full in order to begin. Tuition and fees are subject to change. Both programs are comprised of 12 three-credit courses that can be taken during four week semesters.

What is included in the cost of a course? The cost for an individual course includes the tuition fee. The cost of required books, hardware or software must be purchased separately, unless it is stated that these costs are included with your enrollment. Some courses may include additional fees for files or content.

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

Chapter 3 : theMU - Recording Agreements

A word about music publishing companies and the ownership of songs - The songwriter is the owner of the song. But most songwriters do not look after the rights to their songs. Issuing licenses for the use of a song, collecting the royalties, accounting, etc. is a lot of work.

You should get something for that. We make these kinds of assumptions all the time, and as long as the two or more parties have assumed the same things and everyone follows through on their promises, all is good in recording land. However, when we assume differently things can get a little tricky, sometimes leading to outright disputes especially when money is involved. There are a number of reasons why getting started now is a good idea. Another compelling reason to start getting things in writing now is that you are minimizing the possibility of misunderstandings around your projects. Misunderstandings are a real bummer and can directly affect the vibe of a project, which in turn can negatively impact the music and the possibility of working together down the road. By making sure things are clear on the business front, you can set business aside and focus on making a great record. It ruins the vibe. It shows a lack of trust. But even if people remain resistant to this conversation at first, getting things in writing almost always results in an increased trust, a sense of professionalism and a more relaxed vibe when recording. If you do have a disagreement of terms, the written agreement will often serve as a common reference point for finding resolution. Explain why having a clear agreement up front is important to you and offer to work with them to explain the terms and why certain aspects work in their favor. Creating mutual contract terms can and should be collaborative and non-confrontational. As recording continues to become a predominantly freelance profession and as more artists decide to operate without the aid of record labels, setting our various agreements into writing is even more important. These days there are fewer standard practices in place to guide us, and fewer people to put things into writing on our behalf. Where do you begin to get agreements that work? The easy answer is to get a lawyer. Working with an attorney to craft a workable agreement that you can adapt for specific purposes should be viewed as a learning experience and an investment in your professional business dealings. Also, friends, colleagues and mentors might be willing to share their experiences and contracts with you. There are also a number of helpful books out there see sidebar. Split Letter Perhaps the simplest and most potent contract is the split letter. This is a single page that simply states who the writers of a song are and their corresponding percentages of the copyright. I especially have them on hand at co-writing sessions a must. There are two kinds of copyrights associated with recorded songs. Then there is a separate, very distinct copyright for sound recordings, symbolized with p , an old-school abbreviation for "phonogram". If anyone ever says that they want to share the ownership of a composition with me, I mention using a split letter and ask what percentage they had in mind. This simple contract helps the writers clarify the copyright for any third parties, such as labels and publishing companies who may be involved with the song down the line. Split letters can also be attached as an exhibit or addendum to agreements for production services. Release Form Another common contract is the release form , essentially the opposite of a split letter. A release form says the person signing was doing "work for hire" and has released ownership of the performance including any claim to copyright or future compensation. These forms often include the release of any arranging, a somewhat vague term that can wander across the fuzzy border into composing. In the United States, federal law regarding "work for hire" agreements requires that such agreements be signed before a party renders services, so the best practice is be to get these signed before a session begins. Sometimes you may have to decide whether to get out a split letter or a release form. You can go two ways get that release form signed pronto if you plan to share nothing, or crack out a split letter and decide just what percentage you want to share. Leaving it open until later only invites problems down the road. Many release forms include language that covers any "incidental" song composition contributions and transfers that ownership to the producer or artist this depends in turn on the agreement between the artist and producer. Mixing Contract I am often hired to

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

mix records, so I have a contract that is designed just for mixing. It covers the following topics: Each of us will have our own preferences for how to arrange the terms of a mixing contract, and we can tweak them to meet the needs of individual projects. I encourage you to develop contracts that help you work the way you want to work. Production Contract These can be far more complicated. Among the many types of production contracts, two common ones are "work for hire" or "front end deal", with the producer making no claim beyond her or his rate my version is usually about four pages long and the "backend deal" in which the producer gets a percentage of record sales mine are typically about fifteen to twenty pages long. A typical "work for hire" production contract covers almost exactly the same points as the mixing contract above, but it also spells out the following: Of course, for any project the terms will vary. We will all bring different things to the table for negotiation whether you have your own studio is an important factor to be considered, and our clients will require different arrangements as well. When looking at backend production deals, the variables increase considerably, and will include the terms of royalty payments on record sales, a "buy out" clause for the next record should the artist decide to work with a different producer and a slew of other complex matters. In short, you will need a lawyer to help negotiate and draft production contracts with a backend. Smaller Situations The above are relatively formal contracts that cover long-term projects where the roles are more clearly defined. Letter of Agreement As an engineer there have been times when I have decided to get a simple letter of agreement signed by a client. This is usually in cases where there is a large amount of money involved, say for a longer lockout situation. Even a one-word reply "ok" implies that they read your e-mail, understood the terms and, thereby, a valid contract understanding is cemented. At least once these emails have exposed a misunderstanding between me and a client. I make sure my clients understand any studio policies, especially regarding deposits and cancellations. I recently had a client balk at my asking for a written agreement for a lockout. From emails to contracts, getting things in writing is about establishing and honoring trust so that the creative work that lies ahead can take place unhindered by logistical business complications. Simply put, contracts are a form of explicit communication. Regardless of how you end up arranging your contracts, keep in mind that the important thing is to have worked through the details to the point where each party is getting a fair deal and a clear understanding of the parameters of the relationship. There are good vibes on the other side, and good vibes are vital to great recording sessions. Thanks to Peter Vaughan Shaver, Esq. For all aspects in detail: Passman For all aspects of music business agreements with great example contracts: Confessions of a Record Producer by Moses Avalon Note that the music industry is constantly changing and that many reference materials can become swiftly outdated. Be sure to check publishing dates and use all references as points of departure and learning tools, rather than concrete resources. Tape Op is a bi-monthly magazine devoted to the art of record making.

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

Chapter 4 : The Truth About Record Deals (And How To Negotiate Them)

A Music Publishing Agreement is the bridge between artistic and business interests. If you're a songwriter, singer, or a band, you'll want to make sure you aren't among the artists who lose out on future payoffs.

What happens next with that song is the business of music. Many times the first contact that a songwriter has with this business side of music is through dealings with a music publisher. This relationship can be one of the most important ones a songwriter will ever enter into as the role of the music publisher is to exploit the song get artists to record it; get the song placed in motion pictures, television series, videogames, advertising commercials, ringtones and ringbacks, dolls and toys, musical greeting cards, etc. The most common songwriter-publisher agreements are the individual song agreement and the exclusive agreement. Under the individual song agreement, a writer transfers the copyright to one composition or a selected number of identified compositions to a publisher and, in return, receives a portion of the income earned from uses of that composition or compositions. Because the individual song contract applies only to the song or songs specifically mentioned in the agreement, the writer can go to a number of different publishers with other songs and give each one only those songs that it is really interested in promoting. Under the exclusive agreement, the songwriter agrees to assign all compositions written during a specified term for example, 2 years from January 1 or 1 year with four options , with the guarantee of a share of the income generated and usually a proviso for weekly or monthly payments. All weekly or monthly payments made to the writer are treated as advances, recoupable from the future royalties of the writer. These monies will be deducted from any royalties that become due from record sales, downloads, sheet music, commercials, home video, television and motion picture synchronization fees, as well as from any other source of income that the publisher controls. One of the values of such an exclusive relationship with a publisher is that the writer is guaranteed a steady income, much like a salary, to meet the normal, day-to-day financial needs and living expenses while pursuing a career.

Co-Publishing And Participation Agreements: Many writers are able to negotiate co-publishing or participation agreements with their music publishers. Publishers also receive rights in compositions through the following types of agreements. None of these actually transfers copyright ownership; instead, they transfer the rights to control and administer the compositions for a specified period of time. Under an administration agreement, the publisher receives the right to administer a composition or group of compositions i. The foreign subpublishing agreement is similar to an administration agreement. The only difference is that the publisher is contracting with another publisher in a foreign country to represent its catalogue in that territory. For example, if a U. As with the administration agreement, representation is limited to a specified duration usually not less than 3 years , and the fees retained by the foreign subpublisher for its services are negotiable within certain limits. Experienced legal advice is always essential when dealing in the world of contracts. This article is intended to give the songwriter and music publisher a summary of the basic rights, obligations, structure, duties and scope of the 6 most common agreements that create the bond between a songwriter and his or her music publisher. If a music publisher is interested in one, many or all of your songs, you will have to deal with at least one, and most likely more than one, of these agreements. We will also be discussing many of the issues and challenges facing songwriters, composers and music publishers in the physical product and online digital music worlds as well as things that you can do to improve your chances of succeeding in music. To quote the first paragraph of the Introduction to our book *Music, Money and Success*: They are the authors of the book *Music Money And Success*:

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

Chapter 5 : S O N G R I G H T S : Legal Aspects of Songwriting

For example, under the standard music industry publishing contract, the writer is entitled to 50% of the net income earned from uses of the songs, and the publisher entitled to the other 50%. For example, if a total of \$, in royalties is paid by a record company to the music publisher for the sale of CDs or audio cassettes, the publisher.

Single Song Agreement This is an agreement between a writer and a music publisher where the writer grants specific rights for one or more songs to the publisher. The writer will be paid a one-time recoupable advance by the publisher. The publisher will handle the business aspects of the work and pay royalties to the songwriter. Songwriters should be mindful of a few things: Be careful that the deal does not simply state a share drawn from a limited list of specified publishers receipts, like "mechanical, synchronization and transcription". This could mean that the publisher can collect from income streams outside of this limited list. A list is ok, but make sure to end it with a statment like " Ensure that the contract explicitly states that you get a share of publishers advances and guaranteesthat are specifically for your compositions. Any compositions written within a time period specified in the contract belong exclusively to the music publisher. EWSA deals are normally only offered to writers with a track record of writing hits making the publisher feel confident that they will recoup their investment in the writer. The writer is normally paid on a weekly or quarterly basis. An ESWA can be tied to, or independent of, a record contract. **Co-publishing Agreement - Co-pub** The co-publishing deal is the most common form of publishing agreement where the songwriter and the music publisher co-own the copyrights of musical compositions governed by the agreement. A split of the royalties is agreed where the song writer assigns a percentage to the publisher. The Net Publishers Share everything received by the publisher meaning both the the share of income allocated to the publisher and the writer is gross income and is divided up like this: In reality this is just a bargaining chip. Expenses are direct costs, specifically related to the song. Direct expenses include copyright registration fees, demo recording costs, collection costs, and lead sheets Who administers the deal is important. With only one copyright owner it may be obvious but when copyright ownership is shared the exact roles and responsibilities need to be defined. The same is true when there are any restrictions placed upon administration, or exceptions from. In a true co-administration co-publishing deal a license is required by both owners in order to use the song. Exceptions can be applied to co-administration co-publishing deals where certain types of license can be granted by only one administrator, for example a recording artist who is likely to have recording contract obligations too regarding mechanical licenses, promotional videos etc. An admin agreement is used when the songwriter self-publishes their work and licenses songs to the music publisher for a fixed term at an agreed split of royalties in a specified territory. Exploitation functions typically include accountant or business manager roles. Admin deals tend to be reserved for only the most popular of songwriters. Ownership of the copyright is usually not transferred to the administrator. Admin deals are also used when songwriters signed to different publishers, or songwriters wh do their own publishers, have co-written a piece of work. If more than one party administers is often called a co-administration agreement. **Collection Agreement** Similar to an admin deal in that the writer retains the copyrights, but the publisher does not conduct any exploitation role. The publisher only collects and disburses earned royalties governed by the contract. **Sub-publishing Agreement** Governing foreign territories, the publisher agrees terms similar to an admin or collection deal with a publisher in the foreign territory. There is no transfer of the ownership of copyrights to the subpublisher. The publisher grants the sub-publisher to rights to act on its behalf in specified foreign territories. Territories can cover more than one country, such as European Union EU , or individual countries. **Purchase Agreement** One music publisher acquires in whole or in part the catalogue of another music publisher. In this case, a "due diligence" investigation is done to determine the value of the catalogue. Discuss this article in our Music Forum.

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

Chapter 6 : Music Publishing Contracts – Songstuff

The co-publishing deal is the most common form of publishing agreement where the songwriter and the music publisher co-own the copyrights of musical compositions governed by the agreement. A split of the royalties is agreed where the song writer assigns a percentage to the publisher.

The paperwork for record deals go by the name of recording or master license agreements, as their purpose is to facilitate a license; you as the sound recording copyright read: Record deals have developed a reputation of being notoriously strict on artists, which in many cases can be true. Major labels and larger independents traditionally offer tougher deals and are harder to negotiate with than their smaller counterparts. Partly because of company culture, partly because of clout. Their deals have shaped so that these compensate for the inherent risk of their business model, as well as to support their large organizations. This is better than negotiating for yourself, as artists are often too emotionally involved with the outcome to be able to play hard ball. Good legal advice can be gained from music industry veterans, entertainment lawyers, publishing agents and experienced artist managers. I have outlined the key clauses of recording agreements below, each with an explanation as well as advice on what a reasonable settlement would be. These findings are based on our experiences negotiating deals for our labels and artists, as well as extensive research on the subject. Ownership, control and territory. The label will need a degree of control over your sound recording copyright read: It is in the labels best interest to attain full ownership over the copyright, for as long as possible. For you as an artist, it is in your benefit to keep the copyright and only give it out for a short period of time. Labels will typically initiate deals with a contract that asks for a transfer of copyright, or to have the work considered work-for-hire. Those words should ring your alarms, as work-for-hire means that when an employee or contractor makes something for an employer, the resulting deliverables become property of that employer. In other words, you give away all your rights to a work. Considering tracks work-for-hire is industry practice for remixes, but in cases of original work you should never agree to this. A transfer of ownership is usually worded as an assignment or transfer of copyright. Some labels will ask for this for the life of copyright which lasts for 70 years after the death of the creators , or in perpetuity. Ideally, you want to do neither of these. Instead, create a license deal, where you license exclusive control over the master for a limited period of time. These rights should include those to distribution, promotion, exploitation, non-exclusive rights to use your name, likeness and image in relation to promotion of the recording. In modern deals, it is also important that you explicitly ask for promotional rights to your music on your own online websites such as your YouTube and SoundCloud account, as well as your website. The rights granted under a record deal are always granted for a specific territory. With the internet being the modern playground, most labels ask for a worldwide license, often even specified as broad as the universe. In high-level deals it is common to license only to specific territories, so that one rightsholder for example – you, the artist can negotiate deals with different labels in different markets read: Duration of the deal. Many labels will ask you to sign over the rights for a term lasting for perpetuity read: Technically, this is impossible – and you need to change this language to better specify the duration. In copyright law, the life of copyrights made after last until 70 years after the death of the last living co-creator. In other words, if you individually made a record and die now, the copyright will expire 70 years from now. It is not uncommon for artists to grant rights for the duration of copyright, however a well-negotiated license deal usually lasts between years. You want to retain creative control over the artistic aspects of your release. With our Heroic artists we like to be hands-on and create artwork, videos and promotional material ourselves, which helps us build stronger brands. Exclusivity and option clauses. Most labels do not want to sign deals for individual records. They want long-term exclusivity of an artist, or a guarantee on more material. Their reasoning makes sense; they do not want to kick-start artists to later find them leaving for bigger labels. So they ask for product commitment rights on anything made within a specific term, or options on future releases. Deals with exclusivity over a certain period are usually worded in such a

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

way, that an artist is exclusively bound to the label until the committed products or options have been released. For example, a deal may be signed where an artist inks for a 4 track EP, with an option of another two singles. This could mean that the EP came out in January, the first single option claimed in March, the first single released in June, second single claimed in August and released in November, with exclusivity lasting for two months until after the final release. Artists today are fully dependent on their ability to cultivate an audience and generate hype. Restricting your freedom to release music is detrimental to that. Instead, I favor option clauses, which give labels the right to put out future releases, on the same terms as the initial deal, if the first release and collaboration is satisfactory. This is how we structure our deals with our label Heroic. If the release does well, we have the rights to exercise the option and the artist is committed to sending us all his new music first, exclusively. Larger labels will ask you for a re-recording restriction, which limits your ability to record, license or exploit the compositions read: In other words, they want to prevent you from taking your song, recording it anew and licensing it to another label. This is OK but do not sign for a restriction longer than five years after product delivery, or two years after termination of the agreement. It is not uncommon for labels to sign records and never put them out. This clause needs to include language that commits the label to releasing your record within days after acceptance of the product first single, follow-up EP, etc , as well as granting you rights to get your recordings back in the case they do not release within that period. When dealing with majors or larger indies, you will want to ask for guarantees on paper for marketing efforts. Bigger labels have internal marketing and radio departments, which you want them to commit to use. Physical and digital royalties. Artist royalties, or royalties in short, are the monies owed to an artist for the use of a master recording. The label pays these to the artist. The calculation of royalties should be specified in the agreement. You want these to be based on Net PPD published price to dealer , or in other words, the wholesale price after store and distribution fees. This applies to both physical and digital. One of the most important aspects of your deal is negotiating a fair royalty rate. Labels often enter these negotiations with a low royalty rate, serving as an anchor for future discussions. The larger entities often have a company culture that encourages this, rooted in the old business model of the industry where the margins on physical sales were huge. In my experience, the forward thinking independents are usually much more forthcoming. Mechanical royalties and controlled compositions. The controlled composition clause is the hardest part of a record deal to comprehend. You can find a more elaborate explanation of it in my indie guide to music copyright. When a label makes a copy of a record, whether physical or digital, a license is needed from the writer of the composition also known as a song embodied in the master recording. This license is called a mechanical license from back in the day, where a copy was a mechanical reproduction. In the USA, a label can bypass the songwriter and get a mechanical license directly by performing a number of legal procedures – this is a compulsory license. So for every 1. Not all countries have fixed their rate by law, whereas others have – but not at a dollar amount. Because compulsory licenses enable labels to get mechanical licenses even if the artist is unwilling, or unreachable, the mechanical royalties in deals are always based on the statutory rate. This means that in reality, all the labels request licenses from the songwriters or their representatives, the publishers directly. Sometimes the recording artist of a record deal is also the songwriter, which is why labels always include a controlled compositions clause in a recording contract, that pertains to all the compositions the artist owns or controls. Because when you have ownership of a copyright, you can negotiate mechanical rates that are lower than the statutory rate – which is exactly what the label will ask for. And to put a cap on the amount of records over which mechanical royalties needs to be paid – usually to 2 tracks per single, 5 tracks per EP and 12 tracks per album. In that case, should you put out a 6 track EP, they only owe you mechanical over 5. As for caps, 2 per single, 5 per EP and 12 for an album are OK – however then you must make sure to not exceed these limits when delivering your records. Third party income and licenses. This relates to all ancillary income such as licenses to other record labels, compilation deals and master licenses for synchronization use of your recording in timed relation with an advertisement, film or video. Advances and flat fees. Advances are up-front payments on royalties, that are to be recouped from future earnings of the artist. They are used to

DOWNLOAD PDF AN INTRODUCTION TO RECORDING AND MUSIC PUBLISHING CONTRACTS

bridge the period before the first royalties come in, but also as leverage of labels to negotiate better deal points. By offering more money up front, they ask for higher reductions in artist and mechanical royalty rates. The size of advances vary greatly between deals, depending on the label, selling power and clout of an act. If you can prove you consistently top charts and sell in the thousands, that should give you leverage to negotiate a large advance. This is either done by considering the record a work for hire, or by a transfer of ownership. In either case, the label does not need to pay any future royalties. This is common practice for remixes, where the labels are owners of the original records and the remixes are technically derivative works. I urge you to charge high for a transfer of ownership, as that is no small thing. The accounting clause relates to the frequency and speed with which the label provides royalty statements and makes payments. Most labels will account twice a year, at the end of June and December, with a 90 day term. Ideally, you want monthly accounting, however the frequency with which a label can account is tied to the speed of its distribution company. When dealing with majors, ask for quarterly accounting with a 45 day term to provide statements. With indies, inquire about the speed with which their distributor pays and push for monthly if possible. Also you will want to add language that relates to the speed with processing of received invoices. Many majors intentionally leave out any language that commits them to paying any invoices within a certain period. Many major management companies and publishers send over accountants to labels on a yearly basis, without it being considered an insult to the audited party.

Chapter 7 : Music Business Course - Berklee Online

The contracts contained in this package are used to set up and run an independent publishing company. There are some contracts that will be used if the publishing company is affiliated with an independent record label.

Chapter 8 : TAXI FAQs: Music Publishing: Co-Publishing Agreements

A music publisher's role is to make deals with songwriters, promote the songs their songwriters compose to musicians and anyone else who may need a song for whatever reason (advertising, a movie, a promotional campaign, etc.), issue licenses for the use of the songs they represent and collect licensing fees.

Chapter 9 : Recording and Publishing Agreement on Certain Recordings

Music contracts are tricky, but you're more likely to have a successful career in the music business if you can understand and negotiate their terms. In this course, author and attorney Rich Stim covers the main language, concepts, clauses, and stipulations in four major types of contracts: recording, management, performance, and rights agreements.