

Recording Agreement Checklist

This is a checklist of key deal points and issues in a recording services agreement. It is not exhaustive. It is not a substitute for legal advice. Every deal is different in some way. Almost all deals can be improved by professional analysis and negotiation. Recording services agreements can be onerous and far-reaching agreements. You should get competent and specialised legal advice on the subject matter and terms of the agreement before you sign anything. However, this checklist sets out the issues you should be on the look-out for.

1 Record label details

Proper entity name and trading name (if any?)

2 Artist(s) details

Contracted as group or as individuals (or both?)

3 Territory

Australia, Australasia, World?

4 Range of rights

- a. Recording services
- b. Exclusivity
- c. Merchandise? (all or some?, Exclusive or non-exclusive?)
- d. Sponsorship and endorsement?

5 Product commitment and term

- a. Number of EPs/Albums/Options (conditions of exercise of options? Increased royalties and/or advance)
- b. How many tracks per album (playing time?)
- c. Delivery requirements (timetable and format for delivery)
- d. Length of term (calculated from delivery or after release?)
- e. Recording obligations?
- f. Promotion obligations?
- g. Re-recording restrictions?

6 Income

- a. Royalties (domestic and international)
 - i. Physical sales, digital sales, licensing, PPCA income, clubs, premiums, mid-price, budget
 - ii. Calculation method (wholesale, retail, net receipts – if so, net of what?)
 - iii. Escalations (based on sales or number of albums?)
- b. Touring and live performance income share?
- c. Packaging deductions (on what formats?)
- d. DFGs
- e. Other costs recoupable or payable by artist
- f. Can artist purchase cheap CDs for resale at gigs or via website?
- g. Accounting and audit (frequency, details in accounting statement)

7 Advances

- a. Lump sum (escalating for each further album?)
- b. Recording costs (escalating for each further album?)
- c. Touring budget
- d. Marketing budget
- e. Equipment
- f. Conditions of advances (repayable or recoupable?)

8 Artistic control and restrictions on company

- a. Acceptance
- b. Creative Control
- c. Songs recorded and included on album
- d. Producer and Engineer (editing and mixing)
- e. Packaging, marketing and promo material
- f. Compilations, synch licensing and remixes (including ringtones and truetones)
- g. Budgets (who prepares, approves – are there recoupable costs?)
- h. Additional Performers

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Recording Agreement Checklist (continued)

9 Promotion and marketing

- a. Promo and marketing plan (trade and consumer advertising, radio, touring, internet, billboards, etc?)
- b. Costs and budgets

10 Release requirements

- a. Digital vs. physical (timing)
- b. Domestic
- c. International

11 Groups

- a. Solo albums, Side Projects, Collaborations
- b. Break-ups/leaving members

12 Termination rights

- a. Damages
- b. Advances repayable

For further information consult your local Industry Association, Arts Law, or a legal professional.