



LIVE PERFORMANCE AGREEMENTS



TYPES OF PERFORMANCE AGREEMENTS

- One-Off
- Festival
- Private Dates
- Foreign Dates
- National Tour
- Charitable/Benefit Shows
- Sponsored Shows and Ancillary Rights



BASIC DEAL TERMS OVERVIEW

- Parties
- Compensation
- Performance Basics
- Production Responsibilities
- Name and Likeness Rights
- Cancellation
- Insurance/Indemnity
- Ancillary Rights

BASIC DEAL TERMS: PARTIES

- Promoter/Venue Entity
 - Direct with Venue
 - Private Entity
 - Public/Gov't Entity
 - Direct with Promoter
 - Stature in the Industry
 - How Financed?
- Agent/Artist/Artist Entity

BASIC DEAL TERMS: COMPENSATION

- Performance Fee
 - Flat fee
 - Flat fee with bonus
 - Guarantee vs. split of revenue
- Items to Consider in Determining Fee:
 - Capacity issues; Typical sell-out
 - Gross potential
 - Ticket price, seating schematic and scaling
 - What goes into the “Pot” if revenue split
 - Show costs, insurance, marketing, local promoter
 - Artist reserved rights: recording, artist merchandise, existing artist sponsorships
 - Purchaser reserved rights: concessions, parking, rebates, venue merchandise, facility sponsorships, season holders/boxes

BASIC DEAL TERMS: COMPENSATION (CONT'D)

- Amount of deposit
 - Known buyer; first time buyer
 - Required before announcement?
 - Escrow
- Form of Payment
 - Company check, cashier's check, certified check, wire, letter of credit
- Balance of Payment
 - Release of escrow
 - Day of show, during show
- Settlement
 - Right to review box office receipts

BASIC DEAL TERMS: PERFORMANCE BASICS

- Performance Requirements
 - Length of set
 - Sound-check
 - Creative control
 - Song selection
 - Intermissions: announcements
 - Sound engineers
 - Support Acts
 - Artist Rider
 - Staging/Technical Rider
- Exclusivity
 - Radius
 - Time Period
 - Exclusions
- Ticket Comps

BASIC DEAL TERMS: PRODUCTION RESPONSIBILITIES

- Backline; Sounds and Lights
 - Who provides
 - Pyrotechnics and special effects
 - Local ordinances
 - Security
 - Insurance
- Transportation and lodging
- Security/staging
- Permits
 - Event Permits
 - Artist Visas
 - Union Fees
- Catering

BASIC DEAL TERMS: NAME AND LIKENESS RIGHTS

- Promotions / Advertising
 - Billing
 - Ad matte/radio/publicity
 - Meet and greets
- Sponsors
 - Signage
 - No direct endorsements implications
- Merchandise
 - Hall fees
 - Who sells
 - Number of items
 - Multi-artist festival merchandise
- Most Favored Nations issues

BASIC DEAL TERMS: CANCELLATION

- Reason
 - Promoter Cancellation
 - Cause: force majeure
 - Without Cause: Poor ticket sales, failure to get permits
 - Artist Cancellation:
 - Cause: disability, death, illness
 - Without cause: Date conflict
 - Default/Breach
 - Inclement Weather/Dangerous Conditions
 - Morals Clauses
- Remedies
 - What happens to deposit?
 - What happens with balance of fee?
 - Lost costs: profits?
 - Mitigation requirements?

BASIC DEAL TERMS: INSURANCE AND INDEMNIFICATION

- Type of Carrier
 - AM Best Rated A- or better
 - Licensed to do business in state of performance
- Types of Insurance and Levels of Coverage
 - Comprehensive and General Liability
 - Per event vs. Occurrence vs. Aggregate
 - What if Artist doesn't have insurance?
 - Worker's Compensation
 - Property Damage Insurance (Equipment)
 - Cancellation Insurance
 - E&O
- Indemnification

BASIC DEAL TERMS: ANCILLARY RIGHTS

- Ancillary Rights Becoming More the Norm
- Webcasts/Video on Demand/Television Rights
- CDs/DVDs

Issues to consider

Origination Fees

Ownership

Content Licensing

Approvals