

CONTRACTS FOR CONCERTS

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ATTORNEY'S ROLE

- ▶ 1. Deals typically negotiated by Agent/Business Manager
 - ▶ a. Artist agreement on agent's letterhead, with rider on business manager letterhead
- ▶ 2. Attorney as scribe?
- ▶ 3. Value add
 - ▶ a. Guarantee versus higher percentage of profits: risk of payment
 - ▶ b. Grant of security interest against repayment of advance
 - ▶ c. Force Majeure

TYPES OF AGREEMENTS

1. Venue Contract
2. Concert Agreement
3. Touring Contract
4. Residence Contract
5. Private Concert Contract
6. Streaming Agreement
7. Etc: Vendor Agreements, Sponsor Agreements, Insurance ...

VENUE CONTRACT

- ▶ 1. Very short term lease between promoter and venue
- ▶ 2. Specific dates
 - ▶ 10/20-25 Load-in
 - ▶ 10/26-27 Concert dates
 - ▶ 10/28-31 Load-out
- ▶ 3. Rent:
 - ▶ a. Fee based on attendance (floor and ceiling)
 - ▶ b. Venue also paid \$x per ticket sold
 - ▶ c. Penalties for holdover
 - ▶ d. Deposit: \$x
- ▶ 4. Specific services provided by venue
- ▶ 5. Reimburse venue for equipment rental, clean-up and staffing
 - ▶ a. Per budget provided for equipment, but venue has reasonable discretion as to personnel
 - ▶ b. Equipment rentals agreed to by promoter

VENUE CONTRACT

- ▶ 6. Merchandise:
 - ▶ a. Venue may sell certain items: promoter pays 80% to promoter
 - ▶ b. Promoter keeps 80-100% of what it sells
 - ▶ c. Promoter has own deal with Artist
- ▶ 7. Concessions: 15-25% to promoter
- ▶ 8. Co-Promotion
- ▶ 9. Insurance
- ▶ 10. Sponsorships
 - ▶ a. Restrictions on sponsors placed on promoter
 - ▶ b. Need to restrict venue to take into account Artist requirements
- ▶ 11. Breach by promoter
 - ▶ a. Venue keeps deposit
 - ▶ b. Entitled to expenses plus a duty to mitigate


VENUE CONTRACT

- ▶ 12. Right to Record
 - ▶ 13. Force Majeure
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- A decorative graphic consisting of several parallel white lines of varying thicknesses, slanted diagonally from the bottom-left towards the top-right, set against a blue gradient background.

CONCERT AGREEMENT/SINGLE DATE

- ▶ 1. Signed by production entity, negotiated by agent and management company, each with own rider
 - ▶ a. Inducement letter
- ▶ 2. Date of performance and venue
- ▶ 3. Length of set (90-120 minutes)
- ▶ 4. Compensation: Flat fee, or minimum guarantee against [85%] of gross receipts, less agreed to expenses (venue rental, crew, advertising, crew, money paid to Artist for sound and lights)
 - ▶ a. Ticket pricing agreed on
 - ▶ b. Right to have representative in box office
 - ▶ c. Artist may receive \$ x for sound and lights
 - ▶ d. Additional payment for Artist VIP meet and greet \$ x per person
 - ▶ e. Complementary tickets
 - ▶ f. Deposit (10-25% of minimum) due 1-2 weeks before concert, and balance end of performance.
- ▶ 5. Control over sponsorships
 - ▶ a. All ads must be approved by Artist
 - ▶ b. No placement such that Artist is seen as endorsing a product

CONCERT AGREEMENT/SINGLE DATE

- ▶ 6. Promoter will not record, and will prevent others from recording concert
 - ▶ a. Sole right to transmit: Jumbotron
 - ▶ b. Specify if Artist has right to record/stream
 - ▶ 7. Artist (maybe sole) right to sell merchandise
 - ▶ a. Keeps x% of proceeds: i.e., 70% merchandise, 90% CD/DVD/digital media
 - ▶ 8. Promoter provides stage hands, generators, house sound and lights and all performing right licenses paid (ASCAP, SESAC, BMI)
 - ▶ 9. No damages if event canceled due to Majeure, but Artist need not repay \$ already spent on expenses
 - ▶ a. Cancellation insurance can be obtained
 - ▶ b. Artist due full fee on a breach by promoter
 - ▶ c. Carefully define Force Majeure
 - ▶ 10. Both parties obtain liability insurance
 - ▶ 11. Technical Rider: length of stage, monitor mix position, specs on electrical power
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FESTIVAL AGREEMENT

- ▶ 1. Compensation: Flat fee easier as tickets usually are for multiple acts
 - ▶ a. Promoter provides all equipment (sound, light)
- ▶ 2. Promoter or Artist may sell merchandise, with [75x%] to Artist, [90%] for CDs
- ▶ 3. Force Majeure: Outside concert greater chance of cancellation
 - ▶ a. Artist paid if at venue and ready, willing and able to play
 - ▶ b. Venue should have cancellation insurance
 - ▶ c. Artist needs doctor's note to cancel for illness
- ▶ 4. No other performances 90 days before or after concert within 150 miles, and no announcement of other concerts within that area until 30 days after concert
 - ▶ a. Exception for private performances which are not advertised
- ▶ 5. Right of Promoter to stream concerts, and to archive for digital viewing
 - ▶ a. Could be fee or no fee to Artist

PRIVATE PARTY

- ▶ 1. Usually flat fee: No ticket sales
- ▶ 2. Meet and greets part of the event
- ▶ 3. Image control: Artist approves intro and must approve any photos
 - ▶ a. Host can have sponsors, but signage must be placed such that Artist is not seen as endorsing any products
- ▶ 4. Conversely, Artist must refrain from certain behavior:
 - ▶ a. Won't cause patrons to rush stage
 - ▶ b. No boorish behavior
- ▶ 5. Force Majeure, will try to reschedule
 - ▶ a. If Artist is at site and ready to perform can keep deposit
- ▶ 6. Kill fee: Venue can cancel, and Artist is paid 50% of fee
- ▶ 7. Concert cannot be publicly announced by host. Avoids beach of radius clauses in other agreements

CONCERT TOUR

- ▶ 1. Promoter granted exclusive right to promote for agreed to tour dates
 - ▶ a. Grants non-exclusive right to use name and likeness to promote, subject to Artist approval
 - ▶ b. Artist won't perform or advertise show within 60 miles of a tour city until after performance in that city, subject to typical carveouts (private shows, charity shows ...)
 - ▶ c. Headline Artist has approval rights over other acts
- ▶ 2. Signed by touring company, which agrees to **“provide a first class performance of Artist” for a TBD amount of time at Artist’s sole discretion but in any event long enough to be considered a “full” show by industry standards (subject to local curfew restrictions)”**.
 - ▶ a. Band members sign inducement letters
- ▶ 3. Artist receives [92.5%] of Net Tour Pool Revenue: Ticket sales plus sponsorship sales less specified expenses
 - ▶ a. Artist approves sponsors
 - ▶ b. Expenses: **“venue rentals (including use of the stage), net advertising, ad mat and advertising materials (e.g., radio spot, print ads, television), marketing materials, public liability insurance (which shall be the primary liability insurance) at an agreed upon amount of \$0.59 per head, local catering, stagehands, spot operators, permits, security, runners, ticketing costs, local staff, venue staff, power, venue expenses related to pre-rigs, performing rights society fees.”**
 - ▶ c. Trade off guarantee against higher percentage of Net Tour Pool Revenue
 - ▶

CONCERT TOUR

- ▶ d. 50% of Net Pool Tour Revenue paid weekly, the balance 45 days after last show
- ▶ e. Agree on average ticket price/average venue size
- ▶ f. Promoter pays all costs, with a cap of what it must spend per show
- ▶ 4. Artist might receive an advance (\$100,000/show) to cover costs, recouped by promoter against ticket sales for each show
 - ▶ a. With advance Artist covers own costs: (i.e., light and sound, travel, own musicians)
 - ▶ b. Obligation to pay advance secured by Artist collateral
- ▶ 5. Artist receives 85% of merchandise sales, effected through venue
- ▶ 6. \$6.00 added to ticket price, 100% paid to record company, and each ticket buyer receives coupon for new CD
- ▶ 7. Force Majeure: Try to reschedule
- ▶ 8. Artist buys cancellation insurance
- ▶

LONG TERM RESIDENCY

- ▶ 1. Venue: Hotel/Casino
- ▶ 2. Specified period: three years
 - ▶ a. First year dates largely determined, and for years 2 and 3 TBD with Hotel/Casino a first priority
- ▶ 3. Fees range depending on date (i.e., New Year's Eve 3x as much as a usual date)
- ▶ 4. Rider with each party's promotional obligations clearly spelled out
- ▶ 5. Compensation: \$x/date, with 25% of payment due for year paid at start of year
 - ▶ a. Other 75% after each date is played
 - ▶ b. Bonus: Fees vary depending on the date. For each fee there is a floor amount of venue revenue which must be reached. If revenue equals or exceeds that amount then a bonus is paid for that date
 - ▶ c. Free suite plus food and beverage credit and flight reimbursement
 - ▶ d. Hotel/Casino determines ticket pricing
 - ▶ e. Artist can sell approved merchandise: Net profits 80% to Artist 20% to Hotel

LONG TERM RESIDENCY

- ▶ 6. Risk of non-payment:
 - ▶ a. Casino loses license
 - ▶ b. How to address. LOC has costs
- ▶ 7. Show parameters
 - ▶ a. No opinions/risqué behavior. No disparaging remarks re: gambling
- ▶ 8. Hotel provides equipment/sound system/crew
 - ▶ a. Special equipment/changes to stage can be requested. If granted Hotel pays, and otherwise Artist pays
- ▶ 9. No recordings or broadcasts of performances
- ▶ 10. Hotel obtains public performance rights: BMI/ASCAP/SESAC
- ▶ 11. Force majeure: Try to reschedule, and if cannot appearance canceled and fee not paid
 - ▶ a. Hotel can cancel a date (with attempt at rescheduling) if insufficient patrons due to bad weather
- ▶ 12. Breach: Penalties apply if Artist is late
 - ▶ a. If Hotel terminates without cause all fees are due and Artist has no duty to mitigate
 - ▶ b. Hotel can terminate if Artist contributes to civil disorder or Artist's actions threaten casino's gambling licenses
- ▶ 13. Non-compete during term and 30 days thereafter. Exception for private, non-advertised parties

STREAMING AGREEMENT

- ▶ 1. Contractor has right to stream live via the internet, at theaters and via satellite radio during concert, and to make available on cable PPV for 30 days
 - ▶ a. Revenue derived from what Contractor receives from exploitation, plus sponsorship money
 - ▶ b. Sponsors must be agreed to by Artist “**which approval will be at the sole discretion of the Artist**”
- ▶ 2. Contractor pays all costs of production/clearances per an agreed to Budget
 - ▶ a. Costs for stadium concert can be significant: \$1,000,000
- ▶ 3. Contractor pays advance: Can be \$1,000,000, and if three day concert \$3,000,000
 - ▶ a. 50%-67% on signing, rest day of concert
- ▶ 4. Co-promote: Artist must approve all use of name, logo, likeness

STREAMING AGREEMENT

- ▶ 5. Economics: Contractor recoups Advance plus Budgeted costs plus ROI equal to Budget
 - ▶ a. Then 2/3 Artist, 1/3 Contractor on next \$3,000,000
 - ▶ b. Then 3/4 Artist, 1/4 Contractor
- ▶ 6. Work for Hire: Artist owns all IP
- ▶ 7. Force Majeure: Try to reschedule. If cannot, return Advance
 - ▶ a. Contractor must absorb all spent costs
 - ▶ b. Cancellation insurance