

Publishing Agreement Checklist

This is a checklist of key deal points and issues in a publishing (song writer) 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. Publishing 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 Publisher's details

Proper entity name and trading name (if any)

2 Writer(s) details

Contracted as group or as individuals (or both)

3 Territory

Australia, Australasia, World?

4 Licence or assignment of copyright in songs?

5 Rights of publisher

- a. Exclusive vs. non-exclusive writer's services
- b. Administration only?
- c. Grant licences (All rights of copyright?)
- d. Collect income

6 Minimum commitment and term

- a. Past / Present / Future material? Number of Songs/ Albums
- b. Initial term? Extensions for not meeting delivery commitment/ not recouping?
- c. Delivery requirements (timetable and format for delivery, song names and writer names, control %)
- d. Minimum control of songs (will aggregate percentage count towards minimum?)
- e. Options (conditions of exercise of options? Increased royalties and/or advance?)
- f. Retention Period (during which Publisher still controls copyright after term has expired): usually 5-15 years: not perpetual

7 Compensation

- a. Royalties (domestic and international)
 - i. Print
 - ii. Album sales, digital sales
 - iii. Mechanical royalties
 - iv. Synch and flat fee licensing (increase if secured by publisher?)
 - v. Compilation
 - vi. Sundry
 - vii. Escalations (based on sales or number of albums?)
- b. Advances (see below): the completion of delivery commitment? How much?
- c. Deductions
- d. Accounting and audit (frequency, details in accounting statement)

8 Advances

- a. Cash advance or other goods or services, etc. (e.g. studio time) (timing, further advances?)
- b. Conditions of advances (repayable or recoupable?)

9 Artistic control and restrictions on publisher

- a. Approval over licences (synchs, compilations, promotion of third parties, first release)
- b. Approval over adaptations, new lyrics

10 Termination rights

- a. Cure period?
- b. Advances repayable?

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