

## Investor Agreement Checklist

- What are the expectations of the investor and the artist?
- Is the investment in
  - The artist career as a whole
  - A specific project
  - A combination of the career and a project
- Will the investment be made in
  - Cash paid to the artist
  - Payment of recording costs, marketing, touring, other expenses
- Will a business entity be created that is owned by the artist and investor?
  - Joint venture
  - LLC or corporation
  - General partnership or Limited partnership
- Term/Length of the agreement?
- How much control will the investor have in creative?
  - Songs cut
  - Social media/Public Image
- If investing in intellectual property, who will own the songs, sound recordings, videos, trademarks/band name?
- Is there a cap on investor's contribution?
- How will the investor recoup its contribution?
  - Profit share
  - Royalty
  - Loan with payment plan
- How will a return on investment be calculated for the investor? Is there a cap on return?
- What is the artist's track record on prior releases/projects?
- Will the investor just provide money or can they provide industry connections?
- What type of commitment is the artist willing to make to promote career/project?
- Is there anybody else that has already "invested" or is claiming an interest in the artist's career or project?

## Songwriter and Recording Artist Checklist

- Join as songwriter with ASCAP, BMI or SESAC (pick one)
- Join as music publisher with ASCAP, BMI or SESAC (pick the same one as you did for writer)
- Make a list of all completed songs with co-writer/co-publisher splits and contact information and date of creation
- Submit titles and songwriter splits to ASCAP, BMI or SESAC (just to the one you joined)
- Determine if collaboration agreement(s) needed for co-writers on songs
- Make a list of all completed sound recordings and co-owners, if any
- Determine songs and sound recordings to file for Copyright
- File Copyright Applications before release or within 90 days of release
- Secure ISRC codes for sound recordings that will be released (<https://www.usisrc.org/>) and provide to anyone who releases your sound recordings
- Embed metadata into digital tracks
- Join Sound Exchange as an Artist (for collection of digital performance artist royalties) [www.soundexchange.com](http://www.soundexchange.com)
- Join Sound Exchange as a Copyright Owner (for collection of digital performance sound recording owner royalties) [www.soundexchange.com](http://www.soundexchange.com)
- Determine if work for hire agreements are needed for any talent, producers, engineers, side musicians on sound recordings
- Determine aggregator to upload tracks for digital and streaming
- Determine distributor, if any, for physical product
- Secure domain name
- Secure social networking fan and business sites (not just personal)
- Consider if you need to file a trademark application for band name
- If you are in a band, do you need a band agreement? Are the band members hired?
- Do you need a formal business entity? Are you touring?
- Do you have a manager? Is this formalized in writing?
- Do you have someone loaning you money or fronting expenses/recording costs/living expenses for your career? Is this relationship in writing?
- Create Electronic Press Kit
- Secure work for hire/copyright assignment for any photos, video/footage filmed by others on your behalf

[ARTIST'S LEGAL NAME]  
{*If Artist has a professional name: p/k/a [ARTIST'S PROFESSIONAL NAME]*}  
[ARTIST ADDRESS LINE 1]  
[ARTIST ADDRESS LINE 2]

Date: \_\_\_\_\_

[CO-WRITER'S LEGAL NAME]  
{*If Co-Writer has a professional name: p/k/a [CO-WRITER'S PROFESSIONAL NAME]*}  
[CO-WRITER ADDRESS LINE 1]  
[CO-WRITER ADDRESS LINE 2]

*{Insert the following if there is a second co-writer:  
AND*

*[2ND CO-WRITER NAME]  
{If 2nd Co-Writer has a professional name: p/k/a [2nd CO-WRITER'S PROFESSIONAL NAME]}  
[2ND CO-WRITER ADDRESS LINE 1]  
[2ND CO-WRITER ADDRESS LINE 2]}*

RE: CO-WRITING AGREEMENT

Dear [Insert Co-Writer Name *(and 2nd Co-Writer if necessary)*]:

You and I agree that the musical composition(s) (the "Composition(s)") listed below was (were) written by you and me with the mutual intention of creating (a) "Joint Work(s)," as such term is defined under the United States Copyright Act, intending that our respective contributions to the Composition(s) be merged into inseparable or interdependent parts of a single unitary whole and such Composition(s) shall be owned by you and me in the following undivided percentage shares:

	Title	Writers	Shares
1.			
2.			
3.			

You and I shall each have the right to administrate our respective percentage share of each Composition, provided that: (i) none of us may grant any exclusive licenses, (ii) each of us shall only have the right to license, transfer, sell or convey our own respective share, (iii) none of us may authorize any changes in the lyrics (except for foreign translations), harmony or melody (except to conform it to the particular style of a recording artist), and (iv) all licenses or other third party agreements entered into by any of us in respect of the exploitation of the Composition(s) shall direct the third party concerned to render accountings and direct payments to the respective music publishing designee of each of us hereto to the extent of our respective shares of the Composition concerned. If any of us should receive any monies in

respect of the percentage interests of the other(s) of us, the receiving party shall remit same to the other(s) promptly together with any accounting statement or other supporting documentation having been received.

{Insert this paragraph if the artist will be recording and releasing a master of the composition written in accordance with this agreement:

*Notwithstanding anything to the contrary contained herein, I shall retain one hundred percent (100%) of the administration rights in and to the Composition(s) for any and all uses in connection with (a) master recording(s) embodying the Composition(s) released in connection with my career as a recording artist (the "Subject Master(s)"), records derived from the Subject Master(s), and any and all other uses and exploitations of the Subject Master(s) by, through and in any and all manners, means, methods and media, now and hereafter known, for and in connection with my entertainment and music industry activities and endeavors, including, without limitation, in my social media outlets, films, motion pictures, music videos, promotional videos, DVDs, and home video devices that feature or otherwise embody my performances, my live concert activities and in connection with any and all advertising, marketing and promotional matters and activities of, or in any way related to, my career, and trailers, commercials, promotions or co-promotions in connection with any or all of the foregoing (collectively "Artist's Uses"). Without limiting the generality of anything contained herein, I shall have the right to grant licenses for Artist's Uses on such terms and conditions as I shall determine in my sole discretion and in this regard, you and I acknowledge that I shall have the right to grant licenses on behalf of the parties hereto: (i) in conformance with the so-called "controlled composition" clauses (audio-only and audio-visual use in nature) applicable to me pursuant to any recording agreement (or other form of agreement for the exploitation of Subject Master(s) and audio-visual works that embodying my performances), and (ii) on a gratis basis; provided, however, that the terms applicable to your respective interest(s) in the Composition(s) pursuant to any such licenses shall be upon the same terms as apply to my interest in the Composition(s) under the applicable license, such that if I am entitled to be paid a fee in respect of the use of the Compositions (by way of example, a synchronization license fee in respect of an audio-visual use), then you shall also be entitled to be paid your proportionate share of such fee.}*

READ, UNDERSTOOD AND AGREED:

BY: \_\_\_\_\_  
[INSERT ARTIST'S NAME  
AS FIRST WRITTEN ABOVE]

BY: \_\_\_\_\_  
[INSERT CO-WRITER'S NAME  
AS FIRST WRITTEN ABOVE]

{If there is a 2nd Co-Writer:

BY: \_\_\_\_\_  
[INSERT CO-WRITER'S NAME  
AS FIRST WRITTEN ABOVE]}

[NAME OF PRODUCER or  
PRODUCTION COMPANY]

\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_, 2016

[ARTIST'S NAME]

\_\_\_\_\_  
\_\_\_\_\_

## DEAL MEMO -- Exclusive Production Agreement

Dear \_\_\_\_\_:

[Name of Producer or Production Company] ("**Producer**") is pleased to propose the following basic terms for an Exclusive Production Agreement ("**Production Agreement**") to be entered into between you ("**Artist**") and Producer.

1. **TERRITORY**: The universe (the "**Territory**").

2. **TERM**:

A. The initial period of the Production Agreement will begin on the date stated above and continue for a period of 2 years (the "**Initial Period**"). During the Initial Period, Artist will record at least 10 master recordings (the "**Recordings**"), the total number to be determined by Producer after meaningful consultation with Artist. Producer may commercially release copies of the Recordings for sale in any configuration, including without limitation, as full-length albums, EPs and/or singles.

B. Producer will have, at Producer's election, 5 options to extend the Initial Period, each for a period of 2 years (each an "**Option Period**"). Artist's recording commitment during each Option Period will be the same as during the Initial Period. The Initial Period and Option Periods are collectively referred to as the "**Term**".

3. **CREATIVE ELEMENTS**: Producer will select and contract with the producer(s) for all the Recordings after consultation with Artist. Producer will determine the songs and the number of songs on each album, EP or Video (as defined below) after consultation with Artist.

4. **RECORDING BUDGETS**: All recording budgets will be mutually determined by Producer after consultation with Artist.

5. **OWNERSHIP**: All Recordings and Videos of any nature that are created during the Term will be the sole and exclusive property of Producer throughout the Territory.

6. **ADVANCES**:

A. The Artist advance ("**Advance**") for the Initial Period will be \$\_\_\_\_\_, payable upon the full signature of the long-form Production Agreement.

B. The Advances for each Option Period will be \$\_\_\_\_\_, payable upon the commencement of recording of the first Recording for the applicable Option Period.

7. **ROYALTIES**:

A. **Producer Sales**: Net receipts derived from the exploitation of the Recordings by Producer will be divided as follows: 50% to Producer and 50% to Artist. The term "net receipts" means an amount equal to the gross monies received by Producer, excluding monies received pursuant to paragraph 7.B below, in the U.S. from any person or entity, which are solely attributed to the exploitation of rights in the Recordings, less all costs paid or incurred by Producer in connection with the creation and licensing of those rights, including recording costs, artwork, mechanical royalties, manufacturing costs and all royalties and other sums payable to producers.

B. **Distributor Sales:** Net profits derived from the exploitation of the Recordings by a third party distributor will be divided as follows: 65% to Producer and 35% to Artist. The term "net profits" means an amount equal to the gross monies received by Producer from a third party distributor which are solely attributed to the exploitation of rights in the Recordings, less all marketing and publicity costs paid or incurred by Producer in connection with the licensing and/or exploitation of those rights, and the collection of those monies, including recording costs, artwork, mechanical royalties, manufacturing costs, distribution fees and any royalties or other sums payable to producers.

C. **Recoupment:** Artist will not be entitled to receive any payment under the Production Agreement until Producer has recouped the Advances and all other recoupable expenses incurred by Producer under the Production Agreement. Pre-contract development costs (e.g. for lodging and travel) will be recoupable advances under Production Agreement.

8. **ACCOUNTINGS:** All accountings by Producer to Artist will be semi-annual within 90 days after the expiration of each semi-annual period. Artist will have customary audit rights and a 2-year period to object to accounting statements.

9. **MECHANICAL ROYALTIES:** For sales in the U.S., Artist will receive 100% of the minimum statutory mechanical royalty rate (as of the first date of release of the particular recording) (the "**Mechanical Rate**") applicable to each of the musical compositions written or co-written by Artist which are contained on the Recordings. Artist acknowledges that Producer may reduce the Mechanical Rate if such reduction is required by any distributor of the Recordings on behalf of Producer. For copies of the Recordings purchased by Artist from Producer or given away as so-called "free goods," Artist will not receive mechanical royalties for the applicable compositions. For Recordings distributed by Producer, the mechanical rate cap for a full-length album will be 10 times 100% of the minimum statutory rate as of the date of release of the album. The mechanical rate cap for an EP will be 5 times 100% of the minimum statutory rate as of the date of release of the EP.

10. **VIDEOS:** If Producer elects to record an audio-visual recording featuring Artist ("**Video**"), Producer will recoup 50% of all Video production costs from record royalties and 100% from net sales of the copies of the Video.

11. **ARTIST WEBSITE:** During the Term, Producer will have the right to administer Artist's website, including merchandise and record sales via the site, as well as Artist's presence on social media platforms (e.g. Instagram, Twitter, Facebook, etc.). Producer will have the right to secure the primary URL (www.[artist].com). Third party costs paid by Producer in connection with the administration of Artist's social media platforms will be 100% recoupable from merchandise, record and fan club royalties only.

12. **MERCHANDISE RIGHTS:** During the Term, Producer will have exclusive retail-only merchandise rights, including online retail but excluding touring and non-merchandise name-and-likeness licensing (e.g. commercial tie-ins). Producer will credit to a separate Artist merchandise account (which will not be crossed with Artist's record account) 20% of net sales of Artist merchandise by Producer (i.e. the dollar amount of sales less returns, credits and adjustments) and 50% of net license income from sales by Producer's licensees (i.e. income received by Producer in the United States less all third party costs paid or incurred by Producer). During the Term, Producer will have the exclusive right to supply tour merchandise to Artist at cost of product plus 40%, plus shipping and handling. If Producer waives its right to supply Artist's tour merchandise, Artist will pay to Producer 10% of the gross revenue received by Artist from tour merchandise sales during the Term.

13. **FAN CLUB:** During the Term, Producer will have the option to operate Artist's fan club. If Producer elects to operate Artist's fan club, Producer will credit to a separate Artist fan club account (which will not be crossed with Artist's record account) 50% of the net profits from club operation (i.e. fan club income, including from member subscriptions, less expenses paid or incurred by Producer in connection with fan club operation, but without deduction of an administration fee). If Producer elects not to operate Artist's fan club, Artist will pay to Producer 25% of the net profits from club operation (i.e. fan club income, including from member subscriptions, less expenses paid by Artist in connection with fan club operation and up to a 10% administration fee actually charged by a third party). For the avoidance of doubt, income from merchandise and record sales to fan club members will not be considered fan club income.

14. **TOUR INCOME:** Artist will pay to Producer the following percentages of gross revenue (prior to deduction of any fees or commissions) from Artist's live performances during the Term: (i) gross revenue is \$5,000 or less = none, (ii) gross revenue is greater than \$5,000 and less than \$10,000 = 2.5% and (iii) gross revenue is \$10,000 or more = 5%.

15. **SPONSORSHIP INCOME**: Artist will pay to Producer 7.5% of the gross revenue from Artist's sponsorships during the Term (increased to 15% for sponsorships principally secured by Producer).

16. **INCOME INTEREST TAILS**: Producer will have a continuing passive income entitlement to fan club, tour and sponsorship revenues at 100% of the rates above during the 2-year period following the expiration of the Term, at 66 2/3% of the rates above during the next 2-year period and at 33 1/3% of the rates above during the next 2-year period. Additionally, Producer will be entitled to the following post-Term interests in Artist's tour merchandise sales: (i) during the 2-year post-Term period, 10% of gross revenue, (ii) during the next 2-year period, 7.5% of gross revenue and (iii) during the next 2-year period, 5% of gross revenue.

17. **USE OF RECORDINGS BY ARTIST**:

A. If Producer does not enter into an exclusive distribution agreement with a third party during the Term, Artist will have the right to sell the compact discs provided by Producer and containing the Recordings solely at Artist's live performances. Artist agrees to pay to Producer a sum equal to 50% of the Net Receipts Artist actually receives which are derived from such sales. "Net Receipts" means the gross monies received by Artist, less Artist's manufacturing costs (if any) and other mechanical and other copyright royalties actually paid by Artist.

B. Accounting statements and, if applicable, royalty payments for Recordings exploited by Artist will be sent to Producer monthly within 30 days after the expiration of each semi-annual period. All such royalty statements will be subject to the same audit provisions set forth in subparagraph 9 above.

C. Artist will be solely responsible for obtaining any and all third party licenses, permissions and consents and paying any and all license fees and royalties with respect to Artist's exploitation of the Recordings, and Artist indemnifies and holds Producer harmless from and against any and all claims associated therewith.

18. **PURCHASE OF PRODUCT**:

A. Notwithstanding paragraph 17, Producer may elect to allow Artist to purchase physical copies of the Recordings from Producer at \$3.00 per EP and \$6.00 per CD, plus the cost of shipping the product. Such product purchased by Artist will be non-returnable. Artist will not receive any royalties in connection with product purchased by Artist.

B. Product purchased from Producer may be sold by Artist only at Artist's live performances and through no other means. Artist acknowledges that Producer may further restrict Artist from selling product if Producer signs a distribution agreement with a third party in connection with the Recordings and such restrictions apply pursuant to such agreement.

20. **STANDARD TERMS**: The Production Agreement will include other standard terms and conditions consistent with recording/development agreements. Notwithstanding anything to the contrary in this Deal Memo, if Producer signs an agreement with a third party with respect to the services of Artist and/or the distribution of the Recordings, the terms of that third party agreement will apply to Artist.

This proposal is being presented to you on a confidential basis and is for discussion purposes only. Kindly do not share this information with anyone other than your professional representatives. If you approve this proposal, please sign where indicated below and Producer will prepare a long-form Production Agreement, which incorporates the terms and conditions in this proposal as well as standard terms and conditions. As a formality, all of Producer's rights are reserved until such time as the long-form Production Agreement is signed by both parties, if at all.

Sincerely,

"PRODUCER"

ACCEPTED AND AGREED TO:

"ARTIST"

\_\_\_\_\_

\_\_\_\_\_