

# McLaughlin Law

## MMF CHECKLIST FOR LIVE PERFORMANCE AGREEMENTS

### Introduction

A Live Performance Agreement is entered into by an artist (being either a band or a solo performer) or their representative (e.g. their manager) and the venue owner or promoter who is responsible for staging the performance.

Although the extent of the detail in a live performance agreement will obviously differ depending on whether the artist is playing a stadium or a local open mike night the most important thing is that the key details of the arrangement are clearly documented.

If you are entering into any live performance agreements on behalf of any artists you manage make sure you have their explicit permission to do so, whether this is provided through your current management agreement with them or by way of such other separate arrangement that you may have in place.

If you book a gig for an artist and there is a problem you can almost guarantee that the party who has the problem (be it the artist themselves, the promoter or the venue owner,) will look to you as perhaps not necessarily being responsible for the issue that has arisen, but at least being responsible for sorting it out. Consequently a well thought out and drafted live performance agreement can go a long way to making a manager's job easier.

### The Agreement

- *Performance:* The venue, date, time and duration of the performance should be specified. It is also important to agree access arrangements prior to the performance. A schedule to the agreement can be used to address specific details that may change from performance to performance so that the agreement is easily customisable going forward.
- *Stage/Backline Requirements:* All of the artist's lighting, sound check and stage requirements that the promoter or venue owner has agreed to provide should be clearly specified. If the artist is bringing their own backline or lighting equipment it should also be clearly agreed that the venue can support such equipment
- *Fee:* Depending on the artist and the particular venue an artist will usually be paid by way of a flat fee, a percentage of the door charge for the performance, or a combination of the two. A deposit is commonly paid upon signature of the agreement, with the balance due upon the conclusion of the performance.

- *Cancellation:* Should the promoter or venue owner wish to cancel the booking, the artist should be given as much notice as possible, and should also have the right to retain any deposit paid. There may also be provision for the rest of the fee to be paid in certain circumstances as an acknowledgement of the loss the artist has suffered due to the cancellation of the performance. In turn, the artist should also agree to give a specified amount of notice, and to refund the deposit, should they need to cancel the performance for any reason.
- *Expenses:* In some situations expenses such as travel and accommodation will be paid by a promoter or venue owner, however they can in practice be apportioned in any number of ways, depending on the relative bargaining power of the parties and the type of performance. For example, there is a difference between the situation of a band booked to play a pub as part of their national tour as opposed to an artist who is specifically booked to fly to Auckland to headline a music festival. The most important thing is that it is clear who is responsible for what expenses.
- *Rider:* In some instances the promoter or venue may agree to provide catering and drinks for the artist.
- *Back Stage:* If needed, the specific kind of backstage facilities an artist requires should be clearly agreed as well as the promoter's or venue owner's responsibility in terms of security and controlling unwanted access to such facilities.
- *Complimentary Tickets:* The extent of any complimentary tickets (or door list) to be provided for the benefit of the artist should be clear.
- *Merchandise:* It should be clarified if facilities are required to enable the sale of artist merchandise.
- *Consents and Insurance:* The venue owner or promoter should be obliged to ensure that all necessary licences and consents are obtained for the staging of the performance and should also undertake to arrange appropriate insurance cover.
- *Promotion:* It should be specified who is responsible for what promotion in respect of the performance and what promotional material can be used.
- *Boilerplate Clauses:* It is also important that the live performance agreement has certain standard legal provisions that ensure the legal mechanics of the agreement are appropriately provided for. Examples of some of these necessary types of clauses are a dispute resolution process, provisions that clarify the agreement represents the entire agreement between the parties and that if any provision of the agreement is found to be unenforceable or illegal then it will not affect the rest of the agreement.

**Final Note:** If a promoter or venue owner won't agree to sign a live performance agreement and you still wish to deal with them, then at least try to get them to agree to as many of the above conditions as possible by email as this can have some legal standing and can also be persuasive if you end up in the Disputes Tribunal.

If you require any further information in respect of this checklist or wish to arrange for the drafting of an appropriate live performance agreement for you or any artists you manage please don't hesitate to contact David McLaughlin at McLaughlin Law (Phone: 09 282 4599, Email: [david@mclaughlinlaw.co.nz](mailto:david@mclaughlinlaw.co.nz), Web: [www.mclaughlinlaw.co.nz](http://www.mclaughlinlaw.co.nz))

Disclaimer

This information is intended to provide a general outline of the relevant legal issues and further professional advice should be sought before any action is taken in relation to the information contained in this checklist.