

BAND PARTNERSHIP AGREEMENT CHECKLIST

THIS IS A CHECKLIST OF KEY DEAL POINTS AND ISSUES IN A BAND PARTNERSHIP AGREEMENT. IT DOES NOT COVER EVERY ISSUE THAT MIGHT ARISE. EVERY DEAL IS DIFFERENT IN SOME WAY. YOU SHOULD GET LEGAL ADVICE ON LEGAL AGREEMENTS BEFORE YOU SIGN THEM. BUT THIS CHECKLIST IS A GREAT STARTING POINT.

Remember to check out the Band Partnership Fact Sheet for further information.

1. FORM OF AGREEMENT

The partnership arrangement should be in the form of a deed rather than a contract (to avoid arguments about adequate consideration, etc). Put simply, it's more likely to be enforceable if it's a deed. A deed is a document made by parties whose signatures are witnessed and make commitments without necessarily receiving 'consideration' or some form of payment for their promises.

2. BAND MEMBER DETAILS

Band members' names and addresses (is the band conducting its business through a company? Should the company be a party? Or should the whole arrangement be between the band members as shareholders of the company rather than partners?).

3. LEGAL STRUCTURE

Partnership, or would a company be a better structure? If partnership, then define purpose of partnership as accurately as possible. (Will any players be contractors to the principal member(s), on a profit split or blend of profit split and retainer?)

4. COMMENCEMENT DATE AND TERM

How long will the defined term of the partnership be? (E.g. 1-3 years, then continuing from month-to-month or year-to-year, etc.)

5. BAND NAME

- 5.1. Who will own band name? ("Owner" must register the business name, if other than his/her own name.)
- 5.2. Under what conditions can band name be used (only as a whole band?).
- 5.3. Will it be registered as a trade mark?

6. FINANCES AND ASSETS

- 6.1. Capital cash contribution (timing)?
- 6.2. Equipment and instruments (ownership, insurance and cost of repair):
 - a) Define whether value of equipment and instruments will be provided to the partnership as a loan OR as a capital contribution. Set out whether the equipment and instruments will be partnership property or personal property that is loaned to the partnership.
- 6.3. Group bank account (signatories to the account).
- 6.4. Copyright ownership:
 - a) Do members keep songwriting copyright separate from the partnership property?
 - a) Do members own separate but equal shares of master recordings and videos made by the band?
- 6.5. Accurate records of ownership, capital contribution, loans.
- 6.6. Who has top administrator credentials to social media accounts and other digital platforms?

7. MEMBERS

- 7.1. Commitments and contributions (recording, writing, performing, touring, business management, creative management, marketing, artwork, PR, etc).
- 7.2. Leaving members (notice to leave? Rights to kick out band member?).
- 7.3. New members (change of partnership structure).
- 7.4. Solo albums/side project arrangements?
- 7.5. Pre-existing commitments of band members?
- 7.6. Winding up procedure to protect or enable ongoing band business.

8. INCOME SPLITS

- 8.1. What splits will apply to income from the following sources?
 - a) Recordings.
 - a) Songwriting/publishing (can share some income even if writers keep underlying copyright – see 8.2 below).
 - b) Merchandise.
 - c) Performance.
 - d) Sponsorship and endorsement (and how to deal with contra/payment in kind?).
 - e) Prizes, awards (except those in connection with recording or songwriting/publishing), other income.
- 8.2. Will composers in the band share their publishing income (as opposed to copyright) with non-composers? Covers income as well as income from band's recordings? What accounting methods?
- 8.3. When are earnings split and paid?
- 8.4. Will leaving members retain % of income for their contribution (on what income sources and how is this calculated and paid)?
- 8.5. What if the band breaks up?
- 8.6. Tax consequences for sharing in-hand income?

9. DISPUTES

- 9.1. How will a dispute between the parties be resolved?

For more information, you can speak to your local Industry Association, the Arts Law Centre of Australia or a legal practitioner.



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