

Filming Agreement Fact Sheet

What is a Filming Agreement

A filming agreement is used by artists or labels to set out the rules in which a film producer will create a music video for a specific song and the amount of money that producer will receive for their services. It may also provide further detail as to how the music video is made.

Why do you need a Filming Agreement

Making a music video can be an expensive process and the quality of a music video is completely subjective. Having a filming agreement in place allows the artist and/or label to ensure their money is being spent appropriately and is used to create a video that delivers everything they want.

It is also important for producers to have video agreements in place to ensure they know what is expected of them – to have a clear and good understanding of what is required and when it has to be delivered.

How to use this Fact Sheet and included Checklist

Included with this fact sheet is a checklist of many of the issues found in filming music videos. The checklist will give you a quick idea of the key terms of a producer contract whilst this fact sheet provides added details on key clauses. For ease of reference, all clause numbers used in the checklist will be mirrored in this fact sheet.

By referring to both these resources, we believe that you will be in a position to better decide whether or not to sign on that dotted line, and how better to negotiate getting there!

Key Terms of a Filming Agreement

Clause 1 Producer Details

If the label or artist employs a production house or creative agency to create a music video there may be a key producer/ director affiliated with that house. If that person is a key decision in selecting that company, it is advisable that the label inserts a clause requiring that person's direct services, and provisions for if that person is to leave the agency during production.

Clause 3 Project And Services

Securing A Director

Depending on whom you initially contract with, the producer will be required to find and enter into a separate contract with the director. The director will be in charge of filming but must answer to the producer. It is important to note that usually the client (artist/ label) is in no way contracted to the director which means the producer is the one who monitors the director's work. If the director does an unsatisfactory job, they will answer to the producer, who will in turn answer to the client.

The agreement also states that the producer must be in charge of all aspects in the production of the music video and must deliver all draft videos and final copies to the label as provided in the contract.

Producer Warranty

It is essential that the music video does not contain any copyright that is owned by any other parties. To protect the artist/label, a warranty clause requiring the producer to clear all copyrighted materials in the video will be a part of the film agreement.

Clause 4 Filming Process

Budgets

The Budget states how much the label must provide to the producer in order to make the video. Parties must agree upon the budget of the music video.

The producer will usually prepare the budget. The artist/ label must also approve the budget and must approve any further costs that may be incurred. If the artist/ label does not approve extra costs, the producer will be liable for any difference in the amount agreed upon.

All parties must decide whether copyright clearance costs should be included in the budget. For example, if the producer wants to use footage from another film, the cost to get approval from the owners of that film may either be in the budget (therefore paid by the label) or outside it (paid by the producer).

Delivery

Both the label and the producer must define realistic times and dates on when the music video must be completed and delivered. The times will vary greatly and depend on the budgets, locations and special effects required. The label should also specify the formats in which it wants the music video delivered, whether it be in Digi, Beta or otherwise. This will ensure that no delays or extra costs are incurred due to additional conversion processes that may be required.

Demos

The production of a music video can be very expensive – therefore the parties must always be aware of how a video is progressing to ensure that no extra costs will be incurred to change or edit a video after it has been finalised by the producer.

An important way that all parties can ensure the smooth production of the music video is to have the producer deliver a draft, or demo, of the video to the artist/ label. The artist/ label can watch the video and give their feedback, giving the director and producer adequate time to make any necessary changes.

Acceptance or Rejection

Producers must have any video they deliver 'accepted' by the artist/ label before they can be fully paid for their work and released from their contract. This gives the artist/ label more control over the producer and ensures the quality of the product delivered.

As the quality of the video and its content can be highly subjective (and could ultimately prevent the producer from getting paid, should the video not be accepted), the producer often requires the artist/ label give their acceptance of the video if it is in line with standard industry practices and follows the artistic direction, concept and storyboard agreed upon between the parties.

Clause 6 Copyright And Production Asset Ownership

The producer will often stipulate that they be the copyright owner of the video they create, until the point at which they are fully paid their producer fee. This allows the producer to protect themselves and their work by preventing the artist/ label from taking ownership of the video without paying the producer the agreed fee.

Again, the producer's ability to include such a term in the contract is dependant on their bargaining power – for instance, a major label will most likely require that it is the sole owner of all videos (out takes and other works created in connection with the initial video) from the time it is created by the producer.

Clause 7 Producer Fees

Producers usually agree on a total fee with the label for their video production services. This will usually be paid in two installments. Typically, the producer fees are delivered like this:

1. 50% on signing, and 50% on delivery and the artist/ label's acceptance of the final music video; or
2. 50% on signing, 25% on acceptance of draft video, and 25% on acceptance of the final music video.

These installments can be varied and are generally dependant on the bargaining power and preference of the parties.

Clause 7 Force Majeure

Sometimes the shooting or production of a video may cease due to factors that are out of the control of both parties – these are known as "Force Majeure" events or Acts of God. Things like a hailstorm or a power shortage may delay or even prevent the producer from making the film. Parties should detail how any costs will be shared and paid between the parties.

Clause 8 Insurance

Sometimes, whilst filming actors, artists or the crew may be injured on set. As the artist/ label is usually in charge of filming, they can require the producer and all relevant contractors to hold appropriate insurances covering any potential claims or injuries incurred on set.