

Assuring Royalty Issuer Contractual Compliance For the Benefit of Royalty Investors©

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One of the most important features of our patented process for using royalties in the financing of business is giving investors comfort that royalty issuers will comply with agreements. Such comfort can result in a lower royalty rate being required by the investor

Though similar in some respects, royalties are different than rents. Both have the concept of the user of an asset paying the owner of the asset an agreed fee for an agreed period. However, royalties are tied to specific usage requirements and revenues resulting from the usage and are not usually fixed, except as to possibly a required minimum payment. Both royalties and rents are transferable and will have a value based on the present value of the future income, with royalties being a percentage of revenues, which can change in the future/

In our process we simplify the process by arranging for the royalty investors to be paid the agreed royalty at the time of revenue receipt by the royalty issuer. This can be done by establishing a “lock box” arrangement with the bank(s) of the royalty issuer or by the issuer granting a limited power of attorney to a third party who on being notified by the bank of incoming revenue is able to transfer the agreed percentage to the account designated by the royalty investor. The issuer and the investor agree as to the bank(s) into which all revenues must be deposited.

The controlling owners of the royalty issuer personally attest that all revenues have been deposited as agreed and there is an annual audit of revenues.

The royalty issuer transfers or assigns critical assets of the business to a trustee-like entity which grants an exclusive international license to the royalty issuer to use without cost, for so long as the royalty issuer is in compliance with its contractual obligations to the investor, the critical assets of the company, without which use the company cannot operate.

The critical assets can include the Intellectual Property owned by the company, patents, trade secrets, the company's name and brands, customer and supplier lists, etc. The intent is not to have rights to assets, which can be sold, but rather to be able to force the royalty issuer's contractual compliance or cease operations.

There should never be a salutation where the critical assets are used without the royalty investor being paid as agreed. The situation is not like rent where landlord's or an equipment owner or lessor has to go through a prolonged legal process to regain the use of their property.

Therefore the royalty investor is assured to receive the agreed royalties, at the time of revenue receipt and has the means of terminating the operation of the company in the event the royalties are not paid as agreed. Of course, in the case of a bankruptcy the value of the assets will be significant to those refinancing the company or possibly to competitors were the company not to be refinanced.

Of course, the terms described are subject to modification. The critical assets of the royalty issuer are returned to the royalty issuer on completion of the contract or earlier if agreed.

The greater the assurance of compliance by the royalty issuer the more likely a deal can be done and the terms will be more favorable to the royalty issuer.

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