

Inducement Letter

by Practical Law Media & Entertainment

Maintained • USA (National/Federal)

A side letter for use as an ancillary agreement to a services or engagement contract when entertainment (such as television, streaming, film, social media, or online, alternately referred to as on-line, online, or digital) talent, such as actors, writers, producers, and directors, provide services for use in various projects (such as TV and theatrical movies, TV and online series, social media content, commercials, and other forms of advertising and promotion) through an agreement with the talent's loan-out corporation (alternately referred to as loanout or loan out company). This Standard Document is drafted in favor of the studio or production company, but it aims to be reasonable and contains provisions common to negotiated inducement letters. This Standard Document has integrated notes with important explanations and drafting and negotiating tips.

Drafting Note: Read This Before Using Document

Companies in the entertainment industry, such as studios and production companies, often engage [talent](#), such as actors, writers, producers, and directors, through the talent's loan-out corporation. A loan-out corporation contracts with third parties for use of the talent's services and pays the talent directly. Using a loan-out corporation can create tax advantages for talent. However, talent must take steps to reduce the chance that a court will deem the loan-out corporation the talent's alter ego and pierce the corporate veil. For more about the alter ego theory and piercing the corporate veil, see [Practice Note, Piercing the Corporate Veil](#).

When a company engages talent through a loan-out corporation, the parties to the engagement agreement are the company and the loan-out corporation. The talent is not a party to this agreement and, accordingly, does not have direct contractual obligations to the company. To induce the company to contract with the loan-out corporation, the company requires the talent to sign an [inducement letter](#) that provides the company with direct remedies against the talent if there is a breach of the engagement agreement.

In the inducement letter, the talent joins in, ratifies, and confirms:

The representations and warranties the loan-out corporation makes in the engagement agreement.

The loan-out corporation's obligations under the engagement agreement.

In the inducement letter, the talent also agrees to fulfill the loan-out corporation's obligations if the loan-out corporation:

- Fails to fulfill its obligations under the engagement agreement for any reason, including dissolution or insolvency.
- Does not employ the talent for the full term of the engagement agreement.

This Standard Document is appropriate for entertainment industry companies, including studios and production companies, that engage talent through loan-out corporations. For simplicity, this Standard Document and integrated

drafting notes use the term company to refer to these entertainment industry companies.

Drafting and Negotiating Considerations

Typically drafted by the company, inducement letters are generally:

- Brief and easy to understand.
- Favorable to the company.
- Signed by the talent only, with little or no negotiation.
- Signed at the same time the loan-out corporation signs the related engagement agreement.

Assumptions

This Standard Document assumes that the talent is a US citizen domiciled in the US, the loan-out corporation and company are US entities, and the talent will perform services under the engagement agreement in the US. This Standard Document is drafted for a variety of services and circumstances, and it must be tailored to conform to the applicable transaction. For example, the reference to name and likeness rights should be removed if the loan-out corporation does not grant these rights to the company in the engagement agreement (see [Section 6](#) and [Drafting Note, Rights](#)).

Bracketed Items

Bracketed items in ALL CAPS should be completed with the relevant facts. Bracketed items in lowercase text are either optional provisions or include alternative language choices to be selected, added, or deleted at the drafter's discretion.
END DRAFTING NOTE

INDUCEMENT LETTER

As of [ENGAGEMENT AGREEMENT DATE]

Drafting Note: Engagement Agreement Date

Because the inducement letter induces the company to enter into an engagement agreement with the talent's loan-out corporation, the inducement letter's date should be either before or the same as the date of the engagement agreement. It is customary to use the same date for both documents.

END DRAFTING NOTE

[COMPANY]
[NAME AND ADDRESS]

Dear [RECIPIENT]:

As an inducement to you to enter into the agreement (“[Engagement Agreement/[OTHER TERM]]”) executed concurrently herewith and dated as of the date hereof between you and [LOAN-OUT CORPORATION NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] [located at [ADDRESS]] (employer identification number [EMPLOYER ID NUMBER]) (“Lender”), I represent, warrant, and agree that:

Drafting Note: Engagement Agreement

This inducement letter refers to an engagement agreement for specific services such as acting, producing, writing, or directing. It is customary to define the engagement agreement with a term that describes the services the talent will perform. For example, an inducement letter that refers to a writing services agreement typically uses the defined term “Writer Agreement” or “Writing Services Agreement.” However, it is acceptable to use the generic defined term “Engagement Agreement.”

Employer Identification Number

Companies require each loan-out corporation to complete, sign, and submit to the company an Internal Revenue Service (IRS) Form W-9. Once completed, this form provides the company with the loan-out corporation’s [employer identification number](#) (EIN) and other information the company needs to fulfill IRS reporting requirements. Although the IRS Form-W-9 includes the EIN, some companies also set out the EIN in the inducement letter and engagement agreement to help company personnel access this information more quickly.

END DRAFTING NOTE

-
1. Agreement. I have read the Engagement Agreement, fully understand its terms, and consent to its signature by Lender.
 2. Lender Authorization. Lender is authorized, and will remain authorized at all times when my services are required or otherwise rendered pursuant to the Engagement Agreement and at all times when rights transfers (whether by grant, assignment, or otherwise) are required or otherwise made pursuant to the Engagement Agreement, to provide my services and creations to you and to transfer such rights to you. All existing and future rights transferred (whether by grant, assignment, or otherwise) by Lender to you under the Engagement Agreement have, where applicable, been transferred (whether by grant, assignment, or otherwise) to Lender by me, and where necessary in writing, prior to the date of the Engagement Agreement.

Drafting Note: Lender Authorization

As the contracting party to the engagement agreement, the loan-out corporation transfers certain rights, including [copyrights](#), to the company. Accordingly, before the loan-out corporation and company enter into the engagement agreement, the talent transfers to the loan-out corporation all rights in which the talent has an interest that the loan-out corporation will transfer to the company under the engagement agreement.

The talent must follow certain legal formalities to ensure that copyright assignments are effective. Under the [Copyright Act](#), a copyright assignment must be in writing and must be signed by the assignor to be effective. The talent may assign the copyrights in an assignment agreement (see [Standard Document, Copyright Acquisition Agreement](#)) or in a written employment agreement between the talent and the loan-out corporation. For more information about copyright assignments under the Copyright Act, see [Practice Note, Intellectual Property: Assignments and Transfers: Copyright](#)

Also available as part of the eCourse
[Celebrity Entities and Entanglements](#)

First appeared as part of the conference materials for the
33rd Annual LLCs, LPs and Partnerships session
"I Can't Go For That (No Can Do): Celebrity Entities and Entanglements"