

# Cigma Media – Production Agreement

13639 Freeport Rd., San Diego, CA 92129 - phone: 858.484.0220 - email: info@cigmamedia.com

## Agreement for Production & Creative Services

This agreement is between Cigma Media (*Studio*) and the Company or individual named below (*Client*) as it relates to the audio or video production (*Project*) described herein. Your signature constitutes agreement to the terms and fees indicated below. All dates, terms and conditions indicated shall apply until changed by a new agreement. Client agrees that the Laws of California shall apply to this agreement, and Client agrees to submit to the jurisdiction of California to resolve any dispute that may arise as a result of this Agreement.

**Please confirm your booking by signing and returning this agreement by Mail, Fax or E-mail.**

Today's Date: \_\_\_\_\_ Contact Name: \_\_\_\_\_  
Start Date: \_\_\_\_\_ Company: \_\_\_\_\_  
Delivery Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Exec. Producer: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
Director: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Editor: \_\_\_\_\_ E-mail: \_\_\_\_\_  
Project #: \_\_\_\_\_ Project Title: \_\_\_\_\_  
Format: \_\_\_\_\_ Method: \_\_\_\_\_

Project Details:

## **PRICING OPTIONS:**

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## FLAT RATE PRODUCTION:

\_\_\_ **FLAT RATE PRODUCTION:** \$ \_\_\_\_\_

A flat-rate production shall be all-inclusive and shall be invoiced at the rate indicated, regardless of time or ancillary services necessary to complete the production.

## A-LA-CART PRODUCTION:

A-la-a cart services as they relate to this agreement are best estimates based on preliminary meetings and concept discussions. A-la-cart rates are subject to change and may vary from vendor to vendor for 3rd party outside services. If Flat Rate Production is selected, any a-la-cart costs here are estimates only of those component parts of the larger production.

**Creative/Copy Writing:** \_\_\_\_\_ \$ \_\_\_\_\_

**Producing Fee:** \_\_\_\_\_ \$ \_\_\_\_\_

**Location Shoot:** \_\_\_ Hourly @ \$ \_\_\_\_\_ per hr. X estimated \_\_\_ hours \$ \_\_\_\_\_

**Studio Shoot:** \_\_\_ On-Site \_\_\_ Off-site \_\_\_\_\_ \$ \_\_\_\_\_

**Location Fees:** \_\_\_\_\_ \$ \_\_\_\_\_

**Crew/Lighting:** \_\_\_\_\_ \$ \_\_\_\_\_

**Video Transfer:** \_\_\_\_\_ \$ \_\_\_\_\_

**Video Editing:** \_\_\_\_\_ \$ \_\_\_\_\_

**Outside Services/Rentals:** \_\_\_\_\_ \$ \_\_\_\_\_

**Voiceover Talent:** \_\_\_\_\_

**Talent Fee per voice for:** Principal: \$ \_\_\_\_\_ Secondary: \$ \_\_\_\_\_ Tag: \$ \_\_\_\_\_

**Page/Project Rate:** If applicable \_\_\_\_\_ \$ \_\_\_\_\_

**Additional Services:** \_\_\_\_\_ \$ \_\_\_\_\_

**Estimated Studio Time:** \_\_\_\_\_ Total (est): \$ \_\_\_\_\_

**Music:** \_\_\_ N/A \_\_\_ Library \_\_\_ Custom/Original Licenses (est): \$ \_\_\_\_\_

**Composer/Original:** \_\_\_\_\_ \$ \_\_\_\_\_

**FTP/Matls/Delivery:** \_\_\_ FTP \_\_\_ CD/DVD \_\_\_ Other \_\_\_\_\_ \$ \_\_\_\_\_

FTP or 3<sup>rd</sup> party delivery is billed at 50% of studio time. CD/DVD can be FedEx overnight with your acct #.

\_\_\_ **A-LA-CART ESTIMATE:** Production based on above estimates. **EST TOTAL:** \$ \_\_\_\_\_

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## TERMS & CONDITIONS:

**PAYMENT & DEPOSIT:** We require a signed copy of this agreement and a Credit Card Number or company Purchase Order before we can begin your production. A deposit in the amount of at least 50% of the estimated a-la-cart or flat rate (depending on selection by Client) shall be due and payable prior to Studio commencing work on this production. We accept payment by Company Check (preferred), PayPal, or credit card (VISA or Master Card only). Deposit may be made by Check, PayPal or VISA/Master Card. Credit card transactions must be handled through PayPal.

Payment in full is due upon completion or delivery of materials unless noted otherwise. Payments under a Purchase Order are Net 30 days after date of delivery. A statement will be issued indicating any balance due. A 3% service charge will be added for PayPal and credit card payments.

### FEES AND CHARGES:

- The a-la-cart itemized charges outlined here are an estimate only. Actual charges may vary and will be detailed on your invoice or statement. Studio hourly rates are minimum 1 hour, pro-rated by ¼ hour after the first hour. 3<sup>rd</sup> party rates are fixed. Changes in excess of 10% of the estimates included here will be subject to Client's approval.
- The Flat Rate option is all-inclusive and is considered to be the total amount of charges for this project, regardless of 3<sup>rd</sup> party charges or cost over-runs.

**CREATIVE LICENSE:** As a condition of enlisting Cigma Media (Studio) to produce this project, Client agrees and understands that audio/video production is a creative process and that Studio is an expert in this type of work. As such, Client agrees that Studio and its associated parties will have creative license to create and produce this project to the best of their abilities, without unreasonable interference from Client, within the guidelines agreed to during preliminary meetings and under the terms of this agreement. Client understands that its input and comments are welcome and that Client shall be consulted on a regular basis throughout the production process for the purpose of obtaining Client's guidance and for Studio to ascertain that it is on track and production is proceeding in a direction that meets with Client's approval. Studio agrees to produce and deliver a completed work in a timely manner or by the delivery date noted in this agreement.

Client understands and agrees that any creative process, including this production, is subjective by nature and that there are no guarantees or promises as to the effectiveness or any results or reactions that may or may not be achieved through presentation or distribution of the completed production. Upon final approval and delivery of the completed production, Client shall release Studio of any and all obligations relating to this production and Studio shall not be held liable for any errors, omissions, or damages that might result from presentation or distribution of the completed production.

**CANCELLATION:** Either party shall retain the right to cancel at any time during the production process in the event it is determined that production is not progressing to the satisfaction of Client, if substantial changes are requested by Client that might result in an excessive increase in production costs or delays, or if either party determines that continued work would not result in a product that meets the determined objectives of this project. In the event of production cost increases resulting from Client changes, Studio may, at its option, offer to renegotiate production fees with Client and Client may offer to participate in a renegotiation of fees or cancel production. In the event of cancellation by either party prior to completion of this production, Client agrees to forfeit any deposit and pay a cancellation fee amounting to the current balance of hourly charges plus any accrued third party rentals, fees or licenses (if any) that exceed the amount of the deposit. Should the cancellation fee amount to less than the deposit, the entire deposit amount shall be forfeited.

**USE OF CONFIDENTIAL INFORMATION:** The Studio, Studio Employees and 3<sup>rd</sup> party vendors engaged as part of this Project shall not reproduce, provide, disclose, or give access to Confidential Information to any individual, or to any Studio Employee not having a legitimate need to know any such information and data, and shall not use the Confidential Information for any purpose other than performing its services under this Agreement. Notwithstanding the foregoing, Studio may disclose the Confidential Information if required by law, statute or other legal process; provided that Studio (i) gives

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Client prompt written notice of an impending disclosure, (ii) provides reasonable assistance to Client in opposing or limiting the disclosure, and (iii) makes only such disclosure as is compelled or required.

This Agreement imposes no obligation upon Studio with respect to any Confidential Information which Studio can establish by legally sufficient evidence: (i) was in the possession of, or was known by Studio, prior to its receipt from the Client, thus having the right to disclose it, without an obligation to keep such information confidential.

**INDEPENDENT CONTRACTOR VS. WORK FOR HIRE:** Studio primarily works as an independent contractor or service provider to its Clients and not as an employee. In most cases Client will provide content or script, limited structure and basic guidance for any given Project, but does not directly control the manner in which the Project is completed. It is agreed and understood that regardless of the Project being produced, Studio is generally providing its creative services as an independent contractor, vendor or service provider and not as a Work for Hire.

It is further understood that Studio may offer, or be requested to provide, or that any given Project may require, additional creative services such as voiceover performance, on-camera performance, copy writing, creative concept development, music composition, photography, graphics design, creative audio and/or video editing, and other services which are generally deemed to be outside of the realm of direct control of Client as employer. Additionally, Studio may be engaged to provide services in non-creative areas such as talent casting, media buy, duplication, delivery, etc., some of which may require engagement of 3rd party service providers.

Although, in some cases, certain services may be considered as Work for Hire (i.e. voiceover or on-camera performance or editing services,) creative services that may or may not be under the direct control of Studio, such as concept development, copy writing, and voiceover will generally be considered to be part of its services as an independent contractor, or vendor and will not fall under the Copyright definition of a Work for Hire.

In those cases where Studio engages a 3rd party for any aspect of this Project as a Work for Hire, and payments to the 3rd party are paid by Studio, it shall be the Studio's responsibility to handle any necessary IRS reporting. In cases where Client directly hires or pays any 3rd party vendor, Client shall be responsible for arranging any Work for Hire agreements between Client and Vendor.

**ASSIGNMENT OF RIGHTS:** In its capacity as an independent contractor, service provider, or vendor, Studio shall generally retain ownership and copyright to any and all work created on behalf of Client, including but not limited to: concept development, copy writing, video storyboards, directing, music, sound design, and audio/video editing choices. Under the terms of this agreement, Client shall be assigned and shall retain copyright to the completed work as a whole with unlimited rights to use as specified in this Agreement, or if not specified, in whatever manner Client may see fit.

Upon request, and for certain types of Projects, Studio may waive its independent contractor standing to function essentially in a Work for Hire capacity. In this case, Studio shall, upon payment in full, assign copyright to Client to certain creative work such as scripts, graphics, story boards, etc. for which it holds rights, effectively making the Project a Work for Hire. In most cases where a 3rd party is engaged, the contracted party shall retain ownership and copyright to their creative contributions unless other arrangements have been made between Studio and the 3rd party. Music composers, graphics designers and photographers traditionally retain ownership and copyright to their work, granting an unlimited use license to their clients. To avoid potential copyright issues, it is Studio's policy to generally engage 3rd party vendors or service providers on a Work for Hire basis, or to otherwise arrange for an assignment of copyright for any work provided, whenever possible.

Regardless of the final assignment of rights, Client agrees that Studio and 3rd parties may use this Project, in part or whole, for any promotional purpose, provided such promotional use does not violate any exclusivity or proprietary conditions that may be associated with this Project.

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**NON EXCLUSIVE AGREEMENT:** No provision in this Agreement limits, or is intended to limit, in any way the Studio's right to offer and provide its services to the general public, other business entities, municipalities, or governmental agencies during or after the term of this Agreement. Similarly, this Agreement is a non-exclusive agreement and the Client may freely engage other persons to perform the same work that the Studio performs. Except as provided in this Agreement, this Agreement shall not be construed to guarantee the Studio or any Studio Employee any number of fixed or certain number or quantity of hours or services to be rendered to the Client.

**NO IMPLIED WAIVER:** Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any right or remedy under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently effect its right to require strict performance of this Agreement.

**SEVERABILITY:** If a court of competent jurisdiction finds a term, condition, or provision of this Agreement to be illegal or invalid, then the term, condition, or provision shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force and effect.

**GOVERNING LAWS/CONSENT TO JURISDICTION AND VENUE:** This Agreement shall be governed, interpreted and enforced by the laws of the State of California. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Agreement shall be brought in the City of San Diego, San Diego County, California. Except as otherwise required by law or court rule, venue is proper in the courts set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgment obtained in such forum or taking action under this Agreement to enforce such judgment in any appropriate jurisdiction.

**ENTIRE AGREEMENT:** This Agreement represents the entire Agreement and understanding between the Parties. This Agreement supersedes all other prior oral or written understandings, communications, agreements or Agreements between the Parties. The language of this Agreement shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

**CHANGES:** Any changes to this contract made by client must be specifically identified in writing in the space provided below for those changes to said contract to be considered valid.

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## PAYMENT TYPE SELECTION AND SIGNATURE PAGE:

By signing this document, Client acknowledges receipt of a copy of this Agreement and its agreement to the Terms and Conditions stated herein.

**PAYMENT:** \_\_\_ Flat Rate \_\_\_ A-la-cart **DEPOSIT:** \$ \_\_\_\_\_ **FULL:** \$ \_\_\_\_\_

**EST. BALANCE DUE:** \$ \_\_\_\_\_ **On delivery**

**TYPE:** \_\_\_ Credit Card (via PayPal) \_\_\_ PayPal \_\_\_ Invoice \_\_\_ Check  
Payment type may be changed at any time. Make checks payable to VoiceActing, LLC.

**A credit card # or company Purchase Order is required to start this production. Your credit card will not be charged unless that is your preferred payment method for deposit and/or balance due payment.**

\_\_\_ PO or Ref #: \_\_\_\_\_ Terms: \_\_\_\_\_

\_\_\_ MC/Visa CC: \_\_\_\_\_ Exp: \_\_\_\_\_ CVC Code: \_\_\_\_\_

Name on Card PLEASE PRINT: \_\_\_\_\_

Billing Address for Card: \_\_\_\_\_

By signing this agreement, I acknowledge my agreement to the Terms and Conditions of this Agreement. I further grant Studio permission to charge my credit card for any deposit or balance due that is not received under the terms of this Agreement.

Agreed to:

Client Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Client Printed Name: \_\_\_\_\_

Cigma Media: \_\_\_\_\_ Date \_\_\_\_\_

For Cigma Media: \_\_\_\_\_

Please deliver a signed and dated copy of this agreement to the address below. A countersigned copy will be returned to you.

Cigma Media  
A Production Unit of VoiceActing, LLC  
13639 Freeport Rd.  
San Diego, CA 92129-3210

Or scan and email to: info@cigmamedia.com