

# PUBLIC MEDIA FREELANCER – STATION PRODUCTION AGREEMENT

This Freelancer - Station Production Agreement dated as of \_\_\_\_\_ (the “Agreement”) is between you, \_\_\_\_\_ (the “PRODUCER” or “you”) and [STATION] (the “Station” “we” or “us”) for the production and delivery of the Media Work (the “Work”) described in **Schedule A**.

## 1. PRODUCTION

1.1. You agree:

1.1.1. to produce the Work described in **Schedule A** in the formats specified by any guidelines we may issue and provide to you.

1.1.2. to deliver the Work, including any deliverables, in accordance with the mutually agreed upon time schedule, which is set forth in **Schedule A**.

1.1.3. to revise or edit your Work per standard professional procedures.

1.2 After we accept the Work, we shall have the right (in our sole discretion) to determine whether or how to distribute (publish, broadcast, or otherwise distribute), or not, as the case may sometimes be. However, you are entitled to the Production Fee (described in the next session) even if we choose not to distribute the Work.

1.3 You will provide us with background information, including fact-checking materials, data, technical information, information about subjects or any other materials or information related to the Work that we reasonably request.

## 2. FUNDING AND PAYMENTS

2.1 Production Fee. We will pay you a Production Fee for the accepted Work, which includes payment for all of the rights you are granting to us under this Agreement. We will pay the Production Fee within thirty days of our acceptance of Work, as well as receipt of an invoice from you, unless different payment terms are stated in **Schedule A**.

2.2 Reimbursable Expenses. In addition to the Production Fee, we will pay you for any expenses pre-approved by us in writing. In order to be reimbursed expenses, you will need provide us with an itemization of the expenses on your invoice, and copies of all receipts.

2.3 Kill Fee. We will pay you a kill fee of fifty percent (50%) of the Production Fee for a Work that is killed after significant work has begun but prior to completion. The kill fee for a completed Work is one hundred percent (100%). After a kill fee is paid, all rights revert to you.

### 3. OWNERSHIP, COPYRIGHTS & CREDITS

3.1 Copyright: You retain the copyright in the Work.

3.2 Grant of Rights: You grant us the following rights in the Work: a perpetual, royalty-free, worldwide license to publish, reproduce, distribute, display, perform, transmit, transcribe or disseminate the Work, in all station-branded formats, media or platforms whether now known or hereafter invented.

3.3 Exclusivity: The rights granted shall be exclusive to us for a period of [seven days]. After that, all rights shall be non-exclusive.

3.4 Assignability of Rights: We may assign the rights you are granting to us to third parties to the extent that we make our content available through station-branded platforms, including social media, apps, state or regional broadcast networks, or other station branded media. Should the station receive compensation for your work, the station will share revenue with you, with 70% going to you and 30% to the station.

3.5 Reversion of Rights: If, for any reason, we do not accept or choose not to use the Work, we will notify you in writing, and all rights in the Work will revert back to you.

3.6 Credits: We agree to credit and promote each other on-air and in after-broadcast and other media uses consistent with industry practice to include acknowledgement that the Work was originally created by you for us.

3.7 Awards: If Producer or the Station desire to submit the Work for a contest or award, we will each use our best efforts to notify the other so we can coordinate submissions. We each agree to give the other appropriate credit. If Station submits the Work for a contest or award, the Station shall pay any entrance fees.

3.8 Name and likeness: You grant us the right to use your name, likeness and biography for all editorial, publicity and promotional purposes in connection with the Program, Deliverables, or Station in general, in any manner or media whether now known or hereafter developed.

### 4. PRODUCTION TERMS

4.1 You will notify us of all distribution (such as broadcast) rights that need to be cleared for the distribution of the Work, such as music, performance, or literary rights clearances. We will ensure that all licenses are obtained, and paid for.

4.2 If appropriate to your Work, you will provide us with documents such as releases, clearances, permission forms, etc.

### 5. INDEPENDENT CONTRACTOR

This contract template is provided as a service to producers and public radio stations by AIR <AIRmedia.org>. It was created in consultation with attorney Spencer Weisbroth in January 2014.

You are an independent contractor. You shall perform your services as an independent contractor, and not as an employee. Nothing contained in this Agreement shall be interpreted to be inconsistent with this relationship. Accordingly, you are responsible for the payment of all income, social security and other self-employment taxes, insurances, and any and all other payments relating to your duties and obligations under this Agreement. Obviously, this Agreement does not create any association, partnership, joint venture, or agency relationship between you and us.

## 6. WARRANTIES AND INDEMNIFICATION

6.1 You represent and warrant that:

6.1.1 The Work is your own original work.

6.1.2 The Work is factually accurate.

6.1.3 The Work is not defamatory.

6.1.4 The Work does not infringe on anyone's intellectual property; privacy, or publicity rights, and does not plagiarize another's work.

6.1.5 If appropriate, that the subjects of the Work have assented to their participation and to the broadcast of their voices.

6.1.6 If you include any material in the Work that is not original to you, you will notify us in advance, and assist us in obtaining any necessary clearances, rights, licenses or releases.

6.1.7 The Work has not been previously published in any form, in whole or in part. If the Work (or any element contained in the Work) has been previously published or used in another way, you will disclose this to us prior to our acceptance of the work, and we may determine if we will waive the requirement that the Work be previously be unpublished and accept the Work.

6.1.3 You have the knowledge and authority to enter into this Agreement.

6.2 We shall indemnify you against claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees) that result from any unauthorized use of the Work by us or by our licensees, or from any breach of our representations, warranties or obligations

6.3 You shall indemnify us, including our sub-licensees, employees, agents, and assignees against claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees) that result from any breach of your representations, warranties or obligations.

6.4 If a claim is made against either party arising out of the use of the Work, the other party agrees to cooperate fully, as needed, to defend against it.

## 7. GENERAL PROVISIONS

7.1 This Agreement represents the our entire understanding relating to the subject matter of this Agreement and supersedes and replaces any previous documents, correspondence, conversations, or

other written or oral understandings. This Agreement may be modified only in writing signed by the parties.

7.2 This Agreement shall be construed under the laws of the [State of California], without regard to its conflicts of laws provisions.

7.3 Dispute Resolution.

7.3.1 The parties will use their best efforts to informally resolve any disputes, claims and controversies arising out of or relating to this Agreement or its breach (a "Dispute").

7.3.2 If a Dispute cannot be informally resolved, then the Dispute will be settled by binding arbitration in accordance with the then-current Commercial Rules of the American Arbitration Association ("AAA"), and judgment upon the award entered by the arbitrator may be entered in any Court having jurisdiction. Costs of arbitration, including attorney's fees incurred in arbitration, as determined by the arbitrator, together with those incurred by the prevailing party in court enforcement of the arbitration award, must be paid to the prevailing party.

7.3.3 Arbitration will be conducted in [\_\_\_\_\_ [typically location of Station]], and the award rendered in United States dollars.

7.3.4 If a party either dismiss or abandon his/her/its claim or counterclaim before the hearing, the other party will be deemed the "prevailing party" pursuant to this Agreement. Should both parties receive judgment or award on their respective claims, the party in whose favor the larger judgment or award is rendered will be deemed the "prevailing party" pursuant to this Agreement.

7.4 Your agreement with us for the production of the Work is personal, and so you may not assign or delegate the overall creation of the work to someone else, though you may subcontract, in conformance with good journalistic practice, with others that provide services to you.

7.5 No waiver of any term or condition of this Agreement shall be construed as a waiver of any other term or condition; nor shall any waiver of any default under this Agreement be construed as a waiver of any other default.

7.6 Neither party shall be in breach of this Agreement to the extent either party is unable to perform due to any event of "force majeure" such as fire, earthquake, epidemic, war, strike, riot, and similar acts or events not within the control of either party. If this period exceeds [fifteen (15) days], either party may, by written notice to the other, terminate this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES FOLLOWS ON NEXT PAGE]

IN WITNESS WHEREOF, each of the parties hereto has duly executed and delivered this Agreement as of the date first written above.

**PRODUCER:**

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Complete Address

(\_\_\_\_\_)\_\_\_\_\_/ (\_\_\_\_\_)\_\_\_\_\_  
Phone Number Facsimile Number

\_\_\_\_\_  
Email address

**STATION:**

By: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Name and Title Date

*This template agreement was developed by AIR with attorney Spencer Weisbroth. It is designed to support stations seeking to tap public media's talent pool to strengthen their local identity and service, and the interests of freelancers seeking to expand their opportunities to contribute to public media outlets. AIR and PRNDI recommend a fee schedule designed to support this agreement. It can be found at AIRmedia.org in the Resource section.*



## SCHEDULE A

PRODUCTION FEE:

DESCRIPTION OF WORK:

WORK DELIVERABLES:

SCHEDULE OF DELIVERABLES: