

## SERVICE AGREEMENT (NON-EXCLUSIVE)

The following, when accepted by You (whether as an individual, or if applicable, acting as the authorized legal representative for a You, a group, company and/or corporation, hereinafter referred to in this Agreement as “You”, “Your”) and Us (i.e. Cine-O-Matic, Inc, collectively with our licensees and assignees hereinafter referred to in this Agreement as “Us” “We ”and “Our” or as "Cine-O-Matic") shall constitute our Agreement. We are a Minnesota Corporation with offices located at 712 Ontario Avenue W., Minneapolis, MN, and We are the owner and operator of the Web pages at cineomatic.com (the “Site”).

1. **Service Agreement.** You are engaging Us to provide integrated management and support services related to your Distrify account for the sale of your Media including digital downloads, online video streams, and the sale of other related "Physical Products" such as DVDs, Blu-Rays, CDs, clothing, posters, books etc. (Collectively referred to as "**Content**"). For purposes of this agreement your supplied film or motion picture in any and all formats will be referred to as "**Media**" You are engaging us to act as your agent related to the Distrify Account and to provide the services set forth below in this Section 1.

Our full-service management solution includes:

- Professional video encoding, compression and format conversion
- Distrify Player setup, design, and maintenance
- Distrify Player Gallery setup, design, and maintenance
- Monthly profit distributions and performance data
- Assistance with web integration for your website and Facebook.

The Distrify Account will be set up in Our name. In addition you may, in your discretion, engage use to provide additional services provided by Us as listed on [Our website](#) such as DVD and Blu-ray authoring, post production services, manufacturing and on-demand 24hr. DVD manufacturing and fulfillment. Please contact us directly if you You wish to contract for any of Cine-O-Matic's other services.

2. **Your Duties and Obligations .** You agree to the following:
  - (a) You acknowledge that you are over 18 years of age.
  - (b) You have read and understand the [Copyright Disclosure](#) and the [Privacy Notice](#).
  - (c) You have read and understand the [Distrify Terms of Use](#).

- (d) During the initial account registration You will provide to Us Your full name, address, email, the name of Media, a description of your Content and images that represent the content that you will be selling. You will also provide one image to represent your Media that will be used in our online Distrify Player Gallery.
- (e) During the initial account registration, You will be given the option to opt out of being included in Cine-O-Matic's Distrify Player Gallery.
- (f) When you register Your Media and related content with Us You will set your own sale price for each digital download, video stream, and physical product being sold, putting You in control of your profits. Notwithstanding anything herein to the contrary, We reserve the right to refuse and/or delete any submissions which We deem to be inappropriate to sell, advertise and/or distribute through the Site. This right shall be exercised in Our sole discretion.
- (g) With the exception of DVDs and Blu-Rays distributed or fulfilled through Cine-O-Matic you understand and agree that We are providing only management services as your agent for the marketing of Content by You and that you will be responsible for all delivery and fulfillment of Content and for the reporting and payment of any sales, use, value added or other taxes related to the sale of Content. You acknowledge that, by only providing You with the ability to publish and distribute Your own Content to which You have a license, We are acting only as passive conduits for the distribution and/ or publishing of such Content. We have no obligation to You or any third party, and undertakes no responsibility, to review Your Contents or the products listed therein to determine whether any such Content may incur liability to third parties. Notwithstanding anything to the contrary herein, if We believe, in Our discretion, that Your Content or other materials provided by You may create liability for Us or harm other users of Our services, then You agree that We may take any actions with respect to Your Content that We believe are prudent or necessary to minimize or eliminate Our potential liability or to protect other users of Our websites or services.
- (h) You warrant and represents that the Media has been produced by You and will be delivered to US free and clear of all liens (except those specifically disclosed Us) and that all elements needed by Us for distribution of the Media in all digital video media forms will be provided by You to US.
- (i) You will pay the annual subscription fee at the time of registration. We use subscription based billing for each account. The current rate is at a rate of \$360 per year. This fee will be deducted from your monthly payment if applicable, otherwise it will be drawn from an authorized credit card on the 1<sup>st</sup> of each year. Those payments made by You will cover and

the setup, design, and maintenance of the Distrify player and gallery (if applicable), and cover the digital encoding and storage of your Content and Digital Masters. Because we use automatic annual billing, you can cancel your service at anytime as provided in Section 5 or stay as long as you like. This fee does not include fulfillment services referred to in the following section 2(j).

- (j) If you want Us to provide fulfillment services for physical DVDs and/or Blu-rays, after paying Your annual subscription fee, We will ask that You deliver 11 units of each DVD and/or Blu-Ray being sold using the Distrify service to our main office address: 712 Ontario Avenue, W., Minneapolis, MN, 55403. 1 copy will be reserved for our library and, 10 will be Used for product inventory. When the inventory becomes 2 units or less, We will request that You ship additional copies within 3 days to maintain 10 copies in stock. We make no guarantees whatsoever about there being any minimum sales or uses of Your Content. Instead of providing units to Us for resale you may enter into an On Demand Manufacturing Contract with Us. Please contact us if you are interested in On Demand Manufacturing Services. If you want Us to provide fulfillment as provided above your Media must be included in Our Distrify Player Gallery. A separate fee schedule is provided for fulfillment services. Please contact us for the current fee schedule.
- (k) If you do not want Us to provide fulfillment services described above but you want to be included in the Cine-O-Matic Distrify Player Gallery, You will deliver to US 1 unit of each DVD and/or Blu-Ray.
- (l) The Territory in which We may exercise our rights under this Agreement is the entire world.
- (m) During the Term of this Agreement and throughout the Territory you authorize us to:
  - Reproduce and convert Your Media into digital form ("Digital Distribution Files(s)");
  - Provide You with Distrify embed code that can be added to your own website or any other website as is permitted by that website owner for the purpose of selling your Content.
  - Perform and make available for promotional purposes, portions of Media ("Clips") that are created and supplied by You or Us by "streaming" to promote the license, sale and distribution of Digital Distribution Files;

- Use and perform in connection with the use of the Media or any exhibition or licensing or sale of the Media, in any form, any and all music, lyrics and musical compositions contained in the Media or recorded on the soundtrack of the Media;
- Promote, publicize, advertise, sell, distribute, and deliver Digital Distribution Files and associated metadata to purchasers who may use such Digital Distribution Files in accordance with usage rules agreed by Us;
- Use and authorize others to allow copies of a Digital Delivery Files to be distributed as so-called "conditional" downloads whether tethered to a device, time limited, play limited or otherwise;
- "Stream" and authorize others to "stream" Your Media
- Use and distribute any and all of the digital information conveying information regarding a Digital Distribution File, including, but not limited to Your name, the title of the applicable Media, and the production company name, and same shall be subject to the protection of Title 17, Section 1202 of the United States Copyright Law ("Copyright Management Information") as embodied in a Digital Distribution File;
- Display and electronically fulfill and deliver Promotional Materials used in connection with Your Media for personal use solely in conjunction with the applicable Digital Distribution File as provided herein;
- Use Our name and trademark and/or the name and trademark of any of Our licenses on trailers of the Media, and on all advertising and publicity relating to the Media, in such a manner, position, form and substance as We or Our licenses may elect;
- Cause trailers of the Media and prints and copies thereof to be exhibited, distributed, sold, leased, loaned, rented or used by every means, medium, process, method and device now or hereafter known;
- Publish and to license, and to authorize others to publish, in any language and in such forms as We may deem advisable, synopsis, summaries, pictures, and stories of, and excerpts from the Media, of not more than 7500 words in length, in newspapers, magazines, trade periodicals, booklets press books and any other periodicals and in all other media of advertising, publicity and literary known or hereafter discovered;
- Use, license and authorize others to Use the name, physical likeness or voice (and simulations or reproduction thereof) of any party rendering services in connection with the Media or of any character

depicted, described or referred to in the Media, for the purposes of advertising and publicizing the Media or Us, including any commercial tie-ins; and

- Use Your Media, Promotional Materials and metadata as may be reasonably necessary or desirable for Us to exercise Our rights hereunder and in furtherance of this Agreement.
- (n) You shall have the right at any time during the Term hereof upon written notice to Us to withdraw further authorization for the sale or other uses of Your Content and/or Your Promotional Materials. The foregoing shall not limit Your responsibility for sales and other uses of Content and/or Promotional Materials occurring prior to the implementation of such withdrawal and shall not limit in any way the rights of end users who have acquired the right to use Content or Promotional Materials.
- (o) **Valid Copyright.** You warrant that the copyright in the Content and in the literary, dramatic and musical material on which it is based or which is contained in the Media (i) will be valid and subsisting during the Term (as extended) with respect to each country or place of the Territory; (ii) is exclusively owned by You; (iii) that You solely owns and is free to transfer the rights in this Agreement free and clear. Subject to Our rights hereunder, insofar as We are concerned, all right, title and interest in and to (i) Your Content and Promotional Materials, (ii) the Digital Distribution Files, (iii) the Clips, (iv) all copyrights and equivalent rights embodied therein, and (v) all materials furnished by You, shall be and remain Your property.
- (p) You acknowledge and agree that You shall be responsible for and shall pay (i) any royalties and other sums due to artists, authors, production crew, makers, co-authors, copyright owners and co-owners producers and any other audio/visual royalty participants from sales or other uses of Your Media, (ii) all mechanical royalties or other sums payable to publishers and/or authors or co-authors of musical compositions embodied in Digital Distribution Files from sales or other uses of Digital Distribution Files (iii) all payments that may be required under any collective bargaining agreements applicable to You or any third party, and iv) any other royalties, fees and/or sums payable with respect to Your Content, and promotional materials, metadata and other materials provided by You to Us. You agree that the amount payable to You is inclusive of any so-called "Content maker royalties" that might otherwise be required to be paid for sales or exploitations pursuant to the applicable laws of any jurisdiction.
- (q) **Indemnification.** You shall defend, indemnify and hold Us, our officers, directors, employees, agents and any entity authorized by Us to

exhibit the Content, from and against any and all claims, damages, liabilities, costs and expenses, including attorneys' fees, arising out of or relating to the breach or alleged breach of any warranty, representation, obligation, undertaking or agreement made by You under or pursuant to this Agreement. Accordingly, if we are named a party in any claim or legal action You agree to reimburse Us on demand for any payments made in resolution of any liability or claim that is subject to indemnification under this paragraph 3(n). We shall promptly notify You of any such claim, and by obtaining and posting and maintaining an appropriate bond for Our benefit, You may assume control of the defense of such claim, provided that We shall have the right in all events to participate in the defense thereof.

- 3. Our Duties and Obligations .** We agree to the following:
- (a) We will provide Distrify embed code for You to sell Content including downloads, streaming media and other goods on Your website, Facebook™, Myspace™, and other websites.
  - (b) If you have over 10 distinct Media Products, if you so elect, we will create for You a Distrify Player Gallery.
  - (c) We will provide physical product storage, fulfillment and delivery of the Media products sold by Cine-O-Matic; including the management of the associated sales tax, VAT, packaging and shipping cost calculations. You agree that you are responsible for the fulfillment and delivery of all other Content including the reporting and payment of any associated sales tax, value added tax, packaging and shipping.
  - (d) We will pay you one hundred percent (100%) of "Net Income" (as defined in paragraph below). Net Income will be delivered to you within 30 days after Our receipt thereof by check or by deposit to your Paypal account. You will be responsible for any bank fees or other charges related to such Paypal withdrawals. "Net Income" means Our actual receipts from Distrify related to the sale of the Content, which is currently set at the Gross sale price minus a 30% transaction fee, reduced by any shipping fees, sales, use value added tax or other third party fees or taxes paid by us related to our fulfillment and delivery of your products. Any objection relating to any accounting statement or any legal action arising therefrom must be made (and any legal action commenced) no later than one year after the date the statement is rendered, and you hereby waive any longer statute of limitations that may be permitted by law.
  - (f) We will add Your Content and it's related Distrify player to Our Distrify Gallery automatically. You can use this as a sales destination if You do

not have Your own website. You can also request not to be included in our Distrify Gallery.

4. **Change in Services.** We reserve the right to change, amend and/or otherwise alter the services provided under this Agreement with equivalent or otherwise equal services without prior notice to You. You agree to receive administrative communications from Us in regards to the services, Your account, policy changes and system updates. If You do not agree to such changes, then You may terminate use of the services within 30 days of notice of the change and such change will not affect your account. We will not refund any set up or monthly fees or payments in the event of such termination except for any increased fees charged before we received notice of termination. .
5. **Term.** Either you or I can terminate this Agreement upon five business days notice. A business day is any day first class U.S. mail is delivered excluding Saturdays. Except for Our library copy, We will return, at your expense any units of the Content in our possession or You can ask us to destroy any sale copies in our possession. Any indemnity provisions and any obligation to make payments, whether by You or Us, shall continue after the termination of this Agreement. Notwithstanding any other provision of this Agreement, if We file, or consent to, a petition in bankruptcy, You shall have the right to immediately terminate this Agreement and to cause all rights conveyed by the Agreement to revert to You. The expiration of the Term of this Agreement shall not relieve either party from their respective obligations incurred prior to or during the Term. Accordingly, provisions of this Agreement will continue to apply even after the expiration of the Term.
6. **Right to Assign.** This Agreement will be binding on, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns. We may freely assign Our rights and obligations under this Agreement in whole or in part to any person, firm or corporation. Any assignment by either party of Our rights, duties and obligations under this Agreement, whether voluntary or involuntary, or by operation of law, shall be subject to the rights of the other party and shall not operate to relieve the assigning party of any of Our duties or obligations or deprive the non-assigning party of any of Our rights.
7. **Representations and Warranties and Limitations of Liability.** You represents and warrants that (i) You are over 18 years of age and have the right and are free to enter into this Agreement, to grant the rights contained in this Agreement, and to fully perform the obligations hereunder; (ii) You have secured, or prior to delivery of the Content shall secure, all rights, releases, clearances and/or licenses with respect to all materials and elements embodied in the Content required for US to exercise

the rights granted to it under this Agreement; (iii) the Content, when delivered, shall be free and clear of any liens or claims by any third party (except as disclosed herein); (iv) the Content, when delivered, and the recording materials employed in the Content, shall be of a technical quality complying in all respects with the specifications set forth in this Agreement; (v) to the best of Your knowledge, no claim or litigation is pending or threatened with respect to the Content, any element of the Content, or any right in the Content, and You shall notify US promptly on learning of any such claim or litigation; (vi) neither the Content or the exercise of Our rights under this Agreement shall infringe on or violate the privacy or, or constitute a libel or slander against, or violate any copyright, trademark, literary, artistic, dramatic, musical or any other right of any person, firm or corporation.

WE DO NOT MAKE, AND HEREBY DISCLAIM, ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WE DO NOT WARRANT THAT THE INFORMATION OR SERVICE WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE. THE AGGREGATE LIABILITY OF CINE-O-MATIC ARISING FROM OR RELATING THIS AGREEMENT OR YOUR USE OF THIS SITE (REGARDLESS OF THE FORM OF ANY ACTION OR CLAIM – E.G. CONTRACT, WARRANTY, TORT, AND/OR OTHERWISE), IS LIMITED TO THE TOTAL AMOUNT PAID BY YOU TO CINE-O-MATIC FOR THE SERVICES PROVIDED BY CINE-O-MATIC, IF ANY. CINE-O-MATIC SHALL NOT IN ANY CASE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS OR REVENUE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. **Notices.** All notices required to be given under this Agreement shall be given in writing either by personal deliver or by mail or fax or e-mail to the parties at their respective addresses proved upon registration or to such other address as a party may designate from time to time. Notice by e-mail of Fax are only valid if and when receipt is acknowledge by the recipient. Notice by mail shall be deemed given three days after it is posted.
9. **No Partnership.** Nothing in this Agreement shall be construed to create any association, partnership or joint venture between Us and You. It is specifically understood that You have produced the Content as an independent contractor with no right to bind US in any way, that that any and all obligations incurred by You in connection with the Content will be at Your own risk without obligation of any kind on the part of US.

10. **Procedure in Event of Breach.** In the event either party contends that the other has breached this Agreement, the claiming party must provide written notice thereof to the alleged breaching party, which shall there upon have a period of ten (10) business days within which to remedy the breach. No rights shall arise with respect to such breach unless the alleged breaching party fails to remedy the same within said period. If the breach is not cured within the allotted period, the non-breaching party will have the right to initiate remedies pursuant to Section 11.
11. **Arbitration.** Any disputes that arise from this Agreement, shall be submitted to conciliation court in Ramsey County Minnesota or to binding arbitration by a single arbitrator in Ramsey County, Minnesota, under the rules of the American Arbitration Association. In connection with any such arbitration, the arbitrator shall be empowered to administer discovery rules in conformity with the Minnesota Code of Civil Procedure, subject to reasonable discretion of such arbitrator. Reasonable efforts shall be made to select an arbitrator who is familiar with and experienced in matters concerning the rights addressed in this Agreement. This Agreement to arbitrate shall not apply to legal actions or claims initiated by persons or entities who are not a party to this Agreement. In the event of a breach of this Agreement by Us, Our damages shall not exceed the amount previously paid to Us by You.
12. **No Waiver.** A waiver by either party of any of the terms and conditions of this Agreement in any one instance shall not be deemed to be a waiver of such term or condition for the future, or of any subsequent breach thereof. All rights, remedies, undertakings, obligations and agreements contained in this Agreement shall be cumulative and none of them shall limit any other remedy, right, undertaking, obligation or agreement.
13. **Force Majeure.** Neither party shall be deemed in default or otherwise liable under this Agreement due to an inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of a public enemy, embargo, war, act of God, or any municipal, county, state, national or international ordinance or law or any administrative, judicial or similar orders (which orders are not the result of any act or omission to act which would constitute a breach or default hereunder), or any failure or delay of any transportation, power, or other essential thing required, or similar causes beyond the party's control.
14. **Governing Law.** This Agreement is made and entered into in the County of Ramsey, State of Minnesota, and shall be subject to the laws of the state of Minnesota in all respects. You consent to the exclusive

jurisdiction and venue of the Minnesota Courts and/or Federal Courts having jurisdiction in Minnesota.

15. **Entire Agreement.** This Agreement contains the entire agreement between the parties respecting the matters set forth herein. There are no oral agreements between the parties hereto affecting this Agreement or any of the matters set forth herein. This Agreement supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto, and none thereof shall be used to interpret or construe this Agreement. The titles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.
  
16. **Amendment/Modification.** We reserve the right to change, modify, add to or remove all or part of this Agreement because of frequent changes in Internet technology and applicable law. As such, you should check these Terms and Conditions from time to time for such changes. In the event that You do not consent to any such proposed changes, Your sole recourse shall be to terminate the Term of this Agreement by providing written notice to Us as provided above, and Your failure to do so shall constitute Your acceptance of such changes.