

- V. **Technical Supervisor** - A Technical Supervisor will be required at all times the Property is in the possession of the Licensee. The License Fee excludes Technical Supervisor fees. The Technical Supervisor shall be hired as Local 44 Construction Foreman, unless otherwise noted, on Licensee's payroll and shall be compensated according to the Local 44 pay rate effective on the date(s) of the License Period. If Licensor's Technical Supervisor is unavailable during the License Period, Licensor's Technical Assistant shall be hired on Licensee's payroll and shall be compensated \$200.00 for the first eight (8) hours, or fraction thereof, and \$37.50 for each hour thereafter. Licensor shall be given notice of call times at least 10 hours in advance.
- VI. **Early Termination** - The parties acknowledge that cancellation of this Agreement by Licensee prior to the start of the License Period may result in lost bookings and other losses that would be impossible to determine. THEREFORE, THE PARTIES AGREE THAT THE PAYMENT MADE IN SECTION 4.a) ABOVE MAY BE RETAINED BY LICENSOR AS LIQUIDATED DAMAGES AS THE SOLE REMEDY FOR EARLY CANCELLATION OF THIS AGREEMENT. Early cancellation shall include voluntary cancellation by Licensee, and cancellation by default, including failure to make timely payment or provide adequate insurance in a timely manner. In the event of early cancellation, Licensee shall have no further rights under this Agreement. In the event the Property is lost, stolen or damaged prior to the start of the License Period without regard to fault, the Licensor may elect to cancel this Agreement by giving written notice and refund all monies paid by the Licensee. Upon cancellation, Licensee shall have no further rights hereunder except refund of all monies paid.
- VII. **Maintenance and Repair** - Licensee shall keep and maintain the Property in good and safe operating condition.
- VIII. **No Warranty of Fitness or Suitability is Made** - Licensee acknowledges that the Property rented was selected based on Licensee's own assessment, and not based on any representation made by Licensor of fitness, suitability, durability, or quality of the Property. Licensor makes no other warranties of the Property, including merchantability, other than what is written in this agreement. The Property is rented As-Is. Licensee rents the Property at its own risk.
- IX. **Loss and Damage** - Licensee shall bear all risk of loss, damage, theft, disappearance, and destruction of the Property during the License Period and any other time the Property is in the possession of Licensee ("Loss or Damage"). Loss shall include economic loss, consequential damages to Licensor, seizure by any government agency, and all other losses, even if not covered by insurance. Licensee acknowledges that Licensor rents sets, props and equipment, based on availability, and lost or damaged Property will not attract customers or generate new rental proceeds. Therefore, economic loss will at a minimum include rental rates for the period the Property is unavailable, until repaired or replaced at Licensee's expense. Licensee shall promptly notify Licensor of Loss or Damage. In the event of Loss or Damage not covered by insurance, Licensee shall at Licensor's sole election a) replace the Property concerned with similar equipment in good repair, condition and working order, b) repair the Property concerned to good repair, condition and working order, or c) pay Licensor in cash the "fair market value" for the Property concerned. Upon payment of "fair market value," this Agreement shall terminate in respect to that Property concerned only, which title shall pass to Licensee As-Is without an express or implied warranty. In the event the Property is lost, stolen or damaged prior to the start of the License Period without regard to fault, the Licensor may elect to cancel this Agreement by giving written notice and refund all monies paid by the Licensee. Upon cancellation, Licensee shall have no further rights hereunder except refund of all monies paid.
- X. **Use of Property** - Licensee shall use the Property in a safe, lawful manner, not inconsistent with normal operation. Licensee assumes responsibility and exclusive liability for safe use and operation of the Property. Notwithstanding the foregoing, if Licensor or its Technical Supervisor(s) notifies Licensee of unsafe or inappropriate use of the Property, Licensee agrees to immediately take action to correct the situation, and Licensee's failure to act effectively shall be a material breach of this Agreement. Licensee shall not use or allow the use of the Property in a manner that violates any law of any jurisdiction applicable, or violates any rule or restriction of the applicable insurance policy, and Licensee indemnifies, defends and holds harmless Licensor from any claims, fines, forfeitures, damages, penalties and such resulting from any violation by Licensee, its employees, agents, contractors or officers.
- XI. **Indemnification** - Except to the extent arising from the gross negligence or willful misconduct of the Licensor, Licensee shall indemnify and hold harmless Licensor and Licensor's principals, employees, agents, subsidiaries, and sub-contractors from all damage, loss, theft, or destruction of sets, props or equipment, and all losses, liabilities, damages, injuries, claims, demands, fines, penalties, costs and expenses of every kind including reasonable, outside legal fees and costs in defending against or prosecuting claims, directly arising out of or in

connection with the use of the Property by the Licensee or its agents, employees, and other third parties, whether or not authorized, during the License Period or any extension thereof, whether or not Licensor provides Technical Supervision.

- XII. **Default** - This Agreement shall be deemed in default if Licensee a) fails to make a required payment in a timely manner, b) fails to provide required proof and continuously maintain all necessary insurance, c) misuses the Property, d) violates any law of an involved jurisdiction, d) holdover without Licensor's written permission, or e) has a trustee or receiver appointed to manage substantially all its assets. If a default is not cured within 24 hours of Licensor's tender of written notice, irrespective of holidays or weekends, Licensor has the right among its other rights in equity and law, the right to take immediate possession of the Property as permitted by law, without further notice or process of law if permitted, and terminate all License of Property to Licensee. All payments due Licensor under this Agreement shall become immediately due and payable for the full License Period plus any holdover period, and Licensee shall be liable for any additional expenses, including costs of repossession and reasonable outside legal fees and costs which Licensor may incur as a result of Licensee's default.
- XIII. **Force Majeure** - An occurrence of a Force Majeure event suspends either party's obligation to perform under this Agreement. A Force Majeure event is a catastrophic event such as earthquake, flood, tornado, fire, or other event making performance impossible that is beyond the party's control, such as industry-wide strike, riot, and war. The loss or absence of a key performer or crew member as the result of a business dispute is not a Force Majeure event, nor is the failure or late payment of production financing or money transfers. If a Force Majeure event continues for five days or more, either party may terminate this agreement by written notice to the other, and early termination provisions shall not apply. Force Majeure shall not extinguish Licensee's liability for loss, damage, or theft of the Property, as well as injury and third party personal injury and property damage.
- XIV. **Rights Granted** - This Rental Agreement does not convey title, right or interest to the Licensee in the Property except as a Licensee. At all times sets and equipment shall remain the personal property of Licensor exclusively. Licensee shall keep the Property free of all liens and claims, and shall not engage in activities that may expressly or by implication impair or encumber Licensor's rights to the Property. Upon termination of the License Period, Licensee shall return the Property at its own expense to Licensor at its premises in the same condition as when received by Licensee, normal wear and tear from proper use excepted. The Property shall remain the property of the Licensor even though it may be bolted, cemented, or affixed in a permanent manner to real property, and if affixed or embedded at Licensee's request, removal shall be at Licensee's sole expense. Licensee, its successors and assigns, shall have all right, title and interest of every kind to all photographs and recordings made in connection with the Production which depict Licensor's sets, stages and equipment, including designs and logos, (the "Recordings") for exhibition, exploitation and promotion without limitation, in all media whether known or hereafter devised, in perpetuity.
- XV. **Waiver of Injunctive Relief** – Licensor acknowledges that, in the event of a breach of this Agreement by Licensee or any third party, the damage, if any, caused Licensor thereby will not be irreparable or otherwise sufficient to entitle Licensor to seek or obtain injunctive or other equitable relief against the exhibition or other exploitation of the Production. Licensor acknowledges that its right and remedies in any such event will be strictly limited to the right, if any, to recover damages in an action at law, and Licensor will have neither the right to rescind or terminate this Agreement or any of Licensee's rights hereunder, nor the right to enjoin the production, exhibition, or other exploitation of the Production or any other Production, motion picture or otherwise, or any subsidiary or allied rights with respect thereto, nor will Licensor have the right to terminate its obligations hereunder by reason of such breach.
- XVI. **Miscellaneous Provisions** –
- a. This agreement constitutes the entire understanding between the parties, and may not be subsequently amended or modified except by a written document signed by both parties.
 - b. This Agreement shall be binding upon the parties' successors, Licensees and assigns as if they originally executed this Agreement. Licensee warrants that its successors, Licensees and assigns shall be contractually obligated to abide by the terms of this Agreement, and shall be jointly and severally liable.
 - c. A forbearance to exercise rights under this agreement shall not be a waiver of any right, which shall continue and remain in force. The parties agree not to recognize or assert implied waivers.
 - d. This Agreement shall be governed and interpreted by California law applicable to agreements executed and wholly performed in California.

e. All disputes and actions between the parties shall be resolved by binding arbitration under AFMA Rules of International Arbitration ("AFMA Rules") in effect at the time of filing, and if no longer in existence, rules of the American Arbitration Association. Parties agree to augment the arbitration rules with pre-trial discovery to the extent permitted in California Code Civil Procedure § 2016 et seq. (Civil Discovery Act of 1986) in effect at the time the action is filed. Arbitrations shall be held in Los Angeles, California, and the arbitrator's award shall be enforceable by any court of law in any jurisdiction.

f. If any provision of this Agreement is deemed illegal or unenforceable, the remainder of the Agreement shall remain valid and enforceable.

g. Notices shall be in writing, and deemed given when received. Notices may be faxed, and deemed received when sent, provided a copy is also mailed First Class to the party's address first listed above and postmarked the same day, or to any other address provided in writing before notice is sent. Notices may also be delivered by courier, or express mail or FedEx, and deemed received when signed for.

h. The headings in this Agreement have no legal significance, and are for convenience only.

i. Licensee warrants that the Property shall only be used for commercial purposes in connection with the Production.

j. In the event of a dispute, the prevailing party shall be entitled to recover costs and attorney's fees.

k. This Agreement may be signed in counterparts, and by fax, each which may be deemed an original.

l. This Agreement is not entered to benefit a third party.

m. The persons executing this Agreement warrant they have authority to bind the parties hereto.

<p><u>AGREED AND ACCEPTED BY:</u></p> <p>LICENSOR:</p> <p>X_____ DATE:_____</p> <p>PRINT NAME:_____</p>	<p><u>AGREED AND ACCEPTED BY:</u></p> <p>LICENSEE:</p> <p>X_____ DATE:_____</p> <p>PRINT NAME:_____</p>
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