

LICENSE AGREEMENT FOR USE OF SPACE FOR FILMING

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

KNOW ALL BY THESE PRESENTS:

This **LICENSE AGREEMENT FOR USE OF SPACE FOR FILMING** (“License”) is made on the date signed by the Director of the Houston Airport System (“HAS”) (“Effective Date”), a department of the **CITY OF HOUSTON, TEXAS** (“City”), a municipal corporation and home-rule city of the state of Texas, principally situated in Harris County, Texas, by and between **NAME OF COMPANY** (“Licensee”), a **TYPE OF COMPANY** authorized to do business in the state of Texas. The City and Licensee are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

WHEREAS, the City is the owner of George Bush Intercontinental Airport/Houston, William P. Hobby Airport and Ellington Airport ("Airport(s)") located in the City of Houston, Harris County, Texas, which is under the control and management of the City’s Houston Airport System (HAS); and

WHEREAS, a License must be obtained for all commercial photography including, without limitation by means of picture, still, or video device photography (collectively referred to as “Film” or “Filming”) conducted on property (both real and personal) owned, leased, occupied, or under the control of HAS (hereinafter referred to as the “HAS Property”); and

WHEREAS, Licensee has requested to use certain areas of _____ Airport, (“Licensed Premises”), as shown on Exhibit C, in connection with the filming of **TYPE NAME OF PROGRAM** (“Program”); and

WHEREAS, Licensee submitted a **FILMING LICENSE APPLICATION** (“Application”) to HAS;

WHEREAS, HAS reviewed and approved Licensee’s submitted Application for the use of the Licensed Premises; and

WHEREAS, HAS Property is a security sensitive environment and certain restrictions may be imposed to ensure no Filming interferes with the integrity or safety of the ongoing operations of aviation commerce related activities, or unduly inconveniences the public using an airport within the Houston Airport System.

NOW THEREFORE, the Parties here by agree as follows:

1. DEFINITIONS

1.1. As used in this License, the following terms have the meanings set out below:

1.1.1. “City” is defined in the Preamble of this License and includes its successors and assigns.

1.1.2. “HAS Director” means the Director of the Houston Airport System or any person designated by the HAS Director to perform one or more of the HAS Director's duties under this License.

- 1.1.3. "Houston Airport System" or "HAS" means the City of Houston department responsible for the administration of the City's three municipal airports: George W. Bush Intercontinental Airport ("IAH"), William P. Hobby Airport ("HOU"), and Ellington ("EFD").
 - 1.1.4. "Licensee" is defined in the Preamble of this License and includes its successors and assigns and its authorized representative.
 - 1.1.5. "Licensed Premises" means the area(s) of HAS Property that Licensee is authorized to use for Production and set forth in Exhibit B, Approved Filming Schedule and Locations.
 - 1.1.6. "Production" means the Licensee's operation of commercial photography including, without limitation by means of picture, still, or video device photography on the Licensed Premises.
 - 1.1.7. "Program" means the commercial photography including without limitation by means of picture, still, or video device photography resulting from Production and identified in the Preamble of this License.
 - 1.1.8. "Scheduled Period" means the start and end dates of Production.
- 1.2. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular include the plural.
 - 1.3. The word "shall" is always mandatory and not merely permissive.

2. RIGHTS GRANTED

- 2.1. The City, as owner of HAS Property and portions thereof, grants Licensee a revocable, non-exclusive license to use the Licensed Premises and the right to Film HAS Property, including the right to record any sounds, for the limited purpose of producing the Program. Licensee is also granted the right of reasonable ingress and egress from HAS Property, as approved by the HAS Director or his designee. In exercising these rights, Licensee may enter and assemble upon HAS Property such personnel and equipment as the HAS Director may approve, provided that that Licensee is solely responsible for any and all costs associated with Licensee's access granted under this License.
- 2.2. Licensed Premises shall include, without limitation: (i) any signs, logos, and verbiage located in, on, or about the Licensed Premises or any part thereof by any fictitious name, and (ii) the right to the attribute of any fictitious events as occurring on Licensed Premises.
- 2.3. Licensee shall have the non-exclusive right to use any audiovisual materials recorded on Licensed Premises during the Scheduled Period (the "Material") in the Program, and as part of the Program only, including Program distribution, transmission, display, performance, publication, licensing, viewing, and promotion, in any media where now known or hereafter devised, worldwide and in all languages, for the duration of the copyright of the Program (including renewals and extensions thereof).

- 4.3. Licensee is responsible for any damage to HAS Property resulting from Licensee's Production. Licensee shall make payment to the City within 30 days of receipt of an invoice.

5. REPRESENTATIONS AND WARRANTIES

- 5.1. The City has the right to enter into this License to grant all rights granted under this License. The permission of no other party is necessary for Licensee to exercise its rights hereunder, and the individual signing this License on its behalf has the full right, power, and authority to do so.
- 5.2. Licensee has obtained, or prior to the commencement of the Scheduled Period, shall obtain, all relevant consents, disclaimers (including of any privacy, publicity, or other intellectual property rights), or licenses from any third parties whose likenesses or intellectual property may appear in the Material (including, without limitation, individuals, leaseholders, tenants and concessionaries at HAS).

6. TERM

- 6.1. This License becomes effective on the date signed by the HAS Director and terminates upon the City receipt of all fees owed pursuant to Licensee's acceptance of this License or **six months**, whichever occurs first, unless sooner terminated in accordance with this License.

7. TERMINATION

- 7.1. The HAS Director shall have the right to terminate this License at any time with or without cause. In the event of termination without cause prior to the commencement of the Scheduled Period, all amounts paid hereunder shall be refunded to Licensee. In the event of a termination without cause during the Scheduled Period, the parties shall negotiate in good faith a refund of a reasonable portion of all amounts paid hereunder. In the event of a termination for cause, no amounts shall be refunded to Licensee.

8. RELEASE

- 8.1. **LICENSEE AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS LICENSE, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.**

9. INDEMNITY

- 9.1. **LICENSEE AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS LICENSE INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:**

9.1.1. LICENSEE'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONSULTANTS' OR SUBCONTRACTORS' (COLLECTIVELY IN THIS SECTION 11.1.1-11.1.3., "LICENSEE") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

9.1.2. THE CITY'S AND LICENSEE'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONSULTANT IS IMMUNE FROM LIABILITY OR NOT; OR

9.1.3. THE CITY'S AND LICENSEE'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER LICENSEE IS IMMUNE FROM LIABILITY OR NOT.

9.2. LICENSEE SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS LICENSE AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. LICENSEE SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

9.3. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE LIABILITY OF LICENSEE FOR THE CITY'S CONCURRENT NEGLIGENCE SHALL NOT EXCEED \$500,000 OR THE STATUTORY MAXIMUM, WHICHEVER IS GREATER.

10. INSURANCE

10.1. Licensee shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, including any necessary endorsements, in duplicate form, before the Effective Date. Licensee shall maintain the following insurance coverage in the following amounts:

| COVERAGE | LIMIT OF LIABILITY |
|--|--|
| Workers' Compensation | Statutory for Workers' Compensation |
| Employer's Liability | <ul style="list-style-type: none"> • Bodily Injury by Accident \$100,000 (each accident) • Bodily Injury by Disease \$100,000 (policy limit) • Bodily Injury by Disease \$100,000 (each employee) |
| Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations Coverage | Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$2,000,000 aggregate |
| Automobile Liability | \$1,000,000 combined single limit for (1) Any Auto or (2) All Owned, Hired, and Non-Owned Autos |
| Media Liability: Copyright and Trademark Infringement | \$1,000,000 per claim and annual aggregate |
| Defense costs are excluded from the face amount of each policy. | |

Aggregate Limits are per 12-month policy period unless otherwise indicated.

10.2. The issuer of any policy (i) shall have a Certificate of Authority to transact insurance business in

Texas or (ii) shall be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide.

- 10.3. The City shall be named as an additional insured under this License. Each policy, except those for Workers' Compensation and Employer's Liability must designate the City (and its officers, agents, and employees) as Additional Insured parties on the original policy and all renewals or replacements.
- 10.4. Licensee waives any claim or right of subrogation to recover against the City, its officers, agents, or employees. Each policy, except professional liability, must contain an endorsement waiving such claim.
- 10.5. LICENSEE SHALL GIVE 30 DAYS' ADVANCE WRITTEN NOTICE TO THE HAS DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELED, MATERIALLY CHANGED OR NON-RENEWED. Within the 30-day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or nonrenewed so as to maintain in effect the required coverage. If Licensee does not comply with this requirement, the HAS Director, at his or her sole discretion, may immediately suspend Licensee from any further performance under this Agreement and begin procedures to terminate for default.

11 MISCELLANEOUS

- 11.1. No Partnership. Nothing contained in this License shall be deemed or construed by the Parties, nor by any third party, as creating the relationship of principal and agent, or of a partnership, or employer-employee, or of joint venture between Licensee and City, it being understood and agreed that no provision contained in this License, nor any acts of Licensee or City, shall be deemed to create any relationship between Licensee and City other than the contractual relationship established under this License.
- 11.2. Legal Construction. If any part of this License is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices the other party.
- 11.3. Sole Agreement. This instrument contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. Any modifications concerning these instruments shall be of no force and effect excepting a subsequent modification in writing, signed by both Parties.
- 11.4. Severability. If any part of this License is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.
- 11.5. Entire Agreement. This License merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind, exist between the Parties regarding this License.
- 11.6. Written Amendment. Unless otherwise specified elsewhere in this License, this License may be amended only by written instrument executed on behalf of the City and Licensee. The HAS

Director of the Houston Airport System is only authorized to perform the functions specifically delegated to him or her in this License.

- 11.7. Applicable Laws. This Licensee is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction. Venue for any litigation relating to this License is Harris County, Texas.
- 11.8. Notices. All notices required or permitted by this Licensee must be in writing and are deemed delivered on the earlier of the date actually received or the third day following: (i) deposit in a United States Postal Service post office or receptacle; (ii) with proper postage (certified mail, return receipt requested); and (iii) addressed to the other party at the address set out below or at such other address as the receiving party designates by proper notice to the sending party. The address for notices, requests, consents, and other communications shall be as follows:

| CITY | LICENSEE |
|--|----------|
| Director Houston Airport System P.O Box 60106 Houston, Texas 77205-0106 | |

- 11.9. Captions. Captions contained in this License are for reference only, and therefore, have no effect in construing this License. The captions are not restrictive of the subject matter of any section in this License.
- 11.10. Ambiguities. If any term of this License is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.
- 11.11. Successors and Assigns. Licensee and City shall not assign or otherwise transfer their rights and obligations under this License except with prior written consent of the HAS Director. Any prohibited assignment of the License is considered void.
- 11.12. Remedies Cumulative. Unless otherwise specified elsewhere in this License, the rights and remedies contained in this License are not exclusive; however, are cumulative of all rights and remedies which exist now or in the future. Neither Party may terminate its duties under this License except in accordance with its provisions.
- 11.13. **LICENSEE DEBT. IF LICENSEE, AT ANY TIME DURING THE TERM OF THIS LICENSE, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY CITY CONTROLLER IN WRITING. IF CITY CONTROLLER BECOMES AWARE THAT LICENSEE HAS INCURRED A DEBT, IT SHALL IMMEDIATELY NOTIFY LICENSEE IN WRITING. IF LICENSEE DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CITY UNDER THIS LICENSE, AND LICENSEE WAIVES ANY RECOURSE THEREFOR.**
- 11.14. Authority to Execute. Licensee and the City represent and warrant that each has full and lawful

authority to enter into and execute this License in its own capacity. The Director has the authority to sign on the City's behalf in accordance with Houston City Code Section 9-4(a)(11).

- 11.15. Electronic Signature. The Parties hereby agree that each Party may sign and deliver this License electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this License has been entered into and effective as of the Effective Date. The Parties have executed this License in multiple copies and/or counterparts, each of which is an original. Each person signing this License represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this License. Each Party represents and warrants to the other that the execution and delivery of this License and the performance of such Party's obligations hereunder have been duly authorized, and that this License is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

LICENSEE:

Name of Entity

By: _____

Name:

Title:

Tax ID No.:

CITY:

CITY OF HOUSTON, TEXAS

By: _____

Mario C. Diaz, Director

Houston Airport System

DATE SIGNED: WITNESS (if not a corporation):

("Effective Date")

HAS PUBLIC INFORMATION OFFICER

Name:

EXHIBIT A

HOUSTON AIRPORT SYSTEM FILMING POLICY

Media who may film or videotape at the airports free of charge Television news media, including those representing network affiliate stations, syndicated news magazine programs and major broadcast networks may record using film or videotape at any of the Houston Airport System's (HAS's) municipal airports, free, for regularly-scheduled news programs and round-the-clock news channels. These privileges continue for media outlets and the individuals who represent them provided they comply with the procedures for clearance set forth by the HAS.

Production companies and other entities which produce non-news television programming including but not limited to "reality TV" shows, movies, commercials, training films, in-flight movie promotional spots, public service announcements, announcements, etc. must enter into a License Agreement with the Houston Airport System to film or videotape at any one of Houston's three municipal airports.

The aforementioned "other entities," or potential licensees for an arrangement to film or videotape at HAS facilities, include but are not limited to universities or other educational institutions, public or private, that have TV production departments, facilities or equipment; airlines, rental car agencies, fixed base operators and the advertising agencies who represent them; and nonprofit organizations.

Before the License Agreement can be signed and considered valid, proof of liability insurance coverage in the minimum amount of \$1,000,000 must be provided to the Houston Airport System in writing. A certificate of the insurance coverage's limits must be attached to the application for a license agreement; otherwise the License Agreement application is considered null and void.

The License Agreement must specify the type of production that will be videotaped or filmed, the areas of the airport(s) that will be involved and/or included in the filming and/or taping, the airlines that will be involved and/or included in the production, and the start and end date of the proposed production.

Before the Houston Airport System enters into any License Agreement with any party, the airport system will require a copy of the entire script that will be used for the production or an executive-generated summary of its content. The Houston Airport System reserves the right to refuse to enter into any License Agreement with any party for any reason if it considers the proposed production to not be in the best interests of the Houston Airport System and/or the government of the City of Houston.

Duplicate, signed and dated originals of the License Agreement, reproduced by hard copy or by e-mail, will each be of equal force and effect as the original License Agreement.

The Houston Airport System reserves the right to prohibit access to any portion of airport property at its discretion, and will not grant access to any part of the facility or property which does not meet with the approval of the Houston Police Department, Houston Fire Department, the U.S. Department of Homeland Security and its member agencies, the Federal Aviation Administration (FAA) and any governmental or law enforcement agency with jurisdiction.

The licensee must also pay for expenses incurred by the Houston Airport System during the filming and/or videotaping of their production, including but not limited to personnel who help coordinate the filming or videotaping, police officers or airport security officers (ASOs) who protect property and ensure compliance with federal security regulations, electricians, building services (maintenance) employees, operations staff and other personnel whose assistance is deemed necessary by the Houston Airport System.

An invoice detailing the expenses incurred by the Houston Airport System during the filming and/or videotaping of the production will be issued no later than fifteen (15) days after the conclusion of the production. The payment of those expenses is due no later than fifteen (15) days after the receipt of the invoice.

If weather or other conditions prevent filming or videotaping as scheduled, such dates will be rescheduled at no additional charge at a time mutually convenient to the HAS and the licensee.

**EXHIBIT C
LICENSE FEE SCHEDULE**

| CHARGE | RATE |
|---|--|
| Security Deposit, Refundable upon HAS inspection | \$1,000 |
| Pre-Production Meetings/Scouting | \$50/hour |
| Production Fee for Exteriors (curbside, roadways, etc.) | 0 – 4 hours: \$250 4 – 8 hours: \$500 |
| Production Fee for Public Interiors (terminal and HAS buildings) | 0 – 4 hours: \$500 4 – 8 hours: \$1,000 |
| Production for Secure/Sterile Interiors (beyond TSA safety checkpoints) | 0 – 4 hours: \$500 4 – 8 hours: \$1,000 |
| Mandatory Escort | \$75/hour |
| Cancellation Fee (without 24-hour notice) | \$100 |