

## GENERAL PROVISIONS

These general provisions are a part of the Film Industry Equipment Rental Form. When you sign the one-page, faxable rental form available from the menu on the left, you are agreeing to all of the provisions listed below.

### FILM INDUSTRY EQUIPMENT RENTAL AGREEMENT GENERAL PROVISIONS

These Equipment Rental General Provisions (“General Provisions” shall apply to the transaction between the City and County of Honolulu (“City”) and the person or entity (“Lessee”) who is leasing personal property from the City. These General Provisions shall be incorporated by reference into the Film Industry Equipment Rental Agreement (“Agreement”) executed by the City and the Lessee named in the Agreement and shall be a part of the Agreement. The execution of the Agreement by the Lessee and the City shall be the Lessee’s and the City’s acknowledgement of these General Provisions and shall constitute the Lessee’s and the City’s agreement to perform all of the obligations stated in the General Provisions.

The City and the Lessee, in consideration of the mutual promises stated below, agree as follows:

1. Lease: The City leases to the Lessee and the Lessee accepts from the City the equipment listed on the Agreement (“Equipment”). The Lessee immediately shall mail or deliver the agreement with its original signature to the City. The City and Lessee agree that the facsimile or FAX signatures of the person executing the Agreement shall be sufficient evidence of the execution of the Agreement if the Agreement with the original signature is not available.
2. Term: The Equipment will be leased commencing and terminating on the dates stated in the Agreement. The Equipment will be delivered to the Lessee by the City at the location where the Equipment is normally held, subject to its being available on the dates stated and subject to its being recalled by the City in good faith at any time in its sole and absolute discretion. If the Equipment is not available on the dates stated or if the City recalls the Equipment, the City will not be liable to pay the Lessee for any loss or expense incurred by the Lessee caused by the unavailability or recall of the Equipment.
3. Rent: The Lessee will pay the City in advance rent (“Rent”) for the use of the Equipment as stated in the Agreement.
4. Security Deposit: The City may require payment of a security deposit (“Security Deposit”) which the Lessee will pay the City in advance in the amount stated

in the Agreement. The Security Deposit may be expended by the City without the consent of the Lessee to pay the cost to repair damage to the Equipment, the cost to replace Equipment which is lost or destroyed, and the Rent. No part of the Security Deposit may be expended by the City if the damage or loss is caused by the City. Any amount of the Security Deposit which is expended by the City shall be reimbursed by the Lessee immediately after the City notifies the Lessee of an expenditure.

5. Use: The Lessee shall use the Equipment only in a safe manner which will not injure any person or damage real or personal property. The Lessee shall not use the Equipment in a manner that it will be damaged or destroyed. The Lessee shall not modify or repair the Equipment. The City may impose other restrictions on the use of the Equipment which shall be stated in the Agreement. The City may inspect the Equipment at any time that it deems necessary.

6. Return: The Lessee shall return the Equipment to the City at the termination of this lease on the date stated in the Agreement, or on the date that this lease is terminated for any other reason, without any action by the City and in the same condition as it was when delivered to the Lessee, undamaged and in good working order. The Lessee shall pay the cost to repair any damage to the Equipment of any nature immediately after the City notifies the Lessee of an expenditure.

7. Indemnity: The Lessee shall indemnify the City, its officers, employees, contractors and agents, and shall hold them harmless, and shall defend them, individually and in their official capacities, from all claims of liability for damages made by any person or entity for death, personal injury, or injury to real or personal property, including attorneys' reasonable fees and costs, arising from or connected with the Lessee's use of the Equipment and its performance of its obligations stated in this instrument.

8. Insurance: the Lessee shall maintain the following insurance:

- a. Commercial General Liability insurance with limits of not less than \$1,000,000 each occurrence and general aggregate, covering liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract.
- b. If this Agreement includes the lease of any motor vehicles, including motorcycles and 3-wheeled vehicles, Lessee shall maintain business auto liability (including no-fault coverage) with limits of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out

of any auto, including non-owned or hired vehicles. The policy shall be endorsed to provide contractual liability coverage and

All policies required hereunder shall be primary coverage with respect to all insureds and that any insurance (or self-insurance) carried by the City shall be excess and non-contributing; and shall name the City as an insured under each respective policy.

9. Possession: The Lessee shall not deliver, sublease, or assign the Equipment or any interest in it or in this Agreement to any person or entity.

10. Remedies: If the Lessee fails to perform any of its obligations stated in this instrument and in the Agreement, the City may exercise any remedy available to it in law or in equity including, without limiting or prejudicing any other remedy available to the City, terminating this Agreement without notice to the Lessee and taking immediate possession of the Equipment and making a claim for damage or destruction of the Equipment.

11. Miscellaneous Provisions:

- a. Integration. This instrument contains all of the provisions of the agreement between the parties pertaining to the subject matter stated in paragraph 1., above. Each party acknowledges that no person or entity made any oral or written representation on which it has relied to enter into the agreement stated in this instrument which is not included as a provision in it.
- b. Amendment. The provisions of this instrument may be amended only by each party executing a subsequent written instrument which states each parties' agreement to the amendment.
- c. Authorization. Each party warrants to each other party that the individuals executing this instrument on their behalf are authorized to do so.
- d. Counterparts. This instrument may be executed by the parties in counterparts. The counterparts executed by the parties named in this instrument and properly acknowledged, if necessary, taken together, shall constitute a single instrument.
- e. Binding Effect. Upon its execution by each party, this instrument shall become binding and enforceable according to its provisions. If more than one party is obligated to perform an act by any provisions stated in this

instrument, those parties shall be jointly and severally liable and obligated for the performance of those acts. The rights and obligations of each party named in this instrument shall bind and inure to the benefit of that party, the respective heirs, personal representatives, successors, and assigns of that party.

- f. Survival. Any representation and warranty stated in this instrument made by a party shall survive the termination of the agreement stated in this instrument, unless otherwise specifically stated.
- g. Assignment. Neither the entire agreement which is stated in this instrument nor any interest in it may be assigned by any party for any purpose.
- h. Consent; Subsequent Agreement. If a subsequent consent or agreement required of any party by the provisions of this instrument is requested by a party, it shall not be unreasonably withheld by the party to whom the request is made.
- i. Force Majeure. If any party is prevented from performing its obligations stated in this instrument by any event not within the reasonable control of that party, including, but not limited to an act of God, public enemy, or war, fire, an act or failure to act of a government entity (except on the part of the City), unavailability of materials, or actions by or against labor unions, it shall not be in default in the performance of its obligations stated in this instrument. PROVIDED, HOWEVER, any party delayed by such an event shall request an extension of time to perform its obligations stated in this instrument by notifying the party to which it is obligated within ten days following the event. If the notified party agrees that the event was the cause of the delay, the time to perform the obligations stated in this instrument shall be extended by the number of days of delay caused by the event. If the required notice is not given by the delayed party, no time extension shall be granted.
- j. Notice: Any notice required or permitted by the provisions of this instrument to be given by a party to any other party, shall be written and either shall be delivered personally or mailed postage prepaid by certified mail, return receipt requested, to each other party at the address and to the person designated by each party, stated in the Agreement.
- k. Severability. If any provision stated in this instrument subsequently is determined to be invalid, illegal, or unenforceable, that determination shall

not affect the validity, legality, or enforceability of the remaining provisions stated in this instrument unless that effect is made impossible by the absence of the omitted provision.

- l. No drafter. No party shall be deemed to have drafted this instrument. No provision stated in this instrument shall be construed against any party as its drafter.
- m. Applicable Law. The provisions of this instrument shall be interpreted in accordance with the law of the State of Hawaii as that law is construed and amended from time to time.
- n. Defined Terms. Certain terms where they initially are used in this instrument are set off by quotations marks enclosed in parentheses and subsequently are capitalized. Those designated terms shall have the same meaning throughout this instrument, unless otherwise specifically stated or clearly inappropriate in the context.
- o. Gender; Number. In this instrument, the use of any gender shall include all genders and the use of any number in reference to nouns and pronouns shall include the singular or plural, as the context dictates.
- p. Paragraph Titles. The titles of provisions stated in this instrument are included only for the convenience of the parties. They shall not be considered in the construction and interpretation of the provisions stated in this instrument.

**APPROVED AS TO FORM AND LEGALITY BY THE DEPARTMENT OF THE CORPORATION COUNSEL,  
CITY AND COUNTY OF HONOLULU del: 3/25/97; film industry equipment rental agreement general  
provisions**