

FILMING LICENSE AGREEMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This **FILMING LICENSE AGREEMENT** (“License”) is made on the date signed by the Director for the Houston Airport System (“Effective Date”) by and between the **CITY OF HOUSTON, TEXAS** (“City”), a municipal corporation and home-rule city of the state of Texas, principally situated in Harris County, Texas and **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, Licensee has requested to use the Premises in connection with the filming of **TYPE IN NAME OF PROGRAM** (“Program”); and

WHEREAS, a license must be obtained for all commercial photo 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 the Houston Airport System (hereinafter referred to as the “HAS Property”); and

WHEREAS, Licensee submitted a Filming License Application (“Application”) to HAS; and

WHEREAS, HAS reviewed and approved Licensee’s submitted Application; 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 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. “*Director*” means the Director of the Houston Airport System or any person designated by the Director to perform one or more of the 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. “*Location(s)*” 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 photo including, without limitation by means of picture, still, or video device photography on Location.
- 1.1.7. “*Program*” means the commercial photo 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 Locations 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 Director. In exercising these rights, Licensee may enter and assemble upon HAS Property such personnel and equipment as the 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. Locations shall include, without limitation: (i) any signs, logos, and verbiage located in, on, or about the Location or any part thereof by any fictitious name, and (ii) the right to the attribute of any fictitious events as occurring on Location.
- 2.3. Licensee shall have the non-exclusive right to use any audiovisual materials recorded on Location 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).
 - 2.3.1. Licensee shall have the right to edit the Material as reasonably necessary for inclusion in the Program, but may not portray the Houston Airport System or the City of Houston in a negative light.
 - 2.3.2. Licensee shall not make or permit the making of any reproductions (e.g., derivative works) of or from the Material whatsoever, in whole or in part, except in connection with the Production or the promotion thereof.
- 2.4. Licensee shall comply with the HAS Filming Policy in **Exhibit A**.
- 2.5. Licensee agrees that all Filming shall take place only in the approved Location(s) on the dates and times set forth in **Exhibit B**, Approved Schedule and Locations.
 - 2.5.1. This License only governs public areas controlled by HAS. For permission to use leasehold areas such as airline gates or concession areas, Licensee must obtain permission from the holder of the leasehold. Licensee must forward any permission granted from a leaseholder in order to obtain HAS permission.
 - 2.5.2. The Director has the right to specify which Locations may be used, the hours during which the Locations may be used, and impose conditions in each instance as are necessary to ensure that the operations approved shall not interfere with the integrity of the ongoing operations of aviation commerce related activities or the safety of such operations, nor unduly inconvenience the traveling public. The Director has the authority to update the **Exhibit B**, Approved Filming Schedule and Locations.

2.6. The City reserves the right to assign an authorized City employee to monitor the Licensee's Filming at the Airport. Licensee shall pay for the authorized City employee's time in accordance with the License Fee Schedule in **Exhibit C**.

3. LOCATION

3.1. Licensee shall not alter HAS Property in any way or relocate any HAS Property without the prior written consent of the Director.

3.2. Licensee shall restore HAS Property to its original condition prior to the conclusion of the Scheduled Period.

4. FEES

4.1. Licensee shall pay the City [REDACTED] for the use of the Premises for the right to Film subject to the terms and conditions of this License and in accordance with the License Fee Schedule in **Exhibit C**.

4.2. Any overtime assessed for shall be billed separately. Licensee shall make payment to the City within 30 days of receipt of the damages invoice.

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 the overtime 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 and concessionaries at HAS).

6. TERM

6.1. This License becomes effective on the date signed by the Director and terminates

upon the City receipt of all fees owed under Section 6 or six months, whichever occurs first, unless sooner terminated in accordance with this License.

7. TERMINATION

7.1. The 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 CONSULTANT 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 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 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.

11.1. 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 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
City of Houston Director, Houston Airport System 611 Walker, 6 th Floor Houston, Texas 77002	

- 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 Director or the [REDACTED] of Licensee, and any prohibited assignment and transfer shall be void.
- 11.12. Remedies Cumulative. Unless otherwise specified elsewhere in this License, the rights and remedies contained in this License are not exclusive, but 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).

[SIGNATURE PAGE FOLLOWS]

The parties have executed this License in multiple copies, each of which is an original.

LICENSEE:

CITY:

NAME OF COMPANY

CITY OF HOUSTON, TEXAS

Signed by:

By: _____

By: _____

Name:

Mario C. Diaz, Director

Title:

Houston Airport System

Tax ID No.:

ATTEST/SEAL (if a corporation):

DATE SIGNED:

WITNESS (if not a corporation):

Name:

("Effective Date")

HAS PUBLIC INFORMATION OFFICER

Name:

APPROVED AS TO FORM:

Assistant City Attorney

EXHIBIT A

HOUSTON AIRPORT SYSTEM FILMING POLICY

EXHIBIT B

APPROVED FILMING SCHEDULE AND LOCATIONS

The **STATE POSITION** has reviewed and approved the following filming schedule at the listed locations:

FILMING SCHEDULE					
Date	Start Time	End Time	Airport	Location	Purpose

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