



## The Auditorium

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## Rental Agreement

This agreement (Rental Agreement) is entered into by and between Sailout Productions, LLC, dba The Auditorium (Lessor) and \_\_\_\_\_ (Company), with an address of \_\_\_\_\_, regarding the rental of material goods (Equipment) for use on the production titled: \_\_\_\_\_.

### 1. Operation.

- a. Hours. The Auditorium is open Monday through Friday, from 9am to 5pm. Order pickups and returns must occur within the hours of 9:30am to 4:30pm. The Auditorium is closed over the weekend and will not respond to calls or emails during that time or anytime outside of open store hours.
- b. Holidays. The Auditorium will close on the following observed holidays: Martin Luther King Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, extended Thanksgiving holiday, extended Christmas holiday and New Year's Day. Depending on where certain holidays fall on the calendar, The Auditorium may close on additional days.

### 2. Rentals. All rentals require a form of payment (Section 14), evidence of insurance coverage (Section 10) and this completed Rental Agreement prior to order pick up.

- a. Period. The Auditorium provides either a 4 day 1/2 week or an 8 day week. Weekends and unobserved holidays will be counted within the rental period unless other arrangements are made. In the case that the return date falls on a day The Auditorium's office is closed, the Equipment will be expected the next available day The Auditorium's office is open. Early returns cannot be prorated due to scheduling arrangements. Equipment expecting to go into a 9th rental day will extend into a 2nd week. Only the first rental week spans an 8 day period. Beyond that, 7 day weekly increments follow.
- b. Pricing. 1st week - full price. 2nd week - 50%. 3rd week - 50%. 4th week - 50%. 5th week - 25%. 6th week - 25%. 7th week - 25%. 8th week - free. 9th week and up -

production rental (inquire). Rental extension pricing and percentages are always based on the 1st week rental total and must be a continuation of the initial rental. Late returns will incur an additional rental charge (see weekly price breakdown above) and may also induce a Late Fee, defined as 25% of the 1st week rental. Additional rental charges and Late Fees may be applied each time the Equipment is held past the newly issued return date. The Auditorium reserves the right to adjust inventory pricing at any time. Any reshoots or orders utilizing previously rented items may reflect any inventory price adjustments.

- c. Rush Fees. Each order is unique and requires a certain amount of time to prepare. If an order cannot be comfortably prepared in a time suitable to The Company's needs, a Rush Fee, defined as 25% of the 1st week rental of the Equipment, may apply to accommodate the time restraints.
- d. Shop Fees. In the event the pick up or return of an order causes the forced opening of The Auditorium outside of open store hours (Section 1a), a \$200 per hour Shop Fee may apply to the order.

### **3. Cancellation.**

- a. Charges. After each order is confirmed, Company must notify The Auditorium by 4:30pm of the business day before the pickup date (weekends and observed holidays excluded) of any order changes or cancellation. Failure to do so may incur a Cancellation Charge, defined as 25% of the 1st week rental of the Equipment. Once an order has been picked up, Company must notify The Auditorium of any cancellation of the order within 12 hours, and Equipment must be returned a) immediately that same day or, upon special circumstance and at Company's request granted by The Auditorium, b) no later than 10am the following business day; at which point Company will only be responsible for the Cancellation Charge upon inspection of the Equipment and determination it has remained unused. Failure to return the Equipment of a canceled order within the aforementioned timeframe will incur a prorated rental cost as illustrated in Section 2b, at which point the Cancellation Charge would not apply. If, after inspection of a returned canceled order, evidence shows use of the Equipment, the original rental invoice prevails. Orders requiring extended preparation time may be liable for the Cancellation Charge once the Equipment is prepped, regardless of the order pickup date. For details on the types of orders, please contact The Auditorium.
- b. Force Majeure. Any cancellations made prior to 9:00am of the scheduled pickup date due to an event of "force majeure" shall not incur a Cancellation Charge. As defined herein, "force majeure" shall mean the incapacity of the cast or crew members, illness of actors, director or other essential artists and/or crew, weather conditions, defective film or equipment, fire, earthquake, pandemic, epidemic, act of God or

public enemy, governmental regulation or action, terrorist attack or threat thereof, or any other occurrence beyond Company's control. Once an order has been picked up, Company must notify The Auditorium of any cancellation of the order due to "force majeure" within 24 hours, and Equipment must be returned a) immediately that same day or, upon special circumstance and at Company's request granted by The Auditorium, b) no later than 10am the following business day; at which point Company will only be responsible for the Cancellation Charge upon inspection of the Equipment and determination it has remained unused. Failure to return the Equipment of a canceled order due to "force majeure" within the aforementioned timeframe may incur a prorated rental cost, as illustrated in Section 2b, at which point the Cancellation Charge would not apply.

4. **Indemnification.** Company shall indemnify and hold harmless The Auditorium, The Auditorium's parent company and/or subsidiaries of The Auditorium ("Indemnitees") from any and all reasonable and verifiable costs and/or reasonable and verifiable expenses (including reasonable outside attorney's fees) arising from any third-party claim of injury or property damage incurred by any third person or The Auditorium as a direct result of Company's sole gross negligence regarding the use of the Equipment. If any of the Indemnitees claim damage to the Equipment, except for any injury or damage due to the gross negligence or willful misconduct of the Indemnitees. The Auditorium shall submit to Company in writing no later than five (5) days following the return of the Equipment to The Auditorium a detailed listing of all claimed damage thereto and The Auditorium shall permit Company to inspect the Equipment.
5. **Assumption of Risk.** From the time the Equipment is in the care, custody or control of Company, until the Equipment is returned to The Auditorium, Company assumes all risks of loss and responsibility for any damage Company causes to the Equipment through its sole gross negligence, including but not limited to all risks and losses while in transit (unless transported by The Auditorium), while at locations, while in storage (excluding storage at The Auditorium's premises) and while on Company's premises, reasonable wear and tear excepted and excluding pre-existing malfunction or defect.
6. **Use of Equipment.** Company will take reasonable precautions in regard to the use of the Equipment to protect all persons and property from injury or damage. The Equipment shall be used only by Company's employees or agents qualified to use such Equipment. The Intended Use of the equipment is defined strictly as visual props or set dressing, unless specified otherwise on the agreed upon invoice.
7. **Sublease.** Company warrants that it will not sublease any of the Equipment without prior written consent from The Auditorium.
8. **Representations & Warranties.** The Auditorium hereby warrants and represents that a) it is the sole owner of the Equipment and that the consent of no other person or entity is required to enable Company to use the Equipment and that such use will not violate the rights of any third

parties (excluding recognizable third party logos, copyrights or trademarks), b) The Auditorium has the right to enter into the rental or sale of the Equipment and c) the Equipment is in good repair and working order, without defect for its Intended Use. The Auditorium will indemnify and hold Company harmless for any breach of the foregoing representations and warranty.

9. **Malfunctioning Equipment.** If any of the Equipment rented under the Rental Agreement should become inoperable or fail to function in the manner for its Intended Use ("Malfunctioning Equipment"), Company shall promptly notify The Auditorium. Company shall have the option, in its sole discretion, to repair the Malfunctioning Equipment itself or at a repair facility reasonably selected by Company at The Auditorium's expense, or, if Company requires, The Auditorium agrees to replace said Malfunctioning Equipment with operable replacement Equipment ("Replacement Equipment") of at least equal quality and capability as shortly thereafter as may be reasonably commercially possible. Provided the Malfunctioning Equipment's failure to perform is not the result of Company's sole gross negligence or willful misconduct, there shall be no additional charge for the Replacement Equipment. If The Auditorium is unable to provide Replacement Equipment or repair the Malfunctioning Equipment within twenty-four (24) hours from notice by Company, then Company shall have the option, at Company's discretion, to: (a) accept Replacement Equipment of lesser quality at a reduced rate for the remainder of the rental period or (b) terminate the rental of the Malfunctioning Equipment, while continuing the rental of other functioning Equipment, and receive a reduced rental rate reflecting the loss of the Malfunctioning Equipment. If any rental charges are due as of the date of termination of the rental of the Malfunctioning Equipment, Company shall pay the same within ten (10) days from the date upon which the Rental Agreement was terminated.
10. **Insurance.** Company (or its payroll Company in the case of [a] below) shall maintain, at its own cost and expense, at all times during the term of this Rental Agreement, the following insurance, which policies shall include a provision that should any of the below described policies be canceled before the expiration date thereof, notice will be delivered in accordance with the policy provisions: (a) Commercial General Liability Insurance in an amount of \$1,000,000 per occurrence; \$2,000,000 aggregate for Bodily Injury and Property Damage Liability. Such coverage shall include protection for premises/operations, contractual liability, products/completed operations and broad form property damage including care, custody or control; and (b) All Risk Property Coverage covering the Equipment valued at the lesser of the full cost of repair or replacement, if repaired or replaced within one year. At The Auditorium's request, Company shall deliver valid certificates of insurance evidencing the insurance described above and, except as respects 9(a) above, including The Auditorium as an additional insured and loss payee as its interests may appear.
11. **Repair and Replacement.** Company shall be responsible to The Auditorium for the lesser of actual and reasonable replacement costs, or actual and reasonable repair costs of all Equipment which is lost, stolen, or damaged while in the care, custody or control of Company as a result of Company's sole gross negligence in accordance with Section 4 above, reasonable wear and tear and pre-existing defect or malfunction excepted. Equipment will be valued at the lesser of the full

cost of repair or replacement, if repaired or replaced with due diligence and dispatch. If the Equipment is not repaired or replaced within one year, the Equipment will be valued at its actual cash value at the time and the place of loss. Prior to repairing the Equipment, The Auditorium shall submit to Company an estimate. In the event the Equipment is lost or stolen, Company shall file a police report as well as submit an 'Affidavit of Loss' form to The Auditorium.

12. **Loss of Rental.** All Equipment must be returned to The Auditorium, regardless of condition. If damage to an item keeps it from being available to rent for an extended period, an additional 'loss of rental' fee may apply, for actual and verifiable loss of use, while the insured property is being repaired, or until payment is made for replacement. 'Loss of rental' fees follow The Auditorium's weekly rental pricing structure, see Section 2b. A 'loss of rental' fee may apply to lost items, as well as to items returned and labeled non-rentable due to the loss of an item's corresponding packaging. The Auditorium must be informed immediately of lost items to avoid additional rental charges. Please note that 'loss of rental' fees may apply to any order if an item is kept from being placed back into availability as a result of the Company's gross negligence.
13. **Cleaning Fees.** If Equipment requires cleaning attention, reasonable wear and tear excepted, a fee may be assessed. Cleaning charges start at \$50 per hour, with one-hour increments. Cleaning fees will not be broken down into minutes. As the next hour begins, as does the additional \$50.
14. **Payment Options.** The Auditorium accepts Cash, Credit Card, ACH, Purchase Order and Company Check as payment. Wire Transfers and Personal Checks are not accepted forms of payment.
  - a. Credit Card. Accepted credit cards include: Visa, Mastercard, Discover and American Express. A Credit Card Authorization Form must be completed and submitted prior to order pick up. That form can be accessed from [auditoriumprops.com](http://auditoriumprops.com).
  - b. ACH. The Auditorium will only accept payment via ACH for ongoing productions. An ACH form and credit one sheet must be submitted to The Auditorium for evaluation prior to order pick up. In lieu of a credit one sheet, a completed Credit Application Form, which can be accessed from [auditoriumprops.com](http://auditoriumprops.com), will be accepted. The Auditorium reserves the right to refuse payment via ACH at any time.
  - c. Purchase Order. Ongoing productions have the option to pay via Purchase Order (PO). A credit one sheet must be submitted to The Auditorium for evaluation prior to order pick up. In lieu of a credit one sheet, a completed Credit Application Form, which can be accessed from [auditoriumprops.com](http://auditoriumprops.com), will be accepted. Invoices utilizing POs require a \$100 minimum after any and all discounts are deducted. All PO accounts are on a net30 billing period. Company acknowledges that payment via PO is a privilege and continual abuse of the 30 day billing period may be cause for denial of that said privilege. The Auditorium reserves the right to refuse payment via PO at any time.

- d. Company Check. Only Company Checks, signed by an authorized representative of the account, are accepted. The Auditorium does not accept personal checks. Payment via check must be in the possession of The Auditorium prior to release of The Equipment.

**15. Payment Delinquencies.**

- a. Late Fees. Late fees and/or interest on late payments shall not accrue until the applicable payment is overdue forty-five (45) days. With respect to the unpaid overdue amount of an invoice not paid in full within 45 days of receipt, a finance charge of 1% per month, payable from the date of the invoice to the date payment is received, shall be due and payable to The Auditorium. In addition, Company shall indemnify The Auditorium for its cost, including reasonable attorneys' fees and disbursements, incurred to collect any unpaid amount. Delinquent accounts may result in loss of future net terms.
- b. Insufficient Funds. Orders with payments resulting in insufficient funds will incur a \$40 fee in addition to the original invoice amount and must be paid immediately. Invoices resulting in late payments due to insufficient funds follow the criteria set forth in Section 15a.

**16. Photography/Sound Recording Rights.** All rights of every kind in and to all photographs and sound recordings made hereunder (including, but not limited to, the right to exhibit any and all scenes photographed or recorded in connection with the Equipment in all media throughout the universe, in perpetuity) shall be and remain vested in Company, its successors, assigns and licensees, and neither The Auditorium nor any other party now or hereafter having an interest in the Equipment, shall have any right of action against Company or any other party arising out of any use of said photographs and/or sound recordings whether or not such use is, or may be claimed to be defamatory, untrue, or censurable in nature and The Auditorium or any other party now or hereafter having an interest in the Equipment, hereby waives any and all rights of privacy, publicity, or any other rights of a similar nature in connection with the exploitation of any such photography or sound recordings.

**17. Remedies.** The rights and remedies of The Auditorium in the event of any breach by Company of this Rental Agreement shall be limited to The Auditorium's right to recover money damages, if any, in an action at law. In no event shall The Auditorium be entitled to terminate or rescind this Rental Agreement or any right granted to Company hereunder, or to enjoin or restrain or otherwise impair in any manner Company's business activities or any parts or elements thereof, or the use, publication or dissemination of any advertising, publicity or promotion in connection therewith. Without limiting the foregoing, in no event will The Auditorium be permitted to prevent or inhibit the production, broadcast, exhibition, distribution, marketing, advertising, publicity, promotion or other exploitation of the Project or the Recordings.

- 18. Arbitration.** Any controversy or claim arising out of or relating to this Rental Agreement, its enforcement, arbitrability or interpretation shall be submitted to final and binding arbitration, to be held in Los Angeles, County, California, before a single arbitrator, in accordance with California Code of Civil Procedure §1280 et seq. The arbitrator shall be selected by mutual agreement of the parties or, if the parties cannot agree, then by striking from a list of arbitrators supplied by JAMS. The arbitration shall be a confidential proceeding, closed to the general public. The arbitrator shall issue a written opinion stating the essential findings and conclusions upon which the arbitrator's award is based. The parties will share equally in payment of the arbitrator's fees and arbitration expenses and any other costs unique to the arbitration hearing (recognizing that each side bears its own deposition, witness, expert and attorneys' fees and other expenses to the same extent as if the matter were being heard in court). Nothing in this paragraph shall affect either party's ability to seek from a court injunctive or equitable relief at any time to the extent same is not precluded by another provision of this Rental Agreement.
- 19. Limitation of Damages.** In no event will any party hereto be liable for or have any obligation to pay to the other consequential and/or incidental and/or special and/or punitive damages, all of which are expressly excluded, and the parties hereby waive any right to recover any such damages from the other.
- 20. Miscellaneous.** This Rental Agreement contains the full and complete understanding between the parties and supersedes all prior agreements and understandings pertaining to the subject matter hereof and cannot be modified except in writing signed by both parties. The Auditorium agrees, represents, and warrants that its sole and exclusive remedy for Company's breach of this Rental Agreement shall be through an action at law for monetary damages, if any. The Auditorium irrevocably waives any right to rescission, equitable, or injunctive relief for any claim, loss, or cost of any kind arising through or in connection with this Rental Agreement or the subject matter hereof.

ACCEPTED AND AGREED TO:

THE AUDITORIUM

ACCEPTED AND AGREED TO:

Company: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_