

## **RENTAL AGREEMENT**

This rental agreement is made and binding on \_\_\_\_\_ by and between BML -Blackbird Theatrical Services. "BML" 1 Aquarium Drive, Secaucus, NJ 07094 and \_\_\_\_\_, "Renter" with principal offices at \_\_\_\_\_. The agent of Renter that is responsible for signing this agreement is \_\_\_\_\_ who represents that he/she is fully authorized to enter into this agreement on behalf of Renter. The property rented from BML described on the equipment list is attached to and made a part of this agreement. The list must be signed in the space provided for such purpose.

### **RECITALS**

1. The Renter shall, at his own cost and expense during the term of this rental, keep and maintain in his/her own custody at the aforesaid address, equipment rented from BML-Blackbird Theatrical Services (Hereinafter "BML") in a state of good working condition and repair, reasonable wear and tear excepted. Renter shall, at the termination of the rental, replace any item(s) of said equipment as may be lost, stolen, missing, broken, or damaged. Reasonable wear and tear will be excepted, the degree of which shall be determined by BML. Any excess wear and tear shall be chargeable to Renter at the sole discretion of BML. Renter may replace missing or damaged item(s) with approved similar equipment of an equal or greater value or shall pay to BML the replacement cost for any article(s) which may be lost, stolen, missing, broken, or damaged within seven days after receipt of invoice. All lighting fixtures are provided with working lamps. Replacement of lamps is the responsibility of the Renter. All burn outs must be returned.

2. The Renter shall insure the equipment at 100% replacement cost plus shipping, against any loss whatsoever during the period that the equipment is away from the premises of BML, and Renter assumes full responsibility for all equipment rented. Renter also agrees to compensate BML for the full replacement value plus tax should said equipment be lost, stolen, missing, broken, or damaged by any cause whatsoever, whether due to renter's fault or not. The Renter further agrees to compensate BML in rent for any usage time lost as a result of the time required for replacement of any lost, missing, or stolen, or the necessity of making repairs on broken or damaged equipment other than as a result of reasonable wear and tear and for the period of rental lost while making such repairs. BML is not obligated to replace the item(s) missing or damaged until payment for such charges is paid to BML by Renter. For purposes of this agreement "Loss" shall also apply to any circumstances whereby the equipment rented from BML shall not be returned on the date specified herein, unless extended by mutual agreement. In the event that rented equipment shall be seized, held, or encumbered by any party including Renter, BML shall claim the entire package of rental equipment as a loss under the terms of the insurance provided by Renter.

3. The Renter shall not release BML equipment or loan the same to any other person, firm, entity, or corporation, and said equipment shall at all times remain under the immediate control, supervision and direction of the Renter personally and at the location set forth herein.

4. Renter shall not remove any equipment from the address set forth herein without first having notified BML and obtained written consent from BML for such removal, except when returning to BML at end of rental. The equipment rented herein shall be picked up from BML by Renter & returned by Renter to BML at its own risk, cost, & expense. Rental of all equipment must be paid for

during the period of time from when it leaves BML until it is returned to BML. No allowance will be made for the reason that any part of it was not used, nor for any after the fact claim of non-working equipment. Rental charges for all equipment must be paid for the entire period of time that the equipment is not in the possession of BML. No allowance will be considered or made for any claim that equipment did not work unless such claim is made in writing within 48 hours of receipt of such equipment. Maximum credit allowable for any item claimed and proven not working in accordance to manufacturer guidelines, shall be the amount charged for that item. In the event of any claim by Renter of non-working equipment, BML will replace any item returned prepaid immediately to BML by Renter. No claim will be allowed for equipment not returned promptly. In the event that equipment returned due to claimed defect is deemed by BML to be due to "operator error" or other similar factor(s), Renter shall be responsible for the payment of all reasonable costs associated therewith.

5. Renter assumes all risks in the use of handling and operation of the rented equipment and shall be responsible for providing proper safety devices and equipment to safeguard users or operators of the equipment herein rented for installation of the equipment in safe and adequate facilities, and shall comply with all Federal, State, and Local laws, regulations, and ordinances as well as all applicable industry standards.

6. It shall be lawful for BML or its agents, at all reasonable times, to enter the premises where the equipment is kept for the purpose of viewing the condition of said equipment.

7. Renter shall not remove or cover the tag or nameplate on the equipment showing ownership by BML.

8. In the event of any default or breach of this agreement, the Renter hereby grants to BML the right to terminate this agreement on 24 hours written notice by registered mail, fax, or personal service. Upon receipt of such notice, the Renter shall immediately return the equipment to BML at the Renter's sole risk and expense, and in the same condition as when first rented, and BML shall, upon receipt, refund only the unexpired portion of the rental (if any), less any applicable deductions for missing or damaged items. Any payment for rental charges which shall remain unpaid seven days after its due date may cause this agreement to be terminated.

9. The Renter agrees to pay all reasonable attorney's fees and costs, including all reasonable administrative and related staff costs incurred by BML in protecting its rights and/or property under this agreement, or in any action or proceeding against the Renter for a breach of this agreement. Interest shall accrue at the rate of 1.5%/month on all unpaid balances including rental fees, damage to equipment, replacement, repair or other reasonable and customary charges which may be assessed upon Renter by BML. In the event that a collection agency is used by BML to collect sums due and owing from Renter, Renter understands and agrees that all such costs (typically an additional 35% of the total amount due) shall be due and payable to BML as costs of collection.

10. The acceptance of returned rental equipment by BML is not a waiver by BML of any claims that it may have against the Renter, nor a waiver of claims for latent or patent damages to the equipment. BML will notify Renter within five (5) working days of any claim for damage. It is the responsibility

of the Renter to "count in" each item as it is returned and to obtain a receipt for same, and similarly for Renter to "count out" equipment as it is received. No claims shall be honored for any item once signed out by Renter. Upon receipt of notice from BML that damaged has occurred, Renter may return to BML and inspect such damage within two working days of receipt of such notice. After such time inspection by Renter is deemed to be waived.

11. The acceptance of any rental payment or other payment, or any portion thereof after a default by the Renter shall not be deemed as a waiver of BML's right to enforce its right to collect the payment of rent remaining due and owing to BML, or other charges due to BML, or, to terminate this agreement and recover possession of its equipment. Failure to insist upon strict compliance with the terms and conditions of this agreement, even after a breach of any provision of this agreement or any default by Renter shall not be construed as a waiver of other rights of BML under this agreement. In the event that any portion of this agreement shall be deemed to be unenforceable by a court of competent jurisdiction, all remaining provisions shall survive.

12. No terms, representations, or warranties, express or implied, not set forth herein shall bind BML.

13. The Renter agrees to not pledge, mortgage or in any way encumber the property rented herein. Renter understands and acknowledges that all property and equipment rented from BML is, and shall remain, the property of BML. Buyer/lessee acknowledges and agrees that seller/leasee may file the applicable Uniform Commercial Code forms in the applicable jurisdictions to evidence seller/lessor's interest in the equipment transferred pursuant to this agreement.

14. Purchaser accepts goods and/or services from BML with the express understanding that in the event of non-payment, any and all costs of collection including reasonable attorneys fees, interest, expenses reasonably incurred, and costs of suit are the responsibility of Purchaser. Interest is charged at 1.5% per month on all past due amounts.

15. The rental price does not include New Jersey or other applicable State sales tax which is to be added to invoices as they become due unless Renter shall provide a resale certificate evidencing its tax exempt status.

16. No payment of rent is applicable toward the purchase price of any item. No accrual of rent, regardless of the amount accrued, will be applied to the purchase of any equipment.

17. The rental price for the equipment has been separately stated to the Renter, and BML shall render periodic statements to the Renter setting forth the rental price. In the event that additional equipment is rented to the Renter or some equipment is returned to BML by Renter, the periodic statements from BML setting forth the rental price will be adjusted accordingly

18. If the rental terms are set forth on the reverse side hereof, the Renter may extend the terms only with the written consent of BML. The rental price during any extended term shall be as is set forth on periodic rental statements from BML.

19. Renter expressly agrees to indemnify, defend, and hold BML harmless from any and all claims arising out of any violation of any law, rule, regulation or order, and from any and all claims or liabilities for loss, for both monetary and physical damage, or injury to persons or property of

whatever kind or nature arising from the use or operation of the equipment herein rented, or from the negligence or carelessness of the agents or employees of Renter. Renter shall obtain general liability insurance (in addition to property coverage per par 2 of this agreement) in connection with this agreement pursuant to this paragraph in an amount satisfactory to BML but at no time for less than \$500,000.00, and shall furnish a copy of the policy with the premium marked "paid" to BML. Failure by BML to collect a copy of such policy prior to any rental pick-up is not a waiver of the insurance requirement.

20. The foregoing notwithstanding, the renter shall name BML as "additional insured" on its liability coverage and "loss payee" on its property coverage. Such designations shall be evidenced to BML on a certificate of insurance also detailing the coverage limits.

21. If the Renter shall default on any of the terms, covenants or conditions herein, or in punctually making any of the required payments, or if any execution or other writ or process shall be issued in any action or proceeding against the Renter whereby BML equipment may be seized, taken, or restrained, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted by or against the Renter or his/her property, or if the Renter shall enter into any arrangement with its creditors, or in the event that any judgment is obtained against the Renter, BML shall have the option to immediately retake possession of its equipment and for such purpose, BML its agents or employees may enter any premises where said equipment may be, and may remove the same therefrom, with or without force and with or without notice of its intention to retake the same, and without being liable in any suit or action or other proceeding by the Renter or third party contractually bound to Renter, including loss of income. All costs of removal of the equipment in the event of any default by Renter which shall cause such removal are to be paid by Renter as "additional rent".

22. In all programs of productions printed for use in connection with which the property and materials rented herein set forth shall be used, credit for electric materials and lighting equipment shall be given to BML.

This agreement contains the entire understanding between the parties, and may not be modified except by separate agreement in writing, signed by both parties to this agreement. This agreement is made and binding in the State of New Jersey, County of Hudson.