

RENTAL APPLICATION / TERMS & CONDITIONS

- 1. Representations, Warranties and Agreements:** Customer has selected the Equipment without relying upon any suggestion or recommendations of TEXCAM and Customer understands and agrees that TEXCAM assumes no responsibility for the Equipment as being fit for any particular purpose. Customer agrees that the Equipment was selected by it. TEXCAM represents and warrants as follows: (1) the Equipment is free from known defects and is in good working order to the best of their knowledge at the inception of the rental; (2) TEXCAM is responsible for routine repair and maintenance of the Equipment prior to rental; (3) (if applicable) all services provided by TEXCAM will be performed in a professional and competent manner; (4) TEXCAM has the right to enter into the rental of the Equipment and (5) TEXCAM has complied and will continue to comply with all applicable manufacturer's specifications relating to the Equipment. Customer agrees as follows: (a) except as set forth in TEXCAM'S representations and warranties above, the Equipment is rented to Customer without any warranty or guaranty of any kind, express or implied, and specifically, there is no warranty of merchantability or fitness for a particular purpose; (b) TEXCAM shall not be held responsible with respect to production downtime, loss of profits, extra expense, indirect damages, production delays; and (c) except as set forth in TEXCAM'S representations and warranties above, Customer is responsible for all costs associated with any repair or replacement (without deduction for depreciation) of the Equipment necessitated as a result of Customer's usage, possession, transportation or failure to return the Equipment for any reason, including, without limitation, as a result of the negligence or willful misconduct of Customer, its employees, agents, or contractors. Customer represents warrants and agrees that Customer has complied and will continue to comply with all manufacturer's specifications as to the safe use of the Equipment.
- 2. Testing:** Customer acknowledges that its representative has inspected and tested all Equipment at the time of rental and that all Equipment is in good and working order and acceptable to Customer.
- 3. Non-Working Equipment:** Customer shall notify TEXCAM immediately of any malfunction and/or alleged damage of any Equipment. In the event Equipment is not functioning and/or damaged other than as a result of Customer's negligence or willful acts, Customer shall have the option of accepting other like Equipment in exchange for such nonworking Equipment or returning all Equipment and canceling this agreement should TEXCAM not be able to provide substitute Equipment in a timely fashion. The rental charges for all such non-working Equipment so returned to TEXCAM shall be abated from the time of acceptance and return to TEXCAM. Likewise, rental charges shall accrue and be owed for any replacement Equipment.
- 4. Technician/Operation:** Customer shall only allow the Equipment to be used by qualified technicians and/or, if licensing is required by law for the use of any Equipment, duly licensed personnel, and only in strict accordance with the instructions of the Equipment manufacturer. Such qualified or licensed technicians and personnel should know all the proper protocols to safeguard the public, data and Equipment, and should be competent with regard to the normal operation of the Equipment. Customer shall keep the Equipment in their sole custody and shall not permit the Equipment to be used in violation of law. Customer shall process and or view their footage and back-up their content or data in a timely manner.
- 5. Risk of Loss:** Customer assumes all risk of loss whether or not covered by Customer's insurance coverage, except to the extent of any loss arising from the negligence or willful misconduct of TEXCAM, its employees, agents, or contractors. Customer is deemed to have taken possession of the Equipment the moment Equipment is in Customer's custody and control. In addition, if TEXCAM ships the Equipment at Customer's request, Customer shall be responsible for both the risk of loss in transit and the transportation costs. Customer's responsibility shall include, but not be limited to, risks while in transit by any means (other than transit supplied by TEXCAM), at all locations named and unnamed, at all studios, while on Customer's premises, and while in Customer's use. Customer is responsible for picking up and returning the Equipment to/from the rental facility during normal business hours. If TEXCAM delivers and/or picks up the Equipment, TEXCAM will be responsible for the risk of loss in transit while the Equipment is in the custody of TEXCAM and Customer will be responsible for transportation costs.
- 6. Storage:** Customer bears the risk of loss for all property not provided by TEXCAM (including but not limited to camera(s), props, sets, and wardrobe) stored and/or transported by TEXCAM for Customer's ultimate use. TEXCAM shall be acting as the agent of Customer in storing and/or transporting property which belongs to third parties.
- 7. Insurance:** Customer shall at its expense, and at all times during the rental, maintain in full force and effect a limit of insurance covering all Equipment and/or Vehicles rented hereunder, from all sources, as herein provided. All Equipment shall be insured for the full replacement cost without deduction for depreciation. All Vehicles shall be insured at actual cash value. In addition, all Equipment and Vehicles shall be insured for actual verifiable loss of use of the Equipment or Vehicles (i.e. rental charges based on the greater of either the actual verifiable loss of business or the average rental history of the Equipment or Vehicles, as computed for the period of time the Equipment or Vehicle(s) is being repaired and/ or replaced not to exceed 90 days). Customer shall deliver to TEXCAM evidence of Customer's insurance coverage prior to Customer taking either constructive or actual possession of the Equipment and/or Vehicle(s).

Customer will forward a Certificate of Insurance evidencing Customer's liability, automobile, property and worker's compensation insurance with a reputable insurance carrier acceptable to TEXCAM that complies with coverage requirements as enumerated within this rental agreement. Customer shall be liable for the (a) full replacement cost of Equipment without deduction for depreciation, (b) actual cash value for Vehicles, and (c) loss of use of the Equipment and Vehicles (i.e. rental charges based on the greater of either the actual verifiable loss of business or the average rental history of the Equipment or Vehicles, as computed for the period of time the Equipment or Vehicle(s) is being repaired and/ or replaced not to exceed 90 days), arising or resulting from any failure by Customer to maintain the policies and limits of insurance set forth above and for any and all claims, losses, liabilities, damages and expenses (including, without limitation, attorneys' fees and court costs) which, for any reason (other than a final, nonappealable judicial determination that same arose or resulted from the negligence or willful misconduct of TEXCAM) shall not be covered or paid by Customer's insurance, including, without limitation, deductibles and any of same exceeding the coverage and limits of insurance set forth above.

- a. *Property Insurance:* Customer's insurance shall be on a worldwide, replacement cost basis without deduction for depreciation, shall name TEXCAM as Loss Payee for loss or damage to the property rented; shall cover "All Risk" of loss or damage to Equipment; shall include the perils "Comprehensive" and "Collision" for Vehicle physical damage coverage; and shall provide for 10 days written notice to TEXCAM before any policy shall be modified or cancelled. In determining whether the Equipment (not including Vehicles) shall be repaired or replaced, the manufacturer's judgment shall be conclusive upon both parties. Limits shall be sufficient to encompass all property at risk, regardless of source. TEXCAM will not accept insurance covering the Equipment that contains a theft exclusion from unattended vehicle(s).
 - b. *Liability Insurance:* Customer shall name TEXCAM as an additional insured on their liability insurance. Customer's liability insurance shall meet the following minimum limits: Commercial General Liability \$1,000,000 per occurrence and annual aggregate; Automobile Liability (including non-owned and hired automobiles) \$1,000,000 combined single limit; Umbrella Liability in the amount \$2,000,000 per occurrence and annual aggregate; Foreign Liability, if filming outside of the United States and Canada, \$1,000,000 per occurrence; Aircraft Liability, if filming from any aircraft, \$5,000,000; Watercraft Liability, if filming from any watercraft, \$5,000,000 (Note rented Vehicle(s) will only be driven by licensed driver(s) employed by Customer). IF VEHICLE IS PROVIDED WITH A DRIVER EMPLOYED BY THE TEXCAM THE TEXCAM WILL PROVIDE THE PRIMARY AUTOMOBILE LIABILITY INSURANCE ON THE VEHICLE AND PROOF OF WORKER'S COMPENSATION INSURANCE.
 - c. *TEXCAM Insurance:* TEXCAM will maintain their own insurance program consisting of not less than: Commercial General Liability \$1,000,000 per occurrence and annual aggregate; Automobile Liability (including owned, non-owned and hired vehicles) \$1,000,000 combined single limit; Umbrella Liability in the amount \$2,000,000 per occurrence and annual aggregate, Miscellaneous Equipment and Worker's Compensation and Employer's Liability in an amount not less than \$1,000,000 Covering Claims arising out of the operations of TEXCAM. TEXCAM will provide Customer evidence of the Coverage enumerated herein upon their request with an insurance carrier acceptable to the Customer.
 - d. *Primary Coverage:* Customer's property, automobile and liability coverage is the primary coverage for Equipment and/or Vehicle(s) and said coverage must be issued on a non-contributory basis. Furthermore, Customer's insurance carrier shall agree that the rights of TEXCAM under Customer's insurance policy shall not be affected by any unintentional act, neglect or breach of condition by Customer, other than non-payment of premium. Customer shall remain primarily liable to TEXCAM for full performance under the terms and conditions of this rental agreement in the event of a dispute with their insurance carrier and for uninsured losses. Lapse or cancellation of Customer's insurance, as required by this agreement, shall allow TEXCAM to immediately and automatically terminate this agreement, at its option unless Customer provides TEXCAM with written confirmation that such insurance is in full force and effect.
8. **Missing and Damage:** TEXCAM shall provide Customer (with a copy to the accounting department of Customer and another department or person if otherwise designated) with a list of missing and damaged Equipment, if any, within three business days after the Equipment has been returned to TEXCAM. TEXCAM upon receipt of the compilation of the repair or replacement cost estimates will forward these estimates to Customer. Customer shall have the option of making arrangements with TEXCAM to have their crew member(s) verify the Equipment physically returned to TEXCAM at a time that is mutually agreeable within the first day of return.
9. **Clearing of Data:** Customer is responsible for clearing any and all images (in any form) prior to the return of the Equipment to TEXCAM, and Customer authorizes TEXCAM to clear the Equipment of any and all images, content or data immediately upon return of the Equipment to TEXCAM. It shall be the sole responsibility and obligation of Customer to arrange for the safeguarding and storage of Customer's images, content or data prior to the return of the Equipment to TEXCAM.

10. **Title:** Customer specifically acknowledges TEXCAM'S superior title and ownership of the Equipment and must keep the Equipment free of all liens, levies and encumbrances except those caused by or resulting from TEXCAM'S acts. Customer may not assign or pledge the Equipment.
11. **Default:** In the event that Customer (a) fails to make payment when due hereunder, (b) fails to obtain or maintain the insurance required under Section 7 above throughout the rental term, or (c) becomes insolvent, files a petition in bankruptcy, seeks the appointment of a receiver (or has a receiver appointed) for all or a substantial portion of its property, or has an involuntary petition in bankruptcy filed against it, Customer shall be in default hereunder. Upon such default, TEXCAM may, in its sole discretion, terminate this rental agreement and, and to the extent permitted by law, immediately repossess the Equipment without any prior notice to Customer, the receiver, bankruptcy trustee, assignee for the benefit of the creditors, or levying officer. Customer hereby grants to TEXCAM the right and permission to lawfully enter the Customer's premises where the Equipment is kept following any such default for the purpose of repossessing the Equipment without liability of trespass or any liability for any damage that might occur as a result of such entry.
12. **Indemnity:** Customer agrees to indemnify, defend and hold harmless TEXCAM and its officers, employees, agents and licensees against any and all claims, actions, damages, liabilities and expenses arising from the use, possession or operation of the Equipment and by whomsoever operated at the direction of the Customer, Customer's breach of any representations or warranties made herein, or from the negligence or willful conduct of Customer, its employees, agents or contractors. This indemnification shall survive the term of the rental agreement. TEXCAM agrees to indemnify, defend and hold harmless Customer and its officers, employees, agents and licensees solely as respects bodily injury and property damage claims, actions, damages, liabilities and expenses arising from TEXCAM'S negligence or willful misconduct of TEXCAM, or that of TEXCAM'S employees, agents, or contractors, TEXCAM not having the right to rent the Equipment or TEXCAM'S failure to maintain insurance enumerated in 7c above. This indemnification shall survive the term of the rental agreement.
13. **Entire Agreement:** Customer agrees that they have read and fully understand and accept all provisions of this agreement prior to executing this agreement. The signed Rental Contract together with these Terms and Conditions constitute the entire agreement between TEXCAM and Customer. In the event of conflict between any terms or provisions of the Rental Contract and these Terms and Conditions, the terms and provisions of these Terms and Conditions shall govern and control. Any changes must be made in writing and signed by both parties. If Customer is a corporation or other entity, the person executing the Rental Contract represents and warrants that he/she has full power and authority to execute the Rental Contract on behalf of the entity and bind such entity to the agreements, terms and conditions hereof. Customer acknowledges that a photocopy or electronic version of this document shall constitute the same consent as an original.
14. **Governing Law:** This rental agreement has been entered into in the State of Texas and shall be governed by laws of the State of Texas, without reference to any conflicts of law principles. Customer and TEXCAM agree to the State of Texas having the sole jurisdiction to govern any and all disputes arising between Customer and TEXCAM as respects the rental of Equipment. If any portion of this agreement is found to be invalid, unenforceable, waived or otherwise deficient, it shall be severable from the remaining provisions and all other provisions shall remain in full force and effect.
15. **Definitions As used in the Rental Contract and these Terms and Conditions, the following terms have the following meanings:** "Customer" shall mean the entities and/or individuals so identified on page 1 of the Rental Contract; "Equipment" shall mean all equipment and/or vehicle(s) so listed in the Rental Contract; "TEXCAM" shall mean the entities and/or individuals so identified on page 1 of the Rental Contract; and, "Vehicle" shall mean those motorized and other means of conveyance so listed in the Rental Contract.