

MOBILE SPACE HIRE AGREEMENT

STANDARD TERMS AND CONDITIONS

1. INTRODUCTION

- 1.1. The Host is the Owner or duly authorised Agent of the Mobile Space which has been listed on the Filmspace Platform.
- 1.2. The Filmmaker wishes to lease/use the Mobile Space from the Host for the purposes of making and filming television series, motion picture feature film, reality show, docudrama, documentary or any other format of production or sequences thereof, or a stills shoot for the Production and acquiring the rights in connection therewith.
- 1.3. The Host wishes to lease to the Filmmaker the Mobile Space and grant the rights herein subject to the terms and conditions of this Agreement.
- 1.4. Filmspace has provided the Filmspace Platform, for the use of both the Filmmaker and the Host. For the avoidance of doubt, Filmspace is not an agent of either the Filmmaker or the Host, and has no obligations to either Party other than as set out in this Agreement or the Filmspace Platform Terms.

2. DEFINITIONS AND INTERPRETATION

- 2.1. In this Agreement, unless inconsistent with or otherwise indicated by the context the following words and expressions shall bear the following meanings –
 - 2.1.1. **“Agent”** means, if applicable, the party specified in the Schedule;
 - 2.1.2. **“Agreement”** means the terms and conditions as set out herein, read together with the Schedule and the Appendices hereto;
 - 2.1.3. **“Appendices”** means the appendices, which are annexed hereto and form part of this Agreement;
 - 2.1.4. **“Authorised Person”** means the person or persons authorised by the Filmmaker from time to time and as specified in the Schedule;
 - 2.1.5. **“Business Day”** means any day that is not a Saturday, Sunday or South African Public Holiday;
 - 2.1.6. **“Cancellation Refund”** means the refund amount payable to the Filmmaker in the circumstances that this Agreement is cancelled early, as set out in clause 9 hereof;
 - 2.1.7. **“Commencement Date”** means the date specified in the Schedule;
 - 2.1.8. **“Confidential Information”** means confidential information as defined in the Social Media Policy annexed to this Agreement;
 - 2.1.9. **“Effective Date”** means the date as specified in the Schedule;
 - 2.1.10. **“Fee”** shall be the total amount payable by the Filmmaker to the Host for the use of the Mobile Space, based on the number of days of use of the Mobile Space at the specific fee rates;

- 2.1.11. **"Filmmaker"** means the party specified in the Schedule;
- 2.1.12. **"Filmspace"** means Filmspace (Pty) Ltd, a company duly registered in accordance with the laws of the Republic of South Africa;
- 2.1.13. **"Filmspace Fee"** means the fees, together with the VAT thereon, charged by Filmspace from the Host and the Filmmaker in accordance with the Filmspace Platform Terms;
- 2.1.14. **"Filmspace Platform"** means the online platform, owned and operated by Filmspace, on which the Mobile Space has been registered by the Host;
- 2.1.15. **"Filmspace Platform Terms"** means the terms and conditions of agreement governing the use by the Host and the Filmmaker of the Filmspace Platform, as set out in both the Filmspace terms of use and terms of service as found on the Filmspace Platform;
- 2.1.16. **"Force Majeure"** means an event beyond the control of the party concerned, that is not caused by the fault of such party and could not reasonably have been foreseen by it, that renders such party unable to perform its obligations in terms of this Agreement and such events shall include, but not be limited to fire, flood, storm, lightning or any natural disaster, civil disturbance, explosion, power failure, rolling blackouts or reduction of power supply, acts, water restrictions, orders or regulations of any governmental or regulatory authority, agency or department, lack or shortage of materials or inability to procure equipment and material; war, invasion, act of a foreign enemy, hostilities (whether war be declared or not), terrorism, civil war, rebellion, revolution, criminal action, theft or vandalism; strikes, lock-outs and labour disputes causing cessation (whether complete or partial) of work, interruption or slow-down of work, whether of the party concerned or the service provider of such party;
- 2.1.17. **"Host"** means the Owner or Agent of the Mobile Space as specified in the Schedule;
- 2.1.18. **"Insured Amount"** means the insured amount specified in the Schedule as taken out by the Filmmaker;
- 2.1.19. **"Material"** means all filmed scenes, sound recordings and stills photographs and all other works, subject matter or material created by the Filmmaker in connection with the use of the Mobile Space whether filmed inside or outside the perimeter of the Mobile Space;
- 2.1.20. **"Material Breach"** means a material breach by the Host, including, but not limited to:
- 2.1.20.1. failure to provide the Filmmaker with access or use of the Mobile Space as required in terms of this Agreement;
- 2.1.20.2. failure to act in accordance with the terms of this Agreement;
- 2.1.20.3. release information relating to the Production on social media platforms now known or hereafter devised;
- 2.1.20.4. physical violence by the Host or any of its employees and or representatives against any person on the Mobile Space; or

- 2.1.20.5. racial, sexual or other harassment of any employee or contractor of the Filmmaker, any employee of the Host, or individual that the Host is dealing with in the course of the lease/use of the Mobile Space or breach of the terms of the Sexual Harassment Policy;
- 2.1.21. **"Mobile Space"** means the mobile space specified in the Schedule and as described and displayed on the Filmspace Platform;
- 2.1.22. **"Mobile Space Release"** means the Mobile Space release which is to be completed on the Filmspace Platform;
- 2.1.23. **"Other Fees"** means the other fees which are payable by the Filmmaker, as set out in the Schedule;
- 2.1.24. **"Owner"** means the party specified in the Schedule;
- 2.1.25. **"Parties"** or **"Party"** means the Party or Parties to this Agreement;
- 2.1.26. **"Period of Use"** means the period from the Commencement Date to the Cancellation Date;
- 2.1.27. **"Preparation Dates"** means the dates specified in the Schedule;
- 2.1.28. **"Production"** means the Production as specified in the Schedule and which term shall for the avoidance of doubt include all material (moving, still or sounds) filmed, recorded or produced, any and all ancillary or derivative productions and material (including prequels, sequels, spin-offs, advertising materials, promotions, making-of's, press kits, interactive games, and merchandising and any other forms of exploitation in connection therewith;
- 2.1.29. **"Production Activities"** means rehearsing, erecting, deconstructing, photographing, filming and recording scenes and sounds, as applicable and as generally understood within the entertainment industry to be required for the Type of Production, and in connection with the Production;
- 2.1.30. **"Rights"** means the rights granted by the Host to the Filmmaker and its lawful assignees in terms of this Agreement;
- 2.1.31. **"SARS"** means the South African Revenue Services;
- 2.1.32. **"Schedule"** means the schedule to which these standard terms and conditions are annexed;
- 2.1.33. **"Sexual Harassment Policy"** means the sexual harassment policy as provided as part of this Agreement;
- 2.1.34. **"Social Media Policy"** means the social media policy which is attached as provided as part of this Agreement;
- 2.1.35. **"Shoot Dates"** means the dates specified in the Schedule;
- 2.1.36. **"Special Conditions"** means the special conditions specified in the Schedule;
- 2.1.37. **"Type of Production"** means the type of production, including but not limited to stills photography or production filming, as specified in the Schedule;
- 2.1.38. **"Utilities/Additional Areas"** means the utilities and additional areas specified in the Schedule;

- 2.1.39. **“VAT”** means value-added tax payable in terms of the VAT Act; and
- 2.1.40. **“VAT Act”** means the Value Added Tax Act No 89 of 1991 (as amended) or its successor
- 2.2. Words importing the singular shall include the plural and vice versa. Words importing natural persons include legal persons and partnerships and vice versa and words importing one gender include all other genders.
- 2.3. Words and expressions defined in any sub-clause shall, for the purpose of the clause of which the sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 2.4. Any reference to statute is to that statute as at the date of signature hereof and as amended or re-enacted from time to time.
- 2.5. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.6. The clause headings in this Agreement have been inserted for reference purposes only and shall not affect the interpretation of any provision of this Agreement.
- 2.7. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in this interpretation clause.
- 2.8. If any period is referred to in this Agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the day shall be the next succeeding Business Day.
- 2.9. The rule of construction that the contract shall be interpreted against the Party responsible for the drafting or preparation of this Agreement, shall not apply.
- 2.10. Expressions defined in this Agreement shall bear the same meanings in any Appendices hereto which does not contain its own definitions.

3. COMMENCEMENT AND DURATION

- 3.1. This Agreement shall commence on the Commencement Date and shall endure for the Period of Use, unless terminated earlier or extended pursuant to the terms of this Agreement.
- 3.2. Subject to the availability of the Mobile Space and consent of the Host (not to be unreasonably withheld), the Period of Use may be extended, changed or the Commencement Date changed by the Filmmaker, if there are Force Majeure, changes in Production schedule or delays due to unforeseen circumstances, on terms and conditions no more onerous than those set out in this Agreement.
- 3.3. Any intended or proposed changes or extensions to the Period of Use, as per clause 3.2 above, will need to be made through the Filmspace Platform and accepted by the Host before same are bound by the terms of this Agreement. These changes or extensions will furthermore be subject to the cancellation provisions and Cancellation Refund, as set out in this Agreement.

4. FEES

- 4.1. In full and final consideration for the rights granted in this Agreement and use of the Mobile Space (sufficiency of which is hereby acknowledged by the Host), the Filmmaker agrees to pay the Host the Fees as set out in the Schedule.
- 4.2. Host acknowledges and confirms that the Fee constitutes adequate and sufficient consideration for any inconvenience that may be caused by Filmmaker's Production Activities on and around the Mobile Space and surrounding area.
- 4.3. The Parties acknowledge that the payment of all Fees is managed by Filmspace, as the payment agent, through the Filmspace Platform and in accordance with the Filmspace Terms. Accordingly, any refunds of Fees or additional Fees to be paid for extended use of the Mobile Space, will be processed by the relevant Party on the Filmspace Platform.

5. PERMISSION

For good and valuable consideration, the sufficiency of which is hereby acknowledged, Host hereby irrevocably grants to Filmmaker (and its successors, assigns, licensees, employees and assigns, all of whom are included in the term "Filmmaker") permission to make use of the Mobile Space, specified below, for the purpose of making still and motion picture photography and sound recordings of, in and about the Mobile Space in any manner whatsoever and any including the right to photograph, record and use any and all logos, trademarks, trade names, the name connected with the Mobile Space, any signs, verbiage, photographs, copyrighted material contained on the Mobile Space and/or other materials therein or relating thereto, the right to refer to the Mobile Space or any part thereof by any fictitious name, and the right to attribute any fictitious events as occurring in and/or around the Mobile Space, together with access to said Mobile Space with Filmmaker's personnel and equipment in and in connection with the production, exhibition, exploitation, merchandising, advertising and promotion of the Production throughout the universe, in perpetuity, in all media and by all means now known or hereafter devised. Such rights shall include, without limitation, erecting and maintaining temporary motion picture props, rigging and structures (to the extent required by Filmmaker), and of photographing said Mobile Space, props, rigging and structures and/or recording sound for such scenes as Filmmaker may desire for the periods set out below. Filmmaker shall have the right to remove all of its props, rigging, structures and other material and equipment from the Mobile Space.

6. INSURANCE

Filmmaker agrees to maintain liability and property damage insurance covering the use of the Mobile Space by Filmmaker. Filmmaker shall indemnify and hold Host harmless from and against damages for injury to or death of persons and for damage to or destruction of property of the Host occurring during Filmmaker's use of said Mobile Space and caused by the gross negligence of Filmmaker or any of its employees in the conduct of Filmmaker's motion picture/stills operations hereunder to the extent of such insurance. Host hereby waives all rights of subrogation with

respect to any claim or claims which may arise under any and all policies of insurance now or during the term hereof.

7. USE AND REPAIRS

Filmmaker shall return the Mobile Space in substantially as good a condition as when received by it, excepting reasonable wear and tear and use of Mobile Space for the purposes herein permitted. Filmmaker shall repair any actual damage to the Mobile Space directly caused by Filmmaker's use thereof, unless caused by or to the extent that Host contributes to such damage. In connection therewith, Host shall submit a written list notifying Filmmaker of all claimed damage within three (3) business days following Filmmaker's return of the Mobile Space and Host shall permit Filmmaker to inspect the alleged damage. In the event that any actual and verifiable damage to the Mobile Space was caused directly by Filmmaker's use thereof, Filmmaker agrees to repair same or pay for the repairs. If the Mobile Space is beyond repair, Filmmaker agrees to pay for the replacement of the Mobile Space provided such payments do not exceed the value stated herein. Should the Filmmaker fail to make payment for such repairs to or replacement of the Mobile Space within 3 (three) days of such repairs or replacement being verified, then Filmspace has the right to deduct the relevant amount from the Filmmakers account, on presentation of a valid invoice from the Host. In no event shall Filmmaker be responsible for any consequential damages suffered by the Host.

8. RIGHTS

All results and proceeds of all materials (including, without limitation, all still and motion pictures and sound recordings) created in connection with use of the Mobile Space by Filmmaker shall be and remain the sole and exclusive property of Filmmaker in all media by all means now known or hereafter devised throughout the universe in perpetuity. Neither Host nor any other party claiming an interest in the Mobile Space shall have any right of action including without limitation any right of interdictory relief against Filmmaker arising from any use or non-use of the photography and sound recordings and hereby waives any claims they may have in connection with the use of the Mobile Space by Filmmaker, including, without limitation, claims for rights of privacy, publicity, defamation, copyright and/or trademark infringement. Without limiting the generality of the foregoing, Host hereby irrevocably grants to Filmmaker the right, in perpetuity, throughout the world, to duplicate and re-create all or a portion of said Mobile Space (physically, digitally or otherwise) and to use the same in any media and/or manner known or unknown, including without limitation in, and in connection with any motion picture, theme park, motion picture studio tour, commercial tie ins and/or merchandise in connection with any of the foregoing and/or in connection with any publicity, promotion, advertising and/or other exploitation of same. Notwithstanding the foregoing, Filmmaker shall not be obligated to make any actual use the Mobile Space and/or of any photography, recordings, depictions or other references to the Mobile Space hereunder in any motion picture or otherwise.

9. USAGE

Host may not terminate or interfere with the permission granted to Filmmaker to use and photograph the Mobile Space. Host acknowledges and agrees that the Mobile Space is a primary prop for use by Filmmaker as part of the photography of a motion picture/stills shoot, and that any interference with the use thereof shall cause Filmmaker substantial financial and other damage. As a result, Host agrees that Filmmaker shall be entitled to interdictory relief to prevent any interference with the use of the Mobile Space by Filmmaker as detailed hereunder. Host acknowledges and agrees that in the event Filmmaker breaches any of the Filmmaker's obligations hereunder, Host shall be limited to an action at law for monetary damages. In no event shall the Host be entitled to terminate this Agreement nor Shall Host be entitled to prevent, restrain, or interdict the production, distribution, exhibition, advertising, publicity, publishing or exploitation of any still, motion pictures, sound recordings or any other film production undertaken by the Filmmaker, its licensees or assignees, including without limitation, the Production, nor any of the rights granted to Filmmaker herein, or otherwise be entitled to any interdict, injunctive or other equitable relief and hereby waives any and all rights related thereto. In no event shall Host be entitled to terminate this Agreement. In no event shall Host be entitled to any consequential or incidental damages.

10. HOST

Host warrants that Host is the legal owner or authorized representative of the Mobile Space and has the authority to grant Filmmaker permission for the usage herein, and that no one else's permission is required. Additionally, Host represents and warrants that the Mobile Space is in good working condition and has been properly maintained in accordance with all applicable laws, ordinances and safety and other regulations. Host warrants that it will take no action nor permit or authorize any third party to take any action which might interfere with Filmmaker's full use of the Mobile Space. Host agrees to indemnify Filmmaker and its licensees and assigns from and against any and all claims, demands, liabilities and expenses (including attorney's fees) arising from or in connection with Host's negligence or willful misconduct, any hidden or latent defect in the Mobile Space and/or any breach of any of Host's representations, warranties or agreements set forth herein.

11. FORCE MAJEURE

- 11.1. Where Filmmaker cannot use the Mobile Space or a material part of the Mobile Space by reason of an event of Force Majeure the Filmmaker shall be entitled to suspend the Production Activities or immediately cancel this Agreement through the Filmspace Platform.
- 11.2. The Filmmaker shall have the right to use the Property for so many days as were lost as a result of the event of Force Majeure at a later date to be agreed between the Parties. These new dates must be booked through the Filmspace Platform within a period of 30 (thirty) days from the event of Force Majeure. Should the Filmmaker fail to do so within the required period of time, the Filmmaker will lose the right to reclaim the lost days without further fee.
- 11.3. In order to ensure that any additional days booked as a result of Force Majeure do not incur a further Fee, the Parties must immediately notify Filmspace in writing of the occurrence of an

event of Force Majeure and advise Filmspace of when the Parties have agreed to make up the lost days, so that Filmspace can amend the Period of Use on the Filmspace Platform accordingly.

11.4. Where the Filmmaker elects to immediately cancel this Agreement, prior to the Commencement Date, as a result of an event of Force Majeure, then then Filmmaker shall be entitled to a refund as follows:

11.4.1. the Filmmaker will not be liable for payment for any days during the Period of Use for which it was unable to use the Property as a result of Force Majeure. All Fees paid by the Filmmaker, excluding the Filmspace Fee, for such lost days will be refunded to the Filmmaker by the Host.

11.5. In the event of cancellation as a result of Force Majeure neither Filmspace, the Host nor the Filmmaker will be liable to each other for any consequential damage or loss suffered in respect of such cancellation.

11.6. The Parties acknowledge that all changes made to the Period of Use in terms of this clause 9 must be made on the Filmspace Platform through the processes provided.

12. EARLY CANCELLATION

Cancellation by Filmmaker:

1. Should the Filmmaker elect, at any time prior to or during the period of use, not to use or continue to use the Mobile Space for filming or any other purposes (which Filmmaker shall have the right to do), the Filmmaker will effect such cancellation on the Filmspace Platform.

2. Where this Agreement is cancelled early by the Filmmaker at its own election, the Filmmaker will be entitled to a cancellation refund as follows:

2.1. if such cancellation is effected more than 48 (forty eight) hours prior to Commencement Date, the Filmmaker shall be entitled to a refund of 50% (fifty percent) of the Fee, less the Filmspace Fee, which will be refunded within 7 (seven) days from the cancellation, and thereafter the Parties shall be released from any and all of their respective obligations hereunder;

2.2. if such cancellation is effected less than 48 (forty eight) hours prior to the Commencement Date, the Filmmaker shall not be entitled to any refund of the Fee.

Cancellation by the Host:

3. Should the Host elect, at any time prior to or during the Period of Use, to cancel this Agreement, the Host will effect such cancellation on the Filmspace Platform and will not be entitled to receive the Fee or any part thereof.

4. Where this Agreement is cancelled by the Host at its own election, less than 10 (ten) days from the first day of hire, the Host will be liable to the Filmmaker for an amount equal to the Fee. The Host will furthermore be subject to the cancellation penalties set out in the Filmspace Platform Terms.

13. ALTERNATIVE DISPUTE RESOLUTION

1. **Internal Resolution:** Any disputes arising under this Agreement, including but not limited to any disputes relating to the rights granted herein, the rectification, cancellation or cancellation of this Agreement shall be resolved by the parties meeting within 2 (two) weeks after written notice of such dispute has been provided to the other party, or at least within 3 (three) days after the completion of principal photography, whichever is earlier. The parties further agree to use all reasonable endeavours to resolve the dispute amicably
2. **Mediation:** In the event of the Parties being unable to resolve a difference or dispute by themselves within a period of 14 (fourteen) days from the internal resolution meeting, any Party shall be entitled to request that an attempt be made to resolve the difference or dispute by way of mediation. If the Parties cannot agree on a mediator, the mediator shall be, the nominee of the chairperson for the time being of the Legal Practice Council. In this regard the parties agree that all the Parties shall be obliged to attend the mediation and shall only be represented by their executive officers and not be entitled to any other representation, the mediator shall in his absolute discretion determine the nature and format of the mediation with the sole aim of resolving the difference and/or dispute by way of negotiation as soon as possible and the cost of the mediation, as determined by the mediator, shall be borne by the Party who loses the dispute in accordance with the mediators decision.
3. **Arbitration:** Should the Parties be unable to resolve their dispute in terms of internal resolution or mediation, then the matter in dispute shall be referred to arbitration in accordance with the provisions of the expedited Rules of the Arbitration Foundation of Southern Africa (“AFSA”) by an arbitrator or arbitrators appointed by AFSA. The parties to the arbitration undertake to keep the arbitration, including the subject matter of the arbitration, confidential and not to disclose it to anyone except for the purposes of an award. The decision of the arbitrator shall be final and binding on the parties and may be made an order of Court at the instance of any party to the arbitration.
4. Nothing contained in this clause 13 shall be deemed to prevent or prohibit the Filmmaker applying to the appropriate court for urgent relief.
5. The provisions of this clause are separate and severable from the rest of this Agreement and accordingly, shall remain in effect despite the cancellation or the invalidity, for any reason, of this Agreement.

14. JURISDICTION

This Agreement shall be governed by and interpreted in accordance with the laws as of the Republic of South Africa.

15. ASSIGNMENT

This Agreement and Filmmaker’s rights, but not its obligations, hereunder may be freely assigned by the Filmmaker on written notice to the Host. Host may not assign this Agreement nor its rights hereunder without Filmmaker’s prior written approval.

16. CONFIDENTIALITY

Host will not at any time directly or indirectly, disseminate, duplicate, display, publish, state or in any other manner by any media (including, without limitation, by television, radio, newspaper or interactive media such as Facebook, Twitter, or any other interactive social network or personal blog) disclose any Confidential Information (as defined below) at any time which comes to Host's attention or is derived by Host as a result of, or occasioned by, Filmmaker's considering the engagement and any actual engagement of Host and/or Filmmaker's submission to Host of various materials and other information. As used herein, "Confidential Information" includes, but is not limited to: (i) information of any kind dealing with or in any way relating to the development, production or exploitation of any project by Filmmaker or its assigns, including the Production, or any element thereof (including, without limitation, the screenplay, underlying literary material, characters, themes, plots, designs, artwork, locations, other creative elements and any process or other technological development relating thereto); (ii) the business or affairs of Filmmaker or any of its affiliates or assigns; (iii) the terms of any agreement for Host's services in connection with the Production; and (iv) any and all photographs, films videos or other recordings (whether made by Filmmaker or Host), including the negatives and any prints or copies thereof, of Filmmaker's contractors, employees, or any activities related to Filmmaker or any project of Filmmaker (including the Production). Host acknowledges and agrees that the Confidential Information derives independent economic value from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use. The breach of this clause by Host shall cause irreparable harm to Filmmaker and in addition to any remedies at law, Filmmaker shall be entitled to equitable (including interdictory) relief.

17. GENERAL

This Agreement is the entire agreement between the parties and cannot be modified except in writing signed by both parties and supersedes all prior agreements and understandings pertaining hereto and cannot be modified except by a writing signed by each party. This Agreement may be signed in counterparts and transmitted via electronic mail and such electronic signature counterparts taken together shall constitute an original binding agreement.