



## USE AGREEMENT FOR FILM PRODUCTION AND RELATED ACTIVITIES

THIS USE AGREEMENT FOR FILM PRODUCTION AND RELATED ACTIVITIES (“Agreement”), dated this \_\_\_\_\_ th day of \_\_\_\_\_, 2018, is made by and between the COSUMNES COMMUNITY SERVICES DISTRICT, a California community services district formed pursuant to Government Code section 61000 et seq. (“District”), and **ENTER NAME HERE** (“Contractor”).

1. Authorization to Use. In consideration of Contractor’s performance of its obligations under this Agreement, District confers to Contractor a revocable, personal, non-exclusive and non-possessory license to enter upon and use that certain real property owned by District and commonly known as the **Wackford Community & Aquatic Complex** (the “District Property”) as more particularly described in the Location, Identification and Information Form attached hereto and incorporated herein as Exhibit A (the “Location Form”), for the purposes and subject to the terms, conditions and restrictions set forth below. Contractor shall bear all costs or expenses of any kind in connection with its use of the District Property. This Agreement does not constitute a grant of any ownership, leasehold, easement or other property interest or estate in the District Property to Contractor. Contractor acknowledges that (i) such grant is effective only insofar as the District’s rights in the District Property; and (ii) Contractor must separately obtain all regulatory approvals of District or any other applicable governmental entity necessary for the Permitted Uses (as defined in Section 2).

2. Use of District Property. Contractor may enter and use the District Property for film production and related activities only as specified in the Location Form (the “Permitted Uses”) during the times specified in the Location Form, and shall comply with all limitations, conditions to approval, and use guidelines set forth in the Location Form, or as otherwise required by District. District reserves the right, in its sole and absolute discretion, to change such guidelines as necessary to promote or protect the public safety, health or convenience. Contractor shall keep the District Property free and clear of any liens or claims of lien arising out of Contractor’s use of the District Property and Contractor shall use commercially reasonable efforts to minimize any disruption that its activities may cause to the District Property or its general vicinity, including, but not limited to, disruptions due to light or noise.

3. Restrictions on Use. Contractor shall not use, and Contractor shall prohibit any of its Agents (defined as follows) or Invitees (defined as follows) from using the District Property for any activities other than the Permitted Uses. The term “Agents” shall mean Contractor’s officers, directors, members, agents, employees, contractors, subcontractors, and any employees of such parties. The term “Invitees” shall mean Contractor’s invitees, guests or business visitors. By way of example only and without limitation, the following uses of the District Property by Contractor, or any of its Agents or Invitees, are prohibited:

(a) Contractor shall not construct or place any permanent structures, signs or improvements on the District Property, nor shall Contractor permanently alter any existing structures, signs or improvements on the District Property.

(b) Contractor shall not conduct any unauthorized activities on or about the District Property that constitute waste or nuisance.

(c) Contractor shall not damage District's real or personal property.

(d) Contractor shall not cause any Hazardous Material (defined as follows) to be brought upon, kept, used, stored, released, generated or disposed of in, on or about the District Property, or transported to or from the District Property.

(i) Contractor shall immediately notify District of any release or suspected release of Hazardous Material. Contractor shall comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination. In the event of a release of Hazardous Material, Contractor shall, without cost to District and in accordance with all laws and regulations, return the District Property to the condition immediately prior to the release. Contractor shall allow District to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Material.

(ii) For purposes of this Agreement, "Hazardous Material" includes, without limitation, the following: any material defined as a "hazardous substance, pollutant or contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials; and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids.

4. Subject to District Uses. Notwithstanding anything to the contrary in this Agreement, Contractor's rights to use the District Property hereunder shall be subject and subordinate to District's necessary uses of the District Property for municipal purposes. District retains the right to use or allow other persons to use the District Property in a manner that does not unreasonably interfere with Contractor's activities hereunder.

5. Term of Agreement. The privilege given to Contractor pursuant to this Agreement is temporary only. This Agreement shall become effective upon execution hereof. Contractor shall have the right to use the District Property as set forth in Section 2 only from **TIME to TIME on DATE**, unless amended by prior written agreement of the District's General Manager, in his or her sole and absolute discretion, or sooner terminated pursuant to the terms hereof.

6. Surrender and Repair of Damage. Upon the cancellation, expiration, or termination of this Agreement, Contractor shall surrender the District Property in the same condition as received free from hazards and clear of all debris and of all property of Contractor

or its Agents or Invitees. Contractor shall promptly, at its sole cost, repair any and all damage to the District Property and any personal property located thereon caused by Contractor or its Agents or Invitees. Contractor shall obtain District's prior approval of any party to be used by Contractor to conduct such repair work. If Contractor damages District facilities or any personal property, the final repair costs owed by Contractor shall be determined by District, and shall be paid by Contractor within five (5) days of District's demand therefor. Contractor's obligations under this Section shall survive the cancellation, expiration, or termination of this Agreement.

7. District's Right to Cancel. District reserves the right to suspend all activities or to cancel or terminate this Agreement upon the happening of the following conditions.

(a) Contractor fails to promptly pay all fees or charges under this Agreement when due.

(b) Contractor fails to cure any non-compliance of any of the terms or conditions of this Agreement as soon as is reasonably feasible and no later than within twenty-four (24) hours of receiving District's notification of such failure, or if such failure cannot be reasonably cured within twenty-four (24) hours, if Contractor fails to commence to cure such failure within such twenty-four (24) hour period and to diligently pursue such cure to completion. Notwithstanding anything to the contrary in the foregoing, District reserves the right to cancel this Agreement immediately and without prior notice, if, in the District's sole judgment such action is warranted by such default or breach.

(c) The District, in its sole and absolute discretion, determines that there is an emergency requiring cancellation or termination of the Agreement.

8. Compliance with Laws; Regulatory Approvals, and Permit Requirements.

(a) Contractor shall, at its sole expense, conduct and cause to be conducted all activities on the District Property in compliance with all laws, regulations, codes, ordinances and orders of any governmental or other regulatory entity, and whether or not in the contemplation of the parties. Such laws shall include, but are not limited to, local, state and federal laws prohibiting discrimination in employment and public accommodations. Contractor agrees to conduct the Permitted Uses at all times in a safe and prudent manner with full regard to the public safety and to observe all applicable ordinances, regulations, policies and requests of the District and other government agencies responsible for public safety. Contractor shall, at its sole expense, procure and maintain in force at all times during its use of the District Property any and all licenses or approvals necessary to conduct the Permitted Uses.

(b) Prior to use of the District Property, Contractor shall, in its sole and exclusive responsibility, obtain a signed waiver from all persons who may be depicted in any image, photo or video produced by Contractor, in the form attached hereto as Exhibit B.

9. Utilities. Contractor shall not connect to or use any utility systems or outlets unless such use is specifically authorized in the Permitted Uses.

10. District's Right to Cure Defaults by Contractor. If Contractor defaults in the performance of any of its obligations under this Agreement, District may, at its sole option,

remedy such failure for Contractor's account and at Contractor's expense by providing Contractor with three (3) days prior written or oral notice of District's intention to cure such default (except that no such prior notice shall be required in the event of an emergency as determined by District). Contractor shall pay to District upon demand, all costs, damages, expenses or liabilities incurred by District, including, without limitation, reasonable attorneys' fees and costs, in remedying or attempting to remedy such default. Contractor's obligations under this Section shall survive the cancellation, expiration or termination of this Agreement.

11. Cash Deposit. District may, without limiting its other remedies, require Contractor to pay to District in cash or other deposit in an amount necessary to cover the cost of repairing or remedying any breach of this Agreement. Any unexpended sums shall be returned to Contractor, and Contractor shall immediately pay any additional costs incurred by District in excess of the cash deposited with District. No interest shall be payable to Contractor on any such deposit.

12. Use Charges.

(a) Upon execution of this Agreement, Contractor shall pay **\$0.00** to District as the rental charge for use of the District Property.

(b) Additional Payments. Within five (5) days of District's demand therefor, Contractor shall pay District for the costs incurred by District in providing the use of District employees, equipment, property, and facilities other than the District Property, as further described in the Location Form.

13. Insurance. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages, unless such insurance provisions are waived in writing by the District's General Manager, in his or her sole discretion:

(i) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Independent Contractors, Broadform Property Damage, and Products Liability and Completed Operations;

(ii) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired automobiles, as applicable; and

(iii) Workers' Compensation Insurance in statutory amounts with Employer's Liability Coverage with limits of not less than \$1,000,000 each accident.

(b) Commercial General Liability and Commercial Automobile Liability Insurance policies must provide the following:

(i) Name as Additional Insureds the District, its officers, agents, and employees.

(ii) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

(iii) All policies shall provide 30 (thirty) days' written notice to District of cancellation or material change.

(c) In the event District determines that Contractor's Permitted Uses require additional insurance, Contractor shall, prior to commencing any such activity, obtain such insurance as the District's Risk Manager requires for such activity.

(d) All insurance shall be provided under an occurrence basis.

(e) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

(f) Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the District receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the District may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

(g) Before commencing any operations under this Agreement, Contractor shall do the following: (i) furnish to District certificates of insurance, and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to District, in form evidencing all coverages set forth above, and (ii) furnish complete copies of policies promptly upon District request. Failure to maintain insurance shall constitute a material breach of this Agreement.

14. As Is Condition of District Property; Disclaimer of Representations. CONTRACTOR ACCEPTS THE USE OF THE DISTRICT PROPERTY IN ITS "AS IS" CONDITION, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY DISTRICT, ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING, WITHOUT LIMITATION, THE SUITABILITY OR SAFETY OF THE DISTRICT PROPERTY OR ANY FACILITIES ON THE DISTRICT PROPERTY, FOR CONTRACTOR'S USE.

15. Waiver of Claims.

(a) Neither District nor any of its commissions, departments, boards, officers, agents or employees shall be liable for any damage to the property of Contractor, its officers, agents, employees, invitees, contractors or subcontractors, or their employees, or for any bodily injury or death to such persons, or for any other loss, resulting or arising from the condition of the District Property or its use by Contractor.

(b) Contractor fully releases, waives and discharges forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, District, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any present or future laws, statutes, or regulations, (i) for any claim or event relating to the condition of the District Property or Contractor's use thereof, and (ii) in the event that District exercises its right to suspend, revoke or terminate this Agreement.

(c) In connection with the foregoing release, Contractor acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

Contractor acknowledges that the releases contained herein include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Contractor realizes and acknowledges that it has agreed upon this Agreement in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained herein shall survive any cancellation or termination of this Agreement.

16. Indemnity. Contractor shall protect, indemnify, defend, reimburse and hold harmless District, its officers, agents, employees and contractors from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages and liabilities of any kind (collectively, “Losses”), arising in any manner out of: (a) any injury or alleged injury to or death of any person or damage to or destruction of any property occurring in, on or about the District Property, or any part thereof, whether the person or property of Contractor, any of its Agents and Invitees, or third persons, relating in any manner to any use or activity under this Agreement; (b) any failure or alleged failure by Contractor, or any of its Agents or Invitees, to faithfully observe or perform any of the terms, covenants or conditions of this Agreement; (c) the use of the District Property or any activities or alleged activities conducted thereon by Contractor, its Agents or Invitees; (d) any release or discharge, or threatened release or discharge, or alleged release or discharge of any Hazardous Material caused or allowed by Contractor, its Agents or Invitees, on, in, under or about the District Property, any improvements permitted thereon, or into the environment; or (e) any and all Losses or alleged Losses arising in connection with this Agreement, including but not limited to, any such Losses relating to any alleged infringement of the patent rights, trademark, copyright, trade secret, privacy or other personal or other proprietary right of any person or persons. Contractor specifically agrees that this indemnification/defense and hold harmless clause is intended to extend to all acts of active or passive negligence, whether sole or concurrent, and that Contractor's duty to indemnify, defend and/or hold harmless is intended to be as broad and inclusive as determined by the terms of this Agreement, and as is permitted by the law of the State of California, and that, further, if any portion thereof is held invalid, it is agreed that the balance, shall, notwithstanding, continue in full legal force and effect.

The foregoing indemnity shall include, without limitation, reasonable attorneys' and consultants fees, investigation and remediation costs and all other reasonable costs and expenses

incurred by the indemnified parties, including, without limitation, damages for decrease in the value of the District Property and claims for damages or decreases in the value of adjoining property. Contractor shall have an immediate and independent obligation to defend District from any claim which actually or potentially falls within this indemnity provision. Contractor's obligations under this Section shall survive the expiration or termination of this Agreement.

17. No Assignment. Neither this Agreement nor any duties or obligations hereunder may be assigned, conveyed or delegated by the Contractor prior to completion of filming on the District Property unless first approved by District by written instrument executed and approved in the same manner as this Agreement.

18. No Joint Ventures or Partnership; Independent Contractor. This Agreement does not create a partnership or joint venture between District and Contractor. Contractor shall be solely responsible for all matters relating to payment of its employees, including, without limitation, compliance with any and all federal, state or local law and regulations.

19. Impossibility of Performance. If, for any reason, an unforeseen event occurs which is beyond the control of the District and the Contractor, which event renders impossible the fulfillment of any term of this Agreement, Contractor and the District shall have no right to nor claim for damages against the other.

20. Possessory Interest Taxes. Contractor recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that Contractor may be subject to the payment of property taxes levied on such interest under applicable law. Contractor agrees to pay taxes of any kind, including possessory interest taxes, if any, that may be lawfully assessed on Contractor's interest under this Agreement or use of the District Property pursuant hereto and to pay any other taxes, excises, licenses, permit charges or assessments based on Contractor's usage of the District Property that may be imposed upon Contractor by applicable law.

21. Notices. Except as otherwise provided herein, any notices given under this Agreement shall be addressed as follows:

To District: Cosumnes Community Services District  
8820 Elk Grove Blvd.  
Elk Grove, CA 95624  
Attention: Joshua Green, Parks and Recreation Administrator

To Contractor: [INSERT NAME AND ADDRESS]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice shall be deemed to be received(a) the date when it is deposited with the U.S. Post Office, if sent by first class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight courier, if next business day delivery is required, (c) upon the date

personal delivery is made, or (d) upon the date when it is sent by facsimile, if the sender receives a facsimile report confirming such delivery has been successful and the sender mails a copy of such notice to the other party by U.S. first-class mail on such date.

22. Location Credit. Contractor shall expressly give credit to the “Cosumnes Community Services District” in the credits of any film resulting from the activities under this Agreement. Said credit shall be accorded on screen, with size, placement and all other aspects thereof determined in Contractor’s sole discretion but consistent with other “thank-you” type credits accorded to locations of filming, if any. Contractor’s obligations under this Section shall survive the cancellation, expiration, or termination of this Agreement

23. General Provisions. This Agreement may be amended or modified only by a writing signed by District and Contractor. No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. Except as expressly set forth herein to the contrary, all approvals and determinations of District requested, required or permitted hereunder may be made in the sole and absolute discretion of the District General Manager or other authorized District official. This instrument (including the exhibits hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. This Agreement shall be governed by and be subject to California law. If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys’ fees and costs. Subject to the prohibition against assignments or other transfers by Contractor hereunder, this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns.

Contractor further represents and warrants to District that all information provided by Contractor in the Location Information is true and correct.

*[Signatures on Following Page]*

**SIGNATURE PAGE  
TO  
USE AGREEMENT  
FOR FILM PRODUCTION AND RELATED ACTIVITIES**

<p>COSUMNES COMMUNITY SERVICES DISTRICT</p> <p>By: _____</p> <p>Maureen Zamarripa General Manager</p> <p>Date: _____</p>	<p>[NAME OF CONTRACTOR]</p> <p>By: _____</p> <p>[Name] [Title]</p> <p>Date: _____</p>
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**EXHIBIT A**  
**Location, Identification and Information Form**

**Contractor Information**

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Local Address: \_\_\_\_\_  
Production Office or Hotel  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Primary Contact: \_\_\_\_\_ Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Local Production Contact: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Local Production Contact: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Local Production Contact: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

**District Property To Be Used**  
**For Film Production And Related Activities**

*[ Describe Location where filming may take place (this space will expand to fit) ]*

**Date And Time For Use Of District Property**  
**For Film Production And Related Activities**

**ENTER DATE**

**ENTER TIME**

**Permitted Uses, Limitations, Conditions To Approval And Use Guidelines**  
**For Film Production and Related Activities On District Property**

*[List all specific permitted uses, any limitations or conditions of use, and any guidelines.  
Consider including any rules specific to the Wackford property.]*

**EXHIBIT B**  
**PARTICIPANT FORM**

