



# Idaho State University

## Location and Filming Agreement

THIS LOCATION AND FILMING AGREEMENT is made and entered into between Idaho State University ("University") and \_\_\_\_\_ ("Permittee") for the use of University property or facilities by Permittee in connection with a filming project.

Subject to the other provisions of this Agreement, University hereby grants to Permittee, during the Use Period, the non-exclusive right to access and use the Premises described below and to bring personnel and equipment onto the Premises for the limited purpose of photographing, videotaping, reproducing, replicating, and using the Premises to film the Production. University shall have the right to cancel any or all of the scheduled filming and/or to terminate this Agreement if Permittee fails to comply fully with the provisions of this Agreement.

### Location and Permission Details

Description of production (the "Production") and permitted access:

Dates and times of use ("Use Period"):

Specific University facilities/space to be used (the "Premises"):

### Terms and Conditions of Use

- 1) In accordance with the terms and conditions contained herein, University grants to Permittee and its employees permission:
  - a) To enter, remain on, and occupy the Premises during the specified Use Period with personnel and equipment for the purpose of recording, filming, taping and/or photographing (collectively, "Film") in connection with the Project and undertaking reasonably related activities;
  - b) To make photographic, video, audio, and audio-visual recordings on and of the Premises; and
  - c) To edit, broadcast, and transmit such recordings for the purpose of the Production. All rights of every kind in such recordings in all manners, formats and media now known or hereafter devised (including

without limitation all copyrights therein and all renewals, extensions and restorations of said copyrights) shall be owned by Permittee; provided that:

- d) such content is made or produced in accordance with the terms and conditions of this Agreement, and
  - e) University grants approval in advance of use of the contents, appearance and presentation of any and all advertising, promotional or other similar materials proposed by Permittee utilizing the University Marks and/or names or images of University employees, faculty, coaches and/or students, provided, however, that Permittee is responsible for obtaining any and all necessary clearances, waivers and consents to use those persons' names and likenesses.
- 2) Fees.** Permittee shall pay to University a permitting fee to be determined by Idaho State University Marketing and Communications in consideration for the rights granted hereunder.
- 3) University Trademarks.** Permittee shall not graphically change, modify or distort the style and/or appearance of any University Mark, without written approval from University. Permittee agrees that nothing herein shall give Permittee any right, title, or interest in the University Marks, and that the University Marks are the sole property of University. Any use of University Marks, images of the University, or its employees or students by Permittee in the marketing, reproducing, exhibiting, exploiting, and other activities surrounding the Project will preserve the integrity, character, good name and good will, reputation, and dignity of University, and its employees and students. Permittee agrees that it shall not use, distribute, exhibit, or exploit University Marks outside the terms and conditions of this Agreement for commercial purposes.
- 4) Premises.**
- a) Permittee shall have access and egress from the Premises in order to Film. Upon the expiration of the Term or at any time prior, the Permittee shall remove all its facilities, equipment, and temporary sets and structures from the Premises and Permittee shall restore the premises, including but not limited to landscaping, buildings, fixtures, or utilities altered by virtue of this Agreement, to its original condition reasonable wear and tear excepted and such restoration shall be to the satisfaction of University and under its supervision. Costs will be assessed to Permittee if cleaning or restoration is not satisfactory to the University in its sole and absolute discretion.
  - b) University will provide Permittee with access to the Premises so long as such access can be utilized without significantly disrupting or preventing normal University activities.
  - c) Access to and entry in employee and student offices; academic classrooms, laboratories, and lecture halls; and residence halls and rooms for purposes filming, videotaping, photographing and otherwise recording, shall require approval of University's representative as well as the individuals occupying such Facility or rooms.
  - d) University makes no warranties or representations as to the suitability or non-suitability of the Premises for Permittee's purposes. Permittee accepts the Premises "AS-IS" and it is Permittee's sole responsibility to determine if Premises has the capacity and capability to accommodate the use contemplated under this Agreement. University has made no inspection of the Premises as to any existing defects or hazards. Any person entering upon the Premises enters at their own risk and

impliedly accepts Premises in the existing conditions. Permittee shall hold harmless, defend, and indemnify University, its officers, officials, employees, and agents, and the State of Idaho against and for all liability, cost, expenses, claims and damages for which University might otherwise become liable by reason of any accidents, or injuries to or death of any persons, or damage to property, or both, in any manner arising or resulting from, caused by, connected with or related to Permittee's presence and activities upon the Premises, regardless of how, where, or when such injury, death or damage occurs or if caused due to conditions or operation on or defects in the premises.

**5) Indemnification.**

- a) Permittee shall hold harmless, defend, and indemnify University, its officers, officials, employees, and agents, and the State of Idaho against any claim, lawsuit, or judgment of whatever kind, arising out of, in connection with, incident to, or caused by Filming the Project, unless caused by University's sole negligence or willful misconduct. This clause is intended to include, but is not limited to, tort related claims, real or personal property damage claims, and any and all claims related to intellectual property misappropriation or infringement. This provision requires that Permittee pay all costs, judgments, and reasonable attorney fees connected to any claim under this provision. In addition, Permittee shall indemnify University, its officers, officials, employees, and agents, and the State of Idaho from any claims based upon any invasion of privacy, or any improper or inappropriate use of the picture, voice, character or other representation of any person or persons. The obligations of indemnification and hold harmless set out in this Paragraph shall survive for that period of time that is coincident with the duration of a viable cause of action which may be asserted against the party entitled to indemnification hereunder.
- b) Permittee shall use reasonable care to prevent damage to the Facility and other University property and shall indemnify and hold harmless University and all other parties in the Facility for any claims, demands, and causes of action of any person based upon personal injuries or property damage suffered by such person resulting directly from any act or omission on Permittee's part in connection with Permittee's use of the Premises. The University assumes no responsibility whatever for any property brought into the Premises by Permittee.

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**6) Insurance.** If filming requires the presence on premises of Permittee or Permittees employees, agents, or suppliers, Permittee agrees to maintain the following insurance coverages throughout the life of this Agreement: all applicable Workers Compensation, comprehensive general liability insurance, and comprehensive automobile liability insurance.

- a) This coverage shall be for the following amounts:
  - i) Commercial General Liability Insurance. Permittee shall maintain commercial general liability (CGL) with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate.
  - ii) Automobile Liability. If applicable, Permittee shall maintain Automobile Liability in the amount of \$1,000,000 Combined Single Limit (Coverage shall include Non-owned and Hired auto coverage). If applicable, Motor Truck Cargo Legal Liability Special Form, including Theft, with minimum limit of \$100,000.

- iii) Professional Liability. If applicable, Permittee shall maintain Professional Liability (Errors & Omissions) insurance of not less than \$1,000,000 on a "claims made" basis, to cover claims made during the policy period and reported within three years of the date of occurrence.
  - iv) Workers' Compensation. If applicable, Permittee shall maintain all statutorily required Workers' Compensation coverages to include Employer's Liability at minimum limits of \$100,000/\$500,000/\$100,000.
- b) All coverage shall be written on an occurrence basis and shall be underwritten by companies authorized to do business in the State of Idaho and currently rated A- or better by A.M. Best Company or otherwise acceptable to University. By requiring such minimum insurance, University shall not be deemed or construed to have assessed the risk that may be applicable to the goods and/or services provided under this Agreement. Permittee shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Permittee is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.
- 7) **Management.** Notwithstanding this agreement, the day-to-day operation, use, and management of the Premises remain the responsibility and function of the University and its staff. The University reserves the right to make final decisions relating to the use of the Premises and its equipment, furnishings, and fixtures.
- 8) **Disruptive Use.** Should production efforts prove disruptive to the operations and functions of University, Permittee, upon notification by University, shall immediately cease operations until such time that Permittee is able to satisfactorily demonstrate to University that it can proceed in a manner that is not disruptive to University.
- 9) **Compliance with Laws.** Permittee understands and agrees to comply with all applicable local, state, and federal laws and regulations, and University rules and regulations, including but not limited to health, COVID-19, smoking, alcohol, drug, and noise regulations. University reserves the right to have any individual associated with the Project ejected from the Premises for failing to follow university rules and regulations, disrupting the operations and functions of University, or for being offensive or derogatory to students, faculty, administrators, or guests of University.
- 10) **Ownership.** University represents and warrants that University is the owner and/or authorized representative of the Premises and that University has the authority to grant Permittee the permission and rights herein granted.
- 11) **Non-Endorsement.** Permittee shall ensure that University does not appear to directly support, endorse, or sponsor the Program or any of the Program's direct sponsors, nor any advertising adjacent to the Program without first obtaining the prior written consent of Idaho State University Marketing and Communications. Similarly, Permittee shall not permit the Program's sponsors to suggest direct support or sponsorship by University of the Program or sponsors and/or sponsors products without first obtaining the prior written consent of an authorized official of University.

**12) Idaho Public Records Act.** Permittee acknowledges that University is obligated to strictly comply with the Idaho Public Records Act in responding to any request for public information pertaining to this Agreement.

**13) Third-party Releases.** As between Permittee and University, Permittee has the sole responsibility for securing any and all necessary releases, which includes releases for all students, staff, and parents, fans and other persons in the Premises at the time of filming.

- a) Permittee will also obtain specific releases (in a form to be provided by University) before any non-directory information on a student (under FERPA (20 U.S.C. §1232g) will be released by University to Permittee. Permittee shall provide copies of all releases of students, staff, and parents to University prior to production of the Program or within a reasonable period of time after securing such releases.

**14) No Preferential Treatment.** Permittee understands and agrees that no University participant shall be provided preferential or special treatment with respect to admission to the University, class assignment, or course schedule as a result of the Participant's association with the Project.

**15) Code of Conduct.** Permittee agrees that it shall not knowingly or intentionally film or record in any medium: (1) unobscured footage of any University student while such student is nude or partially nude; (2) footage of a University student(s) using illegal drugs or narcotics; or (3) footage of an underage University student(s) consuming alcohol. Permittee also agrees that it shall not knowingly or intentionally encourage a University student(s) to commit a criminal act or an act that constitutes misconduct under University's Student Code of Conduct. Furthermore, Permittee hereby acknowledges and agrees that it is strictly against Permittee's policies to condone, encourage or participate in condoning or encouraging criminal behavior, including but not limited to, the use of illegal drugs or underage consumption.

**16) Miscellaneous:**

- a) Relationship: The Parties understand and agree that each is an independent contractor engaged in the operation of its own respective business, that neither Party shall be considered to be the agent, master, or servant of the other party for any purpose whatsoever and that neither has any general authority to enter into any agreement, assume any obligations, or to make any warranties or representations on behalf of the other. Permittee shall be solely and personally liable for any and all applicable labor, taxes, insurance, required bonding and other expenses, except as specifically stated herein.
- b) Non-Assignability: This Agreement is not assignable by Permittee without the express written consent of University.
- c) Governing Law/Venue: This Agreement shall be governed by and construed in accordance with laws of the State of Idaho, without regard to its conflicts of law provisions. Any action seeking an interpretation or enforcement of this Agreement shall be brought in state district court in Bannock County, Idaho.
- d) Severability: The provisions of this Agreement are severable, and if any part of it is found to be unenforceable, the other provisions shall remain fully valid and enforceable to the fullest extent permitted by law; and it is the intention of the Parties hereto that if any provision of this Agreement

is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, the provision shall have the meaning which renders it valid.

- e) Entire Agreement and Modification: This Agreement represents the entire Agreement between the Parties and may not be altered, amended, or modified, except in a writing signed by all Parties.
- f) Non-Waiver: University's failure to exercise its rights against Permittee for any violation of this Agreement by Permittee shall not be a waiver of University's rights in regard to any other violations, nor shall University be stopped by the failure to exercise any of its rights hereunder.
- g) Force Majeure: Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control that make the contract impossible, impracticable, or frustrate the purpose of the contract, including but not limited to: acts or omissions of government or military authority; acts of God; government or court orders, guidelines, regulations, or actions related to communicable diseases, epidemics, pandemics, or other dangers to public health; materials shortages; transportation delays; fires; floods; labor disturbances; riots; wars; terrorist acts; athletic program termination; NCAA or conference determined restrictions or cancellations; or any other causes, directly or indirectly beyond the reasonable control of the non performing party, so long as such party uses its best efforts to remedy such failure or delays if reasonable to do so. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. A force majeure condition terminates a party's obligations under this contract, unless the parties mutually agree to reschedule.

SIGNATURE PAGE TO FOLLOW

By signing this Agreement, I, the undersigned, agree that I have authority to sign this Agreement on behalf of Permittee, that I have reviewed the terms above, and that Permittee will abide by the terms of this Agreement.

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

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

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

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

Authorized signatory for Permittee

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

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

Name: Miriam Dance

Title: Interim Associate Vice President for Marketing and  
Communications

Authorized signatory for University