



POST PRODUCTION RENTAL TERMS AND CONDITIONS

1. **TERMS AND CONDITIONS:** These Terms and Conditions apply to and are a part of that certain rental agreement (the "Agreement") between Cloud to Ground, LLC ("C2G") and the "Lessee" as defined in the Agreement. The Agreement, including these Terms and Conditions, sets forth the parties' mutual understanding and acceptance of all services to be performed by C2G and the prices to be paid by the Lessee for such services. Any verbal or written quotations discussed or submitted by C2G to the Lessee in the past are superseded by the Agreement, including these Terms and Conditions.

2. **ELEMENTS:** The term "Elements" shall mean all audio and visual materials, data and metadata, as well as any equivalent tangible embodiment or medium now known or hereafter devised, containing materials or an equivalent nature to the foregoing including, without limitation, all film materials (negatives, positives, originals, intermediates, reversals, cuts and trims, prints, separations, soundtrack optical negative, sprocket magnetic film), all videotapes, all audiotapes, subtitling materials, artwork, disks or tapes whether master tapes or duplicates, and all other recorded media, DVDs, electronic hard drives, compression materials, solid state computer chips containing audio or visual content, computer data storage media, including discs or tapes, in all cases whether delivered by the Lessee or produced by C2G there from.

3. PAYMENT:

a. **Standard Terms:** All work is accepted on a COD basis, unless special terms for payment or credit have been established in a writing signed by both parties and the Lessee is current and within its credit limits. If the Lessee applies for credit with C2G, the Lessee authorizes C2G to verify the information stated by the Lessee on the credit application and to obtain any other information C2G may request. References are hereby authorized and directed to release such information to C2G. Bills rendered by C2G are due net thirty (30) days from the date of invoice. All payments must be in U.S. currency. All invoices not paid within the agreed upon terms will be subject to a late charge of 1.5% per month (18% per annum) on the unpaid balance, provided, however, that the Lessee shall not be required to pay a late charge in excess of the maximum charge allowed by law.

b. **Fixed Bid Terms:** In the event that C2G agrees to provide services under the Agreement on a fixed bid basis, the compensation due C2G, unless otherwise specified in the Agreement, shall be payable as follows: (a) upon execution of the Agreement, including these Terms and Conditions, the Lessee shall provide C2G a purchase order for the full amount of the Agreement and pay C2G a deposit of 1/2 the total Agreement amount as advance of any monies payable hereunder for C2G services; (b) a progress payment of 1/4 shall be made when C2G informs the Lessee in writing that one-half of the services have been performed; and (c) a final payment of 1/4, plus any overages, shall be due when the completed products are ready to be received by the Lessee. All deliverables (as defined in the Agreement) will be billed separately and invoiced at the time when those deliverables are ready for delivery.

c. **Third Party Payment:** C2G shall have no obligation to accept work submitted by the Lessee to be billed to a third party. If C2G accepts such work; the Lessee and the third party are jointly and severally liable for payment to C2G.



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d. Shipping: All prices are FOB the place of business where the services are furnished. A handling charge may be added to all prepaid shipments.

e. Taxes: Any and all applicable local, state, federal or other governmental charges for sales, manufacturing, personal property, and like taxes or duties shall be added to the billed charges. The Lessee will pay or reimburse C2G for taxes or duties (including interest and penalties) levied against C2G or that C2G pays pursuant to any present or future law by reason of the Lessee's use of C2G's premises, facilities, or services including, without limitation, sales, use and other like taxes and duties.

f. Overtime: The Lessee acknowledges that the rates in C2G's price list or in the Agreement are based on use and operation of C2G's facilities, equipment, and employment of personnel during normal working hours, and are subject to increase, on notice to Lessee, for work performed on Saturdays, Sundays, holidays or otherwise outside normal working hours. Overtime charges shall be billable to the Lessee at the rates contained in the current C2G rate card.

g. Cancellation Fees: In the event that the Lessee cancels services ordered, the following charges will apply: (a) if the Lessee cancels any services less than seventy-two (72) hours but more than twenty-four (24) hours before the services are scheduled to begin, the Lessee will be charged fifty percent (50%) of the agreed upon price for those services; and (b) if the Lessee cancels any services less than twenty four (24) hours before the services are scheduled to begin, the Lessee will be charged one hundred percent (100%) of the agreed price for those services.

h. Price Changes: In the event that the price of film, video or audio stock, laboratory fees or third-party materials being used by C2G, direct costs of manufacturing, or the cost of labor (which shall include fringe benefits) to C2G are increased above those in effect on the date of this Agreement, then the prices to be paid by the Lessee may be increased to reflect such changed prices to the extent that they are not already included on the current C2G rate card. C2G shall give prompt notice to the Lessee of any cost increase, but any delay in notice shall not affect the effective date of the price increase.

i. Collection Fees: The Lessee agrees to pay all costs and expenses (including but not limited to attorneys' fees, collection agency costs and court costs) incurred by C2G in connection with the enforcement of C2G's rights hereunder. Any claim for adjustment in connection with an invoice must be presented to C2G in writing within thirty (30) days from the date of the invoice in question. The Lessee hereby waives any claim for adjustment in billing that is not presented to C2G in a timely fashion according to the provisions for this section.

4. ADDITIONAL SERVICES: If the Lessee requests additional services or changes to the services in the Agreement, C2G shall advise the Lessee whether C2G will be able to provide these additional services or changes in the time and in the manner desired. However, C2G shall not be obligated to allocate time or provide additional services that are beyond the scope of the services contemplated in the original Agreement, provided, however, that C2G shall use reasonable good faith efforts to make itself available for any requested change or addition that is that is technically able to provide. If the Lessee and C2G agree upon a supplement to the Agreement reflective of the additional services, the Lessee shall provide C2G a



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revised or additional purchase order for the supplemental services. In all other respects, these Terms and Conditions shall govern the additional services.

5. **TRANSPORTATION:** After receipt of written instructions from the Lessee, C2G shall use reasonable efforts to transport the Elements to the destination requested, all at Lessee's expense and risk. In the absence of written instructions identifying the carrier or means of shipment, C2G shall have the right to make all shipments of Elements via carrier or other methods of transportation as it sees fit, and any scheduled times for pick-ups and deliveries shall be estimates only. Unless requested by the Lessee in writing, C2G will not insure shipments through the carrier selected. The Lessee acknowledges that C2G is not a common carrier.

6. OWNERSHIP OF ELEMENTS:

a. **Lessee Warranty:** The Lessee warrants and represents that it is the sole owner or duly authorized representative of all owners of the Elements delivered to C2G and all intellectual property contained in or represented by the Elements.

b. **Authority:** The Lessee further warrants and represents that it has the legal right and authority to enter into the Agreement and to engage C2G to perform all work under the Agreement, and that all facts stated in any document comprising the Agreement are true and complete.

c. **Transfer:** As long as the Lessee is indebted to C2G, the Lessee agrees not to sell, assign, pledge, loan or otherwise encumber or purport to transfer all or any interest or proprietary rights in any of the Elements or any right therein without prior written notice from C2G. C2G shall retain ownership of all digital Elements, intermediate Elements, video, audio and computer tapes, film separations, and the like used to generate the deliverable product for the Lessee, except that title to the deliverable products shall pass to the Lessee upon payment in full.

d. **Indemnity:** The Lessee will defend, indemnify and hold harmless C2G, its officers, directors, members, employees, subcontractors, agents and affiliates from any and all liability arising out of or in connection with the publication, processing, use, distribution, contents or exhibition of Elements delivered to C2G, including without limitation any alleged liability for libel, slander, defamation, invasion of privacy or infringement of patent, copyright, trademark or other proprietary rights.

e. **Claim:** C2G shall have no obligation to investigate the validity of any claim adverse to the Lessee or C2G by any third party with regard to ownership, right to possession or control of the contents of the Elements or any other matter. The Lessee shall indemnify, defend and hold C2G harmless from any and all actual or potential C2G liability that may result from action taken by the Lessee as a result of any such claim.

f. **Response:** Within forty eight (48) hours after C2G provides notice of a claim to the Lessee, the Lessee shall notify C2G in writing of the response the Lessee proposes. Thereafter, C2G at its sole discretion shall have the option to take any reasonable action it deems appropriate to protect its interests, including but not limited to, releasing or otherwise dealing with any and all of the Elements as requested in the claim, rejecting the claim in whole or in part, restricting access to the Elements or interpleading the Elements.



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Lessee shall indemnify, defend and hold harmless C2G from all actual or potential liability arising out of or in connection with any such action.

7. RIGHT TO REFUSE PERFORMANCE:

a. Generally: Without liability to C2G, C2G has the right to refuse to provide services with respect to any Element that C2G, in its sole discretion deems to (i) be unlawful, pornographic or degrading; (ii) tends to incite prejudice or passion; (iii) or have the possibility of subjecting C2G, its officers, directors, members, employees, agents or affiliates to criminal or civil process or liability of whatever nature. If C2G determines that any such risk exists; C2G shall have the right to stop further work, entirely or in part, and retain possession of Elements until the Lessee has paid in full for work performed.

b. Imperfect or Old Elements: C2G in its sole discretion may refuse to accept old or shrunken Elements or Elements showing any imperfection or having an unusual photographic or other physical condition. In the event that such Elements are accepted for services of any kind, C2G shall not be responsible for quality problems resulting from such Element Conditions or any resulting additional time requirements. The Lessee will promptly pay any additional charge for additional processing time or additional materials used, whether or not a satisfactory Element is ultimately produced by C2G.

8. STORAGE AND DISPOSITION OF ELEMENTS:

a. Vault: At Lessee's written request and sole risk, C2G will store Elements free of charge during the time services are rendered and for an additional sixty (60) days after the completion of services contemplated in the Agreement. The Lessee shall have the sole responsibility to ensure that the Elements are vaulted under the proper customer name. If any Elements are vaulted in the name of a third party, C2G may release the Elements to the third party or a representative thereof without notice to the Lessee or liability. C2G reserves the right to request from the Lessee a signed written authorization for the release of any and all vaulted Elements. C2G, unless instructed otherwise in writing by the Lessee, shall be entitled to pack or repack or otherwise rearrange any or all of the Elements while these are in C2G's custody.

b. Removal: Sixty (60) days after the completion of the services contemplated in the Agreement and provided that C2G has been paid in full for all of its charges, Elements must be picked up by the Lessee or C2G may move such Elements to a satellite location for temporary storage until further required, at the Lessee's expense.

c. Storage: Any Elements remaining under C2G's control more than sixty (60) days after the completion of services shall be subject to a reasonable storage charge of \$2.00 per Element or such other rate as C2G then charges for storage. C2G reserves the right to store such Elements at any place or places it deems appropriate, still at the Lessee's risk and expense. At any time, C2G may require the Lessee to retake possession of any or all of Lessee's Elements.

d. Disposition: Six (6) months after completion of services and after written notice is sent to the Lessee's last known address as it appears in C2G's records, the Lessee shall, at Lessee's sole expense, remove all Elements in storage. If the Lessee fails to do so, C2G retains the right to destroy, reuse or make any disposition of the any Elements. The Lessee will defend, indemnify and hold harmless C2G, its officers,



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directors, members, employees, subcontractors, agents and affiliates from all liability arising out of or in connection with C2G's destruction or disposition of Elements as provided in this section. C2G will attempt to notify the Lessee and provide a reasonable period, not in excess of one week, to cure any breach of this Paragraph 8 before exercising its rights to destroy, reuse or otherwise dispose of such Elements.

9. REMEDIES AND LIENS:

Security Interest: In addition to any other lien, right or remedy available to C2G under the Agreement, these Terms and Conditions or applicable law, the Lessee hereby grants, assigns and transfers to C2G a security interest in and lien on any and all Elements in C2G's possession or control, including all Elements made by C2G, as security for the payment of any and all services and materials furnished to the Lessee by C2G. This security interest is subject to all preexisting security interests and rights, but shall take precedence over all subsequent interests or rights. If the Elements are voluntarily restored or delivered to the Lessee or some third person prior to payment to C2G for its materials and services, C2G's lien and security interest shall not be extinguished but shall survive, and upon request by C2G, the Lessee shall execute such documents, including a UCC-1 Financing Statement, as may be required to protect and perfect such security interest.

b. **Cumulative Rights:** ALL LIENS, RIGHTS AND REMEDIES OF C2G SHALL BE DEEMED CUMULATIVE AND NOT EXCLUSIVE OF ONE ANOTHER. THE EXERCISE BY C2G OF ANY RIGHT OR REMEDY SHALL NOT PRECLUDE ASSERTION OF OTHER RIGHTS. PAYMENT TO C2G AS A RESULT OF ANY PUBLIC OR PRIVATE SALE SHALL NOT ELIMINATE THE CUSTOMER'S OBLIGATION TO PAY WHATEVER DEFICIENCY MAY BE DUE AFTER THE PROCEEDS ARE APPLIED TO PAYMENT OF THE INDEBTEDNESS, INCLUDING, WITHOUT LIMITATION, ALL LEGAL AND OTHER COSTS, EXPENSES AND CHARGES INCURRED IN THE COLLECTION, SALE, DELIVERY OR PRESERVATION OF THE ELEMENTS.

c. **Title:** The Lessee agrees that if C2G shall enforce its rights under the law, it or any other party acquiring any right, title or interest in or to any Elements at public or private sale, shall have and is hereby granted, all right, title, and interest to the Lessee, including, without limitation, and to the extent available given preexisting liens or rights, the unrestricted license to distribute, exhibit and otherwise exploit such Elements by all media for its own account. C2G will notify the Lessee and provide a reasonable period, not in excess of one week, to cure any breach before exercising its rights to sell, distribute, exhibit or otherwise exploit such Elements.

10. **PUBLICITY:** In connection with its publicity or promotional activities, C2G may use the name of the Lessee and the name of the Lessee's project after C2G has been engaged to perform services. In addition, C2G may use a single image or a sequence of less than thirty (30) seconds in duration from the Lessee's project, with or without superimposing C2G's trade names or logos, at any time at least one week after initial release of the Lessee's project.

11. **CREDITS:** The Lessee will exhibit or obtain all necessary right to have the exhibitor exhibit in the end credits of each project the appropriate C2G logo as provided by C2G. C2G shall supply to the Lessee the specific nature of the credit C2G is to receive and any necessary artwork.



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12. **SYNCHRONIZATION:** The Lessee must supply source Elements with standard leaders bearing clear proper synchronization marks. Any error in synchronization shall be the responsibility of the Lessee and C2G shall bear no liability. The Lessee will defend, indemnify and hold harmless C2G its officers, directors, members, employees, subcontractors, agents and affiliates from any liability arising out of or in connection with any error in synchronization.

13. LIMITATION ON LIABILITY:

a. **Acknowledgement:** C2G undertakes to render its services in a good and workmanlike manner, but the Lessee acknowledges that C2G's services involve creativity and the use of unique and complex systems and procedures, and C2G prices are based on the assessment of the value of its goods and services and not on the value of the Elements or the content thereof.

b. **Damage or Loss:** The Lessee's Elements are received, processed, and stored by C2G solely at the Lessee's risk and C2G shall not be responsible for loss, damage or destruction of such Elements even if due to the simple or gross negligence of C2G or its employees. IN THE EVENT THAT THE ELEMENTS OF THE CUSTOMER DELIVERED TO OR DEPOSITED WITH C2G ARE LOST, DESTROYED OR DAMAGED BY REASON OF ANY ACT OR OMISSION OF C2G, ITS OFFICER, DIRECTORS, MEMBERS, EMPLOYEES, SUBCONTRACTORS, AGENTS OR AFFILIATES, C2G's LIABILITY SHALL BE LIMITED TO THE REPLACEMENT OF THE LOST OR DESTROYED ELEMENTS WITH FRESH TAPE, UNEXPOSED FILM STOCK OR OTHER RAW MEDIA, AS APPROPRIATE.

c. **Delay in Delivery:** Orders will be filled as rapidly as practicable taking into consideration the order of delivery to C2G of Elements by the Lessee, Elements by all other customers, C2G's obligations to other customers, and C2G's equipment and plant capacity. Delivery dates and/or shipping dates are approximate, based on the dates of delivery to C2G as specified in the Agreement, and may be subject to delays. C2G shall not be liable to the Lessee or any third party for any loss or damage (incidental or consequential) directly or indirectly arising from C2G's delay in delivery or shipping, nor for any failure to give notice of delay; such delay shall not constitute grounds for cancellation by the Lessee. C2G will also not be responsible for any damages or loss caused by any failure to deliver Elements to C2G on a timely basis.

d. **Defects in Delivery:** If an Element produced by C2G is erroneously labeled or shipped or if nonconforming services or materials are furnished by C2G, C2G's liability shall be limited to the correction of the errors in shipment or labeling or the providing of conforming services or materials at C2G's expense; provided that the defective Element is returned and written notice of such imperfection or error is given C2G within twenty one (21) days after shipment. C2G shall not be responsible for any discrepancy whatsoever that might result from or be caused by any deficiency in the condition or quality of the Lessee's Elements.

14. **INSURANCE:** The Lessee will insure fully, at its own expense, Elements delivered to or deposited with C2G against all insurable risks including damage or loss or destruction of such Elements by C2G, its officers, directors, members, employees, subcontractors, agents and affiliates, or by the transportation of any Element to or from C2G. Such insurance shall insure against any and all losses (including incidental and



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consequential losses). The Lessee agrees that such insurance is available. The policy of insurance will name C2G as an additional insured, will provide fifteen (15) days advance notice before modification or cancellation, and will provide that the insurer waives all claims of subrogation against C2G and its officers, directors, members, employees, subcontractors, agents and affiliates. The Lessee shall provide a certificate of insurance in conformity with these requirements upon C2G's request. C2G SHALL IN NO EVENT BE LIABLE FOR ANY LOSS OR DAMAGE THAT WAS, OR COULD HAVE BEEN, COVERED BY INSURANCE.

15. **INDEMNITY:** The Lessee waives and releases C2G, its officers, directors, members, employees, subcontractors, agents and affiliates from any and all liabilities, claims, demands, actions, causes of action, loss, costs, damage and expenses arising out of or based upon the use of C2G services or products (including but not limited to subrogation claims against C2G by the Lessee's insurance carrier or others), or the present or future fitness, quality, condition, merchantability or performance of C2G services or products, or of the material or workmanship thereof, no matter how caused or occasioned, including but not limited to the simple or gross negligence of C2G, its directors, members, employees, subcontractors, agents and affiliates. The Lessee will defend, indemnify and hold harmless C2G, its officers, directors, members, employees, subcontractors, agents or affiliates from and against any and all liabilities, claims, demands, actions, causes of action, loss, costs, damage and expenses brought or made against or suffered or incurred by them or any of them arising out of or based upon the present or future fitness, quality, condition, merchantability or performance of the services or products provided under the Agreement.

16. **WARRANTIES:** The Lessee agrees that C2G has not made and does not make any representation or warranty and has not assumed and does not assume any liability or responsibility as to the character or quality of the materials or services furnished by it or as to the results of any of its undertakings. EXCEPT AS EXPRESSLY STATED IN THESE TERMS AND CONDITIONS, C2G MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESCRIPTION, QUALITY, CHARACTER, OR OTHERWISE WITH RESPECT TO THE SERVICES OR PRODUCTS PROVIDED BY C2G.

17. **NO CONSEQUENTIAL DAMAGES:** IN NO EVENT SHALL C2G, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS, BE LIABLE FOR ANY LOST PROFITS OR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER ARISING IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, FUNCTIONING OR USE OF ANY GOOD OR SERVICE HEREUNDER, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR GROSS NEGLIGENCE), INDEMNITY OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF.

18. **CONFIDENTIAL INFORMATION:** Except as provided above in "PUBLICITY", neither party shall disclose or permit the disclosure of any term of the Agreement, these Terms and Conditions or of any other confidential and proprietary information relating to any other party hereto (collectively, "Confidential Information"); provided that such disclosure may be made (i) to any person who is a partner, officer, director, employee or affiliate of such party or counsel to or accountants of such party, provided, however, that such persons are notified of the party's confidentiality obligations hereunder, (ii) pursuant to a subpoena or order issued by a court, arbitrator or governmental body, agency or official, with prompt notification to the other party thereof and (iii) to enforce rights under the Agreement, including these Terms and Conditions.



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19. **ENTIRE CONTRACT, SEVERABILITY AND NON-WAIVER:** These Terms and Conditions apply to all C2G work performed, services rendered and material furnished for the account of the Lessee until rescinded, terminated or modified by a subsequent written agreement signed by an officer of C2G. They, along with the Agreement, constitute all the Terms and Conditions relating to the services to be performed for the Lessee that are the subject of the Agreement and all matters incidental to such services. These Terms and Conditions and the Agreement together supersede all prior written or oral agreements with respect to their subject matter, including all prior bid quotations or proposals. In the event of any inconsistency between the Agreement and these Terms and Conditions, the terms of the Agreement shall apply. No modification or waiver hereof shall be valid unless in writing and signed by an officer of C2G. The invalidity or unenforceability of any one or more Terms or Conditions shall not affect the validity of enforceability of the remaining Terms and Conditions. The failure of C2G in any one or more instances to insist upon performance of any of these Terms or Conditions or to exercise any right or privilege given to C2G in these Terms and Conditions shall not be construed as a waiver of the breach of any other term, condition, right or privilege set forth in this Agreement, including these Terms and Conditions.

20. **SUBCONTRACTING AND ASSIGNMENT:** C2G reserves the right, exercisable in its sole discretion, to subcontract all or any part of its obligations hereunder to any party it deems appropriate without either notice to or the consent of the Lessee.

21. **FORCE MAJEURE:** C2G shall not be liable for any loss, injury, or damage whatsoever, arising from C2G being delayed or hindered in or prevented from the performance of any of its obligations under this Agreement by reason of strikes, labor troubles, inability to procure materials or services, power failures, restrictive governmental laws or regulations, riots, insurrection, sabotage, rebellion, war, acts of God, acts of the Lessee, or any other cause whatsoever beyond C2G's reasonable control.

22. **CLAIMS:** The Lessee shall notify C2G in writing of any claim or potential claim related to or arising out of the services provided under this Agreement within ninety (90) days after the earliest of shipment or the date the Lessee knew or the date the Lessee should have known of such claim. Any claim that the Lessee fails to provide written notice of within this time shall be deemed to be waived, released and permanently barred.

23. **ARBITRATION; ATTORNEYS FEES:** The parties will arbitrate any and all disputes arising out of or relating to the Agreement, including these Terms and Conditions, or their performance there under before one neutral arbitrator in the greater Atlanta, Georgia metropolitan area, pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator in this decision shall apportion the cost of arbitration. The prevailing party shall be entitled to recover its reasonable attorney fees and expenses from the other party.

24. **GOVERNING LAW:** The Agreement, including these Terms and Conditions, shall be governed by, construed and enforced in accordance with the laws of the State of New York applicable to agreements made and entirely to be performed in the State of Georgia by its citizens.



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25. **SUCCESSORS AND ASSIGNS:** These Terms and Conditions shall apply to and bind the heirs, executors, administrators, successors and assigns of the Lessee and shall inure to the benefit of C2G, its successors and assigns.

26. **NOTICES:** All notices and communications required or permitted hereunder to C2G shall be sent to the following address: Cloud to Ground LLC, 1429 Fairmont Avenue, NW, Suite C, Atlanta, GA 30318, unless C2G notifies the Lessee otherwise in writing. All notices and communication to the Lessee shall be sent to the Lessee at any address shown as an address of the Lessee in C2G records. Any notice or communications required and permitted hereunder shall be given in writing and shall be deemed to have been duly given 72 hours after deposit in the United States Mail, as certified mail, return receipt requested with postage pre-paid.

27. **SIGNATORIES:** The Lessee represents and warrants that the representations made by the Lessee in this Agreement are true and correct, and that the Lessee has read the foregoing Terms and Conditions and agrees that all Elements submitted to C2G, and work performed and services rendered for the account of Lessee, shall be governed by the Agreement and these Terms and Conditions.