

## HAWAII FILMMAKERS COLLECTIVE MEMBERSHIP AGREEMENT

THIS HAWAII FILMMAKERS COLLECTIVE MEMBERSHIP AGREEMENT (hereafter "Agreement") is entered into as of the date listed below, by Hawaii Filmmakers Collective LLC, a Hawaii limited liability company, (hereafter "Company") and Participant, whose name and address appear below.

### Definitions:

**Project:** A "Project" is an attempt to create a film, including all the processes leading up to and including the actual finished film, with other Participants.

**Project Owner:** A "Project Owner" is a Participant who is the originator of an original film concept or has the rights to a film concept and recruits other Participants to help make a Project.

**Team:** A "Team" is a group of Participants working together on a single Project. The Project Owner determines at any given time who is a member of a Project's Team.

**Membership:** Any Participant who pays his/her monthly fee on time and has not had his/her Membership revoked is considered to have "Membership" status and is a "Participant". Membership entitles Participant to vote for which Projects can join a production cycle, attend Participant Meetings, and to participate in a Team that is involved in working on a Project.

**Project Profits:** "Project Profits" are defined as any revenue generated from a specific Project (including but not limited to Ticket Sales, Distribution Deals, DVD and Video Sales, Merchandising, or if the Project is otherwise licensed, marketed, or sold) less costs expended on the Project, or any other debts or obligations which may apply.

1. **Service.** Company shall (i) provide Participant an opportunity to either form or join a Team, (ii) provide Participant with network to collaborate with other Participants, and (iii) screen the film a Participant(s) creates – provided Project follows the screening guidelines provided at the initial members meeting and online (the "Service").

2. **Fees.** Participant shall pay to Company the monthly fee agreed upon, payable in advance of time period agreed upon (1 month, 4 months, or 12 months) (the "Fee"). Timely payment of the Fee ensures Participant's continued Membership. The Fee is non-refundable. Company reserves the right to

change the Fee with thirty (30) days advanced written notice. Notice may be provided by e-mail, a posting on Company's official website, or by any other reasonable means.

3. Assignment. As further consideration, Company and Participant hereby grant, assign, and convey all rights, title and interest to any and all copyrights, trademarks, trade secrets concepts, designs or otherwise (the "Intellectual Property"), created during Participant's work on Project, to Project Owner in perpetuity with an exception that for a Project's completed film that is shorter than seventy (70) minutes in length Company reserves the non-exclusive rights to reproduce, distribute, screen, and/or sell Project copies as outlined herein in any medium now known or later invented including but not limited to theatrical screenings, DVD sales, TV broadcasts, and internet distribution. However, Company may not sell or reassign (i) the rights to reproduce, (ii) rights to distribute, and/or (iii) the rights to sell Project. Participant further agrees to assist Project Owner in every proper way (but at Project Owner's expense) to obtain and from time to time assign and enforce the Intellectual Property or other rights or registrations relating to the Project.

4. Project Profits Distribution. All Project Profits shall be distributed at the sole discretion of Project Owner except for profit generated by use of Company's non-exclusive rights to Project as defined herein (Section "3. Assignment") which will be retained by Company.

5. Original Work. Participant hereby agrees that all contributions made by Participant under this Agreement shall be the Participant's original work created during the term of this Agreement. Participant further agrees and acknowledges that Participant shall not use any third party's copyrights, trademarks, trade secrets, concepts, designs or otherwise in any manner that would infringe upon any third party's rights.

6. Indemnity. Participant hereby agrees, at Participant's expense, to indemnify, defend and hold Company and all other Participants harmless from and against any loss, cost, damages, liability or expense arising out of or relating to (a) a third-party claim, action or allegation of infringement based on copyrights, trademarks, trade secrets, concepts, designs information, data, files or other content submitted or used by Participant in the Project; or (b) any fraud or manipulation, or any material breach by Participant of this Agreement or any other representations or warranties made by this Agreement.

7. Termination. Company may immediately terminate Participant's Membership and right to use the

Service if (a) Participant breaches the Agreement; (b) Participant provides Company with information which is inaccurate or false; (c) Participant breaks the law in the course of working on a Project, (d) Participant negatively impacts other Participants' ability to participate in the service, (e) Company decides, in its sole discretion, to discontinue offering the Service, or (f) Company decides, in its own reasonable discretion, to revoke Membership to an individual, for any reason or for no reason, upon five (5) days prior written notice to Company.

Company shall not be liable to Participant or any third party for termination of the Service. Participant may terminate Participant's Membership and end Participant's use of the Service at any time. Upon termination of Participant's account, Participant shall remain liable for all fees incurred or accrued by Participant and any fees which may have been paid in advance are nonrefundable. Upon expiration of a Participant's Membership or termination, Participant shall no longer be authorized to use the Service, participate in voting or participate in a Team.

8. DISCLAIMER OF WARRANTIES. PARTICIPANT EXPRESSLY AGREES THAT USE OF THE SERVICE IS AT PARTICIPANT'S SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" BASIS. COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. COMPANY MAKES NO WARRANTY THAT THE SERVICE WILL MEET YOUR REQUIREMENTS OR THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY OR ERROR FREE, NOR DOES COMPANY MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE OR THE ACCURACY OF ANY OTHER INFORMATION OBTAINED THROUGH THE SERVICE OR THAT DEFECTS WILL BE CORRECTED.

9. LIMITATION OF LIABILITY. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, RESULTING FROM THE USE OF THE SERVICE, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. COMPANY'S LIABILITY TO PARTICIPANT OR ANY THIRD PARTY IS LIMITED TO \$45.00. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SO SOME OF THE ABOVE

LIMITATIONS MAY  
NOT APPLY.

10. Miscellaneous Provisions.

(a) Notices. Any notice, request or other document to be given under this Agreement to any party shall be in writing and shall be deemed to be delivered when (a) received, if delivered by hand (with written confirmation of receipt) or (b) received, if sent by a nationally recognized overnight delivery service or sent by registered or certified mail, postage prepaid, at its address set forth below:

To Company:

Hawaii Filmmakers Colleeive LLC

Tom Schneider

3167 Waialae Ave.

Honolulu, HI 96816

If to Participant, to the address listed on the signature page.

Any person or Company may change his/her or its address for receiving notices by giving written notice of such change to the other parties as provided in this Section.

(b) Waiver. No provision of this Agreement shall be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Company and by Participant. No waiver by either party or any breach of, or compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(c) Whole Agreement. No agreements, representations or understandings (whether oral or written and whether express or implied) which are not expressly set forth in this Agreement have been made or entered into by either party with respect to the subject matter hereof.

(d) No Partnership. Nothing in this Agreement shall be deemed to create any partnership, principal/agent, master/servant, or joint venture relationship between the parties. Neither party is granted any authority to bind the other, create obligations of the other, or otherwise act as the representative of the other.

(e) Choice of Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Hawaii (other than their choice-of-law provisions).

(f) Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, in the City and County of Fresno, California, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

(g) Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof, which shall remain in full force and effect.

(h) Assignment and Successors. Participant may not assign any right or delegate any obligation hereunder without Company's prior written consent, and any purported assignment or delegation by a party hereto without Company's prior written consent shall be void. This Agreement shall be binding upon and inure to the benefit of the Company and its successors and Participant, its heirs, executors, administrators and legal representatives.

(i) No Interpretation Against Drafter. This Agreement is the product of negotiations between the parties hereto represented by counsel and any rules of construction relating to interpretation against the drafter of an agreement (including but not limited to the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party) shall not apply to this Agreement or any amendments to this Agreement and are expressly waived.

(j) Facsimiles and Counterparts. This Agreement may be signed in counterparts and faxed or electronic signatures will serve as original signatures.

(k) Company reserves the right to unilaterally modify the Definitions set forth above upon notice to Participant.

By joining one of our membership options you agree to the terms and conditions listed above in this contract.