

Florida International University
SUPPLEMENTAL ADDENDUM
(Entertainment/Performance Agreement)

1. Incorporation by Reference. This Supplemental Addendum (“Addendum”) is incorporated in the Agreement. If this Addendum conflicts with the remainder of the Agreement, this Addendum shall control.

2. Payment. Performer shall submit bills for compensation for services or expenses in detail sufficient for a proper pre-and post-audit. Performer is responsible for any taxes due under this Agreement. FIU will make payment in accordance with FIU Regulation FIU-2202 entitled “Prompt Payment.” Upon receipt of goods or services, FIU has five (5) business days to inspect and approve the goods or services, unless Agreement specifies a greater period of time. If FIU does not issue payment within 40 days of receipt of a proper invoice, FIU will pay to Performer, an interest penalty at the rate established pursuant to §55.03(1) Fla. Stat. if the interest exceeds one dollar (\$1.00). Vendors experiencing payment problems may contact the Vendor Ombudsman at (305) 348-2101.

3. Relationship of the Parties. Performer is an independent contractor, and neither Performer nor Performer’s employees, agents, or other representatives shall be considered FIU employees or agents. Performer shall not use FIU’s name, trademarks, logos, or marks without FIU’s prior written approval. Performer represents and warrants that it is not on the Convicted Vendor List (see Fla. Stat. § 287.133(2)(a)). Each party hereby assumes any and all risk of personal injury and property damage attributable to the willful or negligent acts or omissions of that party and the officers, employees, and agents thereof. Performer also assumes such risk with respect to the willful or negligent acts or omissions of Performer’s subcontractors or persons otherwise acting or engaged to act at the instance of Performer in furtherance of Performer fulfilling Performer’s obligations under the Agreement.

4. Failure to Perform. Any failure of Performer to perform may be excused only for proven sickness or injury, civil tumult or riot, epidemics, acts of God, or other conditions beyond the control of the Performer. Performer or Performer’s agent must notify FIU immediately of any reason which might result in Performer’s failure to perform on the scheduled date. FIU reserves the right to approve/substitute any other performer for Performer in the event that Performer is not able to perform as scheduled.

5. Indemnification. Performer is solely responsible for the content of material performed and shall indemnify and defend FIU, the Florida Board of Governors, and the State of Florida harmless from any claim arising out of the performance of this Agreement, including, but not limited to claims of libel, copyright infringement or other alleged use of materials by Performer at the performance covered by the Agreement. This provision shall survive termination of the Agreement.

6. Authority to Sign Agreement. If the Agreement is signed by someone other than Performer, the individual signing for the Performer and Performer expressly warrant that such individual is authorized by Performer to sign the Agreement for Performer.

7. General Provisions.
 - A. Nothing in this Agreement shall be construed as an indemnification of the Performer by FIU or as a waiver of sovereign immunity beyond that provided in Fla. Stat. §768.28.

 - B. This Agreement may not be assigned or modified by either party except as agreed to in writing and signed by the parties, and this Agreement shall be binding upon the parties’ successors and assigns.

 - C. Any clauses in the Agreement regarding arbitration or mediation or grants of exclusivity to the Performer are null and void.

D. FIU is self-insured, and will provide its Certificate of Insurance upon request; FIU is not required to obtain additional insurance for this Agreement. Performer will maintain insurance in a reasonable amount that will cover the performance.

E. If FIU is specifically responsible for reimbursing Performer for travel expenses pursuant to the Agreement, such expenses shall only be paid to the extent permitted by Fla. Stat. §112.061.

F. This Agreement is governed by the laws of the State of Florida and venue of any actions arising out of this Agreement shall be in the courts in Miami-Dade County, Florida.

G. Confidential Information. If Performer is exposed to FIU's confidential information, Performer will keep such information confidential and will act in accordance with applicable laws. .

8. Cancellation. FIU may cancel this Agreement by giving Performer at least ten (10) days prior written notice of cancellation. If FIU cancels this Agreement for reasons other than breach by Performer, FIU shall only be liable for payment of goods received and services rendered and accepted by FIU prior to the date of notice of cancellation, and in addition, FIU will reimburse Performer for Performer's out-of-pocket expenses related to the performance of the Agreement that were incurred by Performer prior to notice of cancellation if such expenses are non refundable/non-returnable. However, such expenses of Performer will only be reimbursed to the extent permitted by Fla. Stat. §112.061 and only to the extent such expenses are supported by written, itemized and paid invoices submitted by Performer to FIU.

**THE FLORIDA INTERNATIONAL
UNIVERSITY BOARD OF TRUSTEES**

PERFORMER:

By: _____
Signature

By: _____
Signature

Print Name and Title

Print Name and Title

Date

Date