

**FLORIDA INTERNATIONAL UNIVERSITY – SUPPLEMENTAL ADDENDUM – ENTERTAINMENT/PERFORMANCE/SERVICES**

1. **Incorporation by Reference.** FIU and Performer (including its agent, as applicable) hereby incorporate this Supplemental Addendum (“Addendum”) into the Agreement between the parties. If this Addendum conflicts with any term of the Agreement, this Addendum shall control.
2. **Payment.** Performer shall submit bills for compensation for services or expenses in sufficient detail for a pre- and post- audit; invoice requirements are available on FIU’s Office of the Controller’s Payment Services [website](#). FIU shall not be obligated to pay Performer until the satisfaction of Performer’s performance obligations outlined under the Agreement. FIU is a tax immune sovereign and exempt from the payment of sales, use and excise taxes; Performer is responsible for any taxes due under this Agreement. FIU will make payment in accordance with FIU Regulation [FIU-2202](#) entitled “Prompt Payment.” If FIU does not issue payment within 40 days of receipt of a proper invoice, FIU may pay Performer an interest penalty at the rate established pursuant to § 55.03(1), F.S. if the interest exceeds one dollar (\$1.00). Vendors experiencing payment problems may contact Accounts Payable at (305) 348-3889. FIU may make payments to Vendor via the University’s EFT/ACH payment process. Vendor shall provide the necessary information to FIU upon request. Unless non-state funds are being used to pay Performer, FIU cannot make deposits or prepay any amounts; any deposits made are refundable.
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. FIU is not responsible for the acts of third parties. **If FIU has entered into an agreement with the United States of America, or any Department thereof, and the Agreement is entered into with the Contractor to further the performance of the work required in such federal agreement, Contractor shall comply with the terms contained in FIU’s Federally Funded Projects Addendum found at <https://generalcounsel.fiu.edu/contract-forms/>, herein incorporated by reference.**
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 (“Force Majeure Conditions”). Failure or delay of transportation shall not be considered a Force Majeure Condition. 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. **Insurance.** Performer (and any of Performer’s subcontractors) will have and maintain types and amounts of insurance in a reasonable amount that at a minimum cover the Performer’s (or subcontractor’s) exposure in performing this Agreement. The Performer shall provide and keep in full force and effect, at the Performer’s own cost and expense, the following insurance policies for the joint benefit of the Performer and FIU, with an insurer reasonably acceptable to FIU: (i) Commercial General Liability which includes coverage for bodily injury, property damage, personal injury and contractual liability in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (ii) Workers Compensation Coverage, to be maintained in an amount equal to or greater than the statutory limits required by the laws of the State of Florida. In the event the Performer is exempt by law from carrying Worker’s Compensation insurance, Performer must provide proof of exemption. The Performer shall deliver to FIU true and correct copies of certificates of such insurance and/or exemption. The certificate shall indicate that the Commercial General Liability policy carries an endorsement which names The Florida International University Board of Trustees, Florida International University, the State of Florida, The Florida Board of Governors, and their respective trustees, directors, officers, employees and agents, as additional insureds. The Performer’s policy shall be primary and any insurance carried by FIU shall be noncontributing with respect thereto. FIU is self-insured and is not required to obtain additional insurance for this Agreement.
6. **Indemnity/Infringement.** To the fullest extent permitted by law, Performer shall indemnify, defend, protect, and hold harmless Florida International University, the FIU Board of Trustees, the Florida Board of Governors, the State of Florida and their respective trustees, officers, agents, employees, and their respective successors and assigns (each an “Indemnitee”, and collectively, the “Indemnitees”) for, from and against all fines, fees, demands, suits, claims, losses, liabilities, damages, lawsuits, royalties, actions, proceedings, arbitrations, taxes, penalties, or interest, associated auditing and legal expenses, and other costs incurred by Indemnitee(s) (including reasonable costs and attorneys’ fees) (“Indemnified Claims”) arising from the Content or from Performer’s provision of services, negligence, misrepresentation or breach of any representation, warranty, obligation, or covenant of the Agreement. Such Indemnified Claims shall include, without limitation, all direct, actual, general, special, and consequential damages. Further, Performer is solely responsible for the content of material performed or provided to FIU and shall indemnify and defend and hold the Indemnitees 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. This provision shall survive termination of the Agreement. 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 Florida Statutes §768.28.
7. **Compliance with Laws.** Contractor shall, at its own expense, comply with all applicable federal, state, and local laws, rules, regulations, and ordinances and all other governmental requirements related to its performance. Contractor acknowledges and agrees that Contractor has and will at all times maintain all applicable licenses, consents, approvals, and governmental permits, necessary to perform under this Agreement.
8. **Section 889 Compliance Certification.** Contractor certifies its compliance with § 889 of the McCain National Defense Authorization Act (prohibition against use of covered telecommunications equipment).
9. **Confidentiality.** If Performer is exposed to FIU’s confidential information, Performer will keep such information confidential and will act in accordance with applicable laws. FIU is subject to Chapter 119 of the Florida Statutes, otherwise known as the Public Records Law. The Agreement, this Addendum and any related documents and/or correspondences Contractor submits to FIU shall also become a public record subject to the Public Records Law.
10. **Tapes/Recordings.** FIU has the right to tape and/or record the performance; however, such tapes or recordings shall only be used for archival and/or educational purposes for the benefit of FIU’s students, faculty and staff. If FIU elects to record the performance, it may supply a copy to the Performer upon the Performer’s written request.
11. **Cancellation.** FIU may cancel the Agreement by giving Performer at least ten (10) days prior written notice of cancellation, without penalty. 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. If FIU has made any advance payments or deposits, Performer shall return such amounts to FIU. If FIU cancels this Agreement for reasons other than breach by Performer, 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, to the extent permitted by Fla. Stat. §112.061 and FIU Policy 11110.060 and only to the extent such expenses are supported by written, itemized and paid invoices submitted by Performer to FIU. Performer may not cancel the Agreement except for in the event of Force Majeure Conditions.
12. **Public Officials.** To the extent applicable, in accordance with state and federal election laws, regulations and guidelines, public officials visiting an FIU campus for nonpartisan events or functions sponsored or hosted by FIU shall comply with the following guidelines: (i) All appearances, questions/answers sessions, speeches or similar communications should be made in an academic setting and should not involve any campaign speeches, rallies or events; (ii) Campaigning, including fundraising, is prohibited; (iii) A nonpartisan atmosphere must be maintained in the premises; and (iv) If the public official is also a candidate for an upcoming or future election: (A) The public official shall appear and speak in a non-candidate capacity; (B) The public official shall appear and speak for reasons other than his or her candidacy; (C) The public official shall not refer to his or her own candidacy or that of any other candidate in his or her speech; (D) The public official’s campaign staff shall not be permitted to solicit campaign contributions or campaign support; (E) Neither the public official or his/her staff will be permitted to coordinate or encourage the display of campaign banners or decorations or encourage distribution of the public official’s campaign materials; (F) Any communications of the public official related to the public official’s attendance at the event, before, during or after the event, shall clearly indicate the capacity in which the public official is appearing or appeared and should not mention the candidacy or the upcoming election; and (G) Any communication of the public official related to the public official’s attendance at the event, before, during or after the event, shall not insinuate, imply or suggest the appearance of FIU’s support or opposition of the public official in his/her capacity as a candidate.
13. **Travel.** 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 and FIU policy 1110.060 Travel: University Travel Expense.
14. **E-Verify.** All terms defined in §448.095, Fla. Stat., are adopted and incorporated into this provision. To the extent applicable, and pursuant to §448.095, Fla. Stat., Performer certifies that it is registered with and uses the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by the Performer during the term of this Agreement. If Performer enters into a contract with a subcontractor to perform work or provide services pursuant to this Agreement, Performer shall likewise require the subcontractor to comply with the requirements of §448.095, Fla. Stat., and the subcontractor shall provide to Performer an affidavit stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien. Performer shall maintain a copy of such affidavit for the duration of the Agreement. FIU may terminate this Agreement immediately upon notice to Performer for any violation of this provision.
15. **General.** 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. Any clauses in the Agreement regarding arbitration or mediation, grants of exclusivity to the Performer, limitation of time to bring suit, limitation of Performer’s liability, indemnification of the Performer by FIU, and attorneys’ or collection fees provisions, are all null and void. This Agreement is governed by the laws of the State of Florida; venue of any actions arising out of this Agreement shall be in the state courts in Miami-Dade County, Florida. The Agreement may not be executed in counterparts.
16. **Authority.** The Performer represents and warrants that this Addendum has been duly authorized, executed and delivered by and on behalf of the Performer and constitutes the valid, binding and enforceable agreement in accordance with the terms hereof. If this Addendum is signed by the Performer’s agent, such agent warrants that he/she is duly authorized to act for and on behalf of the Performer, that he/she is authorized to enter into the Agreement, and that the agent and Performer shall be jointly and severally liable for any breach of the Agreement (including this Addendum) or of the representation. A signature transmitted by facsimile or as a pdf copy to electronic mail shall be treated as original for all purposes.

The duly authorized representatives of the parties hereby execute this Supplemental Addendum.

**FIU: THE FLORIDA INTERNATIONAL UNIVERSITY  
BOARD OF TRUSTEES**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**PERFORMER (OR PERFORMER’S REPRESENTATIVE):**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_