

Florida International University
SUPPLEMENTAL ADDENDUM
(Entertainment/Performance Agreement)

1. Incorporation by Reference. This Supplemental Addendum (“Addendum”) is hereby incorporated into the Agreement between Performer and FIU. 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. 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 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. FIU may make payments to Vendor via the University’s EFT/ACH payment process. Vendor shall provide the necessary information to FIU upon request.
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. **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>, 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 that at a minimum cover the Performer’s (or subcontractor’s) exposure in performing this Agreement. FIU is self-insured, and FIU is not required to obtain additional insurance for this Agreement. Performer will maintain insurance in a reasonable amount that will cover the performance.
6. 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. 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. In the performance of this Agreement, Contractor shall, at its own expense, at all times during the Term, comply with all applicable federal, state, and local laws, rules, regulations, and ordinances and all other governmental requirements. Contractor acknowledges and agrees that Contractor has and will at all times during the Term maintain all applicable governmental permits, licenses, consents, and approvals necessary to perform its obligations under this Agreement.
8. General Provisions.
 - A. 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.
 - B. Any clauses in the Agreement regarding arbitration or mediation, exclusivity grants 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, are all null and void.
 - C. 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.
 - D. 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 state courts in Miami-Dade County, Florida.
 - E. 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.
9. 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, to the extent permitted by Fla. Stat. §112.061 and FIU Policy 1110.060 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.
10. No counterparts; facsimile signatures allowed. This Agreement may not be executed in counterparts. The Agreement, along with any and all Exhibits, may be executed and delivered by facsimile signature by any of the parties to the other parties; to the extent permissible under Florida law, a facsimile signature shall have the same legal force and effect as an original signature and the receiving party may rely on the receipt of such document so executed and delivered by facsimile signature as if the original had been received.
11. AUTHORITY TO SIGN AGREEMENT. IF THE AGREEMENT AND THIS ADDENDUM IS SIGNED BY SOMEONE OTHER THAN PERFORMER, BOTH THE INDIVIDUAL SIGNING FOR THE PERFORMER AND PERFORMER EXPRESSLY WARRANT THAT SUCH INDIVIDUAL IS AUTHORIZED BY PERFORMER TO SIGN THE AGREEMENT FOR PERFORMER.

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

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

PERFORMER (OR PERFORMER’S REPRESENTATIVE):

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____