

NORTH CAROLINA CENTRAL UNIVERSITY

PERFORMER ENGAGEMENT AGREEMENT

North Carolina Central University (“NCCU”), a constituent institution of the University of North Carolina System and _____ (“Contractor”) with a principal place of business located at _____ (address) enter into this Performer Engagement Agreement (“Agreement”) for the services of _____ (“Performer”) under the terms and conditions set forth below.

1. **Lawful Agent.** If Contractor and Performer are not the same individual or legal entity, Contractor warrants that Contractor is the lawful agent for Performer and that Contractor has the authority to bind Performer to the terms and conditions of this Agreement.
2. **Engagement.** Contractor shall cause Performer to perform the following services in a manner satisfactory to NCCU and consistent with the applicable industry standards (the “Performance”):

Description of Performance

-
-
3. **Performance Date(s), Time, & Venue.** The Performance will be on _____ (Date) at approximately _____ (Time) at _____ (Venue). Performer will arrive at the venue no later than one (1) hour before the performance time stated in this paragraph.
 4. **NCCU Resources.** NCCU shall provide the venue, adequate security, sound equipment, lighting, any other reasonable technical equipment, as well the following resources, if any:
SEE ATTACHED ATTACH RIDER
 5. **Independent Contractor Status.** Contractor and Performer are independent contractors of NCCU. Furthermore, Contractor represents and warrants that neither Contractor nor Performer is a current employee of NCCU.
 6. **Personnel.** Contractor is wholly responsible for performance of this Agreement. Contractor shall secure all personnel required to perform this Agreement at Contractor’s own expense, including, but not limited to, the Performer. Such personnel must not be employees of, or otherwise have any individual contractual relationship with, NCCU, unless Contractor and Performer are the same individual or entity. Contractor further warrants that any personnel, whether specifically named or not, secured by Contractor in the performance of this Agreement will abide by the terms and conditions of this Agreement.

7. **Payment.** NCCU shall pay Contractor \$_____ (the “Fee”) for the Performance. The Fee is all inclusive and NCCU is not responsible for any additional or out of pocket expenses unless specified in this Agreement. Payment of the Fee requires full execution of this Agreement, receipt of invoices, and completion and acceptance of the Performance. Contractor shall submit an invoice and adequate receipts and documentation as requested by NCCU to support any reimbursement(s) explicitly agreed upon in this Agreement or the fees shall be paid via NCCU check upon completion of the performance. The check shall be made payable to _____ (Contractor's Legal Name). There will be no additional royalty split for revenue produced through ticket sales by NCCU. Contractor will receive 100% of all income incurred through the sale of merchandise.

Payment shall be made to Contractor as outlined below:

The NCCU Purchasing Department shall issue a unique purchase order number to Contractor for the services detailed herein. The purchase order identifies the dollar amount and the time covered by the order.

Upon satisfactory completion of approved aspects of its duties, Contractor shall submit an invoice requesting payment and referencing the purchase order number to:

North Carolina Central University
Attn: Accounts Payable Office
P. O. Box 19737
Durham, North Carolina 27707
919-530-6360

Contractor’s invoices shall specify the dates, extent, and nature of the performance rendered for which payment is requested.

NCCU’s payment term is Net 30 Days after receipt of invoice.

Payment of compensation to Contractor shall be conditioned upon satisfactory completion of its duties as evidenced by approval of NCCU’s Representative. The signature of the authorized representative on the invoice shall be sufficient proof of such approval.

8. **Taxes.** Contractor will be sent a Form 1099-MISC – Miscellaneous Income at the end of the calendar year if payments made to Contractor during the year total more than six hundred dollars (\$600.00). If Contractor is a nonresident of North Carolina and is not exempt from withholding, NCCU shall withhold four percent (4%) from payments greater than one thousand five hundred dollars (\$1,500) during any one calendar year for personal services in the form of a performance, an entertainment or athletic event, a speech (including an academic lecture), or the creation of a film, radio, or television program, in accordance with N.C. General Statutes 105-163.1 and 105-163.3. If Contractor is exempt from taxation or withholding, Contractor must provide to NCCU documentation of such upon execution of this Agreement.

9. **Promotion.** Contractor and Performer agree that NCCU, at its sole discretion, may use radio, television, flyers, electronic communications (including, without limitation, via the Internet), or such other means of promotion to promote the Performance in order to maximize attendance. Performer may be required to do interviews in connection with the performance. Contractor, on behalf of Performer, if necessary, grants NCCU any and all limited rights necessary to use these materials for the promotion of the Performance.
10. **Performance Control.** NCCU and Performer will have joint control over the presentation and performance of the Performance. All recorded music played must be radio edited. Recorded music that contains vulgarity and/or obscenities may not be played. Performer shall maintain an awareness of the audience to ensure that any recorded music played will not be offensive. If Performer has a question about the acceptability of a song, Performer shall contact the NCCU Contract Administrator listed below.
11. **Copyright:** All rights in all works implicated by this Agreement remain the property of their respective owner and nothing in this Agreement intends to transfer any rights in these works except that Contractor, on behalf of Performer if necessary, grants NCCU any and all limited rights necessary to carry out this Agreement.
12. **Assignment & Delegation.** Contractor shall not assign any interest in this Agreement without NCCU's prior written consent. The Performance is personal in nature and may not be delegated or subcontracted without NCCU's prior written consent.
13. **Termination.** NCCU may terminate the parties' obligations by giving a **thirty (30) day** written notice to Contractor of termination and specifying the effective date of termination. NCCU shall compensate Contractor for work properly performed prior to termination. In the case of damage caused by the Contractor, NCCU may withhold payment for the purpose of setoff until NCCU can determine the exact amount of liability and damages due.
14. **Inability to Perform & Cancellation.** If Performer is unable to perform or Contractor cancels the Performance for any reason including but not limited to interruption or delay of transportation services, disability, or illness, Contractor agrees to reasonably attempt to reschedule the Performance. If the Performance cannot be rescheduled, Contractor will reimburse NCCU for all costs already incurred, contracted for prior to, or resulting from Performer's failure to appear, including but not limited to printing, publicity, lost ticket sales, ticket refunds, rentals, labor, lodging, and hospitality directly associated with presenting Performer and expenses incurred in notifying ticketholders and the public of the cancellation. Under no circumstances does this paragraph limit NCCU's available legal or equitable remedies for Contractor's failure to perform this Agreement.
15. **Force Majeure.** Both Contractor and NCCU will be relieved of their obligations under this Agreement if, and so long as, either is prevented from performing its obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, mandatory governmental action, earthquake, hurricane, tornado, regulations of public or University authorities (including, but not limited to, quarantines), or other catastrophic natural or supernatural events beyond the reasonable control of either party.

16. **Compliance.** Contractor shall comply with all laws (including, but not limited to, equal employment opportunity laws), ordinances, codes, rules, regulations, and licensing requirements applicable to the performance of this Agreement, including those of federal, State, and local agencies.

17. **EEO and Veteran Status 41 CFR 60-300.5(a).** This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, or protected veteran status or disability.

18. **Contract Administrators.** The Contract Administrator for NCCU is:

NCCU's Contract Administrator's Name: _____
Mailing Address: _____
Phone: _____

The Contract Administrator for Contractor is:

Contractor's Contract Administrator's Name: _____
Mailing Address: _____
Phone: _____

19. **Notice.** Any notices pursuant to this agreement must be given to the Contract Administrators named herein via the United States Postal Service or hand delivery. Notice will be deemed received on the completion of the third (3rd) business day following the documented date of deposit with the United States Postal Service.

20. **Indemnity & Reimbursement.** Contractor shall indemnify NCCU, its Trustees, officers, agents, and employees from any claims, suits, damages, liabilities, injuries, expenses (including, without limitation, reasonable attorney's fees), or losses arising out of or resulting from the negligent acts or omissions of Contractor, Contractor's agents, or Contractor's employees during the performance of this Agreement.

21. **Auditors' Access.** The State's and NCCU's auditors must have access to all persons and records pertaining to this Agreement in accordance with N.C.G.S. § 147-64.7.

22. **Choice of Law.** This Agreement, and all claims arising under and related to this Agreement, will be governed by, construed, and interpreted in accordance with the laws of North Carolina in court of competent jurisdiction in Durham County, North Carolina.

23. **Merger.** This Agreement states the final and exclusive agreement between the parties and supersedes all prior negotiations and agreements.
24. **Availability of Funds.** The parties to this Agreement agree and understand that the continuation of this Agreement is dependent upon and subject to the appropriate, allocations or availability of funds for this purpose. The parties to this Agreement also agree that in the event NCCU, or that body responsible for the appropriation of said funds, in its sole discretion, determine in the view of its total operation that available funding for the payment of the costs for the Agreement is insufficient to continue, it may choose to terminate the Agreement by giving Contractor written notice of said termination, and this Agreement shall terminate immediately without any further liability to NCCU.
25. **Amendments.** Any modifications to this Agreement, including, but not limited to, modifications made on the face of this Agreement must be in writing signed by both parties.
26. **Severability.** If any provisions or portions thereof are declared invalid, illegal, or unenforceable, this Agreement will be construed as if such invalid, illegal, or unenforceable provisions were removed.
27. **Headings.** The headings of the sections, paragraphs, and subparagraphs of this Agreement are for convenience only and do not affect the construction or interpretation of any of this Agreement's provisions.
28. **Construction.** The parties agree that this Agreement will be construed as if the parties drafted this Agreement jointly, with no presumption or burden of proof arising which would favor or disfavor either party by virtue of this Agreement's authorship.
29. **Execution of Counterparts.** This Agreement may be executed in two or more counterparts, each of which is an original Agreement and all of which shall be considered one instrument. Signed copies of original Agreements shall be considered a binding Agreement.
30. **Expiration of Offer.** If a copy of this Agreement, executed by Contractor's authorized representative, has not been received by NCCU's Contract Administrator before 5:00 p.m. (ET) on _____ (Expiration date), NCCU's offer to enter into this Agreement will expire at that time.

Contractor/performer and NCCU have made this Agreement effective as of the date of the last signature below as indicated by the signatures of their authorized representatives.

CONTRACTOR/PERFORMER

NORTH CAROLINA CENTRAL UNIVERSITY

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____