**UNIVERSITY OF CALIFORNIA, RIVERSIDE
PERFORMANCE AGREEMENT**

**THIS AGREEMENT** is made the **(insert day of week)** day of **(insert month), 2020** between THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a California corporation, on behalf of the University of California, Riverside – **(insert Department name)** (hereinafter called “UNIVERSITY”) and **(insert artist name)** (hereinafter called “Artist”) through **(insert agent name)** (hereinafter called “Agent”). In consideration of the mutual promises and agreements of the parties hereto, as hereinafter set forth, it is agreed as follows:

1. **PERFORMANCE.** Artist agrees to present **a (insert # of minutes) minute performance of (insert type of performance)** from **(insert start time)** to **(insert end time)** at **the University of California, Riverside (insert venue name)** on **(insert day), (insert month), 2020**.
2. **COMPENSATION.** The UNIVERSITY shall pay to Artist, Artist’s Agent, or Artist’s Designated Representative the sum of **(insert dollar amount in words)** **(insert dollar amount in numbers after $)**, less applicable state and federal taxes, by University check, following the performance as full compensation for the performance and activities specified above, provided that all correct required forms, certificate of insurance and signed contract are received prior to the date of the performance. All payments for the above performance and activities shall be made payable to **(insert artist name)** and mailed to the address listed on the W-9 that is provided to UNIVERSITY.
* Withholding amount is based on the full compensation amount
* Withholding is against the Artist
* Payment will not be made without a completed FTB 590 or FTB 587 form signed by the artist
* Payment will not be made without a completed and signed W9 or W8-BEN or W8-BEN-E

**Please check the required form included with this Performance Agreement packet:**

One of the two Franchise Tax Board Forms:
***(To be completed by Artist)***

[\_] FTB 590 – Withholding Exemption Certificate
[\_] FTB 587 – Nonresident Withholding Allocation Worksheet

One of the three Internal Revenue Forms (required for vendor set-up) :
***(To be completed by the party receiving payment)***

[­\_] W9 – Request for Taxpayer Identification Number and Certification
[\_] W8-BEN – Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)
[\_] W8-BEN-E - Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities)

1. **SERVICES PROVIDED BY THE UNIVERSITY.** The UNIVERSITY agrees to furnish: **(insert any services or equipment you will be supplying and a location to set-up equipment)** for the performance described hereinabove. Rehearsal time in the facility shall be limited to **1** hour(s) beginning at **(insert time of sound check)**, day of show; should additional rehearsal time be required, Artist shall pay for space, staff and equipment used during additional time.
2. **SERVICES PROVIDED BY ARTIST.** Artist agrees to provide at Artist’s cost and expense such services, equipment, information and materials as are listed below:
	1. **All other materials or equipment necessary for a successful performance including (insert any specific equipment or needs). Artist agrees to arrive by (insert arrival time) on the day of the performance for sound check and set-up and to begin the performance at (insert start time of performance).**

* 1. Unless expressly excused elsewhere in this Agreement, Artist’s failure to deliver the services, equipment, information, or materials hereinabove specified by the specific date(s) shall be deemed a material breach of this Agreement and shall relieve UNIVERSITY of all obligations under this Agreement.
1. **REPRODUCTION OF PERFORMANCE.** The UNIVERSITY agrees to prevent, to the best of its ability, the photographing, filming, broadcasting, recording or reproduction by radio, television, or any other device of the performance defined hereinabove or any portion or portions thereof, without written permission of the Artist. Conversely, written permission of the UNIVERSITY shall be required for any photographing, filming, broadcasting, recording or reproduction by radio, television, or any other device of the performance described hereinabove, or of any portion or portions thereof, by Artist, Artist’s Agent, or any other person. UNIVERSITY may have videographer and photographer to cover the entire event, which may include crowd shots of/from the stage. Video is for archival and institutional memory ONLY. There may be live camera feed on the stage to adjoining stage screens. Live feeds will not be recorded. UNIVERSITY cannot control use of amateur cameras by event attendees.
2. **INDEMNIFICATION.**
	1. Artist agrees to defend, indemnify and hold harmless the UNIVERSITY, its officers, agents and employees, against all claims, demands, costs and expenses that the UNIVERSITY may sustain or incur by reason of any infringement or violation, or any alleged infringement or violation, of any copyright or proprietary right in the performance defined hereinabove, or of any portion or portions thereof. Artist agrees to pay any and all royalties required to be paid on copyrighted material, the UNIVERSITY, its officers, agents and employees, to be held free of all liabilities therefrom.
	2. Artist shall conduct Artist’s business upon the premises so as not to endanger any person lawfully thereon. Artist shall defend, indemnify and hold the UNIVERSITY, its officers, agents and employees, harmless from and against any and all liability, loss, expense (including reasonable attorney’s fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney’s fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Artist, its officers, agents, or employees.
	3. The UNIVERSITY shall defend, indemnify and hold Artist, its officers, agents, and employees harmless from and against any and all liability, loss, expense (including reasonable attorneys’ fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys’ fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the UNIVERSITY, its officers, agents, or employees.
3. **INSURANCE.** Artist, at its sole cost and expense, shall insure its activities in connection with this Agreement and obtain, keep in force, and maintain insurance as follows:
	1. Commercial Form General Liability Insurance (contractual liability included) with a limit of not less than $1,000,000 per occurrence and $2,000,000 million aggregate.

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

* 1. Workers’ Compensation as required under California State law.

It shall be expressly understood, however, that the coverages required under this Section 7 shall not in any way limit the liability of Artist.

The coverages referred to under (A) of this Section 7 shall include **The Regents of the University of California** as an additional insured. Such a provision, however, shall only apply in proportion to and to the extent of the negligent acts or omissions of Artist, its officers, agents, or employees. Artist, upon the execution of this Agreement, shall furnish the UNIVERSITY with Certificates of Insurance evidencing compliance with all requirements. Certificates shall provide for thirty (30) days (10 days for non-payment) advance written notice to the UNIVERSITY of any material modification, change, or cancellation of any of the above insurance coverages.

1. **EXCLUSIVE PERFORMANCES.** Artist agrees that (he/she/they) will not accept any other engagement for a performance of any sort or kind between the issuing of this Agreement and two weeks within a radius of 30 miles from the University without express written permission of the UNIVERSITY. In the event of any such unauthorized performance, the performance described hereinabove, or any portion or portions thereof, may be canceled by the UNIVERSITY, and such cancellation shall be without prejudice to the UNIVERSITY’S other rights and remedies hereunder.
2. **AGENT’S WARRANTY.** **(insert artist name)** warrants that (she/he/it) has full and current legal authority to act on behalf of the Artist.
3. **ARTIST’S DESIGNATED REPRESENTATIVE.** It is understood that the term “Artist’s Designated Representative” shall be construed hereunder to mean **(insert agent name).**
4. **NOTICES.** All notices to be addressed by the UNIVERSITY to Artist in connection with this agreement shall be given in writing to Artist/Agent at **(insert complete mailing address of person receiving payment—artist or agent), (insert phone number of agency or artist)**. All notices to be addressed by Artist and/or Agent to UNIVERSITY in connection with this Agreement shall be given in writing to The University of California, Riverside, Attention - Business Contracts, 900 University Avenue, Riverside, CA 92521.
5. **CALIFORNIA TAX.** It is understood that the UNIVERSITY shall withhold from the compensation hereinabove described the full amount of any and all taxes required to be withheld by the laws of the State of California. The UNIVERSITY will inform the Artist/Agent of the withholding status determined by the Franchise Tax Board of the State of California. The UNIVERSITY shall remit such amount directly to the State of California Franchise Tax Board to be credited to the Artist’s California State Income Tax Account(s), settlement of which must be made by the Artist with the State of California through: Ms. K. Sharp, Withholding at Source Coordinator, P.O. Box 651, Sacramento, CA 95812, (916) 845-6262.
6. **NON-PERFORMANCE NOT A DEFAULT.** Neither Artist nor UNIVERSITY shall be liable for failure to appear, present, perform or any other material breach of this Agreement if such failure or breach is caused by, or due to, acts or regulations of public or University authorities, labor difficulties, civil tumult, strike, epidemic, interruption or delay of transportation service, acts of God, or any cause beyond the control of the Artist or the UNIVERSITY.
7. **ANTICIPATORY BREACH.**
	1. In the event that, after the execution of this Agreement, Artist, or Artist’s Agent, or Artist’s Designated Representative indicates or states that Artist is unwilling or will be unable to appear or present the performance hereinabove defined on the indicated date, and such failure is not excusable under Section 13 of this Agreement, Artist shall be responsible for the UNIVERSITY’S out-of-pocket expenses necessitated either by change of date or cancellation by Artist after tickets have been printed and/or promotion begun. All such expenses shall be reasonably determined by the UNIVERSITY and will be presented to the Artist with substantiation within thirty (30) days following the contracted date(s) of the Artist’s performance, and the Artist shall reimburse the UNIVERSITY by check made payable to the UNIVERSITY within ten (10) days following the receipt of such statement.
	2. In the event that Artist or any member of Artist’s traveling complement deemed by the UNIVERSITY, in its sole discretion, to be material to the performance hereinabove defined, or any portion or portions thereof, or any authorized agent of Artist takes any voluntary affirmative action which, in the UNIVERSITY’S sole discretion, renders substantial performance of Artist’s contractual duties hereunder impossible, the UNIVERSITY may cancel the performance hereinabove defined, or any portion or portions thereof, and, in addition, Artist shall be responsible for payment of any and all costs, expenses, damages (including the UNIVERSITY’S actual expenses incurred in preparation for the performance hereunder) and claims arising from such cancellation. Any breach or anticipatory breach of this agreement by Artist shall be deemed a material breach.
	3. In the event such failure is occasioned by material breach of this Agreement by the UNIVERSITY, the UNIVERSITY shall reimburse Artist for all reasonable out-of-pocket expenses incurred as a result of such breach. In no event shall such expenses exceed the amount of compensation set forth in Section 2 of this Agreement. Out-of-pocket expenses shall be set forth in written form and submitted to the UNIVERSITY. Said expenses shall be paid within thirty (30) days of the date of written notice.
8. **COMPLIANCE WITH LAWS & POLICIES.**
	1. Artist, agent, and/or promoter agree to comply with all California State Fire Marshal Regulations, state and federal laws, fire prevention regulations, public health and safety codes, UNIVERSITY regulations and policies, and all other provisions stipulated in this contract. Artist, agent, and/or promoter agrees to follow all instructions that may be issued by the UNIVERSITY representatives designated to oversee the preparation and supervision of this event, including interruption and cancellation of the event with no loss to the University in cases involving artist inciting audience members to act illegally under state or federal law, or in contravention of University regulations such as encouraging audience members to leave their seats and gather in aisles as to obstruct emergency egress, or audience members becoming disorderly and turbulent giving rise to chaos threatening life and property such as removing chairs, fighting, blocking aisles, etc. In the event of danger to persons or property, and/or when requested by designated University representatives or security officials, performers must make requested announcements to the audience (i.e. direct audience members to exits; ask audience members to clear pathways for medical personnel; ask audience members to move back from the stage, etc.).
	2. Artist, agent, and/or promoter agree not to invite or encourage audience members to get on the stage before, during or after performance and also further agree not to include in the performance any pyrotechnics, lasers, or other special effects not approved by the University Fire Marshall prior to the start of the performance. Artist further agrees not to go into the audience during the performance and not to throw any objects into the audience.
	3. Artist agrees that should they provide their own security and/or bodyguards for this event, they must coordinate their security efforts with University of California, Riverside Police Department personnel prior to the scheduled start time of the event.
	4. The UNIVERSITY has final control over all matters pertaining to the safe management of this performance such as crowd control, security provisions, stage management, and box office operations.
9. **ORAL REPRESENTATION AND AMENDMENTS.** No representation, warranty, condition, or agreement of any kind or nature whatsoever shall be binding upon the parties hereto unless incorporated in this Agreement. This Agreement contains all the terms and conditions agreed upon by the parties hereto and may not be amended except by a writing signed by the parties.
10. **AGREEMENT CONSTRUED.** This Agreement shall be construed and endorsed according to the laws of the State of California. Waiver of any default shall not constitute waiver of any subsequent or other default. All rights of the parties hereto shall endure to the benefit of their successors and assigns, and all obligations of any of the parties hereto shall bind his, her, or its heirs, executors, personal representatives, successors and assigns.

*[Signatures on following page]*

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the day and year hereinabove mentioned, and this Agreement shall become effective only if UNIVERSITY receives this agreement on or before **(insert day of week), (insert month) (insert day), 2020** executed by Artist and/or Artist’s Agent.

**FOR THE ARTIST**

By:
 Authorized Signature

Name:
 Please Print Name

Title:

Date:

**FOR THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**

By:
 Authorized Signature

Name: Ellery Triche
 Please Print Name

Title: Director Procurement, Business Contracts and Accounts Payable

Date: