

FLORIDA ATLANTIC UNIVERSITY

- 1. Incorporation by Reference. The Florida Atlantic University Board of Trustees ("FAU"), and the undersigned speaker, presenter, author, musician, performer, entertainer, or artist (the "Performer"), or its authorized agent/representative, hereby incorporate this Supplemental Addendum ("Addendum") into the agreement between FAU and Performer (the "Agreement").
2. Payment. Performer shall submit bills for compensation for goods, services and/or expenses in detail sufficient for a pre-and post-audit. Each bill or invoice must clearly identify the services, portion of services, and expenses for which compensation is sought. FAU shall make payment in accordance with FAU Policy 5.1 - Prompt Payment. If FAU does not issue payment within forty (40) days of receipt of an acceptable invoice and receipt, and after inspection and acceptance of the goods, services, or both, as provided in accordance with the terms and conditions of the Agreement, FAU may pay Performer an interest penalty at the rate established pursuant to § 55.03(1), F.S. Invoices which have been returned because of Performer's preparation errors will result in delay in payment. The invoice payment requirements do not commence until a properly completed invoice is provided to FAU. Should Performer experience payment problems, Performer may contact FAU's Vendor Ombudsman at (561) 297-3693. FAU will be responsible for paying only for any goods/services it receives. FAU is a tax immune sovereign and exempt from the payment of sales, use or excise taxes. Performer is responsible for and shall pay any taxes due under the Agreement. FAU may require Performer to accept payments via FAU's EFT/ACH payment process. FAU shall not make any deposits or prepay any amounts; any deposits are refundable. Performer must supply FAU with a complete vendor application. FAU's performance and obligation to pay is contingent upon the legislature's annual appropriation.
3. Relationship of the Parties. Each of the parties is an independent contractor and nothing in the Agreement shall designate any of the employees or agents of one party as employees or agents of the other. Performer represents and warrants that it is not on the Convicted Vendor List (see § 287.133, F.S.). Performer is not authorized to bind FAU to any contracts or other obligations.
4. Assumption of Risk. Each party assumes any and all risk of personal injury and property damage attributable to the willful or negligent acts or omissions of that party and its own officers, employees and other agents. Performer also assumes such risk with respect to the willful or negligent acts or omissions of persons subcontracting with Performer or otherwise acting or engaged to act at the instance of Performer in furtherance Performer's obligations under the Agreement.
5. Public Records. FAU is subject to Chapter 119 of the Florida Statutes, known as the Public Records Laws. The Agreement, this Addendum, and any related documents and/or correspondence shall also become a public record subject to the Public Records Laws, regardless of any confidentiality terms in the Agreement. FAU may respond to public records requests without providing Performer any notice. Pursuant to § 287.058(1)(c), F.S., FAU may unilaterally cancel the Agreement for Performer's refusal to allow public access to public records related to the Agreement. Performer shall comply with all applicable requirements of the Public Records Laws, particularly if Performer is a "Contractor" as defined under § 119.0701, F.S. This provision shall survive the expiration or termination of the Agreement.

IF PERFORMER HAS QUESTIONS REGARDING THE APPLICABILITY OF CHAPTER 119 TO PERFORMER'S DUTY TO PROVIDE PUBLIC RECORDS, PERFORMER MAY CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 561.297.2452, publicrecords@fau.edu, DIVISION OF PUBLIC AFFAIRS, FLORIDA ATLANTIC UNIVERSITY, 777 GLADES ROAD, ADM, BOCA RATON, FL 33431.

- 6. Indemnification. Performer is solely responsible for the content of material performed or provided to FAU and shall indemnify and defend and hold Florida Atlantic University, the FAU 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 harmless from any and all actions, claims, liabilities, assertions of liability, losses, costs and expenses, including attorneys' fees, which in any manner directly or indirectly may arise or be alleged to have arisen, or resulted or alleged to have resulted from the presence, activities, promotions and 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 Performer by FAU or as a waiver of sovereign immunity beyond that provided in Florida Statutes §768.28.
7. Compliance. Performer shall, at its own expense, comply with all applicable federal, state, and local laws, rules, ordinances, and regulations, and all FAU regulations and policies, and all other governmental requirements related to its performance. Performer acknowledges and agrees that Performer has and will maintain all applicable licenses, consents, approvals, and governmental permits, necessary to perform under this Agreement.
8. Publicity. Performer shall not make any announcements relating to the Agreement, nor shall Performer use FAU's name, trademarks, logos, or marks, without the prior written approval from FAU's Office of Brand Development, Licensing & Marketing in each instance.
9. Insurance. FAU, as a public body corporate, warrants and represents that it is self-funded for liability insurance, with said protection being applicable to officers, employees, servants, and agents while acting within the scope of their employment by FAU. Any provision requiring FAU to provide or acquire insurance coverage other than such self-insurance shall not be effective. Performer shall have and maintain the types and amounts of insurance that, at minimum, will cover Performer's (or subcontractor's) exposure under the Agreement.
10. Third Parties. FAU is not liable for the acts of third parties or the consequences of the acts of third parties. There shall be no third-party beneficiary to the Agreement. FAU shall not be subject to, nor shall it be required to adhere to, the terms of any third-party agreements.
11. Governing Law. The Agreement is governed by the laws of the State of Florida, without regards to its conflicts of law principles. Exclusive venue of any actions shall be in the state courts of Palm Beach County, Florida. FAU is entitled to the full benefits of sovereign immunity.
12. Travel Expenses. If FAU is responsible for reimbursing Performer for travel expenses pursuant to the Agreement, bills shall be subject to, and shall be submitted by Performer in accordance with, § 112.061, F.S. FAU reserves the right not to pay travel expenses unless FAU preapproves such expenses in writing. FAU has the right to make travel arrangements for Performer.

- 13. Deletion. Any terms in the Agreement related to the following are null and void and hereby deleted in their entirety: (a) grants of exclusivity by FAU; (b) restrictions on the hiring of Performer's employees; (c) non-compete provisions; (d) waiver of notices, hearings, or jury trials; (e) limitation of time to bring suit or make a claim; (f) Performer's liability limitations; (g) attorneys' or collection fees provisions; (h) arbitration or mediation clauses; (i) FAU's tort liability; (j) indemnification of Performer by FAU; (k) personal guaranties or liability of/by the FAU signatory; and (l) that FAU performs reporting functions and/or certain operations..

14. Assignment. Performer may not, without the advance written approval of FAU, not to be unreasonably withheld, assign any right or duties under the Agreement, or transfer, pledge, surrender or otherwise encumber its interest in any portion of the Agreement. Any assignment made without FAU's consent shall be, at FAU's option, null and void. No subcontracting or delegation shall in any event relieve Performer of any obligation or liability under the Agreement.

15. Performance Terms.

- a. Tapes/Recordings. FAU 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 FAU's students, faculty, and staff.
b. Public Officials. To the extent applicable, in accordance with state and federal election laws, regulations and guidelines, public officials visiting an FAU campus for nonpartisan events or functions sponsored or hosted by FAU 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 FAU's support or opposition of the public official in his/her capacity as a candidate.
c. Failure to Perform. In the event the parties are prevented from performing their obligations due to causes beyond its reasonable control, including, but not limited to, an act of war, catastrophic natural event, pandemic or epidemic, restrictions promulgated by an applicable state, federal or governing agency, or act of God ("Force Majeure Conditions"), any dates/times by which either party is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the time lost. Alternatively, FAU may elect to terminate the Agreement without further obligation or penalty. Performer must immediately notify FAU of any reason which might result in Performer's failure to perform as scheduled. Failure or delay of transportation is not a Force Majeure Condition. FAU reserves the right to approve/substitute any other performer for Performer if Performer is not able to perform as scheduled.
d. Cancellation. FAU may cancel the Agreement by giving Performer at least ten (10) days prior written notice of cancellation, without penalty. FAU shall only be liable for payment of goods received and services rendered and accepted by FAU prior to the date of notice of cancellation. If FAU has made any advance payments or deposits, Performer shall return such amounts to FAU. If FAU cancels this Agreement for reasons other than breach by Performer, FAU 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, pursuant to FAU's travel policies and only to the extent they are supported by itemized, paid invoices. Performer may not cancel the Agreement except for in the event of Force Majeure Conditions.
16. Entire Agreement. In the event of inconsistency between the Agreement and this Addendum, this Addendum will govern. This Addendum and the Agreement embody the entire agreement of the parties, and there are no other representations, promises, agreements, conditions, or understandings, either oral or written, between FAU and Performer other than are set forth. Any renewals, amendments, alterations or modifications to the Agreement must be signed or initialed and approved by all signatories of the Agreement. To be clear, the Agreement shall not auto-renew and must be upon the written agreement of the parties.
17. Signatures. The parties represent and warrant that any person signing the Agreement has the authority to do so and that such signature shall be sufficient to bind Performer. The Agreement may be signed electronically and shall be considered signed if/when a party's signature is delivered by facsimile or e-mail transmission of a ".pdf" format date file, including via DocuSign. Such signature shall be treated in all respects as having the same force and effect as an original signature.

By signing below, Performer (or Performer's authorized representative) agrees to incorporate this Addendum into the Agreement, and hereby executes this Addendum as of the date set forth below.

PERFORMER:
By: _____
Name: _____
Title: _____
Date: _____