

PERFORMER/ENTERTAINMENT CONTRACT

Approved Independent Contractor (ICQ) #001

For the purposes herein, this contract may be used for the following services as specified in the [University's Small Purchase Procedures for Goods and Non-Professional Services](#): Artists (when creating and providing original works), speakers, lecturers, musicians, performing artists, designers (sets, musical, sound, etc.), choreographers, and videographers. No modifications to this contract may be made without prior written approval by Procurement Services.

This contract is entered into on _____ by and between _____ hereinafter called the "Performer" and the University of Mary Washington, hereinafter called the, "University" or "UMW".

WITNESSETH that the Performer and the University, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

Individual Services Provided (include a breakdown of services with associated fees per service/event as applicable):

Topic or Name of Event: _____

Place of Engagement: _____

Date(s) & Time(s) of Engagement: _____

Compensation Agreed Upon (NTE "Not to Exceed"): _____

Additional Event Details: _____

ADDITIONAL EXPENSES:

UMW will cover* the following expenses for the Performer (check all that apply):

☐ Transportation \$ _____ (NTE)

☐ Meals for: _____ people for _____ days

☐ Lodging for: _____ people for _____ days; For date(s): _____ ☐ single room ☐ double room

*Lodging and Meals shall not exceed established per diem rates <http://adminfinance.umw.edu/ap/travel/per-diem-and-lodging-rates/>

☐ Other: \$ _____ (NTE) Provide a detailed description: _____

PERFORMER ONBOARDING, PAYMENT METHOD, and PAYMENT TERMS:

1. Performer Onboarding:

- a. Performers providing a service to the University must be registered with the University in order to receive payment. Prior to payment being issued, Performers must complete the [questionnaire on the Accounts Payable website](#) to receive a secure link to submit the required paperwork to register with the University.
 - i. The following must be received by Accounts Payable at least two (2) weeks **prior** to the Event. *If all required documents are not received within that timeframe, payment will be made net 30 days after the Event, regardless of payment date entered in 2.a.*

- ii. Completed and signed Performer's Contract. Send an executed copy of this contract (signed and dated by both parties) to invoices@mail.umw.edu.
- iii. Required paperwork referenced in 1a.

2. Payment Terms/Schedule:

- a. Payment terms shall be net 30 days *unless* an alternative payment date is requested here: (alternate payment date) _____.
- b. If compensation will be made over multiple checks, provide the payment schedule (dates) below:
 Check 1: _____ Check 2: _____ Check 3: _____ Check 4: _____

- ☐ Performer is requesting check to be picked up following the final performance/event. *Unless this box is checked, checks will be mailed to the address below, net 30 days, or on the date/s specified in 3a or 3b.

Make check payable to (Name): _____

Address: (***MUST be completed for tax purposes***) _____

3. Method of Payment: The Performer shall be paid using one of the following methods:

- a. Special Pay: Employees and/or students providing services may be paid through Payroll's Special Pay process.
- b. Check: The required payment due date is established by the terms of this contract. If no terms are specified, then payment will be made 30 calendar days after satisfactory performance of the contract in all provisions thereof; in accordance with Chapter 43, VPPA, Article 4, Code of Virginia.
- c. Virtual Payables through Bank of America: All payments under Virtual Payables will have a net 16 payment term. For more information about this payment option, contact UMW's Accounts Payables department at payables@umw.edu or view <http://www.bankofamerica.com/epayablesvendors>.
- d. ACH (*for payment using state funds only*): Suppliers must register for [EDI \(Electronic Data Interchange\) with the Commonwealth of Virginia](#) in order to receive payments via ACH.
- e. Wire Transfer: Wire transfers may be made under certain circumstances with prior approval from Accounts Payable and Finance. Contact Accounts Payable payables@umw.edu for details.

FUND: _____ ORG: _____ ACCT: 71268E PRGM: _____ ACT: _____ LOC: _____

*****Please attach copies of Exclusive Rights or Individual Rider contracts required for the Event, as applicable, to be reviewed by Procurement Services*****

All who sign this agreement are authorized to bind both parties to the terms and conditions outlined herein.

PERFORMER

UNIVERSITY OF MARY WASHINGTON

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Date: _____

Title: _____

Phone: _____

Date: _____

Email: _____

Note: This public body does not discriminate against faith-based organizations in accordance with the *Governing Rules §36* or against an individual because of race, religion, color, sex, national origin, age, disability, or any basis prohibited by state law relating to discrimination in employment.

Terms and Conditions Pages Follow

TERMS AND CONDITIONS: The Performer, its officers, employees, and agents, agree to adhere to the following:

1. EXPRESSED VIEWS DISCLAIMER: Any views, thoughts, and opinions expressed by the Performer are solely that of the Performer and do not reflect the views, opinions, policies, or position of the University of Mary Washington.
2. ADVERTISEMENT & BROADCASTING: Unless explicitly stated otherwise by the Performer, the University is hereby authorized to use Performer's name and other service marks to advertise the scheduled Event. The University will not broadcast or photograph any portion of the Event without the prior official consent of the Performer.
3. TICKET SALES & MERCHANDISE: Performer will not receive any funds from ticket sales. UMW will retain 100% of the proceeds generated by ticket sales. UMW will provide ticket sale numbers and attained information within one month of performance to the Performer for their records. Disbursement of any and all complimentary tickets is at the discretion of the Performer. The Performer has the right to sell their merchandise and is solely responsible for their sale. UMW has the right to negotiate commission on all merchandise while on University property. Should the Performer enter into an agreement with a student to sell their merchandise, this relationship will be solely between the student and the Performer. The University assumes no responsibility for loss of merchandise or revenue as a result of this relationship.
4. SUBSTITUTES: The Performer agrees that substitute performers will not replace featured members of the group unless a request in writing is approved by the University. If the University does not approve the substitution(s), this Agreement shall be rescinded.
5. CHANGES TO THE CONTRACT: Changes may be made to the contract by mutual written agreement between the parties up to two weeks prior to the Event. Any changes to performance dates/times or services provided that affect the agreed upon compensation or payment dates must be made via a formal Contract Modification document to supplement this contract.
6. NON-EXCLUSIVE CONTRACT: Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Performer. The contract shall not restrict UMW from acquiring similar, equal or like goods and/or services from other sources.
7. FRATERNIZATION: Any behavior by any Performer or Performer's employee that is determined to be inappropriate by the Contract Administrator may be cause for request for removal of the Performer's employee from University property, at minimum, and/or result in contract termination.
8. STANDARDS OF CONDUCT IN THE WORKPLACE: The University of Mary Washington, an agency of the Commonwealth of Virginia, strictly forbids harassment of any employee, applicant for employment, vendor, Performer or volunteer in the workplace, on the basis of an individual's race, sex, color, national origin, religion, sexual orientation, age, veteran status, political affiliation or disability. The Commonwealth will not tolerate any form of retaliation directed against an employee or third party who either complains about harassment or who participates in any investigation concerning harassment. http://web1.dhrm.virginia.gov/itech/hrpolicy/pol1_80.html. Pursuant to the authority provided in Chapter 10 and 12, Title 2.2 of the Code of Virginia.
9. PUBLIC HEALTH AND SAFETY: The Performer shall comply with all current public health and safety protocols in place at the University. It is the Performer's responsibility to be aware of any such protocols, to communicate to, and ensure compliance by its employees and any subcontractors, as applicable.
 - a. In the interest of campus safety, any individual on University property or in University facilities may be required to identify themselves at any time by an administrative officer of the University or the University Police. The Instructor agrees to be aware of and abide by fire safety regulations and procedures, including proper exit procedures, room capacity, and room set up requirements. Haze or smoke of any kind is not allowed in any indoor facility on the University of Mary Washington campus.
 - b. The University reserves the right to move any physical Event to a virtual platform, as warranted by the current conditions impacting public health and safety. Should the Event be moved to a virtual platform, the Performer agrees to reduce the total invoice for the Event by 50% (or as otherwise negotiated), and any travel or related expenses included in the Agreement shall no longer apply and will not be paid by the University.
10. AUDIT: The Performer shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The University, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
11. INDEPENDENT CONTRACTOR RELATIONSHIP: In performing any and all of the services to be provided under this contract, the Performer shall at all times and for all purposes be and remain an independent Performer. In no case and under no circumstances shall the Performer or any of its employees, including but not limited to those of its employees actually performing any of the services, have authority to make any representations or commitments on behalf of the University or be considered the agent of the University for any purpose whatsoever. No persons engaged by the Performer in connection with the provision of Services shall be considered employees of the University. As between the parties, the Performer shall be responsible for hiring, supervising, training and instructing those individuals performing the services and shall pay any required state and federal taxes on behalf of such persons and provide them with any legally required employee benefits.

12. **INSURANCE:** If required, it shall be the Performer's obligation to maintain all necessary personal, property and liability insurance. In any and all contracts and agreements where required among the Performer and its employees, agents, consultants, and representatives, the Performer shall ensure that appropriate liability and property insurance be obtained.
13. **EMPLOYEE/INDIVIDUAL BACKGROUND CHECKS AND QUALIFICATIONS:** The University may require that the Performer undergo appropriate background screening and possess all necessary qualifications to comply with the terms of this contract.
14. **INDEMNIFICATION:** Performer agrees to indemnify, defend and hold harmless the University as an agency of the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Performer/any services of any kind or nature furnished by the Performer, provided that such liability is not attributable to the sole negligence of the using agency or to failure of the using agency to use the materials, goods, or equipment in the manner already and permanently described by the Performer on the materials, goods or equipment delivered.
15. **LIABILITY:** The University assumes no individual or otherwise personal liability by the execution of this contract or by reasons of default of the University in the performance of any of the terms hereof. All such liability as such is hereby released by the Performer as a condition of and consideration for the execution of this contract.
16. **CANCELLATION OF CONTRACT:** Either Party may cancel this contract, without penalty, given at least 14 days' prior notice to the other Party.
17. **FORCE MAJEURE:** The University, its officers, employees and agents, and the Performer, its officers, employee and agents will not be responsible for any delay or failure in the performance resulting from any cause beyond their control, including without limitation: war, strikes, labor disputes, civil disturbances, fires, natural disasters, acts or regulations of public authorities, and acts of God.

If in the sole judgment of the University, it becomes necessary to cancel the performance/service to protect life or its property or the property of others, then the University may do so without liability to the Performer.

Any deposits or prepayments made by the University to the Performer shall be returned (refunded) to the University if the

Performer's service under this Agreement is canceled for any reason.

In the event that the Performer does not fully discharge all obligations under the terms of the contract, partial payment for partial services completed by the Performer may *only* be made if the scope of work and payment terms within the contract specifically define degree of completion per payment amount.

18. **WARRANTIES:** The Performer represents and warrants that (1) its performance in all respects (including any instructional or performance materials including but not limited to sheet music, lyrics or script as may be desired or requested by the University) will not violate any copyright, and all the necessary approvals to perform copyrighted works have been obtained, (2) the material presented in the Event is appropriate for radio broadcasting including suitable lyrical content, stage gestures, etc., (3) all equipment and materials used by the Performer are in good working, safe order, and (4) all employees, agents and volunteers acting on behalf of the Performer have been properly trained to perform the services in a safe, efficient, workmanlike manner.
19. **SEVERABILITY:** If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
20. **NOTICES:** Any official legal notice, demand, request, consent, approval or communication required by this Agreement to be provided in writing by either party, shall be addressed to the University or Performer at their respective addresses entered below. These notices shall be sent via certified mail, return receipt requested, and shall be considered by the sender received within five (5) days of delivery to the U.S. Postal Service, or via the stamped evidence of delivery, whichever occurs first. Any unofficial notices or communications may be sent via electronic mail.

If to the University:

Attn: Procurement Services
1301 College Avenue
Fredericksburg, VA 22401

If to the Performer:

Attn: _____
Address: _____
