**LIVE PERFORMANCE AGREEMENT**

**FOR EVENTS OVER $10,000**

**A LIVE PERFORMANCE IS DEFINED AS A COMEDIAN, MUSICAL ACT, POET, OR OTHER ENTERTAINER WHO PERFORMS AN ACT, MUSIC, SPOKEN WORD, ETC. THIS CONTRACT SHOULD BE USED FOR LIVE ENTERTAINERS WHO PROVIDE SUCH SERVICES ON THE RIT CAMPUS. THIS CONTRACT CAN BE ISSUED TO AN AGENCY AS WELL AS AN INDIVIDUAL PERFORMER.**

**AN INDIVIDUAL WHO GIVES A PRESENTATION ON A SPECIFIC TOPIC (AND MAY TAKE QUESTIONS AFTER THE PRESENTATION) IS CONSIDERED A SPEAKER AND IS NOT CONSIDERED A LIVE ENTERTAINER. THE STANDARD SPEAKER AGREEMENT SHOULD BE USED FOR THIS TYPE OF ENGAGEMENT.**

**PLEASE DELETE THIS PAGE, AND ALL [BRACKETED TEXT] INCLUDING HIGHLIGHTS, NOTES, AND RED FONTS BEFORE PRINTING OR SENDING**

**LIVE PERFORMANCE AGREEMENT**

Made by and between

 **ROCHESTER INSTITUTE OF TECHNOLOGY**

acting by and through its [RIT DEPARTMENT/STUDENT ORGANIZATION NAME]

[RIT DEPARTMENT/STUDENT ORGANIZATION ADDRESS],

 (Hereinafter referred to as “University”)

 And

**[TALENT AGENCY NAME AND ADDRESS]**

(Hereinafter referred to as “Agency”)

Representing

**[NAME OF PERFORMER]**

(Hereinafter referred to as “Artist”)

And

All group members and production personnel

(Hereinafter referred to as “Artist’s Group Members”)

The parties hereto, agree to be bound, and agree as follows:

1. The Artist is hereby retained by the University to perform [DESCRIBE IN DETAIL WHAT THE ARTIST WILL BE DOING FOR YOU (E.G. MUSICAL PERFORMANCE, SPOKEN WORD, COMEDY PERFORMANCE, ETC.)] (hereinafter referred to as “Performance”) as follows:
2. Date of Performance: [DATE]
3. Artist’s Performance Time: [HOW MANY PERFORMANCES i.e. SET]
4. Event Starting Time: [TIME]
5. Duration of Performance: [MINIMUM TIME ARTIST IS TO PERFORM]
6. Performance Site: [LOCATION WHERE EVENT WILL TAKE PLACE]
7. Performance Fee: [AMOUNT AGREED UPON]
8. Sound and Lights provided by: [UNIVERSITY/ARTIST]
9. Artist’s Billing: [HOW YOU LIST ARTIST IN ADVERTISEMENTS]
10. **Payments.** All payments, including meal buyouts, shall be made via University check within thirty (30) days following the Performance. No other method of payment will be used unless agreed to in writing a least one (1) month prior to the date of performance. Payments will be issued to the following: [NAME and ADDRESS]
11. University requires that the name, address, and social security number or federal tax ID number of the individual or corporation performing be submitted for payment. This information shall be submitted at least ten (10) business days in advance of Performance in order to guarantee timely payment.
12. Union fees, welfare and insurance obligations are part of the cost of production and are included in the compensation specified in this Agreement. University shall not be liable or responsible for any such payments under this Agreement.
13. The University shall not be liable for the payment of taxes, late charges, or penalties of any nature relating to the Performance or any revenue received by, or payments made to, the Artist in respect to the Performance or the Merchandise. The Artist shall pay and/or collect and discharge as they become due, promptly and before delinquency, all taxes, assessments, rates, damages, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extraordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged, or imposed.
14. **Artist Rider.** The Artist shall provide the University all of the Artist’s rider requirements, in writing, no less than twenty-one (21) days prior to the Performance. Artist’s rider will not be accepted if received after this date. In the event of any discrepancy between the Artist’s rider and this Agreement, this Agreement shall govern.
15. **Performance Site access, setup and teardown.**
16. The Artist shall not occupy or use the Performance Site (including any dressing room provided in connection with the Performance) except as provided in this Agreement. The University reserves the right to refuse access to any officer, agent, employee licensee or guest of the Artist, upon reasonable non-discriminatory grounds.
17. The Artist will load in all necessary equipment at [TIME] on [DATE]. Unless otherwise noted and agreed upon, the University will provide the necessary stage crew to assist with equipment setup. Reasonable attempts will be made to provide a sound check for the Artist. All sound checks must be completed by [TIME].
18. Artist shall remove all equipment and property from and vacate the site by [TIME] on the Performance Date.
19. The Artist understands and agrees that the University makes no representations or warranties with regard to the condition of the Performance Site or any property of the University and the Artist agrees to accept all such property in “as is” condition. University is not responsible for providing any equipment which is not specifically stated in the Agreement or Artist’s rider. The Artist agrees that if they does not use the equipment required pursuant to this Agreement, then they shall pay for all cost of such equipment rented by University on Artists’ behalf.
20. The Artist shall not make any alterations, additions, or other changes to the Performance Site or any University property without the prior written consent of the University.
21. Authorized representatives of the University shall have the right to enter and have full access to the Performance Site and to all University property used or occupied by the Artist at any time(s) for any reasonable purpose(s) or reason, so long as such entrance does not unreasonably interfere with the Performance.
22. The Artist shall not cause or permit any Hazardous Material to be used, stored, or generated on, or transported to and/or from the Facility. “Hazardous Material” shall mean, without limitation, those substances included within the definitions of “hazardous substances”, “hazardous materials”, “hazardous gasses”, “toxic substances”, or “hazardous waste” in any applicable local, state or federal law.
23. The Performance Site is to be used solely for the purpose of the Performance. The Artist shall not use, or permit to be used, the Performance Site by any of its members, officers, directors, agents, employees, licensees, or invitees, for any unlawful or immoral purpose or in any manner likely to injure persons or property in, on, or near the Facility.
24. **Performance.**  Artist must make their whereabouts known to the University sixty (60) minutes prior to the schedule start of the Performance and must be at the Performance site no later than thirty (30) minutes prior to the scheduled start of the performance. Artists are expected to commence performance on time.
25. The Artist shall limit their break time to no more than twenty (20) minutes per Performance period. Break times shall not be consecutive.
26. The University will provide all house personnel necessary for the Performance. This includes all ushers, ticket takers and security personnel deemed necessary by the University. Personnel required to operate sound and lighting equipment will be mutually agreed upon by the University and the Artist. The Artist shall not operate any equipment or materials belonging to the University, without the prior written approval of the University. Placement and numbers of security personnel will be at the sole discretion of the University.
27. Pyrotechnic or pyrotechnic devices of any kind are strictly prohibited by the University. Use of any such devices during the Performance shall be deemed a material breach of this Agreement and is grounds for nonpayment pursuant to this Agreement.
28. University students are not permitted on stage for any reason. Artist agrees to actively discourage any such behavior, including but not limited to mosh pits, stage diving, and slam dancing and, if necessary, Artist shall request that the audience comply with such behavior, or suspend Performance until compliance occurs.
29. Decisions regarding the safety of the Performance due to weather conditions will be a joint decision between the Artist and the University.
30. The Artist shall not broadcast by television or radio, or any other means, any part of the Performance without the prior written approval of the University. The University reserves the right to allow photographers and reporters from legitimate news organizations a limited time to photograph the artist. The University reserves the right to shoot still photographs of the artist for archival purposes and reserves the right to use surveillance video for security purposes. In addition, Artists agrees to allow University to video the first ten (10) minutes of the Performance for marketing purposes.
31. **Interpreter Requirements**. The National Technical Institute of the Deaf (“NTID”) is a college within the University. Approximately eleven percent (11%) of the population at the University is hearing-impaired. The University may place an interpreter Down Stage Left with lighting provided by the University during the performance, whenever an interpreter is available.
32. Artist, including all agents and personnel associated with the Artist will comply with and cooperate with this provision and failure to do so will be construed as a material breach of the Agreement.
33. The interpreter shall be permitted an audio send/monitor of the vocals in order to perform. Interpreters will provide their own headphones. A song list/lyric sheet shall be mailed two (2) weeks prior to the Performance Date.
34. **Supporting Acts.** The Artist acknowledges and agrees that the University shall have the exclusive right, to permit and approve all support talent or headliners for the Performance and to advertise and promote support talent and headliners in conjunction with the Artist’s appearance.
35. **Publicity and Advertisements.** The Artist shall not produce or post any advertisements on or off University property or in any electronic media without the prior written consent of the University. The Artist is never permitted to post or display advertising on University property without the prior written authorization of the University.
36. **Compliance with RIT Policies, applicable laws and regulations.** The Artist and Artist’s Group members shall abide by and conform to all rules and regulations adopted or prescribed by the University as well as all applicable federal, state, and local laws.
37. With respect to the Performance, the Artist shall comply fully with any and all local, state, and federal laws, regulations, rules, constitutional provisions, common laws, and rights of others, including all rights applicable to the reproduction or performance of proprietary or copyrighted materials and works of third parties and to the protection of the intellectual property rights associated with such materials.
38. Alcohol is not permitted in any University facility without prior written consent from the University. Alcohol is never permitted in the performance area. Smoking is prohibited in all University facilities. The University cannot purchase any alcohol or tobacco products. If an Artist arrives at the Performance noticeably under the influence of intoxicating beverages, narcotics, or drugs, the University may cancel the Agreement at its sole discretion and with no liability whatsoever.
39. **Tickets and Merchandise.** The Artist shall not engage in the sale of any tickets for the Performance, without the prior written approval of the University.
40. The Artist shall have no right to any portion of any revenue received by the University as a result of ticket sales, advertising or sponsor recognition displayed during, or associated with, the Performance unless agreed upon in writing.
41. The Artist shall have the right to sell Artist-related t-shirts, stickers, posters and recorded material (“Merchandise”) immediately before and after, and during, the Performance. In the event that the University provides personnel to sell merchandise, the University will receive thirty percent (30%) of the gross sales of any merchandise (except recorded material) sold in conjunction with this event. In the event that the University does not provide personnel to sell merchandise, artist’s representative will be permitted to sell merchandise and the University will receive twenty percent (20%) of the gross sales of any merchandise (except recorded material) sold in conjunction with this event. The University will receive ten percent (10%) of the gross revenue of all recorded material sold in conjunction with this event. All merchandise must be inventoried upon arrival and upon completion of sales by an authorized representative of the University. Any use of the name “Rochester Institute of Technology” or any related marks owned by the University must be approved, in advance and in writing, by an authorized official of the University.
42. **Limitation of Liability and Indemnification.**
43. The Artist, and each of the Artist’s Group Members, shall be solely liable for any and all losses, liabilities, claims, damages and expenses (including reasonable costs of investigation and attorneys’ fees) (collectively, the “Losses”) occurring at the Performance Site and caused to the University and/or persons and/or property in, on, or near the Performance Site before, during, or after the Performance, by (i) the Artist’s (or any Artist’s Group Members) failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, constitutional provisions, and common laws applicable to the Artist’s performance of this Agreement and/or activities at the Performance Site, (ii) any unlawful acts on the part of the Artist, an Artist’s Group Member, or their officers, directors, agents, employees, subcontractors, licensees, or invitees, (iii) the negligent acts, errors and/or omissions or the willful misconduct of the Artist, an Artist’s Group Member, or their officers, directors, agents, employees, subcontractors, licensees, or invitees, or (iv) the material breach or default by the Artist, an Artist’s Group Member, or their officers, directors, agents, or employees of any provision of this Agreement.
44. Artist, shall defend, indemnify and hold harmless the University and its trustees, officers, agents, representatives and employees (“University’s Indemnified Parties”) against any Losses brought against any University’s Indemnified Party(ies), including any arising from the use of proprietary intellectual property of third parties (whether such claims are actual or threatened) under the copyright or other laws of the United States, by any person or entity arising out of or relating to the Artist’s performance or failure to perform pursuant to this Agreement, except where the Losses are the result of the University Indemnified Party’s own direct and sole negligence. This obligation shall survive the termination, completion or expiration of this Agreement.
45. The University shall defend, indemnify and hold harmless the Artist its representatives, agents or employees (“Artist’s Indemnified Parties”) against any Losses brought against any Indemnified Party(ies) by any person or entity as a result of injuries, damages, expenses and losses actually or allegedly incurred by such a person or entity arising out of or relating to the University’s performance or failure to perform pursuant to this Agreement, except where the Losses are the result of the Artist’s Indemnified Party’s own direct and sole negligence. This obligation shall survive the termination, completion or expiration of this Agreement.
46. **Termination.** In the event of a material breach of the terms and conditions of this Agreement, the non-breaching party may, at its option, upon written notice to the breaching party, terminate this Agreement. In the event of a material breach of the terms and conditions of this Agreement by the Artist, the Artist agrees to pay all documented out-of-pocket expenses incurred by the University. Payment must be received by the University no later than thirty (30) days after the Artist receives the appropriate documentation of expenses.
47. **Notices.** Any notices sent pursuant to this Agreement must be delivered by certified mail, return receipt requested, postage prepaid, or delivered by hand or by a reputable overnight carrier addressed to the appropriate party as follows:

 To University: [ORGANIZATION NAME AND ADDRESS]

 To the Artist: [ARTIST/AGENCY NAME AND ADDRESS]

1. **Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties named herein and their respective permitted successors and assigns. Neither party may assign, subcontract, transfer or delegate, in whole or in part, its rights or obligations under this Agreement except with the prior written approval of the otherand any unauthorized attempt to assign or transfer this Agreement or any rights or obligations under this Agreement shall be null and void.
2. **Amendments.** This Agreement, including any addenda hereto which are incorporated by reference herein, and the specifications and conditions set forth in any Statement of Work referencing this Agreement, constitute the entire agreement and understanding of the parties. Unless in writing, signed by both parties, and unless specifically acknowledged by both parties to be an amendment to this Agreement, no other terms and conditions shall be effective. Any language to the contrary notwithstanding it is understood and agreed between the parties that this Agreement specifically supersedes all other documents or papers signed by or exchanged between the parties concerning the subject matter hereof, except as provided in the preceding sentence.
3. **No Third Party Beneficiaries.** This Agreement shall not confer any rights or remedies upon any person or entity other than the parties hereto and their respective permitted successors and assigns.
4. **Force Majeure.** If either party is unable to perform any of its obligations under this Agreement due to events beyond its reasonable control (“Force Majeure Event”) pursuant to this paragraph, the parties’ respective obligations will be excused fully, without any additional obligations, and each party shall bear its own costs incurred in connection with this Agreement. If the performance is cancelled pursuant to a Force Majeure Event, then the parties will use reasonable efforts to reschedule the performance at a mutually acceptable time and venue. Force Majeure Events shall include, but are not limited to: acts of God or the public enemy, fires, floods, storms, earthquakes, riots, strikes, boycotts, lock-outs, acts of third parties (e.g., wholesalers), wars and war-operations, restraints of government, power or communication line failure, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions or other circumstances beyond the Party's control, or by reason of the judgment, ruling, order of any court or agency of competent jurisdiction, or materially altering the law or regulations covering the subject matter of this Agreement or any other change in such law or regulations subsequent to the execution of this Agreement.
5. **Governing Law and Jurisdiction.** The rights and obligations of the parties hereunder shall be governed by and determined according to the laws of the State of New York. Any controversy, claim or dispute arising out of or relating to this Agreement or the breach thereof, shall be adjudicated in the courts of Monroe County, New York, to which the parties consent to personal jurisdiction.
6. **Non-waiver.** Pursuit by either party of any of the remedies described herein, or otherwise available at law or in equity, shall not preclude pursuit by that party of any other remedy or remedies provided herein or otherwise available at law or in equity. All remedies, rights, undertakings, obligations and agreements shall be cumulative and none of them shall be in limitation of any other remedy, right, undertaking, obligation or agreement of any party.
7. **Severability.** The invalidity or unenforceability of any particular provision, or part of any provision, of the Agreement shall not affect the other provisions or parts hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions or parts were omitted.
8. **No Joint Partnership.** This Agreement shall not be construed to create any partnership or joint venture between the parties. The obligations, commitments, responsibilities and liabilities of the Artist and/or each of the Artist’s Group Members, described herein or arising hereunder, shall be joint and several.
9. **Insurance.** If the requirements for a Certificate of Insurance are attached, the Artist must provide the described coverages. In addition, the Artist must name “Rochester Institute of Technology” as the Certificate Holder and as Additionally Insured on all required certificates.

PLEASE CHECK ONE OF THE FOLLOWING:

 \_\_\_\_\_\_ I do not carry/cannot provide the above insurance

 \_\_\_\_\_\_ I have attached the insurance certificate

\_\_\_\_\_\_ The insurance certificate will be faxed/mailed to the University

*[SIGNATURE PAGE TO FOLLOW]*

IN WITNESS WHEREOF, the parties have executed this Agreement, by their respective officers hereunto duly authorized, the day and year written above.

AGREED TO AND ACCEPTED:

ROCHESTER INSTITUTE OF TECHNOLOGY

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Signature)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Print/Type Name)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Print/Type Title)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Date)

ARTIST OR DULY AUTHORIZED ARTIST REPRESENTATIVE

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Signature)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Print/Type Name)

(All checks will be payable to this person unless the “Doing Business As” space below is completed)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Date)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Artist/Agency Federal Tax ID or SSN)

ARTIST/AGENCY CORPORATE NAME (Doing Business As)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Artist/Agency Street Address)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Artist/Agency City, State, Zip)

**CERTIFICATE OF INSURANCE REQUIREMENTS**

At its sole expense, the Artist shall procure and keep in force full and adequate insurance coverage of all of its operations pursuant to this Agreement as set forth below, and “Rochester Institute of Technology” shall be named as an additional insured on policies providing coverage for #1 and #3 below:

 1) Commercial General Liability: (1986 ISO form or later) with minimum limits of $1,000,000 per occurrence/$2,000,000 aggregate written on an occurrence basis.

 2) Auto Liability (including owned, hired and non-owned autos): $1,000,000 combined single limit (each accident).

 3) Excess Liability: $3,000,000 minimum limits in excess of underlying limits. The umbrella shall be no more restrictive than underlying coverage.

 4) Worker’s Compensation and Employer's Liability: Statutory New York State limits.

Additionally, if applicable:

 5) Professional Liability: Minimum limits of $1,000,000. Coverage shall be maintained for at least four years subsequent to the termination date of this contract; during such four-year period, Artist shall assure that there is no change to the retroactive date of coverage.

These coverages and limits are to be considered minimum requirements under this Agreement and in no way limit the liability of the Artist.

This insurance shall be written by a company licensed to do business in New York State with a minimum rating of A-VII. Each policy shall provide for notification to RIT thirty (30) days prior to termination, material change or restrictive amendments. The insurance companies issuing the policies shall have no recourse against RIT for payment of any premiums or for any assessments under any form or policy. RIT reserves the right to request copies of insurance policies.

The insurance policies referred to above shall be primary insurance ahead of any insurance carried by RIT with respect to the Agreement. Artist shall furnish written consent of the insurer to the primacy of these policies if requested by RIT.