UNC Asheville Student Activities ADDENDUM

THE UNDERSIGNED PARTIES AGREE TO THE FOLLOWING TERMS AND CONDITIONS AND AGREE THAT SUCH ARE CONTROLLING NOTWITHSTANDING ANY PROVISION IN ANOTHER AGREEMENT AND/OR DOCUMENT TO THE CONTRARY (Any written agreement and/or document taken together with this ADDENDUM are referred to collectively in this ADDENDUM as "the Agreement").

RELATIONSHIP BETWEEN PURCHASER AND PERFORMER: In signing the Agreement, The University of North Carolina Asheville does so as Purchaser (hereinafter "Purchaser") of the entertainment or service of Performer, and not as employer, producer, or operator regardless of any other nomenclature contained in this or any other contract or agreement.

FAILURE TO PERFORM: It is agreed that neither Purchaser nor Performer will be held responsible for any terms of the Agreement when prevented from complying by an Act of God or any legitimate conditions beyond the immediate control of either party, such as, but not limited to, war, insurrection, weather, strike, or government regulation. If such acts or conditions occur, it is agreed that neither party will be held liable to the other party for any damages either party might suffer. If Performer fails to perform due to circumstances not categorized as Acts of God, Performer will be liable to Purchaser for Purchaser's documented costs incurred at the time of notice of cancellation provided to Purchaser, up to a maximum dollar amount equal to the Performer's fee or $2000, whichever is greater.

DAMAGES AND REMEDIES: Purchaser will not be responsible for any damages or loss to Performer's instruments or equipment, or for any personal injuries or damages arising out of the subject matter of the Agreement, unless caused by the negligence of Purchaser or its employees (as those claims or damages are allowed or consistent with the North Carolina Tort Claims Act). However, nothing in the Agreement can be construed as a waiver of any defense or limitation of liability, whether statutory or contractual, available to Purchaser. Such defenses and limitations of liability may include, but are not limited to, sovereign immunity and those contained in the North Carolina Tort Claims Act. Purchaser also reserves all available legal remedies, including the right to jury trial.

GOVERNING LAW AND VENUE: The Agreement is governed by the laws of the State of North Carolina. Purchaser does not stipulate that it is subject to personal jurisdiction in any state other than North Carolina and does not agree to any contrary forum or choice of law to resolve any disputes arising from the Agreement or subject matter.

AUTHORIZED SIGNATORY/ASSIGNABILITY: The Performer (or Performer's Representative) and Purchaser's representatives, in signing the Agreement, warrant that they sign as properly authorized representatives for their respective parties. In addition, Performer agrees that their skills, talents and ability are unique so that performance by substitute Performers is not bargained for or authorized in the Agreement. Performer may not assign their rights and obligations under the Agreement without Purchaser's prior written consent.

PAYMENTS: Purchaser is not authorized to make advance payments of any nature including, but not limited to deposits, nor make any type of payment for services that have not been rendered. Purchaser will not guarantee payment on the night of the event unless the completed, original Agreement (including but not limited to having all amendments initialed by both parties) is received six (6) weeks prior to the event. All payment requests must be in accordance with the laws and policies of Purchaser and the State of North Carolina and shall be in detail sufficient for proper pre-audit and post-audit purposes.

RECORDINGS: Purchaser will use reasonable efforts that no part of the performance is recorded, reproduced or transmitted from the place of performance.

INCONSISTENCY: In the event of any inconsistency or incongruity between any part of the Agreement or document that exists between the parties and the provisions of this ADDENDUM, then the provisions of this ADDENDUM shall in all respects govern and control.

ALCOHOL AND SOBRIETY: No alcohol will be provided by Purchaser or its agents. Furthermore, no alcohol consumption will be permitted on Purchaser's property. Purchaser expects that Performer will be sober while a guest on its campus.

ADHERENCE TO APPLICABLE LAW: Performers are expected to adhere to all Federal, State and Local laws as well as the policies of Purchaser.

4% WITHHOLDING: By law, Purchaser must withhold 4% for state tax purposes from payment to any nonresident individual or entity (corporation or limited liability company or limited liability partnership or general partnership) performing personal services in NC for compensation (not for wages) over $1,500. Any entity which is chartered or formed under the jurisdiction of laws other than North Carolina is exempt from this withholding tax if:

1. It is a limited liability company or a corporation and can provide a copy of a Certificate of Authority it has obtained from the North Carolina Secretary of State; or
2. It is a general partnership or limited liability company and can show it maintains a permanent place of business in North Carolina; or
3. It can provide proof of non-profit status by submitting a copy of the non-profits federal determination letter of tax exemption or a copy of a letter of tax exemption from the NC Department of Revenue.

X Purchaser's Representative Date X Performer or Performer's Representative Date