SAMPLE PERFORMANCE AGREEMENT

While this contract could be used for actual business purposes, it may not suit your situation and the laws of your state. We encourage you to seek legal advice.

This agreement contains two parts: a cover sheet addressing basic terms and a rider. We begin with an explanation of the rider and follow with the entire agreement.

**CONTRACTUAL ATTACHMENT (RIDER)**
Commentary and Explanations for First-Time Users

| The provisions in this rider are generally optional, but having these things in writing can make the event go more smoothly for everyone. Just talking with the Purchaser about some of these issues can help both of you understand better exactly what expectations you both have for the performance. This is always a good thing since it helps avoid unpleasant surprises. |

Purchaser and Artist or its Agent agree that the following provisions are incorporated into the contract to which it is attached and made a part thereof, said contract being signed and dated ___________. The parties agree that the terms of this attachment prevail over the terms of any other document relating to and a part of the contract in which this attachment is incorporated.

<table>
<thead>
<tr>
<th>PAYMENT AND COMPENSATION</th>
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<tr>
<td>It’s important to spell out not only how much you’re being paid, but also exactly when you’ll get the check (or cash). You might want to ask for a 50% deposit upon signing the agreement, with the balance paid to you after the performance. Four common methods of compensation include: (1) flat fee with no percentage of ticket sales; (2) percentage of ticket sales; (3) guaranteed sum or percentage of ticket sales (whichever is higher); or (4) guaranteed sum and percentage of revenues above the guarantee. Obviously, getting a flat fee gives you more security than betting solely on a percentage of ticket sales. Filling out a W-9 form and giving your Social Security number to the Purchaser is standard procedure that most venues require for their own tax records.</td>
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1. PAYMENT AND COMPENSATION. Purchaser will make payment by check to Artist immediately after completion of the performance(s), unless otherwise previously agreed in writing by Artist and Purchaser. Payment of performance fee cannot be made until a copy of Artist’s W-9 and Social Security number or federal identification number (FEIN) is provided to Purchaser.

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<th>ARTIST’S RIGHT TO TERMINATE</th>
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<td>This ensures that you have the right to drop the gig if the Purchaser hasn’t fulfilled his end of the deal up front.</td>
</tr>
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2. ARTIST’S RIGHT TO TERMINATE. If Artist is entitled to deposit payment as provided above, and the deposit has not been paid within the time specified, Artist shall have the right to terminate this agreement without any further obligation upon ___ days notice.

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<th>CANCELLATION</th>
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<td>You’ve agreed to do the gig, you’ve cleared your schedule for that night, and you’ve turned down other offers. You need to know that if the Purchaser cancels at the last minute you won’t be losing everything you could have earned. This is what lawyers refer to as a “liquidated damages clause.” It spells out ahead of time what the Purchaser’s penalty for canceling is so you don’t have to haggle with Purchaser later over how much you might have made playing that other gig you got called for but turned down. You should be able to get 100% compensation if the Purchaser cancels less than two weeks before the show.</td>
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3. CANCELLATION. Artist reserves the right to cancel this Agreement without obligation upon notice to

St. Louis Volunteer Lawyers and Accountants for the Arts
Purchaser thirty (30) days in advance of the Performance date. In the event of Artist’s cancellation, the deposit payment (if any) shall be returned promptly. If Purchaser cancels the performance less than thirty (30) days before the performance, Purchaser will pay Artist ___% of the guaranteed fee for the performance. If Purchaser cancels the performance less than two weeks before the performance, Purchaser will pay Artist ___% of the guaranteed fee for the performance. The parties agree that such payments are reasonable in light of anticipated or actual harm caused by the cancellation and the difficulties of proving the actual damages to the Artist.

4. FORCE MAJEURE. Neither Artist nor Purchaser shall be liable for failure to appear or perform its obligations under this agreement in the event that such failure is caused by or due to the acts or regulations of public authorities, labor difficulties, civil tumult, inclement weather, strike, epidemic, interruption or delay of transportation service, or any other legitimate cause beyond the control of Artist and Purchaser.

5. SICKNESS AND ACCIDENTS. Artist’s agreement to perform is subject to proven detention by sickness or accident. In the event of such non-performance, the deposit payment (if any) advanced to the Artist shall be returned promptly.

6. PROMOTION AND PRODUCTION. Purchaser shall be responsible for all matters pertaining to the promotion and production of the scheduled engagement, including but not limited to venue rentals, security, and advertising. Purchaser agrees to promote the scheduled performance(s) and will use its best efforts to obtain calendar listings, feature articles, interviews of Artist, reviews of the performance and Artist’s recordings in all local prints, radio, and television media. Purchaser shall forward all copies of clippings, reviews, and posters to Artist. Artist agrees that Purchaser may use Artist’s name, pictures, photographs, recordings, and other likenesses in connection with advertising and publicizing the engagement(s) hereunder, but such use shall not be without prior approval of Artist.

7. TICKETS AND TICKET SALES. Purchaser agrees that tickets shall be consecutively numbered and shall be available at the following prices: ______. Artist’s representative shall have the right to inspect all ticket records and to be present in the box office prior to and during the performance. Free admission shall not exceed _____ percent of total tickets.
8. **COMPLIMENTARY TICKETS.** Unless otherwise agreed, Purchaser will allow ___ guests per band member, with a maximum of ___ tickets.

9. **SALE OF MERCHANDISE.** A fee of _____ percent of gross sales will be paid to Purchaser by Artist for all merchandise, such as souvenir programs, books, photographs, recordings and other merchandise related to the Artist, sold immediately before, during or after the performance at the Venue. This fee will be paid to Purchaser upon completion of selling. Purchaser shall not permit any other sale or distribution of merchandise bearing Artist’s trademarks or image. Purchaser shall provide a six-foot table and two chairs, or other accommodations mutually determined to be appropriate to the venue, for merchandise sales. Merchandise will be prominently placed so as to maximize sales.

10. **VIDEO AND AUDIO TAPEING.** Purchaser shall not, and shall not permit any person to, record, broadcast or digitally stream in any manner whatsoever, Artist’s performance without prior express written consent from Artist. Artist and/or his designees shall have the right to record the performance and to use the recordings as Artist sees fit. Purchaser shall have no interest or rights of any kind whatsoever in or to any such recordings of Artist’s performance during this engagement.

11. **TECHNICAL RIDER.** Sound and/or lighting equipment and/or services shall be set forth in more detail in a Technical Rider signed by both parties and attached and incorporated hereto.

12. **DRESSING ROOM.** Purchaser shall provide _____ safe, clean dressing room(s) with lock(s). Special arrangements shall include: ____________________________

13. **HOSPITALITY.** Unless otherwise indicated, Purchaser will provide an allowance of hot and cold beverages in the dressing room for the sole use of band and crew members. Special arrangements shall include: ____________________________

St. Louis Volunteer Lawyers and Accountants for the Arts
14. **SECURITY**. Purchaser shall provide adequate security so as to guarantee the safety of the audience and the Artist. Purchaser will ensure that no unauthorized persons will have access to the stage or backstage area, and the band will provide names of persons or guests authorized to be backstage. Purchaser shall be responsible for any theft or damage to the equipment of Artist that may occur during the time that the equipment is located on Purchaser’s premise. Special arrangements shall include: ___________________________________________.

15. **BACKGROUND MUSIC**. Artist shall approve all background music played before and after Artist’s performance.

16. **PYROTECHNIC DEVICES**. No pyrotechnic devices shall be used without the prior express written consent of both Artist and Purchaser. Any such device shall be subject to applicable fire laws and shall be administered by a person with professional experience in pyrotechnics. Purchaser shall be responsible for obtaining all applicable permits.

17. **INDEPENDENT CONTRACTORS**. Artist acknowledges that it is an independent contractor and not an employee of the Purchaser and shall be responsible for all taxes. Purchaser shall control the times and division of the performance, and Artist shall control the manner, means, and details of such performance.

18. **INSURANCE**. Purchaser shall obtain and maintain, at its own expense, adequate personal injury and property damage liability insurance coverage and such coverage shall extend to all activities related to Artist’s engagement and performance, including time of set up and take down. Except for claims arising from Artist’s willful or intentional acts, Purchaser shall indemnify Artist for any third party claims.
19. **NO PERSONAL LIABILITY OF PURCHASER’S REPRESENTATIVES OR AGENTS.** Any representative of Purchaser executing this contract as Purchaser or an agent thereof shall not be held personally liable for the payment of any costs or fees related to this contract.

20. **ASSIGNMENT, ENTIRETY OF AGREEMENT, GOVERNING, JURISDICTION, AND MEDIATION.** This agreement cannot be assigned or transferred without the written consent of artist. This agreement constitutes the entire agreement between the parties. No modification shall be enforceable except in writing and signed by the parties hereto. This agreement shall be governed by the laws of the state of _______. In the event any dispute arising under this agreement results in litigation, arbitration, or mediation, such action or proceeding shall be brought within the state or federal courts of _______. Mediation of any dispute arising from this agreement shall be conducted in accordance with the rules of the Arts Resolution Services, a program of the St. Louis Volunteer Lawyers and Accountants for the Arts.

21. **SEVERABILITY.** If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provisions or application, and to this end the provisions of this Agreement are declared to be severable.

22. **REPRESENTATIVE’S AUTHORITY TO CONTRACT.** By signing this document, the representative and/or agent of the Artist hereby represent that such person is duly authorized and that the Artist agrees to be bound by the provisions of this Agreement. It is expressly understood and agreed that in acting hereunder solely in the capacity of representative or agent of Artist, said person is not a party to this contract and shall not be liable or responsible in any way for the omissions of Artist, nor for any failure by Artist to adequately perform or comply with any term or condition hereof.

St. Louis Volunteer Lawyers and Accountants for the Arts
Performance Agreement

THIS AGREEMENT for the personal services of performing artists on the engagement described below between the undersigned ______________________, as purchaser of performance services ("Purchaser") and the undersigned artist or ensemble and /or its agent ("Artist") is made this _____ day of ______________, ________.

A. BASIC TERMS:

1. Name of Artist: __________________________________________________
   Address: _______________________________________________________
   City: ________________________ State:__________ Zip:________________
   Telephone: _____________________ FAX: ___________________________
   E-mail address: __________________________________________________

2. Place of Engagement: _____________________________________________

3. Date(s) of Services: _______________________________________________

4. Number of sets and duration: ________________________________________

5. Time for load-in:__________________________________________________

6. Time for sound check: ______________________________________________

B. PAYMENT OF ARTISTIC FEES:

1. Compensation Agreed Upon: ______________________________________

2. Amount of Deposit:_________________     Date Due:_________________

3. Time of Payment: Fees will be paid by Purchaser’s’ check to be presented to
   Artist after performance on _______________.

4. Artist requests its check be made payable to: ____________________________.

5. Artist’s Social Security Number or Employer Identification Number:
   ____________________. Attached W-9 must be completed and returned in order for
   payment to be processed.

6. The Purchaser’s Contractual Provisions are attached and incorporated herein.
   Purchaser requires that a representative of the Artist sign and return
   the attached provisions, which are an integral element of this Agreement.

Artist____________________________ Purchaser:__________________________
   By:______________________________ By:_______________________________
   Name:____________________________ Name:____________________________
   Title: ____________________________ Title: _____________________________
CONTRACTUAL ATTACHMENT

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Artist____________________________________
Purchaser___________________________________