



**5. Payment.**

- a. No deposits or advance payments will be made by Wilkes University prior to the performance. All payments will be in form of a check issued by the University and will be payable to ENTERTAINER OR AGENT as indicated in Number 2 above, at the conclusion of the performance. Under no circumstances shall any payments be made in cash, including the provision of cash for meal buyouts.
- b. All invoices should be sent to: Wilkes University  
Attn: Controller's Office  
84 West South Street  
Wilkes-Barre, PA 18766
- c. Entertainer shall be responsible for all of his/her own travel, lodging and transportation arrangements and expenses. All contract prices are flat guarantees. No additional funds will be provided to Entertainer above and beyond the flat guaranteed rate for ground transportation, hotel accommodations, air transportation, or meals. Delays or other problems associated with transportation, whether or not within the Entertainers control, shall be the sole responsibility of the Entertainer and will not excuse the obligations to perform hereunder.

**6. Full Performance:** It is agreed that payment by the University in accordance with Agreement hereof is expressly conditioned on full performance by the Entertainer(s) of the duties and obligations herein created. In the event the Entertainer(s) performance of any such duty or obligation is prevented by reason of any cause or causes beyond control, the University shall pay, within reasonable time following partial performance, a reasonable compensation for services actually rendered.

**7. Cancellation.** Should circumstances necessitate cancellation of the performance, such will be determined by joint consent, and the undersigned parties agree to reschedule the performance at the earliest possible date of mutual convenience. In the event of cancellation, each of the undersigned parties shall be solely responsible for its own incurred costs.

**8. Insurance Requirements.** The University requires that independent contractors maintain, at their own expense and in amounts acceptable to the University: (i) worker's compensation and employer's liability insurance; (ii) commercial general liability insurance; and (iii) professional liability insurance. The Entertainer must provide the University with a certificate of insurance coverage naming Wilkes University as an "Additionally Insured". The University may require delivery of the original policy and original endorsement to the policy.

- a. If Entertainer is an individual providing services and does not maintain the insurance described above, Institution will waive these insurance requirements in consideration of Entertainer's agreement to waive certain claims against the University. If appropriate, Entertainer may initial below to indicate his/her agreement to the following paragraph:

b. \_\_\_\_\_ (initial here) In exchange for the University's agreement to waive its insurance requirements for independent contractors, Entertainer hereby agrees as follows: To the fullest extent permitted by law, Entertainer for himself and for his heirs, executors, administrators, successors and assigns, hereby (i) releases the Covered Persons (as defined below) from, and waives, any and all present and future claims, including without limitation claims for negligence, property damage, personal injury, or wrongful death, arising from the performance of services under this Agreement, and (ii) agrees not to sue any Covered Person over any claim released by this Agreement, and (iii) agrees that he shall not obtain, and hereby waives the right to obtain, any relief (legal, equitable or other) from any claim released by this Agreement. To the extent, if any, Entertainer may have a non-waivable right to file or participate in a claim against any Covered Person, this Agreement shall not be intended to waive such a right. The term "Covered Persons" means the University and its trustees, officers, employees, and agents.

**9. Tax Status.** Wilkes University is a tax-exempt organization (Exempt # 75-08446-3). Entertainer shall assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under Unemployment Insurance, Social Security and Income Tax Laws, with respect to the payments called for herein. Entertainer shall indemnify the University against all liability or loss in connection with the same.

**10. Independent Contractor.** The Entertainer is retained by the University and shall perform the services under this Agreement as an independent contractor. The Entertainer shall not be considered under the provisions of this Agreement or otherwise as having an employee status or be extended coverage under unemployment, Workers' Compensation, or any other insurance policies. As such, the parties will each be responsible for their own acts of negligence as determined by law. The Entertainer has no power or authority to act for, represent, or bind the University in any manner.

**11. Indemnification/Hold Harmless.** The Entertainer shall indemnify and hold harmless the University from any and all loss or damage to persons or property which the University or its employees may suffer on account of any accident or occurrence caused by the Entertainer. In consideration of the mutual agreements set forth in this Agreement, the Entertainer relieves, acquits, and forever discharges the University of and from any and all actions, courses of action, claims, demands, and damages on account of, or in any way growing out of any accident or occurrence transpiring during and under the terms of this Agreement, unless it is established that such accidents arose out of the negligent acts of the University, its agents or employees.

**12. Compliance with Laws.** Entertainer shall comply with all laws, ordinances and rules of the University, the City of Wilkes-Barre, the State of Pennsylvania and the United States, that are applicable to this Agreement.

**13. Merchandising.** Solicitation or sale of merchandise by Entertainer is prohibited without the prior approval of the University. If University agrees that Entertainer may sell merchandise at the event, then the University shall provide Artist an appropriate space for the sale of merchandise. Entertainer agrees that the University shall receive a commission of       % of gross proceeds on all sales. Entertainer must keep accurate records of the amount of each type of merchandise sold and to make them available at settlement which shall occur no later than one hour after the conclusion of Entertainer's performance. The Entertainer hereby agrees to unconditionally release the University from any liability for cash, other receipts, and merchandise shortages. Entertainer hereby agrees that it will be solely responsible for required collection and reporting of sales taxes.

**14. Miscellaneous.**

- a. No performance shall be recorded, reproduced, or transmitted from the place of performance, in any manner or by any means whatsoever, unless there is a specific written amendment to this Entertainment Agreement, signed by the Entertainer, relating to and permitting such recording, reproduction, or transmission.
- b. The Entertainer and/or Agent agree to waive all rights, claims and causes of action arising from pictures, newspaper accounts, recordings and other reproductions that Wilkes may make of the performance or display, provided that the University's use of same shall be restricted to such activities as are permitted by law for non-profit education corporations.
- c. The Entertainer is solely responsible for payment of royalty fees, and/or dramatic rights and dramatic musical works and/or performance fees, fees required by unions and similar organizations, and similar costs. The Entertainer shall indemnify the University against any liability or damages, including attorney fees, which may arise as a result of violation by Entertainer of copyright laws.
- d. University will not purchase, supply, or make available any alcoholic beverages or tobacco products for any Entertainer, regardless of request.
- e. Details and manner of performance are under the control of the Entertainer or, in instance where a group is involved, the leader of the Entertainer. However, the University has the right to direct the Entertainer to discontinue any activity constituting violation of University policy, as well as any federal, state, or local laws.
- f. Anticipated starting times specified in this Agreement, subject to minor modifications because of unanticipated occurrences, are of the essence. Entertainer is required to be at place of performance a sufficient period of time prior to schedule time of commencement so as to permit timely productions.

**15. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

**16. Equipment.** The Entertainer is responsible for all equipment required to perform the services described herein.

**17. Notices.** All notices pertaining to this agreement should be submitted in writing to:

Wilkes University  
Attn: VP, Finance & General Counsel  
84 West South Street  
Wilkes-Barre, PA 18766

**18. Entire Agreement/Amendments.** This Agreement, and any executed Rider, contains the entire agreement between the University and the Entertainer and supersedes all prior existing agreements, either oral or in writing. No terms may be modified or waived except by the mutual written consent of both parties hereto.

WILKES UNIVERSITY

ENTERTAINER / AGENT

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_