**THE COLLEGE OF WILLIAM AND MARY ADDENDUM**

This ADDENDUM is an essential part of the attached contract or agreement (the "Agreement") between: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the "Agency") representing \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(the "Artist") and the College of William and Mary, an agency of the Commonwealth of Virginia (the "College"). To the extent that any of the terms and conditions contained in the Agreement or any other addendum or rider attached thereto by or on behalf of the Artist or the Agency conflict with any of the terms of this Addendum, the parties agree that the terms contained in this Addendum will control, notwithstanding any provision in the Agreement to the contrary.

**Part I: Exceptions:** The Agreement is, with the exceptions noted herein or in the Agreement itself, acceptable to the College. Nonetheless, because certain standard clauses that may appear in the Agreement cannot be accepted ·by the College, and in consideration of the convenience of using that Agreement, and this form, without the necessity of specifically negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the attached Agreement, no tern1 or clause purporting to do any of the following shall have any effect or be enforceable against the College. In addition, the parties may cross out and alter any inapplicable wording in the Agreement, as deemed appropriate, the parties' agreement to such alterations to be indicated by their initials on the Agreement.

1. Requiring the College to maintain any type of insurance (the Commonwealth insures itself and its agencies through the State Insurance Reserve Trust Fund administered by the Commonwealth's Department of the Treasury. Since the Commonwealth assumes its own liabilities, agencies of the Commonwealth may not name third parties as additional insured. A certificate of insurance is available upon request;

1. Requiring the College to indemnify or to hold harmless the Artist or the Agency for any act or omission, or obligating the College to pay costs of collection or attorneys' fees;
2. Requiring any total or partial compensation or payment for lost profits or liquidated damages by the College if the contract is terminated before the scheduled performance or event;
3. Limiting the liability of the Artist for property damage or personal injury;
4. Requiring the College to maintain the confidentiality of any records or information relating to the Agreement;
5. Providing that any breach or failure by the College to comply with any provision of the Agreement is a material or substantial breach or failure; for the avoidance of doubt, this exception is not intended to change the College's obligations or responsibility arising from a material failure or breach, but only to except any provision purporting to make any and all breaches material;
6. Providing that any that any default, breach or failure to perform by the College with respect to any other contract is a breach or default of the Agreement;
7. Requiring or requesting the College to provide alcohol to the Artist;
8. Permitting unilateral modification of the Agreement by the Artist;
9. Delaying the acceptance of the Agreement or its effective date beyond the date of execution, or requiring that the Agreement be "accepted" or endorsed by the home office or by any other officer subsequent to execution by an official of the Commonwealth before the Agreement is considered in effect;
10. Requiring the application of the law of any state other than Virginia in interpreting or enforcing the Agreement or requiring that any dispute under the Agreement be resolved in the courts of any state other than Virginia;
11. Binding the College to any arbitration or to the decision of any arbitration board, commission, panel or other entity; or
12. Bestowing any right or incurring any obligation that is beyond the duly granted authority of the undersigned College representative to bestow or incur on behalf of the College.

**Part IT: Additions:** the following clauses shall be incorporated as part of the Agreement:

1. Cancellation: The College reserves the right to cancel and terminate the performance and the Agreement, without penalty, upon 30 days written notice to the Artist. If the College cancels without such prior notice, the College will be liable for and agrees to reimburse the Artist's reasonable documented out-of-pocket expenses expended in expectation of the performance, except in the case of a cancellation described under clause (4) below.
2. Insurance: The Artist must have valid insurance in effect at the time of the performance. The College requires a certificate of insurance with minimum liability limits of $1,000,000.00:
   1. The College of William and Mary must be shown as an additional insured.
   2. Certificate must be issued in advance of the date of the event(s) and show specific event(s) and date(s).
   3. The Certificate must indicate that, at a minimum, general liability coverage, workers compensation coverage, and employers liability coverage are carried.
3. Indemnification; Release from Liability: The Artist hereby agrees to forever indemnify, hold harmless and release from liability the College, its Board of Visitors, The Commonwealth of Virginia and their respective agents, employees, and students from and against any and all claims, liabilities, cost, expense, and damages, including fires injuries and/or deaths, which arise from or are caused by, in whole or in part, directly or indirectly, the use of College facilities or the performance anticipated by this contract, including those caused by the Artist, its employees, servants, agents, invites, or independent contractors, except to the extent arising from the negligence of the College or any of the above-referenced entities.
4. Default by the Artist. If the Artist fails or neglects to comply with any provision of the Agreement or this Addendum, such failure shall be deemed a material breach and the College shall have the right, in its sole discretion, without prejudice to any other rights and remedies, to (a) terminate the Agreement and cancel the performance, (b) prorate or withhold payment of the fee, and/or (c) refuse to enter into future contracts with the Artist. In the event the Artist fails to appear or perform, the Artist agrees to reimburse the College for all reasonable out-of pocket expenses. The College reserves the right to reduce payment for the Artist's failure to perform for the full amount of time specified in the Agreement or for substantial lateness of start time agreed upon in the Agreement.
5. Force Majeure. Notwithstanding any other provision herein, in the event that the performance shall be prevented or delayed by an act of God, physical disability, or any other cause beyond reasonable control, all parties will be relieved of their obligations with respect to the performance.
6. Alcohol or Controlled Substances; Fraternization. The Artist agrees not to consume alcohol and/or any illegal substance while on campus, and not to perform while under the influence of alcohol or any illegal substance. The Artist agrees to maintain a professional relationship before, during, and after the performance with the College's students. The Artist will not attend any after-parties or fraternize inappropriately with students.
7. Compliance with Law and Policy. The Artist shall comply with all applicable federal, state and local laws, rules and regulations, including the statutes relating to obscene exhibitions, motion pictures, and performances, notwithstanding the provisions of§ 18".2-383 of the Code of Virginia. The Artist is

also responsible for complying with all applicable College policies, including the prohibition on use of the College name in public performances.

1. Execution. The Agreen1ent and this Addendum may be-executed, including execution by facsimile, in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
2. Applicable Laws and Courts. Notwithstanding the place where the Agreement or this Addendum may be executed by either of the parties hereto, the parties expressly agree that all terms and provisions hereof shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth.

# College of William and Mary Representative Artist Representative

Signature: --------------------- Signature: ---------------------

Printed Narne: ------------------ Printed Narne: ------------------

Date:------------------------ Date:------------------------

# Agency Representative

Signature: \_

Printed Name: -----------------

Date: