

PERFORMANCE AGREEMENT

THIS AGREEMENT is made by and between _____ (the "Parish") and _____ [name of performer or firm], of _____ [address] (the "Performer"). This Agreement shall be effective as of the date signed by the later of the parties hereto to sign.

RECITALS

WHEREAS, the Parish is conducting _____ (the "Event"), and desires to provide music for the benefit of the attendees; and

WHEREAS, the Performer is a musician willing and capable of delivering a professional performance for the Parish as provided herein.

NOW, THEREFORE, the Parish hereby engages the services of the Performer, and in consideration of the mutual promises herein contained, the parties agree as follows:

TERMS

1. **Services.** The Performer shall provide the following music services: _____

at the Event on _____ [date] from _____ to _____ [time] (the "Performance"). The Performer shall provide such services in a workmanlike and professional manner and shall obey any and all applicable laws relating to the Performance. Recognizing that the Parish is a part of the Roman Catholic Church, the Performer agrees to at all times act in a professional and respectable manner and to at all times refrain from acting in any way that would embarrass the Parish or the Diocese of Cleveland, or the Bishop of the Diocese of Cleveland, that would cause damage to the Parish's, Bishop's, or Diocese's good name and reputation, or that would in any way scandalize or cause embarrassment to any attendees of the Event.

2. **Fee.** In consideration for the Performance given by the Performer, the Parish shall pay the Performer a fee of \$ _____, payable upon satisfactory completion of the Performance and Performer's submission to the Parish of a completed W-9 form and birthdate (if Performer is an individual).

Performer birthdate: _____.

3. **Term.** This Agreement shall be effective as of the Effective Date and shall continue in effect until completion of the Performer's services as set forth in Section 1 hereof.

4. **Technical Requirements.** All sound equipment and/or lighting equipment shall be provided by and set up as follows (specify party(ies) responsible for providing and setting up equipment):

5. **Force Majeure.** Neither Performer nor Parish shall be liable for failure to perform their respective obligations under this Agreement in the event that such failure is the result of or due to the acts or regulations of public authorities, labor difficulties, civil unrest, inclement weather, strike, epidemic or pandemic including without limitation COVID-19 or a similar virus, interruption or delay of transportation services, or any other legitimate case beyond the control of the Performer or Parish. Parish shall have the right to terminate this agreement without paying a fee in the event a Force Majeure event results in cancellation of the Event.

6. **Sickness and Accident.** The Performer shall not be obligated to put on the Performance in the event of proven detention by sickness or accident. In the event of sickness or accident, the Performer shall give the Parish as much

advance warning as reasonably possible regarding the inability to perform and shall immediately repay to the Parish any amounts already paid to the Performer for the Performance.

7. **Cancellation.** The Parish may cancel this Agreement at any time up to fourteen (14) days prior to the Performance. In such an event, Parish shall pay to Performer 25% of the fee set forth in Section 2 of this Agreement as liquidated damages and as Performer's sole remedy for such cancellation. Notwithstanding the foregoing, the Parish shall have the right to terminate this Agreement at any time without liability of any kind in the event Performer commits any act that the Parish, in its sole discretion, determines promotes the espousal of any particular belief or viewpoint that is contradictory to the teachings of the Roman Catholic Church as determined by the Bishop of the Catholic Diocese of Cleveland, or that is otherwise injurious to the reputation of the Diocese, Bishop, or the Parish.

8. **Promotion.** The Performer hereby grants to the Parish the right to use the Performer's name, photograph, and likeness in, and in connection with, all forms of: advertising, information programs, promotional material and any and all other materials, including audio and/or video recordings, to promote the Event. Performer waives any claim for any kind of compensation relating to the Parish's use or publication of Performer's name, image, and likeness in connection with the promotion or advertising of the Event.

9. **Permission to Photograph and Record.** Performer agrees that the Parish may photograph and livestream Performer's Performance, including Performer's image, likeness, and words, verbal expressions, or other depiction, in any medium, for the Parish's own use and purposes, with or without associating names to the photographs or livestream. Performer waives any claim for any kind of compensation in connection therewith. The parties agree that any photographs shall constitute the sole property of the Parish.

In addition, if the "YES" box is checked below, Performer agrees that the Parish may record or otherwise permanently capture Performer's Performance and Performer's image, likeness, words, verbal expressions, or other depiction during the Performance ("Recordings"). Performer irrevocably grants permission for the Parish to take such Recordings and to use such Recordings worldwide for its own uses and purposes, and in any medium, including print and electronic and without limitation. Performer agrees that the Parish may use the Recordings with or without associating names to them. Performer waives any claim for any kind of compensation relating to the Parish's use of the Recordings. YES NO

10. **Insurance.** To the extent required by Parish, the Performer shall maintain a policy of liability insurance in an amount satisfactory to the Parish in order to cover any claims arising out of the performance of services under this Agreement. If required by the Parish, Performer agrees to add the Parish, Bishop of the Diocese of Cleveland, and the Diocese of Cleveland as additional insureds.

Check here if insurance required and satisfactory evidence of insurance provided.

11. **Indemnification.** Performer shall indemnify, defend, and hold harmless the Parish as well as the Parish's representatives, officers, agents, employees, and volunteers from any claims, costs, expenses or liabilities arising from (1) any act or omission of the Performer or the Performer's agents, employees, representatives or any others acting on behalf of the Performer or (2) the use or occupation of, or presence on, Parish or third-party premises in connection with the Event by Performer or Performer's agents, employees, representatives, or any others acting on behalf of the Performer.

12. **Copyright Infringement.** Performer represents and warrants that he/she/they are knowledgeable about the copyright laws of the United States as applicable to the Performance, and that Performer shall not perform any copyrighted work of others during the Performance without full compliance with such applicable copyright laws. In the event that Performer breaches this section or the obligations contained in this section, Performer shall be obliged to indemnify, hold harmless, and defend the Parish from and against any violation of copyright law by Performer as a result of or arising out of the Performance.

13. **Independent Contractor.** Performer acknowledges and agrees that Performer is providing its services as an independent contractor and not as an employee of the Parish. As such, Performer shall control the manner, means,

and details of the Performance and Performer shall be responsible for all taxes relating to payment received from the Parish for the Performance.

14. **Limitation of Liability.** EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT AND EXCEPT AS RESULTING FROM THE GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF ONE OF THE PARTIES TO THIS AGREEMENT (INCLUDING ITS AGENTS AND EMPLOYEES), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES FOR ANY CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY) OR WARRANTY, OR ON ANY OTHER LEGAL OR EQUITABLE GROUNDS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. THE LIMITATION OF LIABILITY AND DAMAGES SET FORTH IN THIS SECTION DO NOT APPLY TO: (A) CLAIMS, LIABILITIES, AND EXPENSES ARISING FROM EITHER PARTY’S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OR (B) EITHER PARTY’S INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN.

15. **Release of Claims.** In the event performer is a group of individuals, Performer shall ensure that each individual member (including Performer) shall sign the release of claims attached hereto as **Exhibit A** and return the same to Parish prior to the performance.

16. **Entire Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement that is not contained herein shall be valid or binding.

17. **Assignment.** Neither this Agreement nor any duties or obligations hereunder shall be assignable by the Performer without the prior written consent of the Parish. In the event of an assignment by the Performer to which the Parish has consented, the assignee or a legal representative shall agree in writing with the Parish to personally assume, perform, and be bound by the covenants, obligations, and agreements contained herein.

18. **Miscellaneous.** The validity of this Agreement and of any of its terms or provisions as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Ohio. This Agreement may not be amended except by the mutual agreement of the parties in a writing signed by both parties. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Signatures of the parties of this Agreement and any instrument required hereunder may be facilitated by faxed signature as well as copies of signatures transmitted by electronic means.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

PARISH:

PERFORMER:

By: _____
Print: _____
Title: _____
Date: _____

By: _____
Print: _____
Title: _____
Date: _____

EXHIBIT A

RELEASE OF CLAIMS

In exchange for and in consideration of the opportunity to participate in _____ (describe performance) (the "Performance") on _____ (dates) at _____ (the "Parish"), I hereby agree to the following:

- I understand the scope and nature of the Performance.
- I recognize, as with any activity, the possibility and risk of both damage to my personal property including without limitation any equipment or instruments as well as physical injury associated with my participation in the Performance.
- I understand that such damage and injuries can occur for any number of reasons which are both foreseeable and unforeseeable and which include, but are not limited to, my own actions or inaction, and the actions or inaction of others including without limitation the Parish and its volunteers, agents, contractors and employees (whether negligent, intentional, or otherwise).
- I assume all risks in connection with my participation in the Performance.
- To the fullest extent allowed by law, I, on behalf of myself, my spouse, as well as our respective heirs and assigns, executors, all other legal representatives and any others claiming through us or on behalf of us, hereby agree to release, discharge, and hold harmless the Parish, the Catholic Diocese of Cleveland, the Bishop of the Catholic Diocese of Cleveland, as well as their respective clergy, officers, employees, agents, representatives, attorneys, sponsors, and volunteers from and against all damage, claims, judgments, liability (of any nature or extent) which in any way arise out of or relate to my participation in the Performance, whether foreseen or unforeseen, regardless of the cause (including, but not limited to, the negligence of any person).
- I understand that it is my responsibility to carry appropriate insurance for myself and that such is not the responsibility of any other person or party, including, without limitation, the Parish or the Diocese of Cleveland.

In signing below I warrant that I have read and fully understand and agree to the terms of this Release.

Date: _____

Print Name: _____