

PERFORMANCE CONTRACT – TERMS AND CONDITIONS

1. **PURPOSE.** The Client hereby engages the Dallas String Quartet (“Performer”), and the Performer hereby accepts such engagement, to provide the performance and services described in the Performance Contract at the Venue (the “Performance”).

2. **COMPENSATION.** The total compensation for the Performance shall be as set forth in the Performance Contract.

3. **DATE, TIME, AND PLACE OF PERFORMANCE.** The date, time, and place of the Performance shall be as set forth in the Performance Contract.

4. **RESPONSIBILITIES.** The Performer agrees to do each of the following: (1) provide the Performance, as detailed in the Performance Contract to this Agreement; (2) devote as much productive time, energy, and ability to the Performance and rehearsal of the Performance as may be necessary; (3) complete the Performance safely, with professional effort and skill, and using adequate equipment in good working order; and, (4) comply with any royalty fees, performance fees, or other obligations of any organizations, including unions, to which the Performer is subject, contractually or otherwise. The Client agrees to do each of the following: (1) engage the Performer as an independent contractor to provide the Performance as set forth in the Performance Contract to this Agreement; (2) provide reasonable assistance and cooperation to the Performer to enable the Performer to complete the Performance; (3) take reasonable steps to secure the safety of the Performer and the Performer’s property and personnel; and, (4) provide appropriate working conditions for the Performance, including suitable space, power, electricity, sound, parking, personnel, travel accommodations, and other services, as set forth in the Performance Contract.

5. **PARTIES’ REPRESENTATIONS AND WARRANTIES.** The Parties each represent and warrant as follows: (1) each Party has the full power, authority, and right to perform its obligations under the Agreement; and, (2) this Agreement is a legal, valid, and binding obligation of each Party, enforceable against it in accordance with its terms (except as may be limited by bankruptcy, insolvency, moratorium, or similar laws affecting creditors’ rights generally and equitable remedies). The Performer hereby represents and warrants as follows: (1) the Performer has the experience and ability to provide the Performance required by this Agreement; (2) there is no outstanding contract, commitment, agreement, or legal impediment of any kind that conflicts with this Agreement or that might limit, restrict, or impair the Performer’s obligations hereunder; (3) the Performance shall be performed in accordance with and shall not violate any applicable laws, rules, or

regulations, including building and fire regulations, and the Performer shall obtain all permits, licenses, or permissions required to comply with such laws, rules, or regulations; and, (4) conducting the Performance under the terms of the Agreement shall not infringe on the property right, copyright, patent right or any other right of any person. The Client hereby represents and warrants as follows: (1) the Client will make timely payments to the Performer under this Agreement and as detailed in the Performance Contract; and, (2) the Client shall provide such other assistance to the Performer as it deems reasonable and appropriate.

6. **TERM.** This Agreement shall become effective as of the date upon which the Performance Contract is signed by Client and, unless otherwise terminated in accordance with Section 7 of this Agreement, will continue until the Performance has been completed and the Performer has been paid in full for the Performance (the “Term”).

7. **TERMINATION.** This Agreement may be terminated and the Performance cancelled by either Party immediately on notice to the other Party in the event of proven sickness, injury, accidents, fire, earthquake, flood, explosion, strike, riot, war, terrorism, or similar legitimate event beyond that Party’s reasonable control (each a “Force Majeure Event”). In the event of a Force Majeure Event, both Parties shall be released and discharged from any obligations and liabilities under this Agreement, including the Client’s obligation to make any payments to the Performer, and the Performer shall promptly refund the Client any payments, not including the Deposit, already made by the Client in connection with the Performance. This Agreement may be terminated and the Performance cancelled by the Client, with or without cause, on written notice to the Performer; provided, however, that if the Client terminates the Agreement, the Client shall be subject to the Cancellation Policy and may forfeit payments, including the Deposit, already made to the Performer in connection with the Performance, and immediately pay any remaining balance of the Performance Fee, as such term is defined in these Terms and Conditions, to the Performer (the “Termination Fee”). On payment of the Termination Fee, the Client shall be released and discharged from any obligations and liabilities under this Agreement. This Agreement may be terminated and the Performance cancelled by the Performer on written notice if the Client fails to pay the Deposit, as such term is defined in the Performance Contract. In the event of such termination, the Client shall be released and discharged from any obligations and liabilities under this Agreement.

7. **CANCELLATION POLICY.** This Agreement may be terminated subject to the following Termination Fee (“Termination Fee”):

Cancellation Time prior to Performance Date	Termination Fee
>6 months	Deposit Amount
1-6 months	50% Performance Fee
<1 month	75% Performance Fee

8. **ADDITIONAL SERVICES.** If the Client requests performance time or services in addition to the Performance (the "Additional Services") and the Performer agrees and is able to fulfill such request, the Additional Services shall be billed to the Client at the rates set forth in the Performance Contract.

9. **RECORDING OF PERFORMANCE.** The Client shall use reasonable efforts to prevent the photographing, videotaping, recording, broadcasting, transmission, or reproduction of the Performance or any portion thereof without the prior written consent of the Performer.

10. **PROMOTION.** The Client shall be entitled to promote and advertise the Performance as agreed to in writing by the Performer. The Client shall have the right, for the Term of this Agreement, to use the Performer's name, biography, photographs, and likeness in connection with the promotion of the Performance and in connection with the publication of programs for the Performance. The Performer shall not use the Client's name in any promotional or advertising materials without the Client's prior written consent.

11. **MERCHANDISE.** The Performer shall be entitled to sell any goods, products, merchandise, or services of its choosing at the Venue during the Performance. The Client shall provide appropriate space, including table and chairs, to the Performer at the Venue to facilitate the Performer's sales. The Performer shall retain all of the proceeds from such sales.

12. **RIGHT TO END PERFORMANCE.** The Performer reserves the right to end the Performance in the event of a legitimate threat or implied threat of injury or harm to the Performer and/or any of the Performer's personnel or property. The Client shall remain liable for full payment of the Performance Fee, regardless of whether or not the Performer is able to resume and complete the Performance.

13. **INDEMNIFICATION.** The Performer shall indemnify, defend, and hold harmless the Client and the Client's parent, subsidiaries, affiliates, employees, agents, successors, and assigns from and against any and all claims, including, but not limited to, claims of libel and copyright infringement, actions, damages, and losses,

liabilities and expenses, including reasonable outside attorneys' fees, arising out of or caused by the Performer's obligations under this Agreement but only in proportion to and to the extent such claim, actions, damages, and losses, liabilities and expenses arise out of or are caused by the negligent or intentional acts or omissions of the Performer and the Performer's parent, subsidiaries, affiliates, employees, agents, successors, and assigns. The Client shall indemnify, defend, and hold harmless the Performer and the Performer's parent, subsidiaries, affiliates, employees, agents, successors, and assigns from and against any and all claims, actions, damages, and losses, liabilities and expenses, including reasonable outside attorneys' fees, arising out of or caused by the Client's obligations under this Agreement.

14. **NATURE OF RELATIONSHIP.** The Performer agrees to provide the Performance hereunder solely as an independent contractor. The Parties agree that nothing in this Agreement shall be construed as creating a joint venture, partnership, franchise, agency, employer/employee, or similar relationship between the Parties, or as authorizing either Party to act as the agent of the other. The Performer is and will remain an independent contractor in its relationship to the Client. The Client shall not be responsible for withholding taxes with respect to the Performer's compensation hereunder. The Performer shall have no claim against the Client hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

15. **AUTHORITY TO SIGN AGREEMENT.** If this Agreement is signed by a person other than the Performer, such person signing for the Performer expressly warrants that he or she is authorized by the Performer to sign this Agreement on the Performer's behalf.

16. **ASSIGNMENT.** Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise by either of the Parties hereto without the prior written consent of the other Party.

17. **NO IMPLIED WAIVER.** The failure of either Party to insist on strict performance of any covenant or obligation under this Agreement, regardless of the length of time for which such failure continues, shall not be deemed a waiver of such Party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Agreement shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation.

18. **NOTICES.** All notices, permitted or required under the terms of this Agreement shall be deemed effective as of the date of receipt if delivered by personal delivery, internationally recognized overnight courier, if mailed by U.S. Mail, certified or registered with return receipt requested, postage prepaid and addressed as follows:

Performer:
Dallas Live Orchestra, LLC dba
Dallas String Quartet
P.O. Box 600377
Dallas, TX 75360

If to Client, to the address set forth in the Performance Contract

19. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

20. **MODIFICATION.** No supplement, modification, waiver or termination of this Agreement or any provisions hereof shall be binding unless executed in writing by the party or parties to be bound thereby.

21. **COUNTERPARTS AND ELECTRONIC SIGNATURES.** This Agreement may be executed in any number of original counterparts, each of which will for all purposes be deemed to be an original, and all of which are identical. For purposes of this Agreement, use of a facsimile, email, or other electronic medium shall have the same force and effect as an original signature.

22. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding and agreement of the parties hereto and supersedes all prior understandings or written or oral agreements between them with respect to the specific subject matter hereof.

23. **SEVERABILITY.** The provisions of this Agreement shall be several and if any provision contained herein shall be held unenforceable by a judicial decision directly binding upon any of the parties hereto, the remaining provisions hereof shall, nevertheless, remain in full force and effect.

24. **HEADINGS.** Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

25. **CONSTRUCTION.** This Agreement shall be construed without presumption of any rule requiring construction to be made against the party causing same to be drafted.

26. **GOVERNING LAW/JURISDICTION.** This Agreement shall be construed in accordance with the laws of the State of Texas and its validity, construction, interpretation and legal effect shall be governed by the laws of the State of Texas applicable to contracts entered into and performed entirely within the State of Texas. The appropriate jurisdiction for any legal dispute and lawsuits filed under this agreement shall be filed in Dallas County, Texas.