



This Performance Agreement (Agreement) is for professional services on the engagement described below, made this ___ day of _____, 20___ between the President & Fellows of Middlebury College (Purchaser or Middlebury) and _____ (Performer).

Campus Sponsor/Department:

IN CONSIDERATION of the premises, the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Description of Engagement (the "Work"):
2. Location:
3. Performance Date(s):
4. Arrival Date: Arrival Time: Show Time: Length:
5. Total Fee: Deposit:
6. Payment Terms: Middlebury shall pay Deposit in US Dollars by direct deposit (ACH) or check to Performer immediately upon execution of this Agreement. Middlebury shall pay Performer the remaining fee (Total Fee minus Deposit) within fourteen (14) days after the performance.
7. Other:
8. Accommodations, Transportation and Food. Unless otherwise noted below, the Performer is responsible for his or her own transportation, overnight accommodations, and food in conjunction with the Performance. Middlebury will not supply any alcohol, nor may alcohol be consumed on campus.

Transportation: Not Provided Provided, but limited to the following:

Accommodation: Not Provided Provided, but limited to the following:

Food: Not Provided Provided, but limited to the following:

9. Performance. The Performer agrees that all services shall be performed in conformance with professional standards for performing services of a similar kind. The Performer will be exclusively responsible for determining the means and methods for performing the Work. The Performer shall observe and abide by all applicable laws, regulations, and Middlebury policies, including, but not limited to, those related to conduct on Middlebury property.
10. COVID-19 Health and Safety Policy.
- a. Only the Performer(s), and any approved personnel and special guests (hereinafter collectively referred to as “Performer(s) and Guests”), may enter the College campus per [Middlebury’s Visitor policy](#).
 - b. Performer(s) and Guests must be up to date with their COVID-19 vaccines as defined by the CDC and [Middlebury’s Vaccination policy](#) or have a valid religious or medical exemption before entering the College campus. Performer(s) and Guests must be prepared to show proof of COVID-19 vaccination status before entering the College campus. Those with valid medical or religious exemptions must attest to such exemption. Performer(s) and Guests are not permitted to come to campus under the following conditions:
 - i. They are sick or have symptoms associated with COVID-19, even if they recovered from COVID-19 within the past 90 days or are up to date with their COVID-19 vaccines.
 - ii. They have been exposed to someone with COVID-19 in the 10 days prior to arrival and have been recommended to [quarantine](#).
 - iii. They have tested positive for COVID-19 within 5 days of their arrival.
 - c. Performer(s) and Guests who have tested positive for COVID-19 may not come to campus until the following have occurred:
 - i. Five full days have passed (Day 6) since their COVID-19 symptoms first appeared (or since they took the test that came back positive for COVID-19 if they are without symptoms), and:
 - They have no symptoms.
 - They have not had a fever for at least 24 hours without the use of fever-reducing medicine.
 - ii. For five additional days after their isolation period as defined above, visitors must wear a well-fitted mask at all times when with others inside and outside, even if they have tested negative via an antigen test.
 - d. Performer(s) and Guests must follow the College’s [mask policy](#). Performer(s) and Guests may use the masks of their choice as long as they comply with current [CDC guidance on masks](#). Performer(s) and Guests should carry masks in the event they are required to wear them.
11. Execution and Amendments. No student may bind Middlebury to a contract. All contracts must be signed by the appropriate authorized representative of Middlebury as approved by the Board of Trustees. The authorized representative, in signing this Agreement, does so as a duly authorized representative of Middlebury and does not assume any personal liability for meeting the terms of the Agreement. This Agreement constitutes the entire agreement and understanding by and between the parties with respect to the subject matter herein referred to and supersedes all prior understandings and agreements. No change or modification to this Agreement shall be valid or binding unless the same is in writing and signed by both parties.
12. Force Majeure. Middlebury shall not be liable or responsible to Performer, nor be deemed to have defaulted under or breached this Agreement, for delay or failure to perform its obligations under this Agreement when

such failure or delay is caused by or results from causes beyond the reasonable control of Middlebury, including but not limited to: fire, floods, landslides, earthquakes, catastrophes, explosions, embargoes, war, acts of war (whether war is declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, failure or default of public utilities or common carriers, national emergencies, natural disasters, governmental regulations, acts of God, pandemics, epidemics, diseases or public health emergencies of domestic or international concern, acts, omissions or delays in acting by any governmental authority, delay in transportation, including act or omission of carriers, death or illness of key personnel, delays or failure to perform by subcontractors, or similar causes or acts beyond its control and without its fault or negligence (“Force Majeure Event”). Middlebury shall provide Performer with prompt oral and written notice of any delay or failure to perform that occurs by reason of Force Majeure. Middlebury will diligently use all reasonable efforts to remove the cause, condition, event or circumstance of such Force Majeure prior to scheduled performance, and will promptly give written notice to Performer when such Force Majeure Event has been terminated. If the Force Majeure Event will prevent the performance from being conducted as scheduled, the parties will make all reasonable efforts to reschedule it. If Performer elects to cancel the performance in lieu of rescheduling, Middlebury will not be responsible for payment of the fee outlined in item 5 of this Agreement. If Middlebury elects to cancel the performance in lieu of rescheduling, Performer may retain the deposit amount indicated in item 5 of this Agreement.

13. Termination.

- a. Without Cause. Either Purchaser or Performer may cancel and terminate this Agreement and the services to be rendered without liability, with written notice to the other party at least thirty (30) days before the event.
- b. With Cause. Either party may terminate this Agreement immediately for cause. For this purpose, “cause” means a material breach of this Agreement by the other party that is not cured within five (5) days of the receipt of notice of the alleged breach by the non-breaching party to the breaching party.

14. Responsibility. Performers are responsible for their equipment, personal property and the actions of their guests and employees. Middlebury is not responsible for any theft, loss or damage to personal property or equipment that occurs outside of the Performer's own negligence or lack of care.

15. Insurance. The Performer shall carry, at their own expense, business and/or personal insurance necessary to provide the Performer with reasonable coverage for foreseeable risks that may occur during the rendition of services pursuant to this Agreement. The Performer will provide Middlebury with a certificate of insurance upon request. The Performer's coverage may be required to be no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate, and \$2,000,000 personal and advertising injury limits.

[Proof Required: Y/ N]

16. Middlebury Policies. Performer agrees to abide by all Middlebury policies found in the [Middlebury Handbook](#) or as communicated to Performer by a Middlebury representative.

17. Independent Contractor.

- a. Neither Performer, nor any person assisting Performer in its obligations under this Agreement, shall be deemed to be an employee of Middlebury. Furthermore, the arrangements contemplated by this Agreement shall not be deemed to constitute a partnership or joint venture between Performer and

Middlebury. Neither Performer, nor any other person assisting Performer, shall be covered by an employee benefit program maintained by Middlebury including, but not limited to, health insurance and worker's compensation benefits.

- b. The Performer understands and agrees that it is an independent contractor. Performer represents that it has secured and shall maintain workers' compensation insurance coverage for its personnel, as applicable. Performer shall indemnify and hold harmless Middlebury from and against any and all costs, liabilities and damages arising out of or in any manner related to workers' compensation claims asserted against Middlebury by the Performer's personnel. Upon request, Performer shall provide proof of insurance to Middlebury prior to commencement of services under this Agreement.

18. No Authority. The Performer shall have no authority to take any action, create any obligation, make any commitment, incur any indebtedness, or enter into any agreement that binds Middlebury. The Performer shall not in connection with any services provided to or on behalf of Middlebury represent to any person or entity that the Performer is associated with Middlebury in any capacity other than that of an independent contractor.

19. Indemnification. Performer agrees to defend, indemnify, and hold harmless Middlebury, its respective affiliates, contractors, officers, directors, trustees, employees and agents from and against all claims, liabilities, damages, and expenses, including attorney's and other professional's fees, arising out of or related to the intentional or negligent acts or omissions of Performer or Performer's failure to render services in compliance with this Agreement, including but not limited to any third-party claims relating to the Work, advertising, product liability claims or infringement of any trademark, copyright, patent, trade secrets or non-proprietary right of a third party (including, without limitation, defamation, libel, or violation of privacy or publicity).

20. No Conflicts/Non-Infringement.

- a. The Performer represents and warrants that they are free to enter into this Agreement and that this engagement does not violate the terms of any agreement between the Performer and any third party.
- b. The Performer represents and warrants that the Work will not infringe or violate the copyright, patent, trademark, trade secret, or any other right of any third party, and no additional permissions, clearances, assignments, or licenses are necessary to give full effect to the provisions of this Agreement.
- c. The Performer represents and warrants that they have obtained copyright or similar permissions or licenses that may be necessary to perform the Work and shall provide documentation to Middlebury of such permissions upon request.

21. Use of Name or Trademarks. Performer shall not use Middlebury's name or trademarks in connection with any advertising, marketing or other promotional efforts or materials without the prior written approval of Middlebury.

22. No Assignment. The Performer shall not assign or transfer this Agreement or any part hereof without prior written approval of Middlebury.

23. Applicable Law/Venue. All disputes regarding the structure, interpretation, and the parties' obligations under this Agreement shall be governed by the laws of the State of Vermont, notwithstanding any of that state's

