

PERFORMANCE AGREEMENT

AGREEMENT made as of _____, between the _____ of Kingsborough Community College, Association, Inc., located on the campus of Kingsborough Community College ("College") at 2001 Oriental Blvd, Brooklyn NY 11235 ("Association"), and the artist listed below ("Artist") by and through its agent and legal representative, if an agent is listed below ("Agent").

ARTIST	
Name of artist/company	
Contact Person (if other than above)	Title
Address	
Phone Number	E-mail Address
EIN/SS#	
AGENT (if any)	
Name of Agent	
Contact Person (if other than above)	Title
Address	
Phone Number	E-mail Address
PERFORMANCE SERVICES	
Description of Performance	
Date(s) of Performance	Time(s) of Performance
Location of Performance	
FEE	
Fee for services	Travel or other agreed expenses

SPECIAL ARRANGEMENTS:

Riders are attached to this Agreement: Yes No

The terms and conditions of this Agreement follow on the next page.

TERMS

In consideration of the mutual covenants and conditions herein contained, the parties agree as follows:

1. PERFORMANCE SERVICES

(a) The Artist shall provide the performance services ("Services") on the date(s) and time(s), and at the location, set forth on page one of this Agreement.

(b) No substitution of artists or speakers will be allowed without the prior written consent of the Association. The Association reserves the rights either to cancel the performance or renegotiate the fee with an appropriate reduction if substitutes appear for any or all the principals constituting the Artist.

2. PAYMENT

(a) The Association will pay Artist a fee for all Services in the amount set forth on page one of this Agreement. Payment to Artist is due after completion of the Services and will be made by check to the Artist unless the Artist provides other instructions in writing that are approved by the Association.

(b) If the Artist does not begin the Services at the starting time noted above, the Association reserves the right to: (i) cancel this Agreement; (ii) reschedule the performance(s) for another date; or (iii) permit the Services to be rendered. If the Association decides to permit the Services to be rendered, the Services must be for the full length of time identified in this Agreement, or at the option of the Association, the Services will be rendered for a shorter period and the Artist will be paid in an amount pro-rated to reflect the actual time the Services were rendered. The Association is solely responsible for the payment to the Artist, and none of the College, The City University of New York ("University"), the City of New York, the State of New York, or their respective agents, employees, officers, directors, and trustees are parties to this Agreement, nor are any of them responsible for such payment.

(c) The amount of travel expenses approved by the Association, if any, are indicated on page one of this Agreement and will be paid to the Artist by the Association upon submission of receipts.

3. AGENT'S WARRANTY. If this Agreement is signed by the Agent, the Agent warrants that it has full and current legal authority to act on behalf of Artist.

4. TERMINATION. The Association may terminate this Agreement with or without cause provided written notice is given to the Artist at least five days prior to the date the Services are to be rendered. Shorter notice may be given if an unforeseen event occurs which in the judgement of the Association may affect the performance or the benefits of the performance to the College.

5. COMPLIANCE WITH RULES AND REGULATIONS. The Artist is an invitee on College property for the purposes of rendering the Services. The Artist agrees to comply with all rules, regulations and policies of the College and the Association, and to comply with lawful directives of representatives of the College and Association acting in their official capacity, including without limitation security and guest policies, tobacco policies, and volume levels for amplifiers and speakers that may be used by the Artist. The deliberate failure by the Artist, its agents, officers, or employees to comply with lawful directives issued by representatives of the College and Association in their official capacity and for the purpose of public order will constitute a breach of this Agreement.

6. SECURITY. All security for the performance, if held on College premises, will be made under the control and supervision of the College. Frisking or other searches are not permitted, except by law enforcement officials. Any special security arrangements must be approved by the President of the College or his/her designee prior to the performance.

7. LICENSES AND PERMITS. The Artist must, at its expense, procure in advance of the performance of the Services, any and all licenses, certificates, permits and approvals required for the proper and lawful

conduct of the Services ("Permits"), including without limitation, any and all Permits required in connection with performance, display or other use of another's intellectual property. For the avoidance of doubt, this means that the Artist is responsible for procuring and paying for all rights for the performance, including but not limited to, music, script, performers, stage direction, choreography, scenic, costume and lighting design, etc. At the Association or the College's request, the Artist must submit the Permits for inspection. The Artist must at all times comply with the terms and conditions of each Permit.

8. INDEPENDENT ENTITY

(a) Notwithstanding any other provisions of this Agreement, the Artist's status is that of an independent contractor and not that of an employee or agent of the sponsoring student organization, the Association, the College, or the University. All personnel furnished by the Artist under this Agreement, if any, shall at all times be deemed to be employees of the Artist, and the Artist shall be responsible for their work, direction, and compensation. Nothing in this Agreement shall be construed to impose any liability or duties upon the Association for the performance of services by any third party hired or otherwise engaged by the Artist.

(b) Nothing in this Agreement shall impose any tax liability upon the Association, including, but not limited to, federal, state, and local income taxes, unemployment insurance, or social security tax, incurred by the Artist. The Artist agrees to indemnify the Association and hold it harmless from any and all claims for such payments by taxing authorities, including but not limited to fines, penalties, levies, and assessments, for failure to withhold or remit such payments.

9. **NON-DISCRIMINATION.** The Artist agrees that in performance of the Services, it will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status, and that it will comply with all applicable laws, rules, regulations and ordinances of the United States and the State and City of New York with respect to the Services.

10. **CONFLICT OF INTEREST.** The Artist represents that no monetary or other form of remuneration has been given, offered or promised to anyone in order to induce the Association to enter into this Agreement, and that during the performance of this Agreement, no remuneration will be given, offered or promised to any trustee, director, officer, employee, student, or agent of the Association, College, or University, or to any other director, officer, employee, or person whose salary is payable in whole or in part from the treasury of the City or State of New York.

11. **INDEMNIFICATION.** The Artist agrees to be responsible for any personal injury or property damage which is directly or indirectly attributable to the Artist's performance of the Services, or to the activities of the Artist's directors, officers, employees, volunteers, contractors, and agents in connection with or related to the Services. The Artist shall protect, indemnify, and hold the Association, the College, the University, and the City and State of New York, and their respective directors, officers, employees, agents, students, and invitees from any and all claims, suits, causes of action, liabilities, losses, damages, and expenses (including, but not limited to, attorney's fees and court costs in connection with any such matters) to which the Association, the College, the University, City of New York, and/or State of New York may be subjected arising out of or relating to: (a) injury to person or property, or wrongful death, that may result from any negligence, intentional wrongdoing, malpractice, or incompetence of the Artist, or anyone employed or engaged by the Artist, in connection with the performance of the Services; or (b) any breach by the Artist of this Agreement or any of the Artist's representations or warranties set forth in this Agreement.

12. **INSURANCE.** The Artist shall maintain with a licensed carrier authorized to do business in New York (a) workers compensation insurance covering its employees, if any, as required by law and (b) commercial general liability insurance for personal injury (including death) and property damage with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The commercial general liability policy shall cover all liability assumed by the Artist under this Agreement. The policy shall name the Association, the College, the University, and the City and State of New York as additional insureds. The Artist shall provide proof of such coverage in advance of the performance of the Services.

13. TAPING, ETC. The Artist hereby authorizes the Association and/or the College to photograph, videotape, audiotape, and/or otherwise document by any such means as are now available or may be available in the future, the Artist's performance and to use this documentation in whole or in part, for the University's educational, research, archival and promotional purposes.

14. MISCELLANEOUS.

(a) The Artist's obligations under this Agreement may not be assigned, subcontracted, or transferred without the prior written consent of an authorized representative of the Association.

(b) This Agreement, including its exhibits and riders, all of which are incorporated into the Agreement, contains the entire understanding of the parties hereto, supersedes all previous oral or written understandings, representations, or agreements to the extent that they related to the subject matter of this Agreement, and may not be modified by either party unless such modification is in writing and signed by an authorized representative of each party.

(c) Waiver by either party of a breach of any provision of, or right under, this Agreement shall not operate or be construed as a waiver of any other or subsequent breach of the same provision or right, or of any other provision or right under this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision that can be given effect without the invalid provision or application, and to this end the provisions hereof shall be severable.

(e) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(f) This Agreement is governed and construed in accordance with the laws of New York State, without regard to principles relating to conflicts of law, except where the Federal supremacy clause requires otherwise. The courts of the State of New York in New York County and the United States District Court for the Southern District of New York shall have exclusive jurisdiction over the parties hereto with respect to any dispute or controversy between them arising under or in connection with this Agreement.

(g) This Agreement and the obligations of the parties are subject to conditions beyond their reasonable control, including without limitation illness, accidents in transportation or otherwise, failure of instruments or equipment, fire, flood, strikes, riot, acts of God, etc. If either party is prevented from carrying out its obligations under this Agreement for such reason, neither party will be under any obligation to present the performance at a different time, nor to compensate the other for any services or expenses incurred in connection with such performance.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have signed this Agreement as of the day and year first written above.

ASSOCIATION

ARTIST

By: _____
(Signature)

By: _____
(Signature)

(Printed Name and Title)

(Printed Name and Title)

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									
				-			-		

or

Employer identification number									
				-					

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.