

## AGREEMENT FOR PROFESSIONAL SERVICES BY INDEPENDENT CONTRACTOR

THIS AGREEMENT FOR PROFESSIONAL SERVICES BY INDEPENDENT CONTRACTOR is made and effective as of the 4 day of April 2023, by and between the CITY OF BEAUMONT (“CITY”) whose address is 550 E. 6<sup>th</sup> Street, Beaumont, California 92223 and Stache Inc dba The M&M Group whose address is 16872 Bolsa Chica Street, Huntington Beach, California, 92649 (“CONTRACTOR”).

### RECITALS

This Agreement is entered into on the basis of the following facts, understandings and intentions of the parties to this Agreement:

A. CITY desires to engage CONTRACTOR to provide air/ground transportation, accommodations, air freight, meals and incidentals, backline, sounds, lighting, power, stage, backstage and entertainment services for the June 28 concert in the park and

B. CONTRACTOR has made a proposal (“Proposal”) to the CITY to provide such professional services, which Proposal is attached hereto as Exhibit “A” and incorporated herein by this reference; and

C. CONTRACTOR agrees to provide such services pursuant to, and in accordance with, the terms and conditions of this Agreement, and represents and warrants to CITY that CONTRACTOR possesses the necessary skills, licenses, certifications, qualifications, personnel and equipment to provide such services.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants contained herein, CITY and CONTRACTOR agree as follows:

1. Term of Agreement. This Agreement is effective as of the date first above written and shall continue until terminated as provided for herein. Notwithstanding anything in this Agreement to the contrary, this Agreement shall automatically terminate after one (1) year(s) unless extended by the parties with the approval of the City Council of the CITY.

2. Services to be Performed. CONTRACTOR agrees to provide the services (“Services”) as follows: air/ground transportation, accommodations, air freight, meals and incidentals, backline, sounds, lighting, power, stage, backstage and entertainment services per Exhibit “A”. All Services shall be performed in the manner and according to the timeframe set forth in the Proposal. CONTRACTOR designates Michael Scafuto as CONTRACTOR’S professional(s) responsible for overseeing the Services provided by CONTRACTOR.

3. Associates and Subcontractors. CONTRACTOR may, at CONTRACTOR’S sole cost and expense, employ such competent and qualified independent associates, subcontractors and consultants as CONTRACTOR deems necessary to perform the Services; provided, however, that CONTRACTOR shall not subcontract any of the Services without the written consent of CITY.

4. Compensation.

4.01 CONTRACTOR shall be paid at the rates set forth in the Proposal and shall not increase any rate without the prior written consent of the CITY. Notwithstanding anything in this Agreement to the contrary, total fees and charges paid by CITY to CONTRACTOR under this Agreement shall not exceed fifty-five thousand dollars (\$55,000).

4.02 CONTRACTOR shall not be compensated for any Services rendered nor reimbursed for any expenses incurred in excess of those authorized unless approved in advance by the CITY, in writing.

4.03 CONTRACTOR shall submit to CITY, on or before the fifteenth (15<sup>th</sup>) of each month, itemized invoices for the Services rendered in the previous month. The CITY shall not be obligated to pay any invoice that is submitted more than sixty (60) days after the due date of such invoice. CITY shall have the right to review and audit all invoices prior to or after payment to CONTRACTOR. This review and audit may include, but not be limited to CITY's:

- a. Determination that any hourly fee charged is consistent with this Agreement's approved hourly rate schedule;
- b. Determination that the multiplication of the hours billed times the approved rate schedule dollars is correct;
- c. Determination that each item charged is the usual, customary, and reasonable charge for the particular item. If CITY determines an item charged is greater than usual, customary, or reasonable, or is duplicative, ambiguous, excessive, or inappropriate, CITY shall either return the bill to CONTRACTOR with a request for explanation or adjust the payment accordingly, and give notice to CONTRACTOR of the adjustment.

4.04 If the work is satisfactorily completed, CITY shall pay such invoice within thirty (30) days of its receipt. Should CITY dispute any portion of any invoice, CITY shall pay the undisputed portion within the time stated above, and at the same time advise CONTRACTOR in writing of the disputed portion.

5. Obligations of CONTRACTOR.

5.01 CONTRACTOR agrees to perform all Services in accordance with the terms and conditions of this Agreement and the Proposal. In the event that the terms of the Proposal shall conflict with the terms of this Agreement, or contain additional terms that purport to bind the CITY other than the Services to be rendered and the price for the Services, the terms of this Agreement shall govern and said additional or conflicting terms shall be of no force or effect.

5.02 Except as otherwise agreed by the parties, CONTRACTOR will supply all

personnel, materials and equipment required to perform the Services. CONTRACTOR shall provide its own offices, telephones, vehicles and computers and set its own work hours. CONTRACTOR will determine the method, details, and means of performing the Services under this Agreement.

5.03 CONTRACTOR shall keep CITY informed as to the progress of the Services by means of regular and frequent consultations. Additionally, when requested by CITY, CONTRACTOR shall prepare written status reports.

5.04 CONTRACTOR is responsible for paying, when due, all income and other taxes, fees and withholding, including withholding state and federal taxes, social security, unemployment and worker's compensation, incurred as a result of the compensation paid under this Agreement. CONTRACTOR agrees to indemnify, defend and hold harmless CITY for any claims, costs, losses, fees, penalties, interest, or damages suffered by CITY resulting from CONTRACTOR's failure to comply with this provision.

5.05 In the event CONTRACTOR is required to prepare plans, drawings, specifications and/or estimates, the same shall be furnished in conformance with local, state and federal laws, rules and regulations.

5.06 CONTRACTOR represents that it possesses all required licenses necessary or applicable to the performance of Services under this Agreement and the Proposal and shall obtain and keep in full force and effect all permits and approvals required to perform the Services herein. In the event CITY is required to obtain an approval or permit from another governmental entity, CONTRACTOR shall provide all necessary supporting documents to be filed with such entity.

5.07 CONTRACTOR shall be solely responsible for obtaining Employment Eligibility Verification information from CONTRACTOR's employees, in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a), and shall ensure that CONTRACTOR's employees are eligible to work in the United States.

5.08 In the event that CONTRACTOR employs, contracts with, or otherwise utilizes any CalPERS retirees in completing any of the Services performed hereunder, such instances shall be disclosed in advance to the CITY and shall be subject to the CITY's advance written approval.

5.09 Drug-free Workplace Certification. By signing this Agreement, the CONTRACTOR hereby certifies under penalty of perjury under the laws of the State of California that the CONTRACTOR will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8350 et seq.) and will provide a drug-free workplace.

5.10 CONTRACTOR shall comply with all applicable local, state and federal laws, rules, regulations, entitlements and/or permits applicable to, or governing the Services authorized hereunder.

6. Insurance. CONTRACTOR hereby agrees to be solely responsible for the health and safety of its employees and agents in performing the Services under this Agreement and shall comply with all laws applicable to worker safety including but not limited to Cal-OSHA. Therefore, throughout the duration of this Agreement, CONTRACTOR hereby covenants and agrees to maintain insurance in conformance with the requirements set forth below. Attached hereto as **Exhibit "B"** are copies of Certificates of Insurance and endorsements as required by Section 7.02. If existing coverage does not meet the requirements set forth herein, CONTRACTOR agrees to amend, supplement or endorse the existing coverage to do so. CONTRACTOR shall provide the following types and amounts of insurance:

6.01 Commercial general liability insurance in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; CONTRACTOR agrees to have its insurer endorse the general liability coverage required herein to include as additional insured's CITY, its officials, employees and agents. CONTRACTOR also agrees to require all contractors and subcontractors to provide the same coverage required under this Section 6.

6.02 Business Auto Coverage in an amount no less than \$1 million per accident. If CONTRACTOR or CONTRACTOR's employees will use personal autos in performance of the Services hereunder, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person.

6.03 Workers' Compensation coverage for any of CONTRACTOR's employees that will be providing any Services hereunder. CONTRACTOR will have a state-approved policy form providing statutory benefits as required by California law. The provisions of any workers' compensation will not limit the obligations of CONTRACTOR under this Agreement. CONTRACTOR expressly agrees not to use any statutory immunity defenses under such laws with respect to CITY, its employees, officials and agents.

6.04 Optional Insurance Coverage. Choose and check one: Required  /Not Required ; Errors and omissions insurance in a minimum amount of \$2 million per occurrence to cover any negligent acts or omissions committed by CONTRACTOR, its employees and/or agents in the performance of any Services for CITY.

7. General Conditions pertaining to Insurance Coverage

7.01 No liability insurance coverage provided shall prohibit CONTRACTOR from waiving the right of subrogation prior to a loss. CONTRACTOR waives all rights of subrogation against CITY regardless of the applicability of insurance proceeds and shall require all contractors and subcontractors to do likewise.

7.02. Prior to beginning the Services under this Agreement, CONTRACTOR shall furnish CITY with certificates of insurance, endorsements, and upon request, complete copies of all policies, including complete copies of all endorsements. All copies of policies and endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

7.03. All required policies shall be issued by a highly rated insurer with a minimum

A.M. Best rating of "A:VII"). The insurer(s) shall be admitted and licensed to do business in California. The certificates of insurance hereunder shall state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to CITY.

7.04 Self-insurance does not comply with these insurance specifications. CONTRACTOR acknowledges and agrees that that all insurance coverage required to be provided by CONTRACTOR or any subcontractor, shall apply first and on a primary, non-contributing basis in relation to any other insurance, indemnity or self-insurance available to CITY.

7.05 All coverage types and limits required are subject to approval, modification and additional requirements by CITY, as the need arises. CONTRACTOR shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect CITY's protection without CITY's prior written consent.

7.06 CONTRACTOR agrees to provide immediate notice to CITY of any claim or loss against CONTRACTOR or arising out of the Services performed under this Agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

## 8. Indemnification.

8.01 CONTRACTOR and CITY agree that CITY, its employees, agents and officials should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, defense costs, court costs or any other costs arising out of or in any way related to the performance of this Agreement by CONTRACTOR or any subcontractor or agent of either as set forth herein. Accordingly, the provisions of this indemnity are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to CITY. CONTRACTOR acknowledges that CITY would not enter into this Agreement in the absence of the commitment of CONTRACTOR to indemnify and protect CITY as set forth herein.

a. To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless CITY, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, damages or costs of any kind, whether actual, alleged or threatened, actual attorneys' fees incurred by CITY, court costs, interest, defense costs, including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of, or in any way attributable actually, allegedly or impliedly, in whole or in part to the performance of this Agreement. CONTRACTOR's obligation to defend, indemnify and hold harmless shall include any and all claims, suits and proceedings in which CONTRACTOR (and/or CONTRACTOR's agents and/or employees) is alleged to be an employee of CITY.

All obligations under this provision are to be paid by CONTRACTOR as they are incurred by CITY.

b. Without affecting the rights of CITY under any provision of this Agreement or this Section, CONTRACTOR shall not be required to indemnify and hold harmless CITY as set forth above for liability attributable solely to the fault of CITY, provided such fault is determined by agreement between the parties or the findings of a court of competent jurisdiction.

8A. Indemnification Design Professionals.

8A.01 In the event that CONTRACTOR is a design professional under California Civil Code Section 2782.8 this Section 8A shall apply instead of Section 8. To the fullest extent permitted by California law and in accordance with California Civil Code section 2782.8, CONTRACTOR shall indemnify, and hold harmless the City, its officers, employees, trustees and members ("Indemnified Parties") from any and all actions, assessments, counts, citations, claims, costs, damages, demands, judgments, liabilities (legal, administrative or otherwise), losses, notices, expenses, fines, penalties, proceedings, responsibilities, violations, attorney's and consultants' fees and causes of action including, but not limited to those for, injury to property or persons, including personal injury and/or death ("Claim(s)"), to the extent that the Claim(s) arises out of, pertains to, or relates to the negligence, recklessness, or willful misconduct of CONTRACTOR, its directors, officials, officers, employees and consultants arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement. This indemnity excludes liability caused by the negligence or willful misconduct of any of the Indemnified Parties. The cost to indemnify, hold harmless, and defend charged to CONTRACTOR shall not exceed CONTRACTOR'S proportionate percentage of fault.

9. Additional Services, Changes and Deletions.

9.01 In the event CONTRACTOR performs additional or different services than those described herein without the prior written approval of the City Manager and/or City Council of CITY, CONTRACTOR shall not be compensated for such services. CONTRACTOR expressly waives any right to be compensated for services and materials not covered by the scope of this Agreement or authorized by the CITY in writing.

9.02 CONTRACTOR shall promptly advise the City Manager and Finance Director of CITY as soon as reasonably practicable upon gaining knowledge of a condition, event or accumulation of events which may affect the scope and/or cost of Services. All proposed changes, modifications, deletions and/or requests for additional services shall be reduced to writing for review and approval by the CITY and/or City Council.

10. Termination of Agreement.

10.01 Notwithstanding any other provision of this Agreement, CITY, at its sole option, may terminate this Agreement with or without cause, or for no cause, at any time by giving twenty (20) days' written notice to CONTRACTOR.

10.02 In the event of termination, the payment of monies due CONTRACTOR for

undisputed Services performed prior to the effective date of such termination shall be paid within thirty (30) business days after receipt of an invoice as provided in this Agreement. Immediately upon termination, CONTRACTOR agrees to promptly provide and deliver to CITY all original documents, reports, studies, plans, specifications and the like which are in the possession or control of CONTRACTOR and pertain to CITY.

11. Status of CONTRACTOR.

11.01 CONTRACTOR shall perform the Services in CONTRACTOR's own way as an independent contractor, and in pursuit of CONTRACTOR's independent calling, and not as an employee of CITY. However, CONTRACTOR shall regularly confer with CITY's City Manager as provided for in this Agreement.

11.02 CONTRACTOR agrees that it is not entitled to the rights and benefits afforded to CITY's employees, including disability or unemployment insurance, workers' compensation, retirement, CalPERS, medical insurance, sick leave, or any other employment benefit. CONTRACTOR is responsible for providing, at its own expense, disability, unemployment, workers' compensation and other insurance, training, permits, and licenses for itself and its employees and subcontractors.

11.03 CONTRACTOR hereby specifically represents and warrants to CITY that it possesses the qualifications and skills necessary to perform the Services under this Agreement in a competent, professional manner, without the advice or direction of CITY and that the Services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily applicable to an experienced and competent professional rendering the same or similar services in the same geographic area where the CITY is located. Further, CONTRACTOR represents and warrants that the individual signing this Agreement on behalf of CONTRACTOR has the full authority to bind CONTRACTOR to this Agreement.

12. Ownership of Documents; Audit.

12.01 All draft and final reports, plans, drawings, studies, maps, photographs, specifications, data, notes, manuals, warranties and all other documents of any kind or nature prepared, developed or obtained by CONTRACTOR in connection with the performance of Services performed for the CITY shall become the sole property of CITY, and CONTRACTOR shall promptly deliver all such materials to CITY upon request. At the CITY's sole discretion, CONTRACTOR may be permitted to retain original documents, and furnish reproductions to CITY upon request, at no cost to CITY.

12.02 Subject to applicable federal and state laws, rules and regulations, CITY shall hold all intellectual property rights to any materials developed pursuant to this Agreement. CONTRACTOR shall not such use data or documents for purposes other than the performance of this Agreement, nor shall CONTRACTOR release, reproduce, distribute, publish, adapt for future use or any other purposes, or otherwise use, any data or other materials first produced in the performance of this Agreement, nor authorize others to do so, without the prior written consent of CITY.

12.03 CONTRACTOR shall retain and maintain, for a period not less than four

years following termination of this Agreement, all-time records, accounting records and vouchers and all other records with respect to all matters concerning Services performed, compensation paid and expenses reimbursed. At any time during normal business hours and as often as CITY may deem necessary, CONTRACTOR shall make available to CITY's agents for examination all of such records and shall permit CITY's agents to audit, examine and reproduce such records.

13. Miscellaneous Provisions.

13.01 This Agreement, which includes all attached exhibits, supersedes any and all previous agreements, either oral or written, between the parties hereto with respect to the rendering of Services by CONTRACTOR for CITY and contains all of the covenants and agreements between the parties with respect to the rendering of such Services in any manner whatsoever. Any modification of this Agreement will be effective only if it is in writing signed by both parties.

13.02 CONTRACTOR shall not assign or otherwise transfer any rights or interest in this Agreement without the prior written consent of CITY. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

13.03 CONTRACTOR shall timely file FPPC Form 700 Conflict of Interest Statements with CITY if required by California law and/or the CITY's conflict of interest policy.

13.04 If any legal action or proceeding, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs, in addition to any other relief to which that party may be entitled.

13.05 This Agreement is made, entered into and shall be performed in the County of Riverside in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California. The parties agree that venue in any litigation between them shall be in Riverside County, California.

13.06 CONTRACTOR covenants that neither it nor any officer or principal of its firm has any interest, nor shall they acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of their Services hereunder. CONTRACTOR further covenants that in the performance of this Agreement, no person having such interest shall be employed by it as an officer, employee, agent, or subcontractor.

13.07 CONTRACTOR has read and is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflicts of interest of public officers and employees. CONTRACTOR agrees that they are unaware of any financial or economic interest of any public officer or employee of the CITY relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, the CITY may immediately terminate this



Agreement by giving notice thereof. CONTRACTOR shall comply with the requirements of Government Code section 87100 et seq. and section 1090 in the performance of and during the term of this Agreement.

13.08 Improper Consideration. CONTRACTOR shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, services, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the CITY in an attempt to secure favorable treatment regarding this Agreement or any contract awarded by CITY. The CITY, by notice, may immediately terminate this Agreement if it determines that any improper consideration as described in the preceding sentence was offered to any officer, employee or agent of the CITY with respect to the proposal and award process of this Agreement or any CITY contract. This prohibition shall apply to any amendment, extension or evaluation process once this Agreement or any CITY contract has been awarded. CONTRACTOR shall immediately report any attempt by any CITY officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from CONTRACTOR.

13.09 Severability. If any portion of this Agreement is declared invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the entire balance of this Agreement not so affected shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereby have made and executed this Agreement to be effective as of the day and year first above written.

**CITY:**

CITY OF BEAUMONT

By: \_\_\_\_\_

**CONTRACTOR:**

STACHE INC DBA THE M&M GROUP

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "A"**

**PROPOSAL**

**(insert behind this page)**



GROUP ENTERTAINMENT

16872 Bolsa Chica Street, Suite 204  
Huntington Beach, CA 92649  
714.846.6600

## E N G A G E M E N T   A G R E E M E N T

### CITY OF BEAUMONT SUMMER CONCERT SERIES

Agreement made this Friday, February 10, 2023, between the **CITY OF BEAUMONT** (hereinafter referred to as PURCHASER), and the **The M&M GROUP** (hereinafter referred to as PRODUCER)

The Purchaser hereby engages the Artist and the Artist hereby agrees to furnish the entertainment presentation hereinafter described, upon all terms and conditions herein set forth, including those attached hereto and made a part hereof entitled "Additional Terms and Conditions."

#### 1. Performance Details: CITY OF BEAUMONT SUMMER CONCERT SERIES (ARTIST TO BE DETERMINED)

Date:	<b>Wednesday, June 28<sup>th</sup>, 2023</b>	Event Capacity:	<b>N/A</b>
Time:	<b>TBD</b>	Ticket Prices:	<b>TBD</b>
Lineup:	<b>6/28 – Artist TBD</b>		
Location:	<b>Stewart Park 550 E. 6<sup>th</sup> Street Beaumont, CA 92223</b>	Minimum Age:	<b>ALL AGES</b>

#### 2. Compensation Details:

Compensation Term: **\$55,000.00** (Fifty-Five Thousand Dollars)

#### 3. Payment Schedule:

All payments must be made in U.S. dollars and shall be paid by wire transfer, certified check, university check, casino check, money order, or cash as follows:

- A. Deposit of **\$27,500.00** is due **with returned contract, no later than Friday, February 17<sup>th</sup>, 2023**, made payable to and in the name of **THE M&M GROUP [Tax ID# 56-2554243]**, located at 16872 Bolsa Chica Street, Suite 204, Huntington Beach CA 92649.
- B. First event balance of **\$27,500.00** is due no later than **Tuesday, March 28<sup>th</sup>, 2023**

- i. When wiring, please call The M&M Group and let us know the transfer has been made: (714) 846-6600.
- ii. All wire transfer fees shall be the responsibility of the Purchaser.
- iii. **Send wire to:**

Stache, Inc dba The M&M Group  
FIRST REPUBLIC BANK:  
111 Pine Street, San Francisco, Ca 94111  
Acct #80009326143  
Routing: 321081669  
SWIFT Code: FRBBUS6S  
800-872-2657  
**\*IMPORTANT\***

Please make sure to note the ARTIST NAME, PLAY DATE, and VENUE/CITY on the wire details and send a copy of the wire confirmation to: [michael@mm-group.org](mailto:michael@mm-group.org).

#### 4. Agreement Details:

##### A. Provisions:

1. **Air/Ground Transportation:** M&M Group to provide & facilitate artist transportation
2. **Accommodations:** M&M Group to provide & facilitate artist hotel accommodations
3. **Air Freight/Excess Baggage:** M&M Group to provide & facilitate
4. **Meals & Incidentals:** M&M Group to provide and facilitate basic dressing room catering (waters, soft drinks and light snacks/finger foods)
5. **Backline:** M&M Group to provide and facilitate
6. **Sound, Lights, & Power:** M&M Group to provide and facilitate

7. **Stage:** M&M Group to provide and facilitate (20' x 16' stage)
  8. **Other:** M&M Group to provide and facilitate backstage area (Covered outdoor area or RVs – TBA)
- B. **Artist Rider:** Purchaser to provide and pay for all mutually agreeable Artist rider requirements. If a contract rider is attached, that rider is a part of this contract and it must be reviewed, signed by Purchaser and returned to the Artist's representative with this contract. In the event of conflict between the provision(s) of this contract and said rider, the provision(s) of this contract shall govern. Do not sign until you have read both front and back of this agreement and all riders.
  - C. **Complimentary Tickets:** N/A
  - D. **Advertising:** This engagement is not to be advertised or publicized in any manner or form until this contract is fully processed and signed by both parties. Please send samples of flyers or other ad artwork / materials to [DaVon@mm-group.org](mailto:DaVon@mm-group.org) and [Brian@mm-group.org](mailto:Brian@mm-group.org) for approval before distribution.
  - E. **Billing:** Purchaser agrees that the Artist shall receive headline billing in 100% type in all advertising and publicity issued by and under the control of the Purchaser in regard to the engagement hereunder. Any changes to the line-up subject to approval by Michael Scafuto [michael@mm-group.org](mailto:michael@mm-group.org). All support acts (if any) subject to approval by Michael Scafuto [michael@mm-group.org](mailto:michael@mm-group.org) and to be paid for by purchaser on top of and separate from artist guarantee. All show times including doors, support show time (if any), Artist's show time, and curfew must be confirmed in writing. Any changes to any show schedule times must be confirmed in writing by Michael Scafuto [michael@mm-group.org](mailto:michael@mm-group.org).
  - F. **Merchandise:** Artist to sell. 100% of Merchandise to Artist.

#### 6. Additional Terms and Conditions:

- A. **Work Permits:** If the buyer, venue or country requires Artist to have a work permit, the cost will be the responsibility/obligation of the Purchaser.
- B. **Venue/Production:** Purchaser agrees to furnish at its own expense all that is necessary for the proper presentation of the entertainment presentation at performances, and if required by Artist, all rehearsals therefore, including a suitable theater hall or auditorium, well-heated, lighted, clean and in good order, stage curtains, properly tuned grand piano(s) [if needed – see Artist Rider], and public address system in perfect working condition, including microphone(s) in number and quality required by Artist and comfortable, lighted dressing rooms, all stagehands, stage carpenters, electricians, electrical operators and any other labor as shall be necessary and/or required by any national or local union(s) to take in, hang, work and take out the entertainment presentation including scenery, properties, and baggage: all lights, tickets, house programs, all licenses (including musical performing rights licenses): special police, ushers, ticket sellers for advance or single sales (wherever sales take place), ticket takers: appropriate and sufficient advertising and publicity including but not limited to bill posting, mailing and distributing of circulars, display newspaper advertising in the principal newspapers and Purchaser shall pay all other necessary material and equipment and promptly comply with Artist's directions to arrange the stage décor and settings for the performances hereunder. In addition to those musicians, if any, to be furnished by either Artist or Purchaser pursuant to any other provision hereof, Purchaser agrees to furnish at its sole expense such musicians, including musical contractor as may be required by any national or local union(s) for and in connection with this engagement and rehearsals therefore Artist shall have the right to name the local music contractor and to approve the choice of musicians hired locally. The following is required by Artist and shall be furnished by Purchaser at Purchaser's sole cost and expense.
- C. **Creative Control:** Artist shall at all times have complete supervision, direction and control over the service of his personnel on this engagement and expressly reserves the right to control the manner, means and details of the performance of services to fulfill the entertainment requirements. The Artist executes this agreement as an independent contractor, not as an employee of the Purchaser or Producer. Artist shall have the sole and exclusive control over the production, presentation and performances of the engagement hereunder, including but not limited to the details, means and methods of the performances of the performing Artists hereunder and Artist shall have the sole right as Artist may see fit, to designate and change any time the performing personnel. Artist's obligations hereunder are subject to detention or prevention by sickness, inability to perform, accident, means of transportation, acts of God, riots, strikes, labor difficulties, epidemics, any act of order of any public authority or any cause similar or dissimilar, beyond Artist's control.
- D. **Recording:** Purchaser shall not have the right to broadcast or televise, photograph or otherwise reproduce the performances hereunder or any part thereof. Purchaser shall not have the right to assign this agreement or any provision hereof. Nothing herein contained shall ever be construed as to constitute the parties hereto as a partnership or joint venture; or that ARTIST shall be liable to whole or in part for any obligation that may be incurred by Purchaser's behalf warrants his authority to do so, and such person hereby personally assumes liability for the payment of said price in full. Purchaser will make best efforts to stop cell phone pictures and recordings by attendees through signage and security but will not be held responsible for cell phone users.
- E. **Presentation:** Purchaser agrees that the entertainment presentation will not be included in a subscription or other type of series without the written consent of Artist. In the event that payment to Artist shall be based in whole or in part on receipts of the performance(s) hereunder: (a) the scale of ticket prices must be submitted to and approved by Artist in writing before tickets are ordered or placed on sale; (b) Purchaser agrees to deliver to Artist a certified statement of the gross receipts of each such performance within two (2) hours following such performance, and (c) Artist shall have the right to examine and make extracts from box office records of Purchaser relating to gross receipts of this engagement only.

- F. **Cancellation:** If before the date of any scheduled performance it is found that Purchaser has not performed fully its obligations under any other agreement with any party for another engagement or that the financial credit of the Purchaser has been impaired, Artist may cancel this engagement. In the event that Purchaser does not perform fully all of its obligations herein, Artist shall have the option to perform or refuse to perform hereunder and in either event Purchaser shall be liable to Artist for damages in addition to the compensation provided herein. If show is canceled due to Artist illness, accident, or disability, interruption or failure of means of transportation, the parties may mutually agree to reschedule, pursuant to a separate written agreement and Artist will be paid the full fee agreed upon pursuant to that agreement. If the parties are unable to reschedule a show that is canceled due to the aforementioned reasons, then Purchaser will have no obligation to pay Artist.
- G. **Special Cancellations:** Purchaser agrees Artist may cancel engagement by giving written notice no later than 30 days prior to commencement date.
- H. **Force Majeure:** Notwithstanding the foregoing, if show is canceled due to Force Majeure [Act(s) of God, war, riots, civil commotion, strikes, labor difficulties, epidemics, earthquakes, fire, accidents, death, or any act or order of any act of government, its agencies or officers, or any other legitimate cause, similar or dissimilar, beyond the control of the parties] and Artist is otherwise ready, willing and able to perform, Purchaser shall pay Artist the full fee.
- I. **Inclement Weather:** Notwithstanding anything contained to the contrary herein, inclement weather shall not be deemed a Force Majeure event and PURCHASER shall remain liable for payment to PRODUCER of the full GUARANTEE plus all other compensation due hereunder if the performance(s) is rendered impossible, infeasible or unsafe by such weather conditions. For clarification, PURCHASER shall remain responsible for all other terms and conditions of this Agreement, including, without limitation accommodations, transportation, and expense reimbursements for ARTIST and touring party.
- J. **Insurance:** Purchaser shall cause an insurance policy acceptable to Artist naming Artist as insured to be issued by a reputable and experienced insurance company, with premiums paid by Purchaser, covering loss of or damage to any musical, sound, light, costuming, or other hardware or software material and facilities of Artist or any of its agents, employees, or representatives used or in any way connected with the Engagement in an amount not less than \$1,000,000.00 and shall further take all steps reasonable and necessary to preserve and protect such materials and facilities during the Engagement and load-in and load-out times. A copy of such policy shall be furnished to Artist not later than fourteen (14) days prior to the Engagement.
- K. **Indemnification:** Purchaser and Artist shall defend, indemnify and hold harmless The M&M Group, its agents, and employees from and against any and all claims, losses, damages, liability, obligations and expenses (including reasonable attorney's fees), suffered or incurred as a result of the intentional or negligent acts or omissions of Purchaser or Artist, their employees, and agents committed in the course of carrying out their obligations under this Agreement. Purchaser's obligation to defend, indemnify and hold harmless shall extend to any claims by Artist for injuries suffered on Purchaser's place of business except for those caused by Purchaser's negligence.
- L. **Compensation**
1. Unless otherwise specified, all payments shall be made in full without any deductions whatsoever. If not already indicated on the face page of this Agreement, PURCHASER will advise PRODUCER, or PRODUCER's agent, promptly upon request (but in no event later than the on-sale date), of the net admissions prices for the entertainment presentation and shall further disclose any added charges and applicable tax in connection therewith.
  2. In the event the payment to PRODUCER shall be based in whole or in part on receipts of the performance(s) hereunder, PURCHASER agrees to deliver to PRODUCER a certified statement of the gross receipts of each performance within two (2) hours following such performance. PRODUCER shall have the right to have a representative present in the box office at all times and such representative shall have access to box office records of PURCHASER relating to gross receipts of the Engagement.
  3. In the event that the payment of PRODUCER's share of said performance(s) receipts is based in whole or in part upon expenses related to the Engagement, PURCHASER shall verify by paid receipts, cancelled check or similar documents all such expenses, or they shall not be included as an expense of the Engagement.
  4. In the event the payment to PRODUCER does not include a percentage payment, if the actual gross box office receipts from the Engagement exceed the gross potential as stated on the face of this Agreement or as otherwise agreed in writing between the parties, such excess shall be immediately paid in full to PRODUCER in cash.
- M. **Tickets**
1. PURCHASER shall not announce, advertise, promote or sell tickets to the Engagement until authorization in writing has been received from PRODUCER.
  2. ALL TICKETS MUST BE NUMBERED. NO TICKETS SHALL BE PRICED AT MORE THAN THE AGREED UPON PRICE EXCLUSIVE OF VALUE ADDED TAX OR OTHER SALES-BASED TAX WITHOUT PRODUCER'S PRIOR APPROVAL.
  3. If ticket price scaling shall be varied in any respect, the percentage of compensation payable to PRODUCER shall be based upon whichever of the following is more favorable to PRODUCER: (i) the ticket price scaling set forth on the face page of this Agreement or as otherwise agreed in writing by the parties, or (ii) the actual ticket price scaling in effect for the Engagement.
  4. The PRODUCER's representative shall have the right to inspect ticket racks and all box office and other records with respect to such receipts, including, but not limited to, unsold tickets, printed but unsold tickets (so-called "deadwood")

and stubs of tickets sold, for the purpose of verifying the statements. PRODUCER's representative will upon request be admitted to the box office at all times during the sale of tickets for the Engagement hereunder.

5. There shall be no dynamic ticket pricing unless mutually agreed upon by PRODUCER and PURCHASER in writing. In the event the parties agree to participate in dynamic ticket pricing all terms thereof shall be subject to mutual written approval including, without limitation, all ticket prices and adjustments thereto, scaling, gross box office potential and additional ticketing charges (if any). All elements thereof, including, without limitation, all ticket pricing/scaling/adjustments, ticketing charges (if any) and final gross revenue must be transparent and presented at settlement in writing to PRODUCER to evidence compliance with the foregoing.
6. PURCHASER agrees that any inclusion of ARTIST's performance hereunder in a subscription or other type of series is subject to the prior written consent of PRODUCER.
7. PURCHASER shall not commit ARTIST to any interviews, promotional appearances, meet & greets, or otherwise without PRODUCER's prior, written consent, which shall be given or withheld in PRODUCER's sole discretion

#### **N. Facilities**

1. PURCHASER agrees to furnish at its sole cost and expense on the date(s), time(s) and place(s) of the performance(s) all that is necessary for the proper and lawful presentation of the Engagement, including, without limitation, a suitable venue, well-heated, ventilated, lighted, clean and in good order, stage curtains, properly tuned grand piano or pianos and all necessary first class sound equipment in perfect working condition including amplifiers, microphones in number and quality required by PRODUCER, dressing rooms (clean, comfortable, properly heated and air-conditioned and near the stage), all necessary electricians and stage hands, all necessary first class lighting, tickets, house programs, all licenses (including musical performing rights licenses), special police, ushers, ticket sellers, ticket takers, appropriate and sufficient advertising in all media and PURCHASER shall pay all other necessary expenses in connection therewith.
2. PURCHASER shall also provide at its sole cost and expense all necessary equipment for the Engagement hereunder as provided on the face of the Agreement, or as designated in the attached ARTIST Rider, unless otherwise agreed by PRODUCER and PURCHASER in writing. Exact requirements to be advised if same differs from ARTIST Rider specifications.
3. PURCHASER will pay all music royalties in connection with PRODUCER's use of music, and in addition, the costs of any musicians (including contractor) other than those furnished by PRODUCER as part of PRODUCER's regular company.
4. PURCHASER agrees to pay all amusement taxes, if applicable.
5. PURCHASER shall comply with all regulations and requirements of any union(s) that may have jurisdiction over any of the said materials, facilities and personnel to be furnished by PURCHASER and PRODUCER.
6. If PRODUCER so requires, PURCHASER will furnish at its expense all necessary facilities, electricians, stage hands and other personnel for lighting and dress rehearsals. PURCHASER shall furnish at its own expense all other items and personnel including, but not limited to, any and all personnel, including musicians, as may be required by any national or local union(s) required for the proper presentation of the performance hereunder, and any rehearsals therefore, except for those items and personnel which PRODUCER herein specifically agrees to furnish.
7. PURCHASER shall ensure compliance with all applicable requirements of laws and regulations as to health and safety, licensing, insurance, hygiene, fire, access, egress, security, and generally in relation to the performance(s) and the venue(s) for such performance(s).
8. PURCHASER shall be solely responsible for providing a safe environment for the Engagement, including but not limited to with respect to the staging, stage covering, grounding, supervision and direction of the Engagement, and security, so that the Engagement and all persons and equipment are free from adverse weather and other conditions, situations and events ("Adverse Conditions"). PRODUCER/ARTIST shall not have any liability for any damage or injury caused by such Adverse Conditions.

#### **O. Production Control:**

1. PRODUCER shall have the sole exclusive creative control over the production and presentation of ARTIST's performance at the Engagement hereunder, including, but not limited to, the details, means and methods of the performance of the performing artists hereunder, and PRODUCER shall have the sole right, as PRODUCER may see fit, to designate and change at any time the performing personnel other than the ARTIST herein specifically named.
2. PURCHASER agrees to promptly comply with PRODUCER's directions as to stage settings for the performance hereunder.
3. It is understood that no stage seats are to be sold or used without PRODUCER's prior written consent

- P. **Modification of Agreement:** This agreement may not be changed, modified or altered except by any instrument in writing signed by the parties. This agreement shall be construed in accordance with the laws of the State of California. Nothing in this Agreement shall require the commission of any act contrary to law or to any rule or regulation of any union, guild or similar body having jurisdiction over the performances hereunder or any element thereof and wherever or whenever there

is any conflict between any provision of this Agreement and any such law, rule, or regulation, such law, rule or regulation shall prevail and this Agreement shall be curtailed, modified, or limited only of the extent necessary to eliminate such conflict.

- Q. **Future Bookings:** Any and all engagements between this Purchaser / Venue / Artist (including its agents, successors, or assigns) described herein must be contracted through The M&M Group for a period of 18 (eighteen) months from the date of this engagement.
- R. **Producer:** This constitutes the sole, complete and binding agreement between the parties hereto. The M&M Group acts only as a Producer of Artist and assumes no liability hereunder. It is expressly agreed that The M&M Group acts herein as Producer for Artist and is not responsible for any act of commission or omission on the part of either Artist or Purchaser. In furtherance thereof and for the benefit of The M&M Group, it is agreed that neither Purchaser nor Artist will name or join The M&M Group as a party in civil action or suit arising out of, in connection with or related to any acts of commission or omission pursuant to this agreement by either Purchaser or Artist.

THIS CONTRACT BECOMES VOID IF PURCHASER FAILS TO SIGN AND RETURN SAME WITHIN 10 DAYS OF DATE ISSUED.

We acknowledge and confirm that we have read and approved the forms and conditions set forth in this contract:

PURCHASER'S SIGNATURE:

PRODUCER'S SIGNATURE:

X  
PURCHASER: **CITY OF BEAUMONT / ASHLEY STARR**  
ADDRESS: 1310 Oak Valley Parkway  
Beaumont, CA 92223  
TELEPHONE: (951) 769-8524  
FAX: (951) 769-8519  
EMAIL: [astarr@beaumontca.gov](mailto:astarr@beaumontca.gov)

X  
PRODUCER: **THE M&M GROUP**  
ADDRESS: 16872 Bolsa Chica Street, Suite 204  
Huntington Beach CA 92649  
TELEPHONE: (714) 846-6600  
FAX: (714) 846-6601  
EMAIL: [michael@mm-group.org](mailto:michael@mm-group.org)

**EXHIBIT "B"**

**CERTIFICATES OF INSURANCE AND ENDORSEMENTS**

**(insert behind this page)**