

**PERFORMANCE AGREEMENT**

THIS CONTRACT (the "Agreement") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the "Execution Date"),

**BETWEEN:**

\_\_\_\_\_ of \_\_\_\_\_  
(the "Client")

**OF THE FIRST PART**

- AND -

Mitch Rydzewski  
(the "Group Leader")

**OF THE SECOND PART**

**BACKGROUND:**

- A. The Group Leader represents a professional entertainment group known as "SUGAR MOUNTAIN®" (the "Performer").
- B. The Client wishes to engage the Performer subject to the terms and conditions as follows:

**IN CONSIDERATION OF** and as a condition of the Client hiring the Performer and other valuable consideration, the receipt and sufficiency of which consideration is acknowledged here, the parties to this Agreement agree as follows:

**Definitions**

- 1. "Gross Ticket Sales" means the total of all proceeds collected or resulting from the Performance.

**Binding Authority**

- 2. The Group Leader warrants that by signing this Agreement it has the authority to bind the Performer to the terms and conditions of this Agreement.

**Business Address of the Group Leader**

- 3. Any payments by check or money order should be made out to the Group Leader. The Performer's business address is as follows:

Group Leader: Mitch Rydzewski  
Address: 8318 Ryan Rd, Seville, OH 44273, USA  
Telephone: (972) 880-5880  
Email: Bookings@sugarmountaincleveland.com

**Business Address of the Client**

- 4. The Client's business address is as follows:

Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**Venue**

- 5. The place of performance (the "Venue") is located at:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_, Ohio \_\_\_\_\_  
Telephone: \_\_\_\_\_

**Performance**

- 6. The entertainment to be provided by the Performer is generally described as \_\_\_\_\_ (the "Performance").

**Date and Time of Performance**

- 7. The Performance will consist of \_\_\_\_\_ show/s and between the times indicated in the table below and the Venue will be available for set-up and sound check at the date and time also indicated in the table:

Set-up Time and Date	Date of Show	Start Time	End Time

### **Payment**

8. In full consideration for all services rendered by the Performer at the Performance, the Client agrees to pay the Group Leader a fixed fee of \$ \_\_\_\_\_ USD (the "Fee").

### **Deposit**

9. The Client will pay to the Group Leader \$ \_\_\_\_\_ USD as a deposit (the "Deposit") by October 14, 2023. If the Client fails to provide the Deposit promptly by October 14, 2023, the Group Leader may cancel this Agreement without further obligation.

### **Performer Expenses**

10. The Group Leader agrees that the Fee is inclusive of all expenses, accommodations, holiday entitlements, traveling expenses to and from the Venue and covers any costs whatsoever incurred by any of the members individually or collectively as a group, except as expressly provided in this Agreement.
11. The Client will provide at its sole cost and expense 12 complimentary tickets to the Performer for the Performance.

### **Payment of Balance**

12. Promptly after the last show on the final date of the Performance, the Client will pay to the Group Leader any outstanding balance of the Fee in cash, money order, certified check, or online payment.

### **Cancellation**

13. The Group Leader reserves the right to cancel this Agreement without obligation upon written notice to the Client prior to October 16, 2023. In the event the Group Leader cancels the Performance under the terms of this section, the Group Leader will promptly return the Deposit to the Client.
14. The Client reserves the right to cancel this Agreement without obligation upon written notice to the Group Leader prior to October 16, 2023. In the event of said cancellation, the Group Leader will promptly return the Deposit to the Client. Cancellation by the Client for any reason later than October 16, 2023 will result in forfeit of the Deposit. Cancellation by the Client later than October 16, 2023 will also require payment of any outstanding balance of the full Fee.

### **Non-performance by the Client**

15. Those obligations of the Client required to be met prior to the Performance are conditions precedent which must be satisfied in full by the Client before the Performer is required to perform unless otherwise agreed to by all parties in writing. If the Client cancels or postpones the Performance, or any show comprising the Performance, without proper notice or fails to make any payment or fails to perform any other condition precedent as required by this Agreement then the Client will be in breach of this Agreement and the Group Leader will have no further obligations under this Agreement. The Client will forfeit any Deposit already paid to the Group Leader.

### **Sound and Lighting Systems**

16. The Performer will use the sound and light systems provided by the Client. The Client will provide and compensate personnel to operate as lighting technician and sound engineer as required. The Performer will designate a representative who will have sole authority in mixing and controlling all sound equipment during the Performance and during each rehearsal. Notwithstanding the above, the adjustment of the volume and sound level of any equipment will be at the sole discretion of the Client.

### **Security Deposit**

17. The Group Leader will not be required to post a security deposit against any or all possible damage related to or arising from the Performance.

### **Force Majeure**

18. Neither the Group Leader nor the Client will be held liable for any failure to perform their respective obligations under this Agreement where such breach is due to any of the following: acts or regulations of public authorities, labor difficulties or strike, inclement weather, epidemic, interruption or delay of transportation service, acts of God, or any other legitimate cause beyond the reasonable control of the Group Leader and the Client.

### **Sickness and Accidents**

19. The Group Leader agrees to meet its obligations under this Agreement subject to legitimate incapacity of the Performer caused by sickness or accident. Failure to meet its obligations under this section will result in the Group Leader returning any and all outstanding deposits to the Client.

### **No Recording of the Performance**

20. Recording or transmitting of the Performance by anyone through any means whatsoever will not be allowed under this Agreement. It is the responsibility of the Client to enforce this provision.

### **Advertising**

21. The Client will be responsible for all promotion of the Performance. The Client agrees to use its best efforts to promote the Performance through appropriate media. The Group Leader will not be permitted to promote the Performance in any way without the consent of the Client and will not be allowed to advertise or promote the Performance through any means that is prohibited by relevant statute or that could be construed as offensive.
22. The Group Leader agrees that the Client may use the Performer's name, photographs, and other likenesses to promote the Performance. The Group Leader will provide the Client with copies of the Performer's promotional materials suitable for this purpose. The Client's right to use the Performer's name is limited to the period beginning with the Execution Date and ending upon completion of the Performance or upon cancellation of this Agreement.

### **Merchandising**

23. The Group Leader may offer records, CDs, t-shirts, and other such items for sale at the Performance. The Client will provide a suitable area with reasonable visibility and accessibility to facilitate merchandising.

### **Exclusivity**

24. The Performer will perform exclusively for the Client throughout the actual period of services of this Agreement unless otherwise provided by the Client in writing. The Group Leader warrants that the Performer is not under any contract to a third party, and nor will the Performer enter into any such contract, which would preclude the Performer from fulfilling the obligations of this Agreement.

### **Indemnification**

25. The Performer is responsible only for its own conduct. The Performer will be compensated by the Client for any and all damage done to the Performer's equipment by the Client, its agents or guests. The Client indemnifies and holds the Performer harmless for any and all property damage or personal injury that results from or is related to the Performance that is not directly caused by the Performer.

26. The Client warrants and represents that it has, or will obtain, sufficient personal injury and property damage liability insurance with respect to the activities of the Client, its employees, agents or guests in relation to the Performance.

**Permits**

27. The Client warrants and represents that it has obtained any and all permits, approvals, licenses and variances necessary for the Performance.

**Security**

28. The Client will take reasonable precautions for the safety of the Performer and the Performer's equipment during all aspects of the Performance and at all times while the Performer and the Performer's equipment is on the Venue premises. The Client is also responsible for ensuring that only the Performer and its designated technicians and representatives are allowed on stage or in the backstage area.

**Picket Lines**

29. The Performer will not be required to cross a picket line established by a labor organization at the Venue nor will the Performer be disciplined, or this Agreement be considered or deemed breached by the Performer, by reason of the Performer's refusal to cross such picket line.

**Governing Law**

30. This Agreement will be governed by, and construed in accordance with, the laws of the State of Ohio. The Client and the Group Leader each submit to the jurisdiction of the courts of the State of Ohio for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement.

**Mediation and Arbitration**

31. If a dispute will arise under the terms of this Agreement, the party claiming the dispute will have \_\_\_\_ days to notify the other party. The party not claiming the dispute will have \_\_\_\_ days to remedy the dispute. In the event that the dispute is not remedied within this time period, then any party at its option will have 10 days to submit the dispute to mediation in accordance with any statutory rules of mediation. If mediation is not successful in resolving the entire dispute, any outstanding issues will be submitted to final and binding arbitration in accordance with the statutory rules of that program. If such services are not available, the dispute will be submitted to arbitration in accordance with the laws of the State of Ohio. The arbitrator's award will be final, and judgment may be entered upon it by any court having jurisdiction within the State of Ohio.

### **Covenant of Good Faith and Fair Dealing**

32. The Client and the Group Leader agree to perform their obligations under this Agreement, in all respects, in good faith.

### **Miscellaneous Terms**

33. Time is of the essence in this Agreement.
34. This Agreement may be executed in counterpart. Facsimile signatures are binding and are considered to be original signatures.
35. No part of the Performance may consist of acts in violation of any local laws, codes, statutes, ordinances, regulations, rules or any other requirements including building and fire regulations. If the Group Leader violates this section, the Client may immediately cancel the Performance and this Agreement.
36. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.
37. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.
38. This Agreement contains the entire agreement between the parties and cannot be changed except by written instrument subsequently executed by the parties to this Agreement. All negotiations and understandings have been included in this Agreement. Statements or representations which may have been made to the Client by the Group Leader, or to the Group Leader by the Client, in the negotiation stages of this Agreement may in some way be inconsistent with this final written contract. All such statements are declared to be of no value in this Agreement. Only the written terms of this Agreement will bind the parties.
39. This Agreement and the terms and conditions contained in this Agreement apply to and are binding upon the Group Leader's successors, assigns, executors, administrators, beneficiaries, and representatives, and the Client's successors and assigns.

40. The Group Leader specifically warrants and represents that all copyrighted material to be performed has been licensed or authorized by the copyright owners or their representatives. The Group Leader indemnifies the Client for any copyright infringement and any expenses that may result from such copyright infringement during or as the result of the Performance.
41. The Client will be responsible for providing suitable power and electricity for the Performance.
42. It is the intent of the parties to this Agreement that the Group Leader is an independent contractor and will control the manner and means of the Performance. The Client will control the scheduling of the Performance. The Group Leader is not an employee of the Client. The exclusive nature of this Agreement is limited to the duration of the Performance and it is expected that the Group Leader will enter other similar agreements with other clients.
43. Any notices or delivery required here will be deemed completed when hand-delivered, delivered by agent, or seven days after being placed in the mail, postage prepaid, to the parties at the respective addresses contained in this Agreement or as the parties may later designate in writing.

**IN WITNESS WHEREOF** the Client and Group Leader have duly affixed their signatures under hand and seal on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

per: \_\_\_\_\_ (seal)

\_\_\_\_\_

Group Leader: Mitch Rydzewski