

## Facility Rental Agreement

This Agreement, 171019MS, made October 3, 2017 between the University of Florida Board of Trustees for the benefit of University of Florida Performing Arts (UFPA) (hereinafter UNIVERSITY) and National Policy Institute (hereinafter PRESENTER).

### 1. Event

Presenter agrees to present *Speaking Engagement - Richard Spencer* (hereinafter EVENT) at the University of Florida's Curtis M. Phillips M.D. Center for the Performing Arts Main Stage (hereinafter VENUE) according to the terms of the Schedule of Use stated in the Addendum. As used herein "Schedule of Use" shall mean the period of time from beginning of set-up through clean-up and restoration of the Venue being used by Presenter to its original condition.

### 2. Venue

The Venue will be provided in appropriate condition within the agreed Schedule of Use as stated in the Addendum. Presenter accepts the Venue's condition as satisfactory in the absence of written communication to the contrary from the Presenter prior to the Event. Presenter agrees to return the Venue to the UFPA in the same condition as existing prior to the Event. Should any repair of damages or additional cleaning be necessary to restore the Venue to its original condition, those verifiable and documentable expenses shall be paid by Presenter within sixty (60) days following the completion of the Event.

### 3. Consideration

- 3.1. *Rent*: As used herein, "Base Rent" shall mean the amount due to University in consideration for the use and occupancy of the Venue and the performance by University of all its obligations hereunder. Presenter agrees to pay to University Base Rent in the amount stated in the Addendum, plus any additional rent due if the actual time for the Event exceeds the Schedule of Use set forth in the Addendum. Venue time that is scheduled but not used will not be discounted from the rent due.
- 3.2. *Staffing Costs and Other Expenses*: University shall provide all necessary staffing and support, and Presenter will pay the cost of same, at the UFPA rates in force at the time of the Event. University retains the right to determine necessary staffing for the Event. Presenter is responsible for any and all other costs associated with matters and items desired or required by Presenter in connection the Event.
- 3.3. *"Gross Receipts"*: "Gross Receipts" as used herein shall mean all proceeds from the sale of tickets for the Event, after deducting all applicable taxes. "Gross Receipts" shall not include the price of administrative parking fees, ticket service charges, complimentary tickets, or tickets exchanged for any Event-related services.

#### 4. Deposit

Presenter shall pay to University a deposit as stated in the Addendum. The deposit shall be made payable to the University of Florida and shall be in the form of certified check or University of Florida Inter-Departmental Encumbrance. The portion of the Deposit equal to the estimated facility rent for the Event (amount stated in the Addendum) shall be non-refundable except in the case of provisions detailed in the Cancellation Clause, Paragraph 19 of this Agreement. The deposit paid shall be credited to and deducted from the money due to the University pursuant to the provisions of Paragraphs 3.1 and 3.2.

#### 5. Consideration with Other Users

The University may permit use by others of areas of the Venue not subject to this Agreement, and Presenter shall cooperate in good faith with Venue management and others using the other areas of the Venue in order to accommodate their reasonable use.

#### 6. Control of Venue

University shall control and manage Venue and enforce all necessary rules for its management and operation, without interference by Presenter. UFPA's Director and other UFPA employees shall have free access at all times to all spaces occupied by Presenter, for the purposes stated herein.

#### 7. Insurance

- 7.1. Presenter shall maintain in force a Comprehensive General Liability Insurance policy through an insurance provider licensed to do business in the State of Florida, which policy shall meet or exceed a minimum combined single limit of \$5,000,000.00 per occurrence. Presenter shall maintain and pay for Worker's Compensation Insurance in accordance with Florida law. Presenter shall ensure delivery of a Certificate of Liability Insurance to University by Presenter's insurance provider no later than fifteen (15) days prior to Presenter's first day of use, which certificate shall name the following as additional insureds: **State of Florida, Florida Board of Governors, and University of Florida Board of Trustees**. The insurance shall cover all of Presenter's operations under this Agreement and shall be effective throughout Presenter's use of Venue. Each insurance policy shall contain a valid provision that the policy shall not be canceled, terminated or modified without written notification within fourteen (14) days to certificate holders.
- 7.2. In the event that any of these conditions for liability insurance are not met, University may at its sole discretion and without liability for damages terminate this Agreement.

## 8. Property Damage

If any portion of the University, or Venue or its equipment is damaged by any act, omission, default or negligence of Presenter, its agents, subcontractors, employees, volunteers, patrons, guests, invitees or any other person admitted to Venue by or for the benefit of Presenter, Presenter shall pay to University upon demand a sum equal to the cost of repairing the damages and restoring Venue to the condition existing at the beginning of Presenter's use. Presenter shall not injure, mar or in any manner deface Venue, its facilities or any equipment contained herein, nor make alterations to the Venue or its facilities without the written consent of UFPA's Director.

## 9. Personal Property

- 9.1. University shall not be responsible for any loss or damage to personal property placed in or about Venue belonging to Presenter, its agents, subcontractors, employees, volunteers, patrons, guests or invitees, and Presenter shall hold University harmless from all claims arising out of loss or damage to such property.
- 9.2. Presenter shall remove from Venue, immediately upon completion of the Event, all property brought into Venue by Presenter. University shall have the right to remove, store or dispose of any property left by Presenter at Presenter's expense. University shall not be responsible for any damage or loss to said property regardless of how and where such damage or loss shall occur or by whom caused.

## 10. Signs

Presenter shall not install signs, posters or advertisements of any kind in or about the Venue without the written consent of UFPA's Director or designated representative.

## 11. Concessions and Merchandise Sales

- 11.1. University reserves the rights to all sales of concessions and merchandise in or about the Venue. Concessions sales shall be controlled by Aramark – Classic Fare Catering.
- 11.2. Merchandise may be sold by a representative of the performing artist or group using the Venue, designated by Presenter, with the approval of UFPA's Director or designated representative. As stated in the Addendum, the University shall retain a percentage of the net sales after tax. UFPA shall collect and remit taxes on merchandise sales.
- 11.3. All insurance and liability covenants in this Agreement apply to the merchandiser as well as Presenter.

## 12. Contracts with Performers

Presenter attests that it has and will maintain in force throughout the Event, a valid, fully executed contract with any performers whose services form any part of the Event.

## 13. Copyrights and Royalties

Presenter shall assume all costs arising from the use of patented, licensed, trademarked, franchised or copyrighted music, materials, devices, processes or dramatic rights that may be incurred as a result of any performances presented during the Event. Presenter agrees to indemnify, defend and hold harmless the State of Florida, Florida Board of Governors, and University of Florida Board of Trustees from any claims or costs, including legal fees, which might arise from the use or claimed use of such material.

## 14. Motion Picture, Television, Internet, and Radio Rights

Presenter shall have the right to negotiate and enter into agreements for the granting of motion picture, television, internet, radio or other media rights in connection with the Event under the terms of this Agreement, provided that any and all revenue from said motion picture, television, internet, radio or other media rights so granted shall be included and documented in the Gross Receipts for the Event in the same manner as the receipts from ticket sales, and University shall be entitled to an additional payment in an amount to be determined as set forth in paragraph 3.

## 15. Observance of Law

15.1. Presenter agrees to obey with respect to its use of the Venue all applicable laws of the State of Florida, all applicable ordinances and rules of the County of Alachua and City of Gainesville, and all rules and regulations adopted by University for the governing, management and regulation of the Venue, and to require the same from its agents, subcontractors, employees, volunteers, patrons, guests and invitees for whose conduct it is responsible or over whom it exercises or has authority to exercise control.

15.2. No pyrotechnics, fire effects, incendiary devices or open flame of any kind will be permitted without prior written consent by UFPA's Director. Any and all such use will require, at Presenter's expense, a licensed pyrotechnician on site to oversee any and all uses pertaining to this clause. Any suggestion by Presenter, its agents, subcontractors, employees or volunteers that anyone involved in the Event, including the audience, light any combustible material under any circumstances shall constitute breach of this Agreement.

## 16. Advertising and Promotion

Presenter shall not advertise or promote the Event until UFPA has received both the deposit as specified in Paragraph 4 and a fully executed copy of this Agreement. **All media**

**advertising must be approved in writing by the UFPA Marketing Director before its appearance to the general public.** Presenter agrees that all advertising for the Event will be accurate and will include precise information regarding start times, ticket prices and service charges. Presenter shall coordinate with UFPA regarding show times, ticket prices, and advertising schedule. Presenter shall have the right to engage in special promotions only as provided herein. Presenter agrees to include in all advertisement and promotion for the Event the following statement: "Tickets are available at the Phillips Center for the Performing Arts Box Office, (352) 392-ARTS and (800) 905-ARTS, and on-line at [www.performingarts.ufl.edu](http://www.performingarts.ufl.edu)."

## 17. Tickets

- 17.1. *Printing:* University shall provide printed tickets for the Event in the amount requested by the Presenter, but not to exceed the seating capacity of the Venue. The price of the ticket shall be printed on the ticket. Where admission to the Event is free, Presenter agrees to pay printing fees for required tickets provided to Presenter by UFPA, as stated in the Facility Cost Estimate.
- 17.2. *Sales:* All ticket sales shall be under University's control. Tickets shall not be distributed or sold until this Agreement has been fully executed and Presenter's deposit has been received by University. University shall at all times maintain control and direction of the ticket office, ticket personnel, and ticket sales revenue until final settlement with Presenter. Presenter agrees to use the University box offices and [www.performingarts.ufl.edu](http://www.performingarts.ufl.edu) for the sale of tickets. Presenter further agrees that all tickets will be put on sale at the Phillips Center for the Performing Arts Box Office and [www.performingarts.ufl.edu](http://www.performingarts.ufl.edu) at the same time.
- 17.3. *Ticket Price:* All tickets for the Event shall be sold at the purchase cost printed on the ticket plus applicable service charges, as stated in the *Event Set-Up and Ticketing Information Form*. The purchase cost printed on the ticket shall include the agreed ticket price, applicable sales taxes, and an administrative and parking fee. Any deviations must be approved in writing by both University and Presenter.
- 17.4. *Taxes:* As stated in the *Event Set-Up and Ticketing Information Form*, the purchase cost printed on all tickets sold at any University box office shall include applicable sales taxes, and said taxes will be deducted and paid by University on behalf of Presenter. Presenter shall provide to University, if applicable, documentation of Presenter's tax exempt status at execution of this Agreement.
- 17.5. *Administrative and Parking Fee:* As stated in the *Event Set-Up and Ticketing Information Form*, a \$2.00 per ticket administrative and parking fee is included in ticket prices exceeding \$7.00, and said fee shall be retained by University at the time of settlement.
- 17.6. *Service Charges:* As stated in the *Event Set-Up and Ticketing Information Form*, a service charge based on the ticket price shall be added to the purchase price

of tickets purchased at any University of Florida box office, and shall be retained by UFPA at time of settlement. Tickets priced \$5.00 or less shall have a service charge of \$1.00 per ticket added to the ticket price. Tickets priced above \$5.00 shall have a service charge of \$2.00 per ticket added to the ticket price. All tickets sold online are subject to applicable service charges.

- 17.7. *Revenue:* Ticket revenues shall be deposited in a UFPA – University of Florida account. University shall collect all revenue from the sale of all tickets sold through its box office and its regular area ticket outlets, and maintain regular books and records pertaining to each performance of the Event including a true and accurate account of all monies collected.
- 17.8. *Box Office Set-Up Fee:* As stated in the *Facility Cost Estimate*, where admission is charged for the Event, a box office set-up fee will be charged to Presenter and will be deducted from the amount due Presenter at the time of settlement.
- 17.9. *Settlement:* At the conclusion of the Event, a final settlement showing the number of tickets sold, gross amount of money received, total amount deducted for any taxes, total number of complimentary tickets, and any other charges which may be deducted from gross revenue pursuant to this Agreement, shall be delivered to Presenter by UFPA. The final settlement of the ticket sales shall be based on the number of tickets remaining and available for inspection as unsold at the close of all sales. Presenter's designated representative shall have the right to inspect the ticket office records specific to the Event, with respect to admission receipts. All revenue due Presenter shall be paid by University check within ten (10) business days following the completion of the Event.
- 17.10. *Free Events:* Where admission to the Event is free, tickets will be issued to regulate and report the number of people admitted to Venue. These tickets shall be procured through the UFPA Box Office and shall be collected by Venue ticket takers upon admission to the Event. Presenter shall arrange for distribution of free tickets through written agreement with UFPA, at Presenter's cost.
- 17.11. *Complimentary Tickets:* Complimentary tickets shall be limited to an amount consistent with good business practice. Presenter shall pay UFPA a fee for all complimentary tickets printed. UFPA reserves the right to use up to twenty (20) complimentary tickets per performance for the Event when deemed appropriate and in the best interest of Venue. UFPA shall maintain accurate records as to the distribution of UFPA complimentary tickets.
- 17.12. *Refund of Admissions:* If for any reason the Event is canceled prior to its start, UFPA shall have the right to refund the purchase price to ticket buyers (less any service charge owed for any ticket processing whether through University box offices or online), out of the proceeds either in the exclusive possession of UFPA or held

jointly by UFPA and Presenter. Presenter and University, equally, shall bear the cost of any refund, including but not limited to box office charges.

### **18. All-Inclusive Policy**

Presenter shall not prohibit attendance of the Event by any person in violation of any applicable laws, regulations, rules and policies, including those of University. In the event use of proceeds from ticket sales to any person is restricted by law, Presenter shall provide written notice of such restricted use to the Director of UFPA prior to signing this Agreement and tickets going on sale. University reserves the right to terminate this Agreement with written notice to Presenter within three days of receipt of the written notice of restricted use. If University does not exercise its right to cancel the Event, sales of such tickets shall be made in a manner which enables the restricted proceeds to be disbursed to a charitable organization mutually agreed upon by Presenter and University so that those ticket proceeds will not be in violation of law.

### **19. Cancellation**

- 19.1. *Public Safety*: University retains the right to cancel or interrupt the Event or portion thereof when in the sole judgment of UFPA's Director or Director's authorized representative, such act is necessary in the interest of public safety. Should it become necessary, in the judgment of UFPA's Director or Director's authorized representative, to evacuate the Venue for reasons of public safety, Presenter shall retain possession of Venue for sufficient time to complete the Event without additional rental charges, providing such time does not interfere with another previously scheduled use of the Venue, and Presenter hereby waives any claim for damages or compensation due to such occurrence.
- 19.2. *"Act of God"*: Neither party shall be liable to the other party for the failure to perform any of the terms and conditions of the Agreement when such failure to perform is attributable to and caused by an "Act of God", including but not limited to circumstances limiting the ability of the performers or other personnel to travel, war, terrorism, strikes, riots, civil disorder, sabotage, power failure, injunction, fire and severe weather
- 19.3. *Purpose*: The Venue is to be used only for the purposes stated herein, and any misrepresentation in obtaining this Agreement, or use of the premises for other purposes shall be sufficient grounds for immediate cancellation of the Event by UFPA, without liability to UFPA, without obligation of UFPA to refund any portion of the deposit to Presenter, and without any loss of any right or claim of UFPA against Presenter.

## 20. Right to Withhold Funds

Presenter authorizes University to withhold from any funds that may be due Presenter at time of settlement, such sums as may be due University pursuant to this Agreement, including an amount to cover damages for which Presenter may be liable.

## 21. Assignment, Waiver and Oral Representation

- 21.1. *Assignment:* Neither party to this Agreement shall assign this Agreement or any of its rights or obligations without the prior written consent of the other party.
- 21.2. *Waiver:* Waiver of one or more terms or conditions of this Agreement shall not be deemed a waiver of any other provisions of this Agreement. No assent by either party to any breach of any of the covenants or agreements contained in this Agreement shall be deemed to be a waiver of any later breach of the same or any other covenant or agreement. The delay or failure of either party to assert or exercise any right, remedy, privilege hereunder shall not constitute a waiver of that or any other such right, remedy or privilege. No waiver shall be effective unless in writing.
- 21.3. *Oral Representation:* No representation, warranty, condition or agreement of any kind or nature whatsoever shall be binding upon the parties hereto unless incorporated in writing into this Agreement. This Agreement contains all the terms and conditions agreed by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this document shall be deemed to exist or to bind any of the parties hereto.

## 22. Indemnification

Presenter shall protect, maintain, save and hold harmless the State of Florida, Florida Board of Governors, University of Florida Board of Trustees, their officers, agents and employees from and against any and all claims, demands, expenses and liabilities arising out of injury or death to any person, or the damage, loss or destruction of any property which may occur in or about Venue (including any portion thereof which Presenter has not been given the right to occupy or use under this Agreement), which may arise or in any way grow out of any act or omission of Presenter, its agents, subcontractors, employees, volunteers, patrons, guests, or invitees' use and occupancy of Venue.

## 23. Tobacco-Free Campus

The use of cigarettes or other tobacco products on the University of Florida campus, including in parking lots and vehicles, is prohibited and in violation of UF policy.

## 24. Applicable Law

The construction and interpretation of this Agreement shall be pursuant to the laws of the State of Florida.



**25. Breach of Contract**

Breach of one or more clauses in this Agreement by Presenter shall constitute forfeiture of Presenter's deposit, and may result in cancellation of the Event, and jeopardize future use of facilities under the auspices of University of Florida Performing Arts.

**26. Captions**

The captions at the beginning of each paragraph of this Agreement are inserted as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement, nor the content of any provision contained herein.

**27. Agreement**

26.1. The following are included and integral parts of this Agreement:

- a) Addendum to Facility Rental Agreement;
- b) Facility Cost Estimate;
- c) Event Set-Up and Ticketing Info. Form;
- d) Facility Policy and Procedures Manual.

26.2. This Agreement includes all terms and conditions agreed upon by the parties and no oral commitments or representation shall be valid or binding upon the parties. This Agreement may not be modified in any manner except by written modifications signed by both parties.

26.3. Signator for Presenter warrants that he/she has full legal authority to act and contract on behalf of the Presenter and all Event participants.

**FOR PRESENTER**

Executed this third day of October, 2017

By /s/ Evan Ramsey McLaren  
Presenter Federal Employer ID Number \_\_\_\_\_

**FOR UNIVERSITY OF FLORIDA BOARD OF TRUSTEES**

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

By \_\_\_\_\_  
Brian Jose, Director  
University of Florida Performing Arts