

## **Summary of Changes to North Carolina Symphony's Guest Artist Contract**

2. **COMPENSATION**. ...within seven (7) days following the final performance. *Specifies when an artist will actually be compensated for services rendered.*

9. **MISUSE OF ENGAGEMENT\***. The Symphony is unique among American orchestras in its public role and public support. It draws its strength from the diverse range of people who support it. As the leading performing arts organization in our state and out of respect for the diverse points of view held by our patrons, musicians, employees and supporters, our policy is that those who are invited to our stage use it only for the artistic purpose for which it is intended as described in Paragraph 1 and that other forms of communication should be appropriately addressed outside of the Symphony stage.

*It is understood that if an artist is in breach of contract, said artist will not be paid.*

10. **LIABILITY**. The Symphony shall not be liable for any damages or injuries of the Artist(s), their performers, contractors or their equipment, while rehearsing or performing with the Symphony, and Artist hereby releases Symphony, its Board of Trustees, Officers, Staff, Employees, Representatives and Agents from all form and manner of risks inherent or relating to such activities, and agrees to waive all claims and demands of any nature arising from said performance or related activities, except for those losses or claims arising from the sole or willful negligence of the Symphony. *Specifies liability.*

13. **CHANGE OF DATE OR CANCELLATION**. Artist shall be responsible for Symphony's out-of-pocket expenses up to \_\_\_\_\_. *The amount is left blank as out-of-pocket expenses can vary depending on the performer.*

\*New Addition

# Updated Guest Artist Contract

# NORTH CAROLINA **SYMPHONY**

## ARTIST

### AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ **DATE** , by and between **NORTH CAROLINA SYMPHONY SOCIETY, INC.** (hereinafter referred to as “Symphony”) and \_\_\_\_\_ **MANAGEMENT (c/o Contact)** (hereinafter referred to as “Agent”), **ADDRESS**.

#### 1. ENGAGEMENT.

Symphony hereby engages professional services of \_\_\_\_\_ **Artist** (hereinafter referred to as “Artist”) as \_\_\_\_\_ **Role** with the North Carolina Symphony as follows:

#### Performances:

Date

Time

Location

#### Rehearsals:

Date

Time

Location

#### Possible Open Rehearsal(s):

It is agreed that Open Rehearsals may be held on any of the above-mentioned dates. Artist will receive confirmation of Open Rehearsal dates fifteen (15) days prior to first rehearsal.

#### Conductor:

#### Repertoire:

#### 2. COMPENSATION.

(a) It is agreed that as full compensation for the Engagement of Artist as above set forth, Symphony will remit to \_\_\_\_\_ **Agent, the Designated Payee**, within seven (7) days **following the final performance** (assuming the fully executed Agreement and a W9 or other required tax documentation), the Compensation described in Exhibit A hereto. By

executing this Agreement, Artist authorizes Symphony to transmit the Compensation to the Designated Payee.

(b) All compensation payable to any nonresident of North Carolina shall be subject to state withholding at the rate of 4% (or the current rate) as required by the State of North Carolina. The Artist or the Designated Payee must provide Symphony with a completed Form W9 at the time that the payee returns the fully executed Agreement to Symphony.

(c) All compensation payable to any nonresident aliens (i.e. aliens not holding a U.S. green card) and their U.S. agent or foreign entities shall be subject to federal withholding at the rate of 30% (or the current rate) as required by the Internal Revenue Service. The Artist or the Designated Payee must provide Symphony with the appropriate valid tax forms at the time that the Payee returns the fully executed contract to Symphony. Non-resident aliens must submit form W8BEN. Non-resident foreign entities (such as foreign management agencies) must submit form W8IMY.

(d) The Artist or Designated Payee will be issued a Form 1099 or 1042 as mandated by the IRS reflecting the actual gross amount paid to that payee and any non –resident withholdings as required by the state of North Carolina (4% or current rate) and the IRS (30% or current rate).

3. **PIANO.** Where necessary for the performance, Symphony shall furnish for Artist's use its Steinway concert grand piano (New York Model D) tuned to A=440. If Artist elects to use another instrument, Artist does so at his or her own expense.

4. **ARTIST FURNISHED MUSIC.** Artist is solely liable for any and all claims made or damages incurred as a result of disputes arising from Artist's unauthorized use of music and related copyrighted materials that Artist has furnished or chosen to use. Artist agrees to indemnify Symphony for any claims, damages, or other harm that may arise from Artist's use of such music or copyrighted material, including payment of Symphony's attorneys' fees and costs.

5. **RENTAL MUSIC.** Use of rental music shall be mutually agreed upon between Artist and Symphony. Rental fees shall be negotiated between Artist and Symphony. Symphony shall not be liable to Artist for music rental fees, unless mutually agreed upon between Artist and Symphony in writing prior to concert.

6. **CHOIR LOFT.** Except in programs involving a chorus or multi-media, choir loft seating in Meymandi Concert Hall (above and behind the stage) will be sold as part of Symphony's regular ticket inventory.

7. **ARTIST INFORMATION.** Artist agrees to furnish professional-quality photographs, biographical materials necessary for the adequate promotion of these concerts in electronic form and in printed form in reasonable quantities as specified by Symphony. Symphony shall have the right to use and to license others to use these materials for the aforementioned purposes without compensation or restriction.

8. **MEDIA**. Local media may attend rehearsals and/or concerts for news/promotional purposes only. Orchestra union contract guidelines prohibit electronic news media from taping a complete song or movement and allow for up to forty (40) minutes of rough footage to be taken and a maximum of fifteen (15) minutes to be used as outlined by the Symphony, Opera and Ballet Integrated Media Agreement. Artist acknowledges these guidelines and agrees to abide by them. Any Artist requirements regarding media coverage of concerts and/or rehearsals must be discussed with and approved by the Symphony.

9. **MISUSE OF ENGAGEMENT**. The Symphony is unique among American orchestras in its public role and public support. It draws its strength from the diverse range of people who support it. As the leading performing arts organization in our state and out of respect for the diverse points of view held by our patrons, musicians, employees and supporters, our policy is that those who are invited to our stage use it only for the artistic purpose for which it is intended as described in Paragraph 1 and that other forms of communication should be appropriately addressed outside of the Symphony stage.

10. **LIABILITY**. The Symphony shall not be liable for any damages or injuries of the Artist(s), their performers, contractors or their equipment, while rehearsing or performing with the Symphony, and Artist hereby releases Symphony, its Board of Trustees, Officers, Staff, Employees, Representatives and Agents from all form and manner of risks inherent or relating to such activities, and agrees to waive all claims and demands of any nature arising from said performance or related activities, except for those losses or claims arising from the sole or willful negligence of the Symphony.

11. **EXCLUSIVITY**. Artist agrees that appearance at these concerts on the dates specified shall preclude appearances or announcement of future appearances by Artist within a one-hundred (100) mile radius of Meymandi Concert Hall for the period of time from twelve (12) months prior to or after the Engagement, unless prior written consent of Symphony has been obtained. In the event of any such unauthorized performance or announcement, this contract may be cancelled at the election of Symphony and all expenses incurred by Symphony will be reimbursed by Artist.

12. **FORCE MAJEURE**. In the event performance by either party of any of such party's obligations is prevented by an act of God, physical disability, acts or regulations of public authorities, labor difficulties, strike, lock-out, civic tumult, war, epidemic, interruption or delay of transportation service, or any other cause beyond their control, all obligations hereunder of each party shall terminate forthwith without recourse to either party.

13. **CHANGE OF DATE OR CANCELLATION**: In the event of a change of date or cancellation by the Artist after Symphony's promotion for the Engagement has begun for any reason other than those stated in paragraph 11, Artist shall be responsible for Symphony's out-of-pocket expenses up to \_\_\_\_\_. All such expenses shall be determined solely by Symphony and will be presented to Artist, with substantiation, within thirty (30) days following the cancellation date(s) of the Artist's performance, and Artist shall reimburse Symphony, by check made payable to North Carolina Symphony Society within ten (10)

days following receipt of such statement. If Artist has received a deposit or compensation in any form, the deposit and compensation must be returned to the Symphony by certified check payable to the Symphony within six (6) days of announced cancellation.

14. **SOLE OBLIGATION OF SYMPHONY.** Nothing in this Agreement shall require Symphony to use the services of Artist or to afford Artist an opportunity to perform at the concert(s) specified herein, or otherwise, and Symphony shall have fulfilled its entire obligation to Artist hereunder by paying Artist the compensation required under this Agreement.

15. **INDEPENDENT CONTRACTOR.** By this Agreement, it is understood that Artist has agreed for the purposes of this engagement to perform as an independent contractor, not as an employee of Symphony. Artist assumes full responsibility for appropriate payment of all applicable federal and state taxes as an independent contractor, including but not limited to all payroll taxes and charges under applicable federal and local law.

16. **MERCHANDISE SALES.** All merchandise sales are under the jurisdiction of the Duke Energy Center for the Performing Arts and are strictly prohibited without prior arrangement. Arrangements may be made through:

Nathan Lowery  
Beverage Manager  
Centerplate at RCC & DEPAC  
500 S. Salisbury St.  
Raleigh, NC 27601  
(O) 919-996-8677  
(C) 919-830-5713  
Nathan.lowery@centerplate.com

17. **TICKETS.** Symphony will provide Artist with up to six (6) complimentary tickets per performance. Artist agrees to notify Symphony no later than forty-eight (48) hours prior to each performance if Artist does not wish to use the allotted complimentary tickets. The location of the complimentary tickets shall be determined by Symphony's Box Office Manager.

18. **STUDY TAPES.** It is agreed that study tapes may be made of rehearsals and performances for the purpose of study by the North Carolina Symphony musicians and Artists only. All other recording is prohibited, except as noted on Paragraph 18 below, or as mutually agreed for broadcast.

19. **BROADCAST TAPES.** All concerts may be taped for use by Symphony to be transcribed for later broadcast statewide on a listener-supported radio station. Such broadcast may be replayed 3 times within 2 years of the original. Artist may confer with the Music Director as to content of the tape.

20. **NO RECORDING.** In accordance with the National American Federation of Musicians Phonograph Record Labor Agreement, Artist may not record rehearsal(s) or performance(s).

21. **ENTIRE AGREEMENT.** This Agreement embraces the entire understanding between the parties with respect to the rights and obligations contemplated herein and supersedes all prior understanding, written or oral, with respect thereto. This Agreement may not be altered or modified, except by an instrument in writing executed by Agent and Symphony.

22. **USAGE OF TRADE.** To the extent practicable, this contract is limited by and shall be interpreted in a manner consistent with other contracts between Symphony, performance hall, unions and vendors as related to the performance and the venue.

23. **ARBITRATION.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration before a single arbitrator and administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules then in effect. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

24. **NO ASSIGNMENT.** This Agreement is not assignable by either party without the written consent of the other nor may any substitution for Artist be made without the written consent of Symphony.

25. **NORTH CAROLINA LAW.** This entire Agreement shall be construed, governed and interpreted according to the laws of the State of North Carolina, except for its choice of law principles.

IN WITNESS WHEREOF, each party has hereunto set its hand the day and year first above written.

**NORTH CAROLINA SYMPHONY  
SOCIETY INC.**

**MANAGEMENT**

By: \_\_\_\_\_  
**Martin Sher, Vice President  
and General Manager**

By: \_\_\_\_\_  
**Contact for Artist**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Exhibit A  
Compensation

Artist shall be entitled to the following:

- (1) the sum of \_\_\_\_\_
- (2) one (1) round-trip domestic coach airfare in the amount of \_\_\_\_\_
- (3) hotel accommodations for one (1) for the duration of the engagement
- (4) the sum of \_\_\_\_\_ for local ground transportation.



# Original Guest Artist Contract

# NORTH CAROLINA **SYMPHONY**

## ARTIST

### AGREEMENT

AGREEMENT, made and entered into this tenth day of June 2015 by and between **NORTH CAROLINA SYMPHONY SOCIETY, INC.** (hereinafter referred to as "Symphony") and **AGENT NAME** (hereinafter referred to as "Agent"), 7 West 54<sup>th</sup> Street, New York, New York 10019.

1. Symphony hereby engages professional services of **ARTIST NAME** (hereinafter referred to as "Artist") as Pianist with the North Carolina Symphony on the following dates:

#### Performances:

<u>Date</u>	<u>Time</u>	<u>Location</u>
Thursday, September 24, 2015	7:30 pm	Memorial Hall, Chapel Hill, NC
Friday, September 25, 2015	8:00 pm	Meymandi Concert Hall, Raleigh, NC
Saturday, September 26, 2015	8:00 pm	Meymandi Concert Hall, Raleigh, NC

#### Rehearsals:

<u>Date</u>	<u>Time</u>	<u>Location</u>
Wednesday, September 23, 2015	2:00 pm – 4:00 pm	Meymandi Concert Hall, Raleigh, NC
Thursday, September 24, 2015	10:30 am – 1:00 pm	Meymandi Concert Hall, Raleigh, NC

#### Possible Open Rehearsal(s):

It is agreed that Open Rehearsals may be held on any of the above-mentioned dates. Artist will receive confirmation of Open Rehearsal dates fifteen (15) days prior to first rehearsal.

**Conductor:** Grant Llewellyn, Music Director

#### Repertoire:

2. It is agreed that as full compensation for the services of Artist as above set forth, Symphony will remit to Agent within seven (7) days of the engagement the sum of **FEE, plus one (1) round-trip, domestic, first class airfare, plus hotel for one (1) for the duration of the engagement, plus all local ground transportation, plus specifications in attached riders.**

3. a) All compensation set forth in paragraph 2 payable to any nonresident of North Carolina shall be subject to state withholding at the rate of 4% (or the current rate) as required by the State of North Carolina. The payee must provide Symphony with a completed form w9 at the time that the payee returns the fully executed contract to Symphony.

b) All compensation set forth in paragraph 2 payable to any nonresident aliens (i.e. aliens not holding a U.S. green card) and their U.S. agent or foreign entities shall be subject to federal withholding at the rate of 30% (or the current rate) as required by the Internal Revenue Service. The payee must provide Symphony with the appropriate valid tax forms at the time that the payee returns the fully executed contract to Symphony. Non-resident aliens must submit form W8BEN. Non-resident foreign entities (such as foreign management agencies) must submit form W8IMY.

c) Each payee will be issued a 1099 or 1042 as mandated by the IRS reflecting the actual gross amount paid to that payee and any non –resident withholdings as required by the state of North Carolina (4% or current rate) and the IRS (30% or current rate).

4. Where necessary for the performance, Symphony shall furnish its Steinway concert grand piano (New York Model D) tuned to A=440. If Artist elects to use another instrument, artist does so at their own expense.

5. In the event that Artist supplies music, it is agreed that Artist is solely liable for any and all claims made or damages incurred as a result of disputes arising from Artist's unauthorized use of copyrighted materials.

6. Use of rental music shall be mutually agreed upon between Artist and Symphony. Rental fees shall be negotiated between Artist and Symphony. Symphony shall not be liable to Artist for music rental fees, unless mutually agreed upon between Artist and Symphony in writing prior to concert.

7. Except in programs involving a chorus, choir loft seating in Meymandi Concert Hall (above and behind the stage) will be sold as part of Symphony's regular ticket inventory.

8. Artist agrees to furnish professional-quality photographs, biographical materials and the usual printed matter necessary for the adequate promotion of these concerts in reasonable quantities as specified by Symphony. Symphony shall have the right to use and to license others to use these materials for the aforementioned purposes without compensation or restriction.

9. Local media may attend rehearsals and/or concerts for news/promotional purposes only. Orchestra union contract guidelines prohibit electronic news media from taping a complete song or movement and allow for up to fifteen minutes of rough footage to be taken and a maximum of two minutes to be used on the air. Any artist requirements regarding media coverage of concerts and/or rehearsals should be discussed with Symphony's public relations staff.

10. Artist agrees that appearance at these concerts on the dates specified shall preclude appearances or announcement of future appearances by Artist within a one-hundred (100) mile radius of Meymandi Concert Hall for the period of time from twelve (12) months prior to or after the engagement, unless prior written consent of Symphony has been obtained. In the event of any such unauthorized performance or announcement, this contract may be cancelled at the election of Symphony, and all expenses incurred by Symphony will be reimbursed by Artist.

11. In the event performance by either party of any of such party's obligations is prevented by an act of God, physical disability, acts or regulations of public authorities, labor difficulties, strike, lock-out, civic tumult, war, epidemic, interruption or delay of transportation service, or any other cause beyond their control, all obligations hereunder of each party shall terminate forthwith without recourse to either party.

12. Cancellation: For any reasons other than those stated in paragraph #11 above, Artist shall be responsible for Symphony's out-of-pocket expenses up to ONE THOUSAND AND NO/100s DOLLARS (\$1,000.00) necessitated either by change of date or cancellation by Artist after tickets have been printed and/or promotion begun. All such expenses shall be determined solely by Symphony and will be presented to Artist, with substantiation, within thirty (30) days following the cancellation date(s) of the Artist's performance, and Artist shall reimburse Symphony, by check made payable to North Carolina Symphony Society within ten (10) days following receipt of such statement. If Artist has received a deposit, the deposit must be returned by certified check within six (6) days of announced cancellation.

13. Nothing in this Agreement shall require Symphony to use the services of Artist or to afford Artist an opportunity to perform at the concert(s) specified herein, or otherwise, and Symphony shall have fulfilled its entire obligation to Artist hereunder by paying Artist the compensation required under this Agreement.

14. By this Agreement, it is understood that Artist has agreed for the purposes of this engagement to perform as an independent contractor, not as an employee of Symphony. Artist assumes full responsibility for appropriate payment of all applicable federal and state taxes as an independent contractor, including but not limited to all payroll taxes and charges under applicable federal and local law.

15. All merchandise sales are under the jurisdiction of the Progress Energy Center for the Performing Arts and are strictly prohibited without prior arrangement. Arrangements may be made through Frank McNally, Raleigh Convention Center, 500 Fayetteville Street Mall, Raleigh, North Carolina 27601, (919) 833-4845.

16. Symphony will provide Artist with up to six (6) complimentary tickets per performance. Artist agrees to notify Symphony no later than forty-eight (48) hours prior to each performance if Artist does not wish to use the allotted complimentary tickets. The location of the complimentary tickets shall be determined by Symphony's Box Office Manager.

17. It is agreed that study tapes may be made of rehearsals and performances for the purpose of study by the North Carolina Symphony musicians and Artists only. All other recording is prohibited, except as noted on Paragraph 18 below, or as mutually agreed for broadcast.

18. All concerts may be taped for use by Symphony to be transcribed for later broadcast statewide on a listener-supported radio station. Such broadcast may be replayed 3 times within 2 years of the original. Artist may confer with the Music Director as to content of the tape.

19. In accordance with the National American Federation of Musicians Phonograph Record Labor Agreement, Artist may not record rehearsal(s) or performance(s).

20. This Agreement embraces the entire understanding between the parties with respect to the rights and obligations contemplated herein and supersedes all prior understanding, written or oral, with respect thereto. This Agreement may not be altered or modified, except by an instrument in writing executed by Agent and Symphony and shall be construed in all respects in accordance with the laws of the State of North Carolina.

21. This contract is limited by and shall be interpreted in a manner consistent with all other contracts between Symphony, performance hall, all unions and vendors as related to the performance and the venue.

22. Any controversy relating to this Agreement will be settled in or near Raleigh, North Carolina, by arbitration, in accordance with the rules of the American Arbitration Association.

23. This Agreement is not assignable by either party without the written consent of the other nor may any substitution for Artist be made without the written consent of Symphony.

24. It is essential to this Agreement that signed copies be returned to North Carolina Symphony within thirty (30) days.

25. This entire Agreement shall be construed, governed and interpreted according to the laws of the State of North Carolina.

IN WITNESS WHEREOF, each party has hereunto set its hand the day and year first above written.

**NORTH CAROLINA SYMPHONY  
SOCIETY INC.**

**NAME**

By: \_\_\_\_\_  
**Martin Sher,**  
**Vice President and General Manager**

By: \_\_\_\_\_  
**NAME**

Date: \_\_\_\_\_

Date: \_\_\_\_\_