

PERFORMANCE AGREEMENT

Agreement made this ____ day of _____ 2017, between Ultra Show Makers, LLC (AGENT) representing the rock band Los Amantes De Lola (ARTIST) – AGENT's principal place of business is 511 North Main Street, P.O. Box 9944, San Luis, Arizona 85349 and the City of San Luis, incorporated under the laws of Arizona, having its principal office at 1090 East Union Street, P.O. Box 1170, San Luis, Arizona 85349 (CITY).

SECTION 1.

OBLIGATION OF THE ARTIST: PERFORMANCE OF CONCERT

Pursuant to the terms and provisions of this agreement, Artist shall perform a concert at the Joe Orduño Park, 965 North Park Avenue, San Luis, Arizona, on July 4th, 2017 at approximately 9:00 p.m. for the duration of at least 45 minutes. This contract is only valid for July 4th, 2017.

SECTION 2.

OBLIGATIONS OF THE AGENT

The AGENT will:

- ensure operational performance of the show in terms of equipment, safety, and functionality,
- provide adequate transportation in place for local transportation of the ARTIST and its equipment,
- provide a P.A. equipment, production and "Back Line" to the satisfaction of the ARTIST (Specified in "Rider"),
- provide food to the satisfaction of the ARTIST, and
- provide accommodation at the Cocopah Resort and Conference Center at 15318 South Avenue B, Somerton, Arizona or similar accommodation within 30 miles of San Luis, Arizona and to have reservations by seven days before July 4, 2017.

SECTION 3.

OBLIGATION OF THE CITY: COMPENSATION

As compensation for such concert, the CITY shall on July 4th, 2017 pay AGENT, or, if so directed by AGENT, pay a duly-authorized representative, on behalf of ARTIST, a fee of \$6,000.00 U.S. dollars. The ARTIST shall have the option to sell albums, books, and merchandising material at the performance and the ARTIST shall retain the proceeds of such sales. It is understood that CITY is providing a free concert and that there will be no ticket sales.

CITY shall be responsible for providing the stage. The CITY will have available a public address or sound equipment for the performance.

SECTION 4. SECURITY

CITY shall provide sufficient security so that no unauthorized person will have access to the stage area or backstage area. The ARTIST will provide names of persons or guests authorized to be backstage. If security backstage passes and/or laminates are to be used, a representative of the ARTIST will supply to the CITY a photo copy of the pass system to be used for the performance.

CITY shall also provide security for the purpose of the general safety of the event.

CITY shall take reasonable precautions to prevent theft or damage of the ARTIST's musical instruments and equipment set-up for the performance under this Agreement.

SECTION 5. ADVERTISING

The CITY agrees to use its best efforts to promote the performance under this agreement in local media and community calendars. The ARTIST shall supply to the CITY graphics and/or photos to support the promotion.

SECTION 6. NO RECORDING

The concert to be given under this agreement shall not be broadcast or recorded in any manner or form, without the prior, express, and written consent of the ARTIST or the AGENT.

SECTION 7. INABILITY OF THE ARTIST TO PERFORM

Neither ARTIST nor AGENT shall be liable to CITY for ARTIST's failure to appear or perform by reason of or due to the illness or physical disability of the ARTIST's musicians.

SECTION 8. INDEMNIFICATION

The ARTIST agrees to indemnify CITY, its officers, agents, representatives, and employees and to release and hold them harmless from and against all liability or loss, and from and against all claims or actions based on or arising out of damage or injury (including death) to persons or property caused by or sustained in connection with the entertainment or shows being contracted for herein

**SECTION 9.
ASSIGNMENT**

Neither party shall assign or transfer this agreement without the prior, express, and written consent of the other party.

**SECTION 10.
NOTICES**

Any notice given in connection with this agreement shall be given in writing and delivered either by hand through a process server to the party or by overnight delivery service the Party at that Party's address stated at the top of this agreement. Any Party may change its notice address by giving written notice of the change in accordance with this section.

**SECTION 12.
GOVERNING LAW**

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of Arizona. The venue for any cause of action shall be in the courts of Yuma County, State of Arizona.

**SECTION 13.
ARBITRATION OF DISPUTES**

All disputes, claims, and questions regarding the rights and obligations of the parties under the terms of this agreement are subject to arbitration. Either party may make a demand for arbitration by filing such demand in writing with the other party within 30 days after the dispute first arises. After such demand, arbitration shall be conducted by an arbitrator agreed to by both parties acting under the rules of commercial arbitration of the American Arbitration Association.

**SECTION 14.
MISCELLANEOUS PROVISIONS**

Required e-verify: Pursuant to A.R.S. §41-4401(A), the ARTIST warrants its compliance with all federal immigration laws and regulations that relate to its employees and its compliance with A.R.S. §23-214, subsection A, e-verify. A breach by the ARTIST of this warranty shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract. The CITY retains the legal right to inspect the papers of any contractor or subcontractor employee who works under this Agreement to ensure that the ARTIST or ARTIST's subcontractor or subcontractors are complying with this warranty.

Notice of Arizona Conflict of Interest Law: This contract is subject to cancellation if there is a conflict of interest under the provisions of A.R.S. § 38-511.

Non-Liability of CITY Officials and Employees: Except for mandamus and other special actions, no member, official or employee of the CITY shall be personally liable to the ARTIST, or any successor in interest, in the event of any default or breach by the CITY or for any amount that may become due to the ARTIST or successor, or under any obligation under the terms of this Agreement.

Headings: The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Agreement.

Authority: The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. The ARTIST and the CITY warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the party on whose behalf each individual is signing.

Attorney's Fees and Costs: If either Party brings a legal action either because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing Party will be entitled to reasonable attorney's fees and court costs.

No Third-Party Beneficiaries: There are no third-party beneficiaries to this Agreement, and no person or entity not a party hereto shall have any right or cause of action hereunder.

Timing: Time is of the essence.

Israel Certificate: ARTIST agrees to execute a certificate as required by A.R.S. §35-393.01

Counterparts: This agreement may be executed in counterparts, any of which shall be deemed to be an original

SECTION 15. SEVERABILITY

The invalidity of any portion of this agreement shall not be deemed to affect the validity of any other provision. If any provision of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

SECTION 16. ENTIRE AGREEMENT

This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

**SECTION 17.
MODIFICATION OF AGREEMENT**

Any modification of this agreement, rider or additional obligation assumed by either party in connection with this agreement shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

The Parties have executed this agreement in the day, month and year first set forth above.

City of San Luis, Arizona

Ultra Show Makers, LLC

Tadeo Azael De La Hoya
City Manager

Ivan Valdez
Agent

Attest:

Approved as to form

Sonia Cornelio
City Clerk

Kay Marion Macuil
City Attorney