

**Performance Agreement**

Between: The Town of Tyrone DDA

And Jamie Pelfrey Band

(individually and collectively the "Performer")

**Background:**

A. The performer is a band known as: Jamie Pelfrey Band

B. The Purchaser wishes to engage the Performer and is willing to undertake to do so, subject to the terms and conditions as follows:

In consideration of and as a condition of the Purchaser 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:

**Address of the Performer**

The Performer will be represented by a primary contact (the "Performer Contact"). Any payments by check or money order should be made out to the Performer Contact. The Performer's address is as follows:

Band Manager: Jamie Pelfrey

Address: 17 Sherman Lane, Cartersville, GA 30121

Telephone: (404) 862-0779

Email: [jpelfreymusic@gmail.com](mailto:jpelfreymusic@gmail.com)

This contract (the "Agreement") made and entered into this 27th day of February, 2023

(the "Execution Date"),

The Town of Tyrone DDA

"Jamie Pelfrey Band"

Atlanta, Georgia

404-862-0779

**Address of the Purchaser (PLEASE FILL IN)**

The Purchaser's address is as follows:

Address: 960 Senoia Rd, Tyrone, GA 30290

Telephone: 770-487-4694

Email: lowens@tyrone.org

**Venue:**

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

Name: Shamrock Park

Address: 960 Senoia Rd, Tyrone, GA 30290

**1. Performance**

The entertainment to be provided by the Performer is generally described as a family friendly festival.

**2. Date and Time of Performance**

The date of the Performance is Friday, June 2nd, 2023. The Venue will be available for set-up and sound check on June 2, 2023 by 2:00PM. The Band will play a two hour set, with no breaks.

**3. Payment**

In full consideration for all services rendered by the Performer, the Purchaser agrees to pay the Performer a fixed fee of \$1600.00 (the "Fee").

**4. Performer Expenses**

The Performer agrees that the Fee is inclusive of all accommodations, traveling expenses to and from the Venue and covers any payments whatsoever due to other members of the group or unit, except as expressly provided in this Agreement.

**5. Refreshments**

The Purchaser will provide a cooler filled with ice, bottled water and gatorades.

## **6. Deposit**

The total amount of \$250 will be sent to the Band Manager for the date requested.

## **7. Deposit Refund**

The deposit is not refundable, except as provided in this Agreement.

## **8. Overtime**

If and when agreeable to the Purchaser and the Performer, the time of the Performance may be extended at the hourly overtime rate of \$400.00, to be paid prior to the overtime period.

## **9. Payment of Balance**

The Purchaser is paying the remaining balance of \$1350 before set up on June 2<sup>nd</sup>, 2023. Remaining balance will be in the form of a check made out to the band leader: Jamie Pelfrey.

## **10. Cancellation By Purchaser**

The Purchaser reserves the right to cancel this agreement without obligation upon notice to the Performer prior to May 15th, 2023. In the event of said cancellation, all payments made to the Performer will be forfeited.

## **11. Cancellation By Performer**

The Performer reserves the right to cancel this Agreement without obligation upon notice to the Purchaser prior to May 15th, 2023. In the event the Performer cancels the Performance under the terms of this section, the Performer will promptly return any funds already paid to the Purchaser.

## **12. Non-performance by the Purchaser**

Those obligations of the Purchaser that are to be completed prior to the Performance of the Performer are conditions precedent which must be carried out in full by the Purchaser before the Performer is required to perform unless otherwise agreed to by all parties in writing. If the Purchaser cancels or postpones any performance without proper notice or fails to make any payment or fails to carry out any other condition precedent as required by this Agreement then the Purchaser will be in breach of this Agreement and the Performer will have no further obligations under this Agreement. The Purchaser will forfeit any funds already paid to the Performer.

### **13. Sound and Lighting Systems**

The Purchaser will provide all sound and lighting systems required to facilitate the Performance as agreed upon by both parties. The Performer warrants that all equipment is in good working order, and fit for its purpose. 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 Purchaser.

### **14. Security Deposit**

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

### **15. Force Majeure**

Neither the Performer nor the Purchaser will be held liable for any failure to perform its 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 Performer and the Purchaser. However, failure to perform will result in the Performer returning any and all outstanding funds to the Purchaser.

### **16. Sickness and Accidents**

The Performer agrees to meet its obligations under this Agreement subject to legitimate incapacity by sickness or accident, such incapacity to be confirmed in writing by a medical doctor. However, failure to perform will result in the Performer returning any and all outstanding funds to the Purchaser.

### **17. Key Personnel**

The band will consist of 5 pieces.

### **18. Recording of the Performance**

Recording or transmitting of the Performance by anyone through any means whatsoever will be allowed under this agreement.

### **19. Merchandising**

The Performer will not be permitted to display or offer for sale CDs, tapes, and other items at the Performance.

### **20. Exclusivity**

The Performer will perform exclusively for the Purchaser throughout the actual period of services of this Agreement unless otherwise provided by the Purchaser in writing. The Performer at the time of signing this Agreement will not be under any contract to a third party that might preclude the Performer from fulfilling the requirements of this Agreement.

### **21. Indemnification**

The Performer is responsible only for its own conduct. The Performer will be compensated by the Purchaser for any and all damage done to the Performer's equipment by the Purchaser, its agents or guests. The Purchaser 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.

### **22. Permits**

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

### **23. Dress Code**

The Performer will be suitably and tidily dressed during the Performance.

### **24. Hazardous Material**

The Performer and any other person associated with the Performer agree not to bring into the

Venue any material, equipment, or other object which is likely to constitute a hazard of bodily harm to any person or which is likely to constitute a hazard to property.

#### **25. Pyrotechnics**

No pyrotechnic devices will be allowed during the Performance. Violation of this provision will result in immediate cancellation of the Performance and this Agreement.

#### **26. Security**

The Purchaser 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 Purchaser is also responsible to ensure that only the Performer and its designated technicians and representatives are allowed on stage or in the backstage area.

#### **27. Picket Lines**

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.

#### **28. Governing Law**

The Purchaser and the Performer submit to the jurisdiction of the courts of the State of Georgia for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement.

This Agreement will be enforced or construed according to the laws of the State of Georgia.

#### **29. Mediation and Arbitration**

If a dispute will arise under the terms of this Agreement, the party claiming the dispute will have 30 days to notify the other party. The party not claiming the dispute will have 30 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 ten (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

rules 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 Georgia. The arbitrator's award will be final, and judgment may be entered upon it by any court having jurisdiction within the State of Georgia.

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

The Purchaser and the Performer agree to perform their obligations under this Agreement, in all respects, in good faith.

### **31. Miscellaneous Terms**

Time is of the essence in this Agreement.

**32.** The Performer and the Performer's crew will not be in possession or consume at the Venue any drugs.

**33.** This Agreement may be executed in counterparts. Facsimile signatures are binding and are considered to be original signatures.

**34.** 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. The Performance will not contain any lewd or indecent acts, images, or language. If the Performer violates this section, the Purchaser may immediately cancel the Performance and this Agreement.

**35.** The Performer's representative warrants that by signing this Agreement it has the authority to bind the Performer to the terms and conditions of 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 Purchaser by the Performer or to the Performer by the Purchasers, 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 Performer's successors, assigns, executors, administrators, beneficiaries, and representatives, and the Purchaser's successors and assigns.

**40.** The Performer specifically warrants and represents that all copyrighted material to be performed has been licensed or authorized by the copyright owners or their representatives. The Performer indemnifies the Purchaser for any copyright infringement and any expenses that may result from such copyright infringement during or as the result of the Performance.

**41.** The Purchaser 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 Performer is an independent contractor and will control the manner and means of the Performance. The Purchaser will control the scheduling of the Performance. The Performer is not an employee of the Purchaser. The exclusive nature of this Agreement is limited to the duration of the Performance and it is expected that the Performer will enter other similar agreements with other Purchasers.

**43.** Any notices or delivery required here will be deemed complete when hand-delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the parties at the



respective addresses contained in this Agreement or as the parties may later designate in writing.

**44.** The Performer and the Purchaser each hereby agree that GigMasters.com, Inc. is not responsible for any loss, injury, claim, liability, damage, or consequential damage caused by, arising out of or otherwise related to the Performance, this Agreement, or any matter related thereto, or for any other reason. The Performer and the Purchaser each agree to indemnify and hold GigMasters.com, Inc., its directors, officers and employees, harmless from any claim, demand, or damage, including legal fees, asserted by any third party due to or arising out of the Performance, this Agreement, or any matter related thereto, or for any other reason. GigMasters.com, Inc. shall be entitled to rely on, and shall be a third party beneficiary of, this section. The Performer and the Purchaser each hereby agree that this Agreement is solely between the Performer and the Purchaser. The Performer and the Purchaser each hereby agree that GigMasters.com, Inc. is not responsible for this Agreement, the Performance, or any matters related thereto, and GigMasters.com, Inc. shall not be required to intervene, arbitrate, negotiate or otherwise become a party to or involved in this Agreement, the Performance, or any matters related thereto. GigMasters.com, Inc. shall not be required to intervene, arbitrate, negotiate or otherwise become a party to or involved in this Agreement, the Performance, or any matters related thereto.

In witness whereof the Performer and the Purchaser have duly affixed their signatures under hand and seal on this 27th Day of February, 2023.

Lynda Owens

**Jamie Pelfrey**

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Thanks again!!

Jamie