

MUSICIAN INDEPENDENT CONTRACTOR AGREEMENT

This Musician Independent Contractor Agreement (“AGREEMENT”) is entered into by NEWPORT SYMPHONY ORCHESTRA (“NSO”), an Oregon not-for-profit corporation, and **MUSICIAN** (“MUSICIAN”), an independent contractor.

SECTION 1 - PURPOSE

1.1 NSO desires to present public classical music concerts during the 2026-27 concert season at the Newport Performing Arts Center (PAC) on the dates set forth on Addendum(s) C, one for each concert series.

1.2 For the purpose of presenting the concerts set forth in Section 1.1, NSO has engaged **ADAM FLATT** Music Director.

1.3 NSO desires to engage as independent contractors a full complement of musicians (orchestra members) necessary to present the concerts set forth in Section 1.1. NSO does not hereby, nor by any other means, specify the means and manner by which the Music Director and Musicians prepare the music for concert presentation, but does specify professional quality rehearsals and concert performances on the dates and location designated.

SECTION 2 - SERVICES RENDERED

2.1 MUSICIAN agrees to fully and professionally prepare music for all rehearsals and concerts to the satisfaction of the MUSIC DIRECTOR.

2.2 MUSICIAN shall perform services including, but not limited to, attending all rehearsals and performances including extra sectional rehearsals as called by the Music Director.

2.3 MUSICIAN has received a copy of the *NSO Personnel Policy for Musicians* (Addendum A). This document is written and adopted by the Orchestra Committee, a committee solely made up of orchestra members elected by the full orchestra, and MUSICIAN agrees to abide by their terms. The Orchestra Committee will provide to MUSICIAN a copy of any amendments to this policy within a reasonable, time after the same have been adopted.

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SECTION 3 - PAYMENT

3.1 The NSO, as payment for the services under this Agreement, will pay MUSICIAN a fixed price fee as stated in Addendum(s) C and doubling at the rate of an additional \$5 per rehearsal or performance (if applicable). If MUSICIAN, by his or her own choice, fails to appear and perform in a scheduled

concert performance, MUSICIAN shall not be entitled to payment for any service within the concert series (rehearsal or performance). MUSICIAN shall be reimbursed \$0.18 per mile for travel to rehearsals and performances in Newport Oregon or other venue specified by NSO in accordance with the NSO Mileage Policy (Addendum B). Note that a cap of 300 miles round trip may be applied.

- 3.2 Payment by NSO will be made within ten (10) working days after concert performance(s) or upon return of sheet music in good condition by MUSICIAN, whichever is later.

SECTION 4 - TERMS

4.1 NSO agrees to provide the sheet music for each concert. All such music is considered the property of the NSO and must be returned to the NSO prior to payment for services hereunder (see section 3.2). In the event of lost or damaged music, MUSICIAN agrees to reimburse NSO for the cost of replacement, prior to or simultaneously with payment for services hereunder.

4.2 NSO may cancel or postpone rehearsals and/or concert performances due to disasters, such as floods, severe weather, or any other event which is beyond and outside the control or power of the NSO and any of its representatives, i.e., Conductors, Board Members. This contract may be terminated by NSO upon 30 days written notice in the event of inadequate funding. NSO shall make no payment to MUSICIAN for canceled rehearsals and/or concert performances. NSO will pay MUSICIAN for any rehearsal/concert that occurred prior to the point of the cancellation.

4.3 NSO reserves the right to reschedule the concert(s) if any concert is canceled pursuant to Section 4.2. NSO reserves the right to change or add additional rehearsals to the schedule attached as Addendum C. MUSICIAN will make a good faith effort to attend any additional or rescheduled rehearsals and/or concert.

4.4 Photographs and recording of music

- a) Audio and video recordings of NSO concerts may be made for purposes that do not involve financial income to the orchestra. This includes rebroadcast on local noncommercial, public radio, and upload to YouTube, Facebook or other Internet sites controlled or accessed by the NSO or those the NSO enters into agreement with and used for showcase on media outlets (print, television, radio, Internet, electronic media and all other forms and media now known or hereafter invented) with no additional compensation to the musician. NSO owns all rights to such recordings.
- b) Master recordings may be archived at the NSO's office. Such recordings may be considered study recordings that shall be made available for listening by Musicians, Music Director, and Board members. Copies of the recordings of original compositions may be made available to the composer for their non-commercial use, if requested .
- c) Photographs of the Orchestra shall be permitted for the purpose of news and promotion of the NSO.

SECTION 5 - INDEPENDENT CONTRACTOR

5.1 MUSICIAN will be responsible for the filing of any reports and the payment of any taxes based upon earnings of MUSICIAN performing services under this contract.

5.2 Please check applicable boxes and initial below.

MUSICIAN represents that three or more of the following five requirements are true:

- a) ☒—MUSICIAN maintains a portion of his or her residence or other location (not including NSO's rehearsal or concert locations) that is used primarily for practicing music in preparation for concerts and other music presentations.
- b) ☐ MUSICIAN enters into fixed price contracts for performance of music.
- c) ☐ MUSICIAN provides contracted services for two or more different persons or music presenters within a 12-month period or routinely engages in advertising or marketing to obtain new contracts for music performances.
- d) ☒—MUSICIAN has purchased or will purchase tools or equipment necessary to provide services under this contract, which may include instruments, cases, instrument stands, strings, bows, rosin, mutes, reeds, reed knives, endpin stops, pencils, erasers, earplugs, drumsticks, mallets, beaters, and the like.
- e) ☒—MUSICIAN has the authority to hire other persons to provide or to assist in providing the services and has the authority to fire those persons.

5.3 NSO and MUSICIAN are aware of the provisions of the law concerning independent contractors, as contained in ORS 657.040, 657.506, and ORS 670.600. NSO and MUSICIAN believe that MUSICIAN qualifies as an independent contractor under such laws.

5.4 MUSICIAN has reviewed above Section 5.2 and agrees that she/he meets requirements for qualification as independent contractor by **indicating applicable requirements with a check mark in associated boxes and initialing below.**

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SECTION 6 - MISCELLANEOUS

6.1 This Agreement is a personal service contract, and MUSICIAN agrees to the procedures as laid out in the *NSO Personnel Policy for Musicians* (Addendum A); specifically, those in sections pertaining to *Core & Substitute Players* and *Attendance*.

6.2 The provisions of this Agreement will not be amended, modified, repealed, waived or discharged except by the written consent of both parties.

6.3 This Agreement constitutes the entire agreement of the parties hereto with respect to the matters described herein; all previous agreements, both written and oral, with respect thereto are hereby suspended by the Agreement.

6.4 This Agreement will be construed and interpreted in accordance with the laws of the State of Oregon.

6.5 This Agreement contains several headings and captions for ease of reference, which in no way will define or limit the provisions herein.

Addendum A

NSO Personnel Policy for Musicians – Attached and also available online at www.newportsymphony.org

Addendum B

NSO Mileage Policy

- Musicians will be compensated for mileage between the center of the city in which they live and the Newport Performing Arts Center.
- Mileage included is round trip and applies to rehearsal weekends and performance weekends, as applicable.
- Mileage is compensated at \$0.18 per mile for the shortest route round trip distance as determined using Google Maps.
- Musicians living beyond 150 miles from Newport will be capped at 150 miles, unless the musician was already a core musician prior to the 2017-18 season (i.e., prior core members are grandfathered in).

Addendum C

Concert Rider – Sent Separately