

CONTRACT FOR THEATRICAL PERFORMANCE

(Contract on the provision of the licence for music for theatrical performance)

between

BOOSEY & HAWKES Bote & Bock GmbH
c/o Concord Gruppe
Oranienstraße 164
10969 Berlin
Germany

represented by: Tilman Kannegiesser-Strohmeier, Senior Director Grand Rights & Hire, Prokurist

Tax resident: Germany

on behalf of **Hawkes & Son London Ltd**

hereinafter referred to as **Publisher**

and

Moravské divadlo Olomouc, příspěvková organizace
Tr. Svobody 33,
77900 OLOMOUC
Czech Republic

Company No.: _____

VAT No: CZ00100544

represented by: Director Ing. David Gerneš
Director

hereinafter referred to as **Licensee**

hereby enter into the following agreement:

§1 - (Performance rights)

(1) The Publisher grants to the Licensee the territorially non-exclusive right to the stage performance of the work

Serge Prokofieff
Sinfonie Nr.2 – excerpt 2nd movement (00:05:11)
Sinfonie Nr.4 – excerpt 2nd movement (00:04:53)

As part of the Ballettproduction 'Ivan der Schreckliche'
Total time of the production: 01:41:00

(hereafter referred to as **Work**)

On the stage of the following Licensed Venue (s) Olomouc, Moravské Divadlo (420 seats)

Choreography by: Libor Vaculik

For performances within the period/season: 4th November 2022 – 31st July 2023

Premiere performance date: 4th November 2022

§2 - (Obligation to perform)

- (1) The Licensee undertakes to perform the work specified in clause 1 at least 3 times at the venue set forth there. At the point of the conclusion of the agreement the following performance details have already been determined:

5th November 2022, 11th November 2022

§3 - (Further utilisation)

- (1) The licence granted in Clause 1 hereof is strictly limited to the right of live performance of the Work(s) on the stage of the Licensed Venue(s). It does not include the right to broadcast or record or to produce or exhibit or communicate to the public by way of streaming the Work(s) by means of mechanical recording or visual cinematography, sound film or television or audio-visual methods or any other existing or future process of reproduction.
- (2) The use of recorded media for performance purposes instead of a live orchestra is permitted.
- (3) The theatre is not permitted to display the performance of the work on a screen, through a loudspeaker or similar apparatus publicly or non-publicly or to have a third party display it publicly or non-publicly. This excludes the display for company purposes within the theatre, albeit only to the extent that this is necessary for the proper running of the performances and to the extent that the Publisher has the corresponding rights thereto.

(4) Notwithstanding the provisions of Clause §3(1), The Publisher grants to the Licensee the right to make

(a) an audio-visual recording of up to FIVE minutes completed edited footage of the performances of the Work which are licensed hereunder, such recording not to include any one complete song (such recording to be referred to as the "Promo Clip"); and

(b) the use of the Promo Clip solely for the purpose of promoting, publicising, and advertising the performances licensed hereunder in the following manner:

- (i) to make an Electronic Press Kit for distribution for promotional purposes only;
- (ii) to create e-flyers or a promotional video/dvd including the Promotional Clip;
- (iii) to exhibit the Promotional Clip in the Foyer, box office or bar areas of the Licensed Venue(s);
- (iv) to license the Promotional Clip for use in TV or radio documentary or news programmes;
- (v) to stream (but not make available for download or embedding) the Promotional Clip from the Licensee's website and any channel that Licensee may operate on, such as YouTube;
- (vi) to permit Licensee's sponsor to stream up to three (3) minutes of (but not make available for download or embedding) the Promotional Clip from the Licensee's Sponsor's website and any channel that the Licensee's Sponsor may operate on, such as YouTube.

The Licensee provided that it is not made available in any downloadable format.

The Licensee shall also be entitled to use a recording of the Work(s) which is owned and/or controlled by a third party in the same way (and with the same time restrictions as identified above in relation to the Promotional Clip) provided the Licensee has appropriate clearance from the owner/controller of such recording.

SAVE THAT no such uses of the Promotional Clip or third party recording shall be permitted without the Publisher prior written consent where any payment is made by the viewer for viewing the Promotional Clip or third party recording, or the Promotional Clip or third party recording are part of any subscription offering or where the relevant use is sponsored or carries advertising.

Where the production is co-produced, the Licensee will be entitled to permit their co-producers to exercise the same rights in relation to the Promotional Clip which are granted to the Licensee, subject to all the limitations as described above.

c) No rights are granted or are purported to be granted hereunder in anything other than the Work(s) and where required the Licensee shall procure the necessary clearance from any performers or any other third parties who hold rights or whose consent is required in relation to the filming of the Work(s) or exploitation of the Promotional Clip.

**For the grant of the right to make a Promotion clip, the Licensee pays to the publisher a lump sum of:
€ 20,00 plus 7% VAT if applicable.**

Payment of this lump-sum shall be made within thirty (30) days of receipt of invoice from Publisher to the bank account specified on such invoice.

an **audio-visual archival film** shall be permitted subject to the following conditions:

(a) The Licensee may either film or videotape the performance at the dress rehearsal, preview or any performance. The Licensee may not edit the archival video.

b) The Licensee may retain two (2) copies of the Archival Video, one being the master tape and the second being for study. The Licensee may make another copy only if the copy has become unusable for study. It agrees not to make or have made any additional copy.

The Licensee provide also 1 copy for the Rights Holder to the choreography and 1 copy to the Set and Costume Designer for their archive only.

(c) In no case shall the Licensee

(i) lend a copy of the Archive Film for any purpose, The exception is lending of the copy to the tour agents for the purpose of offering the performance on tour.

(ii) screen the Archival Film for promotional purposes,

(iii) make the Archival Video available for any purpose within any broadcast, cable, open or closed circuit system or device,

(iv) post the Archival Video on the Internet or store, transmit, publish or deposit it on any other type of computer or computer network, including a "cloud". It may not sell, assign, transfer or otherwise dispose of the Archival Film or any rights therein.

The Licensee may restrict access to the Archive Film in accordance with its normal practices, but it may not charge for the screening of the Archive Film.

For the grant of the right to make an audio-visual recording for archival purpose, the Licensee pays to the publisher a lump sum of:

€ 15,00 plus 7% VAT if applicable

Payment of this lump-sum shall be made within thirty (30) days of receipt of invoice from Publisher to the bank account specified on such invoice.

§4 - (Performing Rights fee)

(1) For the grant of the stage performing rights, the Licensee shall pay to the Publisher a sum of

**1,67% of the gross receipts per performance.
plus 7% VAT if applicable**

The Performing Rights fee shall be based on the total box office takings without any deduction other than any VAT or like sales tax charged on the ticket prices. The Licensee will render statements of the sums due to Publisher within fifteen (15) days of the end of the month within which the performances take place and payments due and owing under this Agreement shall be made within thirty (30) days of receipt of invoice from Publisher to the bank account specified on such invoice. If the Licensee fails to render statements in a timely manner and fails to remedy such failure within fourteen (14) days of Publisher notifying it of such omission, Publisher reserves the right to raise an invoice based on his bona fide estimate of box office takings.

The Publisher hereby confirms and warrants that Boosey & Hawkes Deutschland GmbH is the party entitled to receive the income payable under this Agreement.

The Publisher's tax details are:

**Boosey & Hawkes Bote & Bock GmbH,
Ust ID: 29/010/75235Finanzamt für Körperschaften III, 10365 Berlin**

- (3) The performing fee for public dress rehearsal and preliminary performances. where applicable, amounts to €250,00 plus tax if applicable.
Performance admission-free require remuneration of performing rights. They are only admissible with the prior written permission of the Publisher and incline a payment.
- (4) In the event of a reduction in the number of seats due to official orders, the Publisher reserves the right to agree a minimum guarantee of the performing fee per performance. The Licensee is obliged to report a reduction of the seating capacity in time.
- (5) If a performance is cancelled for reasons for which the Publisher is not responsible and if no replacement performance takes place, the Licensee shall pay the publisher a cancellation fee of € 20,00 per performance. This provision does not apply in the event when the cancellation of the performance(s) occurs independently of the will of Licensee, i.e. Vis Maior Case.

§5 - (Performance material)

The Licensee have the right to use the following sound carriers for the performance(s):

S.Prokofiev: The Complete Symphonies
London Symphony Orchestra, dir. V.Gergiev
DECCA 2006 475 7655

§6 - (Hire fee)

For the utilisation of the above named sound carrier instead of the otherwise available rental material, the Licensee pay a sound-carrier utilisation fee of

**€ 170,00 (in words one-hundred-seventy)
for the contract period.
plus 7% VAT if applicable**

following receipt of the invoice without deductions.

Payment of this lump-sum shall be made within thirty (30) days of receipt of invoice from Publisher to the bank account specified on such invoice.

§7 - (Late payment)

- (1) The late payment of the sums due under clause 4 and clause 6 shall give rise to a default surcharge of 1% for each calendar month or part thereof after payment falls due. This is without prejudice to the right to assert further claims for late payment.
- (2) If the Publisher nominates persons or companies to collect outstanding sums, the costs incurred for the collection shall be borne by the Licensee.

§8 - (Term of agreement)

This agreement shall terminate on 31st July 2023

§9 - (Conclusion of agreement)

The agreement shall be deemed concluded when both the Publisher and the Licensee have received the signed contractual forms.

§10 - (Special obligations on the part of the Licensee)

The Licensee is obliged to:

- (1) appropriately exploit the transferred performance right, prepare the performance carefully and propagate it as well as possible;
- (2) perform the Work without the insertion of other texts or music. This also applies to the addition of non-works texts or non-works music at the beginning and end of the Work. Music and/or lyrics that have not been supplied by the publisher as performance material are defined as non-works;
- (3) upon request, send programme booklet and poster to the Publisher free of charge;
- (4) upon request, make two seats available for each performance of the work to the Publisher and the legal successor of the author respectively free of charge;

The Licensee shall procure that:

- (5) The name of the Composer appears in the programme and on all publicity materials, including posters, advertisements, etc.
- (6) The name of the Publisher and the transfer of the performing rights are stated in the following manner in programmes as well as on the cast sheet:

Performing Right: © Hawkes & Son London Ltd

§11 - (Liquidated damages)

If one of the parties to the agreement grossly infringes a provision of the agreement and it does not remedy even after the written request of the other party, the innocent party is entitled to a contractual penalty without prejudice of € 2500,00 to the continuing duty to effect performance of the agreement. Any contractual penalty paid shall be offset against any existing claim for damages. Further, the innocent party may terminate the agreement without notice where it is unreasonable for that party to continue with the agreement.

§12 - (Damages for delay)

Each party shall be liable for all damages caused by it on account of improper performance of the agreement, in particular the Licensees for the losses due to late payment resulting from it not commencing performance on time, not producing statements of account in time or not returning the material on time, and the Publisher, if it fails to deliver on time.

§13 - (General provisions)

- (1) The Publisher, an auditor acting for theatrical writers and publishers or a third party subject to a duty of professional confidentiality shall be entitled to view and audit the box office reports. If a third party needs to be commissioned with the collection of all outstanding payments arising under this contract, the Licensee shall be liable for the collection costs.
- (2) The place of jurisdiction and place of performance in connection with clause 105 German Copyright Act (*Urheberrechtsgesetz der Bundesrepublik Deutschland, UrhG*) for both parties shall be the seat of the Publisher.

§14 - (Other provisions)

- (1) Any extension and supplement to this agreement must be in writing. This includes any changes of the location/venue and the number of performances. Additional performances are not permitted without the prior consent of the Publisher. Where consent is granted, an additional hire fee charge may be levied. The relocation of the venue after conclusion of the agreement may result in the performing fee being reviewed.

- (2) Guest performances must be agreed separately. The right to perform a guest performance shall be granted as a territorially non-exclusive right.
- (3) For approved guest performances the Licensee shall account to the Publisher for the performing fee on the terms specified in clause 4. A reduction of the performing fee for guest performances shall not be granted.
- (4) The Licensee shall notify the Publisher no later than three months before expiry of the term of the agreement as to whether the production is to be extended to a further run. In the event that such a notification is given, the Publisher shall endeavour to obtain the requisite authorisation of the original authors provided this is not precluded by any cogent reasons. A cogent reason shall be deemed given in particular where the Publisher no longer represents the right to stage performance.
- (5) The rights transferred in this agreement only include the rights of the stage publisher in respect of the copyrighted rights licensed. Rights to other authors, e.g. stage sets, choreography, costumes, are expressly not a constituent part of this agreement.

Berlin, 01.11.2022

Olomouc, 01.11.2022

