



PHILHARMONIE ESSEN

CONCERT- / PERFORMANCE AGREEMENT

between

Theater & Philharmonie Essen GmbH

represented by

the General Manager

Mr. Berger Bergmann and

the Artistic Director Mr. Hein Mulders

(Opernplatz 10 / 45128 Essen)

VAT no. DE-119656202

- hereafter referred to as „Promoter“ -

and

Slovak National Theatre (SNT)

represented by the General Director

Mr. Marián Chudovský and

the Director of the SNT Opera

Mr. Slavomír Jakubek

Pribinova 17

SK-819 01 Bratislava

Slovakia

VAT no. SK 2020829954

- hereafter referred to as „Contractual Partner“ -

the following agreement has been made:

§ 1 Subject matter of the agreement

1. The Contractual Partner agrees to perform :
in the **Philharmonie Essen** (Huyssenallee 53 /
45128 Essen), in the following hall:

a concert with the following program:

Thursday, 31. December 2015

Alfried Krupp Saal

Excerpts from
W. A. Mozart: Don Giovanni
G. Verdi: La Traviata
G. Verdi: Rigoletto
C. Gounod: Romeo et Juliette
G. Puccini: La Bohème
G. Puccini: Turandot
E. Wolf-Ferrari: Der Schmuck der Madonna
G. Bizet: Carmen
B. Smetana: Die verkaufte Braut
F. Lehar: Das Land des Lächelns
(The final program to be determined).

2. The following persons shall be part of the performance:

**Orchestra and Soloists of the
Slovak National Theatre, Opera**
Friedrich Haider, conductor

The Contractual Partner cooperates with the other participants, but does not engage them. The Contractual Partner agrees to work together with other persons also taking part in the performance. Agreements with these other persons are not the subject matter of this agreement. In the case these persons should be incapacitated and not be able to perform, or should there be changes to these persons, the Contractual Partner agrees to perform together with the persons replacing the incapacitated performers. Cases of incapacity or changes of the named participants do not give the contractual partner the right to withdraw.

In the case that short-term program changes should be necessary because of the incapacitation of the other persons, the Contractual Partner is obliged to accept these in one's fair judgment.



PHILHARMONIE ESSEN

3. The performance shall take place as follows:

Stage set-up, Rehearsals :

On the day of the performance, as agreed

Performance:

18:00

Stage dismantle :

The same evening, after the performance

4. The present agreement is done in duplicate. The Contractual Partner shall return a filled-out and signed copy of this agreement within one month after reception to the Promoter.

§ 2 Fee

1. The Contractual Partner is paid the following fee for his performance in accordance with § 1:

Fixed fee:

---- 40.000,00 € ---

In words:

--- forty thousand ---

The fixed fee includes the income tax to be deducted by the Promoter in accordance with § 50 a of the EStG (German Income Tax Law).

VAT is not part of the fee and is owed by the Promoter, insofar as no tax exemption from VAT in accordance with § 4 No. 20 of the UStG (German VAT Law) can be obtained.

This fee includes payment for all performances, rehearsals, etc. referred to here above.

2. The Promoter shall transfer the fee, in consideration of the tax law in compliance with § 3 of the present agreement, on the Contractual Partner's bank account indicated on the invoice issued by the Contractual Partner within seven (7) calendar days following the date of the performance. Invoice is due within fourteen (14) calendar days from the date of the delivery of the invoice to the Promoter.

§ 3 Tax Regulations

1. Income Tax:

The Contractual Partner has no registered address in Germany or permanent residence in Germany and therefore has limited tax liability. The fixed fee given in § 2 Figure 1 of this contract is given as gross payment. The Promoter deducts the taxes from this aforementioned fixed fee in accordance with § 50a of the EStG, registers these at the relevant tax office and pays the taxes to the tax office in due time. The Promoter issues the Contractual Partner a corresponding tax certificate for this upon request. The Promoter pays the remaining fee to the amount of 33.670,00 € to the Contractual Partner.

Fiscal place of residence of the Contractual Partner is Slovak Republic; the Contractual Partner shall submit the document proving the Tax residence.

The Contractual Partner may, as far as the legal requirements are fulfilled, and within the framework of the double taxation treaty, apply for a certificate of exemption of the tax for non-residents, in compliance with section 50d of the income tax law (EstG), with the German central tax office (Bundeszentralamt für Steuern (An der Kuppe 1 53225 Bonn, Telephone: +49 (0) 228 406-0). If the Contractual Partner can produce a legal exemption of the tax for non-residents handed out by the German central tax office to the Promoter when payment of the fee is made, no tax deduction shall be made. If no legal exemption is produced, the Promoter shall deduct the tax for non-resident from the fee, in accordance § 50 a of the German income tax law (EstG), and shall pay it to the applying tax office. The Contractual Partner shall then be handed out a tax receipt.

In compliance with section 50a of the income tax law (EstG), fees for soloists and conductors are basically not exemptable from the tax for non-residents.

Insofar as the Contractual Partner can produce a legal exemption of the tax for the orchestra, and the conductor and/or soloist employed by the Contractual Partner in accordance with §1 Figure 2 of this contract has/have no registered address in Germany and therefore have only limited tax liability, then, in accordance with German Tax Legislation, the Contractual Partner is obligated to pay tax on the remuneration of the other participants employed by him in Germany, and to pay the relevant tax office, insofar as no exemptions are given in accordance with § 50 a of the EStG.



PHILHARMONIE ESSEN

2. VAT:

The Contractual Partner declares his agreement that the Promoter applies for VAT exemption at his own discretion. Insofar as no tax exemption from VAT in accordance with § 4 No. 20 of the UStG exists or is to be expected from the Promoter, then the VAT is due in accordance with § 13 b of the UStG. In this case, the Promoter owes the statutory VAT amount in accordance with § 13 b of the UStG and pays this to the local relevant tax office.

§ 4 Accessory Obligations and Services

1. Overnight Stay/Travel Costs: The Promoter shall provide and pay for the Contractual Partner's stay in the InterCityHotel Essen, Hachestraße 10, 45127 Essen (breakfast included) for a total of 67 persons (67 single rooms) for the following night : 31.12.2015 - 01.01.2016 as well as for 4 persons (4 single rooms) for the following nights : 30.12.2015 - 01.01.2016. The Promoter shall take care of the hotel reservation.

The Promoter pays for local transfers from/to Düsseldorf Airport / InterCityHotel Essen / Düsseldorf Airport. The fee includes any further travel expenses.

2. Food: The Promoter shall provide snacks and soft drinks on the day of the concert. Furthermore the Contractual Partner may use the on-site cafeteria at his own expense.

3. Instruments: The Promoter shall provide 1 harp, 5 double basses, kettledrums and one bass drum for the rehearsals and the performance. The Contractual Partner shall provide all other needed instruments and additional material not mentioned in the present agreement, as well as their transportation (including costs).

4. Photo Material / Sheet Music: The Contractual Partner provides the sheet music and, if necessary, text material. All license fees and rental fees for the required sheet music and text material are borne by the Contractual Partner.

The Contractual Partner accepts to provide free of costs first-class photo material in digital format (resolution: 300 dpi), which is fitting for press releases and program leaflets, as well as current biographical details (max. 2.000 characters) as well as the song texts if needed, all of it in German language in a Word file.

§ 5 Künstlersozialabgabe (Performers' Social Security Contribution) / GEMA fee (Society for Musical Performing and Mechanical Reproduction Rights)

1. If all of the performers are employed permanently at the Slovak National Theatre, the German social security contributions (Künstlersozialabgabe) which apply legally to the Social Security Office (Künstlersozialkasse) do not incur.

The Promoter pays the statutory specified social security contributions to the Social Security Office, if any of the soloists is not employed permanently at the Slovak National Theatre. The assessment basis is based on the amount of the fee(s) paid for the concert for soloist(s).

Fee Amount for Soloist(s): _____

2. The Promoter shall pay the GEMA fee.

The Contractual Partner shall provide the Promoter with a detailed and comprehensive program, including all pieces, their length and line-up and the planned intervals– as far as this has not been already mentioned in this agreement – in writing, one month before the performance at the latest.

The Contractual Partner shall provide the Promoter with additional documents needed for the calculation of the GEMA fee, as well as all information pertaining to possible encores, their length and line-up, at the latest one week after the performance.

§ 6 Technical Rider

The wishes and technical requirements of the Contractual Partner as regards the stage/stage layout are agreed as part of a Technical Rider which is to be produced separately between the contractual parties in writing. The Contractual Partner's Technical Rider is only binding for the Promoter if he has agreed to this in writing, i.e. via e-mail etc.



PHILHARMONIE ESSEN

§ 7 Cancellation of the Event

1. The Contractual Partner is obligated to immediately inform the Promoter if it becomes known to him that the event – for whatever reason – cannot take place.
2. Should the event be cancelled due to the Contractual Partner, then the Contractual Partner must compensate the Promoter for any damage resulting from this.
3. Should the event be cancelled due to the Promoter, then the Promoter pays the Contractual Partner the fee agreed in § 2 of this contract without VAT. Expenses saved by the Contractual Partner are deducted from this.
4. In the case that the event is cancelled due to *force majeure*, the Parties are released from their contractual obligations. Expenses incurred up to this point are borne by each party.
- 4.1 Should only a part of the event (e.g. a rehearsal or one of several performances) be cancelled due to *force majeure*, then it remains up to the Contractual Parties, at their reasonable discretion, to decide on the performance of the remaining event parts.
- 4.2 Should any person, employed in accordance with § 1 figure 2 of this contract not be able to participate in the event due to reasons of *force majeure*, then the Contractual Parties will first mutually confer about the obligation of the best possible replacement of this person. The Promoter makes the decision on the replacement or cancellation of the event as well as on a change to the program and/or the person obligated to participate.

§ 8 Illness Clause

1. Should the Contractual Partner or a member of the Contractual Partner or a person employed in accordance with § 1 Figure 2 of this contract fall ill and should the Contractual Partner therefore not be able to perform, then he must inform the Promoter of this immediately and provide proof of this via medical certification. The obligation of the Contractual Partner to perform and the obligation of the Promoter to pay the fee do not apply in this case. It remains up to the Contractual Parties to agree a replacement performance under the same conditions.
2. Should a person obliged in accordance with § 1 Figure 2 of this contract not be able to participate in the event due to an illness, the Contractual Parties will first mutually confer about the obligation of the best possible replacement of this person. The Promoter makes the decision on the replacement or cancellation of the event as well as on a change to the program and/or the person obligated to participate.

§ 9 Territorial Restriction Clause

The Contractual Partner agrees not to perform in Essen or within a radius of 50 km at least six months before, and at least six months after his performance. Exceptions are possible with special written authorization by the Promoter.

§ 10 Permits/Insurance/Liability

1. The Promoter is responsible for the obtaining of all official permits required for the execution of the event.
 2. The Contractual Partner ensures that he and all persons obliged by him have the necessary working positions, residence permits, work permits and visas or equivalent documents, in order to reside and to work in Germany. The Contractual Partner is obliged, if necessary, to obtain the necessary permits at his own expense.
 3. The Contractual Partner, as well as all other persons engaged by him for his performance, are insured against the economic consequences of accidents, pertaining to death, invalidity, rescue costs and cosmetic surgery, via the group accident insurance taken out by the Deutscher Bühnenverein und the Gerling Group. The insurance cover extends to accidents involving insured persons in the building in, and the premises on which the performance and rehearsals take place. The direct way to and from the premises are also covered.
- In the case that the Promoter is held responsible for the accident, all claims against him filed by the Contractual Partner and the persons he engaged shall be limited to the coverage of the group accident insurance. In the



PHILHARMONIE ESSEN

case that the Contractual Partner or any person he engaged suffers a prejudice which is not covered by the group accident insurance, his / their claim against the Promoter shall be limited to the amount exceeding the benefit of the group accident insurance in the case that the Promoter is held responsible, due to intention or negligence.

The costs for in-hospital and non-hospital treatments are not covered. The Promoter is not liable for any damage covered by statutory and private health insurance companies. In the case that the damage caused to the Contractual Partner or any person he engaged is not covered by German statutory or private health insurance companies, the Promoter shall not be liable if the damage had been covered by a German statutory which the Contractual Partner could have contracted.

4. The Contractual Partner is liable to the Promoter for all damage which he or his employees or persons engaged by him for the events cause or which are caused by objects introduced by him.

§ 11 Additional agreements

1. The Contractual Partner agrees that the Promoter has the right to engage a photographer at his own expenses for the rehearsals and the performance, and that the Promoter has the right to use the photographs of the Contractual Partner.
2. The Contractual Partner agrees that, for the purpose of documentation, filming, photography and sound recording are allowed during the rehearsals and the performance, as well as for publication in the (print) media and on the Internet, without receiving additional payment. The Contractual Partner shall pass on his ancillary copyright to the Promoter for use on the radio, as well as the Internet, in accordance with § 19a German copyright law (UrhG).

The Contractual Partner agrees that television broadcasts of rehearsals and performances of up to 3 minutes are allowed for program advertisement and for the purpose of information and documentation, without receiving additional payment.

3. The Contractual Partner agrees to seek the Promoter's special written authorization for using and operating the technical equipment of the Philharmonie by persons other than the house's technicians, and for using personal technical equipment, as far as they are not part of the Contractual Partner rider requirements. Changes in the concert hall (e.g. seating) are subject to the Promoter's authorization.
4. The Contractual Partner is aware that the Promoter operates a restaurant, as well as a book and merchandising desk in the foyer of the Philharmonie. The Contractual Partner tolerates this within reasonable limits for the whole duration of the performance. The special written authorization of the Promoter is mandatory if the Contractual Partner wishes to sell his own material (books, cds, tapes, etc. and merchandising) during the performance.

§ 12 Ticket Sales / Sponsors

1. The Promoter alone is responsible for ticket sales. The Promoter is also entitled to delegate ticket sales to third parties. The Contractual Partner shall not sell tickets himself, or have them sold by third parties, via his own distribution.
2. The Promoter shall provide **18 free tickets** to the Contractual Partner for the performance.
3. The Promoter's sponsors own fundamental exclusive rights and have priority. The Contractual Partner's sponsors are named only on the Contractual Partner's biography page in the evening program. The presentation of the Contractual Partner's sponsors as well as the use of banners and billboards for advertising etc by the Contractual Partner require written consent from the Promoter.



PHILHARMONIE ESSEN

§ 13 Final terms

1. The Contractual Partner is aware of, and accepts the house rules and shall instruct all persons hired by him to respect them and to comply to them.
 2. Modifications and extensions to this contract must be done in writing. The suspension of the need for the written form must also be carried out in writing. The same applies for the suspension of the contract as a whole and its termination. Supplementary agreements do not exist.
 3. If several persons are Contractual Partners, then all Contractual Partners must accept declarations for and against them, which are made by or towards one of them. Several Contractual Partners are liable as co-liable parties.
 4. Personal details of the Contractual Partner of the Theater- und Philharmonie Essen GmbH are saved and processed in accordance with §§ 28 and 29 of the BDSG (Federal Data Protection Act) as part of the respective contractual relationship.
 5. The legal relations between the Contractual Parties are subject to German Law.
 6. Place of fulfilment and place of jurisdiction for all disputes arising from this contractual relationship is Essen, if the Contractual Partner is a businessman, a legal person under public law or a special fund under public law or has no place of general jurisdiction in Germany.
 7. Should a provision of this contract be or become invalid, then the validity of the remaining provisions is not affected by this. If one of the provisions of this contractual should be invalid, this does not affect the validity of the contract in any other way.
- An invalid provision is to be replaced by a legally permitted provision corresponding to its economic purpose.

Signatures

Essen, _____

Berger Bergmann (General Manager)

Hein Mulders (Artistic Director)

Bratislava, _____

Marián Chudovský (General Director)

Slavomír Jakubek (Director of the SNT Opera)