

CONTRACT ON ENSURING THE ARTISTIC HOSTING OF THE PERFORMING ARTIST

ZUHo No: 1/2024 - AG

concluded pursuant to § 269 sec. 2 of Act No: 513/1991 Coll. of Commercial Code in wording of later regulations, respecting the relevant provisions of Act No: 185/2015 Col.l – Copyright law

Client **National Theatre Košice**
Seat: Hlavná 58, 042 77 Košice
Performing: Mgr. art. Andrej Šoth, ArtD. – General Director
Legal form: state subsidized organization
Founder: Ministry of Culture of the SR, Founding Charter No: MK-3905/2023-110/7836
Bank contact: State Treasury
Account number/IBAN: SK85 8180 0000 0070 0007 0481, SK35 8180 0000 0070 0024 0452
Identification number: 312 99 512
VAT identification number: SK2021469758
Tax identification number: 2021469758
Contact person: Ing. Katarína Turčík, PhD.
Telephone: 055 – 2452 222
Website: www.sdke.sk
E-mail: katarina.turcik@sdke.sk (hereinafter also referred to as „Theatre“)

Agency: **dianqa GmbH**
Seat: **Hinterester 22, 8184 Bachenbülach, Schweiz**
Performance : **Juraj Hollý**
Legal form: **Limited Liability Company**
Identification number: **CH-020-4072027-5**
Tax identification number: **CHE-237.314.793**
FRC-ID: **1456281**
IBAN: **CH82 0483 5366 8483 5200 0**
SWIFT: **CRESCHZZ80A** (hereinafter also referred to as “Agency”)
(hereinafter together referred to as „Contracting Parties “)
agreed on this Contract on ensuring the artistic hosting of the performing artist (hereinafter only referred to as „Contract“)

Introductory provisions

1. The Agency shall represent on the basis of a specific contract Mr Juraj Hollý permanently resident at P.J. Šafárika 379 / 21 , 927 01 ŠALA 1 (hereinafter only referred to as „**Visiting Artist** “).
2. The Agency declares that it has concluded a contract with the Visiting Artist, on the basis of which it is entitled to represent him/her against third parties, to conclude in its name and to its behalf contracts with third parties to the extent necessary to fulfil the purpose of this Contract.

Article I

Subject of the contract

1. The subject of this Contract is the regulation of the conditions for ensuring the artistic hosting of the artist in the Natinal Theatre Košice and the regulation of the rights and obligations of the Contracting Parties, in particular:
 - a) the commitment of the Agency to ensure on its own behalf the presence and the execution of the Visiting Artist’s performance which means creative artistic performance of the work by studying and creating the character of **Macduff** in **G.Verdi's opera: "MACBETH"** (hereinafter referred to as "the performance") **from 18th FEBRUARY 2024 until the performance is withdrawn from the theatre's repertoire.**
 - b) the commitment of the Agency to give consent to the use of the performance of the Visiting Artist - i.e. granting the licence,
 - c) the Client's obligation to pay the agreed remuneration to the Agency.

Article III

Licence

1. By this Contract, the Agency grants the Client a licence to use the artistic performance or its parts by all methods of use known by today according to the Copyright Act, in particular, but not only in the following ways:
 - a) public performance,
 - b) making an original record of the artistic performance,
 - c) making copies of the record of artistic performance,
 - d) public performance of recording to unlimited extent without quantitative, temporal and territorial limitation,
 - e) public transmission of recording in the whole and/or in parts, in particular in the form of terrestrial broadcasting, cable broadcasting, satellite broadcasting, and / or simultaneous broadcasting or other broadcasting, cable retransmission and distribution by Internet to unlimited extent without quantitative, temporal and territorial limitations,
 - f) inclusion of part of the recording in another television program and/or in program trailers and subsequent use of the thus used part of the recording in the ways according to letter b), e), k) of this section of the Contract,
 - g) presenting the work to the public,
 - h) by broadcasting live television broadcasts and replays of recordings of productions (in which the performance will be used) without limitation in the form of terrestrial broadcasting, cable broadcasting, satellite broadcasting, Internet distribution and/or simultaneous broadcasting without temporal and territorial limitations,
 - i) for subtitling the record of objects of protection,
 - j) for the inclusion of an audiovisual recording (which will include the artistic performance of the artist), or parts thereof, into an audiovisual work,
 - k) the public distribution of the original audiovisual recording (in which the performance will be used) or a copy thereof,
 - l) use of photographs taken in connection with the preparation of the initial recording/AVD,
 - m) for making the recordings of the Production (in which the performance will be used) available to the public, including making available to the public online - especially online streaming of NDKE productions on the YouTube channel of the Košice National Theatre and on the official NDKE Facebook profile and within the Online Live Art project,
 - n) public distribution of the record or its reproductions (of which the artistic performance is a part) by transfer of ownership, borrowing and/or rental.
2. By this Contract, the Agency further grants the Client permission to record the performance or its part on an audio, visual and/or audio-visual recording and a license to use such a recording (all or part of it) for the purposes of studying the work, for the purposes of promotion, study, news, documentaries and/or program trailers, archiving, for other purposes related to the Client's operational needs, and for these purposes, it is authorised to process/edit the recording (part of it), combine it with another work and/or include it in a collective work (database).
3. Scope of the licence: The Agency grants the Client a licence according to the previous provision as non-exclusive, without material, territorial and quantitative restrictions, for the entire duration of the property rights of the performing artist.
4. The Client is entitled to assign the license as a whole or as a partial authorization and is entitled to grant a third party consent to use the performance within the scope of the granted license (sublicense), in particular he is entitled to grant consent (sublicense), or transfer the rights acquired by this Contract by the Client on television for the purpose of broadcasting the production as part of the television program broadcast or in the event that a third party, based on a special contract with the Client, presents the production on its own account on any domestic or foreign stage.

5. The scope and duration of the licence granted under this Article of the Contract shall apply adequately to any partial records of artistic performance or copies thereof, if created within or under the exercise of any of the rights of this Article of the Contract.
6. The Theatre is entitled, but not obliged, to use the licence, or to use the individual authorizations of the license.
7. In accordance with § 12 of the Civil Code, the Agency grants the Theatre consent to the production and use of pictorial recordings, name and surname and other expressions of personal nature of the Visiting Artist for the purpose of promoting the performance, especially for purposes of use in the performance bulletin and theatre yearbook.

Article IV

Rights and obligations of the Agency

1. The Agency shall in particular have the right:
 - a) to demand from the Client and third parties on behalf of the Visiting Artist respect and observance of all rights that belong to him/her according to the relevant provisions of the Copyright Act,
 - b) for the payment of the agreed remuneration for the fulfillment of the subject of this Contract, in a proper and timely manner, i.e. in the manner, within the term and in the amount agreed in this Contract, but only in the case of the executed performance of the Visiting Artist, unless the Contracting Parties agree otherwise,
 - c) to create the usual conditions for the Visiting Artist necessary for the successful submission of artistic performance, including the provision and payment of accommodation at a level appropriate to his needs and capabilities of the Client, for the necessary presence of the Visiting Artist at the Client's place of residence. The Visiting Artist is not entitled to share the accommodation provided in this way with other persons.
2. The Agency commits itself that the Visiting Artist:
 - a) study and creates and submits an artistic performance at a high artistic and professional level by his own creative intellectual activity,
 - b) participates in the planned rehearsals and shows up for them on time; rehearsal dates will be agreed with the Visiting Artist,
 - c) will have studied the character of Macduff **by the orchestral costume rehearsal on 2nd March 2024,**
 - d) arrives on time for every performance of the opera in which he is to submit an artistic performance,
 - e) will respect the instructions of the conductor and the Director of opera of the Client in the creation and submission of artistic performance.
 - f) will not be under the influence of alcohol, narcotics or similar substances during rehearsals and performances and will not consume these before rehearsals and performances,
 - g) will follow the organizational instructions of the Client, and will comply with the Client's Rules of Procedure, Health and safety and fire protection regulations valid for the Košice National Theatre, to the extent necessary to fulfill the subject of this Contract.
3. The Agency commits itself that, in the event that the Visiting Artist is unable to attend the rehearsal and/or performance (e.g. due to illness, injury, etc.), the Agency shall notify the Theatre of this fact as soon as it becomes aware of it, but no later than 24 hours before the submission of the artistic performance ; the Agency is obliged to reliably prove these cases; in other cases, the Agency may refuse to submit an artistic performance by the Visiting Artist only after agreement with the Theatre; if the Theatre does not give its consent, the Visiting Artist is obliged to start the agreed submission of the artistic performance..
4. The Agency commits itself that in the event that the Visiting Artist does not enter the accommodation provided by the Client without prior notice, it will be obliged to pay the full amount, which will therefore be invoiced to the Client by the hotel facility. The Agency is obliged to notify the contact person of the Client (in writing, by e-mail, by telephone) of the non-arrival of the Visiting Artist for accommodation by 12.00 a.m. on the day preceding the day of entry.

5. By signing this Contract, the Agency agrees that the Client shall offset the costs in accordance with the previous provision against the remuneration agreed in this Contract or in the event that the invoicing by the hotel facility takes place later than the remuneration paid to the Agency under this Contract, it commits itself to pay this amount on the basis of a written request from the Client.

Article V

Rights and obligations of the Client

1. The Client has the right in particular:
 - a) to require the Agency to fulfil the subject of this Contract and to fulfil all other obligations of the Agency enshrined in this Contract,
 - b) to decide about cast or non-cast of the Visiting Artist in the performance,
 - c) to demand from the Agency compensation for damage that has been demonstrably incurred in a causal connection with the proceedings, or by failing to act by the Agency and / or the Visiting Artist in conflict with this Contract.
2. The Client is obliged in particular:
 - a) to respect, observe and ensure adequate protection against unauthorized interference by third parties with the rights that belong to the Visiting Artist under the relevant provisions of the Copyright Act,
 - b) to pay the agreed remuneration to the Agency in a proper and timely manner, i.e. in the manner, within the term and in the amount agreed in this Contract
 - c) to create the usual conditions necessary for the successful fulfilment of the subject of this Contract, including the provision and payment of accommodation at a level appropriate to the needs of the Visiting Artist and capabilities of the Client, for the necessary presence of the Visiting Artist at the seat of the Client.

Article VI

Remuneration

1. The Client commits itself that for ensuring:
 - a) the study of the character of **Macduff** by the Visiting artist it will pay the Agency a fee in the amount of **833.- € without VAT** (in the word eight hundred and thirty three EUR without VAT),
 - b) the portraying the character of **Macduff** by Visiting Artist and for granting a license in the performance it will pay the Agency a fee in the amount of **750.- € without VAT** (in the word seven hundred fifty EUR without VAT) for each performance in which the artist submits artistic performance.

The place of taxable performance is the Slovak Republic.

2. In the event that the Visiting Artist submits only a part (but at least until the first break of the performance) of the artistic performance through no fault of his own, the Agency shall be entitled to the entire agreed fee for the specific performance. Other cases of interruption of the performance are subject to a special agreement between the Contracting Parties, up to the amount of the fee due to the Visiting Artist.
3. Remuneration according to sec. 1 letter a) will be paid on the basis of an invoice without VAT, which the Agency will issue and deliver to the Client within its due date. The remuneration will be invoiced after the completion of the **orchestral costume rehearsal**.
4. Remuneration according to sec. 1 letter b) will be paid on the basis of an invoice without VAT, which the Agency will issue and deliver to the Client within its due date. The remuneration will be invoiced after the **proper submission of the artistic performance at the show**.
5. The Agency shall submit to the Client the original invoice without VAT, which must contain all the requisites pursuant to Act No: 222/2004 Coll. on value added tax, in wording of later regulations. In the event that the invoice does not contain all the requisites, the Theatre is entitled to return the incorrect invoice to the Agency for processing. This will stop the due date of the incorrectly issued invoice. The new due date will start to run from the date of delivery of the new invoice.

6. The agreed remuneration shall include all the financial claims of the Agency necessary to fulfil the subject of this Contract.
7. The Agency commits itself to settle all the property rights of the Visiting Artist for the creation and submission of the artistic performance under this Contract from the agreed remuneration so that the Client may use the artistic performance of the Visiting Artist under this Contract without any additional financial performance against the Agency or the Visiting Artist.
8. The taxpayer (Visiting Artist) agreed with the taxpayer (National Theatre Košice) in accordance with § 43 sec. 14 of Act No. 595/2003 Coll. on income tax, in wording of later regulations, that the taxpayer (National Theatre Košice) does not withhold the tax collected by deduction from the taxpayer and the taxpayer (Visiting Artist) himself admits this income achieved in the territory of the Slovak Republic and includes it in the tax return.
9. The adjustment of tax obligations will also be the subject of the Agreement on non-withholding of tax, which will be concluded between the National Theatre Košice and the Visiting Artist.

Article VII

Duration of the contract, its termination and withdrawal from the contract

1. The contractual relationship established by this Contract shall terminate:
 - a) upon expiry of the period of duration of this Contract,
 - b) by notice of one Contracting Party,
 - c) by written agreement of the Contracting Parties,
2. This Contract is concluded for a definite period **from 18th February 2024 until the settlement of all obligations arising from this Contract**. The duration of this Contract does not affect the duration of the license granted under this Contract.
3. Either Contracting Party may terminate this Contract, even without giving any reason. The notice must be in writing and must be delivered to the other Contracting Party, otherwise it is invalid. The Contract terminates by lapsing a 1 month notice period, beginning on the first day of the month following the delivery of the notice.
4. This contractual relationship may be terminated at any time by agreement of the Contracting Parties. The validity of the agreement requires written compliance, otherwise it is invalid.
5. Documents concerning the establishment, change or termination of the contractual relationship established by this Contract, or legal facts arising from this relationship, shall be delivered by the Contracting Parties at the premises and facilities of the Client and, if this is not possible, documents shall be delivered by post as registered mail. The obligation of the delivering contracting party to deliver the document shall be fulfilled as soon as the addressee receives the document or as soon as the post office has returned it to the delivering contracting party as undeliverable, or if the service of the document was thwarted by the addressee's actions or omissions. The effects of service shall also occur if the addressee refuses to accept the document.
6. In cases of cancellation of a rehearsal or performance for reasons of force majeure for which none of the Contracting Parties is responsible (e.g. in the case of a natural disaster, due to an emergency, etc.), no Contracting Party is entitled to any financial compensation or performance under this Contract.

Article VIII

Sanctions

1. The Contracting Parties have agreed on a contractual penalty of 20% of the remuneration for performance agreed in provision of Article VI of this Contract for the following cases:
 - a) failure to submit the artistic performance properly and on time,
 - b) violation of the obligations of the Agency or of the Visiting Artist provided by the Agency, arising from this Contract,
 - c) failure to create the usual conditions on the part of the Client, which resulted in the impossibility of the Visiting Artist's proper appearance at the performance,
2. The right of the Contracting Party to compensation for the damage caused is not affected by the application of the sanction.
3. The Agency is entitled to claim protection of the Visiting Artist's rights in the manner specified in the relevant provisions of the Copyright Act.

Article IX

Final provisions

1. This Contract becomes valid on the day of signing by both Contracting Parties and effective on the day following its first publication in the Central Register of Contracts ([ww.crz.gov.sk](http://www.crz.gov.sk)), which is maintained by the Office of the Government of the Slovak Republic.
2. This Contract fully replaces all previous oral agreements, the content of which is the submission of performance, originating between the Contracting Parties before the signing of the Contract.
3. The Contracting Parties commit themselves that all potential disputes that may arise during the performance of this Contract will be resolved primarily by agreement. If no agreement is reached, disputes will be decided by ordinary courts.
4. This Contract is concluded in **Slovak and English**. Both language versions are considered equally authentic. In case of discrepancy between these language versions, the interpretation of the Slovak language version shall prevail.
5. The Contracting Parties have agreed that the law governing this Contract and the relations arising from it is the legal order of the Slovak Republic.
6. All alterations and amendments to this Contract shall be made in the form of a written amendment based on the agreement of both Contracting Parties.
7. This Contract is drawn up in four copies, one copy from each language version for each Contracting Party.
8. Legal facts not regulated by this Contract are governed by the relevant provisions of the Civil Code in valid wording, the Copyright Act in valid wording, and the provisions of other generally binding legal regulations that may have a relation or have a relation to legal and other facts resulting from this Contract.
9. The Contracting Parties declare that they have been made familiar with the content of this Contract and have signed it as a sign of agreement with its wording.

Košice 2024

Mgr. art. Andrej ŠOTH, ArtD.
General Director
of National Theatre Košice

Juraj HOLLÝ
Executive manager
dianqa GmbH

for the Client

for the Agency