

MUSIC PERFORMANCE AGREEMENT No

CONCERT

Click or tap to enter a date

Licensor

Estonian Authors' Society / Eesti Autorite Ühing

Lille 13, 10614 Tallinn

Registry code: 80004182

Phone: 668 4360

E-mail: eau@eau.org

Account No EE857700771003792013 LHV

Licensee

Adress:

Registry code:

Phone:

E-mail :

Send invoice to address:

Contact person:

Phone _____

E-mail: _____

Contact person:

Phone: _____

E-mail: _____

Estonian Author's Society (Eesti Autorite Ühing MTÜ – hereinafter as EAÜ) represented by authorized person _____ and _____ (hereinafter as Licensee) represented by the executive board member, _____ hereinafter referred to as party or parties, have agreed in the following:

1. General provisions

1.1. The object of the current agreement (hereinafter as Agreement) are musical works, which belong to the repertoire of the EAÜ and are subject to copyright protection in the Republic of Estonia.

1.2. The purpose of the Agreement is to agree on the terms of use of musical works.

1.3. The subject of the Agreement are the following proprietary rights of the authors or their rights-holders (legal successors, publishers) of the musical works:

1.3.1. the exclusive right to permit the public performance of musical works in accordance with § 13 subsection 1 clause 7 of the Estonian Copyright Act;

1.3.2. the exclusive right to receive remuneration for such use of musical works in accordance with § 14 subsection 1 of the Estonian Copyright Act.

2. Definitions

2.1. In the Agreement the definitions, regardless of initial capital or small letter or whether in plural or singular, are used in the following meaning:

2.1.1. Works – musical works together with their lyrics, which belong to the repertoire of the EAÜ and are subject to copyright protection in the Republic of Estonia.

2.1.2. EAÜ repertoire – Works, the rights of which are represented by the EAÜ pursuant to the agreements concluded with the authors and / or with their legal successors, and / or based on the agreements concluded with other organizations of collective management.

2.1.3. Public performance of works – the performance of Works, either partial or full, either direct or indirect via any technical device or process in a place open for the public or in a place not open for the wider public, but where an unspecified set of persons outside the family and outside immediate circle of acquaintances are present.

2.1.4. License for public performance – the license given to a Licensee as person organizing the public performance of the Works by the EAÜ as a collective management organization in accordance with § 13 subsection 1 clause 7, § 13¹ subsection 2, § 46 subsection 1 of the Estonian Copyright Act.

3. License submitted to the Licensee by the EAÜ

3.1. By this Agreement the EAÜ grants the Licensee a license for public performance of the Works on the territory of the Republic of Estonia at concerts organized by the Licensee (hereinafter the **Event** or **Events**).

3.2. The license granted to the Licensee by the EAÜ is in its essence a non-exclusive license and the Licensee is not authorized to give it to any third party.

3.3. The Agreement does not grant the Licensee the permission:

3.3.1. to transmit and retransmit the Works via the radio, television, cable network, satellite and other technical means:

3.3.2. to modify and arrange the Works;

3.3.3. to reproduce the Works performed in public.

4. License fee payable to the EAÜ by the Licensee

4.1. In case admission to the Event is for fee, the license fee payable by the Licensee to EAÜ for public performance of the Works depends on the admission fee of the Event. Under the admission fee the parties comprehend:

4.1.1. income from the ticket-sale of the Event, whereby the Licensee is entitled, prior to calculating the license fee payable to the EAÜ, to deduct from the ticket-sale income only value added tax included in the ticket price. Any other deductions from the received ticket-sale income (incl selling expenses of the tickets) are not permitted when calculating the license fee payable to the EAÜ;

4.1.2. in case the Licensee allocates tickets of the Event for the services provided to the Licensee (barter-operations), these tickets shall be considered as admission fees with the average selling price;

4.1.3. in case the number of the tickets of the Event which are allocated free of charge by the Licensee exceeds 10% of the total amount of the tickets, these tickets shall be considered as admission fees with the average selling price. Tickets provided free of charge to the EAÜ are not included in the free tickets that are taken into account when calculating the license fee in accordance with this subsection.

4.2. In case admission to the Event is free of charge, the license fee payable by the Licensee to the EAÜ for public performance of the Works depends on the number of people present at the Event.

4.3. The license fee rates payable to the EAÜ for the public performance of Works are published on the EAÜ website – www.eau.org, whereas when licensing an Event described in clause 3.1 of the Agreement, the parties shall proceed from the license fee rates applicable to “Concerts”.

4.4. The rates of the license fee published on the EAÜ website do not include the value added tax. The value added tax, which is added to the license fee rates published on the EAÜ website, is calculated from the EAÜ commission fee. Both the amount of the EAÜ commission fee and the value added tax, which adds on to the rate of the license fee, shall be included in the invoice sent to the Licensee by the EAÜ.

4.5. The EAÜ undertakes not to change the license fee rates during the calendar year. If the EAÜ changes the fee rates, it is obliged to notify the Licensee thereof in writing or in a format which can be reproduced in writing at least six weeks before the end of the current calendar year, and they shall enter into force on 1 January of the following year.

4.6. The EAÜ has a right to claim from the Licensee the advance payment up to 100% of the anticipated license fee if the EAÜ has previously had problems with the Licensee regarding the timely payment of the license fee.

5. Settlements between the parties

5.1. No later than 14 days after the Event the Licensee shall be obliged to submit to the EAÜ a financial report containing the following information about the Event:

5.1.1. the name of the Event and the place and time of the Event;

5.1.2. in case of fee-charging admission:

5.1.2.1. price of the ticket and the number of sold tickets specified by tickets belonging to each separate price category and the total income from the admission fees;

5.1.2.2. the number of tickets allocated for barter-operations;

5.1.2.3. the number of tickets given free of charge;

5.1.3. in case of free admission, the number of people present at the Event for each day of the Event.

5.2. If tickets for the Event have been sold and/or distributed through a ticket sales platform, the Licensee is obliged, in addition to the financial report, to submit to the EAÜ a report from the relevant ticket sales platform within the period specified in clause 5.1 of the Agreement.

5.3. Based on the financial report submitted by the Licensee and the report from the ticket sales platform, EAÜ will submit an invoice to the Licensee no later than the 5th working day after receiving the report.

5.4. Within 5 banking days following the receipt of the invoice, the Licensee shall transfer (based on the invoice received from the EAÜ) the payable license fee to the EAÜ's bank account.

5.5. In case the Licensee delays with the performance of financial obligations, i.e. if the Licensee fails to pay the invoice in time, the Licensee is obliged to pay interest of 0,3% on the unpaid amount per each delayed calendar day.

6. The repertoire report to be submitted to the EAÜ by the Licensee

6.1. No later than 14 days after the Event the Licensee shall be obliged to submit to the EAÜ the repertoire report on the Works performed by the performers at the Event either directly or with the help of any technical device (like phonogram). The report must be submitted through the form on the EAÜ's homepage available at <http://rep.eau.org/>

6.2. The repertoire report must contain information on performers, titles and authors of the Works (composers, authors of the lyrics, arrangers) and on the duration of the Works

6.3. It is not necessary to submit a repertoire report on the Works, which have been performed only with the help of any technical device or process, i.e. in case the performers have not been involved.

7. Contractual penalties

7.1. If the financial report specified in clause 5.1 of the Agreement and/or the ticket sales platform report specified in clause 5.2 is not submitted on time, the Licensee shall pay the EAÜ a contractual penalty of 12.80 € for each day of delay in submitting the report.

7.2. In case of failure to submit the repertoire report referred to in clause 6.1 of this Agreement on time, the Licensee shall pay to the EAÜ contractual penalty, the amount of which is 3,20 € per each day delayed with the submission of the report.

7.3. After the overrun of the deadline by the Licensee to submit the reports referred to in clauses 5.1, 5.2 and 6.1 of this Agreement, the EAÜ is obliged, within reasonable time, to notify the Licensee of the claim for contractual penalty. The Licensee shall be released from the obligation to pay the penalty in case the delay of the submission of report can be excused.

7.4. The purpose of the contractual penalties in clauses 7.1 and 7.2 of this Agreement is to force the Licensee to perform obligations and, in case of breach of obligations, to compensate other material and non-material damage (excluding damage to the author/authors or to their rights-holders for unreceived revenue) caused by the breach of obligations. These penalties are not meant for the replacement of the performance of obligations.

8. Disputes

8.1. All contractual disputes shall be preferably settled by constructive negotiations between the parties.

8.2. In case the Licensee or the EAÜ have not duly fulfilled their contractual obligations, or in case the disputes have been caused by different interpretation of this Agreement, the interested party shall submit to the other party a written claim, which shall be answered by the other party at the latest on the fifth working day following the receipt of the claim.

8.3. Failing the Agreement, the disputing parties are entitled to have recourse to the Harju County Court for the settlement of the dispute.

8.4. Authorized representatives of the EAÜ have a right to check the original data being the basis for the calculation of the license fee by reviewing the Licensee's accounting and other documentation, which are used for the calculation of the license fee, provided they inform the Licensee in writing at least ten days before. The Licensee may refuse to present the original documentation to the EAÜ on the condition that the Licensee submits to the EAÜ either a certified auditor's or mutually accepted controller's report on the calculations in dispute. In this case the auditor or controller shall be paid by the Licensee.

8.5. Information obtained by the EAÜ in exercise of rights referred to in clause 8.4 of this Agreement, is confidential within the scope stipulated by the Licensee. Before the checking process, in order to guarantee confidentiality, the authorized representative of the EAÜ shall sign a document containing a list of confidential data and an obligation not to disclose the data to any third party.

8.6. In order to ascertain the truth either in criminal, misdemeanor or civil procedure the EAÜ has a right (without the Licensee's consent) to disclose to third parties as well as to the court settling the dispute and to the attorney representing the EAÜ the confidential information (which has become known during the checking process), bilaterally accepted controller's report or certified auditor's report presented by the Licensee.

8.7. While satisfying the claims in case of arrears, the party in debt shall be obliged to give first priority to contractual penalties, then to fines for delays and finally to principal liabilities (incl. license fees).

9. Final provisions

9.1. Any request to amend or supplement the Agreement must be notified to the other party in writing at least one month in advance. All amendments and supplements made shall be formalized in writing and shall be added to the Agreement as signed by both parties.

9.2. The Agreement must be digitally signed by the parties. The date of conclusion of the Agreement shall be deemed to be the Date of the Agreement, regardless of the time of individual signatures.

9.3. The Agreement is valid from _____ to _____ and is extended for one calendar year, unless either party notifies the other party of its wish to terminate it in writing at least one month before December 31 of the current year. The parties have the right to terminate the Agreement at any time by notifying the other party of their wish to do so at least one month in advance. If one of the parties fails to meet the essential terms of the Agreement, the other party has the right to unilaterally terminate the Agreement and EAÜ has the right to demand immediate payment of the amounts payable under the Agreement.

EAÜ

Licensee

/digitally signed/

/digitally signed/

Name and signature of authorised person

Name and signature of a party

