

Licence Number:

# Performing Right Society Limited

Representing Music Creators and Publishers of Music

Registered Office: 2 Pancras Square, London, N1C 4AG

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## The Music Licence

### Classical and Popular Music Concerts, Dance Parties and Festivals

#### Terms and Conditions of Licence

AGREEMENT dated \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

BETWEEN (1) \_\_\_\_\_

Whose registered office / principal place of business is

(the licensee)

And (2) PERFORMING RIGHT SOCIETY LIMITED whose registered office is 2 Pancras Square, London, N1C 4AG (the society)

#### WHEREAS

- (1) The Society is an association of composers, authors and publishers of copyright musical and literary works one of whose main objects is the granting of licences publicly to perform such works in the United Kingdom.
- (2) The Licensee organises and/or promotes events at which the Society's repertoire is performed in public and regulate the Society's licence for the purpose of its activities.
- (3) The Licensee having read the Society's licensing scheme applicable to the class of business activity carried on by the Licensee hereby applies for and the Society hereby agrees to grant a licence on the following terms and conditions:

#### 1. Definitions

- (1) In this Agreement unless the context otherwise requires:
  - (a) 'Affiliate' means collecting societies and other rights holders that are represented by PRS;
  - (b) 'Agreement' means these terms and conditions, the General Conditions, the Schedule of Rights Administered, the Tariffs, any terms on which the Society agrees to accept payment of any sums due to it under this Agreement, and any variations to all or any of the same from time to time;
  - (c) 'Commencement Date' means the date on which the Agreement is signed by the Society or such other date as the parties may have agreed in writing;
  - (d) 'Due Date' means the date on which the Royalty is due and payable to the Society under the terms of the Tariff;
  - (e) 'Event' means a popular or classic concert, recital, dance party or other entertainment consisting in whole or in part of the performance of music in public, whether or not a charge is made for admission thereto;
  - (f) 'Festival' means a series of consecutive or concurrent Events (whether or not in conjunction with other entertainments) held in one or more Venues within a single town or area;
  - (g) 'General Conditions' means the General Conditions applicable to Tariffs and Licences;
  - (h) 'Information' means information (including personal data as defined in the Data Protection Act 1998) obtained in connection with this Agreement and the Licence;
  - (i) 'Licence' means a licence described in clause 2 of this Agreement;
  - (j) 'Licence Period' means the period during the Term for which a Licence is granted;
  - (k) 'Licence Scheme' bears the meaning ascribed to that term in s116 Copyright, Designs & Patents Act 1988 or any subsequent modifications or re-enactment thereof;
  - (l) 'MCPS' means Mechanical-Copyright Protection Society Limited whose registered office is 2 Pancras Square, London, N1C 4AG;
  - (m) 'Repertoire' means each and every musical work, including any work associated therewith, in which the right to perform in public and to authorise others to do the same in the United Kingdom is for the time being owned or controlled by the Society;
  - (n) 'Royalty' means the royalty under the relevant Tariff and payable by the Licensee in consideration of the Licence exclusive of any VAT payable thereon;
  - (o) 'Royalty Payment Terms' means the provisions of the Tariff in accordance with which the Royalty is payable;
  - (p) 'Tariff' means the Licensing Scheme for the time being applicable to the public performance of the Repertoire at the Event or Festival promoted, organised or managed by the Licensee;
  - (q) 'Term' means the term of the Agreement set out in clause 3;
  - (r) 'Relevant Particulars' means the particulars required to be disclosed to the Society by the Licensee for the purposes of enabling the Society to calculate the Royalty;
  - (s) 'Venue' means the Venue and/or location whether temporary or permanent at which the Event takes place;
  - (t) words importing the singular number include the plural, and vice versa;
  - (u) words importing the masculine gender include the feminine.

- (2) The headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement.

#### 2. Licence

- (1) Subject to the terms and conditions set out in this Agreement, the Society hereby grants to the Licensee a non-exclusive licence to perform and to authorise others to perform the Repertoire in public at the Venue at, as the case may be, the Event and/or the Festival. All rights not expressly granted by the Licence are reserved. In particular, but without limitation the doing of any act restricted by copyright in the Repertoire other than performing the Repertoire in public is not licensed by this Agreement.
- (2) The licence granted in clause 2(1) does not include in relation to the Repertoire a licence to do any of the following:
  - (a) publicly to perform the musical work accompanied by words other than those published or otherwise associated with it by the copyright owner;
  - (b) publicly to perform the work in any altered or re-arranged form with such costume or action as to produce parodied or burlesque effects;
  - (c) publicly to perform the work adapted to a dramatic form;
  - (d) to permit or cause any performance to be audible beyond the precincts of the Venue (unless such acts are specifically included in the Relevant Particulars); and
  - (e) publicly to perform the work by means of the playing of a recording of any musical work, if the making of such recording infringed the copyright in that work.

- (3) The full extent and limits of the Licence are set out in the Schedule of Rights Administered by the Society ("the Rights Administered") a copy of which is attached to this Agreement at Schedule 1. The Schedule may be amended from time to time by the Society pursuant to any changes in the Rights Administered, in which case the Society will inform the Licensee if possible in advance but if not, as soon as reasonably practicable after such change. The Licensee undertakes not to exercise any of the rights outside of the Rights Administered without the consent of the copyright owner.

#### 3. Term of Agreement

The Agreement shall commence or be deemed to have commenced on the Commencement Date and shall continue from year to year unless and until terminated by either party in accordance with clause 7.

#### 4. Royalty

- (1) In consideration of the Licence, the Licensee undertakes to pay the Royalty to the Society in accordance with the provision of this Agreement and the Royalty Payment Terms.
- (2) The Licensee shall pay the Royalty not more than 28 days after the date of the invoice, together with Value Added Tax at the applicable rate thereon.
- (3) In the event that the Licensee is in arrears in respect of any payment due under this Agreement, the Society reserves the right to charge the Licensee interest on the amount overdue calculated on a daily basis at the rate of 3% per annum above the base lending rate in the United Kingdom of the National Westminster Bank Plc for the time being in force without prejudice to the Society's rights.
- (4) Save insofar as they are varied by this clause or the Tariff, the provisions of clause 3 of the General Conditions shall apply to the payment of the Royalty.

#### 5. Particulars of Use

- (1) The Licensee that not more 30 days after the end of the Event or Festival, as the case may be, or of receiving such a request, and in such form as the Society may from time to time prescribe, notify the Society of the Relevant Particulars. The Licensee shall ensure that every notification furnished by it pursuant to this clause is signed by a responsible person and shall on delivery of such form represent that it has been so signed and that the signatory has full authority and knowledge of the facts therein.
- (2) Should the Licensee fail to notify the Society of the Relevant Particulars within the period specified in clause 5(1), then without prejudice to the rights of termination under clause 7, the Society shall be entitled to estimate the Relevant Particulars and to submit an invoice for the Royalty calculated in accordance with such estimate and/or any other relevant information of which it is aware, which sum shall be payable on account of the Royalty for the Licence Period to which the invoice relates.
- (3) If the Licensee shall have failed to furnish the Relevant Particulars within a period of three months from the date of the invoice raised under clause 5(2), then in respect of those Relevant Particulars the Licensee shall not receive any credit or refund to which, but for such failure, he would otherwise be entitled under this Agreement. The provision of this sub-clause are without prejudice to the Society's right to require the Licensee to furnish the Relevant Particulars.

#### 6. Revision of Tariff

- (1) The Licensee has been furnished with a copy of the Tariff in force at the date of this Agreement. The Society shall notify the Licensee of any revision made to the Society's Tariff ("Tariff Revision") affecting the amount of the Royalty, for the avoidance of doubt, any annual inflation-linked adjustment to the Royalty pursuant to the terms of the Tariff is not and shall not be construed as a revision of the Tariff affecting the amount of the Royalty.
- (2) The revision of any Royalty during the Term by reason of a Tariff Revision shall take effect from the date on which the Tariff Revision becomes effective and any Royalty so revised shall be charged in accordance with the terms of the Tariff.

#### 7. Termination or Cancellation

- (1) This Agreement shall continue from year to year unless and until ended sooner either by:
  - (a) the Licensee on giving the Society one month's written notice within fourteen days of the date on which the Society has notified the Licensee of:
    - (i) a revision of the Tariff in accordance with clause 6(1) which results in an increase in the Royalty for the Licence Period in which the revision is effective provided that the Licensee shall remain liable to pay the proportionate amount of the Royalty for the period up to the date of termination;
    - (ii) any variation of any other term or condition of this Agreement (other than a variation occasioned by an increase in VAT or a provision of the Tariff); or
  - (b) the Society forthwith on giving written notice to the Licensee if the Licensee:
    - (i) shall have failed to pay the whole or part of any Royalty by the Due Date or be in breach of any other term of this Agreement and then failed to pay the Royalty or, if the breach is remediable, to remedy the breach within fourteen days of the date of a written demand from the Society for payment or remedy, as the case may be;
    - (ii) in the case of an individual, becomes bankrupt or makes an arrangement with his creditors or ceases to carry on business; or in the case of a company or other body corporate, goes into receivership, administration or any resolution is passed for its winding-up, (other than for the purposes of reconstruction and amalgamation) or it makes an arrangement with its creditors or ceases to carry on business; or in the case of a partnership or other unincorporated association, it makes any arrangement with its creditors or ceases to carry on the business or activities for which it was established; or
  - (c) by either party without cause on giving to the other one calendar month's written notice.
- (2) (a) Subject to sub-clause (b), the termination of this Agreement however caused shall be without prejudice to any right or remedy accrued to either party prior to the date of termination.

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- (b) The termination of this Agreement however caused shall have the effect of terminating any Licence for the time being in force and shall be without prejudice to the Society's right to take such action or pursue such remedy as it sees fit in respect of any unauthorised public performance of the Repertoire by and/or with the authority and permission of the Licensee. A notice served by the Licensee under this clause must be served by recorded delivery.

#### 8. No Assignment

This licence is personal to the Licensee. The Licensee may not assign or transfer the rights or obligations under this Agreement without the Society's prior written consent at the absolute discretion of the Society.

#### 9. Right of Audit

- (1) The Licensee grants to the Society, by its auditor, the right of entry to its registered office or principal place of business for the purpose of checking the Relevant Particulars, for which purpose the Licensee shall make available to the auditor of the necessary records and the books of account. For these purposes, the Licensee shall allow access to his premises. The auditor shall be entitled to inspect, make extracts and take copies of the information available, and to carry out such work as in their reasonable opinion considered necessary to verify the Royalty due to the Society in respect of an Event or Festival.
- (2) The Society shall be entitled to exercise its right of audit in relation to any Event or Festival within a period of not more than three years of the conclusion of that Event or Festival as the case may be.
- (3) The Society shall exercise its right of audit at a time reasonably convenient to the Licensee during normal business hours. The Society undertakes to use any information obtained, pursuant to its right of audit or otherwise, only for the purposes of verifying the accuracy of the particulars furnished or required to be furnished under the Agreement and further undertaken to keep such information confidential.
- (4) The Society shall bear the costs of exercising its right of audit ("audit costs") unless either;
- the audit reveals that the Licensee has furnished materially inaccurate particulars to the Society's detriment or that of its members; or
  - was undertaken as a result of the Licensee having failed to furnish any particulars, in either of which cases the audit costs shall be borne by the Licensee and the Licensee hereby agrees to pay such costs not later than 30 days after the date of the Society's invoice for the same.
  - Any Royalty accepted by the Licensee as being unpaid or so adjudged by the Court shall be paid in full by the Licensee to the Society within 30 days of acceptance or judgement and shall carry interest calculated in accordance with clause 4(3).

#### 10. Programme Details

- (1) The Licensee shall send to the Society immediately after such Event or Festival and in such form as the Society may from time to time prescribe particulars of all musical works performed at that Event or Festival.
- (2) The Licensee hereby agrees to issue the Society's agent backstage passes to the Event or Festival for the purpose of enabling the Society's agent to enter the Venue for the purpose of obtaining such details. For the avoidance of doubt exercised of its right of entry shall not on the part of the Society amount to a waiver of the Society's rights or release of the Licensee from his obligations under clause 10(1).

#### 11. Data Protection

- (1) We may use any Information for the purposes of:
- licensing, administering and enforcing Our rights (and the rights of Our members and Affiliates);
  - administering Your and members' relationships with Us including (e.g.) this Agreement, any future agreements, licensing matters and enquiries; and
  - research and analysis including use of Our and/or Affiliate services, enforcement and analysis of the types of organisations and entities that hold or should potentially hold relevant copyright licences.
- (2) We may provide the Information to:
- Affiliates and subcontractors and/or agents appointed in connection with the matters set out in (1)(a) to (c) above;
  - law enforcement bodies from time to time in relation to any intended or potential action for breach of copyright or otherwise where we are under a legal obligation to disclose such Information; and
  - MCPS, Phonographic Performance Limited and other collecting societies for the purpose of establishing whether further copyright licences are required to be held and related administration and/or enforcement activities.
- (3) We may also use the Information to contact You by post, telephone and, where Your consent has been given, email regarding music related services that may be of interest to You. If You do not wish Your details to be used for these marketing purposes by Us please contact Us at PRS National Sales Centre, 19 Church Walk, Peterborough PE1 2UZ or customerservice@prsformusic.com.
- (4) You warrant that You have obtained the consent of any individual whose personal data You share with Us for the purposes outlined in this clause 11 before submission of such data.

#### 12. Notice

- (1) Any notice plan or required to be given by a party under this Agreement must be in writing and may be served either personally or by post or by such other means as the parties may agree in writing –
- on the Society at its registered office;
  - on the Licensee, at the address specified in this Agreement; or
  - in either case, at such other address or by such other means as either party may notify the other in accordance with the provision of this clause.
- (2) Subject to clause 7(3) a notice shall be deemed to have been duly served at the time of delivery if delivered personally, and 48 hours after posting if by ordinary first class post.

#### 13. Waiver

Any failure or delay by the Society in exercising any right or remedy under this Agreement shall not constitute or be construed as a waiver of that right or remedy or a waiver or release of any other right or remedy unless otherwise agreed by the Society in writing.

#### 14. Invalidity

If at any time any provision of this Agreement is or becomes or is held by any court of competent jurisdiction to be illegal, invalid or unenforceable in any respect, such provision shall be severed and the remainder of the provisions of this Agreement shall continue in full force and effect.

#### 15. Entire Agreement

- (1) Subject to sub-clause 15(2), this Agreement sets out the entire agreement of the parties relating to its subject matter and except to the extent repeated in the Agreement supersedes all prior agreements and pre-Agreement Statements between the parties. A "pre-Agreement Statement" means any undertaking, promise, assurance or arrangement of whatever nature made or given by a party to the Agreement or any other person at any time prior to the Agreement.
- (2) In relation to any pre-Agreement Statement, the provisions of sub-clause 15(1) above shall not apply if and to the extent that the pre-Agreement Statement –
- was made fraudulently; and
  - induced the other party to enter into the Agreement.

#### 16. Variation

Without prejudice to the provision of clause 6, the Society may from time to time vary the terms and conditions of this Agreement on notice to the Licensee, such variation to take effect not less than four weeks after the date of the notice.

#### 17. Third Party Rights

This Agreement does not create any right enforceable by any person not a party to it unless otherwise agreed by the Society in writing.

#### 18. Priority of Terms

- (1) The Licence is granted subject to the General Conditions a copy of which is available on request from the Society in the event of any conflict between the terms of the General Conditions and these terms and conditions of Licence these terms and conditions shall prevail.
- (2) For the avoidance of doubt, where the Licence is granted in relation to a Festival, the deemed exclusion from the Licence set out in paragraph 2 (Conditions of Tariff "T" for theatrical presentations) shall not apply and the provisions of Schedule 1 shall prevail.

#### 19. Survival of Rights and Obligations

Following termination of this Agreement, howsoever caused, neither party shall have any right or obligation with respect to the other except to the extent provided for in this Agreement and the following additional clauses which shall survive termination of the Agreement.

- |             |                                      |
|-------------|--------------------------------------|
| Clause 4    | (Royalty)                            |
| Clause 5    | (Particulars of Use)                 |
| Clause 7(2) | (Liability on Termination)           |
| Clause 8    | (No Assignment)                      |
| Clause 9    | (Right of Audit)                     |
| Clause 10   | (Programme Details)                  |
| Clause 11   | (Data Protection)                    |
| Clause 12   | (Notice)                             |
| Clause 13   | (Waiver)                             |
| Clause 14   | (Invalidity)                         |
| Clause 19   | (Survival of Rights and Obligations) |
| Clause 20   | (Displaying of PRS Mark)             |
| Clause 21   | (Governing Law and Jurisdiction)     |

#### 20. Displaying of PRS Mark

The Licensee agrees during the Term and insofar as it is reasonably practical to do so, to display prominently at the Venue any logo, mark or other identification relating to the Society and the grant of the Licence supplied and approved by the Society from time to time ("PRS Material"). On termination of this Agreement, howsoever caused the Licensee shall cease to displaying the PRS Material forthwith.

#### 21. Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with English law and the parties hereby submit to the non-exclusive jurisdiction of the courts of England and Wales.

### SCHEDULE 1 (Rights Administered)

- A. The Licence in clause 2 of this Agreement shall not extend to or authorise the public performance of:
- a dramatico-musical work whether staged or otherwise; provided that the rights administered by the Society do nevertheless include the right to perform in public:
    - a dramatico-musical work or an excerpt or excerpts from a dramatico-musical work performed by means of a film or by means of a radio or television set used for the purpose of giving a public performance of broadcast programmes;
    - a non-dramatic excerpt or excerpts from a dramatico-musical work (however performed) the total duration of which in the course of the same programme is 25 minutes or less and which excerpt or excerpts:
      - are not a "potted" version of the work; or
      - are not or do not cover a complete act of the work;
  - the whole or any part of any music and of any work associated therewith composed or used for a ballet if accompanied by a visual representation of such ballet or part thereof; provided that the rights administered by the Society do nevertheless include the right to perform in public any such music and words so composed or used and accompanied by such visual representation when performed by means of:
    - a film and/or
    - television set used for the purpose of giving a public performance of broadcast programmes.
  - any musical work specifically written for a son-et-lumiere production when performed in or in conjunction with that production;
  - any musical work (which is not a dramatico-musical work or part of a dramatico-musical work) specifically written for a production of a dramatic work in a theatre when performed in or in conjunction with that dramatic work.
  - The Licence in clause 2 of this Agreement shall further not extend to or authorise the public performance of:
    - any musical and accompanied by any work other than those (if any) published or otherwise associated therewith by the copyright owner, unless authorised in writing by the Society or the person for the time being entitled to grant such authorisation;
    - any musical work with or without associated words in any adapted or rearranged form or in such a manner as to produce parodied or burlesqued effects, unless authorised in writing by the Society or the person for the time being entitled to grant such authorisation;
    - any musical work, with or without associated words, in a dramatic form. A dramatic form shall be deemed to be created only by performance in a programme in which there is a distinct plot depicted by actors and where the story of the musical work and/or its associated words is woven into and carries forward the plot and its accompanying action (a dramatic form shall not for example be deemed to be created by the use of costumes, scenery and/or dance routine merely to provide an acceptable presentation of the work). For the purpose of this paragraph, the word "actors" shall include actor-singers, mimers and/or puppets;
    - any musical work and any associated words by means of a recording if the making of such recording infringed the copyright in such work;
    - any words associated with a musical work or ballet if unaccompanied by the music thereof.

### SIGNED by

Print name \_\_\_\_\_

Sign name \_\_\_\_\_

For and on behalf of  
(indicate office held by signatory where appropriate)

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ by \_\_\_\_\_

For and on behalf of PERFORMING RIGHT SOCIETY LIMITED

Commencement Date (if different from date on which PRS signs Agreement)