



Berliner Philharmonie gGmbH Terms of Participation Be Phil Orchestra Japan

These terms (“Terms of Participation”) apply to the participation in the project Be Phil Orchestra (“**Project**”), and the contract concluded between Berliner Philharmonie gGmbH and you when registering to participate in the Project.

For more information about the Project, especially about the Project location, responsible conductor, duration and rehearsals, please refer to the description of the Project and the FAQ available [here](#).

The Project is organised by Berliner Philharmonie gGmbH, Herbert-von-Karajan-Straße 1, 10785 Berlin, represented by the managing director Frank Kersten (“**Organizer**”, “**we**” or “**us**”). You can contact us as follows: phone +49 (0)30 254 88 – 0, e-mail: info@berliner-philharmoniker.de.

If you have your own general terms and conditions, we hereby expressly object to their application and you agree that your deviating, contradictory and supplementary general terms and conditions do not apply.

These Terms of Participations are available electronically in printable and storable form. The contract language is English.

1. Registration, selection process and conclusion of contract

- 1.1 Only amateur musicians with a minimum age of 18 years who play one of the instruments of the classical symphony orchestra can register. An amateur musician in the meaning of these Terms of Participation is anyone whose profession does not consist primarily in public performance of music. Music teachers, for example, may apply.
- 1.2. In order to apply to participate in the Project, you first need to register online [here](#). For registration, we will ask you to enter your email address and select a password. Until registration is completed, you can review and, if necessary, correct the information provided in the online registration form at any time. After submitting your registration request, we will send you an automatic e-mail confirming the receipt of your registration request and asking you to verify your e-mail address by clicking on the link provided in the email (“**Registration Confirmation**”). After you have verified your email address we will create an account (“**User Account**”) and a contract regarding the use of the User Account is concluded. We will store the text of the contract (Registration Confirmation and Terms of Participation), but it will not be available for you online later. You can only use the User Account for the application. After completion of the online application, we will delete the User Account.

- 1.3. You can apply to participate in the Project using your User Account.
- 1.3.1 For application we will ask you to enter additional information about yourself (e.g. name, surname, age, place of residence and nationality) and to upload a short video of you playing a piece of classical music (no jazz, no world music, no pop music or similar) or an excerpt from it (max. 6 minutes). The video must be a continuous recording, i.e. a video recording made in one go, with a single camera and without cuts. The recording must be no more than one year old ("**Music Video**"). We will use the Music Video for the selection process only. Before submitting your application you can review and, if necessary, correct the information provided in the online application form at any time.
- 1.3.2. By applying, you are making a binding offer to conclude a contract regarding the participation in the Project. After submitting the form, you will receive an automatic e-mail confirming receipt of your application.
- 1.3.3. Since we can only accept a limited number of participants, please be aware that we may not be able to offer a place to everyone who is interested. The participants will be selected from the applications by a jury of musicians from the Berliner Philharmoniker ("**Jury**") at their own discretion.
- 1.3.4. The contract regarding your participation in the Project will only be concluded upon receipt of a second email, in which we confirm that you have been selected as participant in the Project ("**Participation Confirmation**"). We will store the text of the contract (Participation Confirmation and Terms of Participation), but it will not be available for you online later.
- 1.3.5. The contract regarding the participation in the Project remains only valid and you can only participate in the Project if you agree to the photographic and film documentation of the Project by signing a pre-formulated [declaration of consent](#) within the deadline set by us (resolutive condition [*auflösende Bedingung*], see details in Section 4 of these Terms of Participation below). We will send you the declaration of consent by e-mail and will inform you in this e-mail about the deadline and remind you that we will give another interested musician the chance to participate in the Project if we do not receive the signed declaration of consent in time.

2. License to use Music Video

By uploading the Music Video during application, you grant us a worldwide, sub-licensable and transferable, non-exclusive right to use the Music Video for the selection process, also by involving affiliated companies and technical service providers. We will store the Music Videos in our data bases and make them available to the Jury in such a way that they can stream the Music Video. The granting of rights shall have effect until the end of the selection process, unless you have agreed to a further use of the Music Video or applicable law requires otherwise.

3. Costs

Registration and participation in the Project is free of charge. We will, however, not cover the costs of travel to and from Project location, nor will we pay you any fee for your participation.

4. Photo and film documentation

- 4.1. We can only offer the Project free of charge if we can document the Project by taking photographs and film the Project (photos and film recording hereinafter jointly “**Recordings**”) and report on it using the Recordings. We will use the Recordings for the purpose of editorial coverage of the Project and/or the education program to the press as well as to radio and/or television stations, publish the Recordings in publications, use the Recordings for audiovisual documentation, making them publicly accessible on websites, use them in exhibitions as well as broadcast them on television and at festivals. In particular, we will stream the Recordings live and/or time-delayed (on demand) via our website or via the website of the Stiftung Berliner Philharmoniker or the Digital Concert Hall provided by the Berlin Phil Media GmbH, as well as, if applicable, make them publicly accessible and available on our/their social media channels on Facebook, Twitter, YouTube and Instagram. We might also allow sponsors of the Project to use the Recordings for documentary purposes in publications and/or on their websites.
- 4.2. We will only make Recordings if you have given your prior written consent. You will receive a pre-formulated [declaration of consent](#) from us with the Participation Confirmation. Please be aware, that, if you do not give your consent, for organizational reasons you will not be able to participate in the Project.

5. Warranty

- 5.1. We do neither warrant nor represent the functioning of your internet access and other third-party services (e.g. mobile services), that are required for the online registration.
- 5.2. We expressly refer to the risks of the usage of web services. This particularly pertains to risks arising from the transmission of malware, spamming (unsolicited sending of advertising emails), password theft, electronic burglary, and manipulation, hacking and other forms of unauthorized disclosure of user data, nuisances, and forgery. We will take reasonable measures to minimize such risks. This does not constitute a guarantee. To this extent you use the online registration and application process at your own risk.

6. Our Liability

- 6.1. In the event of intent or gross negligence by us or by any of our representatives or vicarious agents, we shall be liable in accordance with the statutory provisions; the same shall apply in the event of culpable breach of material contractual obligations, i.e. obligations whose fulfilment is essential for the proper execution of the contract and on whose observance you may regularly rely on. As far as there is no intentional and grossly negligent breach of contract, our liability for damages is limited to the foreseeable, typically occurring damage. Unless otherwise expressly regulated above, our liability is excluded.
- 6.2. The limitation of liability shall not apply to our liability due to culpable injury to life, body or health, due to the assumption of a guarantee, for fraudulently concealed defects as well as our liability under the German Product Liability Act („Produkthaftungsgesetz“).

7. Privacy

For information on the use of your personal data please see our [Privacy Policy](#).

8. Applicable Law

The law of the Federal Republic of Germany shall apply to these Terms of Participation and the contractual relationship existing between you and us with regard to the participation in the Project, excluding the UN Convention on Contracts for the International Sale of Goods. If you have your habitual residence in another country at the time of use, the application of mandatory legal provisions of that country shall remain unaffected by the choice of law made in sentence 1.

9. Miscellaneous

Should individual provisions of the terms and conditions be invalid, this shall not affect the validity of the remaining terms and conditions.

Status: July 11, 2023