

## Notes to the Amended General Terms and Conditions for Rights Administration

### Publisher

effective 1 January 2020

The General Terms and Conditions (hereafter "GTC") regulate the mutual contractual rights and obligations between the entitled parties, i.e. authors, heirs and publishers, and SUISA.

The GTC were last updated in early 2013. Since then, the legal framework conditions have changed in a number of respects. SUISA's rights administration practice and procedures have also evolved and changed.

As a result of these changes, the GTC have had to be amended. SUISA's Board approved the amendments in June 2019. This Fact Sheet contains notes explaining the main changes.

#### Changes in wording

The wording in **several provisions** of the GTC has been clarified, and the following terms were changed:

- previously, the transfer of rights to SUISA was designated by the terms "assignment", "assign" or "assigned" (rights). These terms have now been replaced by "transfer" and "transferred" (rights).
- The term "rightholder" has been replaced by "entitled party" in the GTC.

#### Licensing of online rights

SUISA has made major efforts in recent years to manage online rights comprehensively, efficiently, and worldwide. The following changes in the GTC are designed to support these activities:

- listening to music online via streaming or downloading has become an important form of use. But texts (lyrics) and graphic recordings (sheet music) of musical works are also available online. To enable SUISA to license such offers as well, and generate further income for you, **Article 3.3** now gives you the possibility, as a publisher, to transfer your online rights in texts (lyrics) and sheet music ("opt-in") to SUISA for administration. The

transfer must be made by a separate written statement. Such transfers may subsequently be revoked, but any previously granted licences will remain in force.

- SUISA intends to manage its members' online rights worldwide. As a result, the territorial scope of the rights administration mandate in **Article 4.1** GTC is no longer limited, and extends to all countries and territories worldwide. As hitherto, individual countries may be excluded, and such exclusions may be revoked. Different time limits apply to territorial exclusions depending on whether or not SUISA has concluded a reciprocal representation agreement with a sister society in the excluded country (**Article 4.2, paragraph 2** GTC).

#### New rules for collective administration in Liechtenstein (and Europe)

SUISA has operated in the Principality of Liechtenstein from the outset and has the requisite licence from the regulatory authorities to do so. Liechtenstein is a member of the European Economic Area (EEA). As a member of the EEA, Liechtenstein was required to transpose the European Directive of 2014 on collective management (Directive 2014/26/EU) into its own law on collective administration societies (FL VGG). SUISA already broadly satisfies the requirements of the EU Directive. In this respect, however, two changes have had to be made in the GTC as follows:

- **Article 3.10** now permits publishers to grant direct licences for non-commercial uses provided, however, separate declarations are filed with SUISA for the relevant works. Moreover, only specific Creative Commons licences can be granted.
- The Liechtenstein law on collective administration societies contains distribution rules. In its current practice, SUISA already complies with these rules: statements of distributable revenues are issued to publishers several times a year. This principle has now been formally stipulated in **Article 7.2** GTC. Moreover, it is specified that this obligation does not apply in the case of works which have not been assigned any revenues.

## **Data protection**

The EU has recently comprehensively revised and strengthened its rules and regulations for the protection of personal data. Switzerland too is in the process of reforming its data protection legislation. The existing data protection provisions in Article 6.3 GTC have therefore had to be amended accordingly.

A new clause was added as **paragraph 8 to Article 6.3** GTC stipulating a publisher's right to prohibit any further processing of his or her personal data after termination of the rights administration agreement, unless there are legal grounds justifying such processing. In addition, the wording of **paragraphs 4, 5 and 7 of Article 6.3** GTC has been simplified and clarified.

## **Questions?**

For a detailed overview of all the changes, visit our website at [www.suisa.ch/gtc](http://www.suisa.ch/gtc).

Our Members' Department is at your disposal for any further information or inquiries.

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