

GENERAL TERMS AND CONDITIONS FOR RIGHTS ADMINISTRATION



PUBLISHER

Version of 1 January 2013

1. Purpose of the rights administration agreement

By the rights administration agreement, the Publisher instructs SUISA to manage the below-described rights in the musical works published or sub-published by him; this means that SUISA is entrusted with collecting the royalties from the users and distributing them to the right-holders. SUISA undertakes to perform the assignment diligently, in accordance with its Articles of Association, by-laws and regulations.

For this purpose, the Publisher transfers and assigns to SUISA on a fiduciary basis the rights designated in these General Terms and Conditions for Rights Administration. SUISA administers the rights directly or through domestic or foreign sister societies, organisations or associations (hereafter referred to as "sister society/ies"). For this purpose, SUISA may enter into reciprocal representation agreements, unilateral representation agreements or other forms of cooperation contracts (hereafter referred to as "reciprocal representation agreements") and in that context re-transfer and assign the rights assigned to it. SUISA itself does not exploit the assigned rights commercially.

SUISA is a not-for-profit organisation.

2. Musical works covered by rights administration

The rights administration agreement concerns all non dramatic musical works and their lyrics (hereafter referred to as "musical works") in respect of which the Publisher has already concluded a publishing or sub-publishing contract, or will conclude a publishing or sub-publishing contract during the term of the agreement. The rights administration agreement covers musical works and arrangements of musical works, as well as parts of works.

Musical works covered by publishing or sub-publishing contracts signed by the Publisher before the rights administration agreement is executed are also covered by the agreement unless the Publisher has already assigned the rights in such musical works to another party. The Publisher undertakes to notify SUISA of all grants of his rights made before the rights administration agreement was signed. Any previously

assigned rights reverting to the Publisher are covered by the rights administration agreement, i.e. they will be assigned to SUISA for management.

During the validity of the rights administration agreement, no musical work may be excepted from the agreement.

3. Rights and claims to remuneration assigned for administration

3.1 Dramatic musical works and uses excluded from rights administration

The dramatic musical works excluded from the scope of the rights administration agreement are musical works with a plot portrayed by persons playing set roles and which rely on music to the point where they cannot generally be used without it.

Typical examples are musicals, operas, operettas and ballets.

Musical works contained in films or other audiovisual or multimedia works do not qualify as dramatic musical works except in the case of films of dramatic musical works.

For the purpose of the rights administration agreement, the following are also non dramatic musical works:

- musical works for dance works which are used without dance;
- concert versions of dramatic musical works; and
- excerpts from dramatic musical works which do not comprise a complete act and are not longer than 25 minutes in the case of a radio broadcast, or 15 minutes in the case of a television broadcast.

The author's original intent is not relevant for the purpose of distinguishing between dramatic and non dramatic musical works. A musical work that was not originally created as a dramatic work may be subsequently dramatised (alone or with other works) with the consent of the right-holders (in accordance with paragraph 1), in which case it will be deemed a dramatic musical work, for the purpose of the rights administration agreement, if it is used (performed,

broadcast, reproduced, etc.) dramatically (in accordance with paragraph 1).

3.2 Rights administration for non dramatic musical works

The Publisher assigns to SUIISA, for the term of the rights administration agreement, the following exclusive rights and claims to remuneration for administration:

- a. the right to deliver and perform musical works in any way whatsoever and to make them perceptible elsewhere (performance right);
- b. the right to broadcast musical works on radio, television or similar means, including via cable (e.g. cable networks) or satellite (broadcasting right, including simulcasting);
- c. the right to re-broadcast the musical works by means of technical installations (cable networks, transmitter, etc.) (rebroadcasting right);
- d. the right to make musical works available, for example on the internet or other networks, so that they may be accessed by members of the public from a place and at a time individually chosen by them (online right);
- e. the right to make broadcast or re-broadcast musical works perceptible (public reception right);
- f. the right to record musical works on phonograms, videograms or data carriers of any kind and to manufacture and distribute such carriers (mechanical right), including for the purpose of performing, broadcasting, rebroadcasting or making them available (letters a to d); subject to letter h, this right does not include the reproduction of graphical representations (sheet music, etc.);
- g. the right to combine pre-existing musical works with works of other genres (film, text, pictures, etc.), or to make pre-existing musical works interactively usable with works of other genres (multimedia); these rights are hereafter referred to as synchronisation rights or film production rights and may be revoked by the Publisher in accordance with point 3.7;
the right to record the thus combined musical works on phonograms, videograms and data carriers, and to reproduce and distribute such carriers;
SUIISA does not manage the synchronisation right in commissioned works; such works are specifically commissioned for use in combination with works of other genres or for interactive use with works of other genres; all other musical works are deemed to be pre-existing musical works;

- h. concerning graphic representations (sheet music, etc.) of musical works (with or without text):
 - the right for teachers to make copies or have copies made for teaching purposes in the classroom (school usage);
 - the right for companies, public administrations, institutions, commissions and similar organisations to make copies or have copies made for internal information or documentation purposes (internal usage);
 - the right for individuals to have copies made by third parties for their own personal use and that of closely-related parties (private usage); copy shops, libraries and other public institutions and businesses which make photocopiers available to their users also qualify as third parties.The right to reproduce complete or nearly complete publications of sheet music or music study courses is excluded;
- i. the right to rent, lend or otherwise make musical works available, for a fee or free of charge;
- j. the right to manufacture or import blank phonograms, videograms or media carriers which may be used for recording musical works.

3.3 Other rights

The assigned rights also include any new usages and rights which may be created or developed as a result of technological progress or changes in legislation and which are significantly equivalent to the above-mentioned rights.

3.4 Scope of assignment

The assignment is valid regardless whether the relevant rights are deemed exclusive rights or claims to remuneration in Switzerland or any other country.

The assignment also comprises the right to obtain information and to bring action for damages, declaratory judgment, injunctive relief or remedy, condemnation order, as well as the right to initiate criminal proceedings. The Publisher expressly empowers SUIISA to conclude royalty settlements with regard to the musical works published or sub-published by him.

3.5 Rights excluded from administration by SUIISA

The Publisher may exclude certain groups of rights from administration by SUIISA in respect of all the musical works published or sub-published by him.

The excluded groups of rights must be specified in the rights administration agreement. Exclusions may be subsequently revoked with six months' notice for the 1 January of any calendar year. New exclusions may be filed, with the same notice period, effective at the beginning of any calendar year.

3.6 Arrangement rights and rights in arrangements

The rights assigned to SUISA relate to musical works in the form published by the Publisher. The right to grant or refuse to grant arrangement rights, in particular for adding lyrics to a musical work, is managed not by SUISA but by the Publisher or sub-publisher – depending on the publishing or sub-publishing contract – or by the author himself. However, SUISA manages the rights in arrangements.

Arrangements are musical works created from existing works and which retain the recognisable originality of the latter. Arrangements particularly include translations of lyrics into other languages, setting music to lyrics, and the first-time addition of lyrics, or the addition of new lyrics, to musical works.

3.7 Transfer back of synchronisation rights

Before authorising the use of pre-existing musical works in combination with works of other genres, in particular for the production of (audio and audiovisual) commercials (point 3.2 g), SUISA notifies the Publisher about the intended use, asking him if he wishes to administer the synchronisation or film production right himself, subject to the below conditions.

The synchronisation or film production right reverts to the Publisher if the Publisher notifies SUISA within 30 days of being informed of the intended use (by SUISA or the user) that he intends to manage the synchronisation right himself. The synchronisation right only reverts to the Publisher for a specifically designated use and for a specific musical work.

The Publisher may notify SUISA that the synchronisation right reverts to him in all cases; see rights administration agreement, section E.

All other rights, particularly those relating to the reproduction and distribution of copies of the work, remain with SUISA.

In the case of unpublished musical works, SUISA's notification pursuant to paragraph 1 of this point shall be addressed to the Author.

3.8 No transfer back of synchronisation rights

The transfer back of the synchronisation right (point 3.2 g) is excluded and no notification by SUISA is required for:

- a. the use of musical works offered on catalogues for synchronising phonograms, videograms and data carriers (mood music, production music, library music, etc.);

- b. the use of musical works by broadcasting companies for radio and television broadcasts (except commercials, sponsoring billboards, etc); this includes works used in the production by the broadcasting company or on its behalf of phonograms, videograms and data carriers for broadcasting purposes only.

3.9 Limitation of the rights administration obligation

SUISA shall conduct its business in accordance with proper business management principles. SUISA endeavours to manage the assigned rights as comprehensively as possible.

However, in granting licences and collecting royalties, SUISA relies primarily on the notifications and indications received from the users themselves. For cost considerations, SUISA cannot guarantee absolute market coverage and/or enforcement.

4. Territorial scope of the rights administration agreement

4.1 In general

The assignment of the rights referred to in section 3 is valid world-wide, in all countries where SUISA's rights are managed by sister societies based on reciprocal representation agreements.

4.2 Exceptions

The Publisher may limit the territorial validity of the assignment of rights. The limitation must be specified country by country. Failing such limitation, the assignment shall be considered valid world-wide (in accordance with point 4.1).

The excluded countries must be indicated in the rights administration agreement. Exclusions may be subsequently revoked subject to six months' notice for the 1 January of any calendar year. New exclusions may be filed, with the same notice period, effective at the beginning of any calendar year.

4.3 Rights administration abroad

SUISA endeavours to manage the rights assigned to it in accordance with section 3 as comprehensively as possible abroad, in cooperation with its foreign sister societies. SUISA notifies the uses known to it to the relevant sister society.

Rights' administration by sister societies in foreign countries is regulated by the laws, tariffs, distribution rules and contracts of the relevant country. Each sister society determines its own operating rules and practice. Therefore, SUISA cannot guarantee that there will be no gaps in the administration of the

Publisher's rights abroad, nor can it assume any liability for the activities of its sister societies. SUIISA has no obligation to act abroad directly.

If several sister societies operate in one and the same country, SUIISA will conclude one or more reciprocal representation agreements with the sister society or societies of its choice.

5. Electronic communication

5.1 In general

SUIISA may use electronic means (especially email, online services or other forms of electronic communication) to communicate with the Publisher and to perform its services; it may also replace the existing forms of communication and data exchange (e.g. postal services) by electronic media and define the corresponding specifications. SUIISA is not required to make or preserve printed copies (or other forms) of electronic messages.

The Publisher is responsible for ensuring that electronic communication with SUIISA is possible by installing the necessary technical equipment. The Publisher bears the cost of his own technical equipment and electronic communication. SUIISA reserves the right to change the specifications for the use of electronic communication – in particular by adapting them to new developments – at any time.

5.2 Communication by email

Without prejudice to SUIISA's rights under point 5.1, once the Publisher communicates his email address to SUIISA, SUIISA and the Publisher are entitled to communicate with each other by email. SUIISA is then entitled to email all messages and documents which it had previously sent to the Publisher by post (or any other means).

Email messages shall be deemed received as soon as the addressee can view them under normal circumstances. If a notice expressly requires the written form, it shall be sent in writing by post. Communications sent by email with a coded electronic signature qualify as being in the written form.

The Publisher is aware that email communications are basically not encrypted and that, therefore, their security and confidentiality cannot be guaranteed. SUIISA declines any liability for damages incurred by the Publisher or by any third party as a result of email communications.

5.3 Online services

SUIISA shall make available to its members and principals a restricted area (hereafter referred to as

the "Members Area") on its website from which they may access various online services; for the communication of confidential data this area is encrypted in accordance with customary standards. The online services will be progressively developed.

The Members Area may be accessed with a user name and password. The Publisher may at any time apply for a user name and password to log in to the Members Area. Access is exclusively restricted to the Publisher designated as a contractual party in the rights administration agreement. If the Publisher grants his corporate bodies, employees or any other third-parties access on his behalf, he is liable for their acts and omissions as for his own; he shall instruct and oversee them accordingly.

Communications through the Members Area or via the online services shall be deemed received as soon as they can be viewed by the addressee under normal circumstances.

The Publisher acknowledges that communications through the website and the Members Area are only partially encrypted and that their security and confidentiality cannot be guaranteed absolutely. SUIISA declines any liability for damages incurred by the Publisher or any third party in connection with communications through the SUIISA website or the Members Area.

The Publisher undertakes to store his user name and password in a secure place, not to disclose them to unauthorised third parties and to abstain from otherwise granting or facilitating access to the Members Area by unauthorised third parties. SUIISA declines all liability for any damages arising from the Publisher's disregard for this confidentiality obligation. The Publisher shall hold SUIISA harmless from all third-party claims (including court and legal fees) against SUIISA or its sister societies arising from his failure to observe the confidentiality obligations.

If the Publisher has any knowledge or reason to believe that his user name and password have fallen into unauthorised hands, he shall notify SUIISA promptly. Relying on such notification, SUIISA shall immediately block the user name in question and issue a new one to the Publisher at his request. SUIISA declines all liability for any data lost as a result of the blocking of the user name.

Access to the Members Area of the website is primarily designed to enable the Publisher to view, record and download data and information about himself and the works published or sub-published by him. If, in the process, the Publisher acquires any data or knowledge about other participants in his published or sub-published works or about third parties and their

works, he shall handle such information confidentially and shall not divulge it to third parties. The Publisher further undertakes not to use the information for transacting business with third parties but only for his own internal purposes and in compliance with statutory prescriptions and data protection rules in particular. SUIA's website, online services and the data contained therein may not be used for commercial purposes without SUIA's prior written consent. SUIA may make such consent conditional to the payment of an appropriate fee.

Specific online services may be regulated by special terms and conditions of use which the Publisher can call up and save or print, and which he must accept by ticking the relevant box or button. When he first logs in to an online service, at the latest, the Publisher undertakes to observe the applicable terms and conditions of use for that service. In case of discrepancy with these General Terms and Conditions, the special terms and conditions of use take priority.

SUIA is entitled to monitor, record and evaluate users' access to its website and their data transmissions; in particular, it may log and save any searches undertaken by the Publisher and the corresponding results, together with his user name and time of search. SUIA may also temporarily or permanently block the Publisher's access to the Members Area if it has knowledge or reason to believe that the Publisher has violated the terms and conditions of use (especially these General Terms and Conditions and/or the terms and conditions of use for the relevant online service). SUIA declines all liability for any data lost following the blocking of access.

The Members Area (including the online services offered there) is monitored during normal business hours. SUIA strives to ensure round-the-clock availability of the Members Area. It cannot, however, guarantee permanent availability and reserves the right to interrupt access at any time without giving reasons. SUIA may, in particular, interrupt access for maintenance purposes and during works on the system.

SUIA cannot guarantee the accuracy and unrestricted availability of the data made available through its website and the Members Area (and the online services offered there); SUIA is not liable for any direct or indirect damages suffered by the Publisher or any third party in connection with the use of information obtained by the Publisher through its website or the Members Area.

If the Publisher no longer intends to use the Members Area, he shall inform SUIA promptly. SUIA will then immediately block his access to the Members Area.

6. Information about right-holders, musical works and data protection

6.1 In general

The Publisher undertakes to provide SUIA, in good time, with all necessary information and notices for the administration of his rights, and to respond to its inquiries.

The Publisher shall, in particular, promptly notify SUIA of the extension or termination of his publishing agreements. He shall also inform SUIA immediately if he grants sub-publishing rights to foreign sub-publishers, acquires sub-publishing rights from foreign publishers or if a sub-publishing agreement is terminated.

The Publisher undertakes to promptly notify SUIA of any change in his personal or corporate particulars such as the company name (name of Publisher), legal form, shareholding, management, address, telephone number, email address, payment address, VAT number, etc. and in case of a merger, spin-off, insolvency, composition or bankruptcy proceedings. Royalty statements and other correspondence shall be considered validly delivered if they are sent to the last address (postal or email) notified by the Publisher. If SUIA does not have a valid delivery or payment address for the Publisher, SUIA's obligation to send royalty statements and other correspondence and to transfer distribution payments is suspended. SUIA is not obligated to make investigations for the postal or payment address.

SUIA assumes that the Publisher is the economic beneficiary of the distribution proceeds paid to him and that he declares such amounts to the tax authorities. If the Publisher is not the economic beneficiary, or is not the only economic beneficiary, or if the tax authorities request information in this regard, he undertakes to communicate all necessary particulars to SUIA.

If the owner of the Publisher is a natural person, at his death his legal successors shall designate a joint representative for SUIA. As long as the heirs are unknown, no joint representative has been designated or the estate has not been definitively settled, SUIA's obligation to send royalty statements and other correspondence and to pay the distribution proceeds is suspended.

6.2 Declaration of musical works

The Publisher undertakes to declare to SUIA all the musical works published or sub-published by him completely, truly and accurately. By filing the declaration, the Publisher declares with binding effect that he has concluded a valid publishing or sub-

publishing agreement with regard to the relevant musical work.

Musical works shall be declared in writing on the forms supplied by SUISA, as a digital file or via the online service – if available – in the Members Area of SUISA's website. Section 5 remains reserved.

The following shall be attached to the declaration of works:

- for original publications of works: a copy of the publishing agreement; in the case of sub-published works: the terms and conditions of the sub-publishing agreement; if these are disputed, SUISA may request a copy of the sub-publishing agreement; if the entries concerning a musical work have to be corrected because the indications supplied were incorrect, SUISA may charge the Publisher for the additional cost; if SUISA does not have a copy of the original publishing or sub-publishing agreement, SUISA may, in case of a dispute concerning the distribution key, rely on the sole indications of the author(s) or the original publisher;
- for arrangements of unprotected works ("domaine public"): a copy (as a score or in the audio format decided by SUISA) of the original work and the arrangement;
- for all other musical works: at SUISA's request, a copy in the format decided by SUISA;
- for arrangements of protected musical works: the consent of the right-holder(s).

Declarations of works shall be filed within the following time limits:

- for musical works covered by publishing or sub-publishing contracts concluded before the rights administration agreement was signed: within three months of the date of the rights administration agreement;
- for musical works covered by publishing or sub-publishing contracts concluded during the term of the rights administration agreement: within one month of the publishing of the work.

As long as a musical work is not completely and accurately declared, the Publisher is not entitled to any distribution proceeds.

6.3 Use of information (data protection)

SUISA is entitled to collect and process personal data about the Publisher for all purposes in connection with the implementation of the rights administration agreement and a possible membership, and in particular for the purpose of managing the Publisher's rights, combating piracy and for statistical and scientific purposes and, in the same context, to disclose the data to third parties in Switzerland or

abroad. Personal data includes indications and documents about the Publisher, his relationship with SUISA as a principal or member, the rights administration agreement, the musical works published or sub-published by him and usage thereof, royalty statements and payments.

The Publisher agrees that, in the framework of the above-described data processing, SUISA may, in particular:

- a. keep records on him (in printed and/or electronic form);
- b. enter personal data in databases;
- c. disclose personal data to sister societies in Switzerland and abroad for processing in the same scope as SUISA;
- d. disclose personal data to sister societies in countries which do not offer the assurance of adequate data protection comparable with Switzerland's.

The Publisher expressly agrees that information concerning the musical works published or sub-published by him and the right-holders in those works (but not about the shares in the proceeds of the works) may be made publicly available in Switzerland and abroad (via internet in particular).

SUISA shall not otherwise disclose personal data about the Publisher to third parties without the Publisher's consent, unless it is obliged to do so by law or by administrative or judicial order.

SUISA shall ensure the security of personal data. For this purpose, SUISA implements appropriate security measures which are consistent with modern-day technology and are designed to protect personal data against unauthorised access, unauthorised use and unauthorised disclosure. The Publisher is responsible for data security on the computers used by him.

If he has access to SUISA's website Members Area and can call up, enter or change data and information about himself and his works, the Publisher is responsible for checking and correcting his personal data. Otherwise, the Publisher can ask SUISA to provide information about his personal data and to correct the latter where necessary. Before giving information or correcting personal data, SUISA reserves the right to ask the applicant for a written request and identification.

The Privacy Policy Statement published by SUISA (on its website and on forms) applies in all other respects.

7. Distribution, royalty statements and advances

7.1 Distribution of revenues

SUISA is obligated to distribute the collected royalties in accordance with its final, legally valid Distribution Regulations. The Distribution Regulations in effect when the statement is prepared are authoritative.

The Publisher acknowledges that the Distribution Regulations may be amended at any time. The amendments to the Distribution Regulations approved by the regulatory authority, the IGE (Swiss Federal Institute of Intellectual Property), are published in SUISA's official journal for principals and members, on SUISA's websites and in the SHAB (Swiss Official Gazette of Commerce); they may be appealed before the courts within 30 days.

Unless another key for the distribution of royalties between the beneficiaries of a work is indicated in the declaration of work, the Publisher consents to the use of the distribution key specified in the Distribution Regulations. Distribution keys which are not in compliance with mandatory provisions of the Distribution Regulations are invalid.

7.2 Royalty statements

SUISA shall distribute the revenues from the musical works published or sub-published by him to the Publisher at least once a year in accordance with its Distribution Regulations and/or those of its sister societies.

The royalty statements will be sent to the last address communicated by the Publisher (postal or electronic). If SUISA does not have a valid address for the Publisher, the third paragraph of point 6.1 will apply.

7.3 Advances

SUISA can pay to the Publisher advances commensurate with the past and/or anticipated use of the works published or sub-published by him. SUISA is entitled to offset such advances.

If the Publisher's account shows a negative balance two years after an advance has been made, SUISA may demand that the negative balance be repaid within three months.

7.4 State charges (taxes, social security and other)

SUISA is entitled to deduct from the distributable amounts any taxes and other charges payable pursuant to Swiss law, foreign laws or international treaties.

If, during the term of the rights administration agreement, the Publisher is required to pay value-added tax by law or because he exercises the option

to do so, he shall notify SUISA promptly, indicating his VAT registration number; SUISA will calculate the distribution amount plus VAT at the relevant rate. The Publisher shall settle the value-added tax directly with the tax authorities. If he fails to do so, or if he wrongfully claims VAT from SUISA, he will be comprehensively liable towards SUISA (for taxes, fines, penalty charges, interest, costs, etc.). Moreover, the Publisher shall promptly notify SUISA if he decides to revoke the option. Until it is notified of the Publisher's decision to exercise or revoke the VAT option, SUISA prepares its royalty statements without or with VAT, as the case may be. SUISA is entitled to obtain from the Publisher all supporting documents concerning VAT.

The Publisher is directly responsible for declaring the royalty payments to the tax authorities and social insurance offices (AHV/AVS, IV/AI, EO/APG, etc.).

8. Membership in SUISA

The Publisher becomes a full member of SUISA, with the right to vote and be elected, as soon as he satisfies the membership conditions set forth in the applicable Articles of Association.

9. Entry into force and termination of rights administration agreement

9.1 Entry into force

The rights administration agreement comes into effect as soon as it is signed by both parties. It is valid for an indefinite period.

The rights administration agreement supersedes and replaces any prior rights administration agreements signed between the Publisher and SUISA. Any other existing agreements and exceptions with regard to rights or countries remain in full force and effect provided they are not inconsistent with the applicable rights administration agreement.

9.2 Termination

The rights administration agreement may be terminated by either party for the end of any calendar year, subject to six months' notice.

If SUISA has no valid address for the Publisher for five years, or if no joint representative has been designated by his legal successors in the ten years following the Publisher's death, the rights administration agreement shall automatically expire at the end of the year. If no valid payment address is known to SUISA thereafter, any distribution proceeds which cannot be paid shall be set aside for another five years after which time they vest with SUISA.

If there is a negative balance on the Publisher's account, all of the following rights are suspended: the right to terminate the agreement, to except certain groups of rights from assignment to SUISA (rights administration agreement, C), to automatic termination failing a valid address (in accordance with paragraph 2) and the right to subsequently except certain countries (point 4.2) and/or to transfer membership to a sister society (point 9.3).

Upon termination of the rights administration agreement, all the assigned rights revert to the Publisher and his access to the Members Area of the SUISA website will be blocked.

Any previously licensed uses which take place after the termination of the rights administration agreement are reserved.

9.3 Transfer to a sister society

The transfer of all rights to a sister society, or limited transfers of individual rights or countries are permitted subject to the termination rules under point 9.2.

9.4 Financial consequences of the termination of the rights administration agreement

The Publisher is entitled to a subsequent royalty statement for uses during the term of the agreement, and to the payment of the corresponding amounts. There are no further financial claims against SUISA.

(The English-language version of these General Terms and Conditions for Rights Administration has been translated for your convenience from the German-language original. In case of discrepancies, the German-language original shall prevail.)