

# Licence Terms and Conditions

for the use of music in videos on company websites and social media profiles

Version: Small Businesses, June 2020

## 1. DEFINITIONS

<b>SUISA Direct Repertoire</b> (copyrights)	All works of non-theatrical music, or parts thereof, in respect of which SUISA is or will be empowered to exercise the reproduction rights and the right to make available worldwide on the basis of agreements with its direct members, instructing publishers and foreign sister societies.
<b>SUISA Local Repertoire</b> (copyrights)	On the one hand SUISA's direct repertoire; on the other, all the works of non-theatrical music, or parts thereof, in respect of which SUISA is or will be empowered to exercise the reproduction rights and the right to make available in Switzerland and Liechtenstein on the basis of agreements with foreign sister societies.
<b>NR Repertoire</b> (neighbouring rights)	All commercially available sound recordings for which Audion GmbH is or will be empowered to exercise the reproduction rights, the right to make available and the synchronisation rights for uses predominantly intended for Swiss or Liechtenstein audiences on the basis of contracts with sound recording producers and other rightholders.
<b>Production music</b>	A combination of sound recordings (neighbouring rights) and works of non-theatrical music (authors' rights) contained in certain catalogues, for which SUISA is or will be entitled to grant synchronisation and reproduction rights, as well as the right to make available, from a single source pursuant to agreements with publishers of production music.
<b>Small Businesses</b> ("Customer")	Companies established in Switzerland or Liechtenstein with annual sales of up to CHF 9 million and employing no more than 49 persons.
<b>Company Website</b>	All websites, with the relevant subpages, operated by the Customer which are primarily intended for the Swiss or Liechtenstein public. Company websites must be in at least one of the national languages.
<b>Social Media Profile</b>	A subpage on a third-party website, operated by the Customer, but hosted by a third-party (e.g. YouTube or Facebook).
<b>Video</b>	An audiovisual production (excluding music video clips and other similar audio-visual material) manufactured by the Customer directly, or commissioned from third parties, relating to the Customer or to the goods and services distributed by the Customer, containing music protected by copyright and/or sound recordings protected by neighbouring rights, lasting no longer than 10 minutes, and having a production budget of maximum CHF 15,000.

## 2. Scope of Licence

**2.1** The licence shall apply to small businesses only and shall regulate the use of musical works and sound recordings in videos made available free of charge by small businesses *exclusively* on their company websites and social media profiles.

**2.2** The licence shall cover the following uses on company websites:

- The production of videos containing works and recordings from SUISA's direct repertoire, local repertoire, NR repertoire or a production music catalogue, and the storing of such works and recordings on a server (**reproduction rights**).
- Combining sound recordings and works from a **production music** catalogue with pictures and texts in videos (**PM synchronization right**).
- The combining of recordings from the NR repertoire with images and text in videos (**NR synchronisation right**).
- The **making available** of video streams containing works and recordings from SUISA's direct repertoire, local repertoire, NR repertoire, or a production music catalogue.

**2.3** The licence shall cover the following uses on **social media profiles**:

- The production, storage and making available of videos containing works from SUISA's direct and local repertoires, or a production music catalogue.

**2.4** The licence shall not cover:

- The combining of works from SUISA's direct and local repertoires with images and text in videos (**synchronisation rights**).
- The rights to the NR repertoire for use on **social media profiles**. These are usually regulated by agreements between the producer of the sound recording and the social media provider. The use of the NR repertoire on social media profiles is governed by the applicable terms and conditions of use of the social media provider.
- The use of videos **outside company websites and own social media profiles** within the meaning of these Terms and Conditions. This applies in particular to **advertising videos** which are placed on, or upstream of, third-party pages or contributions.

## 3. Territory and repertoire

### 3.1 SUISA's direct and local repertoires / production music

The licence shall be valid for company websites and social media profiles within the meaning of these Terms and Conditions. The licence to produce shall be subject to the condition that the video be manufactured in Switzerland or Liechtenstein.

### 3.2 NR repertoire

The licence shall be valid for all company websites within the meaning of these Terms and Conditions. The licence to synchronise and produce shall be subject to the condition that the video be manufactured in Switzerland or Liechtenstein.

#### **4. Licence fees**

##### **4.1 Annual flat fee**

Regardless of the number of videos produced and used, the annual flat fee shall be:

- **CHF 172.00** for copyrights
- **CHF 172.00** for neighbouring rights.

Fees do not include VAT which is additional.

##### **4.2 Payment terms**

Invoices are issued in advance for a one-year settlement period. The annual flat fee, plus VAT at 2.5% (for copyrights) and 7.7% (for neighbouring rights), shall be due and payable within 30 days of the invoice date.

#### **5. Information and notifications**

##### **5.1 First licence application**

The Customer shall use the form made available by SUISA to register for the first time for music uses on company websites and social media profiles. The Customer shall provide the particulars of the domain names of its company websites and social media profiles for each video.

##### **5.2 Notification of annual uses**

The Customer shall notify any change in domain name to SUISA by 31 January of the current year for the year just lapsed.

#### **6. Reservation and hold-harmless clause**

**6.1** The licence shall only be valid as long as no rightholder revokes any specific use of specific musical works and/or sound recordings represented by SUISA or Audion GmbH from licensing by SUISA or Audion GmbH. Notwithstanding, the licence shall continue to apply until SUISA or Audion GmbH notifies the Customer of the revocation.

SUISA (with regard to copyrights) and Audion GmbH (with regard to neighbouring rights) shall hold the Customer harmless against claims by the rightholder in respect of the period prior to revocation; SUISA and Audion GmbH shall not, however, be liable for any damage incurred by the Customer after the revocation.

In the event of revocation, the Customer may choose another work or recording from the repertoire, or waive the corresponding use.

**6.2** Claims asserted by a rightholder for infringement of moral rights by the Customer by the use of music shall not be covered by the hold-harmless clause. The Customer shall ensure that the moral rights of the authors and performers are respected and shall obtain any necessary consent directly from the rightholders.

**6.3** Certain rightholders (e.g. SUISA's sister societies, publishers, labels) may *completely* exclude, their repertoire from licensing by SUISA or Audion GmbH. The relevant catalogues may be viewed on the website of SUISA or Audion GmbH and shall be excluded from the licence. Once the exclusion comes into effect, Article 6.1 shall apply.

## **7. Termination**

Licences based on these Terms and Conditions may be terminated at the end of each year subject to three months' advance written notice.

A licence may be terminated without notice:

- if the Customer discontinues all company websites and social media profiles;
- if one of the parties infringes these Terms and Conditions and fails to promptly remedy the infringement despite a reminder issued by the other party setting a new deadline.

## **8. Other provisions**

These Terms and Conditions shall be subject to Swiss Law.

The place of jurisdiction is Zurich.