

1. Definitions

In the present terms and conditions and in the attached Approval Form, unless the context otherwise requires, the following expressions have the following meaning:

“Agreement”: an agreement entered into by the User and RA, comprising the present Terms and Conditions and the Approval Form;

“Approval Form”: the form to which the present Terms and Conditions are attached, as duly filled in and signed by the User and subsequently signed and approved by RA;

“Audiovisual Work” : a work consisting of a sequence of related images with or without accompanying sound, which is intended to be made visible as a moving image and/or audible through the use of devices, regardless of the medium of initial or subsequent fixation ;

“Data”: the ISAN and the associated Descriptive Information contained in the ISAN Database;

“Descriptive Information” : metadata associated to an ISAN (for example title, type, genre, duration, production information, year(s) of reference, participant(s), versions of works, etc.); the User does not acquire any right on the Descriptive Information, except the limited right to Use under the present Terms and Conditions;

“End-user” : any person to which the Data is conveyed by the User in accordance with the present Agreement, as a result of the delivery or provision of Audiovisual Works or associated services, for the End-user’s own internal purposes;

“Extraction”: the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium, by any means or in any form;

“ISAN”: a unique identifier delivered by ISAN-IA to a particular Audiovisual Work and/or version of works in accordance with the Standard and the following associated Descriptive Information;

“ISAN Database”: the database accessed by the User in accordance with the Terms and Conditions set forth herein, run and managed by ISAN-IA;

“ISAN-IA”: the International Standard Audiovisual Number International Agency, based at 30 rue de Saint-Jean, CH-1203 Geneva, Switzerland;

“ISAN System” : all IT components of the ISAN system, as available at ISAN-IA, including but not limited to central database, software application and online access methods such as web template and web services;

“Fee”: the fee paid by the User in consideration for the right to Use granted by RA;

“Registration Agency (RA)”: an agency appointed by the ISAN-IA for the Standard for the purposes of handling and managing Users;

“Use”: any act or operation pertaining to the Data and carried out by the User in accordance with the Agreement;

“User”: any physical or legal person authorized by RA to Use the Data in accordance with the Agreement;

“Standard”: the international standard “ISO 15706 Information and documentation –International Standard Audiovisual Number (ISAN) –”, together with the international standard “ISO 15706-2 Information and documentation – International Standard Audiovisual Number (ISAN) – Part 2: Version identifier”, and any future amendment of said standards.

2. Applicability of these terms and conditions

The present terms and conditions are binding upon the parties only after the signature of the Approval Form by the User and RA.

3. Grant of right

3.1. User is granted, subject to the Terms and Conditions set forth herein, a non-exclusive and non-transferable right to Use the Data, for the sole purposes specifically agreed upon by the parties and in accordance with the restrictions set forth in the Agreement.

3.2. The access to the ISAN Database shall be provided by RA online as described in the Approval Form.

3.3. The User acknowledges and agrees that interruption and loss of service may periodically occur as a result of maintenance or repairs to the ISAN System, resulting in unexpected outages or interruptions. ISAN-IA shall use its reasonable efforts to avoid such interruption or loss of service, but shall in no event be held liable nor incur any obligation as a result of any such interruption or loss of service.

RA shall also provide the User with reasonable telephone and web-based support resources.

Within 5 business days as from the entry into force of the Agreement, RA shall provide the User with the necessary login and password so as to enable the User to access the ISAN System, and with the appropriate phone and e-mail details for the support services.

4. Use Restrictions

4.1. The User hereby undertakes, represents and warrants, that it shall Use the Data only in accordance with the Agreement and that it shall abide by the restrictions and rules contemplated in the present Terms and Conditions. The precise extent of right to Use the Data shall be commonly agreed by RA and the User and stated in the Approval Form.

4.2. The User shall not collect, record, organize, store, adapt, alter, retrieve, consult, use, disclose by any means, process, copy, change, make available, integrate, or in any other manner whatsoever operate the Data, unless to the strictest extent necessary for the purposes commonly agreed by RA and the User and stated in the Approval Form.

4.3. The right to Use the ISAN does not include the right to Use the Descriptive Information.

4.4. The right to Use the Data shall include one or several of the following operations, provided that none of these operations shall be authorized unless i) expressly agreed upon by RA and the User and stated in the Approval Form ii) made to the strictest extent necessary for the purposes commonly agreed by RA and the User and stated in the Approval Form:

- (i) the right to consult the Data;
- (ii) the right to store the Data on any physical medium other than the ISAN System for internal purpose, otherwise than as the result of the temporary reproduction necessary for the mere consultation via electronic means;
- (iii) the right to make parts of the Data available to third parties in any manner whatsoever, without breach of article 4.5 below ;

For the avoidance of doubt, the right to consult does not include the right to store the Data, nor to make it available to third parties, and the right to store the Data does not include the right to make it available.

4.5. The User shall in any event neither extract, nor re-utilize, copy, communicate to the public or make

available in any other manner whatsoever, the whole or substantial parts of the ISAN Database without RA's prior written consent. As a matter of example, The User shall not integrate the ISAN nor the Descriptive Information, in an autonomous database made available to third parties subject to its own terms and conditions. The User shall neither allow third parties to search the ISAN Database or a copy of the same. Nor shall the User provide to any third party, on request of such third party, search reports directly or indirectly extracted from the ISAN Database. Whether a part of said ISAN Database must be regarded as substantial, will notably depend upon the purposes commonly agreed upon by RA and the User and stated in the Approval Form.

As regards non substantial parts of the ISAN Database, the right to Use shall remain within the limits of the purposes agreed, of the operations authorized and of the nature of the information made accessible by RA, pursuant to the Agreement.

4.6. In the event the User is or become a Registrant or a Registration Agency in contractual relation with ISAN-IA, the present terms and conditions shall prevail over any other agreement entered into by the parties, as far as the purposes listed in the Approval Form are concerned.

5. Intellectual Property Rights

ISAN-IA expressly retains all intellectual property rights and any right of any other kind in the ISAN Database and the ISAN System.

The User acknowledges that ISAN-IA has made qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the ISAN Database, and therefore deserves the protection afforded by any applicable laws.

The User acknowledges that any breach of the present Clause 4 or Clause 5 will be regarded as wrongful and illegal, and detrimental to the investments made by ISAN-IA and RA in the obtaining, verification or presentation of the ISAN Database, and will therefore be prosecuted in accordance with any applicable laws, including the laws regarding unfair competition.

6. Pricing and Payment

6.1. All prices exclude V.A.T. and all other taxes, stamp duties, costs and other levies, and will be increased by

the amount of the applicable taxes as of the date of the invoice issuance.

Prices are subject to change under a 3 (three) months written notice period, unless otherwise specified in the Approval Form.

6.2. Any payment under the present terms and conditions which is not made within 30 days as from the date of the invoice issuance shall accrue interest at the rate of 5 % (five per cent) per month (or part thereof) or the maximum amount permitted by law, without prejudice to the right of RA to terminate the Agreement forthwith pursuant to Clause 8 below.

7. No assignment. No sublicense.

The agreement may not be assigned in whole or in part by the User without RA's prior written consent.

The User may not sublicense the right to Use the Data to any third party, without ISAN-IA's and RA's prior written consent, nor grant a right of any kind, notably a right to process, copy, change, make available, integrate, or in any other manner operate the Data conveyed to such third party in accordance with the present Terms and Conditions.

8. Term and termination

8.1. Unless terminated earlier in accordance with the present article 8, the Agreement shall remain in force as indicated in the Approval Form.

8.2. ISAN-IA and RA have the right to terminate the agreement forthwith by means of a written notice to the User in the event:

- The User infringes the restrictions set forth in Clause 4 or 5 above or otherwise illegally accesses the ISAN Database or the ISAN System;
- The User makes any voluntary arrangement with its creditors or becomes subject to any court or administration order pursuant to any bankruptcy or other insolvency law;

8.3. Each party may terminate the Agreement at any time by giving a written notice to the other party in the event such party fails to perform any obligation under the Agreement and such failure is not remedied within 30 days after receipt of a notice specifying the nature of such failure and requiring it to be remedied.

8.4. Any such termination shall not affect any fee or other payment obligations under the Agreement accrued prior to such termination.

8.5. Upon the termination of the Agreement for any such reason, the User shall immediately cease to access the ISAN Database and shall immediately cause any and all ISAN and Descriptive Information in its possession to be destroyed and cancelled, and shall provide ISAN-IA with a written declaration to the effect that the same ISAN and Descriptive Information has been properly destroyed and cancelled on all and any medium, unless otherwise agreed upon in the Approval Form.

9. Miscellanea

9.1. The Agreement – its exhibits are part of which – supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof (save that neither party seeks to exclude liability for any fraudulent pre-contractual misrepresentation upon which the other party can be shown to have relied). No addition to or modification of any provision of the Agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorised representative of each of the parties.

9.2. All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in the Agreement or such other address as the recipient may designate by notice given in accordance with the provisions of this Clause. Any such notice may be delivered personally or by ordinary letter or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by ordinary letter 48 hours after posting and if by facsimile transmission when despatched.

9.3. The Agreement shall be governed by and construed in accordance with the laws of Switzerland. The Courts of the Republic and Canton of Geneva shall have exclusive jurisdiction over any dispute arising out of or in connection with the Agreement, subject to appeal to the Federal Tribunal in Lausanne.

9.4. Notwithstanding that the whole or any part of any provision of the Agreement may prove to be illegal or unenforceable the other provisions of this Agreement and the remainder of the provision in question shall remain in full force and effect.