

Model License Agreement of SAZ

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Contrary to the practice in the past three decades, the board of SAZ has decided to make its new model License Agreement for games available not only to SAZ members, but to all interested game authors/designers and publishers. In this way, we, as an interest group, want to help ensure that fair conditions for game authors are enforced as widely as possible. This model License Agreement has been completely revised in cooperation with our legal advisor and on the basis of our experience.

In this context, we would particularly like to see the game publishers undergo a critical comparison of their own contracts with our Model License Agreement. We are also happy to advise all publishers, as we have already done with a number of publishers in the past, successfully and to the satisfaction of both parties. Apart from the image gain, they can profit this way from a considerably minimized effort in individual contract negotiations.

This model License Agreement is not carved in stone. Game designers can, of course, try to achieve additional, specific goals for individual contract points in negotiations. Game publishers are also free to adapt their contract text to their specific business model. It is important to us to make the common thread of a fair contract clear and to communicate it as widely as possible.

We would like to take this opportunity to remind game publishers that we have been offering [publisher profiles](#) on our website since the fall of 2020 to enable more targeted communication with game designers.

We would like to draw the attention of game designers who are not yet members of SAZ to the [advantages of membership](#): Assistance before signing a contract and in case of copyright problems, further publications (e. g. SAZ Points No. 4 "Cooperation and contracts with publishers", SAZ Points No. 4A "Mirror of Royalties and Contract Terms") as well as many other advantages. It is therefore worthwhile to become a member of this interest group.

Attachment: **Model License Agreement "Games"**

(updated version February 2023)

Licence Agreement "Games"

by and between **Name of the Publisher**
Street
Postcode, Town
Country

– as Licensee, hereinafter called "Publisher" –

and **Name of the Author**
Street
Postcode, Town
Country

– as Licensor, hereinafter called "Author".

The Publisher produces and distributes products that exploit utilisation rights. The Author develops games independently and grants rights of utilisation and exploitation in his own name and on his own account.

The Publisher and the Author hereinafter collectively called "Contracting Parties". With this Agreement the Contracting Parties regulate the production and marketing of the game described in Fig. 10 (hereinafter called "Work"). This is defined in greater detail by the Rules of the Game attached in Appendix 1 and, where appropriate, by other documents.

1. Object of the Agreement, authorship

1.1 The Author grants the Publisher utilisation rights for the production and marketing of a game based on the present Work. For further developments and new content editions of the Work, the Publisher shall receive a right of first refusal based on this Agreement; further developments or continuations by the Publisher or a third party are permitted only subject to a contractual agreement with the Author.

1.2 The Author declares that he is the sole author of the Work and that he has the exclusive exploitation rights for the agreed contractual territory.

2. Granting of utilisation rights

2.1 The Publisher shall be granted the exclusive right to reproduce and distribute the Work in the contractual territory specified in Fig. 10. Within the contractual territory, the Publisher may translate the Work into all national languages and make the necessary changes. This includes the right to reproduce the Work in various material versions as a classic analogue game and to distribute it using all forms of distribution (principal right).

2.2 Within the contractual territory, the Publisher may grant sub-licences to third parties for the Work as a classic analogue game with a maximum term of five years and an extension of one year in each instance, provided they are not economically linked to it. The Publisher undertakes to impose the same obligations upon sublicensees as those defined in this Agreement. This applies in particular to Fig. 4. *Alternatively: The right of the Publisher to grant sublicences is excluded.*

2.3 For two years after the publication date defined in Fig. 10, the Publisher shall receive pre-emptive rights to exploit the Work in other forms of publication, in particular digital and electronic versions, such as implementation for apps, the internet, game consoles, CD-ROM, TV, radio, etc. (subsidiary rights). This also applies to the granting of sublicenses for such utilisation rights. For the use of ancillary rights, a separate utilisation agreement with an appropriate fee shall be required. *Alternatively: Use in all other forms of publication (subsidiary rights) by the Publisher is excluded.*

2.4 The Author is entitled to demand the return of the aforementioned rights for the countries in which the Publisher does not market the game within two years following the planned launch date planned and defined in Fig. 10; this includes sublicenses.

3. Warranty, assertion of rights

3.1 The Author declares to the best of his knowledge and belief that he is not aware of any rights of third parties that would prevent the Publisher from using the rights to the game. For its part, the Publisher shall, to the best of its knowledge and belief, check before publication whether the Work could infringe the rights of third parties. The Author shall not assume any further warranty and shall not be liable for claims of third parties. The Author is not responsible for any changes made to the Work by the Publisher.

3.2 If a third party is able credibly to demonstrate that the production and/or distribution of the Work infringes its rights, the Publisher may withhold the royalties pursuant to Fig. 5 until the matter has been clarified. If the author is responsible for slight negligence, the Author shall be liable to the Publisher in the event of damage up to a maximum of the total amount of the royalties accrued up to that point under this Agreement and any possible advance payments. If a court determines an intentional or grossly negligent violation of foreign rights by the Author, the Author shall be fully liable.

3.3 The Publisher and Author are mutually obliged to inform each other immediately of any knowledge of copyright infringements relating to the object of the Agreement. In this event, the Publisher shall consult with the Author about how to proceed. The Publisher has the right – following consultation with the Author – to prosecute any imitations and copyright infringements in its own name and on its own account, including in court. If the Publisher is not prepared to do this, the Author shall be entitled to assert all claims in his own name and on his own account. The Publisher shall support him in this endeavour to the best of its ability.

3.4 If the Publisher realises claims for damages against third parties due to violation of the rights granted to it by this contract, the Author shall be entitled to a share in this, after deduction of the costs of legal action, in accordance with Fig. 5.1.

4. Design, marketing, naming of Author

4.1 The title, design and equipment of the game produced based on the Work shall be at the reasonable discretion of the Publisher. However, changes to the content of the game rules, including the theme, as well as the design of essential equipment parts with regard to their functionality, require the prior written consent of the author; this also applies to the final release of the Rules of the Game – an e-mail is sufficient. This shall be deemed to have been granted if there is no response from the Author within 14 days of receipt of the message. Such consent may only be refused for objectively justified reasons. The Contracting Parties shall strive to achieve a constructive cooperation based upon trust during the development phase. The same applies to future changes, further developments and supplements to the Work.

4.2 Pursuant to Fig. 10, the Publisher shall determine the anticipated start of marketing, the size of print runs and the respective current sales price. In this conjunction, it shall have a free hand in all business measures. The publisher undertakes to market the game produced based on the work in the best possible way and to take all customary and necessary measures in sales and marketing for this purpose, e.g., presentation in the catalogue, on the website, at trade fairs and in social media channels.
Addendum: If suitable, add "TV advertising".

4.3 The Publisher shall affix the name of the Author in accordance with Fig. 10 on the top of the box and in the Rules of the Game in a clearly legible manner on each reproduced item covered by the Agreement. The author's name will also appear in the catalogues, advertising materials and on the publisher's websites.

5. Royalty, specimen copy

5.1 The Publisher shall pay the Author a royalty in the form of a percentage of the net sales (invoiced amount excluding VAT) of the Work achieved through distribution in the respective distribution countries. The percentage rate is defined in Fig. 10. For direct sales to subsidiaries and other distribution partners abroad, the Publisher shall pay an increased royalty pursuant to Fig. 10, if applicable. In the case of crowdfunding projects, the basis of calculation is the net sales of all versions and additional equipment (goodies). If merchandising articles for the Work, such as mugs, T-shirts etc. are sold, an appropriate fee must be agreed in advance.

5.2 The Author shall receive an advance payment on the royalty from the Publisher. The level of the advance payment is defined in Fig. 10. This shall be due four weeks after the conclusion of the Agreement, will be charged in full together with the royalties incurred later and is non-refundable.

5.3 If the Publisher grants the right to market the work to a third party within the framework of a sublicense pursuant to Fig. 2.2 or Fig. 2.3, the Author shall receive a percentage of the Publisher's net proceeds from this exploitation as specified in Fig. 10. The terms and conditions of such sublicenses must be customary in the industry and reasonable. *Alternatively: Adapt to regulations in 2.2 and 2.3 or delete if necessary!*

5.4 The Author shall receive specimen copies of all editions of the subject matter of the Agreement for his personal use, the quantity of which is specified in Fig. 10; this also applies to modified subsequent editions, promotional mini editions and promotional extensions to the Work. In addition, the Author shall receive a specimen copy of all catalogues and brochures during the marketing period.

6. Settlement and payment

6.1 Payments from the royalty settlements are due no later than 60 days after the respective reporting date. The Publisher shall submit to the Author royalty reports for the settlement period pursuant to Fig. 10 within this deadline. These shall detail the total quantity of copies sold, the net proceeds and the resulting royalty - broken down to different editions (article numbers) and possibly also separated by country.

6.2 All payments shall be made by credit note in EURO (plus statutory value added tax if Publisher and Author are resident in the same country and Author declares this in Fig. 10) to the account of the Author specified in Fig. 10 and shall be of debt discharging effect for the Publisher. In the case of payments abroad, bank charges are to be paid in full by the Publisher.

6.3 The Author is himself responsible for declaring income from this Agreement for the purpose of determining income tax. Authors resident abroad are recommended to submit an exemption certificate (in Germany by the *German Federal Office of Finance*) to avoid statutory withholding tax deductions by the Publisher. The Publisher shall assist the Author with the application if necessary.

6.4 The Author may have the information provided by the Publisher checked by an expert who is sworn to professional secrecy. The costs of the audit shall be borne by the Publisher if the audit report deviates by more than 5% at the expense of the Author – otherwise the Author.

7. Contractual duration and termination

7.1 The term of this Agreement shall commence on the last date of signing and is defined in Fig. 10. A limited term shall automatically be extended by a further twelve months unless one of the Contracting Parties objects to the extension with a notice period of three months before the end of the term and terminates the Agreement.

7.2 The Publisher is entitled to terminate the Agreement if the sales expectations are no longer fulfilled. It can then remove the Work from its programme and discontinue production and distribution. The notice period is at least three months as at the end of the respective year. The Author will then receive a written termination of the Agreement together with an explanatory statement about the reversion of the rights of utilisation.

7.3 If the Work is not published within 12 months after the start of marketing agreed in Fig. 10, the Author shall be entitled to terminate the Agreement without notice. In this case, the Author may charge an additional default payment, which is defined in Fig. 10.

7.4 The Author is entitled to terminate the Agreement if the Publisher no longer reaches a minimum quantity per calendar year as defined in Fig. 10 – this is possible at the earliest from the 2nd year of market launch. In this case, the notice period is six months as at the end of the respective year.

7.5 The right to extraordinary termination in the event of a breach of contract, in the event of cessation of the Publisher's business or due to statutory provisions remains unaffected by these provisions.

7.6 The Publisher shall, under all circumstances, be entitled to a 6-month sales period for all stocks following the date of termination of the Agreement. For these sales, the obligation to pay royalties pursuant to Fig. 5 remains valid. Production following the termination of the Agreement is excluded. Before the Work is sold at special prices below cost price, any remaining stock must be offered to the Author at the same conditions.

7.7 The provisions of this Agreement shall continue to apply to sublicense agreements concluded and to sell-offs pursuant to Fig. 7.6. They shall, however, be terminated by the Publisher at the earliest possible date after notice of termination has been given.

8. Return of rights

8.1 All rights transferred under this Agreement shall revert to the Author at the end of the Agreement, including all rights to the title, provided the title originates from the Author. This also applies if the title was generated by the Publisher, unless it is based on the rights of third parties, is a series title or continues to be used for works based on the subject of the Agreement. Upon request, this also applies correspondingly to other industrial property rights (trademarks, utility models, design patents, patents), provided that no third-party rights conflict with this. The cost of transferring property rights shall be borne by the Author.

8.2 Insofar as other rights (copyrights, design patents, registered designs or utility models, patents), which are not based on the Work itself (e.g. illustrations, design of game pieces), have been created by the Publisher or third parties during the course of the implementation of the Work, these rights shall remain with the Publisher or their authors after termination – this also applies to all production documents and tools.

8.3 Following termination of the Agreement, the Publisher undertakes to refrain from producing or marketing (with the exception of the sales period) games with the Rules of the Game described in Appendix 1 or game rules created on this basis, or from granting such rights to third parties.

9. Final provisions

9.1 No collateral agreements have been reached. Termination, cancellation as well as any changes or additions to this Agreement must be made in writing. The undersigned declare that they have single signatory authority. This Agreement shall be signed in duplicate by both Parties: The Publisher shall receive one transcript, while the Author shall receive the other transcript.

9.2 If applicable, the Agreement also applies to the designated heirs and legal successors of the Contracting Parties, who must appoint a joint authorised representative if there are several beneficiaries.

9.3 If parts of this Agreement are or become ineffective or unenforceable, the remaining parts of the Agreement shall apply unchanged. The invalid or unenforceable provision shall then be replaced by a valid provision that approximates as closely as possible to the economic purpose intended by the Parties when the Agreement is signed today.

9.4 The law of the *Federal Republic of Germany (if possible, the country of the author)* shall be exclusively applicable. The place of jurisdiction is – insofar as legally permissible – the registered office of the Publisher (*better as well the country of the author*).

10. Details of the Work and about its utilisation

10.1 Title or working title:	
10.2 Type of game:	
10.3 Rules of the Game:	see <i>Appendix 1</i>
10.4 Contractual territory / languages:	all official languages in the licence territory
10.5 Start of marketing:	
10.6 Duration of the Agreement:	unlimited <i>Alternatively:</i> The Agreement shall end on
10.7 Name of the Author:	
10.8 Advance payment:	EURO
10.9 Default payment	EURO
10.10 Settlement period:	six-monthly on 30 June and on 31 December
10.11 Royalty:	0–X.000 units: x % from X.001 sold total edition: x %
10.12 Higher royalty to foreign subsidiaries and distribution partners	0–X.000 units: x % from X.001 sold total edition: x %
10.13 Specimen copies:	Units for the original edition, Units for all other editions
10.14 Share of sub-licenses:	50 %
10.15 Minimum volume pursuant to § 7.3:	Units
10.16 Payments to:	Name of the Author (accountholder)
10.17 Bank account:	
10.18 Value added tax liability of the Author in Germany	<input type="checkbox"/> No <input type="checkbox"/> Yes
10.19 Tax number of the Author with domicile in Germany	
10.20 Miscellaneous:	---

Place, date

Place, date

Publisher:

Author:

Name of the Publisher

Name

Name of the signatory

Signature

Signature

Appendix 1: Rules of the Game