DUTCH PAMPHLETS LICENSE AGREEMENT / BRILL AND BSB

[Vertragsauszug]

THIS LICENCE IS AGREED the 1st day of January [2009_]

BETWEEN

1 BRILL

of :

Plantijnstraat 2

Leiden 2321 JC

The Netherlands

("the Publisher")

and

the German national academic license represented by the Bayerische Staatsbibliothek (BSB) of

D-80328 Muenchen>

Germany

("the Licensee")

WHEREAS the Publisher holds the rights granted under this Licence

AND WHEREAS the Licensee desires to enable Members of the German national academic license to use the rights and the Publisher desires to grant to the participating members of the German national academic license permission to use the rights for the Fee, subject to the terms and conditions of this Licence.

IT IS AGREED AS FOLLOWS: -

1. KEY DEFINITIONS

In this Licence, the following terms shall have the following meanings: -

Authorized users I

--- Higher Education Institutions: Students including guest students, Faculty including visiting lecturers, Staff and contractors, Walk-In-Users. Remote access is only permitted to faculty, staff, and graduate and undergraduate students. No other remote access is allowed.

--- Academic Libraries, Research Institutions and Governmental Institutions: Staff, contractors and Walk-In-Users. Remote access is only permitted to registered users.

Authorized Users II

Non-institutional access of individuals shall be permitted via individual authentication subject to a requirement of permanent residence in Germany. Remote access is only permitted to faculty, staff, and graduate and undergraduate students. No other remote access is allowed.

Eligible Institutions
Higher Education Institutions financed either by public or private funding National, regional and state libraries
Academic specialist libraries mainly financed by public funding Research institutions mainly financed by public funding Governmental institutions Including any of the above mentioned types of German institutions abroad

**Commercial Use**

Use for the purposes of monetary reward (whether by or for the Licensee or a Member or an Authorised User) by means of sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Materials. For the avoidance of doubt, neither recovery of direct costs by the Licensee or any Member from Authorised Users, nor use by the Licensee or a Member or by an Authorised User of the Licensed Materials in the course of research funded by a commercial organisation, is deemed to be Commercial Use.

**Course Packs**

A collection or compilation of materials (e.g. book chapters, journal articles) assembled by members of staff of a Member for use by students in a class for the purposes of instruction.

**Electronic Reserve**

Electronic copies of materials (e.g. book chapters, journal articles) made and stored on the Secure Network by the Licensee or by a Member for use by students in connection with specific courses of instruction offered by a Member to its students.

[...]

**Library Premises**

The physical premises of the library or libraries operated by Members or by the Licensee, as specified in Schedule 3

[...]

**Member**

An eligible institution that has been registered for access by the Licensee and listed in Schedule 1, and which has agreed by virtue of its membership to be bound by the terms and conditions of this Licence as if it were a party to it jointly with the Licensee.

**Secure Network**

A network (whether a standalone network or a virtual network within the Internet) which is only accessible to Authorised Users approved by a Member whose identity is authenticated at the time of log-in and periodically thereafter consistent with current best practice, and whose conduct is subject to regulation by the Member, excluding any cache server or other server or network which can be accessed by persons who are not Authorised Users.

**Server**

The server, either the Publisher's server or a third party server designated by the Publisher, on which the Licensed Materials are mounted and may be accessed.

[...]

**3. USAGE RIGHTS**

3.1 The Licensee and eligible institutions which become members of this agreement, subject to clause 6 below, may

3.1.1 Allow Authorised Users to have access to the Licensed Materials from the Server via the Secure Network. Any form of remote access to the Licensed Materials by members of the public who are not Authorised Users is not permitted.
3.1.2 Provide Authorised Users with integrated access and an integrated author, article title, abstract and keyword index to the Licensed Material and all other similar material licensed from other publishers.

3.1.3 Provide single printed or electronic copies of single articles at the request of individual Authorised Users, but not for commercial use. Copying and storing of entire issues by Authorised Users is not permitted.

3.1.4 Display, download or print the Licensed Materials for the purpose of internal marketing or testing or for training Authorised Users or groups of Authorised Users.

[...]

3.2 Authorised Users may, in accordance with the copyright law of Germany and subject to clause 6 below:

3.2.1 Search, view, retrieve and display the Licensed Materials and the .

3.2.2 Electronically save individual articles or items of the Licensed Materials or for personal use.

3.2.3 Print off a copy of parts of the Licensed Materials or .

3.2.4 Distribute a copy of individual articles or items of the Licensed Materials or in print or electronic form to other Authorised Users; for the avoidance of doubt, this sub-clause shall include the distribution of a copy for teaching purposes to each individual student Authorised User in a class at the Member's institution.

4. SUPPLY OF COPIES TO OTHER LIBRARIES

4.1 Members may, subject to clause 6 below, supply to an Authorised User of another academic, research, or other non-commercial library (whether by post or fax or secure transmission, using Ariel or its equivalent, whereby the electronic file is deleted immediately after printing), for the purposes of research or private study and not for Commercial Use, a paper copy of an electronic original of an individual document being part of the Licensed Materials. Licensee. Members shall not honour requests received from for profit companies or directly from individuals.

5. COURSE PACKS AND ELECTRONIC RESERVE

5.1 Members may, subject to clause 6 below, incorporate parts of the Licensed Materials in printed and electronic Course Packs, study packs, resource lists and any other material (including but not limited to multi-media works) and / or in virtual and managed environments (including but not limited to virtual learning environments, managed learning environments, virtual research environments and library environments, solely for the use of Authorised Users in the course of instruction at a Member's institution, but not for Commercial Use.

5.2 Each such item shall carry appropriate acknowledgement of the source, listing title and author of the extract, title and author of the work, and the publisher. Copies of such items shall be deleted by the Member when they are no longer used for such purpose. Course packs in non-electronic non-print perceptible form, such as audio or Braille, may also be offered to Authorised Users who, in the reasonable opinion of the Member, are visually impaired.

6. PROHIBITED USES

6.1 Neither the Licensee nor any Member nor Authorised Users may:

6.1.1 remove or alter the authors' names or the Publisher's copyright notices or other means of identification or disclaimers as they appear in the Licensed Materials ;

6.1.2 systematically make print or electronic copies of multiple extracts of the Licensed Materials ;

6.1.3 mount or distribute any part of the Licensed Material on any electronic network, including without limitation the Internet and the World Wide Web, other than the Secure Network

6.2 The Publisher's explicit written permission must be obtained in order to:
6.2.1 use all or any part of the Licensed Materials for any Commercial Use;

6.2.2 systematically distribute the whole or any part of the Licensed Materials to anyone other than Authorised Users;

6.2.3 publish, distribute or make available the Licensed Materials, works based on the Licensed Materials, or works which combine them with any other material, other than as permitted in this Licence;

6.2.4 alter, abridge, adapt or modify the Licensed Materials, except to the extent necessary to make them perceptible on a computer screen or as otherwise permitted in this Licence, to Authorised Users. For the avoidance of doubt, no alteration of the words or their order is permitted.

[...]

8. LICENSEE'S UNDERTAKINGS

8.1 The Licensee and each Member shall:

8.1.1 use reasonable endeavours to ensure that all Authorised Users are appropriately notified of the importance of respecting the intellectual property rights in the Licensed Materials and of the sanctions which each Member imposes for failing to do so;

8.1.2 use reasonable endeavours to notify Authorised Users of the terms and conditions of this Licence and take steps to protect the Licensed Materials and from unauthorised use or other breach of this Licence;

8.1.3 use reasonable endeavours to monitor compliance and immediately upon becoming aware of any unauthorised use or other breach, inform the Publisher and take all reasonable and appropriate steps, including disciplinary action, both to ensure that such activity ceases and to prevent any recurrence;

8.1.4 issue passwords or other access information only to Authorised Users and use all reasonable endeavours to ensure that Authorised Users do not divulge their passwords or other access information to any third party;

[...]

8.1.7 use reasonable endeavours to ensure that only Authorised Users are permitted access to the Licensed Materials.

8.2 [...], provided that nothing in this Licence shall make the Licensee or any Member liable for breach of the terms of the Licence by any Authorised User provided that the Licensee and the Member did not cause, knowingly assist or condone the continuation of such breach to continue after becoming aware of an actual breach having occurred.

[...]

8.3 The titles of any Licensed Materials or, as well as any trademarks, logos and colophons owned by or licensed to the Publisher or affiliated companies shall be shown as they appear in the Licensed Materials and shall not be deleted or modified by the Licensee or its Authorised Users.

[...]

10. TERMINATION

10.1 This Licence shall be terminated:

10.1.1 if the Licensee or eligible, participating institutional members of the national license, including authorised users at eligible, participating institutions, commit a wilful material and persistent breach of the Publisher's copyright or other intellectual property rights or of the provisions of clause 3 in respect of usage rights or of clause 6 in respect of prohibited uses Access to the licensed materials by the individual institution responsible for such breaches of the license will be terminated in such a way that access by other participating members remains active.
[...]

**SCHEDULE 1**

**Members of the German academic national license**

**Eligible Institutions**

Higher Education Institutions financed either by public or private funding National, regional and state libraries Academic specialist libraries mainly financed by public funding Research institutions mainly financed by public funding Governmental institutions Including any of the above mentioned types of German institutions abroad

[...]