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**PALGRAVE CONNECT CONSORTIUM SITE LICENSE AGREEMENT**  
**U.K. Europe Rest of World**

**AGREEMENT DATE:**

**AGREEMENT REF NO:**

**PARTIES:**

**Licensor: Palgrave Macmillan**, a division of Macmillan Publishers Limited, whose registered office is situated at Brunel Road, Houndmills, Basingstoke, Hampshire RG21 6XS England

**Licensee:** German National Library of Economics, Leibniz-Information Centre for Economics (ZBW), Duesternbrooker Weg 120, 24105 Kiel, Germany

**\*Department:**

**\*Address 1:** Duesternbrooker Weg 120

**\*Address 2:**

**\*City:** Kiel

**\*Country:** Germany

**\*Zip/Postcode:** 24105

**Licensee is acting on behalf of a group of libraries hereinafter referred to as the "Members". Licensee's rights and obligations under this Agreement shall apply to all Members who will register for the Licensed Material via Licensee and who meet the criteria defined under Eligible Institutions, whose registration is requested by the Licensee.**

**SPECIAL TERMS :**

The following definition is added:

Eligible Institutions or "Members": Please see Appendix A for a current list of eligible Institutions

Means any German

Higher education institution financed either by public or private funding National, regional or state library

National, regional or state library

Academic specialist library mainly financed by public funding (excl. project funds) Research institution mainly financed by public funding (excl. project funds)

Governmental institutions

Including any of such above mentioned types of German institutions abroad and all to be specified in Appendix A (Appendix A includes all currently eligible institution and will be updated from time to time. Eligible institutions become Members of the Consortium by fulfilling a registration process via the Licensee)

Which in each case (a) has completed a suitable registration form committing it to use the Archived Material only in accordance with this Agreement and only during such time as such registration form remains in effect; and (b) remains throughout the period of its use of the Licensed Material, a not-for-profit entity

The Licensee will deliver a list with registered institutions from time to time for registration for the Licensors platform (IP-based registration).

Definition of "Authorised Users" edited

(d) individual members of the public permitted to use the Member's library or information services; in each case who are permitted general access to the Network by the Member [(e.g. walk-in users)];

"Site" definition edited

**"Site"**: with respect to each Member, the premises located at the Site Address/es and

The annual access fee which at the time of agreement stood at GBP 150 is waived in perpetuity for access to the Licensed Material for the Members. Access Fees for access to Licensed Material outside of this agreement may apply to individual Members. The Licensor hereby grants to the Licensee, subject to and in accordance with the terms of this Licence Agreement, a non-exclusive perpetual licence to access and use the Licensed Material and to allow Members and Authorised Users to access and use the Licensed Material hosted on the Licensor's Platform via Secure Network.

Metadata shall be made available to the Licensee and Members. The cost for this is included in the license fee and will take the form of MARC 21 from Nielsen BookData records. This is licensed in perpetuity for non-commercial use by

- local catalogues

- union catalogues

- any other library and information system (including but not limited to search engines of commercial corporations provided that the metadata is not sold, lent, re-licensed, or distributed in any manner that violates the terms and conditions of the licence).

The Licensor on request agrees to provide the single Licensee (ZBW) entity with a single copy of the Licensed Material at no additional costs. The Licensee agrees that the sole purpose for which it shall be entitled to make any use of the Licensed Material is for the purposes of the development by the Licensee for non-commercial and non-profit making purposes of a Secure Network by IP, Username / Password, SHIBBOLETH authentication or by another means of authentication agreed in writing between the Licensor and the Licensee ("the Secure Network") through which Members and their Authorised Users can access in perpetuity (subject to Clause 4), the Licensed Material directly instead of via the Licensor's own Server. Consent by the Licensor may not be refused unreasonably. All use of the Archived Material by the Licensor or Members or their Authorised Users, whether via the Licensor's own server or via the Secure Network may only be made for purposes which are not Commercial Purposes and which are strictly in accordance with this Agreement. Access must be provided only to authorised users at the Member institutions via a secure network, where Authorised Users accessing on a remote basis are identified on initial authentication and periodically thereafter. Authorised users are to be informed of the terms of the agreement. Access must only be provided to Members according to the specific Material they have Licensed through this License Agreement. It does not apply to other Licensed Material. The terms of the license agreement will apply to any access via the server detailed above and the licensor will be permitted to monitor access via this server. In such monitoring, the Licensor shall not infringe the privacy rights of Authorised Users. A single server may be used by the licensee; individual institutions are not permitted to access via their own servers. Licensee server plans, third parties and access control to be agreed by Licensor in advance. Consent by the Licensor may not be refused unreasonably. The Licensee shall not be entitled to make or permit any other person to make any other use of the Licensed Material which shall be retained by it securely at the Delivery Address and the Licensee shall further not be entitled to dispose of the Licensed Material in whole or in part, grant any licence or sub-licence in respect of it or mortgage, charge or grant any other encumbrance over it. The Licensee is further permitted to make a copy of, or re-format, the Licensed Material supplied by the Licensor solely for the purpose of ensuring its future preservation and accessibility in accordance with this Licence. The Licensor shall no longer be obliged to make the Licensed Material available on the Licensor's server if the Licensed Material is available on the Secure Network pursuant to this paragraph. The rights in this paragraph shall not apply where the Agreement is terminated under Clauses 4.8, 4.9 or 4.10 of this Agreement.

Clause 2.1 g) edited

permit each Member to reproduce up to 1 chapter per title per course from the Licensed Material that such Member has subscribed to access in printed hard copy and electronic course packs and study packs to be used in the course of instruction and/or in virtual and managed environments (including but not limited to virtual learning environments, managed learning environments, virtual research environments and library environments) hosted on a secure Member Network. Each item shall carry appropriate acknowledgement of the source, listing title and copyright owner. Course packs in non-electronic non-print perceptible form, such as Braille, may also be offered to Authorized Users.

#### Addition to end of Clause 3

The Licensee and the Members shall display a notice on its library management system regarding the restrictions specified at clause 3.1 which shall be visible to users on the discovery layer. Alternatively the Licensee and the Members inform users about permitted uses and usage restrictions through their library regulations. The Licensor agrees and acknowledges that such notice shall be sufficient to enable compliance by the Licensee with clause 7.1 with respect to such restrictions.

#### Percentages amended in Clause 4.10

4.10 In addition to Licensor's right to terminate access to Section A Licensed Materials under Clause 4.2 above, and without prejudice to Clause 8.7 below, the Licensor reserves the right at any time to terminate access to any part of the Licensed Material (i) which the Licensor no longer retains the right to publish and/or grant the Licensee or the Members the rights granted in such Licensed Materials under this Agreement, (ii) which the Licensor believes may infringe copyright or any other intellectual property or other right of any third party, or may be defamatory, obscene, unlawful or objectionable, (iii) which the Licensor otherwise believes may give rise to a legal claim, or (iv) if the Licensor considers it necessary, in its sole discretion, to replace such Licensed Material with an updated or modified version thereof. In the case of subclauses (i) through (iii) above, and in the case of termination of the Supply Period for Section A Licensed Materials under Clause 4.2 above, if the Licensed Material as to which access is terminated represents more than ten [seven] percent (10[7]%) of the Licensed Material, then the Licensor shall repay the Licensee what in the Licensor's good-faith estimate is a pro-rateable proportion of that part of the Licence Fee of affected Members that represents the Licensed Material so terminated only; termination by Licensor with respect to less than 10[7]% of the Licensed Material under this Clause 4.10, subclauses (i) through (iii), or Clause 4.2, above, shall not entitle the Licensee to repayment of any License Fees.

#### Amendment to 4.12

4.12 On termination [of] this Agreement as a result of notice being given by the Licensor under Clause 4.9 or with respect to that portion of the Licensed Material terminated under 4.10, the Licensee shall have no further rights of any kind in the Licensed Material and the Licensee agrees to destroy and use its best endeavours to procure that all Members destroy, all Licensed Material stored on its Network or in CD-Rom or other hard copy form both on paper and in any digital information storage media or other physical media storage, including, but not limited to, system servers, hard disks, diskettes, and back up tapes.

#### Addition to 7.2

7.2 The Licensee shall, and shall procure that each Member shall put into place reasonable procedures to monitor the compliance with the terms and conditions of this Agreement by the Authorized Users. [Nothing in this clause shall infringe the privacy rights of Authorized Users.]

#### Addition to 7.5

7.5 The Licensor shall be entitled to monitor the use of the Licensed Material through the Licensor's servers, or as the case may be any service provided by an agent on its behalf, so as to monitor compliance with this Agreement. [In such monitoring, the privacy rights of Authorized Users will not be infringed.]

USAGE STATISTICS clause edited

USAGE STATISTICS

The Licensor confirms that usage statistics covering the online usage of Palgrave Connect collections will be provided individually to each Member. [The Licensor will make available to the Licensee a consortial usage report which states the usage of all Members (if necessary in an anonymised way)]. The Licensor further confirms that it shall use all reasonable efforts to ensure that such usage statistics will adhere to the specifications of the COUNTER Code of Practice, including data elements collected and their definitions; data processing guidelines, usage report content, frequency and delivery method. Licensee agrees that the statistics provided to each Member are solely for such Member's own internal use. Notwithstanding the foregoing, the Licensor shall not be required to disclose any information to the Licensee or any Member which it is prohibited from disclosing pursuant to any law, regulation or rule ("Law"), including without limitation any applicable privacy or data protection Law, or any contractual obligation.

## TERMS

### 1. INTERPRETATION

1.1 In this Agreement (as defined below), unless the context requires otherwise, the following expressions have the following meanings:

**"Agreement"**: means as defined in the Schedule;

**"Archived Material"**: means the archived material, being part of the Licensed Material, referred to in Section B of the Schedule;

**"Authorized User"**: (a) every member of the teaching and research staff employed by or otherwise accredited to the Member whether full-time or part time; (b) every student enrolled or accredited to the Member for the purposes of full-time or part-time attendance; (c) individual members of the public registered as users of the Member's library or information service; and (d) individual members of the public permitted to use the Member's library or information services; in each case who are permitted general access to the Network by the Member (e.g. walk-in users);

**"Customer Support"**: the Helpdesk (as set out in the Schedule) providing reasonable e-mail and telephone support;

**"Commencement Date"**: with respect to each Member, as set out in such Member's Schedule;

**"Electronic Version"**: means a copy of all or a portion of the Licensed Materials on CD ROM (or in such other electronic form as the Licensor shall decide) subject to the applicable Electronic Version License, as defined in Clause 4;

**"Licensed Material"**: those agreed **Palgrave Connect Collections** indicated;

**"Network"**: a Member's local area network system of connected computers at the Site, the IP address for which is set out in the Schedule;

**"Schedule"**: with respect to Licensee, the attached schedule preceding the Terms to this Agreement;

**"Site"**: with respect to each Member, the premises located at the Site Address/es; and

**"Supply Period"**: with respect to each Member, as set out in such Member's Schedule or as otherwise extended pursuant to Clause 4.1.

1.2 This Agreement contains the entire agreement and undertaking between the parties relating to the Licensed Material and supersedes any prior agreement.

1.3 The termination of this Agreement shall not prejudice the rights and remedies of either party against the other in respect of any prior breach of covenant, terms, warranty or condition.

1.4 The failure of any party to enforce any provision of this Agreement on any one occasion shall not affect its right to enforce another provision or the same provision on another occasion.

1.5 Nothing contained in this Agreement shall constitute or shall be construed as constituting a partnership, joint venture, or contract of employment between the parties

## 2. DELIVERY AND GRANT OF RIGHTS

2.1 In consideration of the payments made by the Licensee, and subject to the Licensee observing its obligations under this Agreement, the Licensor grants to the Licensee the following non-exclusive rights ("**the Rights**"), subject to the agreed Authorized Users with respect to each Member, and for the Supply Period specified for each Member in such Member's Schedule, to:

(a) access via the Network at any time (subject to Clause 7) via a Member's server, or as the case may be any server provided by an agent on its behalf, for the purpose of accessing the Licensed Material for research, teaching, and private study purposes by means of workstations connected to the Network directly or remotely;

(b) make the Licensed Material accessible directly or remotely via the Network to the Authorized Users for their research, teaching, and private study purposes in accordance with the Licensee's customary policies and practices acceptable to the Licensor;

(c) permit Authorized Users to print individual chapters or articles from searches of the Licensed Material, but no more than one chapter or article, per title, per authorised user, for research, teaching, and private study purposes by means of workstations connected to the Network, subject to clause 3;

(d) permit Authorized Users to download individual chapters or titles from searches of the Licensed Material for research, teaching, and private study purposes by means of workstations connected to the Network, subject to clause 3;

(e) reproduce single copies of minimal, insubstantial amounts such as an individual article or chapter from the Licensed Material in hard copy print form for transmission to individual libraries of not for profit, non commercial organisations. Files transmitted in this manner must carry copyright notices. Requests received from for-profit companies or directly from individuals shall not be honoured. This right shall not apply to the extent that it is used with centralized ordering facilities, such as document delivery services or for any other commercial or systematic distribution, nor cover arrangements that have, as their purpose or effect, that the library receiving such copies for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work. No right or license is hereby granted to any person provided with such a copy to copy or distribute that individual chapter or article;

(f) create a hypertext link to any part of the Licensed Material provided that no person other than an Authorized User may use such hypertext link; and

(g) permit each Member to reproduce up to 1 chapter per title per course from the Licensed Material that such Member has subscribed to access in printed hard copy and electronic course packs and study packs to be used in the course of instruction and/or in virtual and managed environments (including but not limited to virtual learning environments, managed learning environments, virtual research environments and library environments) hosted on a secure Member Network. Each item shall carry appropriate acknowledgement of the source, listing title and copyright owner. Course packs in non-electronic non-print perceptible form, such as Braille, may also be offered to Authorized Users.

2.2 The Rights are personal to the Licensee and do not extend to its subsidiary or parent organisations, or to any other related or affiliated organisations other than the Members as provided herein unless otherwise agreed in writing with the Licensor. Neither the Licensee nor any Member may assign, sub-license, transfer, grant any security interest in or otherwise dispose of or encumber its rights under this Agreement without the prior written consent of the Licensor.

2.3 Title to, and ownership of, the Licensed Material (including any copies made by or on behalf of the Licensee including by the Authorized Users) is not transferred to the Licensee and remains vested in the Licensor, subject to the Rights granted in Clause 2.1 and Clause 4.11. The Licensee acknowledges that any rights not expressly granted in this Licence are reserved to the Licensor.

2.4 The Licensee and the Members are responsible for the provision of and payment for the computer equipment and telecommunication services necessary for access to and use of the Licensed Material. The

Licensor shall not issue credits or refunds against charges incurred by the Licensee in relation to such telecommunication services or those incurred contacting Customer Support. The Licensee accepts that the Licensor has no control over such telecommunication services and that the Licensor shall have no liability to the Licensee or any Member for the acts or omissions of providers of telecommunication services or for faults in or failures of their apparatus or of the Licensee's or any Member's computer equipment.

### 3. USAGE RESTRICTIONS

Except as expressly permitted in Clause 2.1, the Licensee warrants that neither it nor any Member will, nor licence or permit others to, directly or indirectly, without the Licensor's prior written consent.

- (a) sell, distribute, license, rent or otherwise exploit the Licensed Material, or any element of it, for any commercial purpose;
- (b) make the Licensed Material, or any element of it, available by any means to persons other than Authorized Users;
- (c) make the Licensed Material, or any element of it, available on, or by, electronic bulletin boards, news groups, Web sites, FTP or any other means of posting or transmitting material on the Internet, an on-line service or wide area network;
- (d) remove or obscure the Licensor's copyright notice from the Licensed Material including any downloaded material whether in electronic format or hard-copy print-outs;
- (e) use the Licensed Material to create any derivative work, product or service, or merge the Licensed Material with any other product, database, or service;
- (f) alter, amend, modify, translate, or change the Licensed Material;
- (g) undertake any activity that may have a damaging effect on the Licensor's ability to achieve revenue through selling and marketing any part of the Licensed Material;
- (h) otherwise use the Licensed Material supplied in accordance with this Agreement in a manner that would infringe the copyright or other proprietary rights contained within it;
- (i) make the Licensed Material or any part of it available by remote access to any person other than Authorized Users; or
- (j) make mass, automated or systematic extractions from or hard copy storage of the Licensed Material.

The Licensee and the Members shall display a notice on its library management system regarding the restrictions specified at clause 3.1 which shall be visible to users on the discovery layer. Alternatively the Licensee and the Members inform users about permitted uses and usage restrictions through their library regulations. The Licensor agrees and acknowledges that such notice shall be sufficient to enable compliance by the Licensee with clause 7.1 with respect to such restrictions.

### 4. TERM AND TERMINATION

**Clauses 4.7 through 4.12 apply, with respect to each Member, to Licensed Material in BOTH Section A and Section B of such Member's Schedule.**

4.7 Without prejudice to any other rights the Licensor may have, the Licensor may suspend the provision of the Licensed Material to a Member with immediate effect on written notice without liability if the Licensor believes any Licensed Material is being used in a manner that contravenes the provisions of this Agreement, the Continued Access Rights, or any applicable Electronic Version License, or in the event of delay or failure to pay in accordance with Clause 5 below.

4.10 In addition to Licensor's right to terminate access to Section A Licensed Materials under Clause 4.2 above, and without prejudice to Clause 8.7 below, the Licensor reserves the right at any time to terminate access to any part of the Licensed Material (i) which the Licensor no longer retains the right to publish and/or grant the Licensee or the Members the rights granted in such Licensed Materials under this Agreement, (ii) which the

Licensor believes may infringe copyright or any other intellectual property or other right of any third party, or may be defamatory, obscene, unlawful or objectionable, (iii) which the Licensor otherwise believes may give rise to a legal claim, or (iv) if the Licensor considers it necessary, in its sole discretion, to replace such Licensed Material with an updated or modified version thereof. In the case of subclauses (i) through (iii) above, and in the case of termination of the Supply Period for Section A Licensed Materials under Clause 4.2 above, if the Licensed Material as to which access is terminated represents more than seven percent (7%) of the Licensed Material, then the Licensor shall repay the Licensee what in the Licensor's good-faith estimate is a pro-rateable proportion of that part of the Licence Fee of affected Members that represents the Licensed Material so terminated only; termination by Licensor with respect to less than 7% of the Licensed Material under this Clause 4.10, subclauses (i) through (iii), or Clause 4.2, above, shall not entitle the Licensee to repayment of any License Fees.

## 7. LICENSEE'S UNDERTAKINGS

7.1 The Licensee shall, and shall procure that each Member will, take all reasonable steps to ensure that the Licensed Material is used only in accordance with the terms and conditions of this Agreement and shall inform Authorized Users of the permitted use restrictions and other provisions set out in this Agreement.

7.2 The Licensee shall, and shall procure that each Member shall put into place reasonable procedures to monitor the compliance with the terms and conditions of this Agreement by the Authorized Users. Nothing in this clause shall infringe the privacy rights of Authorized Users.

7.3 The Licensee will notify the Licensor immediately of infringements that come to the Licensee's or a Member's notice and the Licensee agrees to co-operate and procure that Members co-operate with the Licensor as appropriate to stop further abuse should it occur.

7.4 Subject to Clause 4.12, nothing in this Agreement shall make the Licensee and the Members liable for breach of the restrictions set out in the terms and conditions of this Agreement by any Authorized User as long as the Licensee complied with the terms of Clauses, 7.1, 7.2 and 7.3 and did not cause, intentionally assist in or encourage such breach nor allowed it to continue after having received notice of such breach whether from the Licensor or otherwise. However, in the event of continuing abuse the Licensor shall be entitled to terminate this Agreement.

7.5 The Licensor shall be entitled to monitor the use of the Licensed Material through the Licensor's servers, or as the case may be any service provided by an agent on its behalf, so as to monitor compliance with this Agreement. In such monitoring, the privacy rights of Authorized Users will not be infringed.