

License Agreement

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and

1.) Freistaat Bayern, represented by Bayerische Staatsbibliothek ("BSB"), responsible for the Specialised Information Services for Research Osteuropa (Fachinformationsdienst Osteuropa, FID), represented by Dr. Klaus Ceynowa, having its place of business at Ludwigstraße 16, 80539 München,

and

2.) Staatsbibliothek zu Berlin - Preußischer Kulturbesitz ("SBB"), responsible for the Specialized Information Service for Slavic Studies (FID Slawistik), represented by Barbara Schneider-Kempf, having its place of business at Unter den Linden 8, 10117 Berlin,

(hereinafter BSB und SBB together are called "Licensee" or "Licensees")

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WHEREAS the Publisher hereby grants to the Licensee a non-exclusive license to access and use the Licensed Material, further specified in Schedule 3;

WHEREAS the parties are desirous to contract on the basis of the terms and conditions of this License.

IT IS AGREED AS FOLLOWS

(Preamble) The Structure of the Agreement

This License Agreement is concluded between Publisher and Licensee. This License Agreement shall be considered as the framework agreement and governs all terms and conditions for the licensing of the licensed material. It is understood that the Guidelines for the Purchase of Publications in the DFG-funded System of Specialized Information Services for Research (DFG form 12.101-12/12) are part of the basis of this agreement, see link in Schedule 1. In the event of any conflict between such terms and this Licence Agreement, the provisions of this Licence Agreement shall prevail.

In case of subsequent amendments to this agreement it is understood that each will be comprised and in line with the current version of the Guidelines for the Purchase of Publications in the DFG-funded System of Specialized Information Services for Research (DFG form 12.101-12/12).

The Parties hereto are independent contractors and nothing contained herein or done in pursuance of this Agreement shall constitute either Party as the agent of the other Party for any purpose or in any sense whatsoever, or constitute the Parties as partners, joint venturers or franchisor and franchisee. Each Licensee itself is party to the Agreement in relation to the Publisher. This Agreement does not create any corporate relationship between the Licensees or between a Licensee and participating Institutions.>

§ 1 Definitions

1. In this License, the following terms shall have the following meanings:

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Contractually Defined Users: Institutions as defined in § 1.e authorised by the Licensee and individuals who are authorised by their Institution to access the Institution's information services whether on-site or off-site via secure authentication and who are affiliated to the Institution as a current student (including but not limited to undergraduates, postgraduates and guest students), member of staff (whether on a permanent or temporary basis including retired members of staff and any teacher who teaches Authorised Users) or contractor or registered

user of the Institution. Persons who are not currently a student, member of staff, contractor or registered user of the Institution, but who are permitted to access the Institution's information services from computer terminals or otherwise within the physical premises of the Institution ("walk-in users") are also deemed to be Authorised Users, only for the time they are within the physical premises of the Institution

or:

b. Individuals who are authorized by the Licensee to access the Licensee's information services whether on-site or off-site via Secure Authentication. Users are generally researchers or individuals with access privileges at the following types of institutions:

- publicly or privately funded higher education and research institutions in Germany,
- the German National Library, all regional and state libraries as well as main subject libraries,
- primarily publicly funded research libraries and special academic libraries,
- research institutes primarily funded by German federal or state governments, including research institutions located abroad but funded by public bodies or primarily funded bodies in Germany, such as the German Historical Institutes.

Non-institutional access of individuals shall be permitted via individual authentication subject to a requirement of residence in Germany.

The Contractually Defined Users are specified in Schedule 2.

c. Commercial Use: The use of the Licensed Material for the purpose of monetary reward (whether by or for the Institution or a Contractually Defined User) by means of sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Material. For the avoidance of doubt, the use by the Institution or Contractually Defined Users of the Licensed Material in the course of research funded by a commercial organisation is not deemed to constitute Commercial Use. Recovery of costs is not being deemed Commercial Use. The use of Metadata by search engines does not constitute Commercial Use as long as that Metadata is not sold, lent, distributed or otherwise re-licensed via that search engine or the access to that Metadata on that search engine is exclusively being charged for.

d. Educational Purposes: The use for the purpose of education, teaching, distance learning, private study and/or research.

e. Institutions: Higher education institutions financed either by public or private funding; national, regional and state libraries; academic specialist libraries mainly financed by public funding (excl. project funds); research institutions 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 Schedule 2.

f. Intellectual Property Rights: Patents, trademarks, trade names, design rights, copyright (including rights in computer software and moral rights), database rights, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may subsist anywhere in the world.

g. License Fee: The fee as set out in Schedule 3. The fee shall be in line with the offer agreed between the Licensee and the Publisher.

h. Licensed Material: The material listed in Schedule 3, including corresponding metadata, supplementary content and digital objects. For the avoidance of doubt, in case of Local Hosting the Licensed Material to be delivered by the Licensor means fulltexts incl. all digital objects, supplementary content and Metadata.

i. Local Hosting: Housing, serving and maintaining files on Licensee's Local Hosting Server or on the servers of a third party.

j. Metadata: Bibliographical, structural & descriptive data of the Licensed Material as defined in Schedule 5.

k. Publisher's Platform: Own or third party server used by Publisher to give access to Licensed Material.

l. Part (of Licensed Material): Any part, component, fragment of the Licensed Material that is used, separated and/or cited in a self-contained manner.

m. Open Access: This definition is based on the "Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities" which postulates two necessary criteria:

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2. A complete version of the work and all supplemental materials, including a copy of the permission as stated above, in an appropriate standard electronic format is deposited (and thus published) in at least one online repository using suitable technical standards (such as the Open Archive definitions) that is supported and maintained by an academic institution, scholarly society, government agency, or other well established organization that seeks to enable open access, unrestricted distribution, interoperability, and long-term archiving (s. § 2.3)

n. Secure Authentication: Method to identify Contractually Defined Users as defined in Schedule 4.

o. Secure Network: A network which is only accessible to Contractually Defined Users by Secure Authentication.

p. Source (of Licensed Material or Parts thereof): Denomination of the origin of, author of, holder of title in the Licensed Material or Part hereof.

q. Subscription Period: The period nominally covered by the volumes and issues of the Licensed Material as identified in Schedule 3, regardless of the actual date of publication.

r. Term: Period of time reflecting the duration since coming into force of this License Agreement

2. Headings contained in this License Agreement are for reference purposes only and shall not be deemed to be indication of the meaning of the clause to which they relate.

3. Where the context so implies, words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.

§ 2 License grant

1. The Publisher 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 Institutions and Contractually Defined Users to access and use the Licensed Material hosted on the Publisher's Platform via Secure Network.

2. The Publisher hereby grants to the Licensee, subject to and in accordance with the terms of this License Agreement, a non-exclusive perpetual worldwide (license) right to host the Licensed Material on Licensee's Local Hosting Server or on the server of a third party, to communicate the Licensed Material via a Secure Network to Institutions and Authorised Users, and to allow Institutions and Contractually Defined Users to access and use the Licensed Material via Secure Authentication.

3. The Licensee is further permitted to make such copies or re-format the Licensed Material contained in the archival copies supplied by the Publisher in any way that ensures their future preservation, long-term storage and accessibility in accordance with this Licence, or to commission third parties to perform such measures.

4. The Publisher hereby grants to the Licensee, subject to and in accordance with the terms of this Licence Agreement, a non-exclusive perpetual, worldwide licence for the Metadata associated with the Licensed

Material for use in local library catalogues, union catalogues, and such other library and information systems including but not limited to search engines of the Institutions and third parties. The support of Search Engine Advertizing (SEA) and Search Engine Optimization (SEO) is allowed by the Publisher (e.g. xml-sitemap of websites with displays of metadata for inclusion of Search Engine Indexes; support of crawler like Googlebot) as well as the provision of the Metadata as Linked Open Data.

5. Access shall be granted without restriction to concurrent use.

6. Multi-year licenses include an option for early termination for the Licensee.

§ 3 Permitted uses

The Licensee and the Institutions may:

a. Make such local temporary copies of the Licensed Material as are necessary to ensure efficient use of the Licensed Material by Institutions and Contractually Defined Users, provided that such use is subject to all the terms and conditions of this Licence Agreement;

b. Provide Contractually Defined Users with an integrated access and index to the Licensed Material and all other similar material acquired from other sources. The Licensed Material or Parts thereof may be compiled, indexed and/or catalogued (including, without limitation, the header data and abstracts) by the Licensee and the Institutions. Anything thereby created or compiled may be integrated into the products and services of the Licensee and the Institutions. Metadata may be integrated into 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 Licensed Material can be integrated without restriction (including, but not limited to) in digital course reserve collections, in virtual research environments in which Licensee and authorised Institutions participate as well as in the virtual specialised libraries operated by Licensee.

c. Use the Licensed Material to set up value-added services, such as text and data mining to enhance services, to encourage scholarship, teaching and learning and to conduct research by the Licensee, Institutions, and Contractually Defined Users according to the following principles, as long as the purpose is not to create a product for use by third parties that would substitute the Licensed Material: Raw data may be extracted from the Licensed Material. Text and data mining may be performed on the unchanged Licensed Material or on extracted data (including but not limited to reproducing, storing, adapting, assembling large collections or extracting substantial portions of data and analysing them). The raw data is research data and may be stored, published and distributed in any medium or form under any licence in order to ensure reproducibility and sustainability, as long as the Licensed Material cannot be reconstructed in its original, human readable form. The Publisher will cooperate with Licensee and Institutions as reasonably necessary in making the Licensed Material available in a manner and form most useful to the Licensee, Institutions and Contractually Defined Users. Attribution must be made to the Publisher in an appropriate manner and form.

d. Supply to a user of another library (whether by post, fax or secure electronic transmission) a single copy of an electronic original of an individual document including any supplementary content published in connection to the document.

e. Run test routines, verifying access to all licensed items. Testing conditions will be clearly defined. Usage generated by test runs will not be part of the usage statistics delivered.

f. Allow Contractually Defined Users to:

- Make such local temporary copies of the Licensed Material as are necessary to ensure efficient use of the Licensed Material, provided that such use is subject to all the terms and conditions of this Licence Agreement;

- Access the Licensed Material by Secure Authentication in order to search, retrieve, display and view the Licensed Material;

- Electronically save Parts of the Licensed Material;

- Print out single copies of Parts of the Licensed Material;

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 - Make such copies of training material and network such training material as may be required for the purpose of using the licensed material in accordance with this license agreement
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- g. Course packs in non-electronic, non-print perceptible form, such as Braille, may also be offered to Contractually Defined Users;
- h. In case of technical breakdowns (including but not limited to downtimes of the Publisher's Platform or to incorrect administered IP ranges) provide Licensee, Institutions or Contractually Defined Users with electronic copies of single Parts of the Licensed Material.
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1. Save as provided herein, Licensee, Institutions and the Contractually Defined Users may not:
 - a. Sell or resell the Licensed Material unless the Licensee, an Institution or a Contractually Defined User has been granted prior written consent by the Publisher to do so;
 - b. Remove, obscure or modify copyright notices, text or Source acknowledgment or other means of identification or disclaimers as they appear;

c. Alter, adapt or modify the Licensed Material, except to the extent necessary to make it perceptible on a computer screen, or as otherwise permitted in this License Agreement. For the avoidance of doubt, no alteration of the words or their order is permitted;

d. Display or distribute any Part of the Licensed Material on any electronic network, including without limitation the Internet and the World Wide Web, and any other distribution medium now in existence or hereinafter created, other than by a Secure Network or unless permitted in this Licence Agreement;

e. Use all or any part of the Licensed Material for any Commercial Use or for any purpose other than Educational Purposes.

2. This clause shall survive termination of this Licence Agreement for any reason.

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The Publisher agrees to:

a. Make the Licensed Material perpetually available to the Licensee, the Institutions and Contractually Defined Users from the commencement of this License Agreement and after termination of this agreement at no additional cost on the Publisher's Platform by Secure Authentication as defined in Schedule 4;

b. Make the Licensed Material available to the Licensee, the Institutions and the Contractually Defined Users at all times and on a twenty-four hour basis (24/7/365), save for routine maintenance, and to restore access to the Licensed Material as soon as possible in the event of an interruption or suspension of the service (the access interruption shall not exceed 1% in total of a calendar year) as defined in Schedule 4;

c. Ensure that the relevant server or servers have adequate capacity and bandwidth to support the usage of the Licensee, the Institutions and Contractually Defined Users at a level commensurate with the standards of availability for information services of similar scope operating via the World Wide Web, as such standards evolve from time to time over the term of this Licence Agreement, as defined in Schedule 4;

d. Make the Licensed Material (incl. full-text, all digital objects, Metadata) available on request by Licensee for Local Hosting on the Licensee's Hosting Server or on the server of a third party. Further details are outlined in Schedule 3

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- in case of post-cancellation archival rights six months after cancellation/publication;

- in case of withdrawal of Licensed Material or any part of it before removal from Publisher's Platform;

- in case of termination of this agreement immediately after termination;

- in other cases within three months after the request has been made;

f. Deliver and make accessible the Licensed Material in a format according to the standards as defined in Schedule 4;

g. The breakdown of the Licensed Material into logical units (e.g. assignment of data records to products or of articles to journals titles) must be reflected by the data delivered;

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i. Provide electronic product documentation to the Licensee free of charge. The Publisher will allow copies of all documentation to be made and distributed by the Licensee to the Institutions and Contractually Defined Users provided it is either duplicated in full, or a proper ownership acknowledgement and acknowledgement of Source is included;

j. Maintain the confidentiality of any data relating to the usage of the Licensed Materials by the Licensee, the Institutions and the Contractually Defined Users. Such data may be used solely for purposes directly related to the Licensed Materials and may only be provided to third parties in aggregate form without reference to the Contractually Defined Users or the Institutions. Raw usage data, including but not limited to information relating to the identity of specific users and/or uses, shall not be provided to any third party.

§ 6 Responsibilities of the Licensee

The Licensee agrees to:

- a. Provide lists of valid IP addresses to the Publisher and update those lists on a regular basis;
- b. Use reasonable efforts to provide Institutions und Contractually Defined Users with appropriate notice of the terms and conditions under which access to the Licensed Material is granted under this Licence Agreement,
- c. Issue passwords or other access information only to Institutions, Contractually Defined Users or a IT-service provider, who offers Secure Authentication methods, and use all reasonable efforts to ensure that Institutions, Authorised Users and the IT-service provider do not divulge their passwords or other access information to any third party..
- d. Use all reasonable efforts, including without limitation by use of Secure Authentication, to ensure that only Licensee, Institutions and Contractually Defined Users are permitted access to the Licensed Material;
- e. The Licensee agrees to:

Use all reasonable efforts to monitor compliance with the terms of this Licence Agreement and notify the Publisher and provide particulars - to the extent that this is not prohibited by existing data protection rules - on becoming aware of any of the following: Any unauthorized access to or use of the Licensed Material or unauthorized use of any password(s); Any breach of the terms of this Licence Agreement by an Institution or a Contractually Defined User. Upon becoming aware of any breach of the terms of this License Agreement, the Licensee further agrees to promptly and fully investigate and initiate disciplinary procedures in accordance with the Licensee's or Institution's standard practice and to use all reasonable efforts to ensure that such activity ceases and to prevent any recurrence.

§ 7 Licence Fee

1. The Publisher will invoice Licensees for the Licence Fee payable at the addresses specified above.
2. The license model and the terms of payments to the Publisher are set out in Schedule 3 hereto.
3. The Publisher will invoice each Licensee directly for the Licence Fee as set out in Schedule 3. Each Licensee is liable only for its share of the Licence Fee as set out in Schedule 3. There shall be no joint liability.

§ 8 Term and Termination

1. This License Agreement shall commence on the date of signature and will remain in full force and effect in perpetuity.
2. The Licensee may terminate this Agreement by giving notice to the Publisher two months prior to the first anniversary date of this Agreement. The same applies for terminations for subsequent years. In addition Licensees have the option for extraordinary termination as specified in Schedule 3 hereto.
3. Any party may terminate this Agreement at any time on the material breach or repeated other breaches by the other of any obligation on its part under this Agreement if, after serving a written notice on the other identifying the nature of the breach, the defaulting party does not remedy the breach within a period of thirty (30) days after the receipt of the written notice.
4. Upon material breach or repeated other breaches by an Institution or Contractually Defined Users, the Publisher shall cease to authorize online access to the Licensed Material only by the single User responsible for the breach.

5. In case of breach by a single Licensee Publisher may only terminate the Agreement or suspend access vis-à-vis the respective Licensee committing the breach. For the other Licensee the agreement remains intact and access is unaffected.

6. After termination of this Agreement the Publisher shall provide (at the option of the Licensee) the Licensee, the Institutions and the Contractually Defined Users with access to and use of the Licensed Material. For the avoidance of doubt access and use of archival copies shall be subject to the terms and conditions as set out in § 3 and § 5 of this Agreement. In case of termination of this Agreement by the Publisher due to a material breach access to and use of the Licensed Material shall only be on Licensee's Local Hosting server according to § 2.2.

7. On termination of this Agreement by the Licensee due to a material breach or repeated other breaches by the Publisher, the Publisher will reimburse the Licensee a pro rata proportion of the then remaining License Fee for the unexpired part of the Subscription Period.

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1. Licensee acknowledges that all Intellectual Property Rights in the Licensed Material are the property of the Publisher or duly licensed to the Publisher and that this License Agreement does not assign or transfer to the Licensee any right, title or interest therein except for the right to access and use the Licensed Material in accordance with the terms and conditions of this License Agreement.

2. For the avoidance of doubt, the Publisher hereby acknowledges that any database rights created by the Licensee or an Institution as a result of Local Hosting, text mining or data mining of the Licensed Material shall be the property of the Licensee or the Institution.

§ 10 Representation, warranties and indemnification

1. The Publisher guarantees to the Licensee that the Licensed Material and all Intellectual Property Rights therein are owned by or licensed to the Publisher and that the Licensed Material used as contemplated in this License Agreement does not infringe any Intellectual Property Rights of any natural or legal person.

2. The Publisher agrees that the Licensee, the Institutions and Contractually Defined Users shall have no liability and the Publisher will indemnify, defend and hold the Licensee harmless against any and all damages, liabilities, claims, causes of action, legal fees and costs incurred by the Licensee in defending against any third party claim of Intellectual Property Rights infringements or threats of claims thereof with respect of the Licensee's, the Institution's or Contractually Defined Users use of the Licensed Material, provided that:

- The use of the Licensed Material has been in full compliance with the terms and conditions of this Licence Agreement;

- The Licensee, the Institutions and Contractually Defined Users provide the Publisher with prompt notice of any such claim or threat of claim;

- The Licensee, the Institutions and Contractually Defined Users co-operate fully with the Publisher in the defence or settlement of such claim; and

- The Publisher has sole and complete control over the defence or settlement of such claim.

3. The Publisher reserves the right at any time to withdraw from the Licensed Material any item or Part of an item which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful, or otherwise objectionable. The Publisher shall give written notice to the Licensee of such withdrawal. If the withdrawal results in the Licensed Material being no longer deemed useful by the Licensee, the Licensee may within sixty days of such notice treat such changes as a material breach of this License by the Publisher. Licensee may alternatively claim an appropriate, proportionate reduction of License Fee with regard to the remaining Licensed Material.

4. While the Publisher has no reason to believe that there are any inaccuracies or defects in the information contained in the Licensed Material, the Publisher makes no representation and gives no warranty, express or implied, with regard to the information contained in, or any Part of, the Licensed Material including (without limitation) the fitness of such information or Part for any purposes whatsoever and the Publisher accepts no

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5. In no circumstances will the Publisher be liable to the Licensee for any loss resulting from a cause over which the Publisher does not have direct control, including but not limited to failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, unauthorized access, theft, or operator errors.

6. The Licensee shall notify the Publisher immediately, provide full particulars in the event that they become aware of any actual or threatened claims by any third party in connection with any works contained in the Licensed Material and do all things reasonably required to assist the Publisher in such claims. Upon such notification, or if the Publisher becomes aware of such a claim from other sources, the Publisher may remove such work(s) from the Licensed Material as long as this claim persists. Failure to report knowledge of any actual or threatened claim by any third party shall be deemed a breach of this License Agreement.

7. Nothing in this License Agreement shall make the Licensee or the Institutions liable for breach of the terms of this License Agreement by any Contractually Defined User provided that the Licensee or the Institution did not cause, knowingly assist or condone the continuation of such breach after becoming aware of an actual breach having occurred.

8. Save as provided for in § 10.2 and § 10.9 sentence 1, neither the Licensee or the Institutions nor the Publisher shall be liable to the other in contract for slight or ordinary negligence for >

- Any special, indirect, incidental, punitive or consequential damages or

- Loss of direct or indirect profits, business, contracts, revenue or anticipated savings or for any increased costs or expenses.

9. Save as provided for in § 10.2, the liability for damage from injury to life, body or health as well as the liability for damage caused intentionally or by gross negligence is unlimited. Apart from this neither party shall be liable to the other for slight or ordinary negligence, except in the event of negligence which leads to a breach of a contractual obligation, whose fulfillment is indispensable for the proper execution of the contract and on whose observance the contracting party may regularly rely (essential obligation). In case of slight or ordinary negligence which gives rise to a breach of a contractual obligation, however, the liability of all parties for breaching an essential obligation is limited to the damage which may be typically expected during the execution of this agreement.

§ 11 Force majeure

1. Either party's failure to perform any term or condition of this License Agreement as result of circumstances beyond the control of the relevant party (including without limitation, war, strikes, flood, governmental restrictions, and power, telecommunications or Internet failures or damages to or destruction of any network facilities ["Force Majeure"]) shall not be deemed to be, or to give rise to, a breach of this License Agreement.

2. If either party to this License Agreement is prevented or delayed in the performance of any of its obligations under this License Agreement by Force Majeure and if such party gives written notice thereof to the other party specifying the matters constituting Force Majeure together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue, then the party in question shall be excused from the performance or the punctual performance as the case may be as from the date of such notice for so long as such cause of prevention or delay shall continue. The Licensee, however, in the event of non-performance has the right, after fruitlessly setting a reasonable deadline of at least 30 days, to terminate the contract and to demand a refund of the license fee from the Publisher.

§ 12 Assignment

Save as permitted for under this License Agreement, neither this License Agreement nor any of the rights and obligations under it may be assigned by either party without obtaining the prior written consent of the other party, such consent shall not unreasonably be withheld or delayed. In any permitted assignment, the assignor shall procure and ensure that the assignee shall assume all rights and obligations of the assignor under this License Agreement and agrees to be bound to all the terms of this License Agreement. Assignor and Assignee

will be liable to the other party as a joint and several debtor.

§ 13 Governing law and dispute resolution

This License Agreement shall be interpreted and construed according to and governed by the laws of the Federal Republic of Germany (excluding the Convention on Contracts for the International Sale of Goods). This License Agreement specifies the rights of Publisher, Licensees, Institutions and Contractually Defined Users under the German Copyright Law and other applicable legislation in Germany. For the interpretation and the translation of the License Agreement into German the meaning of legal terms used in US-law and/or British law and/or common law is not relevant; only the German legal understanding ("Rechtsverständnis") is decisive insofar. Place of performance and exclusive place of jurisdiction for all disputes arising out of or in connection with this License Agreement is Munich, Germany.

The parties agree to use best efforts to resolve disputes in an informal manner.>

§ 14 Notices

All notices given pursuant to the License Agreement shall be in writing and may be delivered by hand or by overnight carrier, or shall be deemed received on the date and at the time that the delivery receipt is issued or signed if sent by registered mail ("Einschreiben") or certified mail, return receipt requested ("Einschreiben mit Rückschein"). If any notice is sent by facsimile, confirmation copies must be sent as specified above; if the confirmation copy is delivered without delay the notice shall be deemed received on the date of the transfer of the facsimile. Either party may from time to time change its Notice Address by written notice to the other party.

§ 15 General

1. This License Agreement and its Schedules constitute the entire agreement between the parties relating to the Licensed Material and supersede all prior communications, understandings and agreements (whether written or oral) relating to its subject matter and may not be amended or modified except by agreement of both parties in writing.
2. For the avoidance of doubt, in the event that any content included in the Licensed Material is in the public domain or has been issued under an open licence (e.g. Creative Commons), the Licensor shall not place access, use or other restrictions on that content beyond those found in the open licence, where applicable. Nothing in this License is intended to reduce, limit, or restrict any uses free from copyright or rights arising from limitations or exceptions that are provided for in connection with the copyright protection under German copyright law or other applicable laws.
3. In the event that the Publisher requires Contractually Defined Users to agree to additional terms relating to the use of the Licensed Material ("click-through" licences) or otherwise attempts to impose terms on Contractually Defined Users through online terms and conditions invoked by the mere use or viewing of the Licensed Material, such terms shall not materially differ from the provisions of this Licence Agreement. In the event of any conflict between such terms and this Licence Agreement, the provisions of this Licence Agreement shall prevail. For the avoidance of doubt, Institutions (other than BSB and SBB) and Contractually Defined Users are not a party to this Licence Agreement.
4. The Schedules shall have the same force and effect as if expressly set in the body of this License Agreement and any reference to this Licence Agreement shall include the Schedules. In case of discrepancies between any of the Schedules and this License Agreement the latter shall always take precedence.
5. The invalidity or unenforceability of any provision of this License Agreement shall not affect the continuation in force of the remainder of this License Agreement.
6. The rights of the parties arising under this License Agreement shall not be waived except in writing. Any waiver of any of a party's rights under this License Agreement or of any breach of this License Agreement by the other party shall not be construed as a waiver of any other rights or of any other or further breach. Failure by either party to exercise or enforce any rights conferred upon it by this License Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.

7. All indemnification obligations and perpetual licence rights shall survive the expiration or termination of this Licence Agreement.

Annex:

Schedule 1: Guidelines for the Purchase of Publications in the DFG-funded System of Specialised Information Services for Research (DFG form 12.101-12/12)

Schedule 2: List of specified Contractually Defined Users (including possible variations on specified products)

Schedule 3: List of Licensed Material (including titles and license conditions)

Schedule 3: List of Licensed Material (including titles and license conditions)

Schedule 5: Bibliographical, structural & descriptive data of the Licensed Material (List of Metadata)

Schedule 1:

Guidelines for the Purchase of Publications in the DFG-funded System of Specialised Information Services for Research (DFG form 12.101-12/12), see under: http://www.dfg.de/formulare/12_101/.

Guidelines for the Purchase of Publications in the DFG-funded System of Specialised Information Services for Research

I. General Guidelines

The primary function of the "Specialised Information Services for Research" funded by the DFG is to allow researchers of all disciplines who are based in Germany, irrespective of where they work, fast and direct access to specialised literature and research-specific information that is not available at every institution in the same scope and in the same quantity. This applies equally to electronic and printed resources.

The following guidelines apply to the DFG-funded purchase of research information for use by a specialised information service:

- The purchase is not restricted in any way by the date of publication or the form in which the media to be acquired was published (e.g. print media, electronic media, audio or video).
- Suitable mechanisms must allow products which are purchased for use by a DFG-funded specialised information service to be made available under contract to relevant research users and must be retained and made available for the long term.
- Products/research publications that are generally understood to be a fundamental requirement of a discipline cannot be purchased.
- General works of reference (such as encyclopaedias, national bibliographies, library catalogues and address books) and costly collectors' items (such as special editions of bibliophilic interest) are excluded from purchase.
- To facilitate faster access and to allow wider usage, the digital form of a publication, if it is available, should always be preferred (e-only policy). It is possible to depart from this guideline if it is expedient for scientific purposes or if the purchase and national provision of the electronic version are not possible for practical reasons.
- Purchase of both the printed and the electronic version of a product is only possible in exceptional cases for which particular reasons must be provided.

II. Guidelines for the Purchase of Electronic Resources

Libraries providing a specialised information service will be supported in the purchase of digital resources by centres of competence. These centres will handle the purchase of digital resources (licence negotiations) and carry out any technical procedures (involving registration, activation or access platforms, for example). Centres of competence develop purchasing and licensing models which allow specialised information services

to licence electronic media so that they can be made available to a contractually defined user group. They handle negotiations, implement the contract and provide rights management and ensure the technical availability of the licensed products.

Electronic products considered for purchase must satisfy the following prerequisites:

A. Regulations on Purchasing

1. The licensee is the library responsible for the specialised information service.
2. The license is purchased so that it can be made available to users under suitable contracts.

Users are generally researchers or individuals with access privileges at the following types of institution:

- a) publicly or privately funded higher education and research institutions in Germany,
- b) the German National Library, all regional and state libraries as well as main subject libraries,
- c) primarily publicly funded research libraries and special academic libraries, research institutes primarily funded by the German federal or state governments, including research institutions located abroad but funded by public bodies or primarily publicly funded bodies in Germany, such as the German Historical Institutes.

D) The composition of the subject-specific user groups for whom the licenses are intended can vary widely. The user groups are defined in detail in the licensing contract.

Access to the licensed material is **via a secure authentication process**.

The use of proxy servers is generally possible.

3. The following applies for completed databases, journal archives and completed e-book packages: They are offered for the purchase of permanent access rights through a one-time payment. The purpose of the licence is to grant the non-exclusive, non-transferable right to the licensees and contractually defined user groups for an unlimited time to enable them to use the product via secure authentication, particularly for academic and research purposes. Free access to the vendor's server, generally with no time limit, is included in the licence fee.

For current journals and dynamic databases, the following applies: The purpose of the licence is to grant the non-exclusive, non-transferable right to the licensees for the contractually stipulated term of the licence to enable contractually defined user groups to use the product via secure authentication, particularly for academic and research purposes. Free access to the vendor's server for the duration of the licensing is included in the licence fee.

Products can also be licensed for a limited period of use in exceptional and justified cases.

4. The purpose of the licence for completed databases, journal archives, e-books and their licensed volumes and the formed archive volumes for current journals includes the right to archive the contents on servers owned by the licensees or third parties authorised by the licensees for the purpose of ensuring permanent availability of the contents.

Deviations from this guideline are only possible in exceptional and justified cases. They must be described and reasons must be given in the report.

Exceptions to this regulation are only permitted for dynamic databases, in which the product content continually changes without the old versions being archived. Should the vendor no longer offer the product, the vendor is obligated to supply the licensees with the last version as an archive version.

5. Upon request, the licensor is obligated to physically supply the licensees with the complete product at no additional charge, i.e. including the metadata and all digital objects that are part of the product, on suitable storage media and in suitable data formats as agreed.

a. The licensees may use the data provided in any way they deem suitable in order to make the product accessible to the contractually defined user group while upholding the licence agreements. They may, for this

purpose, integrate the data in technical usage/storage systems (hosting and archiving) of their own or that are operated by a third party.

b. The licensees may commission third parties (e.g. library network systems and other technical infrastructure facilities of German libraries or commercial operators) with the operation of the technical equipment for secure authentication and for the use of the product by the contractually defined user group.

c. The licensees are authorised to use the data to set up value-added services. These include, for example, evaluation services (data mining) and aggregation or integration services in virtual research environments for contractually defined users.

d. In the case of licenses or content which include the use of the product for an unlimited time period, the licensees and third parties commissioned by the licensees are also authorised to take all technical measures necessary to safeguard the long-term storage of the product (in particular, but not limited to the conversion of the data into other formats), or to commission third parties to perform such measures.

e. The data (e.g. metadata, content objects) are to be delivered in open, standardised formats (if possible, PDF/XML and NLM-DTD) and accompanied by documentation.

f. The data are to be delivered in their entirety and are to be identical to the licensed product.

g. The data must be delivered in a standardised character set (utf8 if possible).

6. So that usage statistics can be compiled, the supplier is to provide data broken down by month and where possible in the current standard of the "COUNTER Code of Practice".

7. Multi-year licences must include an option for early termination for the licensee.

B. Product Features / Offer Features

8. The vendor provides the products on its own platform and guarantees high availability (24/7/365).

9. The vendor platform generally offers a sufficiently powerful linking syntax through which all data records and important structural outlining levels can be accessed (e.g. Inbound OpenURL).

10. The vendor platform generally offers linking from references and other bibliographic data records to further services via open interfaces (Outbound OpenURL).

11. The provision of a standardised interface (e.g. Z39.50 or SRU/SRW) for linking to metasearch systems is required for databases, and is at least desirable for e-books and journals.

12. The licensed products are generally accessible via open, standardised and persistent URIs, e.g. DOI or URN.

a. Metadata and content objects must be linked to one another via these URIs.

b. URIs must be resolvable with a resolver so that each individual data record (e.g. article or e-book) can be linked.

13. Content should be usable with widely available tools (e.g. PDF viewer or web browser). The recommendations of the Web Accessibility Initiative (WAI) of the World Wide Web Consortium (web accessibility, valid HTML) should be taken into account.

14. The breakdown of the product into logical units (e.g. assignment of data records to products or of articles to journal titles) must be reflected by the data delivered.

15. If a product is available from multiple vendors, a platform-independent licence should be preferably purchased.

16. As a rule, all products have the option of full text indexing.

17. The integration of functionalities such as OpenLinking, interfaces, personalisation functions, interactive and multimedia elements and even complete multimedia resources such as film archives is preferable.

18. The following additional criteria apply to the purchase of e-books:

a. The offer also includes the option of selecting individual titles.

b. Pre-bundled packages can only be licensed if all of the titles in a package satisfy high scientific quality standards.

c. The products are offered in a widely available format and with widely available reader software. Only in exceptional cases may licensing require the purchase of proprietary reader software. In this case, it is mandatory that the vendor provides standard formats for hosting and long-term archiving at no additional charge.

C. Usage Regulations

19. Use is permitted only within the scope of the services typically provided by libraries to their users, i.e. primarily for research and personal use. Further processing functions, such as downloading and printing digital content for personal and academic use, are part of the licence.

20. The licensee or a third party authorised by the licensee should be permitted to include the licensed content in virtual research tools, such as electronic course packs, virtual research environments and virtual specialised libraries. This should be part of the contractual arrangements.

21. The licensee or a third party authorised by the licensee is permitted to use the metadata in any way suitable for enabling, promoting, facilitating and supporting the use of the licensed product or the individual information objects it contains by the contractually defined users. In particular, the metadata may be indexed for this purpose and, if necessary, integrated by links into local catalogue systems, regional or nationwide union catalogue systems, other library services and information systems operated by third parties (including, but not limited to, search engines). These links facilitate direct access by the contractually defined users to the licensed product and the information objects it contains. All users have the right to use the metadata in this way.

D. Open Access Regulations

22. Where possible, open access rights should be granted for the licensed materials, particularly for journals. The following regulations are recommended: Authors from the contractually defined user group are permitted free of charge to store without delay their articles which appear in licensed journals generally in the form published by the publisher (e.g. PDF) in an (institutional or discipline-specific) repository of their choice and to make them available through open access. The institutions to which the authors belong have the same right. An agreement by which the publisher itself stores articles written by authors from the contractually defined user group in a repository may also be reached.

Schedule 2:

List of specified Contractually Defined Users>

1. Participating Institutions

Bayerische Staatsbibliothek

Staatsbibliothek zu Berlin - Preußischer Kulturbesitz

German Higher Education Institutions financed either by public or private funding

German national, regional and state libraries

German academic specialist libraries mainly financed by public funding

German research institutions mainly financed by public funding

German governmental institutions

Including any of the above mentioned types of German institutions abroad

A list of participating members - which will be widened if required by Licensee - will be provided to East View by Licensee before activation of access to the licensed materials. Licensee will provide details as follows:

Licensing institution name and address

Licensing institution contact email address

Licensing institution IP Ranges

2. Authorised Users of Participating Institutions

Individuals who are authorized by the Institution to access the Institution's information services whether on-site or off-site via Secure Authentication and who are affiliated to the Institution as a current student (including but not limited to undergraduates, postgraduates and guest students), member of staff (whether on a permanent or temporary basis including retired members of staff and any teacher who teaches Authorised Users) or contractor or registered user of the Institution. Persons who are not currently a student, member of staff, contractor or registered user of the Institution, but who are permitted to access the Institution's information services from computer terminals or otherwise within the physical premises of the Institution ("Walk-In Users") are also deemed to be Authorised Users, only for the time they are within the physical premises of the Institution.

3. Non institutional Access

Individuals who are authorized by the Licensee for access to the Licensed Material via Secure Authentication are deemed to be Authorised Users. Non institutional access of individuals shall be permitted via individual authentication subject to a requirement of residence in Germany.

Title List Universal Database of Russian National Bibliography

Schedule 4:

Standards, Services and Statistics, Standards, Services and Statistics,

1. Usage statistics shall be provided compliant with the most recent release of the COUNTER Code of Practice. The publisher is a member of COUNTER organization and at present is developing usage statistics according to the COUNTER rules and specifications. The Publisher shall support automatic enquiry of usage statistics through standard interfaces. The statistic reports indicate the use of the back files separately from the use of current volumes if applicable and must be supplied not later than three weeks after the end of each quarter. In case IP addresses are being activated for individual authorized Institutions or Shibboleth is used for access control the statistics are to be provided in separate lists containing the use of the individual titles by each authorized Institution. Usage statistics for the use by individual subjects shall not include any personal data. In case of national licenses the usage statistics shall include the identifier of the Institutions supplied by licensee (WIB-number).

2. Secure Authentication methods shall include Internet Protocol (IP) ranges as well as authentication with username and password or other methods that are to be agreed upon in writing between the Publisher and the Licensee. The Publisher, at the time of signing of this Agreement, does not offer Shibboleth. The use of proxy servers is permitted as long as any proxy server IP addresses provided limit remote or off-campus access to Contractually Defined Users. Exchange of IP data: Publisher should implement automatic synchronisation mechanisms for IP data provided by the Licensee if applicable.

3. Customer support services to Licensee, Institutions and Contractually Defined Users must be provided via e-mail or phone, including answering e-mail inquiries relating to the use, functionality and content of the Licensed Material within 24 hrs of request. In case of outage access shall be reinstated within 48 hrs of request. Any subsequent day of outage shall result in a proportionate refund of the Licence Fee. Publisher informs Licensee of expected outages via e-mail or RSS feeds. Auto Alerts: The Publisher shall provide the Contractually Defined Users with current awareness services, e.g. RSS feeds, alerting e-mails.

4. In case of A&I databases: Outbound Linking: Publisher enables outbound OpenURL links for all records. These links include all relevant bibliographic Metadata, a source identifier and the character encoding in use. In case of fulltext material: Outbound Linking for References: Publisher enables outbound OpenURL links for all references. These links include all relevant bibliographic Metadata, a source identifier and the character encoding in use.

5. Transfer of Titles: The Publisher shall comply with the Code of Practice of Project Transfer relating to the transfer of titles between publishers. In addition, the Publisher shall use best efforts to ensure that the Licensees do not lose access to the Licensed Material subject to this Licence Agreement. The Publisher will use all efforts to retain a non-exclusive copy of the volumes published and make them available free of charge through the Publisher's Platform. Alternatively the transferring Licensor shall use best efforts to assign all rights and obligations of this Licence Agreement to the receiving Licensor and ensure that any archival and perpetual access rights that have been granted shall be honored, especially that the receiving Licensor will provide access to the Licensee to the volumes published until the date of the transfer of the respective title. At the latest 6 months after the first announcement of the transfer, Publisher shall give a written notice to the Licensee about the outcome of negotiations with the receiving Licensor regarding the rights of the Licensee and the before mentioned alternatives of providing access to the transferred title(s). In the event that the Publisher ceases to publish a Part or Parts of the Licensed Material, a digital archive will be maintained of such Licensed Material and will be made available free of charge through the Licensor's Platform or via a third party server and by supplying such material free of charge to the Institution.

If the Publisher acquires works that become subject to this Licence Agreement, he will use best efforts to acquire rights to perform under this Licence Agreement, including but not limited to perpetual access rights.

6. User Interface: The Publisher shall comply with the level A of the Web Accessibility Initiative (WAI) Guidelines of the World Wide Web Consortium (W3C) and use all best efforts to comply with the level AA of the WAI Guidelines of W3C.

7. Notifications: All substantial changes on the interfaces, including, but not limited to user interfaces, inbound linking syntax or delivery formats shall be communicated two months in advance. If possible and applicable, Licensee should have access to a preview of the new interface.

8. In case of A&I databases: Search API: The Publisher shall offer a standardised interface to enable metasearch, e.g. Z39.50 or SRU/SRW. Details shall be subject to a special agreement between the Publisher and the Licensee.

Schedule 5:

Bibliographical, structural & descriptive data of the Licensed Material (List of Metadata)

The Licensed Material shall be delivered to the Licensee by using open, standardized formats and accompanied by documentation

- For Metadata this shall be: MARC21 or ONIX, (for eBooks in particular)

- For full texts this may be: PDF and/or HTML/XML

Metadata should be delivered in machine-readable form (preferably UTF-8) and as comprehensive as possible; this includes but is not limited to: ISBN and ISSN; DOI, author, date of publication, Licensor, place of publication; if available also tables of contents, prefaces, abstracts, flap texts. Each dataset must contain a unique and unalterable identification number. Methods for the delivery of metadata include FTP (File Transfer Protocol), OAI-PMH (Open Archives Initiative Protocol for Metadata Harvesting) and B2B (Business to Business). Delivery shall be through an interface mutually agreed upon.

The Licensed Material shall be delivered in its entirety and shall be identical with the licensed product. The organization of the product into logical units (e.g. assignment of data records to products, of articles to journal titles) must be reflected by the data delivered.

The data delivery is accompanied by a documentation of the formats, character sets and MIME types used.

Delivery shall be on a mutually agreed medium.

Data elements and the metadata set adhere to the requirements specified in the paper "Anforderungen der deutschsprachigen Verbundsysteme und der Deutschen Nationalbibliothek an Metadatenlieferungen zu E-Books und E-Book-Paketen 2013" by the Consortium of Library Networks.

<http://d-nb.info/104233336X/34> (urn:nbn:de:101-2013092601)

Provision of follow-ups, updates and deletions are handled as specified in the paper "Anforderungen der deutschsprachigen Verbundsysteme und der Deutschen Nationalbibliothek an Metadatenlieferungen zu E-Books und E-Book-Paketen 2013" by the Consortium of Library Networks. >

<http://d-nb.info/104233336X/34> (urn:nbn:de:101-2013092601)

Follow-up deliveries of newly added titles and editions are provided by activation via the usual channels. If the Licensor makes changes or corrections to the metadata, the data sets will be provided again in the form of separate update deliveries. If the data corrections cannot be supplied separately but only together with new titles, the individual data sets must be clearly identified as "new" or "corrected". Corrected sets are delivered with the same ID number. If the Licensor deletes titles or editions from its e-book portfolio (e.g. because the author has withdrawn the publication rights), the relevant metadata records shall be provided again in the form of separate deletion deliveries. If the deletions cannot be supplied separately but only together with new or corrected titles, the individual data sets must be clearly identified as "new", "corrected" or "deleted".