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**East View Information Services, Inc.**, headquartered at 10601 Wayzata Blvd., Minnetonka, MN 55305 USA ("East View" or "Agent")

and

**Freistaat Bayern**, represented by the Bayerische Staatsbibliothek, represented by the Director General Dr. Klaus Ceynowa, as provider of the Specialised Information Service ("Fachinformationsdienst - FID") "Ost-, Ostmittel- und Südosteuropa", having its place of business at Ludwigstraße 16, 80539 München, Deutschland (hereinafter called "Licensee")

**WHEREAS** the Licensee desires to enable Participating Institutions and Authorised Users to access the Licensed Material and the Agent desires to grant access to the Licensed Material for the agreed Fee, subject to the terms and conditions of this License,

## **IT IS AGREED AS FOLLOWS**

### **(Preamble) The Structure of the Agreement**

This License Agreement is concluded between Agent and Licensee. It is understood that the Guidelines for the Purchase of Publications in the DFG-funded System of Specialised Information Services for Research (DFG form 12.101 - 12/12) as added in Schedule 1 provide the general framework for this project. Deviations from the actual guidelines may exist and, in the case of conflict or revisions, this License Agreement will prevail and will be the governing document.

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 Specialised Information Services for Research (DFG form 12.101 - 12/12) but may deviate from them in certain specifics. In such cases, the amendments will supersede the Guidelines.

### **§ 1 Definitions**

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

#### **a. Authorised Users (or contractually defined user group):**

(1) Individuals who are authorised by the Licensee or the Participating Institutions to access an Institution's information services whether on-site or off-site via Secure Authentication.

(2) Non-institutional users authorized by the Licensee (as provider of FID "Ost-, Ostmittel- und Südosteuropa") for access to the Licensed Material 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. Authorized users are specified in Schedule 4.

b. **Commercial Use:** The use of the Licensed Material for the purpose of monetary reward (whether by or for the Institution or an Authorised 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 Authorised 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.

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

d. **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.

e. **Licence Fee:** The fee as set out in Schedule 3. The fee shall be in line with the offer agreed between the Licensee and the Agent.

f. **Licensed Material:** The material listed in Schedule 2.

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

h. **Metadata:** Bibliographical, structural & descriptive data of the Licensed Material as defined in Schedule 6.

i. **Participating Institutions:** The Institutions participating in this contract as specified in Schedule 4.

j. **Publisher's Platform (or Agent's Platform):** Own or third party server used by Agent to give access to Licensed Material.

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

l. **Secure Authentication:** Authentication via IP-ranges, Username/Password, Shibboleth and comparable futures developments to be agreed by the parties.

m. **Secure Network:** A network which is only accessible to Authorised Users by Secure Authentication.

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

**Term** Period of time reflecting the duration since coming into force of this Licence Agreement.

2. Headings contained in this License Agreement are for reference purposes only and shall not be deemed to be an 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 Licence grant

1. The Agent hereby grants to the Licensee, the Participating Institutions and Authorized Users, subject to and in accordance with the terms of this License Agreement, a non-exclusive perpetual licence to access and use the Licensed Material and to allow Authorised Users to access and use the Licensed Material hosted on the Agent's Platform via Secure Network.

2. The Licensee and the Participating Institutions 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 Authorized Users.
3. To facilitate usage statistics, the Agent has to provide data broken down by month and where possible in the current standard of the "COUNTER Code of Practise".
4. The Agent hereby grants to the Licensee and the Participating Institutions, subject to and in accordance with the terms of this Licence Agreement, a non-exclusive perpetual (licence) right to host the Licensed Material on a Local Hosting Server or on the server of a third party (e.g. Leibniz Rechenzentrum), to allow Authorised Users to access and use the Licensed Material via Secure Authentication.
5. The Licensee and the Participating Institutions are further permitted to make such copies or re-format the Licensed Material contained in the archival copies supplied by the Agent in any way to ensure their future preservation and accessibility in accordance with this Licence.
6. The Agent hereby grants to the Licensee and the Participating Institutions, subject to and in accordance with the terms of this License Agreement, a non-exclusive perpetual license 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 Agent (e.g. xml-sitemap of websites with displays of metadata for inclusion of Search Engine Indexes; support of crawlers like Googlebot) as well as the provision of the Metadata as Linked Open Data.
7. Access shall be granted without restriction to concurrent use.

### **§ 3 Permitted uses**

1. The Licensee and the Participating Institutions may:
  - a. Make such local temporary copies of the Licensed Material as are necessary to ensure efficient use of the Licensed Material by Authorised Users, provided that such use is subject to all the terms and conditions of this License Agreement;
  - b. Provide Authorised Users with an integrated access and index to the Licensed Material and all other similar material licensed from other publishers. The Licensed Material or Parts thereof may be compiled, indexed and catalogued (including, without limitation, the header data and abstracts) by the Licensee and Participating Institutions. Anything thereby created or compiled may be integrated into the products and services of the Licensee and the Participating 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 in (including, but not limited to) digital course reserve collections, in virtual research environments in which authorised users participate as well as in the virtual specialised libraries operated by authorised institutions. The Licensed Material may be used to perform and engage in textmining/data mining activities, including but not limited to full text indexing. Notwithstanding the above-mentioned rights the use of Licensed Material shall be limited to Authorised Users.
  - c. Supply to a user of another library (whether by post, fax or secure electronic transmission, whereby the electronic file is deleted immediately after printing) a single paper copy of an electronic original of an individual document.
  - d. 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,
  - e. Allow Authorised Users to:
    - 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;
- Incorporate Parts of the Licensed Material in printed and electronic course packs, study packs, resource lists and in 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) hosted on a Secure Network. Each item shall carry appropriate acknowledgement of the source, listing title and author. Course packs in non-electronic non-print perceptible form, such as Braille, may also be offered to Authorised Users;>
- Incorporate Parts of the Licensed Material in printed or electronic form in assignments and portfolios, theses and in dissertations ("the Academic Works"), including reproductions of the Academic Works for personal use and library deposit. Reproductions in printed or electronic form of Academic Works may be provided to sponsors of such Academic Works. Each item shall carry appropriate acknowledgement of the source;
- Provide single printed or electronic copies of single Parts of the Licensed Material at the request of other individual Authorised Users;
- Provide single printed or electronic copies of single Parts of the Licensed Material to third-party colleagues for their scholarly or research use within the context of collaborative research;
- Display, download and print Parts of the Licensed Material for the purpose of promotion of the Licensed Material, testing of the Licensed Material, or for training other Authorised Users;
- Publicly display or publicly perform Parts of the Licensed Material as part of a presentation at a seminar, conference, or workshop, or other such similar activity;
- 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 Licence Agreement;
- Deposit in perpetuity the learning and teaching objects as referred to in § 3.1.b on servers operated by the Institution. The use of such material shall be limited to Authorised Users.

f. In case of technical breakdowns (including but not limited to downtimes of the Agent's Platform or to incorrect administered IP ranges) provide Authorized Users with electronic copies of single Parts of the Licensed Material.

2. 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.

#### **§ 4 Restrictions**

1. Save as provided herein, Licensee, Participating Institutions and Authorised Users may not:
  - a. Sell or resell the Licensed Material unless the Licensee, a Participating Institution or an Authorised User has been granted prior written consent by the Agent 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 License Agreement;
  - e. Use all or any Part of the Licensed Material for any Commercial Use.
2. This Clause shall survive termination of this License Agreement for any reason.

## § 5 Responsibilities of the Agent

The Agent agrees to:

1. Make the Licensed Material perpetually available to the Licensee, Participating Institutions and Authorised Users from the commencement of this License Agreement and after termination of this agreement at no additional cost on the Agent's Platform by Secure Authentication;
2. Make the Licensed Material available to the Licensee, Participating Institutions and Authorised Users at all times and on a twenty-four hour basis, 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 month)
3. Ensure that the relevant server or servers have adequate capacity and bandwidth to support the usage 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 License Agreement
4. Make the Licensed Material available on request by Licensee for Local Hosting on the Licensee's Hosting Server or on the server of a third party at no additional costs;
5. Deliver the Licensed Material to Licensee as specified below
  - in case of current content provided for Local Hosting immediately after publication;
  - 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;
6. Deliver and make accessible the Licensed Material in a format according to the standards as defined in Schedule 6.
7. Supply the correct and complete Metadata as well as updates from time to time in machine-readable form at no additional costs. The Metadata shall be delivered as specified in Schedule 6.
8. Provide electronic product documentation to the Licensee free of charge. The Agent will allow copies of all documentation to be made and distributed by the Licensee and Participating Institutions to the Authorised Users provided it is either duplicated in full, or a proper ownership acknowledgement and acknowledgement of Source is included;
9. Provide the standards, services and statistics set out in Schedule 5;
10. Maintain the confidentiality of any data relating to the usage of the Licensed Materials by Authorised Users. Such data may be used solely for purposes directly related to the Licensed Materials and may not be provided to third parties. The Agent shall not collect any Information relating to the identity of specific users and/or uses.

## § 6 Responsibilities of the Licensee and Participating Institutions

The Licensee and Participating Institutions agree to

1. give passwords or other access information only to Authorised Users and use all reasonable efforts to ensure that Authorised Users do not divulge their passwords or other access information to any third party;
2. Provide lists of valid IP addresses to the Agent and update those lists on a regular basis;
3. Use all reasonable efforts, including without limitation by use of Secure Authentication, to ensure that only Authorised Users are permitted access to the Licensed Material;

4. Use all reasonable efforts to ensure that all Authorised Users abide by the terms of this License Agreement;
5. Use all reasonable efforts to monitor compliance with the terms of this License Agreement and notify the Agent 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 unauthorised access to or use of the Licensed Material or unauthorised use of any of the Institution's password(s);

- Or any breach by an Authorised User of the terms of this License Agreement. Upon becoming aware of any breach of the terms of this License Agreement, the Licensee and Participating Institutions further agree promptly to fully investigate and initiate disciplinary procedures in accordance with the Institution's standard practice and to use all reasonable effort to ensure that such activity ceases and to prevent any recurrence.

### **§ 9 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 Agent two months prior to the first anniversary date of this Agreement. The same applies for terminations for subsequent years. 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.

3. After termination of this Agreement the Agent shall provide (at the option of the Licensee) the Licensee, Participating Institutions and Authorised 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 § 4 of this Agreement. In case of termination of this Agreement by the Agent due to a material breach access to and use of the Licensed Material shall only be on Licensee's or Participating Institution's Local Hosting server according to § 2.2, 2.4.

### **§ 10 Acknowledgement and protection of Intellectual Property Rights**

1. Licensee and Participating Institutions acknowledge that all Intellectual Property Rights in the Licensed Material are the property of the Agent or duly licensed to the Agent 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 Agent hereby acknowledges that any database rights created by the Licensee as a result of Local Hosting, text mining or data mining of the Licensed Material shall be the property of the Licensee without violating the intellectual property rights of the Agent.

### **§ 11 Representation, warranties and indemnification**

1. The Agent guarantees to the Licensee and Participating Institutions that the Licensed Material and all Intellectual Property Rights therein are owned by or licensed to the Agent 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 Agent agrees that the Licensee, Participating Institutions and Authorized Users shall have no liability and the Agent will indemnify, defend and hold the Licensee, Participating Institutions and Authorized Users harmless against any and all damages, liabilities, claims, causes of action, legal fees and costs incurred by the Licensee, Participating Institutions and Authorized Users in defending against any third party claim of Intellectual Property Rights infringements or threats of claims thereof with respect of the Licensee's, Participating Institution's or Authorised 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 provides the Agent with prompt notice of any such claim or threat of claim;
- The Licensee co-operates fully with the Agent in the defence or settlement of such claim; and
- The Agent has sole and complete control over the defence or settlement of such claim.

3. The Agent reserves the right to update the content, presentation, user facilities and to make changes in any software used to make the Licensed Material available at its sole discretion. The Agent shall give written notice to the Licensee and Participating Institutions of any substantial change to the Licensed Material. If the change results in the Licensed Material being no longer deemed useful by the Licensee and Participating Institutions, the Licensee and Participating Institutions may within sixty days of such notice treat such changes as a material breach of this License. Should the Agent sell the Licensed Material to another publisher, the Licensee and Participating Institutions shall have the right to provide local hosting for the Licensed Material.

4. The Agent 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 Agent shall give written notice to the Licensee and Participating Institutions of such withdrawal. If the withdrawal results in the Licensed Material being no longer deemed useful by the Licensee and Participating Institutions, the Licensee and Participating Institutions may within sixty days of such notice treat such changes as a material breach of this License. Licensee may alternatively claim an appropriate, proportionate reduction of License Fee with regard to the remaining Licensed Material.

5. While the Agent has no reason to believe that there are any inaccuracies or defects in the information contained in the Licensed Material, the Agent 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 Agent accepts no liability for loss suffered or incurred by the Licensee, Participating Institution or Authorised Users as a result of their reliance on the Licensed Material.

6. In no circumstances will the Agent be liable to the Licensee for any loss resulting from a cause over which the Agent does not have direct control, including but not limited to failure of communication lines, telephone or other interconnect problems, unauthorised access, theft, or user errors.

7. The Licensee and Participating Institution shall notify the Agent immediately and 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 Agent in such claims. Upon such notification, or if the Agent becomes aware of such a claim from other sources, the Agent may remove such work(s) from the Licensed Material as long as this claim persists.

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

9. In case of a material breach by an Authorized User or a single Participating Institution forcing the Agent to suspend access the Agent may only suspend access vis-à-vis the respective Authorized User or Participating Institution committing the breach. For the other Authorized Users respectively Participating Institutions access has to remain unaffected.

10. Save as provided for in § 11.2, neither the Licensee, a Participating Institution nor the Agent shall be liable to the other in contract or negligence or otherwise 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.

11. Save as provided for in § 11.2, the following shall apply: For damage caused intentionally or by gross negligence the liability is unlimited. The same applies for damages to life, body and health. Apart from this neither party shall be liable to the other for slight negligence, except in the event of 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 negligence, 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.

### **§ 12 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, 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.

### **§ 13 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, which 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.

### **§ 14 Governing law and dispute resolution**

1. This License Agreement shall be interpreted and construed according to and governed by the laws of the Federal Republic of Germany. This License Agreement shall be deemed to specify the rights of Agent, Licensee, Participating Institutions and Authorised Users under the German Copyright Law and other applicable legislation in Germany. Exclusive place of jurisdiction for all disputes arising out of or in connection with this License Agreement shall be Munich, Germany.

2. The parties agree to use best efforts to resolve disputes in an informal manner, by decision of the Managing Director of the Agent and the current Director of the Licensee.

### **§ 16 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. 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 License Agreement shall include the Schedules.

3. 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.

4. 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.

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## Schedule 1

### **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,

d) 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.

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<sup>1</sup>, 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, standard-ised formats (if possible, PDF/XML and NLM-DTD) and accompanied by docu-mentation.

f) The data are to be delivered in their entirety and are to be identical to the li- censed 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 Prac- tice".

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. ar- ticle 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 func- tions, 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) Prebundled 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.

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#### **Schedule 4:**

##### **List of specified Participating Institutions and Contractually Defined Users**

###### **Participating Institutions**

Bayerische Staatsbibliothek

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 can be widened if required - will be provided to East View by the Bayerische Staatsbibliothek before activation of access to the licensed materials. BSB will provide details as follows:

Licensing institution name and address

Licensing institution contact email address

Licensing institution IP Ranges

###### **Authorised Users of Participating Institutions**

Individuals who are authorised by a Participating 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.

### **Non institutional Access**

Individuals who are authorized by the Licensee (as provider of FID "Ost-, Ostmittel- und Südosteuropa") 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.

### **Schedule 5**

#### **Standards, Services and Statistics**

1. Usage statistics shall be provided compliant with the most recent release of the COUNTER Code of Practice organised by month, whereby the statistics are to separately list the use of the individual titles by each authorised Institution and for non-university research organisations, for the individual institutes or subunits if applicable. The statistic reports indicate the use of the backfiles separately from the use of current volumes if applicable and must be supplied not later than three weeks after the end of each quarter.
2. Secure Authentication methods shall include Shibboleth, 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 Agent, the Licensee and the Institutions. The use of proxy servers is permitted as long as any proxy server IP addresses provided limit remote or off-campus access to Authorised Users.
3. Customer support services to Licensee, Institutions and Authorised 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 License Fee. Agent informs Licensee and Institutions of expected outages via e-mail or RSS feeds.
4. Documentation: The Agent shall provide electronic product documentation to the Licensee and the Institutions free of charge. The Agent will allow copies of all documentation to be made and distributed by the Licensee and the Institutions to Authorised Users provided it is either duplicated in full, or a proper ownership acknowledgement and acknowledgement of Source is included.
5. In case of A&I databases: Outbound Linking: Agent enables outbound OpenURL links for all records. These links include all relevant bibliographic Metadata, a source identifier and the character encoding in use.
6. Inbound Linking Syntax: The Agent shall provide the Licensee and the Institutions with the algorithm or syntax for constructing links to all relevant levels of aggregation, in particular an article-level link from an article's Metadata within the Licensed Material. The inbound linking shall be documented, and these documents shall be shared with the link resolver vendors and other relevant service providers.
7. Persistent URIs: The licensed products are generally accessible via open, standardised and persistent URIs, e.g. DOI or URN.
8. Transfer of Titles: The Agent shall comply with the Code of Practice of Project Transfer relating to the transfer of titles between publishers. In addition, the Agent will use all reasonable efforts to retain a non-exclusive copy of the volumes published and make them available free of charge through the Agent's Platform. In the event that the Agent 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 Agent's Platform or via a third party server and by supplying such material free of charge to the Institution.
9. User Interface: The Agent 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.

10. 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 and Institutions should have access to a preview of the new interface.

11. In case of A&I databases: Search API: The Agent 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 Agent and the individual Institutions.

#### **Additional Recommendations**

1. In case of fulltext material: Outbound Linking for References: Agent enables outbound OpenURL links for all references. These links include all relevant bibliographic Metadata, a source identifier and the character encoding in use.

2. Auto Alerts: The Agent shall provide the Authorised Users with current awareness services, e.g. RSS feeds, alerting e-mails.

3. Exchange of IP data: Agent should implement automatic synchronisation mechanisms for IP data provided by the Licensee or the Institutions.

#### **SCHEDULE 6: Standards for Data Delivery**

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

- For Metadata this may be: XML (e.g. NLM-DTD for article records) or MARC21/MARCXML/MAB (for eBooks in particular)

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

Metadata should be delivered as comprehensive as possible; this includes but is not limited to: ISBN and ISSN, DOI, author, date of publication, publisher, place of publication, if available also tables of contents, prefaces, abstracts, flap texts.

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.