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## Nutzungsbedingungen

### 1. Grant of Licence for Licensed Materials and Licence Fee

1.1 The material that is the subject of this Agreement is electronic information published or otherwise made available by the Licensor and is described as **Appendix A** (hereinafter referred to as the "**Licensed Materials**"(where such term shall include any part of the Licensed Materials, and any data or information extracted from the Licensed Materials).

1.2 The Licensee acknowledges that the Intellectual Property (which for the purposes of this Agreement shall mean copyright, trade marks, design rights, registered designs, database rights, domain names or any other intellectual property rights) subsisting in or relating to the Licensed Materials remains with the Licensor and/or its suppliers. The Licensee shall not have any right, title or interest in the Licensed Materials except as expressly set forth in this Agreement.

1.3 [...]

1.4 Save for the rights granted by the Licensee to the Authorised Users, the Licensee shall not grant sub-licences, in whole or in part, of any of the rights granted under this Agreement, or sub-contract any aspects of exploitation of the rights licensed to it, without the Licensor's prior written consent.

[...]

### 2. Authorised Use of Licensed Materials

2.1 The Licensee may permit Authorised Users to use the Licensed Materials on the terms set out herein and on condition that such Authorised Users do not grant any further sub-licence.

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- c) Primarily publicly funded research libraries and special academic libraries
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- f) Diocesan libraries and regional church libraries in Germany

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Licensing institution name and address

Licensing institution contact email address

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Individuals who are authorized by the Licensee or a Participating Institution 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."

2.3 The Licensee may only use the Licensed Materials for the purposes of research, education, teaching or other non-commercial use and subject to the foregoing the Licensee may:

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- (2) store in electronic format in secure electronic data files or print a reasonable portion of the Licensed Materials for use only in connection with specific courses of instruction offered by the Licensee;
- (3) engage in text mining/data mining activities in relation to the Licensed Materials, subject to obtaining the Licensor's prior written consent as set out in section 3.2 if such activities involve automated extraction of data directly from the Licensed Materials;
- (4) store in electronic format in secure electronic data files all or any portion of the Licensed Materials for the sole purpose of data mining; and
- (5) permit its Authorised Users to transmit to a third-party colleague in hard copy or electronically, minimal, insubstantial amounts (defined as no more than 5% [five percent] of the total collection of the Licensed Materials) of the Licensed Materials for personal use or scholarly, educational or scientific research;

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2.5 The Licensee shall comply with all applicable laws in performing its obligations and exercising its rights under this Agreement and in particular the Licensee shall not infringe any moral rights (as defined in German Act on Copyright and Related Rights - "Urheberrechtsgesetz", "UrhG") that subsist in respect of the Licensed Materials.

2.6 For the avoidance of doubt, nothing in this Agreement is intended to limit in any way whatsoever the Licensee's rights under the fair dealing provisions set out in the Copyright Designs and Patents Act 1988 (as may be re-enacted or modified) or if such acts take place outside the UK, in accordance with any equivalent legislation applicable in that territory (for example under the US Copyright Act of 1976, 17 U.S.C. § 107 and 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).

### **3. Restrictions on Use of Licensed Materials**

3.1 Save as set out in this Agreement, the Licensee shall not:

3.1.1 permit any third party or individual to use the Licensed Materials and the Licensed Materials shall not be distributed to any unauthorised users, third parties, or used for any purpose which is not permitted pursuant to this Agreement (including without limitation any commercial purpose, sale of the Licensed Materials, bulk reproduction or distribution of the Licensed Materials or commercially sponsored research);

3.1.2 modify, change or develop the Licensed Materials in any way or create a derivative work of the Licensed Materials;

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archive/copyholder; or

3.1.5 remove, bypass, circumvent, neutralise, or modify any of the technological protection measures used for the Licensed Materials.

3.2 In order to protect the integrity of server performance for the Licensee's customers, automated extraction of data directly from the Licensed Materials (for example only, by the use of data mining software) is only permitted subject to obtaining the Licensor's prior written consent and if such automatic extraction of data does not affect the performance of the Licensor's servers. In the event that the Licensor's servers are negatively impacted, the Licensor reserves the right to decline and prevent access to the Licensed Materials to stop any disruption to the Licensor's business. The Licensed Material may be used for text and data mining to enhance services, to encourage scholarship, teaching and learning and to conduct research by the Licensee and Authorised 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 Licensor will cooperate with Licensee and Authorised Users as reasonably necessary in making the Licensed Material available in a manner and form most useful to the Licensee and Authorised Users. Attribution must be made to the Licensor in an appropriate manner and form.

3.3 Before the Licensee makes available any of the Licensed Materials to the Authorised Users, the Licensee shall require that all Authorised Users accept end user terms and conditions of use of the Licensed Materials that:

- (1) require Authorised Users to comply with all applicable laws in using the Licensed Materials;
- (2) state that the Licensed Materials being supplied are only for the Authorised User's personal use;
- (3) prohibit reproduction or distribution of Licensed Materials that violates applicable law;
- (4) contain a reservation for the Licensor of all Intellectual Property and other rights in the Licensed Materials; and
- (5) Set out the limitations on access and use of the Licensed Materials as set forth in this Agreement,

(collectively, the "**Terms of Use**"). The Licensee shall provide a copy of such Terms of Use to the Licensor should this be requested by the Licensor.

#### **4. Access to the Licensed Materials and hosting**

4.1 Upon the Effective/Publication Date and providing the Licensee has returned a signed copy of this Agreement and given all necessary information to the Licensor to enable the Licensor to make the Licensed Materials available to the Licensee, the Licensor shall make the Licensed Materials available to the Licensee at the price specified by the Licensor in the Licensor's quote.

4.2 Access to the database will be set up for the registered users of the Licensee via IP-Authentication. Access is for an unlimited number of simultaneous users and includes remote access.

4.3 In relation to data mining projects, on written request and subject to the Licensee complying and continuing to comply with the provisions of this Agreement, the Licensor will make available in XML format the document level metadata and, where available, a full text data set contained within the Licensed Materials (the "Data") for data/text mining purposes. To ensure data security the delivery method will be at the sole discretion of the Licensor. The Licensee shall treat the Data as confidential information in accordance with Section 9 of this Agreement, shall only use the Data in accordance with the permitted purposes as set out in this Agreement and shall not permit any third party to use the Data.

[...]

6.4[...]

## 9. Protection of the Licensed Materials

9.1 The Licensee shall use the best available practices and systems applicable with regard to the use of the Licensed Materials to:

- (1) enforce the territorial and use restrictions of this Agreement; and
- (2) prevent, and take prompt and proper remedial action ("Abhilfemaßnahmen") against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Licensed Materials.

9.2 If the Licensee becomes aware of any potential or actual infringement or misuse of any Licensed Materials, or any security breach in connection with this Agreement that could compromise the security or integrity of the Licensed Materials or otherwise adversely affect the Licensor, the Licensee shall promptly notify the Licensor and fully co-operate with the Licensor to remedy the issue as soon as reasonably practicable. The Licensor may suspend the Licensee's rights under this Agreement until the infringement, misuse or security breach is remedied.

[...]

[...]

## 13. Permanent Archival Access

13.1 The Licensor uses the services of Portico ([www.portico.org/digital-preservation](http://www.portico.org/digital-preservation)) to enable permanent archival access to be provided in respect of all of the Licensed Materials for the benefit of the Licensee.

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