

# DFN-AAI Service Provider Agreement

(the *Agreement*)

between

**DFN-Verein**, Alexanderplatz 1, 10178 Berlin

and

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(the *Parties* and each a *Party*)

## WHEREIN:

- A. The DFN-AAI is an infrastructure (*Federation*) for a group of organizations (the *Home Organizations and Service Providers*), which cooperate in the area of inter-organizational authentication and authorization;
- B. Details of the DFN-AAI and a short explanation of the Federation Services may be accessed at <https://www.aai.dfn.de>;
- C. The Service Provider wishes to co-operate with the DFN-AAI and to receive certain services from the DFN-AAI (the *Federation Services*) and to comply (a guaranteed compliance) with a common set of policies and practices;

## THEREFORE, THE PARTIES AGREE AS FOLLOWS:

## 1 Definitions

Capitalized terms used in this Agreement have the following meanings:

<i>AAI</i>	Refers to Authentication and Authorization Infrastructure
<i>Affiliate</i>	Means, as to a person or entity, another person or entity which exercises control over such person or entity, or is under control by it, or is under common control by the same person or entity
<i>Attributes</i>	End User data needed for access control decisions (authorization)
<i>Dependencies</i>	The technical pre-requisites, which the systems of the service provider should meet
<i>End User</i>	A registered member of a Home Organization
<i>Federation Services</i>	Refers to (i) the development and operation of the central AAI system, including the operation of central Discovery Services; (ii) a central metadata registry, and related services; and (iii) the operation of a competence centre (test lab, training, consulting)
<i>Force Majeure</i>	Refers to, in relation to either party, any event beyond its reasonable control including any strike, act of God, natural disaster, fire, war, riot or national turmoil
<i>Home Organization</i>	Participating institutions (other than Service Provider) such as universities or research institutes which register End Users
<i>Resources</i>	Material to which access is granted, e.g. applications, websites, databases, systems, etc.
<i>Discovery Services (DS)</i>	Also known as WAYF "Where-Are-You-From" services. A DS provides a browser-based interface where an End user selects his or her Home Organization in order to gain AAI-based access to a specific Resource

## 2 Services provided by DFN-AAI

The services provided hereunder are Federation Services as set forth on DFN-AAI website (<https://www.aai.dfn.de>) and as modified and extended from time to time.

## 3 Rights and Obligations of DFN

- 3.1 DFN will provide the Federation Services with due care, taking into account generally accepted business practices, the legitimate interests of the Home Organizations and Service Providers as well as the available resources of DFN and with a view to efficiently controlling costs of service delivery.
- 3.2 DFN will be relieved from providing the Federation Services if the Dependencies are not met, in case of Force Majeure or if the Service Provider uses or permits the use of the Federation Services in violation of the terms of this agreement or the applicable law.
- 3.3 DFN may change or modify the Federation Services upon reasonable prior notice published on the dedicated DFN-AAI website.

- 3.4 Upon a written request by the Service Provider setting forth a misuse of the services by an End User, DFN will undertake commercially reasonable efforts to have the respective Home Organization suspend or cancel the account of such End User. Furthermore, DFN will offer reasonable assistance in identifying an End User in case of a severe misuse.

#### **4 Rights and Obligations of the Service Provider**

- 4.1 The Service Provider will ensure that the following Dependencies are met:
- Download, installation, integration and operation of the AAI software and tools, including updates.
  - Provide up-to-date technical and administrative contact information to DFN.
  - Use of server certificates provided by an accredited CA for all their AAI elements.
- 4.2 The Service Provider will cooperate with DFN and perform all obligations reasonably required to enable the proper functioning of the services with due care, taking into account generally accepted business practices. It will refrain from altering or otherwise interfering with the Federation Services and systems provided by DFN except as required for the proper operation thereof.
- 4.3 The Service Provider will timely inform DFN if services have not been delivered by the agreed time or if quality of service is insufficient, stating the reasons for its dissatisfaction in detail. Late notice will result in the forfeiture of all related rights.
- 4.4 The Service Provider will enter into appropriate arrangements with one or several Home Organizations concerning the delivery of or access to Resources as well as all aspects of data protection. For the avoidance of doubt, such arrangements are the sole responsibility of the Service Provider and DFN shall have no obligations or responsibilities relating thereto.

#### **5 Representations and Warranties**

- 5.1 The Parties represent and warrant that:
- (a) they have full power to enter into and perform their obligations under this Agreement and have taken all necessary action to that effect; and
  - (b) they have obtained and will maintain throughout the term of this Agreement, all rights, licenses, permissions and approvals, including all registrations in accordance with and as required by the applicable data protection legislation, which are necessary to provide and obtain the respective services in accordance with this Agreement.
- 5.2 DFN represents and warrants that it will perform its obligations under this Agreement in accordance with the standards of performance set forth herein. For the avoidance of doubt, DFN does not make any representations or warranties with regard to the reach or coverage of the AAI, neither as regards the number of End Users or Home Organizations nor as regards the existence or availability of any particular Attributes.
- 5.3 The Service Provider represents and warrants that it will use the Federation Services in accordance with all applicable licenses and laws including but not limited to data protection and privacy laws.

## **6 Remedies**

- 6.1 In case of any breach of the obligations and warranties of DFN hereunder, the Service Provider will have the following remedies:
- (a) to request corrective action for all remedial breaches; or
  - (b) to terminate the Agreement in accordance with Section 10 below.

## **7 Intellectual Property**

- 7.1 Except as provided herein, all rights and interest in the AAI concept, the know-how, the documents, the tools and the software employed, delivered or developed by DFN as part of the Service delivery vests in DFN.
- 7.2 For all such developments DFN grants to the Service Provider for the term of this Agreement, a worldwide, non-exclusive, non-transferable license to use and permit the Service Provider's agents, representatives and End Users to use such, solely in connection with and for the purpose of delivering the Federation Services.

## **8 Liability**

- 8.1 All and any liability of the Parties hereunder (if any) will be limited to damages incurred by gross negligence or wilful intent of the other Party, its employees, agents or subcontractors.
- 8.2 In no event shall DFN be liable for any acts or omissions (including but not limited to instructions, notices and recommendations) of its employees, agents or subcontractors resulting in:
- (a) any delayed addition, modification or deletion of entries in the Discovery Services;
  - (b) any errors or faults in the registration or distribution of meta-data;
  - (c) any errors or faults in the DFN tools;
  - (d) the Federation Services being not available; and
  - (e) any other damage, whether direct or indirect, exceeding an amount of EURO 1000.-

## **9 Data Protection**

- 9.1 Each Party will at all times throughout the term of this Agreement and as may otherwise be necessary, comply with the applicable provisions and obligations imposed by the German Data Protection legislation so far as they relate to the Federation Services and to the processing of personal data.
- 9.2 The Service Provider will ensure that appropriate technical and organisational measures are taken against unauthorised or unlawful processing of data and against accidental loss or destruction of, or damage to, this data.
- 9.3 All matters concerning the processing and protection of personal data of End Users must be agreed upon bilaterally between the Service Provider and the Home Organizations. DFN shall have no obligations or responsibilities relating thereto.

## **10 Term and Termination**

- 10.1 This Agreement is entered into for an indefinite term. It may be terminated by either Party by giving 2 months prior notice effective as per the end of a calendar year.
- 10.2 Notwithstanding this, a Party may terminate this Agreement
- (a) if the other Party commits a material breach which is not remedied within 30 days after notice reasonably describing such breach;
  - (b) in case of insolvency of one of the Parties;
  - (c) if the Agreements with all participants are terminated; and
  - (d) if and as entitled to do so pursuant to another Section of this Agreement.
- 10.3 Upon termination, the Service Provider will return all DFN and all other documents and software (if any) received from DFN as part of the Federation Service delivery and will confirm that it has destroyed all copies thereof, subject to mandatory archival duties.

## **11 General Provisions**

- 11.1 This Agreement shall be governed by and construed in accordance with German law, without reference to conflict of laws principles. This agreement is subject to the exclusive jurisdiction of German courts in Berlin.
- 11.2 Neither Party may assign or delegate this Agreement or any of its rights or duties under this Agreement without the prior written consent of the other; provided that either Party may assign this Agreement to an Affiliate which has assumed in writing all obligations under this Agreement.
- 11.3 If any section, paragraph, provision, or clause in this Agreement shall be found or be held to be invalid or unenforceable in any jurisdiction in which this Agreement is being performed, the remainder of this Agreement shall be valid and enforceable and the Parties will negotiate, in good faith, a substitute, valid and enforceable provision which most closely reflects the Parties' intent in entering into this Agreement.
- 11.4 The terms and conditions herein contained constitute the entire agreement between the Parties and supersede and terminate all previous agreements and understandings, whether oral or written, between the Parties hereto with respect to the subject matter hereof, including, without limitation, any distribution and related agreements in effect as of the date hereof.
- 11.5 This Agreement may be amended at any time by mutual written agreement among the Parties. If and to the extent the Service Agreement with the Home Organizations is amended pursuant to the terms thereof, this Agreement will be amended accordingly, with such amendment becoming effective as of the 30<sup>th</sup> day after having served a notice thereof to the Service Provider.
- 11.6 Any notice required or permitted by this Agreement shall be given in writing or by email.

## 12 Contact

### 12.1 Administrative Contact

Name / Surname, Address	
Phone, Fax	
E-Mail	

### 12.2 Technical Contact

Name / Surname, Address	
Phone, Fax	
E-Mail	

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