



EXPLANATION

The following is a draft of a document designed to grant to CESSDA ERIC rights to use computer programs produced in archives, for use by other CESSDA members.

AGREEMENT AND ASSIGNMENT RELATING TO COMPUTER PROGRAMS

This Agreement and Assignment is made between [named member] and CESSDA ERIC.

Whereas

(1) [named member] is an academic body or a research organisation, and one of its activities is the maintenance of an electronic archive of data relevant to the social sciences.

(2) CESSDA ERIC is a non-profit-making body formed for the purpose of establishing Europe-wide arrangements designed to facilitate the exchange between its members of data resources relevant to the social sciences. These arrangements include the establishment of standards, and the creation of common systems and tools, for data exchange and management.

(3) [named member] is a member of CESSDA ERIC, and wishes to facilitate the operations of CESSDA ERIC.

(4) In order to facilitate the exchange of data between the members of CESSDA ERIC, it is desirable to ensure that any computer programs which have been or may be created by any member of CESSDA ERIC for use in connection with data which are available for exchange through CESSDA ERIC should be made available through CESSDA ERIC for use by all members of CESSDA ERIC in connection with any data which are made available through CESSDA ERIC.

(5) Accordingly this Agreement and Assignment provides for the supply to CESSDA ERIC of a copy of any such computer program which has been or may in future be created by [named member], and for the assignment by [named member] to CESSDA ERIC of any copyrights or similar rights in such computer programs, and

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thereby enables CESSDA ERIC to supply and grant to its members copies of and licences to use such computer programs.

(6) Insofar as any element of any such computer program is covered by a patent owned or controlled by [named member], this Agreement and Assignment also grants to CESSDA ERIC and its members a non-exclusive licence to use the patented technology by using the computer program in accordance with this Agreement and Assignment.

It is hereby agreed that:

(1) In this Agreement and Assignment:

(a) "The relevant computer programs" means any computer programs which have been or will be created by [named member] or by persons employed by or otherwise associated with [named member], and which have been or will be used by [named member] in connected with data which is or will be available for exchange through CESSDA ERIC.

(c) "Relevant copyrights" means any copyrights or similar rights which exist, or may be alleged by any person to exist, in any country in the relevant computer programs. The expression includes rights which may come into existence after the conclusion of this Agreement and Assignment. It does not however include moral rights (as contemplated by the Berne Convention for the Protection of Literary and Artistic Works). Nor does it include any patent or trade mark.

(2) (a) [named member] hereby undertakes to supply to CESSDA ERIC a copy of all relevant computer programs.

(b) As regards programs which are relevant computer programs at the date of the conclusion of this Agreement and Assignment, the copies shall be supplied within one month of the conclusion of this Agreement and Assignment.

(c) Where a computer program becomes a relevant computer program after such conclusion, the copy shall be supplied within one month after the program becomes a relevant computer program.

(d) Where a relevant computer program is updated or enhanced, a copy of the updated version shall be supplied within one month after [named member] has begun to use the program as updated or enhanced.

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(3) (a) [named member] hereby assigns to CESSDA ERIC all of the relevant copyrights.

(b) [named member] hereby warrants to CESSDA ERIC that [named member] is the owner of all of the relevant copyrights, or that [named member] has the authority of all owners of such rights to assign them to CESSDA ERIC.

(c) [named member] hereby undertakes to indemnify CESSDA ERIC in respect of all damages, costs and expenses arising from any claim against CESSDA ERIC by any person (including, but not limited to, employees of or persons otherwise associated with [named member]) involving any relevant copyright.

(d) As regards relevant programs supplied by [named member] to CESSDA ERIC after the date of the conclusion of this Agreement and Assignment, the assignment specified by clause 3(a) above shall take effect on the date of the supply of the said programs, and the warranty specified by clause 3(b) above shall refer to ownership or authority existing on the date of the said supply.

(e) Clauses 3(a) and (b) above shall extend to relevant programs supplied by [named member] to CESSDA ERIC before the date of the conclusion of this Agreement and Assignment. With regard to such programs, the assignment specified by clause 3(a) above shall take effect on the date on which this Agreement and Assignment is concluded between [named member] and CESSDA ERIC, and the warranty specified by clause 3(b) above shall refer to ownership or authority existing on the date on which this Agreement and Assignment is concluded.

(f) Clause 3(e) above shall not prejudice any rights which may be possessed by CESSDA ERIC and which arise wholly or partly as a result of any agreement or assignment which was effected before the date of conclusion of this Agreement and Assignment.

(g) Clause 3(a) above shall not prevent [named member] from using a relevant computer program where the use is not in connection with data made available through CESSDA ERIC.

4. (a) This clause applies insofar as any program supplied in accordance with this Agreement and Assignment makes use of any technical element over which a patent in any country exists and is owned or controlled by [named member].

(b) In such a case, [named member] hereby grants to CESSDA ERIC and to all its members a non-exclusive licence under any such patent, sufficient to enable the use of the said program by CESSDA ERIC and its members in connection with data which is made available through CESSDA ERIC.

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Signed (for [named member])

Signed (for CESSDA ERIC).

Date

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