

## **SURFconext connection Agreement**

With respect to providing  
the CLARIN materials to the SURF institutions connected to SURFconext

between

MAX PLANCK INSTITUUT  
(representing the service-providers within the CLARIN-project)

and

SURFnet bv

SURFnet agreement

Registration number: F2007/1016  
22 april 2016

**PREAMBLE****Parties:****SURFnet bv,**

Principal place of business in business centre Hoog Overborch (Hoog Catharijne)  
Moreelsepark 48, 3511 EP Utrecht  
Represented by Mr. W.J van Dijk,  
Head of Account Consultancy,

Herein after referred to as: SURFnet

and

**MAX PLANCK INSTITUUT**

Principal place of business at Wundtlaan 1, 6525 XD, Nijmegen,  
Represented by Mr R.D. Dirksmeyer,  
Head, Technical Group,

Herein after referred to as: MAX PLANCK INSTITUUT and/or the CLARIN service-providers

Considering the following:

- The CLARIN project is a large-scale pan-European collaborative effort to create, coordinate and make language resources and technology available and readily usable.

Within the CLARIN project participants co-operate regarding the start-up of a Service Provider Federation in order to establish a single distributed infrastructure to provide to the End User a possibility to gain access to the range of CLARIN materials. The Project participants therefore have drawn up the CLARIN Service Provider Start-Up Federation Agreement (<http://www.clarin.eu/content/general-information>).

This Agreement is signed by all 20 participating CLARIN Service Provider Centers:

- Berlin-Brandenburgische Akademie der Wissenschaften (BBAW)
- Institut für Deutsche Sprache (IDS)
- Max Planck Institute for Psycholinguistics (MPI)
- Institute of Dutch Lexicology (INL)
- CSC - IT Center for Science (CSC)
- Charles University Prague, UFAL MFF UK (UFAL)
- Institut für Corpuslinguistik und Texttechnologie (ICLTT)
- Seminar für Sprachwissenschaft, Eberhard-Karls-Universität Tübingen (EKUT)
- CNRS-AILF (AILF)
- University of Copenhagen (Denemarken)
- Ludwig-Maximilians-Universität München (Duitsland)
- Talkbank (VS)
- University of Tartu (Estland)
- Oxford Text Archive (VK)
- Center for Estonian Language Resources (CELR)
- Hamburger Zentrum für Sprachkorpora (HZSK)
- CLARINO (NO)
- Utrecht Institute of Linguistics OTS (UIL-OTS)
- Meertens Instituut (MI)
- University of Copenhagen (UCPH).

The Co-ordinating Party of this CLARIN Service Provider Federation is MAX PLANCK INSTITUUT.

In signing the CLARIN Service Provider Federation Agreement, all of the participating Service Providers have at the same time assigned Powers of Attorney authorizing MAX PLANCK INSTITUUT to enter into Service Provider Agreements with Haka, DFN, and SURFnet (SURFfederatie) on behalf of each Service Provider.

MAX PLANCK INSTITUUT will sign the agreement with SURFnet on behalf of all the above participating Service Providers.

## Conditions for connection to SURFconext

Whereas:

- SURFnet offers the CLARIN Service Providers the possibility of making services available to Institutions by means of SURFconext;
- Service Provider wishes to provide End-users and Guest Users with access to Service Provider's services, with use being made of SURFconext;
- By utilising SURFconext, Service Provider can rely on confidential information regarding End-users being supplied by an Institution, meaning that Service Provider will not need to collect or retain that information itself.

Declare that they have agreed as follows:

### Clause 1. Definitions

In this Agreement, the following terms will be understood to have the meanings assigned to them below:

**Authentication:**

determination of the identity of an End-user at an Institution connected to SURFconext, whether or not including the Institution to which the End-user belongs.

**Authorisation:**

the provision of access to an online Service by Service Provider.

**End-user:**

a person who has an appointment or an employment contract with the Institution or is otherwise authorised in the context of the Institution's operations, as well as a student, external student, or course participant registered with the Institution and who is authorised by the Institution, pursuant to the licence model concluded by the Institution, to use the Service.

**Guest User:**

a user who is not covered by the definition of an End-user and who can be given access to the Service via the groups management functionality of SURFconext. A Guest User can only be invited by an End-user.

**Institution:**

a Dutch institution for higher education and research including its End-users and Guest Users.

**Institution Data:**

data – including, but not exclusively, e-mail – delivered, generated, sent, or made visible via the Service by or to the Institution or End-user or Guest User. Institution Data includes personal data as defined in the (Dutch) Personal Data Protection Act [Wet bescherming persoonsgegevens, Wbp] of End-users and Guest Users, and is delivered, generated, sent, or made visible via the Service by or to the Institution or End-user or Guest User.

**Service:**

Services provided by Service Provider (and the specifications and conditions subject to which Service Provider makes and keeps said products and services available).

**SURFconext:**

a collaboration infrastructure that connects a number of basic building blocks for online collaboration on the basis of open standards as described at [http://www.surfnet.nl/Documents/brochure\\_201101\\_factsheet\\_surfconext.pdf](http://www.surfnet.nl/Documents/brochure_201101_factsheet_surfconext.pdf).

**Clause 2. Subject of the Agreement**

Service Provider provides Institutions with access, by means of SURFconext, to Service Provider's Service, thus enabling End-users and Guest Users to utilise said Service.

**Clause 3. Term of the Agreement**

This agreement will enter into force when signed by both parties and shall remain in force until its termination in accordance with this article.

Parties are entitled to terminate this agreement by given a three months in advance written notice of termination to the other party.

**Clause 4. Conditions for Connection to SURFconext**

SURFnet will ensure that Service Provider can offer the Service via SURFconext.

SURFnet has an obligation to perform to the best of its ability [inspanningsverplichting] with regard to the proper functioning of SURFconext; in doing so, it takes account of the justifiable interests of Service Provider.

Should Service Provider fail to act in accordance with the conditions set forth in the present Agreement, or should SURFnet sustain loss/harm due to a situation that is attributable to Service Provider, SURFnet will be entitled to suspend the use of SURFconext until Service Provider complies with the conditions or the situation attributable to Service Provider has been rectified.

Service Provider is responsible for Authorising End-users and Guest Users, after successful Authentication via SURFconext.

Service Provider will notify SURFnet of the attributes necessary to make use of the service delivery arising from this Agreement. This information will be included in a register on the SURFconext website. If Service Provider wishes, during the term of this Agreement, to offer the Service to several institutions whereby the scope extends beyond the level of individual institutions, an agreement for intermediary services will be concluded with SURF. This SURFconext Connection Agreement will cease to apply after such agreement for intermediary services, containing a SURFconext appendix, takes effect.

**Clause 5. Privacy**

Institutions are responsible for the processing of data within the meaning of the Personal Data Protection Act. Service Provider will process Institution Data and in doing so will be required to process the personal data of Institutions in a proper and careful manner. Amongst other things, Service Provider is required to process such personal data in accordance with the provisions of the Personal Data Protection Act.

Service Provider will only process the Institution Data at the behest of and in accordance with the instructions of SURFnet or the Institution.

Unless statutory provisions provide otherwise, Service Provider is not entitled, at any time, to utilise some or all of the Institution Data that is made available to it otherwise than for performance of this Agreement, or to cause it to be so utilised.

Service Provider will not allow third parties access to the Institution Data without the consent of SURFnet or the Institution. Service Provider will also not use the Institution Data for its own benefit, for the benefit of third parties, and/or for its own purposes, for advertising purposes, and/or for other purposes. The preceding provision June only be deviated from if and in so far as legal obligations provide otherwise.

Service Provider is required to provide End-users – in any case when initial contact takes place – with its applicable privacy policy and to continue to have this available for End-users.

If Service Provider amends its privacy policy unilaterally, it will notify SURFnet/Institution of the amendment beforehand. No amendment is permitted that leads, or June lead, to Service Provider no longer complying with the provisions of this SURFconext Connection Agreement.

Service Provider must immediately inform SURFnet of (future) changes in the performance of this SURFconext Connection Agreement. This will include the engagement of assistant providers (or new assistant providers) so that the SURFnet can monitor compliance with the arrangements it has made with Service Provider.

Service Provider will process the (personal) data/Institution Data only within the European Union or in a country with an appropriate level of protection. If Service Provider intends to transfer (personal) data/Institution Data (or have such transferred) to – or intends to make such accessible (or have such made accessible) from – countries outside the European Economic Area (EEA) that do not guarantee an appropriate level of protection in accordance with the applicable privacy legislation – including to or from sites of businesses that have not endorsed the "Safe Harbor Principles" – that can legitimise the transfer of the personal data, Service Provider will inform SURFnet, the Institution, or the End-user well in advance regarding the countries or third parties concerned and will request consent. The granting of such consent June be made subject to conditions. The consent granted will apply only to the specific case concerned.

Service Provider will only engage third parties and/or assistant providers with which it has concluded a written agreement comprising secrecy and security obligations in accordance with the obligations of this SURFconext Connection Agreement.

If Service Provider engages a third party for performance of an agreement, this will not relieve Service Provider of its obligations regarding the processing of the data.

Service Provider will cooperate fully to enable the Institution/End-user to comply with its statutory obligations in the event of a data subject exercising his/her rights pursuant to the Personal Data Protection Act or other applicable regulations regarding the processing of personal data. Service Provider will cooperate fully with the Institution to (i) enable data subjects within the meaning of the Personal Data Protection Act to inspect their personal data; (ii) to enable such parties to have personal data deleted or corrected; and/or (iii) to demonstrate to such parties that personal data has been deleted or corrected if it is incorrect or, if the Institution disputes the position adopted by the data subject, to record that the data subject considers his/her personal data to be incorrect.

If a data subject contacts Service Provider directly with a view to exercising his/her rights pursuant to the Personal Data Protection Act, Service Provider will not in the first instance deal with the actual case – except on the explicit instructions of the Institution/End-user to the contrary – but will immediately notify the Institution/End-user and will request further instructions.

Service Provider indemnifies SURFnet and/or the Institution in respect of all claims by third parties, including data subjects, that may be brought against SURFnet and/or the Institution due to a contravention of the Personal Data Protection Act or other applicable regulations governing the processing of personal data that is attributable to Service Provider or a third party engaged by Service Provider.

If Service Provider receives a request from a Dutch or foreign investigation, prosecution, or national security authority to provide (personal) data/Institution Data (or to allow perusal of such) – including but not limited to a request pursuant to the US Patriot Act – Service Provider will only cooperate with such request if it is legally obliged to do so (including obliged to do so pursuant to foreign legislation or regulations). To guarantee protection of the (personal) data/Institution Data, Service Provider will then ensure that it does not provide any more (personal) data/Institution Data than is strictly necessary to comply with said request. If it is possible to take legal action against the request for the provision of (personal) data/Institution Data or against a prohibition on informing third parties about the request, Service Provider will make full use of such possibility (at its own expense).

If – on the basis of the request that it has received to provide (personal) data/Institution Data – Service Provider is not permitted to inform third parties – including SURFnet, the Institution, or the End-user – about said request and the possible subsequent provision to a Dutch or foreign investigation, prosecution, or national security authority, then Service Provider will only be the "Responsible Party" within the meaning of the Personal Data Protection Act as regards provision of the (personal) data/Institution Data concerned in the context of said request. As soon as Service Provider is permitted to do so, it will inform SURFnet, the Institution, or the End-user about requests received and any subsequent provision of (personal) data/Institution Data.

Upon termination of this SURFconext Connection Agreement for any reason whatsoever, or at the first request of SURFnet, the Institution, or the End-user during the term of the SURFconext Connection Agreement, Service Provider – at limited cost in relation to the fee – will ensure that, at the choice of SURFnet, the Institution or the End-user, in an effective manner, (i) all (personal) data/Institution Data made available to Service Provider is deleted; (ii) all (personal) data/Institution Data made available to Service Provider is made available to a subsequent service provider; or (iii) that the Institution and/or the End-user and/or Users is/are given the opportunity to take back its/their (personal) data/Institution Data. The Institution or the End-user June if necessary impose detailed requirements regarding the manner of provision or destruction. The Institution or End-user will be entitled to co-operation on the part of Service Provider in respect of this provision for at least two months after termination of the SURFconext Connection Agreement.

Service Provider will at all times ensure the data portability of the (personal) data/Institution Data in such a way that there is no loss of functionality or of the (personal) data/Institution Data (or parts of the (personal) data/Institution Data).

#### **Clause 6. Security**

Access to the Service provided by Service Provider will be provided from Service Provider's own location or that of its subcontractor. Service Provider is obliged to properly equip said location (or cause it to be so equipped) for the provision of access on the basis of the present Agreement as regards reliability, confidentiality, integrity, continuity, effectiveness, and efficiency.

Service Provider will put appropriate measures in place to properly ensure the physical and logistical security of the Service so as to prevent loss or damage and any form of unauthorised perusal, alteration, or disclosure, or any other wrongful processing of the (personal) data. Taking account of the state of technology and the cost of implementing them, said measures must guarantee an appropriate level of security in view of the risks associated with such processing and the nature of the (personal) data being protected. Said measures will also have the objective of preventing the unnecessary collection and further processing of said (personal) data/Institution Data and information. Service Provider will record said measures in writing, will ensure that they are and remain state-of-the-art measures, and guarantees that security within the meaning of the present subclause complies with the security requirements pursuant to the Personal Data Protection Act.

If so requested, Service Provider will immediately provide SURFnet, the Institution or the End-user with written information regarding the processing and security of (personal) data/Institution Data (and the organisation of such) and will enable SURFnet, the Institution or the End-user to ascertain that the agreed and statutory obligations pursuant to the Personal Data Protection Act or other applicable regulations governing the processing of personal data are being complied with. Service Provider will permit inspection of the site(s) where processing takes place or has taken place upon first being requested to do so.



If Service Provider identifies any form of unauthorised perusal, alteration, and disclosure or other unlawful processing of (personal) data/Institution Data or loss of (personal) data/Institution Data, or any attempt or threat of such, Service Provider will immediately notify SURFnet, the Institution or the End-user and take all reasonably necessary steps, at its own expense, to recover the (personal) data/Institution Data and to prevent or restrict any further unauthorised perusal, alteration, or disclosure, or any other unlawful processing, without prejudice to any right SURFnet, the Institution or the End-user June have to compensation or other measures.

As regards the Service (including cloud services), Service Provider will be obliged to have an annual quality review of its organisation carried out – at Service Provider's own expense – by an independent EDP auditor that it designates in order to determine:

- that Service Provider can comply with the provisions of this SURFconext Connection Agreement regarding the protection of (personal) data/Institution Data;
- that Service Provider can comply with the provisions of this SURFconext Connection Agreement regarding the confidentiality, integrity, continuity, effectiveness, and efficiency of the Service (including cloud services) made available by Service Provider.

Service Provider will be obliged to make the findings of the EDP auditor available to SURFnet on request in the form of a "third-party statement" (TPS).

#### **Clause 7. Intellectual Property Rights**

Service Provider declares that it is the rightholder in respect of Service Provider's products or services (Service) (and the intellectual property rights in respect of said products or services). This Agreement will not bring about any transfer to SURFnet of said intellectual property rights in respect of said products or services.

Service Provider will respect the intellectual property rights of SURFnet and of the designs, materials, and documentation that form the basis for SURFconext.

Service Provider warrants that its products and services (Service) and the intellectual property rights in respect thereof will not infringe the (intellectual) property rights, including personality rights, of third parties and that they are not wrongful in some other way vis-à-vis third parties. Service Provider indemnifies SURFnet in respect of all loss/harm (including judicial and extra-judicial costs) that SURFnet June at any time incur in respect thereof.

#### **Clause 8. Liability**

Unless this Agreement expressly provides otherwise, a Party cannot be held liable for loss and/or harm sustained as the result of performance of this Agreement, except in so far as such loss and/or harm is the direct result of an intentional act or omission or gross negligence on the part of the other Party or its employees. Parties will not be liable for consequential damage, including an interruption in operations.

Claims in respect of liability must be asserted within no more than six (6) months after the occurrence of the event that caused the loss/harm. Claims in respect of liability must be asserted in writing, giving the nature and extent of the loss/harm and with documentation providing evidence of liability.

**Clause 9. Termination**

SURFnet reserves the right, should an urgent reason arise, to terminate this Agreement prematurely at any time, observing a reasonable period of notice as determined by SURFnet. SURFnet June not be held liable for any direct and/or indirect loss/harm thereby arising for Service Provider.

Service Provider will cooperate proactively with a responsible transfer and/or responsible termination of the Service.

Service Provider will enable Institutions, for a reasonable period of at least two (2) months, to transfer Institution Data to a different provider.

**Clause 10. Supplementary Provisions**

Unless provided otherwise in this Agreement, Service Provider's terms and conditions of delivery will not apply.

Neither Party will be entitled to transfer some or all of its rights and/or obligations under this Agreement, or under further agreements arising from it, to any third party without the prior written consent of the other Party. The other Party June make the granting of such consent subject to conditions. Any transfer contrary to the above provisions will be null and void as regards the other Party.

This Agreement and all associated appendices and any supplements thereto will be governed by Dutch law.

Amendments and other further arrangements regarding the Agreement must in all cases be effectuated in writing and duly signed, with reference being made to this Agreement.

Any dispute regarding the creation, interpretation, or performance of this Agreement, whether legal or factual, will be submitted for adjudication exclusively to the court in Utrecht, The Netherlands, that is competent according to the normal rules of competency, unless Parties agree at the time to settle the dispute by mediation, arbitration, or a binding opinion.

A dispute will be deemed to exist if either Party notifies the other Party to that effect by registered mail.

Thus agreed, drawn up in duplicate, and signed

Utrecht

on 22 april 2016

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Mr. W.J van Dijk SURFnet bv  
Head of Account Consultancy,

Name: *Paul Gommen*

Signature:

\_\_\_\_\_  
MAX PLANCK INSTITUUT  
Service Provider