

## **Licence Terms and Conditions for the German Version of ASCOT**

*These Terms and Conditions have been prepared in German and English. In case of disputes and questions of interpretation arising from these Terms and Conditions, the German version shall prevail.*

**These Terms and Conditions supplement the conditions set forth in the GERMAN-ASCOT REGISTRATION FORM for the application for a licence to use the German version of ASCOT**

**concluded between**

1. "LICENSEE" (as defined in the GERMAN-ASCOT REGISTRATION FORM)

**and**

2. "WU" Vienna University of Economics and Business (Wirtschaftsuniversität Wien) with its registered address at Welthandelsplatz 1, 1020 Vienna, Austria;

together referred to as the "PARTIES".

### **Background**

The Adult Social Care Outcomes Toolkit (ASCOT) was developed by members of the Personal Social Service Research Unit (PSSRU) at the University of Kent. The WU's ASCOT team, based at the WU Research Institute for Economics of Aging, has produced an authorized German translation of the English ASCOT instruments (ASCOT INT4 and SCT4; ASCOT-Carer INT4 and SCT4). The WU has all necessary rights, which the LICENSEE wishes to acquire as set forth in this agreement.

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**The PARTIES agree as follows:**

# 1 Definitions

In this LICENCE AGREEMENT, the following words shall have the following meanings:

<b>ASCOT-WEBSITE (WU)</b>	<a href="https://www.wu.ac.at/en/altersoekonomie/ascot">https://www.wu.ac.at/en/altersoekonomie/ascot</a>
<b>GERMAN ASCOT:</b>	The German translation of the Adult Social Care Outcomes Toolkit, i.e. the German translation of ASCOT MEASURES (ASCOT (SCT4, INT4) and ASCOT-Carer (SCT4, INT4)) as selected in the GERMAN-ASCOT REGISTRATION FORM.
<b>GERMAN-ASCOT REGISTRATION FORM:</b>	The fully completed "Application for a licence for the German version of ASCOT" form outlining the PROJECT, to which these Terms and Conditions are attached.
<b>GERMAN ASCOT MEASURE(S):</b>	The specific German ASCOT measure or measures named in the GERMAN-ASCOT REGISTRATION FORM, such as: ASCOT (SCT4, INT4) and ASCOT-Carer (SCT4, INT4).
<b>INTELLECTUAL PROPERTY RIGHTS:</b>	Patents, rights to inventions, trademarks, service marks, registered designs, copyrights and related rights, database rights, design rights, rights to use and protect confidential information, in each case whether registered or unregistered, including rights to apply for and be granted and applications for any of the above and any continuations, continuations-in-part, divisional applications, renewals or extensions of, and rights to claim priority from, those rights, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above
<b>LICENCE AGREEMENT</b>	<p>The GERMAN-ASCOT REGISTRATION FORM approved by the WU together with these Licence Terms and Conditions for the GERMAN ASCOT constitute the whole LICENCE AGREEMENT.</p> <p>Both the GERMAN-ASCOT REGISTRATION FORM and these Licence Terms and Conditions have been prepared in German and English. In case of disputes and questions of interpretation arising from these documents, the German version shall prevail.</p>
<b>LICENCE PERIOD:</b>	The period set out in the GERMAN-ASCOT REGISTRATION FORM and approved by WU.
<b>NOT-FOR-PROFIT USE:</b>	<p>Any non-profit organisation or public organisation/authority that requires GERMAN ASCOT for its own use. This means that GERMAN ASCOT is used for the benefit of the public without financial gain. Examples of NOT-FOR-PROFIT USE include but are not limited to:</p> <ol style="list-style-type: none"> <li>(1) A local authority, public sector organisation or registered charity/non-profit organisation wishes to use GERMAN ASCOT for care service quality monitoring or for measuring the effects of their care services.</li> <li>(2) Use of the GERMAN ASCOT by a not-for-profit business. This includes academic institutions.</li> </ol> <p>In the case that it is unclear whether the proposed use of ASCOT requires a FOR-PROFIT or NOT-FOR-PROFIT licence, the LICENSEE must first receive a confirmation of the type of licence from the WU (<a href="mailto:ascot-deutsch@wu.ac.at">ascot-deutsch@wu.ac.at</a>) before submitting the GERMAN-ASCOT REGISTRATION FORM.</p>
<b>FOR-PROFIT USE:</b>	<p>Any for-profit organisation that requires GERMAN ASCOT for its own commercial use. In this context, commercial use means any use that supports the generation of revenue including but not limited to:</p> <ol style="list-style-type: none"> <li>(1) any use in support of an application for regulatory approval for a product or service;</li> </ol>

	<p>(2) any use in support of the development, promotion or use of a product or service that will be made available on a fee-paying basis;</p> <p>(3) any use in support of the development, promotion or provision of service to an individual or company on a fee-paying basis;</p> <p>This does not apply to non-profit organisations or organisations of the public sector.</p>
<b>PSSRU:</b>	The Personal Social Services Research Unit at the University of Kent.
<b>PROJECT:</b>	The project or study that uses the GERMAN VERSION OF ASCOT as set out in GERMAN-ASCOT REGISTRATION FORM and accepted by the WU.
<b>TERRITORY/FIELD:</b>	Territorial and factual area of use of the GERMAN VERSION OF ASCOT in TERRITORY as specified in the GERMAN-ASCOT REGISTRATION FORM and accepted by WU. In any case, the factual use of GERMAN ASCOT is limited to the field of long-term care of adults and to the use with German-speaking respondents.
<b>USERS:</b>	Employees, students or visiting researchers of the LICENSEE.

## 2 Grant

<b>2.1 Licence.</b>	<p>a. When accepting in writing the application of the LICENSEE to use GERMAN ASCOT according to the information provided within the GERMAN ASCOT APPLICATION FORM, WU grants:</p> <ul style="list-style-type: none"> <li>• a non-exclusive and</li> <li>• non-transferable licence, for USERS to use GERMAN ASCOT</li> <li>• solely for the purposes and within the scope set in the GERMAN-ASCOT REGISTRATION FORM,</li> <li>• solely within PROJECT and</li> <li>• within TERRITORY/FIELD,</li> <li>• for LICENCE PERIOD.</li> </ul> <p>b. WU grants a licence either for NOT-FOR-PROFIT USE or for FOR-PROFIT USE, as to the information provided in the GERMAN-ASCOT REGISTRATION FORM and accepted by WU.</p> <p>c. GERMAN ASCOT has been developed to be used in adult social care/long-term care service provision and shall only be used for that purpose.</p> <p>d. Where appropriate, the LICENSEE shall explain the USERS the use of the GERMAN ASCOT MEASURE(S) prior to using it.</p> <p>e. For any proposed new PROJECT using the GERMAN ASCOT, the LICENSEE shall acquire a new licence.</p>
<b>2.2 Access.</b>	<p>a. Licences granted under this LICENCE AGREEMENT are personal to LICENSEE and cannot be shared with any other individual or organisation, unless otherwise provided in this LICENCE AGREEMENT.</p> <p>b. The LICENSEE shall ensure that the GERMAN VERSION OF ASCOT is used only for the agreed purpose, in the licensed scope and only by authorized USERS. LICENSEE shall supervise the use of GERMAN ASCOT, control access to it and keep it secure.</p> <p>c. The LICENSEE remains fully responsible at all times for all acts and omissions of USERS and for ensuring such persons understand and observe this Licence.</p>
<b>2.3 Confidentiality.</b>	<p>a. The LICENSEE acknowledges that GERMAN ASCOT is confidential.</p> <p>b. Unless required to disclose by law or in connection with legal proceedings, the LICENSEE shall keep GERMAN ASCOT confidential and secret, together with all INTELLECTUAL PROPERTY RIGHTS, know-how, techniques, ideas, principles and concepts which underlie GERMAN ASCOT and all information disclosed by WU in relation to GERMAN ASCOT or which is otherwise identified as confidential.</p> <p>c. The obligations in this clause do not apply to information which is in or becomes part of the public domain in a lawful manner.</p> <p>d. The provisions of this clause shall survive the expiry or earlier termination of the LICENCE PERIOD for a period of 15 years.</p>
<b>2.4 Copyright Statement.</b>	<p>“© 2020 WU Vienna University of Economics and Business (authorised adaptation from the English original ASCOT [insert type of instrument, e.g. SCT4]; © University of Kent. All rights reserved)</p> <p>Adult Social Care Outcomes Toolkit (ASCOT), of which this interview schedule [/questionnaire] is part of, was originally developed by members of the Personal Social Services Research Unit (PSSRU) at the University of Kent. This interview schedule [/questionnaire] has been translated into German by the Austrian ASCOT team based at the Vienna University of Economics and Business (WU). The Vienna University of Economics and Business (WU) are the owner of the copyright in the translated version of ASCOT.</p> <p>Not-for-profit use of ASCOT is allowed free of charge, but a licence is required. For details on how to obtain a licence and any enquiries regarding for-profit use of the German version of ASCOT, contact the German ASCOT team at <a href="mailto:ascot-deutsch@wu.ac.at">ascot-deutsch@wu.ac.at</a>. The University of Kent and the Vienna University of Economics and Business (WU) reserve the right to take action against any unauthorised and unlicensed use ASCOT or the German version of ASCOT, whether for-profit or not-for-profit.”</p>

<b>2.5 No modifications and compliance to rights of the University of Kent:</b>	<ul style="list-style-type: none"> <li>a. LICENSEE shall not modify, adapt or translate (together “Modify or Modifications”) GERMAN ASCOT.</li> <li>b. The English Original, the Adult Social Care Outcomes Toolkit (ASCOT), was developed by members of the Personal Social Service Research Unit (PSSRU) at the University of Kent. The LICENSEE shall be obliged to comply at its own risk with any and all (intellectual property) rights of the University of Kent out or in the connection with the use of the GERMAN VERSION OF ASCOT. The LICENSEE ensures that its USERS do not do anything to diminish the rights of Kent in the IP, use, the name, any adaptation of the name, any logo, trademark or other device of Kent, in any advertising, or promotional materials without prior written consent obtained from Kent in each case.</li> <li>c. All enquiries about the GERMAN VERSION OF ASCOT should be directed to the WU (<a href="mailto:ascot-deutsch@wu.ac.at">ascot-deutsch@wu.ac.at</a>) in the first instance.</li> </ul>
<b>2.6 Electronic versions of ASCOT and use as an addition to an existing tool.</b>	<ul style="list-style-type: none"> <li>a. LICENSEE shall be permitted to use GERMAN ASCOT in an electronic format or as an addition to an existing tool.</li> <li>b. LICENSEE ensures no modifications are made to GERMAN ASCOT in doing so.</li> <li>c. LICENSEE shall make sure that ASCOT is correctly and clearly named, acknowledged (including the copyright statement in German (2.4)) and the ASCOT logo is in as prominent position as any other logo. For recommendations on how to include the copyright statement for the GERMAN ASCOT MEASURES (2.4) into electronic versions see <a href="#">WU's ASCOT Website</a>.</li> </ul>
<b>2.7 No sub-licensing.</b>	<ul style="list-style-type: none"> <li>a. LICENSEE shall not distribute, sub-license, sell, lend, provide access (including without limitation via a public-access or internal internet site) to the whole or any part of GERMAN ASCOT, or use it to process the work of, any third party.</li> <li>b. LICENSEE shall indemnify WU against any loss, damages, costs, claims or expenses which are awarded against or suffered by the WU as a result of any breach.</li> </ul>
<b>2.8 No other licence.</b>	<ul style="list-style-type: none"> <li>a. Except for the rights expressly set out in this LICENCE AGREEMENT, no licence is granted</li> <li>b. All rights (including INTELLECTUAL PROPERTY RIGHTS), title, interest in and to GERMAN ASCOT in all formats and media throughout the world now or hereafter are and shall remain the exclusive property of the WU and other rights holders.</li> <li>c. LICENSEE shall inform WU promptly if it becomes aware of any infringement or potential infringement of any INTELLECTUAL PROPERTY RIGHTS in GERMAN ASCOT.</li> <li>d. The Licence does not include the provision of support or training for the use of the GERMAN ASCOT MEASURE(S), except for basic technical or use queries. Any further support or training is available on request to WU on a consultancy basis. Such additional support may be subject to a separate agreement specific to the support agreed.</li> <li>e. WU (<a href="mailto:ascot-deutsch@wu.ac.at">ascot-deutsch@wu.ac.at</a>) collects suggestions for improving the GERMAN ASCOT MEASURE(S) based on the LICENSEE's experience of use.</li> </ul>
<b>2.9 Acknowledgements. (tbc)</b>	<ul style="list-style-type: none"> <li>a. LICENSEE shall include the copyright statement (2.4) into any data collection using the GERMAN ASCOT MEASURE(S). For recommendations on how to include the copyright statement for the GERMAN ASCOT see <a href="#">WU's ASCOT-WEBSITE</a>.</li> <li>b. LICENSEE shall name the GERMAN ASCOT MEASURES in any publication arising from the PROJECT and/ or acknowledge the use of GERMAN ASCOT in publications (e.g. report, journal articles, blogs, etc.). LICENSEE shall adhere to the guidance on how to reference different GERMAN ASCOT MEASURE(S) available on the <a href="#">WU's ASCOT-WEBSITE</a>.</li> <li>c. The LICENSEE should consult this website for referencing updates prior to publishing outputs.</li> </ul>

<b>Acknowledgements. (cont.)</b>	d. In addition to references on the GERMAN ASCOT MEASURE(S), the following reference for the English original ASCOT should be used: Netten A, Burge P, Malley J, Potoglou D, Towers A, Brazier J, Flynn T, Forder J, Wall B (2012) Outcomes of Social Care for Adults: Developing a Preference-Weighted Measure, Health Technology Assessment, 16, 16, 1-165 <a href="http://dx.doi.org/10.3310/hta16160">http://dx.doi.org/10.3310/hta16160</a> .
<b>2.10 No full disclosure of ASCOT in publications.</b>	If quoting the GERMAN ASCOT MEASURE's questions and response options in publications, LICENSEE shall not quote the full set of questions from any GERMAN ASCOT MEASURE. LICENSEE is allowed to quote the question wording and response options from the first and the last GERMAN ASCOT domain of the GERMAN ASCOT MEASURE(S) used in the PROJECT together with the definitions of the remaining domains. For further details regarding quoting GERMAN ASCOT, information can be found on the <a href="#">WU's ASCOT-WEBSITE</a> .

### 3 Warranties and Liability

<b>3.1 Disclaimer of warranties and liabilities.</b>	<p>a. No warranty or undertaking is given or assumed by WU and WU shall not be liable for the condition, performance, satisfactory quality or fitness for purpose of GERMAN VERSION OF ASCOT.</p> <p>b. No warranty or undertaking is given or assumed by the WU and WU shall not be liable for any advice or information given in connection with GERMAN VERSION OF ASCOT.</p> <p>c. No warranty or undertaking is given or assumed by the WU and WU shall not be liable for infringements of third-party rights out or in connection with GERMAN VERSION OF ASCOT</p> <p>d. All such warranties, undertakings and liabilities are hereby excluded to the fullest extent permitted by law.</p>
<b>3.2 Liability of Indemnitees.</b>	<p>a. The LICENSEE shall at all times be solely liable and responsible for any (commercial) risk of whatsoever nature out or in connection with the use of GERMAN VERISON OF ASCOT .and indemnifies and hold WU harmless from any and all liabilities.</p> <p>b. The LICENSEE shall in exercising its rights under this LICENCE AGREEMENT , comply with all applicable laws, third party's rights (esp. intellectual property rights) and regulations including laws regulating data protection and data confidentiality.</p> <p>c. The LICENSEE shall indemnify shall indemnify and hold WU harmless from and against any and all losses, costs, expenses or claims, including all reasonable legal costs, in connection with any suit, action, claim or proceeding (whether or not such suit, action or proceeding is successful) that may be determined, adjudicated or threatened (whether or not such suit, action or proceeding is successful), arising out of any act and/or omission by LICENSEE or any of their representatives or employees in the performance of their contractual obligations.</p>

### 4 Termination and regular expiry of the LICENCE AGREEMENT

<b>4.1 Regular expiry</b>	The LICENCE AGREEMENT, including the right to use the GERMAN VERSION OF ASCOT, ends upon expiry of the LICENCE PERIODE and does not require any notice of termination.
<b>4.2 Termination of the LICENCE AGREEMENT by WU (tbc)</b>	a. The WU may terminate prematurely the LICENCE AGREEMENT and without notice in writing if the LICENSEE fails to comply with any provision of this Licence, within 14 calendar days of being required to do so by written notice.

<b>Termination of the LICENCE AGREEMENT by WU (cont.)</b>	<p>b. WU may terminate the LICENCE AGREEMENT prematurely by written notice with immediate effect if, for whatever reason, WU is no longer entitled to grant licences for the use of the GERMAN VERSION OF ASCOT due to the contractual relationship with the University of Kent</p> <p>c. In case of serious or repeated infringements of the LICENCE AGREEMENT by the LICENSEE(s), WU is entitled to terminate the LICENCE AGREEMENT by written notice with immediate effect.</p> <p>d. The WU may adjust this Terms and Conditions for the German version of ASCOT from time to time. In this case, WU will inform the LICENSEE of the change and obtain their consent to the intended change. If the LICENSEE does not agree to the change requested by the WU within 4 weeks upon receipt, the WU reserves the right to terminate the contractual relationship without notice.</p>
<b>4.3 Consequences of regular expiry or termination</b>	Upon regular expiry or termination of this LICENCE AGREEMENT the LICENSEE shall immediately stop using GERMAN ASCOT and shall certify in writing to the WU within 5 calendar days that the LICENSEE has removed all copies from its systems.

## 5 General

<b>5.1 Data Protection.</b>	WU processes personal data that WU is receiving from LICENSEE. For further information on how WU processes personal data, please see the <a href="#">privacy policy notice</a> .
<b>5.2 Law and jurisdiction.</b>	This LICENCE AGREEMENT (including its validity, interpretation and performance) shall be governed and construed exclusively in accordance with Austrian law, excluding the conflict of laws rules and the UN Convention on Contracts for the International Sale of Goods. All legal disputes arising from the present LICENCE AGREEMENT, including the question of its conclusion, validity, dissolution or nullity, shall be subject to the exclusive jurisdiction of the court competent for Vienna.
<b>5.3 Miscellaneous, written form requirement and severability clause</b>	<p>a. This LICENCE AGREEMENT constitutes the entire agreement and understanding of the WU and LICENSEE relating to the subject matter of this Licence. Oral agreements of any kind whatsoever do not exist at the time of the conclusion of this agreement. The validity of the LICENSEE's General Terms and Conditions of Business is excluded.</p> <p>b. This LICENCE AGREEMENT cannot be waived or varied except in writing signed by the WU.</p> <p>c. If one or more provisions of the LICENCE AGREEMENT shall to in whole or partly be void or a provision has been inadvertently omitted, the remainder of this agreement shall not be affected thereby and each other provision of this agreement shall be valid. Both parties shall promptly agree on enforceable replacement provisions which most closely reflects the commercial intention of the PARTIES. The exact commercial intention of the parties shall be determined in particular from the (partially) void, ineffective or unregulated provision.</p>
<b>5.4 Third parties.</b>	This LICENCE AGREEMENT does not create any right enforceable by any person who is not a party to it.
<b>5.5 Notices.</b>	Any notices to be given under this LICENCE AGREEMENT shall be in writing and sent by mail or email only to such addresses as the PARTIES may specify from time to time in writing. They will be deemed to have been received 3 working days after posting or emailing.