

Terms of use

1. General terms

1. prometheus is an internet-based service (www.prometheus-bildarchiv.de) for artistic and cultural research comprising a publicly accessible area as well as an access restricted, fee-based one. The service is presented by the Association of the same name in cooperation with the University of Cologne. prometheus charges users a license fee which is solely used to make the service available.
2. The prometheus image archive is a data broker which brings together heterogeneous and distributed image and media databases from a variety of sources. These databases are made available at no cost by public as well as private institutions for non-commercial research and teaching purposes.
3. User license fees are for administration costs incurred by the University of Cologne in running and expanding the service, and are not based on copyright fees associated with the images and media files themselves.
4. The services provided by prometheus including all associated elements, are intended exclusively for the stipulated purposes.
5. All offers, deliveries, electronic transmissions and the granting of rights to use, transpire solely subject to change, and not exclusively under the following terms and conditions for business and delivery.
6. All software, results, services such as modules, study materials, etc., made available by prometheus, are protected by copyright. Image and media data files (available in the prometheus image archive as well as in the other offers) may also be protected by copyright. The images of works of art may be protected by additional copyright. The clarification of all possible copyright protections is the responsibility of the user.
7. Users receive a non-transferable right to use the service for a limited time period in order to carry out scientific and research activities.
8. The user may not make any information or database search results available to third parties.
9. prometheus reserves the right to make any changes whatsoever, without notice, to the service. prometheus is not responsible for any changes that the databases made available in the archive make to their services.
10. prometheus does not guarantee the correctness, completeness or up-to-dateness of database material. This is the responsibility of the database owners.

2. Access restrictions, liability, copyright arrangements and copyright holder fees

1. The prometheus image archive is a service available on the internet via a server. It is accessible on the basis of single search requests on a read-only basis for non-commercial scientific, research and printing purposes. The systematic saving of large amounts of database material is not permitted.
2. The image archive can be accessed via Campus login or a personal account. Access via Campus login is possible for users belonging to a licensed institution. As this access is not personalized, there are only limited functionalities.
3. Users with personal accounts have the possibility to use advanced functionalities (e.g. collections and presentations).
4. prometheus archive images and media files are presented in a format optimal for monitors. They are intended only for research purposes and related presentations. Additional ways of utilization may be possible. They are specified for each image and each media file in the image archive under the heading "Rights" on a results page, if provided by the database supplier.

5. prometheus provides both public domain and copyright-protected images and media files. Users must adhere to all copyright laws as regards their further use of such images and media files.
6. Without permission from the copyright-holder copyright-protected images and media files available in prometheus are only intended for scientific and research purposes. They have to be deleted afterwards without further demand.
7. Written permission of the copyright-holder must be obtained prior to any publication of copyright-protected images and media files in print or other media. In individual cases, user rights can be obtained from the copyright-holder directly by clicking on the "Rights" button on the results page of the image archive.
8. Users may not photograph, photo-compose, or otherwise alter copyright-protected images and media files unless they have permission from the copyright-holder.
9. Users may not reproduce or electronically save copyright-protected images and media files for their own databases, or make images and media files available for third parties, unless they have permission from the copyright-holder.
10. Users must comply with German Press Guidelines including the prevailing copy and usage rights and the protective rights applicable to the use of images and media files. Users are solely responsible for any captions or text they add to an image or media file obtained from the archive. prometheus accepts no responsibility for legal breach of any kind arising from the unauthorized use of images and media files or the use of images and media files in new contexts. In case of any such legal breach, the user is the sole responsible party and shall be liable for any indirect, consequential, special, exemplary or incidental damages that might be claimed by third parties.
11. prometheus provides regular updates concerning changes to databases accessible through the service, including removal of existing databases and the availability of new databases.
12. Should non-adherence to the user's legal obligations result in any third-party claims, the user is obligated to indemnify prometheus and hold prometheus harmless from any such claims. Furthermore, the user shall be obligated to pay a fine to prometheus amounting to 400 percent the standard third-party user fee. In addition, prometheus also reserves the right to lodge a claim against the user, e.g. in case of damage to its reputation.

3. User fees, adjustments, due dates

1. The user's license fee for a personal account for prometheus costs 30 EUR for one year.
2. The service is free for users who have a valid institutional membership of prometheus, or who are members of the prometheus Association.
3. There is no VAT on the user's license fee. prometheus as a non-profit project is exempt from VAT.
4. The user license fee can be paid directly via an online payment service. Optionally the user can obtain an e-mail invoice, which must be disbursed including administrative fee within thirty days of receipt. Decisive is the respective date of invoice.
5. The license fee is used solely to cover prometheus' operating costs. It is not connected to the site content, which is provided by the individual contributors free of charge.
6. License holders can only make claims against prometheus, if they are undisputed or legally confirmed. The license holders are not entitled to lien rights against prometheus.

7. Underaged users need the permission of their parents to purchase a single license.

4. User account arrangements

1. User accounts are time-limited. After this delay it terminates automatically and will be deactivated. It is incumbent on allocating institutions to arrange the validity period of user accounts. To avoid the loss of individual research and project data the account and respective user data will only be deleted on request.
2. Administrators must have a license with prometheus before they can distribute accounts. prometheus institutional user account holders may create personal prometheus accounts for staff and students of the institution. The institution is responsible for ensuring that they belong to the respective institution.
3. Personal account holders may not establish prometheus accounts for others.
4. Accounts are not transferable.

5. Upload of image data

1. prometheus provides user accounts holders the possibility to upload own image data. These can either be used only for private research purposes or also made available to other persons or all users.
2. Users confirm that the publication does not impinge upon a third parties' rights. prometheus accepts no responsibility for legal breach of any kind arising from tcopyright infringement or violation of user's rights. In case of any such legal breach, the user is the sole responsible party and shall be liable for any indirect, consequential, special, exemplary or incidental damages that might be claimed by third parties.
3. The images are provided free of charge by users for purposes of research and studies.
4. Users must consider obligatory metadata of the objects. In particular users obligate to name at least the record credits, best the annotation of copyright.
5. Users assure to upload images only in context of research and studies.
6. Only images of sufficient quality for screen presentations will be considered for approval for all users.

6. Warranty, liability

1. Technical defects will be rectified by prometheus within the normal time-frame for maintenance service, after a notification is received from the license holder. Liability regardless of negligence or fault as per §536a BGB is excluded.
2. User fees will be adjusted in favour of the user in the case of major server disturbances, but not for minor server down-time or maintenance work. If a disturbance continues for a month or more, both users and prometheus can cancel their contractual obligations with immediate effect and without notice.

3. Irrespective of the legal cause of action, prometheus is liable for damages of no more than five times the user license fee, calculated on the amount of the fee in the year when the damage claim arises. Liability for loss of data is restricted to the typical time and effort needed which would have been required to secure daily backup copies of the data in question. The compensation limit does not apply in the case of deliberate acts or gross misconduct or if liability is assumed in the case of threat to life, bodily injury or injury to health or mandatory liability under product liability laws.

4. prometheus takes no responsibility for direct or indirect damage arising from any information or connection to information presented on the website including the web application.
5. prometheus takes no responsibility for the nature or content of any websites accessible via links from the website including the web application.

7. Contract duration, cancellation

1. Having obtained a single license, the personal account is limited to one year after activation. After this delay it terminates automatically and will be deactivated. It will only be extended after the next payment. There is no cancellation necessary. To avoid the loss of individual research and project data the account and respective user data will only be deleted on request.
2. prometheus has the right to cancel personal accounts without notice if users grossly fail to comply with the service's terms of use, in particular payment conditions or copyright requirements associated with images and media files obtained from the archive.
3. An important reason for users to cancel their account without notice arises if a disturbance in the service cannot be rectified within one month.
4. All cancellations must be in writing.

8. Logfiles

1. Logfiles will be retained for seven days. Legal foundation for the temporary storage of data and logfiles is Art. 6 Rec. 1 lit. f GDPR because of the legitimate interest of the University of Cologne to detect and resolve technical disturbances and optimize its services. The analysis of data is not personalized and doesn't serve marketing purposes. It is only to determine usage statistics.

9. Miscellaneous

1. The place of the agreement and the place of jurisdiction for any claims arising from the agreement is Cologne, the location of the service provider.
2. Unless otherwise indicated German law applies and in particular, German copyright law.

Cologne, 24 May 2018

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