

This is a sample contract (as of April 2020)

Please contact datadeposit@dzhw.eu if you plan to archive data or have related questions.

Contract regarding the provision of data

This sample contract was created to regulate the contractual relationship with the DZHW GmbH and is not transferable to other contractual relationships without prior legal examination.

between

Deutsches Zentrum für Hochschul- und Wissenschaftsforschung GmbH

Lange Laube 12, 30159 Hanover

represented by its administrative director Karen Schlüter and its scientific director Prof. Dr. Monika Jungbauer-Gans

in the following called "RDC / DZHW GmbH / archive"

and

Title, first name, surname Only fill out with contract with persons, otherwise delete cell	
Or	
Institution (if applicable, faculty and subproject):	
Represented by:	
Address:	
Phone:	
E-mail:	

in the following called "data providing party"

Preamble

The Research Data Center of Deutsches Zentrum für Hochschul- und Wissenschaftsforschung GmbH is a provider of a data archive. The aim and purpose of this archive is the comprehensive documentation and long-term archiving of quantitative and qualitative primary data in the field of higher education and science research as well as their provision for usually scientific purposes. Further purposes are possible, provided that this does not conflict with data protection aspects and data providers so desire. The principles of the German Research Foundation (DFG) for securing good scientific practice (1998) are recognised as a generally accepted underlying attitude by all those involved. The RDC works according to the criteria of the Council for Social and Economic Data (RatSWD) for research data centres (1 June 2017).

Definitions

Metadata	Data describing the studies and data(e.g. project title, project participants, questions, supporters, research design, methods of data collection, collection instruments).
Archive material / data / contractual object	<p>Material that is handed over to the RDC for the purpose of archiving.</p> <p>This may be data collected through qualitative or quantitative data collection techniques (e.g. interview data, survey data, observation logs) as well as collections of documents, scripts and documentation material.</p> <p>The material is handed over by the data providing party to the RDC and, if applicable, further processed by it if necessary.</p>
Scientific public	Persons belonging to a scientific institution (university, tertiary education establishment, (non-university) research institute).
Data users	Persons who are authorised to use the data on the basis of a user agreement concluded with them.

§ 1 Subject of the contract

- (1) The subject of this contract is the provision of the data and documentation mentioned in Annex 1. The data providing party provides the RDC with the data and documentation materials specified in Annex 1 for the purpose of documentation, archiving and forwarding.
- (2) The subject of the contract may be subsequently extended in writing. In this case, §§ 2-10 apply accordingly.

§ 2 Rights and obligations of the data providing party

- (1) The data providing party guarantees that it is, as the holder of the rights, entitled to grant DZHW the rights of use required for the uses agreed above. In addition, they guarantee that the rights to which DZHW is entitled are not encumbered with the rights of a third party, no third party is entrusted with their performance and that no dispositions contrary to these rights have been made so far. The data providing party indemnifies the DZHW from any claims based on breach of the above guarantee. The data providing party will provide the DZHW with all necessary support in the case of a breach of the guarantee, including, in particular, the assumption of the costs of an appropriate legal defence. Appropriate means, for example, that the legal defence would not be obviously unsuccessful and the agreed fees, unless they are stipulated by law, correspond to the average of that usual in the specialist field.
- (2) The data providing party remains the holder of their rights of use. It reserves the right to use and publish the materials and datasets covered by this contract elsewhere.

§ 3 Degree of anonymisation of the data to be transferred

The data providing party confirms the following:

- (1) The data are transferred to the RDC as anonymised data. .
- (2) If, unlike (1), the data providing party submits personal data to the RDC and has them passed on to third parties, the data providing party confirms the existence of consent declarations that explicitly permit this.
- (3) As far as the data providing party cannot provide the anonymisation itself, it grants the RDC a separate order, within the scope of a job processing, to carry out these steps. After anonymisation, the RDC will delete the transmitted personal data immediately and notify the data providing party of the deletion.

§ 4 Publication of metadata

The RDC acquires the right to document the data using metadata in a suitable form, preferably in an electronic database, and to publicise the metadata in general. Examples include the integration in browser and search function within and between studies in the web-based information portal of the RDC. The data providing party expressly agrees to this form of publication.

§ 5 Data storage

- (1) According to the state of the art, the RDC endeavours to save the data set and the associated materials in the long term and to protect them by suitable measures against physical ageing of the data carrier and ageing with regard to form. There is no guarantee.
- (2) For editing and inclusion in the database the name of the study is defined in writing by the names of the primary researchers and the study title.
- (3) The data providing party agrees that the data for the purpose of long-term archiving at the earliest after ten years can be handed over to a suitable institute, insofar as the RDC considers this to be necessary.
- (4) Upon request, the data providing party receives a copy of its archived data free of charge after completion of the data transfer by the RDC and at a later date.

§ 6 Processing of data / transfer of rights of disposal and use

- (1) The data providing party transfers the right to use the data to the archive (Annex 1), in particular
 1. systematically archive the data and texts and prepare them for the purpose of long-term physical backup and further evaluations. The archive can use all appropriate technical means, formats and methods. If the RDC considers the anonymisation measures carried out to be too weak, the RDC is free to carry out additional anonymisation measures at its own discretion.
 2. to digitise the texts belonging to the study, if not available in digital form, and make them publicly accessible as print and digital media including the online offer, unless otherwise agreed, also for download.
- (2) The RDC is basically interested in the simplest possible provision of the data in the interest of the data users. However, the data providing party may also agree to a limitation of the data access routes with the RDC (see § 7 passage 2 of this contract). If necessary, this may be necessary to ensure the anonymity of data for scientific use from the combination of

statistical anonymisation measures and additional technical safeguards (see § 3 of this contract).

- (3) For the purposes mentioned, the data providing party transfers all necessary rights of use to the RDC, in particular the reproduction right (§16 UrhG) as well as the right to ensure public access (§19 a UrhG). The granting of the right of use takes place without any restriction with regard to geography or time.
- (4) As part of its activities, the RDC may use the help of third parties.

§ 7 Disclosure to third parties

- (1) The datasets listed in Annex 1 (including the relevant documentation and the metadata) may be made available for secondary analysis from the following dates at the earliest.

Serial number of the data in Annex 1	Distribution from the following dates at the earliest (date specification dd.mm.yyyy, if only month or year are specified, the first day of the month/ year will be adopted)

- (2) The documentation and the metadata are made available for research purposes for download or used for metadata searches. The data listed in Annex 1 can be made available through the following means of delivery. The numbers in the following table refer to the serial numbers in the table in Annex 1. The listet data can be provided through one or more of the following data access paths:

Serial number of the data in Annex 1	Provisioning path and necessity of a data usage contract
	Campus Use File as a download (or equivalent technical data transfer form) without / after (please delete that which does not apply) conclusion of a data usage contract
	Scientific Use File as a download (or equivalent technical data transfer form) after conclusion of a data usage contract
	Scientific Use File via Remote Access (synonymous Remote Desktop) after conclusion of a data usage contract
	Scientific Use File via visiting researcher workplace on site in the RDC (synonymous on-site) after conclusion of a data usage contract

- (3) The data providing party agrees that the data mentioned in Annex 1 may be used by the following groups of use for the purposes mentioned. At the same time, the data providing party hereby confirms that the named user groups and purposes of use are permitted under the terms of data protection law:

- scientific public for secondary analysis and teaching purposes (irrespective of the research topics of the original research project)

(4) The RDC undertakes to regulate the use of the provided data in a user agreement for the use of scientific use file, remote access and guest researcher workstations. The user agreement takes into account the following points:

- The data user undertakes to use the data used by it as well as the associated materials exclusively for the named purpose. A transfer of the provided material is not permitted.
- Data users may post scientific findings based on the data. The data user undertakes to designate both the data providing party and the RDC in an appropriate manner for each publication that is based in whole or in part on the data material and the associated material.
- The data user undertakes to inform the RDC promptly about publications that have arisen through the use of the data provided.
- The data user undertakes not to make any attempts to re-identify and contact the test persons without written permission of the data providing party and not to pass on or publish information that may lead to the re-identification of the subjects.

(5) The RDC commits its employees, representatives and other vicarious agents in writing to compliance with data protection regulations and confidentiality.

§ 8 Privacy

The RDC and the data providing party undertake to comply with the relevant data protection regulations in the case of personal data, in connection with the implementation of this contract. In particular, the data providing party declares to have complied with any data protection regulations of other countries in which the data was collected in connection with the granting of the use. In the event of data protection concerns, the RDC reserves the right to propose and implement suitable anonymisation measures.

§ 9 Disclaimer

The RDC and the data supplier are liable to each other for all resulting damages for whatever actual or legal reason, unless otherwise regulated in the present contract, only in accordance with the following provisions:

- In case of intent or injury to life, limb and health, both contracting parties are liable in accordance with the statutory provisions.
- In the case of gross negligence, the liability of the contractual partners is limited to typical, foreseeable damage; this limitation does not apply insofar as the damage was caused by the organs of the contractual partners.
- In the case of simple negligence, the contracting parties shall only be liable if a material obligation has been breached or there is a case of impossibility for which one of the contractual partners is responsible. In these cases the liability is limited to the typical, foreseeable damage. An essential obligation in the sense of this regulation is a duty, the fulfilment of which makes the proper execution of the contract possible in the first place and on the compliance of which the parties may regularly rely.

§ 10 Legal succession

The data providing party transfers all rights granted to the RDC under this contract to the archived data named in Annex 1, even in the event of the occurrence of the following events:

- Death of the data providing party
- Closure of the institution providing the data

§ 11 Contract start, duration and termination

- (1) The contract enters into force upon signature by both contracting parties and is concluded for an indefinite period.
- (2) Each Contracting Party has the right to unilaterally terminate the contract with a notice period of six months to the end of the month. The termination must be in writing. Once the termination has been received in a valid manner, the RDC will no longer conclude new data user contracts.
- (3) The termination has no influence on already concluded data use contracts of the RDC with data users. The liabilities from such contracts will continue to be fulfilled by the RDC despite the termination by the data providing party.

§ 12 Final provisions

- (1) All agreements between the parties are contained in this contract and its annexes. No further agreements exist. Collateral agreements, assurances and changes to this contract must be in writing and confirmed by the DZHW management in order to be effective unless they are made in accordance with powers of attorney granted by law.
- (2) Should one or more of the provisions be or become ineffective, the parties are obliged to replace them immediately by means of a supplementary written agreement with such an agreement which comes closest to the economic result of the invalid provision. The validity of the remainder of the contract remains unaffected.

§ 13 Jurisdiction

For all disputes arising from the execution of this contractual relationship, the registered office of the DZHW is the place of jurisdiction, provided that the data providing party is a merchant, a legal entity under public law or a public law special fund. German law applies.

Hanover, (date) _____

place / date: _____

 Prof. Dr. Monika Jungbauer-Gans
 Scientific Managing Director
 Deutsches Zentrum für Hochschul- und
 Wissenschaftsforschung GmbH

 Data providing party:

Hanover, (date) _____

Karen Schlüter
Administrative manager
Deutsches Zentrum für Hochschul- und
Wissenschaftsforschung GmbH

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