Research Data Unit: Archiving and publication agreement

Between

Name: _____

Contact (email/phone)**:** _____

Institution: _____

(hereafter referred to as the "data provider") and the Research Data Unit (RDU) as operator of heiDATA (in the following referred to as "RDU") the following contract is agreed:

§ 1 Subjectmatter of the contract

(1) The Research Data Unit (RDU) is a joint service institution of the University's Computing Center (Universitätsrechenzentrum (URZ)) and the library of Heidelberg University. The RDU operates the institutional research data repository heiDATA (https://heidata.uni-heidelberg.de/), in order to support academics of Heidelberg University as well as authors and editors of publications on Heidelberg University Library's publication platforms with the archiving and publishing of their research data according to the Research Data Policy of Heidelberg University (http://www.uni-heidelberg.de/universitaet/profil/researchdata/).

(2) The data provider is owner or other rights holder of the provided data, and where available all explanatory documents (e.g. questionnaires, descriptions of methodology, project reports), and sole owner of the right of use for the purpose of reproduction and publication.

(3) The data provider supplies the RDU with the following data:

_____

and, where applicable, explanatory documents as well as the metadata which has been created in coordination with the involved authors and producers.

§ 2 Right of use

(1) The data provider grants to RDU the non-exclusive and in respect of time and place unlimited right to use the data, and where applicable additional documents, within the framework of the repository heiDATA. In particular, the right of use comprises the reproduction, adaptation/ transformation and the publication of the data.

The RDU has the right,

a. to systematically archive and transform the data and additional documents for the purpose of long- term storage and further evaluation. In this regard, the RDU is authorized to use all appropriate technical means, formats and methods:

b. to digitize related documents if not present in digital format and to make them publicly available within the framework of the research data repository heiDATA, also through download, if not stated otherwise:

c. to make publicly available the data and documents according to the Open Content License chosen by the data provider in the appendices of this agreement:

	Without any technical restriction on access from the time of delivery *For suitable license please see appendix*	⬭
Accessibility of the complete data	**Technical restriction on access until [Date] _____ [DD.MM.YY.]** *Before this date the data provider can apply in writing to the RDU for an extension or shortening of the term. For suitable license please see appendix*	⬭
Exception from access	**Technical restriction on access for parts of the data** *If parts of the data shall be exempt from access, please indicate using a separate appendix.*	☐

(2) The data provider warrants that he/she has full power to dispose of the rights relating to the data and documents in accordance with the requirements of § 1 of this agreement. This applies for the time of the agreement. The data provider also warrants that the use of the data according to the agreement will infringe neither against existing law, nor upon the rights of any third parties.

(3) The data provider fully indemnifies the RDU from all legal claims, including legal fees that might be incurred due to the use of these rights by the RDU according to the agreement.

(4) If the data provider has evidence for breach of law or of the rights of any third parties, he will inform the RDU immediately and if necessary adjust the data accordingly and/or support the RDU in the defence against claims of any third parties. The data provider has to bear the costs.

(5) The data provider agrees to the reproduction, archiving, and transformation for the purpose of long-term storage and making available to the public, of the metadata which relate to the supplied data.

(6) The data provider assents to the transfer of the data into successor systems and/or further long-term archival systems of any third parties where necessary and to grant the relevant rights of use thereof within the framework of the purpose of the agreement.

§ 3 Data protection

(1) The data provider guarantees that the provided data, and where supplied explanatory documents, do not contain any personal data in the sense of the existing data protection law.

(2) The data provider assures that the metadata has been created according to the data protection law.

§ 4 Archiving and publication

(1) The RDU is responsible for the free storage of the supplied data in the original and/or accordingly adapted format for a minimum period of 10 years, and with regard to the applicable guidelines for the archiving of research data. The data provider will be granted access to the supplied data upon request.

(2) The RDU may within the framework of its activity use the support of any third parties.

(3) The RDU publishes the supplied data on the agreed date and according to the license chosen by the data provider.

§ 5 Legal succession

(1) In case of a legal succession with regard to the provided data the data provider will inform the RDU and name the successor.

(2) In the following cases in particular:
   (a) demise of the data provider or
   (b) closing of the institution which supplied the data or
   (c) the disposition of the data provider cannot be reconstructed

if the legal succession is not clearly traceable, all rights to the provided data and all supplied additional documents are passed on to RDU as the fiduciary.

§ 6 Liability

(1) The liability of the RDU is limited to deliberate intention and gross negligence in connection with the process of archiving in executing the agreement. The RDU is not liable for any damages or disadvantage caused by users or any third parties.

(2) The RDU commits itself to rendering all services with care and with the best technology currently available. No liability [legal] is assumed, especially in terms of the realisation of certain functions of heiDATA, their usability for certain purposes, the accuracy or completeness of the contents.

§ 7 Final provisions, applicable law

(1) Any amendment/modification/alteration of and addition to the agreement needs to be made in written form. This also applies to the exclusion of the written form.

(2) The agreement is subject to the law of the Federal Republic of Germany.

(3) Heidelberg is the chosen Court of jurisdiction for all disputes.

(4) The nullity or invalidity of individual terms of this contract leaves the validity of the remaining terms unaffected. The parties are bound to replace the insufficient clause with a regulation which comes as close as possible to the existing one in actual, economical and legal respect. This also applies if there is a gap in the contract.

For the RDU: For the data provider:

_____   _____

(Date, Signature)   (Date, Signature)

Appendix I: Standardised licenses

The data provider is required to be the right holder and able to grant all relevant rights of use in order to make available the supplied data under an Open Content License.

Contractual or legal regulations may not oppose an Open Content License. Material not protected by copyright law (e.g. scientific raw data, facts, findings) are to be either excluded from licensing or marked accordingly.

1. **Open Data Commons (ODC)**

    These licenses were developed by the Open Knowledge Foundation (OKFN) especially for the clearing of data and were provided in 2010. Licensed are especially the rights of the producers of databases (§§ 87a ff. UrhG). If the contents of the licensed database are under copyright these contents have to be licensed separately. In contrast to the CC-License the ODC contains an additional contractual component for the licensing of the rights of the producers of databases.

License type	Link to license text / Description	Selection
Open Date Commons Attributions License (OCD-BY) (v. 1.0)	http://opendatacommons.org/licenses/by/ *(Terms for name entry)*	☐
Open Date Commons Attributions License (ODbL) (v. 1.0)	http://opendatacommons.org/licenses/odbl/ *(Transfer under same terms and conditions)*	☐
Database Contents License (DbCL)	http://opendatacommons.org/licenses/dbcl/ *(Transfer under same terms and conditions also for database contents)*	☐
Open Data Commons Public Domain Dedication and License (PDDL) (v 1.0)	http://opendatacommons.org/licenses/pddl/ *(Disclaimer or unconditional license)*	☐

FAQ: http://opendatacommons.org/faq/licenses/

2. **Creative Commons License (Version 4.0)**

    This license was developed by the Creative Commons Initiative in 2001. Its modular concept enables the licenser to grant usage on a variety of different levels. CC Licenses cover copyright and related copyrights. The current version (4.0) also covers the rights of the production of databases in those countries where such a right exist.

License type	Link to license text / Description	Selection
CC BY 4.0	http://creativecommons.org/licenses/by/4.0/ *(Attribution)*	☐
CC BY-SA 4.0	http://creativecommons.org/licenses/by-sa/4.0/ *(Attribution, distribution under same terms and conditions)*	☐
CC BY-ND 4.0	http://creativecommons.org/licenses/by-nd/4.0/ *(Attribution, no derivatives)*	☐

CC BY-NC 4.0	http://creativecommons.org/licenses/by-nc/4.0/ (Attribution, no commercial use)	☐
CC BY-NC-ND 4.0	http://creativecommons.org/licenses/by-nc-nd/4.0/ (Attribution, no commercial use and no derivatives)	☐
CC BY-NC-SA 4.0	http://creativecommons.org/licenses/by-nc-sa/4.0/ (Attribution, no commercial use and distribution under same terms and conditions)	☐

FAQ: http://opendatacommons.org/faq/licenses/

3. **Other license (e.g. GNU FDL, DPPL):**

_____

_____

Version: _____

4. **Recommendation:**

From the RDUs point of view, the CC BY License provides the best guarantee, up to this date, for the open usage of the supplied data in accordance with the open access and open science requirements.

Restrictions via 'ShareAlike-Component' can lead to incompatibilities with further licenses and may hinder collaborativevwork. Also, **CC BY-ND** or **CC BY-NC** may overly restrict potential usage – especially in the academic context (see: Klimpel, Paul, Folgen, Risiken und Nebenwirkungen bei nicht-kommerziellen CC-Lizenzen [2012]).

Appendix II: Exceptions from the accessibility of parts of the data according to § 2 Abs. 1 c) of the archiving and publication agreement

The following data parts are exempt from access and marked with a technical access restriction (description of the data part [file name]):

The restriction of access applies:

◯ Permanently

◯ Until _____ [DD.MM.YY.]

Before elapsing the data provider can apply to the KDF in writing for an extension or shortening of the term.

For selection of the appropriate license please see Appendix Standard licenses.