

Transfer and Licence Agreement

Agreement Type SU 1.5

entered into by and between

[Name]

[Address]

[if applicable, represented by:.....]

[Email address]

[Phone no]

[Date of birth]

– hereinafter referred to as '**Licensor**' –

and

the

University of Vienna, Universitätsring 1,
1010 Vienna, Austria

represented by the Library and Archive Services service unit of the University of Vienna, which is in turn represented by Ms Maria Seissl, acting on behalf of the Core Facility AUSSDA – The Austrian Social Science Data Archive

– hereinafter referred to as '**AUSSDA**' –

hereinafter also referred to collectively as '**Parties to the Agreement**'.

Preamble

The Licensor is in possession of the archived records – described in more detail in the Appendix – which are intended for archiving and reuse. In the context of this Agreement, the term 'archived records' shall refer to immaterial goods that are available in machine-readable formats and are, as such, merchantable irrespective of a carrier. This particularly applies to any type of data relating to social sciences, as well as accompanying documents such as codebooks, methods reports, questionnaires (hereinafter referred to as '**archived records**'), as well as the pertinent metadata (hereinafter referred to as '**metadata**').

The Core Facility AUSSDA – The Austrian Social Science Data Archive is a social science research infrastructure. AUSSDA is the Austrian representative in the Consortium of European Social Science Data Archives (CESSDA ERIC). The objective of AUSSDA is to establish a platform for storing, archiving and making available archived records of the social sciences, in accordance with international standards, in order to make the said archived records findable, accessible, interoperable and reusable (hereinafter referred to as '**archive**').

Appendixes 1-3 shall be an integral part of this Agreement.

In addition to this Agreement, the AUSSDA Terms of Service, which are available on the website <https://ausdda.at/en/terms-of-service/>, shall apply.

1. Subject of Agreement

1.1. The subject of this Agreement comprises the transfer to AUSSDA, as well as the use, of the archived records specified below and in Appendixes 1 to 2.

(Please add project titles or study titles of the archived records. This is the joint title of all archived records under this Agreement.)

1.2. The term 'transfer' shall also apply to any digital transmission that does not require a physical transfer – for instance, on a data carrier.

1.3. Data carrier: *[Type of data carrier or alternatively: 'Digital transfer without a data carrier']*

1.4. Bibliographic information of the main dataset: Jennifer Smith; Jon Doe. (YYYY of publication).
Title of study [dataset]. Vienna: AUSSDA

2. Licensor's obligations

2.1. The Licensor shall license the archived records to be transferred to AUSSDA in accordance with the following provisions or dedicate them to the public domain under CC0 1.0 Universal Public Domain Dedication:

a) Creative Commons CC0 1.0 Universal (CC0 1.0) Public Domain Dedication:

- Pertinent metadata. In this context, the term metadata shall refer to information as described in the metadata schema in the version used by AUSSDA. This also includes summaries (abstracts) and information extracted or aggregated from the archived records that further describe the data, particularly names of variables, descriptions of variables, descriptions of the dataset, the number of variables in the dataset, the number of cases in the dataset, and aggregated descriptive statistics at the variable level – for instance, mean values or standard deviations.
- Archived records in accordance with Appendix 1.

The applicable legal text is available at:

<https://creativecommons.org/publicdomain/zero/1.0/legalcode>.

b) Creative Commons Attribution 4.0 International:

- Archived records in accordance with Appendix 1.

The applicable license text is available at:

<https://creativecommons.org/licenses/by/4.0/legalcode>.

c) Licence for use for exclusively scientific purposes:

- Archived records in accordance with Appendix 2.

The applicable license text is available in Appendix 3 and under <https://www.aussda.at/en/contracts-and-licenses/> and shall be an integral part of this Agreement.

2.2. The archived records shall be transferred to AUSSDA within _____ from the date of signing the Agreement.

2.3. Should the archived records be modified and/or edited by AUSSDA before or after they have been made available to the public, the provisions of this Agreement shall also apply with regard to all and any modified or edited versions of the said archived records.

2.4. Should the archived records have been transmitted to AUSSDA on a data carrier, AUSSDA shall also become the owner of the said data carrier.

2.5. The Licensor shall guarantee that they are entitled to dispose of the rights that have been transferred under this Agreement and that the subject of this Agreement is not encumbered by any rights of third parties. At present, no rights of third parties that would be contrary to granting the said rights are known to the Licensor.

2.6. The Licensor hereby gives an assurance that all and any data protection regulations have been taken into account when collecting and compiling the archived records.

2.7. The Licensor hereby gives an assurance that the archived records have been collected or created in conformity with the principles of good academic practise and in conformity with ethical principles.

2.8. The Licensor shall indemnify AUSSDA against any claims, particularly claims due to copyright violations or violations of personal rights, as well as the right to data protection, that third parties might assert against AUSSDA due to the use of the said rights as agreed upon. In this respect, the Licensor shall also bear the cost of any legal procedures that AUSSDA may incur in connection with contesting claims asserted by third parties.

2.9. The Licensor shall immediately notify AUSSDA of any actual or impending violation or infringement of the rights granted to AUSSDA under this Agreement.

2.10. AUSSDA shall be entitled to sublicensing. AUSSDA shall be entitled to transfer any rights and obligations under this Agreement to third parties and to sublicense the said rights and obligations.

3. Archiving

3.1. AUSSDA will store the archived records and, in accordance with the licenses granted by the Licensor under 2.1., make them available to the public or to a well-defined group of persons.

3.2. AUSSDA will view and examine the archived records with regard to comprehensibility of the documentation as well as conformity with technical requirements as to the formats in which the archived records have been transferred, stored and made available. AUSSDA shall reserve the right to, whenever necessary, correct, improve and add to the archived records in order to assure their quality. AUSSDA shall not guarantee the correctness of the data included in the archived records and will not assume ownership due to such an examination. Should it become apparent in the course of viewing the archived records that they are not suitable for archiving, AUSSDA shall not be obliged to include the said archived records in its archives and can return or retransmit them to the Licensor within an appropriate period of time. AUSSDA will at no time examine the archived records with regard to the lawfulness of data collection or of the data as such and the results obtained from them ('legal examination').

3.3. With regard to the relationship between AUSSDA and the Licensor, the following shall apply: The Licensor shall grant AUSSDA the unilaterally irrevocable, non-exclusive right, free of charge and unlimited with regard to time and place and transferable to third parties, to use the archived records transferred in full or in part at its discretion, and in particular to reproduce, publish, disseminate, send, archive, make available to the public through wireless or wired technology, edit the said archived records, and in particular combine them with other archived records and metadata and carry out any modifications that are necessary for assuring the quality of the said archived records and metadata or for technological reasons or in regard to archiving requirements. The Licensor shall also grant AUSSDA those rights of use that will be necessary due to future technological developments or changes in the applicable legislation.

3.4. AUSSDA shall be entitled to block or delete archived records and metadata that have been stored whenever they are, for objective reasons, not suitable for archiving, or for being made available. Should archived records and metadata be blocked or deleted, fundamental metadata that indicate the prior existence of the said archived records and metadata will continue to be visible.

3.5. After the archived records and metadata have been transferred and stored, the Licensor can no longer demand the deletion of the archived records and metadata, unless the Licensor can assert a serious reason that cannot be complied with by blocking the said archived records and metadata.

3.6. In order to ensure the long-term storage and availability of the archived records and metadata transferred, AUSSDA shall be entitled to conclude agreements and take measures to that effect. The Licensor shall agree that the rights under this Agreement may be transferred for the said purpose at any time. This shall particularly apply in the event that AUSSDA is dissolved or can no longer pursue its original objective. AUSSDA reserves the right to commission third parties to make the said archived records and metadata available.

3.7. Archiving will take place without giving any warranty, particularly with regard to the duration of archiving and the availability of archived records and metadata.

4. Duration of the Agreement

4.1. This Agreement shall enter into force after being signed by both Parties and shall be of unlimited term, and may be exclusively terminated by AUSSDA.

5. Final provisions

5.1. The Parties to the Agreement shall, in accordance with the applicable provisions of data protection law, agree to a mutual communication of data to the other Party and to the processing of the said data by the Party, both during the term of this Agreement and afterwards, to enable the Parties to the Agreement to examine compliance with the terms of this Agreement.

5.2. This Agreement shall conclusively define the legal relationship between the Parties to the Agreement. Upon signing this Agreement, any other agreements concluded, or declarations of intent or confirmations of notice given before or at the time of the conclusion of this Agreement, as well as any other circumstances of legal relevance, shall cease to be effective.

5.3. Any notification stipulated under this Agreement or provided by law shall be deemed delivered on the day on which the said notification has arrived at the respective email address of the other Party to the Agreement.

5.4. Any change of email address or postal address shall expressly be communicated to the other Party to the Agreement in writing and shall become effective one week after arrival at the address of the other Party to the Agreement.

5.5. Any changes and amendments to this Agreement including this clause shall be made in writing and signed by both Parties to the Agreement. Any appendixes and additions to this Agreement shall also require a written appendix, which will then be regarded as an integral part of the Agreement and shall be drawn up as such.

5.6. Any legal questions arising from or relating to this Agreement, including the question of its effective conclusion and its effects produced in advance or afterwards, shall be governed by Austrian law, excluding its rules of conflict of laws.

5.7. The Parties to this Agreement agree that, in the event of any disputes due to or in connection with this Agreement, including the question of its effective conclusion and its effects produced in advance or afterwards, the court with competence for Vienna, inner city, Austria, regarding the subject matter shall be the exclusive place of venue. A-1010 Vienna, Austria, shall be the exclusive venue in accordance with the Brussels I Regulation.

5.8. Austria shall be the place of performance (including in accordance with Brussels I Regulation, Art. 5).

5.9. Should any provision of this Agreement be legally ineffective or unenforceable, this Agreement as such and the remaining provisions shall continue to be effective and enforceable. Any ineffective or unenforceable provision shall be replaced by a provision which is as close as possible to the economic result of the legally ineffective or unenforceable provision, and which is legally effective and enforceable and as closely as possible reflects the intent of the Parties to the Agreement at the time of concluding this Agreement.

5.10. The original of this Agreement has been drawn up in German. The German version shall be the authentic one and prevail over the English one in all matters of interpretation and construction.

On behalf of the Library and
Archive Services service unit
of the University of Vienna:

Ms Maria Seissl, head of
Library and Archive Services
of the University of Vienna,
acting on behalf of the Core
Facility AUSSDA – The
Austrian Social Science Data
Archive

On behalf of the Licensor:

[Name]

Place, date Signature

Place, date Signature

Appendix 1

Further details of the archived records published under the **CC0 1.0 Universal (CC0 1.0) Public Domain Dedication**

The archived records include, in particular, the following files and information:

Pertinent metadata.

Data:

- main dataset, which includes, in particular, the following files: [*file name 1, file name 2, etc.*]
- further data, which include, in particular, the following files [*list with file names, e.g. files that may be added for specific analyses; this can include additional cases and/or variables.*]

Documentation:

- methods report [*file name*]
- data collection instrument [*file name*]
- code book [*file name*]
- programme code (e.g. syntax, scripts) for data preparation
- programme code (e.g. syntax, scripts) for analysis
- data management plan at the time of application
- declarations of consent used [*informed consent*]
- if applicable, further files [*file name*]

Further details of the archived records published under the **Creative Commons Attribution 4.0 International License**

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- data management plan at the time of application
- declarations of consent used [*informed consent*]
- if applicable, further files [*file name*]

Appendix 2

Further details of the archived records intended for scientific use

The archived records include, in particular, the following files and information:

Data:

- main dataset, which includes, in particular, the following files: *[file name 1, file name 2, etc.]*
- further data, which include, in particular, the following files *[list with file names, e.g. files that may be added for specific analyses; this can include additional cases and/or variables.]*

Documentation:

- If applicable, further files *[e.g. CATI call records]*.

Appendix 3

Licence agreement for the use of archived records for exclusively scientific purposes

By using the archived records and metadata that have been made available on the platform, you agree to the license conditions below and give an assurance that you will use the archived records, after they have been made available, exclusively in accordance with the provisions laid down in the licence. Any metadata have been dedicated to the public domain under CC0 1.0 Universal (CC0 1.0) Public Domain Dedication. They can be used without any restriction.

In the context of this Agreement, the term 'archived records' shall refer to immaterial goods that are available in machine-readable formats and are, as such, merchantable irrespective of a carrier. This particularly applies to any type of data related to social sciences, as well as accompanying documents such as codebooks, methods reports, questionnaires (hereinafter referred to as 'archived records') as well as the pertinent metadata (hereinafter referred to as 'metadata').

1. Licensing

1.1. Under the terms of this license, the Licensor shall grant a non-sublicensable, non-exclusive, unilaterally revocable license, unlimited with regard to time and place and free of charge, to use and edit the archived records, in full or in part, at discretion, exclusively for a specific scientific purpose, and particularly to combine them with other archived records and metadata and carry out modifications. This license shall not include the right to publish, disseminate, send or archive the said archived records or make them available to the public.

1.2. The licensed archived records may be used, in accordance with this license, in all known media and formats now known or created in the future, and the necessary technological modifications for this purpose may be carried out.

1.3. Upon making available the said archived records, the Licensee receives an offer from the Licensor to use the archived records under the conditions of this license. By using the said archived records, the Licensee has accepted the Licensor's offer.

1.4. For accessing archived records, it may be necessary for the Licensee to specify the intended 'scientific purpose'. AUSSDA reserves the right to verify the said purpose. Should it emerge in the course of such verification that the purpose given is non-scientific, the archived records shall be returned and there shall be no legal basis for their use.

2. Other rights

2.1. Moral rights, such as the right of integrity, or the right of data protection and/or similar personality rights, shall not be affected by this license. However, the Licensor shall waive these rights or the enforcement of said rights to the limited extent that is necessary and possible for exercising the transferred rights.

2.2. This License shall not extend to patent and trademark rights.

2.3. Provided that there are no legal obligations, the Licensor waives any right to collect royalties for the use of the licensed archived records and metadata, whether directly or through a collecting society under any voluntary or waivable statutory or compulsory licensing scheme.

3. License conditions

3.1. The licensed archived records shall be exclusively used for a specific scientific purpose in accordance with this License. Their use for any other purpose shall not be permitted.

3.2. In the case of any type of use of the licensed archived records, either in full or in part, in adapted material or material based on the licensed archived records, reference shall be made to the licensed archived records. The form of citation specified by AUSSDA shall be observed. In the bibliography or list of referenced material, the following information shall, in particular, be provided in full: author(s), year, title, DOI, AUSSDA.

4. Exclusion of warranty and liability

4.1. Unless otherwise separately undertaken by the Licensor and to the extent possible, the Licensor offers the licensed archived records for use and editing. No representations or warranties of any kind concerning the licensed archived records are made, whether express, implied, statutory, or other, and any warranty, including statutory warranty, shall be excluded. This includes, in particular, warranties of title, merchantability, fitness for a particular purpose, non-infringement, absence of latent or other defects, accuracy, or the presence or absence of errors, whether or not known or discoverable.

4.2. To the extent possible, the Licensor shall not be liable for any losses, costs, expenses, or damage arising from this License or from the use of the licensed archived records and metadata, including in the event that the Licensor has been advised of the possibility of such losses, costs, expenses, or damage.

4.3. The exclusion of warranty and limitation of liability provided above shall be interpreted in a manner that, to the greatest extent possible, most closely approximates an absolute disclaimer and waiver of all liability.

5. Term and termination

5.1. In the event of non-compliance with the provisions of this License, the rights granted under this License shall terminate automatically.

5.2. Where the right to use the licensed archived records has terminated in accordance with para. 1, it shall reinstate:

- a) automatically as of the point in time when the violation has been remedied, provided that this has taken place within 30 days of the discovery of the violation;
or
- b) upon express reinstatement by the Licensor.

5.3. This section shall not affect the Licensor's right to demand compensation for the violation of this License.

5.4. Sections 3-6 shall also apply after this License has terminated.

6. Final provisions

6.1. This License shall not reduce, limit, restrict, or impose conditions on any use of the licensed archived records that could lawfully be made without permission under this License and shall not be interpreted to this effect.

6.2. Should any provision of this Agreement be legally ineffective or unenforceable, this Agreement as such and the remaining provisions shall continue to be effective and enforceable. Any ineffective or unenforceable provision shall be replaced by a provision which is as close as possible to the economic result of the legally ineffective or unenforceable provision, and which is legally effective and enforceable and as closely as possible reflects the intent of the Parties to the Agreement at the time of concluding this Agreement.

6.3. The terms and conditions of this License shall not be waived and no failure to comply shall be consented to unless expressly agreed to by the Licensor.

6.4. This License shall in no event lead to a waiver of any rights with regard to the archived records that the Licensor holds on a statutory basis, nor shall it be interpreted to that effect.