

Annex to the License Agreement

Terms and Conditions for the Use of Archive Material from the Archive “Forced Labor 1939-1945”

Preamble

The following Terms and Conditions contain rules on the contractual use of archive material from the archive “Forced Labor 1939-1945. Memory and History. A Digital Archive for Education and Research.” (hereinafter referred to as “archive”). They set forth the legally binding terms of the individual License Agreement signed with the Freie Universität Berlin, which is the legal requirement and contractual basis for the use of material from the archive.

1. Definitions

Subsequently, the following definitions will be used:

- material
Source material from the archive (video or audio interviews, images and texts in the form of files) provided by Freie Universität Berlin
- User
Person, institution or company that applies for use of material
- project
The use of material as described in the application
- product
A user-created product (print publication, media station, exhibition, software application, website, podcast, movie, etc.) in which parts of the material provided is integrated.

2. General Information

The archive contains video and audio testimonies of former forced laborers from the Second World War.

The archive is made available on the Internet by the Freie Universität Berlin on the basis of a cooperation with the Foundation “Remembrance, Responsibility and Future” (hereinafter referred to as Foundation). Within the scope of its rights of use, Freie Universität Berlin is authorized to make parts of the material available to third parties for non-commercial use for academic, research, and educational purposes.

3. Use of the Archive

The archive is accessible only for educational, teaching and research purposes, in particular for pupils, students, academics, as well as research and other public institutions. In addition, the archive may be made available to journalists, memory projects and private individuals for personal research purposes if a legitimate interest exists. Use of the archive requires explicit permission. In order to be activated for the archive, the research interest must be specified and correspond to the permitted use.

4. Property Rights

All contents of the archive are protected by copyright and personal rights of the interviewees, the interviewers, the Foundation and Freie Universität Berlin. The archive software is protected by the copyright of Freie Universität Berlin. It may be used under the terms of the GNU Affero General Public License 3.0.

5. Application for the Use of Archive Material

Any use of the material outside of the archive shall be subject to separate express permission. This requires a separate application in electronic form stating the purpose and scope of use. Upon successful review of the application, the User will be sent a License Agreement with the terms of use attached for signature. After Freie Universität Berlin has received the signed agreement, the materials will be made available in electronic form.

6. Permitted Use

- 6.1 If the application for use of the archive material is approved, the Freie Universität Berlin shall conclude a License Agreement with the User. This License Agreement regulates which material may be used and which rights and specific purpose of use the respective user has.
- 6.2 The User will be provided with the materials specified in the License Agreement (if available in image and sound) and, if applicable, the transcripts of the interviews, translations and biographies.
- 6.3 The User may use the archive material only within the scope of the rights of use specified in the License Agreement. The acts of use permitted to the User are specified in 6.3.1. - 6.3.4. Any change or extension of use requires the conclusion of an additional License Agreement with Freie Universität Berlin.

6.3.1 Editing the Archive Material

- The User is permitted to edit the material as follows:
 - Audio-video: Editing, adding elements such as panels, belly bands, subtitles
 - Images: Cropping of images, adding captions
 - Texts (transcription, translations, biographies, transcripts): Improving spelling and grammatical errors, linguistic smoothing according to usual academic standards.
- The User can integrate the material into other material to create a new product. The material can be converted into the required formats for this purpose
- The User is permitted to make copies during the editing process. Such copies must be fully and completely deleted after completion of the editing process. The archiving of material is strictly prohibited.
- The User is permitted to improve the reproduction of the materials (e.g. by color correction, filtering out background noise, etc.).
- The User is permitted to translate the materials into other languages. When translating, the User must ensure the correct reproduction of the content. Freie Universität Berlin reserves the right to revoke permission to use the material if the content is not reproduced correctly.
- The User is permitted to process and analyze the material with digital tools and software applications (digital humanities), if these are operated locally on the User's own computer or on servers of Freie Universität Berlin. Use of digital tools and software applications not operated locally or on servers of Freie Universität Berlin must be explained and specified in the application. Separate permission is required for the publication of language models trained with the material.

6.3.2. Disclosure of the Material

- The User is permitted to disclose the materials to a third party only in the context of editing for a project. He shall ensure that the material is shared by third parties only in the context of editing and that they are handled carefully according to the terms of the Freie Universität Berlin (e.g. secure storage in a protected area, etc.).
- The User is entitled to relinquish the material and edited version to a third party within the framework of the project. The provision of material to a third party must be stated in the project as well as clearly defined. The User must ensure that the material is handled carefully according to the terms of the Freie Universität Berlin.
- Third parties are not permitted to permanently store, archive or copy the material. A complete deletion of the material must be made no later than three months after the project according to the usage time stated in the License Agreement.

6.3.3. Publication of Material / Products

- The User must ensure that the material is not published out of context in a way that is not compatible with the dignity and right to privacy of the interviewees.
- The period of use of the material or product within a website or intranet specified in the project is limited to a maximum of 5 years, unless otherwise specified in the approved project. At the end of this period, a new written authorization is required.
- The Freie Universität Berlin shall receive a copy of the product created.
- The Freie Universität Berlin may publish a short description of the product on the website www.zwangsarbeit-archiv.de.

6.3.4 Presentation of Material / Products

- The User is permitted to present the project / products at educational institutions (schools, universities, institutions of political and historical education, museums, memorials, etc.) to the extent applied for.
- The User is permitted to present the project / product at events organized by the applying institution or other educational institutions without specifying the individual event.
- The User is permitted to present the project / product at academic meetings/conferences.

6.4 The User is only authorized to store and use the archive material for the period of time specified in the License Agreement. Permanent archiving and storage of the material provided is expressly prohibited. At the end of the period of use, the User must immediately delete the provided material and all copies

7. Personal Rights and Prohibition of Use

7.1 The User must always ensure that the personal rights of the interviewees are respected and that their sensitive data is not disseminated or their interests are not harmed when using the archive material provided.

7.2 Use of the archive material for advertising purposes, election campaigns or the like is prohibited. The misuse of archive material to defame the victims of National Socialism, deny National Socialist crimes, incite hatred, propagate racist or other prejudices is prohibited and will be reported to the police.

7.3 The User is prohibited to make direct contact with the interviewees based on the information obtained from the interviews. Such contact must be made exclusively via the Freie Universität Berlin which may arrange contact between the User and the interviewees.

7.4 The names of the interviewees may only be published anonymously with first names and the first letter of the surname. The anonymization refers exclusively to the textual descriptions of the interviews. If a full name is required for publication, this must be requested as part of the application for use. Freie Universität Berlin will inform the User whether this can be granted.

7.5 Without the consent of Freie Universität Berlin, the User is prohibited from processing or analyzing the material with applications that do not run locally or on servers of Freie Universität Berlin.

8. References

8.1 The provided archive material must be clearly identified as part of the archive “Forced Labor 1939-1945” with each use. This applies even if the material has been modified by the User. Unless otherwise agreed, the source reference is as follows:

- *Archive “Forced Labor 1939-1945*
- *First name first letter of surname, interview zaXXX, interview archive “Forced Labor 1939-1945”, <https://archiv.zwangsarbeit-archiv.de/en/interviews/zaXXX>.*

9. Liability

9.1 The User guarantees that the archive material will only be used within the scope permitted by the License Agreement including these terms of use. The User will take all necessary precautions to prevent misuse of the material and to ensure data security according to the current technological standards

9.2 In the case of misuse, the User will inform the Freie Universität Berlin immediately and assist them in the case of court or out-of-court enforcement of his rights, provide necessary information as well as any documents or the like, and indemnify the FU Berlin against claims by third parties.

9.3 If the User makes the material available to third parties, the User is directly liable to Freie Universität Berlin for any violations of the License Agreement and its Terms and Conditions.

10. Exclusion of Liability

10.1 Claims for damages against the Freie Universität Berlin are excluded, regardless of legal grounds, unless the Freie Universität Berlin, its legal representatives, or employees have acted with intent or gross negligence. This limitation of liability does not apply to claims for damages resulting from injury to life, limb, or health or the assumption of a guarantee of quality or fraudulent concealment of defects

10.2 The Freie Universität Berlin points out that the statements made in the interviews express solely the views and opinions of the interviewees and do not necessarily reflect those of the Freie Universität Berlin.

11. Termination of License Agreement

Should the User violate the License Agreement including these Terms and Conditions, the Freie Universität Berlin can terminate the agreement at any time without notice for cause. An important cause for termination exists in particular if the User uses the provided material beyond the permitted purposes of use, rights of use or period of use, violates the personal rights of the interviewees or fails to comply with the obligation to cite the source, or in the event of any other misuse of the archive material.

12. Applicable Law and Final Provisions

- 12.1 This contract is governed by German law, excluding the UN Sales Convention.
- 12.2 Changes and additions to the License Agreement/Terms of Use – including waiving formal requirements – must be made in writing and must expressly state that they constitute an amendment or supplement to the License Agreement / Terms of Use.
- 12.3 Should any provision of these Terms and Conditions or the other contractual documents be or become invalid, or should the License Agreement contain any loophole that need to be filled, the validity of the remaining provisions shall not be affected. The invalid provision shall be deemed replaced by a provision that comes closest to the meaning and purpose of the invalid provision in a legally effective manner. The same shall apply to any omissions. If Freie Universität Berlin waives enforcement of these Terms of Use in an individual case, this shall not constitute an amendment of these Terms of Use.
- 12.4 The place of performance is Berlin. If the User is a merchant, legal entity under public law, public-sector fund or has not domestic jurisdiction, the exclusive place of jurisdiction for all disputes arising from this contract is Berlin.