

Terms and Conditions of 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 of Use contain rules on the contractual use of archive materials 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 user 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 the operator
- User
Person, institution or company that applies for use of materials
- Archive Operator
Freie Universität Berlin (in cooperation with the Foundation “Remembrance, Responsibility and Future”)
- Projects
The use of material as described in the application
- Product
A user-created product (print publication, media stations, software applications, movie, etc.) integrated into parts of the provided materials

2. General Information

The archive is made available on the internet by the Freie Universität Berlin in cooperation with the Foundation “Remembrance, Responsibility and Future” (abbreviated : Foundation).

The archive contains life story interviews with former forced laborers from the time of the Second World War.

3. Use of the Archive

The archive is available for educational, teaching and research purposes or for comparable public applications by all persons and institutions demonstrating valid interest. Furthermore, the archive can be accessed for research purposes by journalists and private individuals who demonstrate legitimate interest.

4. Property Rights

The entire archive is protected by copyright and the personal rights of the interviewees, the interviewers, the Foundation and the Archive Operator. The metadata of the archive as well as the corresponding software are protected by the copyright of the Archive Operator.

5. Application for Use of the Archive

Use of the archive requires an application in electronic form. After successful evaluation of the application, the User receives a license agreement with the terms and conditions of use which must be signed and returned. After the signed license agreement has been received by the Archive Operator, the materials will be provided in electronic form.

6. Permitted Use

6.1 If the request for use of archival materials has been approved, the Archive Operator will conclude a license agreement with the User. This license agreement shall govern which Material may be used and what rights and specific purpose for use are held by the respective User.

6.2 The Material mentioned in the license agreement (if available, in video and sound) as well as transcripts of interviews, translations and biographies will be provided to the User.

6.3 The User may only use the archival material as permitted in the license agreement. What the User is allowed shall be clarified in 6.3.1. – 6.3.4. Any change or extension of use requires the completion of an additional license agreement with the Archive Operator.

6.3.1. Editing the Archive Materials

- The User is permitted to edit the Material as follows:
 - + Audio-Video: cut, adding items such as tablets, inserts and subtitles
 - + Images: crop, add captions
 - + Text (transcription, translations, biographies, records): improvement of grammar and spelling errors, speech editing within the framework of research standards
- The User can integrate the material completely or in part into other material,

and thus create a new product. For such purposes it is permitted to convert the Material into the required formats.

- 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 Materials (for example, by color correction, filtering out of noise, etc.)
- The User is permitted to translate the Materials into other languages. He must ensure that the content is rendered correctly. The Archive Operator reserves the right to withdraw permission should the translation deviate from the original form.

6.3.2. Disclosure of the Materials

- 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 Materials are shared by third parties only in the context of editing and that they are handled carefully according to the terms of the Archive Operator (e.g. secure storage in a protected area, etc.).
- The User is entitled to relinquish the Materials and edited version to a third party within the framework of the Project. The provision of Materials to a third party must be stated in the project as well as clearly defined. The User must ensure that the Materials are used responsibly and in accordance with the terms and conditions of use of the archive by any third party and they are obliged to ensure that all third parties comply with the rules of the terms and condition of use.
- Third parties are not permitted to permanently store, archive or copy the Materials. A complete deletion of the Materials must be made no later than three months after the Project according to the regulated usage time stated in the license agreement.

6.3.3. Publication of Materials/Products

- The User must ensure that the materials are not published out of context in a way that is not compatible with the dignity and right to privacy of the interviewees.
- The useful life of the Material or product on the internet as stated in framework of the Project as the web presence as well as intranet is limited to a maximum of five years unless other conditions for the Project were approved. After this limit of time has elapsed, re-authorization is required.

The request for re-authorization must be submitted in writing.

- The Archive Operator shall receive a copy of the product created.
- The Archive Operator may create a short description of the product and refer to this on their website (www.zwangsarbeit-archiv.de).

6.3.4. Presentation of Materials/Products

- The User is permitted to present the Project/Materials to the extent for which they applied at educational institutions (schools, universities, institutions of political and historical education, museums, memorials, etc.).
- The User is permitted to present the Project/product as part of the events of the requesting institution or other educational institutions without specifying the individual event.
- The User is permitted to present the Project/product at scholarly meetings, conferences or exhibitions.

6.4 The User is authorized to store and use the archive material only for a fixed period as stated in the license agreement. Permanent archiving and storage of the Materials provided is strictly prohibited. After expiration of the useful life the User must delete the submitted material and all copies of the licensed archive material immediately.

7. Personal Rights and Prohibition of Use

7.1. In using the archive, attention should always be paid to the personal rights of the witnesses interviewed, and their private personal information should not be distributed or their interests interfered with.

7.2 Use of the archive materials for advertising purposes, election campaign purposes or the like is prohibited. The misuse of the archive materials for the defamation of the victims of National Socialism, the denial of Nazi crimes, incitement of the people, the propagation of racist or nationalistic prejudices or the like is prohibited.

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 are only allowed to be published anonymously in that only the first name and first initial of the surname are used. The anonymity refers only to the textual description of the interviews. Should a complete attribution be necessary in publishing, then this must be requested by the User as part of the User's

query. The Freie Universität Berlin will inform the User if such permission has been granted.

8. References

- 8.1 The provided archive materials must be clearly identified as part of the archive “Forced Labor 1939-1945” with each use. This applies even if the Materials have been modified by the User. The source is as follows:

Archive “Forced Labor 1939-1945“, © Freie Universität Berlin

- 8.2 If the User has been permitted by the license agreement to publish the provided archive materials or parts thereof online, then he must also link to the website of the project “Forced Labor 1939-1945” (<http://www.zwangsarbeit-archiv.de>).

9. Liability

- 9.1 The User must ensure that the archive material used by him is used only where permitted by license agreement and also within the scope of the terms and conditions of use. He must take all necessary precautions to prevent misuse of the archival material and data and provide the highest technological standard of security currently possible.
- 9.2 In the event of improper use the User shall inform the Freie Universität Berlin immediately and, in the case of judicial or non-judicial proceedings, they must support their rights by providing the necessary information, documents, records, etc. as available.
- 9.3 When the User has made the archive material available to a third party he is directly liable for violations of the license agreement including the terms and conditions of use as stated by the Freie Universität Berlin.

10. Disclaimer

- 10.1 Claims for damages against the Freie Universität Berlin are excluded, irrespective of the legal grounds, unless the Freie Universität Berlin, their legal representatives or agents have acted willfully or with gross negligence. This limitation of liability does not apply to claims for damages arising from injury to life, limb, health or the assumption of a guarantee or malicious concealment of a defect by the Freie Universität Berlin.
- 10.2 The Freie Universität point 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 for any reason without giving notice or cause. As good cause for the Archive Operator to terminate the license agreement are particularly regarded as when the User violates the permitted use of the archival footage, the permitted rights, the permitted useful life or when he violates the personal rights of the interviewee or the source or due to any other misuse of archival 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 including these terms and contract conditions and the waiving of the essential contract must be submitted in written form with an explicit reference to the fact that this is an amendment or supplement to the license agreement/terms of use.

12.3 If any provisions of these terms and conditions of use or other contractual documents are to become invalid or should the license agreement contain any loopholes, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by one that the spirit and purpose of the invalid provision undertakes in a legally effective manner. The same applies to any loopholes. Should the Freie Universität Berlin waive its right to enforce these conditions in individual cases, this does not mean that the terms and conditions of use have been modified.

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 venue for any disputes arising from this contract shall be Berlin.