Data Archiving and Networked Services

DANS

Licence Agreement   **Deposit date**

The following parties are involved in this Licence Agreement:
1. The organisation or person authorised to transfer and deposit the digital dataset(s), hereafter referred to as *the Depositor*
2. The organisation that is authorised to archive and manage the digital dataset(s), hereafter referred to as *the Repository*

The Depositor is:

The person or legal entity registered as such with the Repository

The Repository is:

Organisation:	DANS, Data Archiving and Networked Services, on behalf of KNAW (Royal Netherlands Academy of Arts and Sciences)
Represented by:	Dr. P.K. Doorn, Director
Postal address:	P.O. Box 93067
Postal code:	2509 AB
Town/city:	The Hague
Country:	The Netherlands
Tel.:	+31 (0)70 349 4450
E-mail:	info@dans.knaw.nl

DANS is an institute under the auspices of the Royal Netherlands Academy of Arts and Sciences (KNAW) which is also supported by the Netherlands Organisation for Scientific Research (NWO). DANS is based in The Hague.

This Licence Agreement is subject to the following provisions:

1. **Licence**
a. The Depositor grants the Repository a non-exclusive licence for digital data files, hereafter referred to as 'dataset'.
b. The Repository is authorised to include the dataset in its data archive. The Repository shall transfer the content of the dataset to an available carrier, through any method and in any form.
c. The Repository is authorised to make the dataset (or substantial parts thereof) available to third parties by means of on-line transmission. In addition, the Repository has the right, on the instruction of third parties or otherwise, to make a copy of the dataset or to grant third parties permission to download a copy.

2. The Depositor
a. The Depositor declares that he is a holder of rights to the dataset, or the only holder of rights to the dataset, under the Databases act (*Databankenwet*) and where relevant the Copyright Act (*Auteurswet*) or otherwise, and/or is entitled to act in the present matter with the permission of other parties that hold rights.
b. The Depositor indemnifies the Repository against all claims made by other parties against the Repository with regard to the dataset, the transfer of the dataset, and the form and/or content of the dataset.

3**. The Repository**
a. The Repository shall ensure, to the best of its ability and resources, that the deposited dataset is archived in a sustainable manner and remains legible and accessible.
b. The Repository shall, as far as possible, preserve the dataset unchanged in its original software format, taking account of current technology and the costs of implementation. The Repository has the right to modify the format and/or functionality of the dataset if this is necessary in order to facilitate the digital sustainability, distribution or re-use of the dataset.
c. If the access categories "Restricted Access" or "Other Access", as specified at the end of this Agreement, are selected, the Repository shall, to the best of its ability and resources, ensure that effective technical and other measures are in place to prevent unauthorised third parties from gaining access to and/or consulting the dataset or substantial parts thereof.

4. **The dataset**
a. The dataset to which the licence relates consists of all the databases, documentation and other data files and documents that form part of this dataset, which have been transferred by the Depositor.
b. The Depositor declares that the dataset corresponds to the specification provided.
c. The Depositor declares that the dataset contains no data or other elements that are, either in themselves or in the event of their publication, contrary to Dutch law.
d. The Depositor indemnifies the Repository against all claims by third parties relating to the content of the dataset.
e. The Depositor will supply the dataset by means of a method and medium deemed acceptable by the Repository.

5. **Removal of datasets / changes to access conditions**
a. The Repository may decide not to make the dataset available to third parties for a temporary period or permanently as well as to remove the dataset from the archive

wholly or in part. The Repository is entitled to do so if a Depositor has submitted a request stating the reasons for this action. In the case of not making the dataset available, the Repository shall retain the dataset in the data archive, but shall no longer allow third parties to access the dataset or substantial parts thereof.
b. If sufficient weighty grounds exist, the Repository has the right to remove the dataset from the archive wholly or in part, or to restrict or prevent access to the dataset on a temporary or permanent basis. The Repository shall inform the Depositor in such cases.

6. **Availability to third parties:**
a. The Repository shall make the dataset available to third parties in accordance with the access conditions agreed with the Depositor: "Open Access", "Open Access for Registered Users", "Restricted Access" or "Other Access". Access conditions may vary between parts of the dataset.
b. The Repository shall make the dataset available to third parties with whom they have reached agreement on the General Conditions for Use only if agreement has been reached with the Depositor on one of the following access categories: "Open Access for Registered Users", "Restricted Access" or "Other Access". Unless agreed otherwise with the Depositor, the use of datasets is subject to the General Conditions of Use laid down by the Repository. When the "Open Access" access category is agreed, the dataset shall be made available to third parties without the Depositor necessarily agreeing on the General Conditions for Use with said third parties.
c. If the access category "Restricted Access" has been agreed, the Repository shall make the dataset (or parts thereof) available only to the persons and/or organisations specified by the Depositor.
d. If a dataset (or parts thereof) to which the access categories "Restricted Access" or "Other Access" apply contain, as evidenced by the specification provided by the Depositor, personal data as referred to in the Personal Data Protection Act of The Netherlands (WBP; *Wet Bescherming Persoonsgegevens*, Act of 6 July 2000, Bulletin of Acts and Decrees 302, Article 9 paragraph 3 and Article 23 paragraph 2), the Repository shall make the dataset (or parts thereof) available only if this is permitted by law, which in any case should be taken to include making the dataset (or parts thereof) available for the purpose of historical, statistical or scientific research.
e. Notwithstanding the above, the Repository can make the dataset (or substantial parts thereof) available to third parties:
- if the Repository is required to do so by legislation or regulations, a court decision, or by a regulatory or other institution
- if this is necessary for the preservation of the dataset and/or the data archive
- (to a similar institution) if the Repository ceases to exist and/or its activities in the field of data-archiving are terminated
f. The Repository shall publish the documentation, hereafter referred to as metadata, as provided by the Depositor with the dataset, and make this freely available. Metadata is defined in this agreement as the content of all the fields that has been filled in with this dataset as standard under the tab "Description" in EASY.
g. The general information about the research and the metadata relating to the dataset, as defined in article 6.f, shall be included in the Repository's databases and publications that are freely accessible to all persons.

7. **Provisions relating to use by third parties**
a. The Repository shall require third parties to whom the dataset (or substantial parts thereof) is made available to include in the research results a clear reference to the dataset from which data have been used. The reference must comply with the

DANS General Conditions of Use. This obligation does not apply if the "Open Access" access category has been agreed on. In that case, the Repository will make every effort to inform third parties that they should include in their research results in whatever form, a clear acknowledgement of the source of the datasets from which data have been used.
b. The Repository shall oblige any party or parties to which it makes the dataset available to respect any copyright or database rights relating to the dataset.

8. **Death of the Depositor or Discontinuance of the Depositor's organisation**
From the time that the Depositor dies or in the event that the Depositor's organisation ceases to exist and no notice of termination in accordance with Article 10 has been given and if no legal successors, other parties that hold rights to the dataset or other persons mentioned in the field Rights Holder or in the field Creator of the metadata relating to the dataset, as defined in article 6.f, are known to DANS, the Repository shall be entitled to do whatever it considers reasonable in order to realise its objectives.

9. **Liability**
a. The Repository accepts no liability in the event that all or part of a dataset is lost.
b. The Repository accepts no liability for any damage or losses resulting from acts or omissions by third parties to whom the Repository has made the dataset available.

10. **Term, cancellation and termination of the Agreement**
a. This Agreement shall come into effect on the date on which the Repository publishes the dataset (hereafter the date of publication) and shall remain valid for an indefinite period. If the repository decides not to include the dataset in its data archive, this Agreement is cancelled. The Repository notifies the Depositor of publication or non-inclusion of the dataset in its data archive. Cancellation of this Agreement is subject to a period of notice of six months, and notice shall be given in writing. It is possible to change the agreed access category at any time during the term of the Agreement.
b. Notwithstanding point (a), this Agreement shall end when the dataset is removed from the data archive in accordance with Article 5 of this Agreement.
c. If the Repository ceases to exist or terminates its data-archiving activities, the Repository shall attempt to transfer the data files to a similar organisation that will continue the Agreement with the Depositor under similar conditions if possible.

11. **Jurisdiction**
DANS is entitled, but not obliged, to act independently against violations of the Copyright Act (*Auteurswet*) and/or any other intellectual property right of the holder(s) of rights to the dataset and/or the data from the dataset.

12. **Applicable law**
Dutch law is applicable to this agreement.

Access categories for datasets:

The Repository is permitted to distribute the dataset and make it available by means of one of the methods mentioned below and, if indicated below, making use of the additional option Embargo. Notwithstanding the above, the Repository, after consultation with and on request of the Depositor, is permitted to distribute parts of the dataset and make these available by means of one of the methods mentioned below being an*other* than the one chosen for the dataset if that is clearly indicated by the Depositor.

You have chosen:
[**Open Access: unlimited access without registration of user registration]**
◻ the Depositor agrees to the dataset being made available in accordance with the conditions of the Creative Commons Zero Waiver, the CC0 1.0 Universal Public Domain Dedication (Appendix 1). In doing so, the Depositor renounces all possible rights relating to the dataset.

[Open Access for Registered Users: unlimited access for registered users]
The Repository is permitted to make the dataset available to all persons, legal entities and organisations registered with the Repository.

[Restricted Access: access with the permission of the Repository
The Repository is permitted to make the dataset available to persons, legal entities and organisations registered with the Depositor only after receiving express permission from the Depositor.

[Restricted Access: access restricted to registered persons or group members, N.B. only for archeology]
The Depositor may grant access permission in advance for persons, legal entities and organisations that belong to one of the user groups specified by DANS and/or the Depositor.

[Other Access: the data are not available via EASY]
The dataset will be made available by means of another method to be agreed with the Repository.

You have additionally chosen:
[Temporary restriction: Embargo]; only possible if <u>Open Access. Open Access for Registered Users of Restricted Access has been chosen</u>
The dataset will be temporarily unavailable until … ………,[1] commencing on the date of publication. The embargo period cannot be longer than two years and cannot be extended. When this period elapses, one of the special provisions set out above shall automatically apply. An extension of this period is only possible in consultation with the Depositor.

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[1] Enter the end date of the embargo (not longer than two years after deposit date).

The Depositor hereby agrees to the above provisions and the general code(s) of conduct referred to in this document.

Appendix 1 text CC Zero Waiver

Bron: http://creativecommons.org/publicdomain/zero/1.0/legalcode

CC0 1.0 Universal (CC0 1.0) Public Domain Dedication

N.B. The articles mentioned in this appendix are those of the Creative Commons Zero Waiver licence, the CC0 1.0 Universal Public Domain Dedication. This licence is only valid if the access category "Open Access: unlimited access without registration of user registration" has been chosen for disseminating the datasets, or parts of it.

Statement of Purpose

The laws of most jurisdictions throughout the world automatically confer exclusive Copyright and Related Rights (defined below) upon the creator and subsequent owner(s) (each and all, an "owner") of an original work of authorship and/or a database (each, a "Work").

Certain owners wish to permanently relinquish those rights to a Work for the purpose of contributing to a commons of creative, cultural and scientific works ("Commons") that the public can reliably and without fear of later claims of infringement build upon, modify, incorporate in other works, reuse and redistribute as freely as possible in any form whatsoever and for any purposes, including without limitation commercial purposes. These owners may contribute to the Commons to promote the ideal of a free culture and the further production of creative, cultural and scientific works, or to gain reputation or greater distribution for their Work in part through the use and efforts of others.

For these and/or other purposes and motivations, and without any expectation of additional consideration or compensation, the person associating CC0 with a Work (the "Affirmer"), to the extent that he or she is an owner of Copyright and Related Rights in the Work, voluntarily elects to apply CC0 to the Work and publicly distribute the Work under its terms, with knowledge of his or her Copyright and Related Rights in the Work and the meaning and intended legal effect of CC0 on those rights.

1. Copyright and Related Rights. A Work made available under CC0 may be protected by copyright and related or neighboring rights ("Copyright and Related Rights"). Copyright and Related Rights include, but are not limited to, the following:

  i.   the right to reproduce, adapt, distribute, perform, display, communicate, and translate a Work;
  ii. moral rights retained by the original author(s) and/or performer(s);
  iii. publicity and privacy rights pertaining to a person's image or likeness depicted in a Work;

iv. rights protecting against unfair competition in regards to a Work, subject to the limitations in paragraph 4(a), below;
v. rights protecting the extraction, dissemination, use and reuse of data in a Work;
vi. database rights (such as those arising under Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases, and under any national implementation thereof, including any amended or successor version of such directive); and
vii. other similar, equivalent or corresponding rights throughout the world based on applicable law or treaty, and any national implementations thereof.

2. Waiver. To the greatest extent permitted by, but not in contravention of, applicable law, Affirmer hereby overtly, fully, permanently, irrevocably and unconditionally waives, abandons, and surrenders all of Affirmer's Copyright and Related Rights and associated claims and causes of action, whether now known or unknown (including existing as well as future claims and causes of action), in the Work (i) in all territories worldwide, (ii) for the maximum duration provided by applicable law or treaty (including future time extensions), (iii) in any current or future medium and for any number of copies, and (iv) for any purpose whatsoever, including without limitation commercial, advertising or promotional purposes (the "Waiver"). Affirmer makes the Waiver for the benefit of each member of the public at large and to the detriment of Affirmer's heirs and successors, fully intending that such Waiver shall not be subject to revocation, rescission, cancellation, termination, or any other legal or equitable action to disrupt the quiet enjoyment of the Work by the public as contemplated by Affirmer's express Statement of Purpose.

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