

GENERAL TERMS AND CONDITIONS FOR USING ZOPAR

Information sheet, 6/11/2019

A. Purpose and scope of application

1. Zurich University of the Arts (ZHdK) actively supports the storage of digital objects in a manner that enables such objects to be accessed via links and other means in line with the principles of open access.
2. These general terms and conditions form the basis for the services ZHdK provides to its members in connection with ZOPAR (ZHdK Open Publications in the Arts Repository)¹.

B. Legal basis

1. ZHdK regulations have been aligned with the regulations on intellectual property rights² and ZHdK's own open access policy³. ZOPAR is designed to ensure long-term public access to works that take the form of ZHdK digital publications, whereby various aspects relating to research, education and culture are particularly taken into account.
2. Wherever necessary, ZHdK concludes additional written agreements with third parties. Special signed agreements with third parties take precedence over these general terms and conditions, even in the event of contradictory provisions.

C. General information about ZOPAR

1. ZOPAR is based on the Zenodo platform⁴ and contains all publications managed by ZHdK on this platform. ZOPAR also includes all materials made available by ZHdK in connection with the aforementioned publications.
2. ZHdK makes use of Zenodo and all of the services it provides in compliance with Zenodo's policies⁵ and the terms of use⁶. If the collaboration with Zenodo should come to an end, ZHdK will make an adequate alternative platform available for open access publications.

D. The ZOPAR portfolio of services

ZHdK offers the following services via ZOPAR:

- Metadata management, data uploads and publication in ZOPAR
- Clarification of legal issues in the event of secondary publication of works via ZOPAR
- Training/events relating to ZOPAR and open access
- Advice on the publication process as it relates to open access
- Information on the ZOPAR portfolio of services and the further development of ZOPAR

E. Long-term data accessibility and preservation

1. ZHdK manages the long-term archiving of digital objects in terms of both data consistency (bitstream preservation) and long-term readability of the stored file formats (format preservation and migration).
2. The long-term preservation of data consistency (as bitstreams) is ensured by Zenodo in line with its policy in this regard by means of regularly scheduled backups and replication via multiple copies. ZHdK does not assume any archiving obligation beyond that guaranteed by Zenodo.
3. With regard to the file formats stored in ZOPAR, ZHdK reserves the right to define requirements for suitable file formats and to reject documents that are not submitted in a suitable format. A continuously updated list of the recommended file formats for long-term archiving can be found on the Intranet under "Archiving at ZHdK"⁷.
4. In order to ensure long-term readability, ZHdK reserves the right to reformat all files it has taken possession of into a format it deems suitable, without any prior consultation with the authors and/or copyright holders of the files.
5. Password protected and read-only files will not be accepted.
6. ZHdK assumes no obligation to take measures that go beyond common technical practices for ensuring the long-term readability or usability of data, documents and their content. ZHdK nevertheless makes the greatest possible effort to ensure future data readability by means of its file migration policies and its provisions governing suitable file formats.

F. Publication provisions

1. Data uploads to and publications on ZOPAR are implemented in accordance with defined workflows.
2. ZHdK is to be granted all rights associated with replication and public accessibility. All data published in ZOPAR is covered by an explicit use licence, which generally takes the form of a Creative Commons licence. More detailed usage guidelines are defined by the copyright holders.
3. Works that are uploaded may not include, even in altered form, any content the use of which is unlawful, in particular content protected by copyright, unless legal or contractual permission to publish such content

¹ <http://zopar.zhdk.ch>

² https://intern.zhdk.ch/fileadmin/data_zhdk/studium/Rechtliches/IGR-Reglement_2019_.pdf

³ https://www.zhdk.ch/file/live/ed/edd9bfd4177e6bd6f6752d1d2b3a6341ecb11f0/zhdk-open-access_policy_neu.pdf

⁴ www.zenodo.org

⁵ <https://zenodo.org/policies>

⁶ <https://zenodo.org/terms>

⁷ <https://intern.zhdk.ch/dateiformate>

has been granted. ZHdK reserves the right to reject or block any submitted work that includes such content as described above.

4. Primary publication of a work via ZOPAR does not preclude or prevent publication by the author and/or copyright holder of modified or more advanced versions of that work, or other publication, including commercial publication, in other media and formats. All associated usage rights remain with the author/copyright holder in such cases.

G. Responsibilities

1. Data owners are responsible for the data they have stored in ZOPAR. Those who store data and works and make them available to the public via ZOPAR must hold the rights to such data/works and be authorized to grant usage rights to ZHdK – unless no intellectual property rights exist for the works and data in question. ZHdK is not responsible for clarifying this issue.
2. ZHdK informs ZHdK members who intend to publish their work in ZOPAR, and who meet the requirements described in point 1, that they must first agree to a declaration of consent that their work can be made accessible via ZOPAR.
3. If a work that is to be published via ZOPAR has already been published before, ZHdK will clarify with the customary due diligence the formal legal situation with respect to a possible secondary publication via ZOPAR, provided an agreement has been reached with ZHdK regarding such clarification. The author of each work must provide ZHdK with all the information needed to ensure that ZHdK's handling of the work will comply with relevant legal requirements. If all conditions have been met, ZHdK makes works available to the public immediately (or in some cases waits until a prescribed embargo period has ended). Alternatively, it may reject works deemed unsuitable or request that a different version of a work be submitted.
4. Works that are to be stored and made available to the public may not include prohibited content.
5. ZHdK reserves the right to temporarily or permanently block access to works it makes available if sufficient legal grounds exist to object to their dissemination. Copyright owners acknowledge that in the event that content has been used unlawfully, ZHdK can and must, if necessary, disclose the identity of the content suppliers to third parties (in particular to law enforcement authorities).
6. Content made available for publishing must not pose a threat to the security of Zenodo systems, programs and data, or to those of end users, nor must they pose any danger to third parties or to the services offered by ZHdK. The copyright holders indemnify and hold harmless ZHdK in the event of violations or third-party claims. ZHdK itself reserves the right to assert damage claims.

H. Exclusion of liability

1. ZHdK excludes all liability to the extent permitted by law. In particular, ZHdK shall not be liable for defects and disruptions which are beyond its control, and especially for security flaws and operational failures or downtime caused by third parties with which ZHdK cooperates or which it is dependent upon. ZHdK shall also not be liable for damages resulting from the content of works, the online transmission of such content or the unlawful use of works by third parties. In addition, ZHdK shall not be liable for damages resulting from incidents over which it has no influence (in particular the effects of force majeure events, hacker attacks, etc.).
2. ZHdK accepts no liability nor offers any guarantee regarding the accuracy, completeness and/or quality of the information and content provided, and does not necessarily share the views and opinions of the authors/copyright holders of the published materials.

I. Concluding provisions

1. ZHdK may change these general terms and conditions. The currently valid version can always be viewed on the ZHdK website.
2. Zenodo's policy and the associated terms of use are an integral component of these general terms and conditions.
3. If any individual provision or portion of these general terms and conditions is deemed to be invalid or unenforceable, this will have no effect on the validity of the general terms and conditions in other respects. Such invalid or unenforceable provisions shall be replaced with a legally valid provision that most closely reflects the wishes of the parties.
4. The place of jurisdiction is Zurich. Swiss law shall apply.

Approved by the University Board on 6/11/2019.

The President (Signature)