



Fact Sheet: Third-Party Data Processing

Legal Requirements

When information belonging to the University of Zurich (UZH) is processed by third parties on behalf of UZH, specific legal, technical, and organizational measures must be introduced. Such measures are stipulated in the Act on Information and Data Protection (*Information und den Datenschutz* [IDG]) and the Ordinance on Information and Data Protection (*Verordnung über die Information und den Datenschutz* [IDV]) of the Canton of Zurich.

The Government Council of the Canton of Zurich has furthermore resolved that the “GTC of the Swiss Conference on Informatics (GTC CSI), version of January 2015,” the “GTC Outsourcing IT Services,” and the “GTC DP Processing Third Parties” are in principle binding for all administrative units that report to the Government Council. Deviations from these documents are only possible in exceptional cases. All public bodies of the Canton are therefore required to apply these GTC when concluding new agreements and contracts (cf.:

[https://www.notes.zh.ch/appl/rrbzhch.nsf/0/C12574C2002FAA1FC1257E61004B76F9/\\$file/670.pdf?OpenElement](https://www.notes.zh.ch/appl/rrbzhch.nsf/0/C12574C2002FAA1FC1257E61004B76F9/$file/670.pdf?OpenElement) [in German]).

This fact sheet provides information on the standard documents, declarations, and provisions that must be observed when data belonging to UZH is processed by third parties.

What does “third-party processing” mean?

Conditions for “**processing by third parties**” as stipulated in § 6 of the IDG are given when a public body charges a third party to process information – i.e. personal and non-personal data. Terms used synonymously include outplacement, outsourcing, commissioned work, or data processing by third parties.

“**Third parties**” include natural or juridical persons and other public bodies.

In accordance with § 3 of the IDG, the term “**processing**” refers to any instance of handling information such as obtaining, saving, using, editing, making public, granting access to, or destroying information.

Details are available in the guideline Third-Party Processing by the Data Protection Commissioner of the Canton of Zurich (*Leitfaden “Bearbeiten im Auftrag” des Datenschutzbeauftragten des Kantons Zürich* (cf.: https://dsb.zh.ch/internet/datenschutzbeauftragter/de/publikationen/anleitungen/_jcr_content/contentPar/form_1/formitems/bearbeiten_im_auftra/download.spooler.download.1485878160413.pdf *Leitfaden Bearbeiten im Auftrag.pdf*) [in German]).

General Terms and Conditions of the Swiss Conference on Informatics (CSI) for ICT Services, version of January 2015 (GTC for ICT services, version of January 2015)

The GTC for ICT services, version of January 2015, must always be applied when UZH charges service providers with tasks in the area of information and communication technology (ICT) in the framework of a service contract, legal mandate, and/or services related to right of purchase or tenancy law (including software licensing). The GTC govern the conclusion, the content, and the execution of such contracts. UZH must refer to these GTC already when procuring bids for a service. As a basic principle, general business or delivery terms and conditions of the service provider are not valid; this is also the case when a service provider makes reference to such terms or includes related documents in the bid.

Purpose, extent, and place of the processing of data as well as duration of contract must be defined in the main contract between UZH and the third party.

When concluding new contracts, the new GTC for ICT services, version of January 2015 replace the previous version of 2004. The previous version of 2004 remains valid for existing contracts or for already issued bids for contracts.

➡ **Note:** In order to enforce the GTC for ICT services, version of January 2015:

- The contractual partner must be informed that the GTC form part of the contract, and
- The GTC must be made readily available to the contractual partner.

As such, the GTC must be delivered to the contractual partner before the contract is signed, and the following clause recommended by the Delegate for Data Protection of UZH must be added to the contract:

The General Terms and Conditions of the Swiss Conference on Informatics (CSI) for ICT Services, version of January 2015, are appended [as ...] to this contract and form an integral part of said contract.

General Terms and Conditions of the University of Zurich for Outsourcing IT Services (GTC DP Outsourcing IT UZH) dated July 2018

In terms of data protection law, the GTC DP Outsourcing IT UZH are riders to the main contract and are to be understood as a complement to the GTC for ICT Services, version of January 2015. They include specific provisions on responsibility and decision-making power regarding data, purpose limitation, the rights of affected persons, and on the regulatory authority of UZH. The GTC must be applied in contractual relationships **in which UZH obtains IT services from third parties**. Examples of obtaining IT services include:

- Operation, maintenance of IT infrastructures (network, server, applications)
- Software maintenance
- Hosting website and services (web pages, analytical tools)
- Use of Cloud services

Purpose, extent, and place of the processing of data as well as duration of contract must be defined in the main contract between UZH and the third party.

➡ **General rule:** When UZH is required to apply the GTC for ICT services, version of January 2015, it must also apply the GTC DP Outsourcing IT UZH.

- **Note:** In order to enforce the GTC DP Outsourcing IT UZH, the contractual partner must be informed that the GTC form part of the contract. The GTC must furthermore be made readily available to the contractual partner. As such, the GTC must be delivered to the contractual partner before the contract is signed, and the following clause recommended by the Delegate for Data Protection of UZH must be added to the contract:
- The General Terms and Conditions of the University of Zurich for Outsourcing IT Services (GTC DP Outsourcing IT UZH) dated [DATE] are appended [as ...] to this contract and form an integral part of said contract.*

General Terms and Conditions of the University of Zurich for Data Processing by Third Parties (GTC DP Processing Third Party UZH) dated July 2018

In terms of data protection law, the GTC DP Processing Third Party UZH are also considered riders to the main contract. They, too, include, for example, specific provisions on responsibility and decision-making power regarding data, purpose limitation, the rights of affected persons, and on the regulatory authority of UZH. These GTC must be applied in contractual relationships in which the processing of information on behalf of UZH is a core component or the main purpose of the contract and **in which UZH obtains no IT services from third parties**. Examples of such services include:

- Contract to conduct educational programs
- Outsourcing payroll accounting or HR services
- Outsourcing the collection of outstanding bills
- Outsourcing the processing of advertising letters or other personalized mailings
- Data mining
- Expert opinions and reports

The separate application of the GTC DP Processing Third Party UZH as opposed to the GTC DP Outsourcing IT UZH is expressly provided for by the Canton of Zurich and the Data Protection Commissioner of the Canton of Zurich.

Purpose, extent, and place of the processing of data as well as duration of contract must be defined in the main contract between UZH and the third party.

- **Note:** In order to enforce the GTC DP Processing Third Party UZH, the contractual partner must be informed that the GTC form part of the contract. The GTC must furthermore be made readily available to the contractual partner. As such, the GTC must be delivered to the contractual partner before the contract is signed, and the following clause recommended by the Delegate for Data Protection of UZH must be added to the contract:
- The General Terms and Conditions of the University of Zurich for Data Processing by Third Parties (GTC DP Processing Third Party UZH) dated [DATE] are appended [as ...] to this contract and form an integral part of said contract.*

Confidentiality Declaration of the University of Zurich, dated May 2016

The Confidentiality Declaration of the University of Zurich must be signed by all persons who, in the capacity of their professional role, studies, or contractual duties, have access to information belonging to UZH that is subject to the duty of confidentiality or special protection. Such persons include:

- External staff contracted by UZH, staff of contracted companies, staff of contracted public bodies; or
- Trainees and student assistants working at UZH as well as teaching and research assistants without an employment relationship at UZH; or
- Participants in courses in human medicine/dentistry/psychology if it cannot be excluded that an individual participant could gain knowledge of patient data during the course.

Persons who carry out their activities in the scope of a public-law employment relationship with UZH are not required to sign a confidentiality declaration.

➔ **General rule:** When UZH is required to apply the GTC DP Outsourcing IT UZH or the GTC DP Processing Third Party UZH, all employees of the service provider (e.g. external juridical persons or another public body) who have access to information belonging to UZH must sign the Confidentiality Declaration of the University of Zurich. The signed declarations must be submitted to UZH on request.

➔ **Note:** In order to ensure that the contractual partner and its bodies, employees, ancillary staff, and consulted third parties observe the Confidentiality Declaration of the University of Zurich, the contractual partner must be informed of the declaration; furthermore the following clause recommended by the Delegate for Data Protection of UZH must be added to the contract:
The contractual partners undertake to observe the duty of confidentiality regarding all facts and data that are neither obvious nor generally accessible. This duty also applies to any third parties consulted. In case of doubt, facts and data are to be treated as confidential. The duties of confidentiality apply already before contract conclusion and remain valid after contract termination (or after the agreed services have been provided). Statutory duties to inform remain reserved.
The Confidentiality Declaration of the University of Zurich dated [DATE] is appended [as ...] to this contract and forms an integral part of said contract. [NAME contractual partner] ensures that all employees, ancillary staff, and consulted third parties involved in fulfilling the conditions of this contract who have access to information belonging to UZH sign the Confidentiality Declaration of the University of Zurich dated [DATE] before performing their contractually defined tasks. The signed declarations must be submitted to the University of Zurich on request.

EU standard contractual clauses C(2010)593 UZH vom July 2018

When personal data of UZH are processed in a country that does not meet required levels of data protection, risks must be kept to a minimum by the introduction of additional measures. Processing of data also includes such cases in which data stored in Switzerland can be accessed from abroad. Countries that do not meet the required levels of data protection are listed by the Federal Data Protection and Information Commissioner (FDPIC) and published at:

<https://www.edoeb.admin.ch/dam/edoeb/de/dokumente/2017/04/staatenliste.pdf.download.pdf/staatenliste.pdf> (in German). In such a case, UZH shall take appropriate contractual security precautions in accordance with § 19 lit. c IDG. For this purpose, the "EU standard contractual clauses for contractors (C (2010) 593) of the UZH of July 2018" must be agreed with the third party, as under this condition UZH is no longer obliged to inform the Data Protection Officer of the Canton of Zurich about any data transfer to a country that does not meet required levels of data protection according to § 22 Abs. 2 IDV ZH in each individual case.

➔ **Important:** The "EU Standard Contractual Clauses for Contractors (C (2010) 593) of the UZH of July 2018" must be supplemented by the "General Terms and Conditions of the University of Zurich for Outsourcing IT Services (GTC DP Outsourcing IT UZH) dated July 2018", resp. by the "General Terms and Conditions of the University of Zurich for Data Processing by Third Parties (GTC DP Processing Third Party UZH) dated July 2018", and the "Confidentiality Declaration of the University of Zurich, dated May 2016" and the "General Terms and Conditions of the Swiss Conference on Informatics (CSI) for ICT Services, version of January 2015 (GTC for ICT services, version of January




2015)". In addition, it should be noted that Annex 2 of the EU Standard Contractual Clauses (C (2010) 593) of the UZH of July 2018 contains a description of the minimum technical and organizational security measures to be required by UZH from the third party. Depending on the nature (and classification) of the concerned personal data, and the purpose of the commissioned data processing, and the possible risks to the rights of the data subjects involved in the processing, additional legal, technical and organizational measures must be taken (see the measures on page 12 in the "Guidelines Processing on behalf of the Data Protection Officer of the Canton of Zurich", which are required in the event of processing of information by a commissioned data processor: https://dsb.zh.ch/internet/datenschutzbeauftragter/de/publikationen/anleitungen/_jcr_content/contentPar/form_1/form_items/bearbeiten_im_auftrag/download.spooler.download.1485878160413.pdf / Leitfaden_Bearbeiten_im_Auftrag.pdf).

General information:




- ➔ Purpose, extent, and place of the processing of data as well as duration of contract must be defined in the main contract between UZH and the third party.
- ➔ In keeping with § 7 of the IDG, the University of Zurich is required to protect its information by introducing appropriate technical and organizational measures. UZH must therefore also instruct third parties of the required level of protection for the data to be processed. Basic security measures are already contained in the prevailing GTC. An overview of additional required measures – depending on the conditions of the processing of data/contractual terms – is provided in:
 - The guideline on Processing Information under Contract by the Data Protection Commissioner of the Canton of Zurich, version 1.4/ February 2018 („Leitfaden zur Bearbeitung im Auftrag“), page 12, cf. https://dsb.zh.ch/internet/datenschutzbeauftragter/de/publikationen/anleitungen/_jcr_content/contentPar/form_1/formitems/bearbeiten_im_auftra/download.spooler.download.1485878160413.pdf/Leitfaden_Bearbeiten_im_Auftrag.pdf (in German); and
 - The Information sheet on encryption of data storage in the context of outsourcing by the Data Protection Officer of the Canton of Zurich, V 2.2 / June 2018 („Merkblatt Verschlüsselung der Datenablage im Rahmen der Auslagerung“), cf. https://dsb.zh.ch/internet/datenschutzbeauftragter/de/themen/weitere_themen/outsourcing/_jcr_content/contentPar/downloadlist_3/downloaditems/verschl_sselung_der_.spooler.download.1529307028045.pdf/Verschluesselung_der_Datenablage_im_Rahmen_der_Auslagerung.pdf.
 - The Guide for technical and organizational measures by the Federal Data Protection and Information Commissioner dated August 2015 („Leitfaden zu den technischen und organisatorischen Massnahmen des Datenschutzes“), cf. https://www.edoeb.admin.ch/dam/edoeb/de/dokumente/2016/03/leitfaden_zu_dentechnischenundorganisatorischenmassnahmendesdate.pdf.download.pdf/leitfaden_zu_dentechnischenundorganisatorischenmassnahmendesdate.pdf.
- ➔ As a general principle, the above-mentioned standard documents, declarations, and provisions must be applied throughout the University upon a corresponding processing of data. Alternative measures are only possible in exceptional cases; the UZH office responsible for issuing the contract bears responsibility for the decision. In doing so, the following procedures must be observed:
 - If deviations from the GTC for CTI Services, version of January 2015, are requested, the UZH office responsible for issuing the contract must first consult Legal Services of UZH.
 - If deviations from the GTC DP Outsourcing IT UZH or the GTC DP Processing Third Party UZH or the Confidentiality Declaration of the University of Zurich are requested, the UZH office responsible for issuing the contract must first consult the Delegate for Data Protection of UZH.

Matrix of Applicable Standard Documents and Declarations:




Standard documents and declarations to be used when data are processed by third parties

Scenario CH		Data processing by third parties in Switzerland
Scenario EU/EEA*		Data processing by third parties in the EU/EEA*
Scenario "Third Country"***		Data processing by third parties in a "third country"***

Use of ICT Services

CH 	EU/EEA* 	"Third Country"*** 
1. GTC for ICT Services	1. GTC for ICT Services	1. GTC for ICT Services
2. GTC for DP Outsourcing IT UZH	2. GTC for DP Outsourcing IT UZH	2. GTC for DP Outsourcing IT UZH
3. Confidentiality Declaration UZH	3. Confidentiality Declaration UZH	3. Confidentiality Declaration UZH
		4. EU standard contractual clauses or similar

No Use of ICT Services

CH 	EU/EEA* 	"Third Country"*** 
1. GTC DP Processing Third Parties UZH	1. GTC DP Processing Third Parties UZH	1. GTC DP Processing Third Parties UZH
2. Confidentiality Declaration UZH	2. Confidentiality Declaration UZH	2. Confidentiality Declaration UZH
		3. EU standard contractual clauses or similar

*Applies to all countries that, according to the list of the FDPIC, provide an adequate level of protection.
 **Applies to all countries that, according to the list of the FDPIC, do not provide an adequate level of protection.

Contact

Please direct all questions to:

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