Ordinance of TU Dortmund University for Safeguarding Good Scientific Practice
Adopted on May 19, 2015

Under the provisions of § 2 para 4 and § 4 para 4 of the Higher Education Act of North Rhine-Westphalia (Higher Education Act – HG) of September 16, 2014 (GV. NRW p. 547), TU Dortmund University has adopted the following ordinance:

Part 1
Subject, Purpose and Scope

§ 1
Subject and Purpose

This ordinance standardizes the rules of good scientific practice in the second section and in the following sections regulates their implementation as well as a procedure for dealing with allegations of scientific misconduct. This ordinance serves to protect academic freedom and to strengthen the integrity of science and scholarship and their ability to function. The obligation to comply with the examination regulations and doctoral degree regulations remains unaffected by this ordinance.

§ 2
Scope of Application

(1) Unless this ordinance provides otherwise, it shall apply to all members and all affiliates of the University active in research work as well as to individuals who are in a doctoral or habilitation process of the University (scientists and scholars of the University). This ordinance shall also apply if an allegation of scientific misconduct refers wholly or partly to a period in which the concerned individual was a scientist or scholar of the University. §§ 4 to 7 shall apply correspondingly to students of the University.

(2) If the allegation of scientific misconduct is also the subject of other proceedings, the procedure for dealing with scientific misconduct shall not replace these proceedings. The competence of the authorities responsible for these proceedings shall remain unaffected; these bodies need not wait until this procedure for dealing with scientific misconduct has been completed.

Part 2
Rules of Good Scientific Practice

§ 3
Primary Data

(1) The scientists and scholars of the University are obliged to completely record the data directly obtained within the framework of data collection for scientific purposes (primary data) in a manner that is understandable for other scientists and scholars in the field and to store these for ten years from the date of the data collection on durable and secure data media. Primary data are in particular measurement results and other experimental results, collections, study surveys, cell cultures, material samples, archeological finds as well as questionnaires. Primary data that cannot be stored on durable and secure data media shall be stored as is customary in professional scientific work and under the circumstances of the individual case for a reasonable period; in this
case data derived as soon as possible from the primary data (secondary data as replacement) shall be stored for a period of ten years.

(2) As a matter of principle, all scientists and scholars involved in a research project are responsible for storing the data unless they have transferred this responsibility to one or more of the involved scientists or scholars by mutual agreement.

(3) Insofar as the primary data or the secondary data as replacement are the basis for a scientific publication, the scientist(s) and scholar(s) of the University responsible for storing the data must grant access to the data to scientists/scholars who have a justified scientific interest in the data.

(4) The obligations for recording, storing, and providing access to primary data or secondary data as replacement do not apply if other legal provisions to the contrary are effective.

§ 4
Honesty and Truthfulness in Science and Scholarship

(1) The scientists and scholars of the University are obliged to be honest and truthful in their written and oral statements relevant to their field of study. Relevant statements include expert reports, grant applications and job application letters. Facts are to be presented as accurately and completely as the circumstances of the individual case allow; in particular, they may neither be invented nor falsified. The obligation to truthfulness and honesty also applies to the use of depictions or illustrations.

(2) If a scientist or scholar of the University reports about her/his results, this report must contain a detailed description of the methods used and must be understandable for other scientists and scholars in the field; this also requires a presentation of results that were obtained which do not support the scientist’s or scholar’s own conclusions. Any results of others included in the report must be completely cited in compliance with the citation rules usual in the respective field. The inclusion of the scientist’s or scholar’s own results which were already the subject of a publication or a thesis of a state or academic examination procedure must also be completely cited in compliance with the citation rules usual in the respective field.

§ 5
Intellectual Property of Others

(1) The scientists and scholars of the University must respect the intellectual property of others. For the purposes of this ordinance, irrespective of copyright protection, the intellectual property of others comprises all intellectual creations of others; these include in particular others’ insights, hypotheses, doctrines, research approaches, ideas, texts, data, depictions, illustrations and other sources. The intellectual property of others may be used for one's own scientific work only if it has already been published or insofar as the owner of the intellectual property has given her/his consent.

(2) In the context of scientifically relevant publications, the use of the intellectual property of others must be disclosed and cited in accordance with the citation rules customary in the field. The intellectual property (IP) of others may not be presented in a falsified way. A waiver of disclosure, citation or prohibition of falsification by the IP owner or other entitled person has no legal effect in the context of scientifically relevant publications.
§ 6
Authorship

(1) In the publication of scientific results, every individual who has made an own scientific contribution must be named as a co-author. Scientific contributions are in particular contributions to the conception of studies or experiments, to the development, analysis or interpretation of data and to the formulation of manuscripts. The order of naming the co-authors is oriented on what is customary in the respective field. Individuals who have otherwise made a significant contribution to a publication shall be acknowledged. The contributions of co-authors and employees shall be marked as such. Declining co-authorship or the acknowledgment of a contribution shall have no legal effect.

(2) Individuals who have not made any scientific contribution to a publication may not be named as co-authors. In particular, the mere organizational responsibility for the acquisition of funding, the provision of standard experimental materials, instruction of employees in standard methods, purely technical participation in data collection, other purely technical support, the mere transfer of data records on a regular basis and the sole reading of manuscripts without substantial influence on the content are not considered scientific contributions. An honorary authorship is inadmissible; in particular, the mere position as supervisor of an author does not lead to authorship.

(3) The scientific contribution of a co-author may only be used for a publication of results if the co-author has consented to this.

(4) Co-authors who consent to the publishing of their scientific contribution in a publication are jointly responsible for complying with the rules of good scientific practice in the entire publication of the results.

§ 7
Prohibition of Sabotage and Obstruction

(1) Scientists and scholars of the University may not undermine the scientific work of other scientists or scholars in a dishonest manner. In particular, they may not sabotage other scientists’ or scholars’ work by damaging, destroying or manipulating literature, archive and source material, experimental setups, equipment, documents, hardware, software, chemicals, cell and microorganism cultures or other items needed to conduct scientific work. The publication of manuscripts of other scientists or scholars relevant to the field may not be arbitrarily delayed.

(2) A scientist or scholar of the University may not terminate her/his participation in a research project jointly conducted with other scientists or scholars without an objective reason. As far as the use of her/his contribution is required to publish the scientific results of the joint research project, she/he may only refuse to consent to the use for good cause. The termination of participation or the refusal of consent for a scientific reason is only effective if the reason for this is presented in writing and the criticism of the data, methods and results is understandable for other scientists and scholars in the field.

§ 8
Young Scientists and Scholars

A scientist or scholar of the University who has been designated to supervise a dissertation or other final thesis according to a state or academic examination procedure is obliged to provide adequate supervision for the student/doctoral candidate. This supervision obligation specifically includes developing a timetable for completing the final thesis together with the student/candidate, discussing the progress of the thesis at appropriate intervals, providing expert
guidance for the student/candidate if difficulties arise, commenting adequately on the student's/candidate's draft versions of the final thesis or parts of the final thesis and conveying the rules of good scientific practice.

Part 3
Implementation of the Rules of Good Scientific Practice

§ 9
Implementation of the Rules of Good Scientific Practice

(1) The scientists and scholars of the University must observe at all times the rules of good scientific practice that have been standardized in the second section of this ordinance. Recognized own violations of the rules of good scientific practice must be corrected immediately. If violations by other scientists/scholars against the rules of good scientific practice are detected, this shall be pointed out to them; if the individual detecting the violation has authority to issue directives to the scientist or scholar violating the rules, she/he is responsible for ensuring that the violations are corrected immediately and not repeated.

(2) Within the University, suitable and appropriate measures must be taken to ensure that the rules of good scientific practice are known to all scientists and scholars of the University and that conditions for scientific activities exist that promote compliance with the rules of good scientific practice. In particular, the heads of work areas, research groups and research projects of the University are obliged to convey the rules of good scientific practice to the scientists, scholars, students and doctoral students under their supervision.

(3) Conveying the rules of good scientific practice shall be made a subject of education in all study programs and doctoral studies. The deans’ offices, the examination committees and the doctoral degree committees shall ensure that the teachers, supervisors and examiners comply with the rules of good scientific practice and convey these to the students and doctoral students.

§ 10
Ombudspersons and the Commission on Safeguarding Good Scientific Practice

(1) The Senate shall elect an ombudsperson and a deputy ombudsperson to safeguard good scientific practice for the area of responsibility of the entire University. For the areas of responsibility of the faculties, an ombudsperson and a deputy ombudsperson shall be elected by the faculty council. The ombudsperson of the University is also responsible insofar as the responsibility of the ombudsperson of a faculty does not exist.

(2) Only members of the University from the group of university professors may be elected ombudsperson or deputy ombudsperson of the University. Members from the group of university professors or members from the group of the academic staff with a doctoral degree may be elected ombudsperson or deputy ombudsperson of a faculty. The members of the University council and the rectorate, the deans, and vice deans as well as persons, who within the last five years were found to have committed scientific misconduct, may not perform the function of an ombudsperson or deputy ombudsperson. The exercise of the function of ombudsperson or deputy ombudsperson shall rest until the completion of a procedure for dealing with scientific misconduct if the preliminary inquiry of this procedure results in actual indications of scientific misconduct of the ombudsperson or deputy ombudsperson. The term of office for all ombudspersons and deputy ombudspersons is four years. In the case of a premature termination of the term of office of an ombudsperson or deputy ombudsperson, a by-election for the remaining
term of office shall take place. Re-election is possible. The names and responsibilities of the ombudspersons will be announced in an appropriate manner within the University.

(3) The ombudspersons of the University and of the faculties together constitute the Commission to Safeguard Good Scientific Practice. The ombudsperson of the University is the chairperson of the Commission. The Commission shall convene a meeting at least once a year.

(4) The ombudspersons have the task, within the area of their responsibility, to advise bodies, functionaries, scientists and scholars in questions of good scientific practice, to provide guidance and recommendations on the implementation of this ordinance and to follow up on information concerning possible violations of the rules of good scientific practice in accordance with Part 4. The meetings of the Commission serve to discuss difficult questions of good scientific practice and questions of good scientific practice of fundamental importance. The Commission also advises the bodies and functionaries of the University and the faculties in questions of good scientific practice and can provide guidance and recommendations for implementing and amending this ordinance.

(5) In carrying out their duties, the ombudspersons are independent and not bound by instructions. The bodies and individuals who carry out functions in the University and in the faculties as well as in the University administration shall support the ombudspersons and the Commission if an ombudsperson or the Commission requests them to do so.

Part 4
Scientific Misconduct

§ 11
Scientific Misconduct

(1) It is considered scientific misconduct if a scientist/scholar of the University intentionally or with gross negligence commits a violation against the rules of good scientific practice standardized in Part 2 and this violation could endanger the integrity or functioning of science or a part of science or an academic field of study. If in the case of the publication of scientific results, the violation against the rules of good scientific practice is limited to the identified contributions of individual co-authors, the scientific misconduct of the other co-authors shall require that these were aware of the action of violation against the rules of good scientific practice.

(2) It is also considered scientific misconduct if a scientist of the University incites another person, who need not be a scientist or scholar of the University, to commit an intentional act or to intentionally aid and abet an act which would represent scientific misconduct, if the scientist or scholar of the University herself/himself had acted.

(3) In addition, it is considered scientific misconduct if a scientist or scholar of the University, contrary to her/his better knowledge, publicly or to another person accuses another scientist or scholar of violating the rules of good scientific practice.

(4) It is not considered scientific misconduct if the advice of an ombudsperson is followed or if at the time when the ombudsperson receives information about the case of scientific misconduct, the scientist or scholar of the University has already completely corrected the underlying violation of the rules of good scientific practice.
§ 12
Procedure for Dealing with Scientific Misconduct

(1) The members and affiliates of the University are required to participate in the procedure for dealing with scientific misconduct. The procedure shall be carried out without delay (requirement of rapid action), and confidentiality shall be maintained (requirement of confidentiality). The whistleblowers (complainants), the individuals accused of violating the rules of good scientific practice (the parties involved), witnesses, experts and other persons who are called on to support the procedure shall be instructed about the confidentiality of the procedure and obliged to maintain confidentiality, unless other legal provisions preclude this. Apart from that, §§ 12, 14, 15, 20, 21, 23, 24, 26, 28 and 29 of the Administrative Procedure Act of North Rhine Westphalia (VwVfG NRW) shall apply to the procedure, insofar as this ordinance does not contain any deviating provision. A procedure for dealing with scientific misconduct may be resumed at any time if new facts or evidence become known.

(2) After an ombudsperson has gained knowledge of a possible violation of the rules of good scientific practice, the ombudsperson of the faculty in which the concerned individuals are or were active (competent faculty) shall undertake a preliminary investigation of the facts; if the information is anonymous, the ombudsperson shall first decide after due consideration whether she/he should follow up on the information. The ombudsperson may also hear the whistleblower(s) in an additional session. The concerned individuals shall be given the opportunity to be heard regarding the charges of a violation of the rules of good scientific practice if a hearing without revealing the identity of the whistleblower(s) is possible or if the whistleblower(s) have agreed to the revelation of their identity. The ombudsperson may also consult additional documents available to her/him. The ombudsperson shall decide within a month whether in this case there are actual indications of scientific misconduct.

(3) If the preliminary investigation provides no factual indications of scientific misconduct, the competent ombudsperson shall discontinue the procedure and shall instruct the concerned individuals; where appropriate, the notification may be accompanied with a suggestion or recommendation. The identity of the whistleblower(s) may not be disclosed. If deemed necessary, after a reasonable period the ombudsperson shall check whether the concerned individuals have complied with the instruction or recommendation.

(4) If the preliminary investigation results in actual indications of scientific misconduct, the ombudsperson of the University shall initiate the main proceeding. The ombudsperson shall inform the rectorate and the deans’ offices of the relevant faculties and shall form a Commission of Inquiry under her/his chairship. The Commission of Inquiry is made up of the ombudspersons responsible for the preliminary investigation and, depending on the difficulty of the matter, one or two more ombudspersons; the Commission of Inquiry must consist of at least three ombudspersons. Which additional ombudsperson(s) shall belong to the Commission of Inquiry is based on the order of competence determined by the ombudsperson of the University; this order may not be changed for the reason that the Commission of Inquiry is being formed. The Commission of Inquiry shall only have a quorum if all members are present. Abstentions are not allowed. In a tie vote, the vote of the chairperson decides.

(5) The Commission of Inquiry shall investigate the matter fully and take into account all the evidence required to investigate the facts. At the hearing of the concerned individuals or within the scope of inspection of the records by the concerned individuals, the identity of the whistleblowers may only be disclosed if they have agreed to the disclosure or if the concerned individuals could not otherwise properly defend themselves against the allegation of misconduct.

(6) The Commission of Inquiry determines that scientific misconduct took place if such is proven to the satisfaction of the Commission of Inquiry; in this case it shall write a report of the investigation containing a justification for the determination made and proposing measures in accordance with §13. The concerned individuals must be instructed about this; in appropriate
cases the instruction can be combined with a note or with a recommendation. The identity of the whistleblower(s) must not be revealed to the concerned individual on the occasion of the note or recommendation, otherwise only under the conditions of §12 para 5 sentence 2. If scientific misconduct is not proven §12 para 3 shall apply. The proceeding of the Commission of Inquiry shall be concluded within three months, when the matter is particularly difficult, within six months.

(7) If an underlying conflict exists between the individuals who have allegedly violated the rules of good scientific practice or between the concerned individuals and other persons (conflict parties), which can be settled through mediation or an arbitral award so that the determination of possible scientific misconduct to protect the credibility and effectiveness of science or the respective academic field no longer appears appropriate, the Commission of Inquiry – instead of the main proceeding – may as mediation commission conduct a mediation proceeding or as arbitration commission an arbitration proceeding, if all conflict parties involved agree to a mediation proceeding or submit to a corresponding arbitration agreement. The proceeding ends with a mediation agreement or an arbitral award bindingly recognized by all participants involved in the conflict; in the event that a mediation proceeding does not result in a mediation agreement within three months, the main proceeding shall be continued. The Commission of Inquiry shall seek a mediation or an arbitration proceeding if this appears feasible.

(8) Scientific or academic staff members who have drawn the attention of an ombudsperson to a possible violation of the rules of good scientific practice must not suffer any disadvantages from this for their own scientific or career advancement. This also applies if the investigations reveal that the suspected individuals have not violated the rules of good scientific practice. If the whistleblowers have stated that their identity shall not be disclosed and a disclosure becomes necessary, they shall be informed prior to the disclosure.

§ 13 Measures

(1) If scientific misconduct is determined, the ombudsperson of the University shall give the investigation report to the rectorate and the deans’ offices of the relevant faculties. The competent authorities of the University shall decide on the appropriate measures with respect to the determined scientific misconduct in accordance with §13 para 2 and 3, taking into account the proposals of the Commission of Inquiry. Unless other legal provisions take precedence, the requirement for rapid action and confidentiality shall also apply to these authorities; §12 para 6 sentence 3 shall apply accordingly. The authorities can hear the members of the Commission of Inquiry.

(2) The rectorate shall decide whether to file a civil suit, to file a civil or criminal complaint and to inform third parties or the public about the scientific misconduct; informing third parties or the general public may include a full or partial transmission or publication of the investigation report. The concerned individuals can prevent the informing of third parties or the public by providing the information to an adequate extent within a deadline set by the rectorate. Before the information is conveyed to third parties or the public, the relevant faculty councils shall be given the opportunity to make a statement. The rector shall decide on the disciplinary measures under employment law and the imposition of a ban from the premises, after the rectorate has had an opportunity to make a statement.

(3) The faculty councils of the competent faculties, subject to the competence of other bodies in these faculties, shall decide in a closed session on academic measures. An academic measure in particular represents the withdrawal of an academic degree the university has awarded. If no other measures come into consideration or if these measures are not sufficient to admonish the concerned individuals to comply in the future with the rules of good scientific practice, the competent authorities of the faculties can express an academic admonishment or an academic
reprimand to the concerned individual. For an academic admonition any established scientific misconduct is sufficient. The requirement for an academic reprimand is a willful violation of the rules of good scientific practice which impairs the integrity or functioning of science, a part of science or an academic field of study in a not inconsiderable measure. Irrespective of other measures taken, the competent body of the faculties may give the concerned individual an instruction or a recommendation; §12 para 3 sentences 2 and 3 shall apply accordingly. Academic admonitions and reprimands, instructions and recommendations shall not be part of the personnel file.

Part 5
Final Provisions

§ 14 Transitional Provision

Until September 30, 2016 the Commission for Safeguarding Good Scientific Practice of the University of Dortmund, which was formed on January 9, 2002, shall remain in office and shall perform the duties of the Commission for Safeguarding Good Scientific Practice in accordance with this ordinance. The duties of the ombudsperson of the University shall be performed by the chairperson of the Commission for Safeguarding Good Scientific Practice. The duties of the ombudspersons of the faculties shall be performed by the ombudspersons assigned to their respective areas of responsibility by the Commission for Safeguarding Good Scientific Practice. The ombudspersons according to this ordinance shall be elected for the first time for the term of office beginning on October 1, 2016.

§ 15 Entry into Force

The ordinance shall take effect on the day following its publication in the Official Announcements. At the same time, the Rules of Good Scientific Practice of the University of Dortmund from January 9, 2002 (AM 14/2003, p. 1), last amended by the Second Ordinance amending the Rules of Good Scientific Practice of the University of Dortmund from July 22, 2008 (AM 12/2008, p. 1) shall cease to be effective; however, beyond the date of their expiry, these rules shall continue to apply to already initiated procedures dealing with scientific misconduct.

Issued in accordance with the resolution of the Senate of TU Dortmund University of April 30, 2015.

Dortmund, May 19, 2015
The Rector
of TU Dortmund University
University Professor Dr. Ursula Gather

This document is an English translation of the original Ordnung der Technischen Universität Dortmund zur Sicherstellung guter wissenschaftlicher Praxis vom 19. Mai 2015. In the event of any discrepancies arising between the German and English versions, the German version shall take precedence over the English version.