Service agreement

for safeguarding good scientific practice

and for dealing with scientific misconduct

between Bernhard Nocht Institute for Tropical Medicine

and Bernhard Nocht Institute staff council

according to §83 of the Hamburg Staff Representation Act

Preamble

1. Measures for securing good scientific practice and code of procedure for dealing with scientific misconduct

The general meeting of the German Research Foundation (DFG) adopted the Principles for Self-Regulation in Science in 1998. These lay out the duty of all research institutes to apply appropriate rules and measures to protect both the sciences and institutes against counterfeits and scientific misconduct. In order to uphold these principles, the DFG has made compliance with the rules for safeguarding good scientific practice the basic criterium for eligibility.

The guidelines as set out below are based on the DFG’s “Rules for safeguarding good scientific practice“ and the recommendations for their implementation determined by the Leibnitz Association at its general meetings of 1998 and 1999. The BNI has always upheld these basic principles in teaching and research. Recording these in written form serves to raise the awareness of these principles. It also allows them to be used as an instrument to convey to future scientists the implicit conditions for their scientific work.

2. Declaration of the “Rules for safeguarding good scientific practice“.

The regulations come into force with the signature of the director.

These regulations are issued to all persons involved in scientific work who are employed by the BNI. The regulations are also officially displayed within the Institute. Together with the code of procedure, they are included in the relevant documents provided to new employed staff members of the Institute.

The "Rules for safeguarding good scientific practice“ form an integral part of the training programme of the new young scientists at the Institute.
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Section 1

Rules of good scientific practice

§ 1 Good scientific practice

(1) Good scientific practice means to work *lege artis* and to consistently conduct research according to the most recently established findings. This demands knowledge and utilization of the corresponding current literature, the application of the newest scientific research methods, and conscientious quality control.

(2) Good scientific practice requires clearly defined hierarchical structures. The responsibility of those with management, supervisory and conflict regulation functions and quality control must be clearly appropriated dependent on the size of the scientific working units. It must be guaranteed that the duties of these persons are carried out appropriately.

(3) The main measures used for quality control include careful documentation of each individual procedure and result of the study, and the secure storage of all records. The documentation should guarantee reproductibility and the transparency of the results prior to publication.

(4) Good scientific practice becomes apparent in the critical analysis of the findings and in the control mechanisms applied by fellow scientists and by debate, for instance. In the desired scientific discussion, an argumentational method conducted with integrity and strict honesty regarding the contribution made by fellow researchers, colleagues, competitors and methods are all to be upheld in the desired analysis.

(5) The authors of scientific papers assume common responsibility for the contents. So-called honorary authorship is not permitted. The author is accountable and identifies him- or herself with the scientific results and assumes responsibility for the contents of the publication.

§ 2 Accountability and cooperation

(1) Heads of departments and workgroups are primarily responsible for the lead role and for quality control of BNI scientific papers. They

- monitor the work processes and, in particular, ensure an orderly and complete record of the research results,

- organise regular laboratory meetings and working discussions, which include reports of the research assistants, PhD students and undergraduates,

- draw up working programmes for students and the future generation currently engaged in examination preparation and undergraduate studies,

- are responsible for identifying a supervisor for each PhD student, this supervisor being responsible for overseeing the scientific work carried out by the student,

- resolve conflicts within the department and draw up rules of conduct.

(2) Heads of departments and workgroups are authorised to delegate areas of responsibility to eligible staff members with a PhD. This is to proceed in writing. The head continues to bear all responsibility.
(3) In the case of interdepartmental tasks, e.g. for institute programmes, one person from the group is to be made responsible for the project. This person is to be determined for two years in agreement with the involved persons.

§ 3 Archiving and securing primary data
(1) All scientific studies are to be recorded completely. The appropriate and mandatory recording practice is subject-specific and is to be determined by the head of department or of the workgroup as applicable. A system is to be created whereby access to data and/or records is also possible for entitled third persons.

(2) Bound laboratory books are to be used. These are made available by the Institute. The books are to be labelled with the term of validity and name of the relevant person and/or the project. The pages are to be numbered consecutively. Exceptions in the case of certain scientific subject matter are to be determined as set out in § (1).

(3) Records have document character and are be preserved for at least ten years with the head of the department or the workgroup, or a successor, if applicable, or at a location determined by the academic director of the Institute.

(4) Primary data designed for publication should be archived with the manuscript, if possible. Should this not be the case, access should be made possible, e.g. by referring to the documentation in a specified laboratory journal.

(5) In case of a change in the working place of a workgroup leader, the original documents normally remain the property of BNI. Should the relevant person require the original documents for further scientific work and in the case of copies not being sufficient to the task, an exception can be made in writing to transfer archiving responsibility to this person. However, unrestricted access to the documents is to be guaranteed the BNI, whenever such access is required. The details are to be determined for each individual case.

(6) For all other cases, archiving the original data and data media is to be carried out in keeping with the specific legal norms (e.g. those regarding genetic technology and animal protection).

§ 4 Original scientific papers
(1) Original papers are notifications of new observations or experimental results including the conclusions drawn. It follows that multiple publications of the same results are not permissible.

(2) Where at all possible, results must be monitored and replicated before being submitted for publication. Findings that support or undermine the hypotheses of the authors must also be reported. Each and every interpretation is measured by the criteria of plausibility.

(3) In order to ensure the verifiability of the scientific studies, the publication must include a precise description of the methods and results, except when a particular form of publication (abstract, short communication) expressly excludes this.
(4) Findings and ideas of other scientists and relevant publications of other authors are to be cited appropriately.

§ 5 Authorship
(1) The persons named as authors of an original scientific publication should include all those persons, but only those, who have contributed essentially to the design of the studies or the experiments, the scientific preparation, analysis and interpretation of the data and to generating the manuscript itself and who have approved the publication, i.e. who also assume responsibility for it. Contributions such as those listed below are not adequate in themselves to justify co-authorship:
   - a solely technical contribution involving data collection,
   - purely reading the manuscript without making an intellectual contribution to its content,
   - instructing the co-authors in certain methods,
   - providing financial means,
   - the general management of the institution in which the research was conducted.

(2) An honorary authorship is not permitted.

(3) All the co-authors are required to provide their consent to the release of a manuscript for publication. By declaring their acceptance to be named as co-authors, they bear the responsibility for the scientific standard of the publication. When (co-)authors find their names listed in a publication without their having given their consent, it is expected that they either express their consent subsequently, or that they formally submit their express rejection of their names being listed as authors to the responsible persons. If such dissociation is not expressed, subsequent consent to authorship of the publication with the corresponding responsibilities is assumed.

§ 6 Training and supervision of new young scientists
(1) A member of the Institute, usually a department head or workgroup leader, is designated as supervisor for every new young scientist (undergraduate, PhD student). The supervisor provides instruction for scientific work and is available for regular scientific advice and support.

(2) The training of the young scientists should guarantee that the basic principles and scientific demands of good scientific practice are conveyed, with particular attention being given to their implementation.

(3) Young scientists who are preparing for examinations or a PhD are expected to submit regular reports on the progress of their scientific work. This can take place in the departmental meetings or other regular seminars.
§ 7 Performance and evaluation criteria

(1) For the BNI, criteria for employment, examinations and other matters in which performance and evaluation criteria are imposed, originality and quality consistently have priority over purely quantitative criteria.

(2) The budget for supplies and travelling costs is allocated proportionately according to performance. Such performance criteria are the level of external funding and the publication activity of the individual person. Apart from the implementation of bibliometric methods such as “impact factors”, an evaluation of the content of scientific achievement is made. Bonuses are provided for the supervision of scholarship holders.

(3) The criteria are discussed at the Institute conference and are recorded in writing by the director. This recorded statement is attached to the service agreement. The performance evaluation and the resulting budget appropriation is available to the department head and workgroup leaders.

§ 8 Ombudsperson

Since 1st January 2000, the BNI appoints an ombudsperson who has been elected by staff members to act as an independent person of trust/ a confidante and as a point of contact in cases of conflict, but also when scientific misconduct is suspected.

(1) Those entitled to vote are medical doctors and scientists who have completed their university education and who are employed by the BNI at the time of the election.

(2) Candidature for the office of ombudsperson is restricted to persons who have been employed at the BNI for at least one year and are bound to the BNI by contract for at least two further years (BNI contracts, scholarships holders, university contracts, etc.), with the exception of C4 professors.

(3) The ombudsperson are elected for a two-year period. Re-election is permissible.

(4) The election is conducted by secret, direct and free ballot. The count of the votes is made by the head of administration, staff council chairperson and the director’s secretariat. The ombudsperson is the person who has gained the majority of votes. The person with the second-highest vote count is appointed deputy ombudsperson. Should each of the two persons have attained an equal number of votes, the ombudsperson is determined by a draw.
Section 2

Procedures for dealing with scientific misconduct

§ 9 Scientific misconduct

Scientific misconduct has occurred when deliberate or grossly negligent misrepresentations are made with regard to scientific work, when rights to intellectual property are violated or the research activities of others impaired. Scientific misconduct in particular is:

(1) Misrepresentation
   - the fabrication of data;
   - the falsification of data, e.g. by selecting desired results or rejecting unwanted results without making this public, or by manipulating figures or diagrams;
   - false information in a letter of application or a funding application (including misrepresentations regarding the publishing body and forthcoming publications).

(2) The destruction of primary data when this represents a violation of legal requirements or recognised principles of scientific work.

(3) Violating intellectual property rights with regard to legally protected work created by another party, or to another party’s substantial findings, hypothesis, models or research approaches, such as:
   - the unauthorised appropriation or other utilisation of passages of text without appropriately crediting the author (plagiarism);
   - the exploitation of research approaches and ideas without consent, in particular, as reviewer (property theft);
   - the untruthful claim or unjustified acceptance of scientific authorship or co-authorship;
   - the falsification of content, or
   - the unauthorised publication of, and provision to third parties of, access to a work, findings, hypothesis, model or research approach that has not yet been lawfully published;
   - the untruthful claim to or unjustified acceptance of scientific authorship or co-authorship.

(4) Impairing the research activities of others by
   - damaging, destroying or manipulating research set-ups, devices, documents, hardware, software, chemicals or any other materials required by another party for conducting an experiment;
   - fraudulent manipulation, theft or destruction of books, archive material, notes and data;
   - grossly flawed, willfully false or misleading expert evaluation of the work of others and issuing a courtesy expertise.

(5) Joint responsibility for scientific misconduct can result from
   - active participation in the misconduct of others;
- knowledge of the forgery of others;
- co-authorship of forged publications;
- gross negligence with regard to supervisory duties.

§10 Role of the ombudsperson

(1) Should a member of the Institute feel the need to discuss suspicion of scientific misconduct, the elected ombudsperson can be consulted (§8). This right is also available to those who feel that they are subject to the suspicion of scientific misconduct. If the person requiring advice is a colleague of the ombudsperson, the deputy ombudsperson can be consulted.

(2) The ombudsperson examines the justification of the suspicion and whether the allegation of misconduct is applicable. The person seeking contact regarding the matter can consent to a third party being involved in the investigation (for example, the psychological service of the BNI for conflict solution strategies).

(3) Without consent from the person seeking contact, the ombudsperson may only pass on the information if there is suspicion of grave scientific misconduct and when not pursuing the matter would result in major damage to the Institute, its members or third parties. In such a case, the director is to be informed, who is then to initiate the relevant procedure.

§11 Preliminary investigation

(1) Evidence of a concrete suspicion can also be pursued without prior contact with an ombudsperson. In this case, the director is to be informed. Should this person himself be the subject of suspicion, the deputy is to be informed. The report of the complaint must be made in writing. If the information is provided orally, a written note is to be made.

(2) The facts leading to the suspicion expressed are to be examined immediately. The examination of the facts is to be conducted by the director or the deputy director. Careful compliance with confidentiality and protection of all concerned should be observed.

(2) The accused person must be given the opportunity to make a statement within a week of the allegation, if possible. The usual period is two weeks. The name of the informant is not disclosed during this phase, unless this person consents to this. However, a mutually agreed confrontation cannot be excluded.

(3) Two weeks after receipt of the statement, or after the period of two weeks without a response, the director and the deputy decide about further procedure. Should the suspicion not be sufficiently justified, and suspected misconduct not be determined, the preliminary procedure is discontinued. The person concerned and the informants are to be notified. Otherwise, formal investigation procedure will be initiated for further clarification and enable a decision on the case to be reached.
(4) Insofar as the director or deputy has no personal expertise in the related scientific field, the member of the enquiry committee with the closest related knowledge is to be included in the preliminary investigation.

(5) If the informants are dissatisfied with the discontinuation of the preliminary investigation, they have two weeks to raise their objections before the director or deputies in written or oral form. The deliberation as set out in (3) above is then to be conducted once more. If no settlement with the informants can be reached, the matter is put before the chairperson of the enquiry committee for a decision.

§ 12 Formal investigation

(1) An independent committee of enquiry is set up by the director, the deputy or deputies and the scientific advisory board of the Leibniz Association (WGL). The chairperson and deputy of the committee are persons elected to this office by the senate of the Leibniz Association. Further members are the chairperson of the scientific advisory board and/or the spokesperson of Section C of the Association and also an arbitration counselor from another section. In addition, a fully qualified lawyer is appointed to the committee of enquiry.

(2) In individual cases, the committee of enquiry can also appoint an expert peer reviewer.

(3) Partiality of a member of the committee can be claimed by this person him- or herself, by the person involved or another member. Should partiality be established, the member is expelled from the committee.

(4) The committee of enquiry conducts its sessions orally and in private. It investigates whether scientific misconduct has occurred in free consideration of the evidence. Further investigations can be initiated in consultation with the management.

(5) The established facts and findings, as well as the procedural steps, are to be disclosed to the person concerned. This person can scrutinise any of the documents at any time and demand information. The person is to be granted the opportunity to make a statement in an appropriate manner. Those concerned can be heard orally, if they so desire. They are also permitted the assistance of a trusted person. This also applies for other persons who are heard by the committee.

(6) All those involved are obliged to maintain confidentiality.

(7) If the committee regards misconduct as not proven, the proceeding is terminated. If the majority determines that misconduct has occurred, it makes a recommendation for a decision to the director, the deputy and the scientific advisory board and for further consideration. The committee’s conclusions are not legally binding.

(8) The essential reasons leading to the termination of the proceedings or to forwarding the matter to the head of the Institution are to be set out in writing for the person concerned and the informants. Internal appeal proceedings are not permissible.

(9) The deadlines for statements, consultations and decisions are all to be set appropriately to guarantee swift procedure. The individual procedural steps are to be recorded and documented. The files related to the formal investigation are to be stored for 10 years.
§13 Supervision of the person involved

(1) Upon conclusion of the enquiry it must be ensured that person who was accused of scientific misconduct experiences no further harm to his or her personal and scientific integrity. The following measures could prove appropriate for this purpose:

- written statement from the chairperson of the committee declaring that there is no basis for the charge of scientific misconduct against the person concerned;
- consultation from the ombudspersons, staff council or the BNI psychological service.

(2) Similarly, informants are to be protected against disadvantages.

(3) The staff council should be informed about the matter under the provision of confidentiality, in order to represent the rights of those involved, if necessary.

§14 Proven misconduct

(1) If scientific misconduct is considered proven, the director and the deputy director are to decide about the necessary further steps to be taken after due consideration (under certain circumstances after consulting the scientific advisory committee).

(2) Depending on the circumstances of the individual case and in particular on the gravity of the established misconduct, sanctions from various fields of law, possibly also accumulative, are also feasible. These can include the following:

a) disciplinary consequences under employment law
   - written reprimand
   - extraordinary dismissal
   - termination of contract
b) academic consequences
   - revocation of the doctorate degree
   - revocation of authorisation to teach
c) civil-law consequences
   - being barred from the premises
   - restitution claims, e.g. to surrender stolen scientific material
   - injunctive and omission relief from copyright laws, personal rights, patent law, competition law
   - recovery claims, e.g. from scholarships or third-party funding
   - damage claims from the Institute or third parties
d) criminal-law consequences
e) Revocation of scientific publications
   - Scientific publications containing errors as a result of proven scientific misconduct are to be revoked insofar as they still remain unpublished, and to be rectified, if they have already been published (revocation). Cooperation partners are to be informed appropriately, if necessary. In principle, the authors and the relevant publishers are obliged to do so. If they do not become active in due time, the director initiates suitable steps.
   - In cases of grave scientific misconduct, the director also informs other affected research institutes and/or organisations, and other professional organisations, as the case may be.

§ 15 Making information public
Insofar as it may be deemed necessary for the protection of third persons, for preserving confidence in scientific probity, for restoring scientific reputation, for preventing consequential damage or otherwise for general public interest, affected third parties and the general public are to be appropriately informed about the conclusions of the committee of enquiry.

Section 3
Concluding provisions

§ 16 Concluding provisions
(1) This service agreement shall become valid upon signature.
(2) The termination of this agreement must be made in writing three months before the end of a quarter in order to become valid at that time. Negotiations on the conclusion of a new service agreement are to be initiated immediately upon termination of this agreement.
(3) In the case of termination, this agreement remains in force until it is replaced by a new agreement.

Hamburg, (date)______________ Hamburg, (date)______________

______________________________ ______________________________
(Signature of the director) (For the staff council)

Entered into force on date of signature 28 March 2002.
Amendment agreement of the service agreement for safeguarding good scientific practice and
dealing with scientific misconduct dated 27.03.2002

New version of § 8 Ombudsperson

Since 1st January 2000, the BNI TM appoints an ombudsperson who has been elected by staff members to act as an independent person of trust/ a confidante and as a point of contact in cases of conflict, but also when scientific misconduct is suspected.

(1) Those entitled to vote are staff members with positions in research and diagnostics (postdoctoral and graduate scientists, technical personnel) and who are employed by the BNI TM at the time of the election.

(2) Candidature for the office of ombudsperson is restricted to postdoctoral members of staff who have been employed at the BNI TM for at least one year and are contractually bound to the BNI TM for at least three further years (BNI TM contracts, scholarships holders, university contracts, etc.). In order to avoid a conflict of interests, the office may not be taken by BNI TM board members and by department heads.

(3) The ombudsperson is elected for a three-year term. Re-election is permissible.

(4) The election is conducted by secret, direct and free ballot. The count of the votes is made by the head of administration, staff council chairperson and the assistant to the management board. The ombudsperson is the person who has gained the majority of the votes. The person with the second-highest vote count is appointed deputy ombudsperson. Should each of the two persons have attained an equal number of votes, the ombudsperson is determined by a draw.

Concluding provision

This amendment agreement becomes valid when signed.

Authorised by the BNI TM board at its meeting of 25.08.2015. Authorised by the BNI TM staff council at its meeting of 01.09.2015.

Hamburg, dated 29.09.2015

for the management board

Prof. Dr. Rolf Horstmann, Chairperson

for the staff council

Dorothea Zander, Chairperson
Amendment of § 8 of the service agreement for securing good scientific practice

Amendment agreement of the service agreement for safeguarding good scientific practice and dealing with scientific misconduct dated 27.03.2002

in the version of 29.09.2015

New version of § 8 Ombudsperson

Since 1st January 2000, the BNITM appoints an ombudsperson who has been elected by staff members to act as an independent person of trust/ a confidante and as a point of contact in cases of conflict, but also when scientific misconduct is suspected.

(1) Those entitled to vote are staff members with positions in research and diagnostics (postdoctoral and graduate scientists, MTAs, BTAs, biology lab assistants, etc.) with BNITM service agreements, natural science PhD students, postdoctoral scholarship holders and mutually appointed professors at Hamburg University whose primary workplace is BNITM are also eligible to vote.

(2) Candidature for the office of ombudsperson is restricted to postdoctoral members of staff who have been employed at the BNITM for at least one year and are contractually bound to the BNITM for at least three further years (BNITM contracts, scholarships holders, university contracts, etc.). In order to avoid a conflict of interests, the office may not be taken by BNITM board members and by department heads at BNITM.

(3) The ombudsperson is elected for a three-year term. Re-election is permissible.

(4) The election is conducted by secret, direct and free ballot. The count of the votes is made by the head of administration, staff council chairperson and the assistant to the management board. The ombudsperson is the person who has gained the majority of votes. The person with the second-highest vote count is appointed deputy ombudsperson. Should each of the two persons have attained an equal number of votes, the ombudsperson is determined by a draw.

Concluding provision

This amendment agreement becomes valid when signed.

Hamburg, dated 03.11.2017

for the management board

[Signature]

Prof. Dr. Egbert Tannich

for the staff council

[Signature]

Dorothea Zander-Dinse, Chairperson

This amendment agreement becomes valid when signed.

Hamburg, dated 03.11.2017

for the management board

[Signature]

Prof. Dr. Egbert Tannich

for the staff council

[Signature]

Dorothea Zander-Dinse, Chairperson
New version of § 8 Ombudsperson

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(3) The ombudsperson is elected for a three-year term. Re-election is permissible.

(4) The election is conducted by secret, direct and free ballot. The count of the votes is made by the head of administration, staff council chairperson and the assistant to the management board. The ombudsperson is the person who has gained the majority of the votes. The person with the second-highest vote count is appointed deputy ombudsperson. Should each of the two persons have attained an equal number of votes, the ombudsperson is determined by a draw.

(5) Should the ombudsperson resign before the end of the tenure, this office will be filled by the deputy for the remainder of the tenure. The office of deputy is taken by a replacement candidate for the remaining tenure. This also applies when the deputy resigns prematurely for other reasons. The follow-up regulation follows according to the list of replacement candidates in the sequence of the number of votes cast. If the vacant office cannot be filled, a new election is to be held.

Concluding provision

This amendment agreement becomes valid when signed.

Hamburg, dated 19.06.2018

for the management board

Prof. Dr. Egbert Tanriich

for the staff council

Dorothea Zander-Dinse, Vorsitz