DATA LICENSES - USER GUIDE

This User Guide provides information, explanatory notes and assumptions for three types of data licenses. These licenses are as follows:

- Private Data License
- Shared Data License
- Public Data License (Creative Commons)

These licenses are separately attached as **Annexures 1-3**.

A summary table of license types and key issues is separately attached as **Annexure 4**.

1) Private Data License

This type of license is used where high level, sensitive data is shared. This license is attached as **Annexure 1**.

The license granted under this agreement is a non-exclusive, non-transferable, revocable and royalty free license to <u>access</u> the data only. The data may not be copied, transferred, shown, relayed or provided to any other person.

Key elements of the license include:

- data is licensed for the data recipient only and is not to be disclosed to third parties, including derived data,
- mechanisms are in place to manage any personal or sensitive information that may be incorporated in the data,
- obligations regarding security of the data during access, and
- disclosure of this information to third parties may be in breach of laws, policies and regulations in the jurisdiction of the disclosing party and in the jurisdiction of any third party to whom the data is disclosed.

Only specified people within the agency should have access to this data as it includes data that is commercially or otherwise sensitive. Access to the data should be given on a case-by-case basis with a unique password or verification code.

This license contains set terms. The data recipient must agree to the license

terms as a pre-condition of access to the data. Upon identifying the data to be accessed, the recipient would be presented with a link to this license. Clicking on the link would advise that the data contains information that is commercially or otherwise sensitive. It would also advise that the disclosure of this information to third parties may be in breach of policies and regulations in the jurisdiction of the disclosing party and in the jurisdiction of any third party to whom the data is disclosed.

The data recipient would need to confirm that they have read and agreed to the terms of the license prior to being provided with access to the data.

As noted above, access to the data should be given upfront on a case-by-case basis with a unique password or verification code.

Beyond this, the document contains standard terms. For instance, clause 4.1 notes that the data is for the sole purpose of exercising the lawful functions and responsibilities of the office held by the recipient.

2) Shared Data License

This type of license is used where data is shared between agencies within Government. Access could be through an agency email address. This license is attached as **Annexure 2**.

The license granted under this agreement is a non-exclusive, non-transferable, revocable and royalty free license to use, reproduce and adapt the data.

Key elements of the license include:

- data is licensed for internal agency use and is not to be disclosed to third parties outside the agency,
- mechanisms are in place to manage any personal information that may be incorporated in the data, and
- obligations regarding security of the data during storage.

This license contains set terms. The data recipient must agree to the license terms as a pre-condition of access to the data. Upon identifying the data to be accessed, the recipient would be presented with a link to this license and requested to confirm that they have read and agreed to the terms of the license prior to being provided with access to the data.

As it is a document containing standard terms and conditions to manage data exchange between government agencies and is not intended to be negotiated on a case-by-case basis, some standard conditions and definitions are broadly drafted to avoid unintended exclusions. For instance, clause 4.1 notes that the data is provided for the sole purpose of exercising the lawful functions and responsibilities of the office held by the recipient. Other restrictions on the application or use of the data include in relation to personal information and disclosure to parties outside of the recipient's agency – see clause 4.2.

It is important to note, however, that this license agreement <u>does permit</u> the disclosure of data derived from the Shared Data as long as the Shared Data is not separately identifiable or attributed. This helps to protect a person where they are exercising the functions and responsibilities of the office and may, for example, base some conclusions on the data.

This type of agreement is appropriate where data is not in the public domain, and may contain personal information. Where more sensitive information is contained, the data should be licensed under the Closed license (see Annexure 1).

3) Public Data License (Creative Commons[1])

This type of license is used where the owner of data wishes to license that data on a "share alike"[1] basis and allow for it to be adapted or modified. In return, the owner makes such a license subject to proper attribution (an acknowledgment) and on condition that the material is licensed for non-commercial purposes only.

Creative Commons (or "CC") copyright licenses provide a standard means of doing this. They are well known globally and thus there are strong reasons for using the template Creative Commons License, as drafted. Frequently asked questions about Creative Commons are <u>here</u>. Creative Commons licenses can be applied <u>online</u> or <u>offline</u>.

This license is attached as **Annexure 3**.

Key elements of this type of license include:

- it is not revocable.

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[1] "Share alike" means that any licensee can only distribute the material on the same terms under which it obtained the license, that is by providing attribution to the owner and for non-commercial purposes only.

- it is non-exclusive.
- there are no royalties.
- it is for non-commercial purposes only.
- it is global.
- the licensee can make technical modifications in order to exercise the licensed rights (as these rights are for all media and formats).
- the licensee of the adapted material is granted a license in the original material to the same extent that it exists in the adapted material.
- moral rights are not licensed under this public license but the licensor agrees to waive their right to assert their moral rights.
- patent and trademark rights are not licensed.
- where the licensed rights include sui generis database rights the licensee is granted the right to extract, reuse, reproduce, and share all or a substantial portion of the contents of the database for non-commercial purposes only.
- the license does not make any warranties or representations (that is, the material is licensed on an "as is" basis).

Steps on applying for a Creative Commons Shared License (Attribution-NonCommercial-ShareAlike 4.0 International Public License) are found at **Attachment A**.
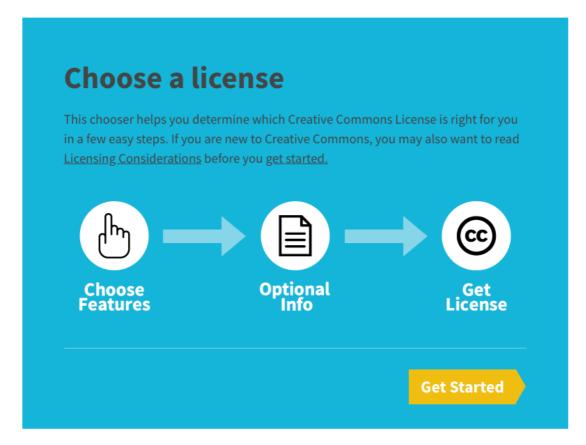
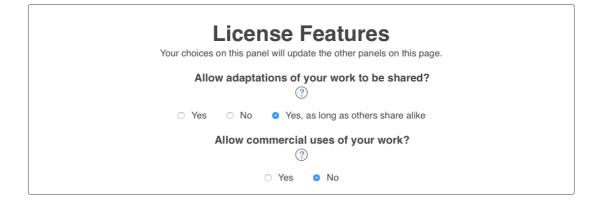**Applying for Creative Commons Public Data License**

The following steps show how to apply for a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International Public License.

Step 1: Go to: https://creativecommons.org/share-your-work/

Step 2: Select "Get Started"

Step 3: Choose the following features as indicated below:

The website will then show you have selected the appropriate Creative Commons License as set out below.

Step 4: If you want others to attribute you on a website, fill in the details below about the work, such as the title, name and URL.

Step 5: If you are making the data available through a website, copy the code within the box to your website (if you own one). This code will identify the Creative Commons License on your website.