Creative Commons

Legal Code

Attribution-NonCommercial-ShareAlike 3.0

Thailand

In preparing this licence for Thai jurisdiction, our concepts are:

1. Changes made to the unport CCL result from either (i) Thai Copyright Act does not recognize the term in question or (ii) the unport CCL contained some conceptual or jurisprudential reference peculiar to common law terms that is therefore omitted as irrelevant in Thai jurisdiction. Some of definitions have been shortened but also preserve the original content.

- 2. DLO has generally avoided giving examples in contract.
- 3.To avoid confusion, DLO changes the section, subsection and item from letter to number.

CREATIVE COMMONS CORPORATION ("CC") IS NOT A LAW FIRM AND DOES NOT PROVIDE LEGAL SERVICES. DISTRIBUTION OF THIS LICENSE DOES NOT CREATE AN ATTORNEY-CLIENT RELATIONSHIP. CREATIVE COMMONS CC PROVIDES THIS INFORMATION ON AN "AS-IS" BASIS. CREATIVE COMMONS CC MAKES NO WARRANTIES REGARDING THE INFORMATION PROVIDED, AND DISCLAIMS LIABILITY FOR DAMAGES RESULTING FROM ITS USE.

DLO uses CC instead of Creative Common because this term has already been defined as Creative Common Corporation.

License

THE WORK IS PROVIDED UNDER THE TERMS OF THIS CREATIVE COMMONS PUBLIC LICENSE ("CCPL" or LICENSE). THE WORK IS PROTECTED BY COPYRIGHT AND/OR OTHER APPLICABLE LAW. ANY USE OF THE WORK OTHER THAN AS AUTHORIZED UNDER THIS LICENSE OR COPYRIGHT LAW IS PROHIBITED.

DLO deletes the word "or LICENSE" to avoid confusion.

BY EXERCISING ANY RIGHTS TO THE WORK PROVIDED HERE, YOU ACCEPT AND AGREE TO BE BOUND BY THE TERMS OF THIS LICENSE. TO THE EXTENT THIS LICENSE MAY BE-CONSIDERED TO BE A CONTRACT, THE LICENSOR GRANTS YOU THE RIGHTS CONTAINED HERE IN CONSIDERATION OF YOUR ACCEPTANCE OF SUCH TERMS AND CONDITIONS. "YOU" AND "LICENSOR" HAVE THE DEFINITIONS AS GIVEN BELOW.

In Thai jurisdiction, license is a contract, DLO deletes the above clause to avoid confusion. The highlighted part is added to make clear that these words, although used preceding the definition clause has the same meanings as given to them in the rest of the document.

1. Definitions

In this section, DLO takes the old definition out, uses the new definitions according to Thai Copyright Act, section 4 6 12, and changes some words as guided by the CCi's checklist and guideline.

- (1) "Adaptation" means a reproduction by conversion, modification or emulation of an original Work for a substantial part, not creating a new Work, whether in whole or in part.
- (2). "Collection" means a collection of Works which is a compilation or composition of Works or a compilation or composition of data or other materials which are readable or conveyable by a computer or other apparatus which is not an imitation or Adaptation of the Work of other person.
- **(3). "Distribute"** means to make available to the public the original and or copies of the Work or Adaptation in any form, as appropriate, through sale or other transfer of ownership.
- **(4). "License Elements"** means the high-level license attributes as selected by Licensor and indicated in the title of this the License such as "Attribution", "Non-Commercial", "Share-Alike" etc.
- **(5). "Licensor"** means the individual, individuals, entity or entities that offer(s) the Work under the terms of this License.
- **(6). "Original Author"** means the individual,individuals, entity or entities who make or creates the Work.
 - (7). "Work" means the copyright Work offered under the terms of this Licence.
 - **(8)**. **"You"** means an individual or entity exercising rights under this License who has not previously violated the terms of this License with respect to the Work, or who has received express permission from the Licensor to exercise rights under this License despite a previous violation.
 - (9) "Publicly Perform" means making the Work available to public by means of performing, lecturing, preaching, playing music, causing the perception by sound or image, constructing, or by any other means
- (10) "Reproduce" means copying, imitation, duplication, block-making, sound recording, video recording or sound and video recording from an original Work, whether in whole or in part, and, in the case of computer programs, means duplicate or making copies of the program from any medium for a substantial part by any method, not creating a new work whether in whole or in part.
 - (11). "Copyright" means the exclusive right to the Work according to Thai Copyright law.
- **2. Fair Dealing Rights.** Limitations on Copyright. Nothing in this License is intended to reduce, limit, or restrict any uses free from Copyright or rights arising from limitations or exceptions that are provided for in connection with the Copyright protection under Copyright law or other applicable laws.

Limitations on Copyright principally consist in the Thai copyright law. There is no such doctrine as Fair Dealing Right under Thai Copyright law.

- **3. License Grant.** Subject to the terms and conditions of this License, Licensor hereby grants You a worldwide, royalty-free, non-exclusive, perpetual license for the duration of the applicable-copyright protection to exercise the rights in the Work as stated below:
 - (3.1) to Reproduce the Work, to incorporate the Work into one or more Collections, and to Reproduce the Work as incorporated in the Collections;
 - (3.2) to create and Reproduce Adaptations provided that any such Adaptation, including any translation in any medium, takes reasonable steps to clearly label, demarcate or otherwise identify that changes were made to the original Work or a modification could indicate "The original work has been modified.":
 - (3.3) to Distribute and Publicly Perform the Work including as incorporated in Collections; and,
 - (3.4) to Distribute and Publicly Perform Adaptations.

The above rights may be exercised in all media and formats whether now known or hereafter devised. The above rights include the right to make such modifications as are technically necessary to exercise the rights in other media and formats. Subject to Section 8(f), All rights not expressly granted by Licensor are hereby reserved, including but not limited to the rights described in Section 4.4 and 4.5.

DLO edits first paragraph to make it more clearly, deletes "Subject to Section 8(f)" according to CCi's guideline&check-list and takes one clause in 3.2 out because it is an example.

- **4. Restrictions.** The license granted in Section 3 above is expressly made subject to and limited by the following restrictions:
 - 4.1 You may Distribute or Publicly Perform the Work only under the terms of this License.

You must include a copy of, or the Uniform Resource Identifier (URI) for, this License with every copy of the Work You Distribute or Publicly Perform.

You may not offer or impose any terms on the Work that restrict the terms of this License or the ability of the recipient of the Work to exercise the rights granted to that recipient under the terms of the License.

You may not sublicense the Work.

You must keep intact all notices that refer to this License and to the disclaimer of warranties with every copy of the Work You Distribute or Publicly Perform.

When You Distribute or Publicly Perform the Work, You may not impose any effective technological measures on the Work that restrict the ability of a recipient of the Work from You to exercise the rights granted to that recipient under the terms of the License.

This Section 4.1 applies to the Work as incorporated in a Collection, but this does not require the Collection apart from the Work itself to be made subject to the terms of this License.

If You create a Collection, upon notice from any Licensor You must, to the extent practicable, remove from the Collection any credit as required by Section 4.4, as requested.

If You create an Adaptation, upon notice from any Licensor You must, to the extent practicable, remove from the Adaptation any credit as required by Section 4.4, as requested.

- 4.2. You may Distribute or Publicly Perform an Adaptation only under:
 - (4.2.1) the terms of this License;
 - (4.2.2) a later version of this License with the same License Elements as this License;
 - (4.2.3) either the Creative Commons (unported) license or a Creative Commons jurisdiction license(either this or a later license version) that contains the same License Elements as this License (e.g., Attribution-NonCommercial-ShareAlike 3.0 US)

(4.2.1,4.2.2 and 4.2.3 defined as "Applicable License")

You must include a copy of, or the URI, for the Applicable License with every copy of each Adaptation You Distribute or Publicly Perform.

You may not offer or impose any terms on the Adaptation that restrict the terms of the Applicable License or the ability of the recipient of the Adaptation to exercise the rights granted to that recipient under the terms of the Applicable License.

You must keep intact all notices that refer to the Applicable License and to the disclaimer of warranties with every copy of the Work as included in the Adaptation You Distribute or Publicly Perform.

When You Distribute or Publicly Perform the Adaptation, You may not impose any effective technological measures on the Adaptation that restrict the ability of a recipient of the Adaptation from You to exercise the rights granted to that recipient under the terms of the Applicable License.

This Section 4(b) applies to the Adaptation as incorporated in a Collection, but this does not require the Collection apart from the Adaptation itself to be made subject to the terms of the Applicable License.

DLO puts the CCL unport version in 4.2.3 according to CCi's recommendation, deletes the example in 4.2.3 & a word 4(b) in the above sentence and adds some word to define applicable license more precisely.

- 4.3 You may not exercise any of the rights granted to You in Section 3 above in any manner that is primarily intended for or directed toward commercial advantage or private monetary compensation. The exchange of the Work for other Copyrighted Works by means of digital file-sharing or otherwise shall not be considered to be intended for or directed toward commercial advantage or private monetary compensation, provided there is no payment of any monetary compensation in connection with the exchange of Copyrighted Works.
- 4.4. If You Distribute, or Publicly Perform the Work or any Adaptations or Collections, You must, unless a request has been made pursuant to Section 4.1, keep intact all Copyright notices for the Work and provide, reasonable to the medium or means You are utilizing:
- (4.4.1) the name of the Original Author (or pseudonym, if applicable) if supplied, and/or if the Original Author and/or Licensor designate another party or parties (e.g., a sponsor institute, publishing entity, journal) for attribution ("Attribution Parties") in Licensor's Copyright notice, terms of service or by other reasonable means, the name of such party or parties;
 - (4.4.2) the title of the Work if supplied;
- (4.4.3) to the extent reasonably practicable, the URI, if any, that Licensor specifies to be associated with the Work, unless such URI does not refer to the Copyright notice or licensing information for the Work; and
 - (4.4.4) consistent with Section 3.2, in the case of an Adaptation, a credit identifying the use of the Work in the Adaptation and the name of the Original Author of the Work (or pseudonym, if applicable) if supplied.

The credit required by this Section 4.4 may be implemented in any reasonable manner; provided, however, that in the case of a Adaptation or Collection, at a minimum such credit will appear, if a credit for all contributing authors of the Adaptation or Collection appears, then as part of these credits and in a manner at least as prominent as the credits for the other contributing authors.

For the avoidance of doubt, You may only use the credit required by this Section for the purpose of attribution in the manner set out above and, by exercising Your rights under this License, You may not implicitly or explicitly assert or imply any connection with, sponsorship or endorsement by the Original Author, Licensor and/or Attribution Parties, as appropriate, of You or Your use of the Work, without the separate, express prior written permission of the Original Author, Licensor and/or Attribution Parties.

DLO adds the clause "and the name of the Original Author of the Work (or pseudonym, if applicable) if supplied" to make 4.4.4 to be perfect.

4.5 For the avoidance of doubt:

(4.5.1) The Licensor reserves the exclusive right to collect such royalties and damages for any exercise by You of the rights granted under this License if Your exercise of such rights is for a purpose or use which is otherwise than noncommercial as permitted under Section 4.3 and otherwise waives the right to collect royalties and damages through any statutory or compulsory-licensing scheme; and,

DLO deletes the last clause because no any statutory or compulsory licensing scheme exists in Thai jurisdiction and adds "and damages" pursuant to Thai law.

(4.5.2) The Licensor reserves the right to collect royalties and damages, whether individually or, in the event that the Licensor is a member of, and authorize power of attorney to, a collecting association that administers voluntary licensing schemes, via that association, from any exercise by You of the rights granted under this License that is for a purpose or use which is otherwise than noncommercial as permitted under Section 4.3

DLO deletes section 4. e i because Thailand is the jurisdiction in which the right to collect royalties can be waived according to section 15 (5) of Thai Copyright Act and adds some new words pursuant to Thai law.

4.6 Except as otherwise agreed in writing by the Original Author or as may be otherwise permitted by applicable law, if You Reproduce, Distribute or Publicly Perform the Work either by itself or as part of any Adaptations or Collections, You must not distort, mutilate, modify or take other derogatory action in relation to the Work which would be prejudicial to the Original Author's honor or reputation.

DLO changes Licensor to Original Author according to a proposed changes in this section on 3.01 and deletes the last paragraph because it is irrelevant in Thai jurisdiction.

5. Representations, Warranties and Disclaimer

UNLESS OTHERWISE MUTUALLY AGREED TO BY THE PARTIES IN WRITING AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSOR OFFERS THE WORK AS-IS AND MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND CONCERNING THE WORK, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR THE ABSENCE OF LATENT OR OTHER DEFECTS, ACCURACY, OR THE PRESENCE OF ABSENCE OF ERRORS, WHETHER OR NOT DISCOVERABLE. SOMEJURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THISEXCLUSION MAY NOT APPLY TO YOU.

DLO deletes the last sentence because this section is legally binding in Thai jurisdiction.

6.Limitation on Liability. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL LICENSOR BE LIABLE TO YOU ON ANY LEGAL THEORY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF THIS LICENSE OR THE USE OF THE WORK. EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

DLO deletes the clause "on any legal theory" because under Thai law,liability occurs only by juristic act, contract or law,not by any legal theory and deletes the last clause because it may be illegal.

7. Termination

7.1. This License and the rights granted hereunder will terminate automatically upon any breach by You of the terms of this License. Individuals or entities who have received Adaptations or Collections

from You under this License, however, will not have their licenses terminated provided such individuals or entities remain in full compliance with those licenses. Sections 1, 2, 5, 6, 7, and 8 will survive any termination of this License.

7.2. Subject to the above terms and conditions, the license granted here is perpetual (for the duration of the applicable copyright in the Work). Notwithstanding the above, Licensor reserves the right to release the Work under different license terms or to stop distributing the Work at any time; provided, however that any such election will not serve to withdraw this License (or any other license that has been, or is required to be, granted under the terms of this License), and this License will continue in full force and effect unless terminated as stated above.

8. Miscellaneous

- 8.1. Each time You Distribute or Publicly Perform the Work or a Collection, the Licensor offers to the recipient a license to the Work on the same terms and conditions as the license granted to You under this License.
- 8.2. Each time You Distribute or Publicly Perform an Adaptation, Licensor offers to the recipient a license to the original Work on the same terms and conditions as the license granted to You under this License.
- 8.3. If any provision of this License is invalid or unenforceable under applicable law, it shall not affect the validity or enforceability of the remainder of the terms of this License, and without further action by the parties to this agreement, such provision shall be reformed to the minimum extent necessary to make such provision valid and enforceable.
- 8.4. No term or provision of this License shall be deemed waived and no breach consented to unless such waiver or consent shall be in writing and signed by the party to be charged with such waiver or consent.
- 8.5 This License constitutes the entire agreement between the parties with respect to the Work licensed here. There are no understandings, agreements or representations with respect to the Work not specified here. Licensor shall not be bound by any additional provisions that may appear in any communication from You. This License may not be modified without the mutual written agreement of the Licensor and You.

Creative Commons Notice

Creative Commons is not a party to this License, and makes no warranty whatsoever in connection with the Work. Creative Commons will not be liable to You or any party on any legal theory for any damages whatsoever, including without limitation any general, special, incidental or consequential damages arising in connection to this license. Notwithstanding the foregoing two (2) sentences, if Creative Commons has expressly identified itself as the Licensor hereunder, it shall have all rights and obligations of Licensor.

Except for the limited purpose of indicating to the public that the Work is licensed under the CCPL, Creative Commons does not authorize the use by either party of the trademark "Creative Commons" or any related trademark or logo of Creative Commons without the prior written consent of Creative Commons. Any permitted use will be in compliance with Creative Commons' then-current trademark usage guidelines, as may be published on its website or otherwise made available upon request from time to time. For the avoidance of doubt, this trademark restriction does not form part of this License.

Creative Commons may be contacted at http://creativecommons.org/.

DLO deletes the clause "on any legal theory" because of reasons given in changes made to Section 6.

Dharmniti Law Office Notice

Comments on this draft are welcome and may be sent by email to lP@dlo.co.th or to ccthailand@googlegroups.com or posted on Creative Commons Thailand project at: http://cc.in.th/
