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**D 5.2**

**Report on regulation and policies**

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## 1 Introduction

The objective of D5.2 within EGDI scope is to identify legal and policy barriers to the sharing and re-use of geological data, and to develop an inventory of the existing licensing policies that may be used as input for the legal and organizational framework for the EGDI. These access and licensing policies and guidelines will be presented in a practicable and user-friendly way to all stakeholders as part of the final product of WP5.

This deliverable has been prepared to first provide a brief overview of the most relevant regulation and policies concerning open geographic data. Second, we analyze the state of the art in the licensing trends for the public sector information, particularly related to and suitable for geological information. This deliverable presents methods that are employed by different public bodies and different governments in the world, including France, Australia and Canada. The report aims to describe each licensing trend and functionality of the licensing trend and if possible at this stage, the practical possibility to use the licensing method for the geological public sector information. For this reason, an emphasis on compliance with the legal framework in the area of spatial data is given. This report provides answers to a search for a solution that should be used for the development of the pan-European Geological Data Infrastructure, which would result in greater harmonization of the access and licensing policies throughout Europe. As an introduction to the licensing part of this deliverable, this report will give you an overview of the standard modules that are usually included in a license.

Annex 1 of this deliverable will briefly analyze the national and European licensing policies that are currently being used for a limited number of the recommended datasets. With this comparative exercise, we aim to expose some of the remaining legal barriers for a truly open access policy for geographic data. Annex 2 will provide you with a manual for the GeoShared license as an example of a suitable license.

## **2 The INSPIRE Directive**

### **2.1 Introduction**

The INSPIRE Directive was adopted on 14 March 2007.<sup>1</sup> The main goal of this Directive is to provide a legal basis for the development of an EU Spatial Data Infrastructure (SDI), addressing both technical and non-technical aspects. When adopted in 2007, the field of application was limited to environmental policy but it is open for use by and future extension to other sectors such as agriculture, transport and energy. The analysis presented here discusses only briefly those issues that have a direct impact on the legal framework for the availability of spatial data in the EU, and the development of the access and licensing policies. The examination only serves as a basic overview, covering the chapters on network services and data sharing.

### **2.2 Public Access to network services**

#### **2.2.1 Establishment of network services**

According to article 11 of the INSPIRE Directive, Member States are obliged to establish and operate a network of the following services for the spatial data sets for which metadata have been created:

- Discovery services making it possible to search for spatial data sets and services on the basis of the content of the corresponding metadata and to display the content of the metadata;
- View services making it possible, as a minimum, to display, navigate, zoom in/out, pan, or overlay viewable spatial data sets and to display legend information and any relevant content of metadata;
- Download services, enabling copies of spatial data sets, or parts of such sets, to be downloaded and, where practicable, accessed directly;

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<sup>1</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), *OJ L108/1*

- Transformation services, enabling spatial data sets to be transformed with a view to achieving interoperability;
- Services allowing spatial data services to be invoked.

Further on, the same article clarifies that these services should take into account relevant user requirements and have to be easy to use, available to the public and accessible via the Internet or any other appropriate means of telecommunication.<sup>2</sup>

### **2.2.2 Limitations on public access**

Article 13.1 enumerates the reasons allowing the Member States to restrict public access to spatial data sets and services through the network services. The distinction was made between access to discovery services, where the number of reasons to refuse access is limited to situations which could possibly affect international relations, public security or national defence, and the other services. The aim of discovery services is to allow the citizens to learn of the existence of the data. It leads to enabling the participation of citizens in decision-making and keeping them informed of the activities of the government, which is the core purpose of the access legislation. It was considered that any more restrictions to these services would be in contradiction to such purpose. Moreover, as there is adequate protection of the interests concerned by the limitation of access to the other services, refusing access to the discovery services is not necessary.

In case of the latter types of services article 13 provides that the Member States may limit public access to the network services other than the discovery services, “where such access would adversely affect any of the following:

- (a) the confidentiality of the proceedings of public authorities, where such confidentiality is provided for by law;
- (b) international relations, public security or national defence;
- (c) the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

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<sup>2</sup> Janssen, K., *The availability of Spatial and Environmental Data in the European Union: at the crossroads between Public and Economic Interests*, Wolter Kluwer 2010, 102

- (d) the confidentiality of commercial or industrial information, where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;
- (e) intellectual property rights;
- (f) the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law;
- (g) the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so, unless that person has consented to the release of the information concerned;
- (h) the protection of the environment to which such information relates, such as the location of rare species.

It should be noted that the list provided is an exact replication from the Access Directive. While agreeing on the list was difficult and caused lots of discussion, in the end it was decided that the two lists should be identical in order “to ensure consistence in the implementation”.

This list of possible limitations is exactly the same as the list from the access directive, as would be expected from the previously mentioned statement that the INSPIRE directive is without prejudice to the Access directive. Therefore we refer to the section on the Access directive below for more information.

However, some exceptions caused a lot of discussion. In its original proposal, the European Commission wanted the directive to be without prejudice to the Access directive “except with respect to certain provisions that address the grounds for limiting access to the spatial data covered by this Directive, avoiding the possibility of unduly limitations of access to the spatial data covered by this Directive”.<sup>3</sup> The main reflection of this, next to exclusion of the discovery services from the limitations, was that two possible grounds of

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<sup>3</sup> COMMISSION OF THE EUROPEAN COMMUNITIES, *Proposal for a directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE)*, (COM)2004, 516 final, recital 6.



exception were deleted from the list; i.e. intellectual property rights and the interests or protection of any person who supplied the information requested on a voluntary basis.

While re-adding the latter exception caused no discussion, the deletion of the exception for intellectual property rights caused a lot of debate in the Council. The Commission argued that the deletion “does not in any way compromise the right of public authorities to assert intellectual property rights. It only requires that those rights are exercised in accordance with existing good practice by ensuring the provision of services as described”, and that the directive “rather provides clear, well-defined and justified restrictions to the way those rights are exercised. Including this as a general ground for exemption is therefore superfluous and risks weakening” the provisions on public access”.<sup>4</sup> This argument could not convince the Member States delegations, and intellectual property rights were included in the Common Position, to ensure that “[t]he extended list of grounds for limiting access set out in Article 13 is identical to that in Article 4(2) of Directive 2003/4/EC on public access to environmental information to ensure consistence in the implementation”.<sup>5</sup> Even though the European Parliament and the Commission maintained their position through the second reading, the Council managed to keep the intellectual property rights in the text as part of the final conciliation agreement.

Whatever the ground for refusing public access to the network services would be, it has to be interpreted in a restrictive way, taking into account for the particular case the public interest served by providing this access. In every case, the public interest served by disclosure has to be weighed against the interest served by limiting or conditioning the access.<sup>6</sup>

While it is understandable that concerns for liability in case of misinterpretation or misuse of the data would lead the public authorities to consider very carefully if they want to make their data available to the public (or to other public authorities), this in itself is not a

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<sup>4</sup> GENERAL SECRETARIAT OF THE COUNCIL OF THE EUROPEAN UNION, *Note to the Delegations. Proposal for a directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE)*, 22 March 2005, doc. nr. 7488/05, <http://register.consilium.europa.eu/pdf/en/05/st07/st07488.en05.pdf>.

<sup>5</sup> COUNCIL OF THE EUROPEAN UNION, *Common Position adopted by the Council on 23 January 2006 with a view to the adoption of a Directive of the European Parliament and of the Council establishing an Infrastructure for Spatial Information in the European Community (INSPIRE).Statement of the Council's reasons*, 23 January 2006, doc. Nr. 12064/2/05, <http://register.consilium.europa.eu/pdf/en/05/st12/st12064-re02ad01.en05.pdf>.

<sup>6</sup> Article 13.2 INSPIRE directive.

reason to limit access to the network services, unless one of the interests mentioned above comes into play. However, such concerns for liability are valid and they can be addressed by including liability waivers in the licences or in disclaimers for the service, and ensuring that the metadata for each data set clearly state its characteristics.

### **2.2.3 Charges for public access**

Charging for access to the network services is often seen as a solution in the discussion about the protection of investments of the public authorities in creating data. Once again, the distinction is made between discovery services, view services and the other services. The charges for all three are different. The appropriate regulation is provided in article 14 of the INSPIRE directive.

The discovery services have to be provided to the public free of charge, with no exception. This issue never created any doubts. Next, Art. 14.2 regulates the charges to the view services. In principle, these also have to be provided free of charge, but by way of derogation the Member States may allow the public authorities to charge for the view services “where such charges secure the maintenance of spatial data sets and corresponding data services, especially in cases involving very large volumes of frequently updated data”. The discussion whether view services should be always free of charge aroused discussion between the institutions. The opinion of some Member States was that the data providers should be allowed to maintain their charges for certain view services, for example in case of meteorological data. In the Common Position the Council stated that the view services should be “as a rule, available to the public free of charge. However, in cases where charges and/or licences are an essential precondition to maintain the spatial data sets and services to fulfil requirements of already existing international spatial data infrastructure in a sustainable way, Member States may apply charges and/or licences either to the person providing the service to the public, or, where the service provider chooses, to the public itself”.<sup>7</sup> Moreover, the data made available through the view services “may be in a form preventing their re-use for commercial purposes”. The Commission accepted the fact that some view services will not always be free of charge: “[t]here are

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<sup>7</sup> GENERAL SECRETARIAT OF THE COUNCIL OF THE EUROPEAN UNION, *Information note to the Delegations. Proposal for a directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE) – Political agreement*, 29 June 2005, doc. nr. 10553/05, <http://register.consilium.europa.eu/pdf/en/05/st10/st10553.en05.pdf>.

nevertheless some types of data, such as meteorological data, where it may not be cost-effective or reasonable for data providers to make the data available for view free of charge because they are too voluminous and/or are of interest for only a very limited period of time. The precise wording of this paragraph will need to reflect such cases”.<sup>8</sup>

In the end, the provision saying that the public authorities can charge for the view services, if the charges secure the maintenance of spatial data sets and corresponding data services was kept although it was not clarified what securing the maintenance means. What exactly is meant by *securing the maintenance* is not explained. In any case, it is not stated that the charges are *necessary* to secure this maintenance. Therefore, one could state charging for data will always secure their maintenance, as these charges will always contribute to it, like any other income would.

The other services can be charged for by the public authorities at their own choice.

#### **2.2.4 E-Commerce Services**

Where public authorities levy charges for the services, Member States shall ensure that e-commerce services are available. Such provision was designed in order to make the access by the public to the network services quick and easy. This provision refers to all services that are being charged for. Further, article 14.4 specifies that such services may be covered by disclaimers, click-licences or, where necessary, licences.

What are e-commerce services? Is there a definition? Is it that you have to be able to order electronically, or should you also be able to receive the data and pay for them electronically?

Here, some confusion is created. The problem is that the Directive does not define e-commerce services, neither refers to any other directive. It is possible to look for a solution in the E-Commerce Directive 2000/31/EC which, however, also does not use the

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<sup>8</sup> COMMISSION OF THE EUROPEAN COMMUNITIES, *Opinion pursuant to Article 251(2) third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council Common Position regarding the proposal for a Directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE)*, COM (2006) 484 final,

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0484:FIN:EN:PDF>

term e-commerce services but covers *information society services* within e-commerce.<sup>9</sup> The definition of Information Society services was introduced in Directive 98/34/EC<sup>10</sup> and can also be found in recital 17 of the E-Commerce Directive. The definition describes information society services as “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”.

In order to better understand the term, an analysis of each element of the definition is necessary. “Any service normally provided for remuneration” means that the service has to be paid for. However, it does not have to be paid by the recipient. It can be covered also through advertisements. There are no indications given about the method of payment. Does the service have to be performed entirely by electronic means, which would mean that the payment has to be done electronically as well? There is no such restriction which would suggest that such a method is not required.

“At a distance” means that the services have to be provided without simultaneous presence of the parties. In other words, it has to be decided whether face-to-face contact between the parties is possible.

Moreover, the service has to be performed ‘by electronic means’ which indicates that the service should be sent and received through electronic equipment. The common opinion is that traditional mail-order firms do not fall under the scope of the E-commerce Directive, unless they carry out their activities through a website. In that case they will be considered as providers of information society services.

The last part of the definition requires the service to be performed “at the individual request of a recipient of services” which means that the service has to be delivered on demand. In case of websites, it is always to be considered to be on demand, as the recipient “requests” the website when typing the URL or following a link.

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<sup>9</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market,

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:178:0001:0016:EN:PDF>.

<sup>10</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:204:0037:0048:EN:PDF>.

However, as there is no clear guarantee that the e-commerce services mentioned in the INSPIRE directive are referring to the concept of information society services, this definition can only be considered an indication for what e-commerce services might mean, but the e-commerce service for the network services should not necessarily fulfil all the conditions of article 17 of the E-Commerce Directive.

## **2.3 Data sharing**

### **2.3.1 Introduction**

The second part of the INSPIRE directive that is relevant for the access and licensing policies deals with the exchange of spatial data sets and services between Member States and public authorities for purposes of performing public tasks relating to the environment. It should be noted that data sharing, which constitutes an ultimate goal of the INSPIRE Directive, is addressed directly only in article 17.

### **2.3.2 General principle**

The idea presented in paragraph 1 of article 17 that the Member States have to adopt measures to facilitate data sharing for the purposes of public tasks that may influence the environment was agreed on since the very beginning by all the parties involved. However, achieving consensus on the conditions required a long negotiation process between the Commission, the Council and the Parliament. Finally, it was decided in article 17.1 that “each Member State shall adopt measures for the sharing of spatial data sets and services between its public authorities referred to in point (9)(a) and (b) of Article 3. Those measures shall enable those public authorities to gain access to spatial data sets and services, and to exchange and use those sets and services, for the purposes of public tasks that may have an impact on the environment”.

Moreover article 17.2 specifies that these measures should preclude any restrictions likely to create practical obstacles, occurring at the point of use, to the sharing of spatial data sets and services.

### **2.3.3 Licensing and payment**

A lot of discussions were also held in respect of the use of licences or the requirement of a payment by public authorities that supply spatial data sets and services. It was decided that Member States “may allow public authorities that supply spatial data sets and services to license them to, and/or require payment from, the public authorities or

institutions and bodies of the Community that use these spatial data sets and services. Any such charges and licenses must be fully compatible with the general aim of facilitating the sharing of spatial data sets and services between public authorities. Where charges are made, these shall be kept to the minimum required to ensure the necessary quality and supply of spatial data sets and services together with a reasonable return on investment, while respecting the self-financing requirements of public authorities supplying spatial data sets and services, where applicable. Spatial data sets and services provided by Member States to Community institutions and bodies in order to fulfil their reporting obligations under Community legislation relating to the environment shall not be subject to any charging”.

#### **2.3.4 Bodies from other Member States, the EC and international organizations**

Article 17.4 addresses the issue of applicability of the measures taken by the Member States to facilitate data sharing between their public authorities, to the public authorities of other Member States and to the Community bodies and institutions, if they choose to invoke such measures. This provision as well refers to the purposes of public tasks that may have an impact on the environment. Furthermore, these arrangements should also be open to bodies established by international agreements to which the Community and Member States are parties, for the purposes of tasks that may have an impact on the environment, on a reciprocal and equivalent basis. If the arrangements made for data sharing between the public authorities within the Member State include national conditions, these can also be imposed on the public authorities of the other Member States, the Community institutions and bodies and the bodies established by international agreements. Such option of imposing national requirements conditioning the use of the data sets and services was introduced in the common position by the Council.

#### **2.3.5 Limitations on data sharing**

Additionally, by way of derogation, Member States are allowed to limit sharing when this would compromise the course of justice, public security, national defence or international relations. Such provision reflects the concerns of some Member States that worried about the sharing of classified information, particularly in relation to defence and security issues. A distinction is made in comparison with the limitations on public access, in which case access has to adversely affect the protected interests. In the case of data sharing the

interests have to be compromised. This results in a situation where the conditions for limiting data sharing are more restrictive than the conditions for limiting access.

### **3 The PSI Directive**

The 2003 Directive on the re-use of public sector information (PSI Directive)<sup>11</sup> was one of the first legal cornerstones for opening up government data. The main purpose of this Directive is to harmonise the policies and practices of the Member States with regard to the re-use of data held by public sector bodies. While the importance of PSI for the entire society was recognized, the main target group of the PSI Directive was the information industry creating information products and services based on bulk data from the public sector.

Because of its limited impact, the Commission deemed a revision necessary in 2011. On 13 June 2013, the European Parliament formally adopted the updated EU rules -proposed in 2011- on the re-use of public sector information.<sup>12</sup> The new rules will enter into force towards the end of 2015 across the European Union.

#### **3.1.1 Subject matter and scope**

The PSI-Directive applies to the re-use (and facilitation of re-use) of existing documents held by public sector bodies of the Member States (article 1).

Several types of documents are excluded from the field of application of the PSI-directive. The first exemption refers to documents that are created by the public sector bodies for commercial activities on the information market. Value-added products that are sold on the market in competition with the private sector do not have to be made available for re-use under the conditions of the Directive.

The second exemption covers documents for which third parties hold intellectual property rights. Only these third parties can give permission for the further use of the documents, and not the public bodies.

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<sup>11</sup> Directive 2003/98/EC of the European parliament and of the Council of 17 November 2003 on the re-use of public sector information, *OJ* L345/90

<sup>12</sup> Directive 2013/37/EU of the European parliament and of the council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information, *OJ*. L175/1

The third exemption concerns those documents which are excluded from access by virtue of the national access regimes (on grounds of national security, statistical confidentiality, commercial confidentiality<sup>13</sup>). The new Directive moreover inserted other grounds, amongst which documents access to which is excluded or restricted by virtue of the access regimes on the grounds of protection of personal data.<sup>14</sup> However, this does not mean that all documents containing personal information should be automatically declined. Member States or public sector bodies, when making a decision whether re-use should be allowed, have to apply the Data Protection Directive and its principles on data processing.<sup>15</sup>

Other exemptions include documents held by educational and research establishments, including organisations established for the transfer of research results, schools and universities -with the exception of university libraries- and documents held by cultural establishments other than libraries, museums and archives.<sup>16</sup>

### **3.1.2 Definitions**

Article 2 of the PSI Directive lists some of the relevant definitions for the application of the PSI Directive.

Re-use is defined as the use of public sector documents “for commercial or non-commercial purposes other than the initial purpose within the public task for which the documents were produced. Exchange of documents between public sector bodies purely in pursuit of their public tasks does not constitute re-use” (article 2.4 of the PSI Directive). Hence re-use comprises any use of documents held by public sector bodies, whether for commercial or non-commercial purposes, except for two types of use:

- Use for initial purpose within the public task for which the documents were created;
- and the exchange of documents between public bodies purely for public task purposes.

A public sector body is defined as “the State, regional or local authorities, bodies governed by public law and associations formed by one of several of such authorities or one of several of such bodies governed by public law.”<sup>17</sup> Furthermore, a body governed by public

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<sup>13</sup> Inserted into Article 1, (c) of the 2013 PSI Directive

<sup>14</sup> Ibid, (cc)

<sup>15</sup> Data Protection Directive 95/54/EC (supra)

<sup>16</sup> Ibid, (e) and (f)

<sup>17</sup> Article 2 (1) of the PSI Directive



law is described as “a. established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character; and (b) having legal personality; and (c) financed, for the most part by the State, or regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law.”<sup>18</sup> For example, publicly funded research institutions can be defined as a public sector body.<sup>19</sup>

Document is defined in the Directive as “any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audio-visual recording; [or] any part of such content.”<sup>20</sup> This definition is really broad and would definitely include ‘research results in the form of databases, digital or not’.

### 3.1.3 General principle

Article 3 of the new PSI Directive provides the general principle for re-use of public sector information. Member States shall ensure that documents to which the Directive applies shall be re-usable for commercial or non-commercial purposes. There is now a general *right to re-use*. All public information that is not specifically covered by one of the exceptions is now re-usable.<sup>21</sup> This is even the case for documents in which libraries, including university libraries and archives hold intellectual property rights.

### 3.1.4 Requests for re-use

Article 4 of the PSI Directive addresses the requirements for the processing of requests for re-use. These requirements concern time limits, communication of the grounds for refusal, and references to the possible means of redress.

According to Article 4 (1), “public sector bodies shall, through electronic means where possible and appropriate, process requests for re-use and shall make the document available for re-use to the applicant or, if a licence is needed, finalise the licence offer to

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<sup>18</sup> Article 2 (2) of the PSI Directive

<sup>19</sup> But note that research institutions fall outside the scope of the Directive on the basis of Article 1 (supra)

<sup>20</sup> Article 2 (3) of the PSI Directive

<sup>21</sup> Janssen, K. and Hugelier, S. (2013), 6-10 and Article 3 of the 2013 PSI Directive

the applicant within a reasonable time that is consistent with the timeframes laid down for the processing of requests for access to documents.” In practice, a lot of data may already be available on national and topical data portals, but if the data is not published yet, a request can be made to the organisation holding it.

Where a Member State has adopted a Freedom of Information Act, the re-user should in first instance look in this legislation for the applicable time-limits. Where no time-limits have been established, public sector bodies must in principle process the request and deliver the documents not more than 20 working days after its receipt.<sup>22</sup> This timeframe may be extended by another 20 working days for extensive or complex requests. In such cases the applicant shall be notified within three weeks after the initial request that more time is needed to process it (article 4 (2)).

In the event of a negative decision, the public sector bodies must communicate ‘the grounds for refusal to the applicant on the basis of the relevant provisions of the access regime in that Member State or of the national provisions adopted pursuant to this Directive’ (article 4 (3)). Any negative decision also has to contain a reference to the redress system in case an applicant wishes to appeal. Redress should be through an ‘impartial review body with the appropriate expertise, whose decisions are swift and binding upon the public sector body concerned’.<sup>23</sup>

In the event a request is refused on the grounds of third party intellectual property rights protection, “the public sector body shall include a reference to the natural or legal person who is the right holder, where known, or alternatively to the licensor, from which the public sector body has obtained the relevant material. Libraries, including university libraries, museums and archives shall not be required to include such a reference.”<sup>24</sup>

### **3.1.5 Conditions for re-use**

Where public sector information is made available for re-use, a number of conditions must be met. These conditions relate to the format of the documents, charging, transparency, licensing and practical arrangements for facilitating the search for documents.

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<sup>22</sup> In case a licence is needed, the first licence offer should also be finalized in this timeframe

<sup>23</sup> Janssen, K. and Hugelier, S. (2013), 10-12 and Article 5 of the 2013 Directive

<sup>24</sup> Article 3 (4) 3 of the 2013 PSI Directive

### 3.1.5.1 Available formats

Pursuant to the new article 5 (1) of the 2013 PSI Directive, public sector bodies must make their documents available in any pre-existing format or language, and where possible and appropriate, in open and machine-readable format together with their metadata. Both the format and the metadata should, in so far as possible, comply with formal open standards.” Machine-readability was not required by the 2003 PSI Directive. However, there is still no obligation for public sector bodies to create or adapt documents or provide extract where this would involve a disproportionate effort. On top of this, public sector bodies are not required to ensure a continued production and storage of a certain type of documents.<sup>25</sup> Recital 18 merely states a moral obligation in case the “competent authority decides to no longer make available certain documents for re-use, or to cease updating these documents, it should make these decisions publicly known, at the earliest opportunity, via electronic means where possible.”

### 3.1.5.2 Charging

In accordance with Article 6 of the 2013 PSI Directive, “where charges are made for the re-use of documents, those charges shall be limited to the marginal costs incurred for their reproduction, provision and dissemination.” The 2003 version read that the total income from supplying and allowing re-use of documents shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment”. Both provisions leave a considerable margin of appreciation to the Member States and public sector bodies. An upper-limit is established i.e. marginal costs (2013) or reasonable return on investment (2003).

According to article 6 (2)<sup>26</sup> there are still certain exceptions, such as public sector bodies who are required to generate revenue to cover a substantial part of their costs relating to the performance of their public tasks and libraries, including university libraries, museums and archives.

With the 2013 PSI directive, another section to this article was introduced which establishes that public sector bodies must calculate the charges according to objective, transparent and verifiable criteria to be laid down by the Member States. The total income

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<sup>25</sup> Article 5 (2) and (3) of the 2013 PSI Directive

<sup>26</sup> Article 6 (2) of the 2013 PSI Directive

of those bodies from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment. This means that charges cannot be applied when they are not pre-established, motivated and published.<sup>27</sup>

### **3.1.5.3 Transparency**

Under the new provisions of article 7<sup>28</sup>, public sector bodies are obliged to pre-establish and publish the applicable conditions and also the *actual amount* of the standard charges for the re-use of PSI documents, including the calculation basis for these charges, through electronic means where possible and appropriate. The latter previously was only required upon request from a re-user.<sup>29</sup>

### **3.1.5.4 Licences**

Public sector bodies are allowed to impose certain conditions upon the re-use of public sector information. Such conditions may be imposed by means of a licence, but they may also be imposed through other means (article 8 of the 2003 and 2013 PSI Directive). Article 8 does not regulate the terms of licences in great detail. It merely states that if licences are used they 'shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition'. The Directive does require Member states to encourage the use of standard licenses, but it does not demand a particular result (other than the fact that such licences are available in a digital format and can be processed electronically.)<sup>30</sup>

### **3.1.5.5 Practical arrangements**

It is essential for potential re-users to find the data they need. To address this issue, article 9 of the new PSI directive includes a requirement for the Member States to make arrangements to make it easier for potential re-users to discover interesting data sets.

Asset lists of the main accessible documents should be available together with their relevant metadata; accessible where possible online and in machine-readable format.

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<sup>27</sup> Janssen, K. and Hugelier, S. (2013), 13-15

<sup>28</sup> Article 7 of the 2013 Directive

<sup>29</sup> Janssen, K. and Hugelier, S. (2013), (15)

<sup>30</sup> Article 8 (2) of the 2003 PSI Directive

Moreover, Member States should facilitate the cross-lingual search for documents available for re-use. Compared to the 2003 PSI directive, a more active role is demanded from the Member States: instead of ensuring that practical arrangements are in place, now they will actually have to *make* these arrangements.<sup>31</sup>

### **3.1.6 Non-discrimination**

The article 10 on non-discrimination has not been changed by the new PSI Directive. It provides that “any conditions for the re-use of public sector documents have to be non-discriminatory for comparable categories of re-use”. This article presents some difficulties in practice. First, conditions can be different for commercial and non-commercial purposes. Second, this article prevents discrimination between ‘comparable’ categories of re-use. Public sector bodies might find it difficult to determine what categories are comparable and how to interpret such a broad article.

According to the second paragraph of Article 10 “documents which are re-used by a public-sector body as input for its commercial activities which fall outside the scope of its public tasks, the same charges and other conditions shall apply to the supply of the documents for those activities as apply to other users”. This is particularly important when the request concerns public sector bodies which are required to generate their own revenue. They do this by both charging for the supply of their information, and by creating their own products and services based on that information and selling them on that market. In case of the latter practice, the same charges must be applied for the provision of the underlying data to those bodies themselves as to any other users.

### **3.1.7 Prohibition of exclusive arrangements**

According to article 11 of the 2003 Directive, all exclusive agreements between public sector bodies and third parties are prohibited. An exception is made for situations where this is absolutely necessary for the provision of a service in the public interest.<sup>32</sup> The validity of the reason for granting such an exclusive right will be reviewed regularly, and in any event, every three years.<sup>33</sup> Guidance on the meaning of such an exception can be found in recital 20, which refers to ‘services of general economic interest’. An example of a

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<sup>31</sup> Ibid (15-16) and Article 9 of the 2013 Directive

<sup>32</sup> Article 11 of the 2003 Directive

<sup>33</sup> Article (2) of the 2003 Directive

situation where such exclusive rights are possible is the situation where no commercial publisher would publish the information without such an exclusive right.<sup>34</sup> The exclusive arrangements established under this exemption, must be transparent and made public.<sup>35</sup>

For cultural resources, the situation is different. In case museums, libraries and archives already have these exclusive agreements with third parties, the period of exclusivity shall not exceed 10 years. In case this arrangement already does exceed 10 years, there will be a review at the 11th year and if applicable, every 7th year thereafter.<sup>36</sup>

### **3.1.8 Transposition and review**

By 18 July 2015, Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. It will thus have to be assessed per Member-State whether the Directive has already been transposed into national laws.

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<sup>34</sup> Recital 20 of the 2003 Directive

<sup>35</sup> Article 11 (2) of the 2003 PSI directive

<sup>36</sup> Article 11 of the 2013 Directive

#### 4 Standard licensing modules

This table provides a basic overview of the standard modules to be found in a licensing framework and some explanation on how to use these modules.

Licensing module	Terms included	Comments on use
General description of the actual license	Parties Purpose and content	The introduction: it describes who, why and what is to be achieved.
Grant and related clauses	A precise legal expression of what rights are being conferred under the license	The most important term in any intellectual property license. Can be one clause or a grant clause with additions such as acknowledgement.
Definitions	Terms used in the license.	Not necessary, but preferred by many.
Liability and related clauses	Issues related to fulfillment of contractual terms, use or misuse of IP	Clauses may include: <ul style="list-style-type: none"> <li>- Warranties</li> <li>- Liability for breach of contract</li> <li>- Violation of IPR</li> <li>- Product liability (as is clause)</li> </ul>
Pricing and payment	Prices, payment terms, invoicing, etc.	Prices usually by referring to attachment or price list.
Access and delivery	The access type, practical arrangements usually with reference to external documents.	May include: <ul style="list-style-type: none"> <li>- Reliability and recourses</li> <li>- Terms of service</li> <li>- Security measures</li> </ul>
Legal constraints	Where the data requires such constraints	<ul style="list-style-type: none"> <li>- Personal data</li> <li>- Security, protection of endangered species, etc.</li> </ul>

3 <sup>rd</sup> party involvement	Anything that requires 3 <sup>rd</sup> party to be involved	<ul style="list-style-type: none"> <li>- Assignment</li> <li>- Sub-licensing and sub-contracting</li> </ul>
Jurisdiction and conflict resolution	Applicable courts, conflict resolution mechanism, etc.	<ul style="list-style-type: none"> <li>- Jurisdiction</li> <li>- Conflict resolution</li> </ul>
Breach of contract and related clauses	What constitutes breach of contract, consequences, termination etc.	<ul style="list-style-type: none"> <li>- Force majeure</li> <li>- Breach of contract</li> <li>- Termination</li> </ul>
Period and termination outside breach of contract	Time limited with options to renew or not time limited with termination clause	Should have one or the other, as combinations may cause confusion as to when the license expires.
Reference to INSPIRE directive	Reference to rights and obligations in the directive	Data sharing if it is public body INSPIRE compliant licenses

## 5 The Creative Commons Framework

The Creative Commons Licenses are among the most prominent and recognized licenses currently available. The first set of copyright licenses was released to the public at the end of 2002. Creative Commons developed its licenses, inspired in part by the Free Software Foundation's GNU General Public license (GNU GPL) - alongside a Web application platform to help you license your works freely for certain uses, on certain conditions; or dedicate your works to the public domain.<sup>37</sup>

Creative Commons licenses are standardized, automated licenses that authors can affix to their work in order to indicate under which conditions it may be used. Creative Commons licenses are originally intended for most copyright protected works (music, photographs, videos, etc.) and intended for every kind of author (musicians, photographers, filmmakers, writers, etc.) The licenses are widely used for the dissemination of scientific publications under open access conditions.

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<sup>37</sup> Retrieved at [www.creativecommons.org](http://www.creativecommons.org)



Creative Commons licenses are not specifically geared towards data, datasets and databases, and their use in this context is not without difficulty. The most recent developed version of Creative Commons is the version 3.0 in which all database rights have effectively been removed from the scope of all European licenses as a result of which the optional license elements lose their effect.<sup>38</sup> The reasoning behind the exclusion of the sui generis database right is one of harmonization. It was thought that CC licenses including the sui generis database rights would be especially problematic from the perspective of Science Commons as they could pose the danger that the sui generis protection of databases could 'be exported' to a jurisdiction without sui generis protection of databases through the use of CC licenses for works that qualify for protection under the various national implementations of the Database Directive.<sup>39</sup>




The main CC licenses offer a series of 'baseline rights', with attribution (CC BY) as a core requirement, together with three other 'license elements' that can be mixed and matched to produce a customized license through a point-and-click web interface. In total, there are six main CC licenses.

In the order of least to most restrictive license (leaving out the CC0 license), these are the following possible combinations of CC licenses:

	CC BY	Attribution	CC license which allows third parties to copy, distribute, display, and perform the work as long as the creator is given due credit. The licensor has to specify the way in which credit is given.
	CC BY-SA	Attribution Share-Alike	The SA clause inserts a strong copy left clause into the license. All derivative works must be released under the same license as the original work.
	CC BY-NC	Attribution	The licensee is prohibited from altering, transforming or building upon the work.

<sup>38</sup> Guibault, L. (2012), (13)

<sup>39</sup> Creative Commons, on the treatment of the Sui Generis right database rights in version 3.0 of the Creative Commons licenses. Retrieved at [http://wiki.creativecommons.org/images/f/f6/V3\\_Database\\_Rights.pdf](http://wiki.creativecommons.org/images/f/f6/V3_Database_Rights.pdf)

	BY-ND	No Derivatives	When the ND clause applies, the Share Alike clause cannot apply. The two are mutually exclusive.
	CC BY-NC	Attribution Non-Commercial	The licensee cannot use the work for commercial purposes. Derivative works do not have to be released under an identical non-commercial license.
	CC BY-NC-SA	Attribution Non-Commercial Share-Alike	Licensee cannot use the work for commercial purposes. All derivative works must be released under the same license as the original work.
	CC BY-ND	Attribution Non-Commercial No derivatives	The licensee is prohibited from altering, transforming or building upon the work. Sharing the work is authorized but only for non-commercial purposes.

**Table 1: [www.creativecommons.org](http://www.creativecommons.org)**

The copyright holder is free to attach any of these conditions or a compatible combination of them to the license. Typical for these licenses are the fact that the copyright-holder does not enter into a contractual agreement with one specific third party but a priori with every interested third party. Everyone can use the work in the way that the license specifies it. Every third party using or sharing the work becomes a 'contractual partner' to the license, which at the point of use becomes a full contractual agreement.

As stated above, the usefulness of the Creative Commons licenses for the dissemination and licensing of geo-databases and the datasets they contain is limited. In sections 3 and 4, version 3.0 of the Creative Commons license specifically prohibits database-right-owners to allow re-use on the condition of attribution. A database-right-owner must waive all its sui generis rights under CC3.0. In practice, a number of institutions have now refrained

from using CC licenses because they do not affirmatively license the sui generis right on par with copyright.<sup>40</sup>

Another drawback of using CC licenses for disseminating geographic data is that they cannot be used for some types of works in some jurisdictions. As stated above, CC licenses are intended for 'creative' works that meet the applicable legal standard for 'originality'. This standard is different depending on the jurisdiction (e.g. in France, an imprint of the author's personality is required, while in the United Kingdom a work is original if it is the result of sufficient skill, judgment or labor), geographic datasets may for instance be protected in one country but not in another. Hence, using CC licenses in a cross-border context might be difficult. Using the different national versions of the CC licenses would probably only complicate things further.

Currently, Creative Commons has embarked upon a new versioning process for its core license suite, which is expected to result in version 4.0. After receiving much criticism<sup>41</sup>, version 4.0 of the CC license suite will also address sui generis database rights in addition to copyright and the other copyright-like rights covered in earlier versions. Because sui generis rights can impede a user's ability to share, reuse, and modify a work in the same way that copyright can, 4.0 makes it clear that these permissions apply to works that would otherwise be restricted by sui generis rights as well.<sup>42</sup> The drafting process of version 4.0 started in September 2011, and with the 3rd and last public commenting period closed in March, the final text is expected to officially launch before 2014. By including the sui generis rights, this CC license should be suitable to license both publications as well as datasets.

From a general point of view EGDI scope the Creative Commons licenses are interesting because:

- they are simplistic from a legal point of view, making them widely accessible and easy to use;

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<sup>40</sup> Guibault, L. (2012), (14)

<sup>41</sup> Casey, Proven and Dripps (2007), [The Pros and Cons for using Creative Commons Licenses in Digital Teaching and Learning Materials](#) and SurfDirect (2009), Reuse of material in the context of education and research, (21). Retrieved at [http://learn.creativecommons.org/wp-content/uploads/2009/07/report\\_surfcc\\_reuse-of-material\\_eng\\_def.doc](http://learn.creativecommons.org/wp-content/uploads/2009/07/report_surfcc_reuse-of-material_eng_def.doc).

<sup>42</sup> Retrieved at [www.CreativeCommons.org](http://www.CreativeCommons.org)

- they offer flexibility being available in different formats, including machine-readable code which can be processed by search engines which is also useful for tracking licence usage; and
- the CC licenses can be clearly and simply administered. There is some level of control, but without introducing a need to manage complex variants;
- this reduces the costs significantly of both granting licenses and obtaining them.

On the other hand, there are also some elements against using the CC licenses including:

- the CC licenses do not make subtle distinctions between which kind of re-use you want to allow. For instance, the non-derivative licences do permit incorporation of material into larger works, but once a licence grants derivative use there is no control over the reuse;
- CC licenses cannot be used to make available third-party content unless there is explicit permission for this use. Where there is such unauthorized use, it will be difficult or even impossible to withdraw this material because of the viral nature of CC license distribution;
- the consequence of permitting others to use materials within the terms of the CC licence is that they will be able to copy, use and adapt the work. Risks arise that the work might be substantially modified in ways that the creator or licensor feels would undermine the work's integrity. This leads to a stark choice - permit no reuse or agree to unlimited reuse;
- another issue with CC licences is whether a resource can be used for 'commercial' or 'non-commercial' purposes. Unfortunately, the licence itself does not clearly distinguish the difference;
- CC licenses are irrevocable which means that they may be withdrawn but this withdrawal only affects the resource after the date of withdrawal.

## 6 Creative Commons Zero



CC0 is a specific kind of license in the Creative Commons family. It is a 'public domain' license enabling scientists and other owners of copyright- or database-protected content to waive all their intellectual property rights and thereby place them as completely as

possible in the public domain. This entails that third parties would be able to copy, download, and change them for any purposes without any restriction under intellectual property rights laws.<sup>43</sup> This license is in fact an 'opt-out' license from all copyright and database protection.

## 7 Open Data Commons

A more recent project in the realm of open access is the Open Data Commons Project, set up in 2007 by the Open Knowledge Foundation.<sup>44</sup> The first license to be produced was a Public Domain Dedication and License (PDDL) for databases in 2008, which strongly resembles the Creative Commons Zero license (CC0) and the Science Commons Data Protocol<sup>45</sup>. These licenses are more radical forms of open data which require rights-holders to dedicate their works to the public domain for the benefit of the public, and relinquish all rights in the work.<sup>46</sup>

Between 2009 and 2010, two other licenses were produced with similar characteristics as the Creative Commons licenses, but specifically geared towards databases and their contents protected by copyright or *sui generis* database rights: the Open Data Commons Attribution license (ODC-BY) and the Open Data Commons Open Database License (ODC-ODbL).

These are the Open Data Commons licenses currently available, leaving out the Public Domain Dedication and License.

ODC-By	<b>Open Data Commons Attribution License</b>	<ul style="list-style-type: none"> <li>- Allows licensees to copy, distribute and use the database, to produce works from it and to modify, transform and build upon it for any purpose.</li> <li>- You must attribute any public use of the database, or works produced from the database, in the manner specified in the license. For any use or redistribution</li> </ul>
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<sup>43</sup> Retrieved at <http://creativecommons.org/about/cc0>

<sup>44</sup> Retrieved at <http://opendatacommons.org>

<sup>45</sup>This protocol was later re-integrated with Creative Commons. Retrieved at <http://sciencecommons.org/projects/publishing/open-access-data-protocol/>

<sup>46</sup> Gideon Emcee, C. (2009), (31)

		<p>of the database, or works produced from it, you must make clear to others the license of the database and keep intact any notices on the original database.</p> <ul style="list-style-type: none"> <li>- Worldwide, royalty-free, non-exclusive license to use the database for the duration of any applicable copyright/ database rights.</li> <li>- Non-commercial and commercial exploitation.</li> </ul>
ODC-ODbL	<p><b>Open Data Commons Open Database License</b></p>	<ul style="list-style-type: none"> <li>- Allows use cf. ODC-By</li> <li>- Attribution requirement</li> <li>- World-wide, royalty-free, non-exclusive</li> <li>- Non-commercial and commercial exploitation</li> <li>- Share-Alike requirement: if you publicly use any adapted version of this database, or works produced from an adapted database, you must also offer that adapted database under the ODbL</li> <li>- Openness requirement: If you redistribute the database, or an adapted version of it, then you may use technological measures that restrict the work (such as DRM) as long as you also redistribute a version without such measures</li> </ul>
ODC-DbCL	<p><b>Open Data Commons Database Contents License</b></p>	<ul style="list-style-type: none"> <li>- The Open Data Commons licenses in general only cover the <i>database</i> itself, and not its content. Therefore, it is not possible to only use one license for the whole database including its contents. The ODC-DbCL can be used in conjunction with the ODbL to waive copyright for the contents of the database.</li> <li>- The contents license is formulated in an extremely broad manner, making this license 'empty' in many jurisdictions.</li> <li>- Attribution requirement</li> <li>- Share-Alike requirement</li> <li>- Openness requirement</li> </ul>

**Table 2:** [www.opendatacommons.org](http://www.opendatacommons.org)

In practice, a good example of a database using the ODbL license is OpenStreetMap.<sup>47</sup> The OpenStreetMap Foundation extensively explained why they changed the license from Creative Commons Attribution Share-Alike 2.0 to ODbL in September 2012.<sup>48</sup> The main issues for the OpenStreetMap project were that the CC2.0 license only used copyright but did not protect data, datasets or databases, particularly in the US (where the *sui generis* right does not exist). This led to problems of interoperability with other licenses, problems of interpretability and questions of what exactly could be protected under CC-BY-SA. The ODbL license came out as a good alternative, because this license also guarantees Attribution and Share-Alike. The other alternative, switching to a Public Domain license, went too far for the Foundation, as many contributors vehemently opposed this option.<sup>49</sup> Currently, contributors have the option to tick the box: Public Domain, if they want their contribution to be under a Public Domain License.<sup>50</sup>

Although the Open Data Commons licenses are better suited towards datasets than their CC equivalents, it could be argued that the ODC licenses are quite complex to understand and interpret in daily practice, especially for non-lawyers. This reduces their efficacy. Moreover, with the development of the 4<sup>th</sup> version of Creative Commons, the first statement is not per se true anymore since CC 4.0 now also applies to databases.

The Open Data Commons Open Database License comes in the form of a full legal license with additional explanation in plain language with corresponding visual icons. The ODC-ODbL is a worldwide, royalty-free, non-exclusive but also terminable (under specific circumstances) license to Use the Database for the Duration of any applicable copyright and Database Rights.

The license explicitly allows commercial use, and does not exclude any field of endeavour, any media or formats. The license allows users to:

- extract and re-utilize of the whole or a substantial part of the contents;
- create derivative databases;

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<sup>47</sup> Wiki OpenStreetMap. Retrieved at [http://wiki.openstreetmap.org/wiki/Open\\_Database\\_License](http://wiki.openstreetmap.org/wiki/Open_Database_License) and cited by Guibault, L. (2012),(15)

<sup>48</sup> Retrieved at [http://www.osmfoundation.org/wiki/License/We\\_Are\\_Changing\\_The\\_License](http://www.osmfoundation.org/wiki/License/We_Are_Changing_The_License) and [http://www.osmfoundation.org/wiki/License/Why\\_CC\\_BY-SA\\_is\\_Unsuitable](http://www.osmfoundation.org/wiki/License/Why_CC_BY-SA_is_Unsuitable)

<sup>49</sup> Retrieved at [http://www.osmfoundation.org/wiki/License/We\\_Are\\_Changing\\_The\\_License](http://www.osmfoundation.org/wiki/License/We_Are_Changing_The_License)

<sup>50</sup> Ibid.

- create collective databases;
- create temporary or permanent reproductions by any means and in any form, in whole or in part, including any derivative databases or as a part of collective databases;
- distribute, communicate, display, lend, make available, or perform to the public by any means and in any form, in whole or in part, including any derivative database or as a part of collective databases.

Key to the ODbL is the fact that it solely governs the rights over the Database, but it does not cover the contents of the Database individually. Licensors are informed in the preamble that they should use the ODbL together with another license for the contents, if the contents have a single set of rights that uniformly covers all of the contents. As explained in the license text: “[t]he individual items of the Contents contained in this Database may be covered by other rights, including copyright, patent, data protection, privacy, or personality rights, and this License does not cover any rights (other than Database Rights or in contract) in individual Contents contained in the Database.”<sup>51</sup>

This aspect of the ODbL makes it difficult to use for the European Geological Surveys to license their data sets. The problem is that very often, users will want to use only separate elements from the data sets, and as mentioned above, these individual elements are not granted protection under this license. For this reason, overall the ODbL does not seem to be suitable for the EGDI project.

## **8 Flemish Open Government License**

In September 2011, a concept note was shared amongst the different Flemish institutions focusing on the importance of open data. Moreover, in this concept note, it was established that open data and re-use of open data should become the standard within the Flemish government, even when the re-use is intended for commercial purposes, at no charge or at a limited charge. In this respect, standardized and transparent licenses were required.

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<sup>51</sup> The Open Database License: <http://www.opendatacommons.org/licenses/odbl/1.0/>



	<b>(0)</b> <b>CC-zero</b>	<b>(1)</b> <b>Free Open Data License (ODL)</b>	<b>(2)</b> <b>ODL at proportionate cost</b>	<b>(3)</b> <b>Free ODL for non- commercial use</b>	<b>(4)</b> <b>ODL at a proportionate cost for commercial use</b>
<b>Interpretation</b>	N/A	Decree of 27 April 2007 re-use of PSI	(1)	(1)	(1)
<b>Subject</b>	No rights reserved, no permission needed for use/re-use	Non-exclusive, world-wide license for re-use for any purpose (commercial or non-commercial)	(1)	(1) for any non-commercial purpose	(1)
<b>Obligations Licensee</b>	N/A	<ul style="list-style-type: none"> <li>- Attribution (name of licensor and date of product)</li> <li>- No unfair use of product</li> <li>- No endorsement</li> <li>- No misrepresentation</li> <li>- Comply with laws on data protection and privacy</li> </ul>	(1)	(1)  Only non-commercial, non-profit purposes	(1)

<b>IP-rights</b>	Work is placed in the public domain, no rights reserved including copyright	<ul style="list-style-type: none"> <li>- Licensee IP on product</li> <li>- Licensor IP on derivative products</li> </ul>	(1)	(1)	(1)
<b>Price</b>	N/A	At no charge	At reasonable cost, pre-published on web	(1)	(2)
<b>Termination</b>	N/A	Unlimited time, automatic termination when breach of license	(1)	(1)	(1)
<b>Liability</b>	No liability, no guarantees	No liability, no warranties Product 'as is'	(1)	(1)	(1)
<b>Applicable jurisdiction and appeal</b>	N/A	Belgian law Redress body relating to Openness of government and re-use of PSI	(1)	(1)	(1)



**Table 3:** Flemish Open Government Licenses

Five licenses were presented so to take into account the different circumstances or needs of governments. Within these licenses most sections are the same in order to guarantee uniformity and interoperability.

## 9 GeoShared (Netherlands)

The Dutch license GeoGedeeld (or GeoShared) is a license specifically developed for geographic information in the more general policy of the Dutch government to make public sector information available free of charge and without any (re-) use conditions.<sup>52</sup> This policy applies to all information held by national government organizations and is endorsed by the Dutch provinces and water authorities.<sup>53</sup>

The Dutch authorities envision all public sector information to be shared under a Public Domain Mark (PDM) or under a CC0 license. With both licenses the data can be shared by everyone for every use, except that under a CC license there is still an intellectual property right on the data.

 The logo for the Public Domain Mark (PDM) consists of a black square containing a white circle with a diagonal slash through it, followed by the text 'PUBLIC DOMAIN' in white capital letters.	PDM: Works in the public domain <sup>54</sup>
 The logo for CC0 (Creative Commons Zero) consists of a black square containing a white circle with a diagonal slash through it, followed by the text 'PUBLIC DOMAIN' in white capital letters.	CC0: Works donated to the public domain <sup>55</sup>

In case the PDM nor the CC0 conditions can apply, the GeoShared framework should be used. The rationale behind this is that in many instances the PDM or the CC0 cannot be applied because of legal obligations or costs that need to be recovered. It is for situations such as these that the GeoShared framework was developed.

The GeoShared framework uses a number of standardized terms of use similar to the CC licenses. The framework includes different symbols representing the different terms of use, a layman's text and a legally binding text. The data provider/licensor decides which of these terms of use are applicable for the provided geographical data or services. The selection of one or a combination of a number of these terms of use will constitute the license. The main difference of

<sup>52</sup> Retrieved at <http://geogedeeld.geonovum.nl/>








<sup>53</sup> Janssen, K. and Cromptvoets, J. (eds), Geographic data and the law: defining new challenges, Leuven University Press, 26

<sup>54</sup> Retrieved at <http://creativecommons.org/publicdomain/mark/1.0/deed.nl>

<sup>55</sup> Retrieved at <http://creativecommons.org/publicdomain/zero/1.0/deed.nl>

GeoShared with the CC licences is the charging-possibility, since the CC concept is based on the idea that the available data should be allowed free of charge.

The GeoShared license can include the following terms of use:

	<i>Attribution:</i> The licensor grants others the right to copy, distribute, show and to import and export the work. In exchange the licensees must mention the name of the holder of the intellectual property rights and the date the work was created
	<i>Limited duration:</i> The license is only valid for a limited time, see the licensing terms of the exact time period
	<i>Fee required:</i> fees or royalties have to be paid
	<i>Purpose limitation:</i> The work can only be used for the purpose(s) specified in the license, for instance only non-commercial re-use
	<i>No redistribution:</i> Redistribution of the work is not allowed without advance permission of the licensor
	<i>Derivative works only:</i> the User is only allowed to distribute a Derivative work if the Work itself cannot be independently selected from or in the Derivative Work
	<i>Additional conditions:</i> Additional restrictions other than the above apply

A personalized GeoShared license can be created via the license-generator on their webpage.<sup>56</sup> Via the generator, the license is available in two languages: Dutch and English. The English version explicitly states that 'only the Dutch version is authentic'.

The GeoShared license comprises of an introductory text including a number of relevant definitions. Next, the license constitutes of eight chapters: (1) definitions, (2) fair dealing rights, (3) license grant, (4) terms of use, (5) restrictions regarding liability, (6) fee, (7) term of validity/termination, (8) miscellaneous.

<sup>56</sup> Retrieved at <http://geogedeeld.geonovum.nl/samenstellen>

In the third chapter, 'license grant', it is stated under which kind of license the licensor agrees to and what kind of use is allowed under this license. For instance, a world-wide, non-exclusive and non-transferable license to exercise a number of rights, such as extracting the work and creating, extracting and distributing a derivative work.

In the fourth chapter, 'terms of use', a number of conditions are listed that have to be complied with, for instance, attribution or for a certain use. It is possible to choose for one or a number of terms of use. Depending on the term of use, the user can add supplementary information in the license. This additional information can be found below on the license.

When choosing for attribution, the additional data that can be filled in is the following: (1) name of the maker/licensor, (2) name of the other party, (3) title of the Work and (4) date of the Work.

## **10 AusGOAL (Australia)**

AusGOAL, the Australian Governments Open Access and Licensing Framework (GILF), is the result of a project initiated by the Queensland Spatial Information Council (Australia).<sup>57</sup> AusGOAL provides support and guidance to government and related sectors to facilitate open access to publicly funded information. AusGOAL makes it possible for organizations to manage their risks when publishing information and data in a way that drives innovation and entrepreneurial activities; providing enhanced economic and social benefits to the wider community.<sup>58</sup>

AusGOAL incorporates a number of licenses. The Australian Creative Commons Version 3.0 licenses are the preferred method for licensing government IPR. However, the AusGOAL Restrictive License Template can be used if the public bodies want to impose additional conditions. It has been developed specifically for material that contains personal or other confidential data, but it may also be used for other reasons including for material that is licensed with limiting or restrictive conditions. The BSD 3-Clause software license is appropriate if you

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<sup>57</sup> Janssen K. and Cromptoets, J., *Geographic Data and the Law*, Leuven University Press, 2012, 199

<sup>58</sup> Retrieved at <http://www.ausgoal.gov.au/>

are publishing software (not coming from a third party). On the AusGOAL website, a license chooser app has also been developed.

### 10.1 Creative Commons (AUS)

The six [Creative Commons licenses](#) recommended in AusGOAL are the preferred licenses for opening access to publicly funded information. Among those, the Creative Commons Attribution License (CC BY) is the most popular and provides the greatest opportunities for re-use of information. Use of the Creative Commons licenses promotes a common standard of licensing.

### 10.2 The Restrictive License Template

The [Restrictive License Template](#) has been developed specifically to license material that contains personal or other confidential information that has a high security risk associated with its release. It may also be used for material that is to be licensed under some form of limiting or restrictive condition (such as a time limit on use, or payment arrangements other than an initial once-only fee).

In brief, the Restrictive License Template includes the following elements and variables:

#### You are free to:

- **to acquire the material** according to the terms you have agreed to with the supplier
- **to use and modify the material** according to the terms you have agreed to with the supplier
- **to do other things with the material** according to the terms you have agreed to with the supplier

#### You are required:

- **to pay any fees** that you have agreed to with the supplier
- **provide any indemnity** that you have agreed to with the supplier
- **to protect confidential information** according to the use constraints and protective terms you have agreed to with the supplier

- **to protect personal information** according to the use constraints and protective terms you have agreed to with the supplier
- **to comply with additional conditions** that you have agreed to with the supplier.

**You are not permitted:**

- **to share, to copy, distribute and transmit** this material unless the supplier has expressly agreed that you can do this
- **to commercialize** you may not use this material for commercial purposes unless the supplier has agreed that you can do this
- to infringe the copyright owner's **moral rights**.<sup>59</sup>

### **10.3 The BSD 3-Clause Software License**

If your organization is publishing software developed without the inclusion of software from any external source, AusGOAL recommends the [BSD 3-Clause Software License](#). It provides permissions akin to the CC Attribution License, and being one of the Open Software Foundation recommended licenses, is well recognized within the open software community. Software licensed under the BSD License can be incorporated onto other open source projects, including those licensed under the [GPL](#) and [Apache Licenses](#). However, GPL licensed software cannot be incorporated into software licensed under the BSD License.

## **11 GeoConnections (Canada)**

GeoConnections is a national partnership initiative led by Natural Resources Canada designed to facilitate access to and use of geospatial information in Canada through the development, integration and use of the Canadian Geospatial Data Infrastructure (CGDI).

The CGDI is an on-line resource that improves the sharing, access and use of geospatial information – information tied to geographic locations in Canada. It helps decision-makers from

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<sup>59</sup> Retrieved at <http://www.ausgoal.gov.au/restrictive-license-template>

all levels of government, the private sector; non-government organizations and academia make better decisions on social, economic and environmental priorities.

The infrastructure itself consists of data, standards, policies, technologies and partnerships that are in place to allow the sharing and visualization of information on the Internet.<sup>60</sup>

GeoConnections created a 'dissemination of Government Geographic Data in Canada: Guide to Best Practices' in 2008, consisting of an integrated licensing framework for use by those involved in the management or licensing of government geographic data. GeoConnections developed standard license agreements in support of several distribution models: the unrestricted use model, the end-user model, the reseller model and the value-added reseller model. The key characteristics of these model license agreements are presented below.

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<sup>60</sup> Retrieved at <http://geoconnections.nrcan.gc.ca/home>





	<b>Primary Dissemination Objectives</b>	<b>Restrictions on Use of the Data</b>	<b>Downstream Data Distribution</b>	<b>Value-Added Derived Products Development</b>	<b>Positive aspects</b> <hr/> <b>Negative aspects</b>
<b>No-Fee Unrestricted Use Web-Wrap license Agreement (Appendix A)</b>	Promote the widest public use and private benefit of the data, at no cost to the Licensee  Promote wide recognition of government as source of the data  Solicit interest in other gvt data sets	No restrictions	Permitted  Licensees' licenses with 3 <sup>rd</sup> parties must contain same terms as those contained in Canada's license agreement with Licensee	Permitted  Right to create and market Value-Added Products (products developed by Licensee by deriving, developing, adapting, incorporating, etc. or simply using the data)	POSITIVE - Ease of administration - Strong public support - Good public relations  NEGATIVE - Reduced control over the use of the data - Reduced control over the number and/or type of users
<b>Fee-Based Unrestricted Use License Agreement (Appendix B)</b>	Promote the widest public use and private benefit of the data, on a fee basis  Promote wide recognition of government as source of the data  Solicit interest in other gvt	No restrictions	Permitted  Licensees' licenses with 3 <sup>rd</sup> parties must contain same terms as those contained in Canada's license agreement with	Permitted  Right to create and market Value-Added Products (products developed by Licensee by deriving, developing, adapting, incorporating, etc. or simply using the	POSITIVE - Ease of administration - Strong public support - Good public relations - Predicable impact on cost recovery

	data sets		Licensee	data)	<p>NEGATIVE</p> <ul style="list-style-type: none"> <li>- Reduced control over the use of the data</li> <li>- Reduced control over the number and/or type of users</li> </ul>
No-Fee End-Use Restricted License Agreement (Appendix C)	<p>Promote use of data, at no cost to the Licensee, while retaining control on the number and/or type of users</p> <p>Promote wide recognition of government as source of the data</p>	<p>No redistribution of the data</p> <p>Rights to the data restricted to Licensee's own internal use</p>	Prohibited	<p>Permitted</p> <p>Right to create Derived Products (products developed by licensee that interpret the data, but do not incorporate it)</p>	<p>POSITIVE</p> <ul style="list-style-type: none"> <li>- Effective control of number/type of users</li> </ul> <p>NEGATIVE</p> <ul style="list-style-type: none"> <li>- Potential inhibitor of wider use of data</li> </ul>
Fee-Based End-Use Restricted License Agreement (Appendix D)	<p>Promote use of data while retaining control on the number and/or type of users, on a fee basis</p> <p>Promote wide recognition of gvt as source of the data</p>	<p>No redistribution of the data</p> <p>Rights to the data restricted to Licensee's own internal use</p>	Prohibited	<p>Permitted</p> <p>Rights to create Derived Products (products developed by licensee that interpret the data, but do not incorporate it)</p>	<p>POSITIVE</p> <ul style="list-style-type: none"> <li>- Effective control of number/type users</li> <li>- Predictable impact on cost recovery</li> </ul> <p>NEGATIVE</p> <ul style="list-style-type: none"> <li>- Admin overhead</li> <li>- Potential inhibitor of wider use of data</li> </ul>



<p>Reseller Agreement (Appendix E)</p>	<p>Promote wider use of data through access to established distribution channels</p> <p>Promote wide recognition of gvt as source of data</p>	<p>No modification or alteration to the data allowed, except to perform minimal utility reformatting, for convenience of client delivery only</p>	<p>Permitted, on an end-use basis only</p> <p>Reseller's licenses with 3<sup>rd</sup> parties must be on an end-use basis and contain prescribed terms set out in Canada's agreement with reseller</p>	<p>Prohibited</p>	<p>POSITIVE</p> <ul style="list-style-type: none"> <li>- Access to reseller's distribution channels</li> <li>- Greater potential for cost recovery</li> <li>- Predictable impact on cost recovery</li> </ul> <p>NEGATIVE</p> <ul style="list-style-type: none"> <li>- Admin overhead</li> <li>- Reduced control over use of data</li> <li>- Reduced control over the number and/or type of users</li> </ul>
<p>Value-Added Reseller Agreement (Appendix F)</p>	<p>Promote wider use of data through value added products</p> <p>Promote wide recognition of government as source of the data</p> <p>Promote innovation</p>	<p>No restrictions</p>	<p>Permitted, on an end-use basis only</p> <p>Reseller's licenses with 3<sup>rd</sup> parties must be on an end-use basis and contain prescribed terms set out in Canada's agreement</p>	<p>Permitted</p> <p>Includes the right to create VAR Products (products developed by the VAR reseller by deriving, developing, adapting, incorporating, etc. or simply using the data)</p>	<p>POSITIVE</p> <ul style="list-style-type: none"> <li>- Greater potential for cost recovery</li> <li>- Predictable impact on cost recovery</li> <li>- Promotes innovation</li> </ul> <p>NEGATIVE</p>



			with reseller		<ul style="list-style-type: none"> <li>- Admin overhead</li> <li>- Reduced control over use of data</li> <li>- Reduced control over the number and/or type of users</li> </ul>
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**Table 4: GeoConnections (Canada)<sup>61</sup>**

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<sup>61</sup> Retrieved at [ftp://ftp2.cits.rncan.gc.ca/pub/geott/ess\\_pubs/288/288853/cgdi\\_ip\\_08\\_e.pdf](ftp://ftp2.cits.rncan.gc.ca/pub/geott/ess_pubs/288/288853/cgdi_ip_08_e.pdf)

## 12 Apie (France)

The mandate of APIE (Agency for Public Intangibles of France), assigned and created by the Ministry of Economy, Finances and Industry and the Commission on the Intangible Economy, is to help France meet the challenge of an economy in which wealth lies increasingly in intangible assets. APIE undertook a range of tasks including, developing branding strategies, leveraging know-how and promoting the state as a reliable partner.<sup>62</sup>

Since the coming into force of the order n°2006-650 modifying the 17<sup>th</sup> July 1978 law, public information is in principle freely re-usable. In this respect, APIE designed a license to specify the legal conditions which would underpin the re-use of public information that is freely usable.

The license applies to “public information” which is defined as information in administrative documents or in possession of the State, local authorities, or public or private institutions that are in charge of a public service mission. This information is however only freely re-usable if those documents are *actively* being diffused.

The licensee commits himself to use the public information of the conceding party strictly by abiding the corresponding rules.

<b>Attribution and date of accessibility</b>	The licensee has to indicate the source of the PSI as well as the date of the last update of the PSI
<b>Exclusivity</b>	The license confers to the licensee a personal and non-exclusive right of re-using the PSI
<b>Duration/territory</b>	The license is granted worldwide until the 31st of December of the year of the contract, and then every 1st of January by tacit renewal
<b>Commercial or non-commercial usage</b>	The re-use is free of charge, even when it concerns the commercial use of the public information re-used, whenever it is

<sup>62</sup> Retrieved at [https://www.apiefrance.fr/sections/acces\\_thematique/reutilisation-des-informations-publiques/licence-type](https://www.apiefrance.fr/sections/acces_thematique/reutilisation-des-informations-publiques/licence-type)

<b>of the re-use</b>	commercialised after new treatments and in a new product or service for the 3rd parties.  The re-use, commercial or not, shall be done by the licensee. He shall not act as intermediary and resell the PSI as is to a 3rd party for commercialisation
<b>Reproduction</b>	Reproduction in any format
<b>Modification</b>	With respect for integrity / reprocessing cannot deteriorate contents of information / no distortion of the meaning / no deteriorating cuts
<b>Re-accessibility</b>	Authorized to concede sub-licenses when included in a new product/service
<b>Termination</b>	Breach of this license will lead to automatic termination
<b>Liability</b>	Licensor guarantees he owns all the rights granted in this license / the licensor cannot be liable for erroneous, missing or irregular information
<b>Sanctions</b>	Reference to the law (fine)
<b>Applicable law</b>	Dispute resolution/jurisdiction: French law, Paris Court

### 13 Ordnance Survey (UK)

Ordnance Survey is Great Britain's national mapping agency, which provides accurate and up-to-date geographic data for government, business and individuals. As part of the "Making Public Data Public" initiative, a number of datasets was opened up<sup>63</sup> and an Ordnance Survey Open Data License was developed. This license governs the access to and use of OS OpenData made available at their website.<sup>64</sup>

OS OpenData is covered by either Crown Copyright, Crown Database Right, or has been licensed to the Crown.

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<sup>63</sup> Retrieved at <http://data.ordnancesurvey.co.uk/>

<sup>64</sup> Ibid.

The Ordnance Survey license incorporates the Open Government License for public sector information.<sup>65</sup> It contains the following information.

<b>Definitions</b>	Worldwide, royalty-free, perpetual, non-exclusive license from the Data-Provider
<b>Grant</b>	<p>You are free to</p> <ul style="list-style-type: none"> <li>- Copy, distribute and transmit the data</li> <li>- Adapt the data</li> <li>- Exploit the data commercially and non-commercially, by combining it with other data, or by including it in your own product or application</li> </ul>
<b>Attribution</b>	<p>Acknowledge source of information and where possible, provide link to his license</p> <p>Or</p> <p>Contains public sector information licensed under the Open Government License v2.0</p>
<b>Subject</b>	<p>Does not cover</p> <ul style="list-style-type: none"> <li>- Personal data</li> <li>- Info neither published nor disclosed under information access legislation by or with consent Information provider</li> <li>- Public sector logos</li> <li>- Military insignia</li> <li>- 3<sup>rd</sup> party rights the Information provider is not authorised to license</li> <li>- Other IP-rights</li> <li>- Identity documents such as the British passport</li> </ul>
<b>Sub-licencing</b>	Include attribution in any sub-licenses of the Data and a requirement that any further sub-licenses to the dame

<sup>65</sup> Retrieved at <http://www.ordnancesurvey.co.uk/docs/licenses/os-opendata-license.pdf>

<b>Endorsement</b>	Do not suggest in any way that the Data Provider endorses you/your use of data
<b>Warranties</b>	Data is licensed 'as is'  Excludes all representations, warranties, obligations and liabilities in relation to the Data  No liability for any errors or omissions in the data, or for loss, injury or damage  No guaranteed continued supply of data
<b>Governing law</b>	Governed by the laws of the country in which the Data Provider has its principal place of business, unless otherwise specified by Data Provider
<b>Interoperability</b>	This is version 2.0 of the Open Government License, open-definition compliant

Considering a positive response that was expressed after the OS Open Data has been introduced, it is highly interesting for the EGDIscope project to consider using a similar type of licensing scheme. The great advantage of this license lays in the fact that it was designed specifically for the public sector information. This means that there is no fear that the license will not be in line with the PSI Directive. Of course, the OS Open Data license will be useful only for those data that are possible to be re-used for free and to the extent permitted in this license. For other types of data this solution will not be suitable.

## 14 Inspire License

In the light of the obligations of the INSPIRE directive<sup>66</sup> (Infrastructure for Spatial Information in the European Union), the INSPIRE drafting team also developed two types of licenses: a basic INSPIRE license and a specific INSPIRE license. The use of both licenses is intended to facilitate the smooth access of the institutions and the bodies of the

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<sup>66</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), *OJ L* 108, 25.4.2007, p. 1-14 at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007L0002:EN:NOT>



European Union under harmonised conditions to the spatial data sets and services held by the Member States or the public authorities.

Ideally, all licenses should have the same provisions or a common structure and common terminology based on definitions of Article 3 of the Directive, to reduce the need for ad hoc negotiations to a minimum. The model for the specific INSPIRE license attempts to answer to that need and therefore its use should be encouraged for any provision of spatial data sets and services which is not covered under a basic INSPIRE license.

#### 14.1 The Basic INSPIRE license

The basic INSPIRE license consists of the following information.

<b>Preamble</b>	Explanatory statements
<b>Grant</b>	Non-exclusive, non-transferable license, free of charge  pre-defined terms and conditions: use for any purpose other than permitted by license is expressly prohibited without prior authorisation of supplier
<b>Subject</b>	Pre-defined terms & conditions  Limited to use for public tasks in the environmental domain  Public access may be allowed if this does not constitute a duplication of the original data set or service from the Member State, or any data or service derived from it
<b>Warranties</b>	No liability, no guarantees that its operation will be uninterrupted or error free, no liability for damage  No conditions, no warranties or other terms binding supplier  Force majeure: no liability or grounds for termination if delay or failure is caused by force majeure/the non-performing party shall keep the other party up to date as soon as it is practicable
<b>Security</b>	Keep an adequate level of measures to protect the integrity and

	<p>security of the data or services they obtain access to</p> <p>No liability</p>
<b>Pricing and payment</b>	Free of charge
<b>Access and delivery</b>	<p>Ensured access in a timely and efficient manner</p> <p>Accessible without delay in major emergencies with and impact on environment</p>
<b>Processing personal data</b>	Personal data processing in accordance with Regulation 45/2001 <sup>67</sup>
<b>Assignment, sub-licensing and contracting</b>	<p>No assignment, no rights to sub-license</p> <p>Where necessary for contract, there are conditions: bound by license/no rights on the PSI beyond contract/cannot retain PSI after end of contract or license</p>
<b>Conflict resolution</b>	Attempt to solve the issue by negotiations while the license is suspended, after 3 months no solution, applicable court of law
<b>Applicable law and jurisdiction</b>	<p>Dispute arisen on the execution of the terms of the license, applicable law will be the national law in the license / no jurisdiction included (general rules of private international law apply)</p> <p>Dispute on the principles of the Directive, European Court of Justice</p>
<b>Termination</b>	There must be a reason for terminating the license for instance, irresolvable dispute, 30 days' notice
<b>Duration</b>	perpetual

A disadvantage of the Basic license is the fact that it is quite complex, there is a vast amount of text and the legal issues described are at an advanced level which might make this license too complicated and confusing for a common user. Especially for data which is

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<sup>67</sup> Regulation 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data, *OJ L* 8, 12 at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:008:0001:0022:en:PDF>

allowed to be re-used for any type of purpose and by any type of user, this license does not seem to be particularly user-friendly.

## 14.2 The Specific INSPIRE license

The specific INSPIRE license consist of the following information.

<b>Preamble</b>	Explanatory statements
<b>Parties</b>	Explicitly stated
<b>Subject</b>	Name of Subject, Update Details and Technical Details
<b>Grant</b>	Non-exclusive, non-transferable license  Specific allowed use, any other use is prohibited without prior permission Supplier
<b>Allowed use</b>	Pre-defined terms & conditions, but various options, for instance:  Free of charge or not  Right to sub-license or not  Right to publish or not
<b>Attribution</b>	Acknowledgement of the supplier's intellectual property rights
<b>Warranties</b>	No liability, no guarantees that its operation will be uninterrupted or error free, no liability for damage  No conditions, no warranties or other terms binding supplier  Force majeure: no liability or grounds for termination if delay or failure is caused by force majeure/the non-performing party shall keep the other party up to date as soon as it is practicable
<b>Security</b>	Keep an adequate level of measures to protect the integrity and security of the data or services they obtain access to e.g. 'only for use by staff', 'only for use by authorised staff of the user in a closed network'
<b>Pricing and</b>	Free of charge or charged

<b>payment</b>	
<b>Access and delivery</b>	Ensured access in a timely and efficient manner
<b>Processing personal data</b>	Personal data processing in accordance with Regulation 45/2001 <sup>68</sup>
<b>Assignment, sub-licensing and contracting</b>	No assignment, no rights to sub-license  Where necessary for contract, there are conditions: bound by license/no rights on the PSI beyond contract/cannot retain PSI after end of contract or license
<b>Contact persons</b>	optional
<b>Conflict resolution</b>	Attempt to solve the issue by negotiations while the license is suspended, after 3 months no solution, applicable court of law
<b>Applicable law and jurisdiction</b>	Any dispute rising that cannot be solved by negotiation is to be handled as a dispute under the law of [insert relevant jurisdiction]
<b>Termination</b>	Three options:  - 30 days' notice with reasonable cause - Material breach of contract, termination immediate effect/other cases, 60 days' notice by registered mail - Terminate at a specified period/material breach of contract, termination with immediate effect, and in other cases, 60 days' notice by registered mail
<b>Duration</b>	Temporary

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<sup>68</sup> Regulation 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data, *OJ L* 8, 12 at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:008:0001:0022:en:PDF>

The specific Inspire License is one of the few licenses that seem to be suitable for data with a higher number of conditions and the access to which is not necessarily free of charge. With specific adjustments this license could fit the purpose of EGDI scope. The flexible options would allow us to tailor a desired license for any type of data/data sets with any type of conditions defined.

For both licenses, explicit acceptance is required of terms and conditions by the user by (1) signing a written contract or by (2) clicking an acceptance button on a web page where terms and conditions are displayed.

Another option is to display a license icon (cf. Creative Commons). This is also legally binding but there is always the question how to prove that the user actually realised that there was this license.

## 15 GEOSS principles

The Global Earth Observation System of Systems (GEOSS) is created by GEO, the Group on Earth Observations<sup>69</sup> on the basis of a 10-year implementation plan running from 2005 until 2015. GEOSS seeks to proactively link together producers of *in situ*, seaborne, airborne and space-based observations and decision-support tools with the end-users of these products, with the aim of enhancing the relevance of Earth observations to global issues. The system will connect existing and planned observing systems around the world and support the development of new systems where gaps currently exist. The result of this is to be a public global infrastructure, the 'GEOPortal' that generates comprehensive, sustained and near-real-time environmental data, information and analyses for a wide range of users, including decision-makers, scientific researchers, civil society and governmental and non-governmental organizations.<sup>70</sup>

The GEOSS *10-year Implementation Plan* was endorsed by nearly 60 governments and the European Commission at the 2005 Third Earth Observation Summit in Brussels, and it

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<sup>69</sup> Retrieved at <http://www.earthobservations.org/index.shtml>

<sup>70</sup> Retrieved at <http://www.earthobservations.org/geoss.shtml>

highlights a number of GEOSS Data Sharing Principles. This section will consequently not present a standard license, but it will present a number of Data Sharing Principles which are particularly relevant for EGDIscope. All members of GEO –whether existing ones or new- are required to endorse the Plan and therefore the Principles.

### **15.1 Full and open exchange of data, metadata and products**

GEOSS is envisioned as a system of systems that can deliver integrated data and information according to the timescale required to meet important user needs, particularly as reflected in the GEO Work plan. Therefore, it is important that the component systems interoperate seamlessly and with the fewest constraints possible. This includes:

- Minimal time delay;
  - o As few restrictions as possible,
  - o Non-discriminatory basis,
  - o Minimum cost (not more than the cost of reproduction and distribution),
- Sharing the data under clear and predefined terms;
- No restrictions

### **15.2 Enabling re-use and re-dissemination**

The full and open exchange of data should not only apply to the GEOSS network, but also beyond this network. Potential users should not be allowed to impose constraints on the integration, re-use and re-dissemination of data and information discovered and accessed via GEOSS. Such constraints would drastically reduce the utility of GEOSS and therefore significantly diminish the societal benefits that can be realized by GEOSS.

It is moreover believed that recognition of contributions through attribution will help provide incentives to participate in GEOSS, in accordance with the Data Sharing Principles.

### **15.3 Ensuring legal compliance**

All participants in GEOSS are required to respect their national laws and policies and relevant international agreements in providing access to all of their data, metadata and products. In this respect, GEO members with re-use and/or re-dissemination restrictions based on legitimate concerns of data misuses or alteration should be encouraged to implement a more enabling data sharing culture, reviewing and wherever possible revising restrictive policies, as practical solutions to these barriers are found.

### **15.4 Implementing pricing policies consistent with the GEOSS Data Sharing Principles**

As a matter of principle, the only allowable cost for data is either that of reproduction and distribution, or the marginal cost of fulfilling the user request. The metadata should generally be made available openly at no cost. Charging for access to metadata would constrain many potential users from discovering useful data and information that might be of significant value to them.

It would be useful to explore implementation of a flexible online cost recovery mechanism similar to those now common on the Internet in industry as to allow users to understand the different costs. Such systems should greatly reduce the transaction costs for cost recovery and provide users with much more detailed and accurate information on the costs of accessing alternative data, metadata and products available through GEOSS.

Developing country users and applications for non-commercial use, public use for societal benefits, cost recovery should be waived, or at least be no more than the cost of reproduction of distribution. For instance, since the cost of fulfilling a user order is more likely to be driven by the complexity of the order rather than the volume of data delivered, cost-recovery charges should be based on the characteristics of an order rather than the volume of data (number of bytes) delivered.

Overall, all approaches to cost recovery and licensing of data, metadata and products contributed to GEOSS that do not require payment for re-use of data, metadata and products already acquired by users should be encouraged.

### **15.5 Reducing time delays**

Depending on the type of data and application and the need for appropriate quality control, data should be transmitted on a real-time-basis whenever necessary or practicable.

### **15.6 Research and education use of GEOSS data should be promoted**

Ideally, research and education should be defined and these definitions should focus on the planned use of the information shared through GEOSS rather than the status of the user. The institutional affiliation for instance is not necessarily a good indicator of the use of GEOSS data, metadata and products (and related services) by the user.

It should be as much as possible recognized that shared data, metadata and products for research and educational activities should ideally be free of charge, or at most no more than the cost of reproduction. These users, who received data at reduced or no cost, should be strongly encouraged to provide in-kind assistance in the form of help in documenting the use and impact of data, metadata and products received.

## **16 Seadatanet**

SeaDataNet (2006 - 2011) is an EU project undertaken by the National Oceanographic Data Centres (NODC's), and marine information services of major research institutes, from 35 coastal states bordering the European seas. It was funded by the EU as an FP6 Research Infrastructures project. Its main goal was to actively operate and further develop a Pan-European infrastructure for managing, indexing and providing access to ocean and marine environmental data sets and data products (e.g. physical, chemical, geological, and biological properties) and for safeguarding a long term archival and stewardship of these



data sets. Data are derived from many different sensors installed on board of research vessels, satellites and in-situ platforms that are part of the various ocean and marine observing systems.<sup>71</sup>

SeaDataNet adopted a common data policy, striving for free, but controlled access to all datasets. Users can browse freely in all discovery services, but they need to register and agree with the SeaDataNet license for data access. The rationale behind this policy was to strike a balance between the rights of investigators and the need for widespread access through the free and unrestricted sharing and exchange of SeaDataNet data, meta-data and data products.

The License incorporates the following terms:

1. The Licensor grants to the Licensee a *non-exclusive* and *non-transferable* license to retrieve and use data sets and products from the SeaDataNet service in accordance with this license.
2. Retrieval, by electronic download, and the use of Data Sets is *free of charge*, unless otherwise stipulated.
3. Regardless of whether the data are quality controlled or not, SeaDataNet and the data source *do not accept any liability* for the correctness and/or appropriate interpretation of the data. Interpretation should follow scientific rules and is always the user's responsibility. Correct and appropriate data interpretation is solely the responsibility of data users.
4. Users must *acknowledge* data sources. It is not ethical to publish data without proper attribution or co-authorship. Any person making substantial use of data must communicate with the data source prior to publication, and should possibly consider the data source(s) for co-authorship of published results.
5. Data Users should *not give to third parties* any SeaDataNet data or product without prior consent from the source Data Centre.

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<sup>71</sup> Retrieved at [http://ec.europa.eu/research/environment/cf\\_includes/geo/pdf/gepw-3/posters/seadatanet\\_poster\\_seadatanet\\_aug2009.pdf](http://ec.europa.eu/research/environment/cf_includes/geo/pdf/gepw-3/posters/seadatanet_poster_seadatanet_aug2009.pdf)

6. Data Users must respect any and all restrictions on the use or reproduction of data. The use or reproduction of data for *commercial purpose* might require *prior written permission* from the data source.

In general, SeaDataNet makes the data available freely and without restriction. Freely in this case means at no more than the cost of reproduction and delivery, without charge for the data itself. Without discrimination means without discrimination against, for instance, individuals, research groups or nationality.

According to the different types of assets, the access conditions vary:

1. Meta-data are freely accessible without any condition.
2. Data and products require:
  - a. Registration,
  - b. Acceptance of additional conditions,
  - c. Acceptance of a user license.

## 17 Ecomet

ECOMET is an Economic Interest Grouping under Belgian law located in Brussels. The members of ECOMET are the National Meteorological Services (NMS's) of 25 European Member States among which France, Germany and the United Kingdom. The primary objectives of ECOMET are to preserve the free and unrestricted exchange of meteorological information between the NMS's for their operational functions within the framework of WMO regulations and to ensure the widest availability of basic meteorological data and products for commercial applications.<sup>72</sup>

For the use of data and products from the ECOMET catalogue, you need to conclude a license with an ECOMET Member. Each license agreement gives details about the object of the license in an annex to the contract. The annex will describe in detail the composition of the delivery, the purpose for which the information is supplied, and, if applicable, the time of delivery and the guaranteed uptime of on-line systems.

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<sup>72</sup> Retrieved at <http://www.ecomet.eu/>

The nature of the license depends on the nature of the client (e.g. Categories of users):

- end-users
- broadcaster/publisher
- service provider

It also depends on the intended use of the data and/or products:

- redistribution of the data and/or products as part of a VAS
- redistribution from a service provider to a holding company
- internet broadcasting

### 17.1 ECOMET licensing agreement between NMS and Service Provider (Value Added Services)

<b>Parties</b>	NMS (licensor) and Service Provider (licensee)
<b>Purpose</b>	Non-exclusive license for different type of value added services
<b>Delivery</b>	Licensor guarantees delivery subject to external availability and force majeure
<b>Payment</b>	Fee, within 30 days of receipt by Licensee of licensor's invoice
<b>IP-rights</b>	Retained by the licensor No transfer or assignment
<b>Limitation of use</b>	Limited to the object of the license No reproduction, distribution, license, transfer, assignment, sale, disclosure or other action to any third party without consent licensor
<b>Liability</b>	Liability licensee including termination contract to indemnify licensor for any loss licensor suffers + reimbursement
<b>Confidentiality</b>	Confidentiality of licensee as long as there is no written consent of licensor to divulge information to any third party
<b>Warranty/</b>	Licensor warrants that it has the authority to grant this license by virtue

<b>liability</b>	of membership ECOMET  No liability for consequences of use by licensee  Licensee shall be liable for any misuse of the item
<b>Force Majeure</b>	No liability for force majeure
<b>Termination</b>	- at any time by licensor <ul style="list-style-type: none"> <li>o if fee is in arrears by 60 days following written demand by licensor</li> <li>o if licensee fails to remedy breach of any of the obligations under this license within 60 days of receipt of written notice by licensor</li> <li>o damage or breach of contract</li> </ul>
<b>Notice</b>	Service of any notice under this license in writing, delivered by hand, or sent by telefax or by pre-paid on first class post to XXX
<b>Waiver</b>	Any waiver by licensor of a breach limited to that particular breach
<b>Assignment</b>	Licensee shall not assign the rights under this license without written consent of the licensor
<b>Dispute</b>	Court proceedings under Law of the Contract or Arbitration to be decided by parties to this license
<b>Applicable law</b>	Governed by the law of [country of licensor]
<b>Period of agreement</b>	[enter dates]

## 17.2 ECOMET licensing agreement between NMS and Publisher/Broadcaster

This license is the same as the license above, except for the following information.

<b>Parties</b>	NMS (licensor) and Publisher/Broadcaster (licensee)
<b>Purpose</b>	Non-exclusive license for purpose of use as broadcaster/publisher

### 17.3 ECOMET licensing agreement between NMS and End-user

This license is the same as the first license, except for the following information.

<b>Parties</b>	NMS (licensor) and end-user (licensee)
<b>Purpose</b>	Non-exclusive license for purpose of use as end-user  End-user use of the Item shall be for its own commercial or personal purposes

### 17.4 ECOMET licensing agreement between NMS and Educational and Research establishment

This license is the same as the first license, except for the following information.

<b>Parties</b>	NMS (licensor) and University, College, Laboratory, etc. (licensee)
<b>Purpose</b>	Non-exclusive license for scientific, research or educational purposes  The grant of this license does not permit use of the Item licensed or the results of research to be used for commercial purposes or exploitation for profit.
<b>Grant-back provision</b>	Optional  The licensee shall grant to the licensor a non-exclusive license to use the results obtained from the research project connected with this License (for use as appropriate)

## 18 OneGeology

OneGeology is an international initiative of the geological surveys of the world. This European project was launched in 2007 and contributed towards creating dynamic geological map data of the world, available to everyone via the web.<sup>73</sup> Via the [OneGeology](http://www.onegeology.org/)

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<sup>73</sup> Retrieved at <http://www.onegeology.org/>

[Portal](#) users have access to all these geological datasets. To improve the accessibility of this spatial data and environmental information across Europe, a code of practice holding access and licensing policies was developed and introduced in a user-friendly way to all stakeholders.

### 18.1 Basic One Geology Europe License

This work resulted in the development of the Basic OneGeology Europe License, which is meant for data that is available free of charge and with minimum conditions. It can be used as a click-license but if an organization does not require click-licenses, it could be also used as a disclaimer clearly indicated on the website.

<b>Grant</b>	This is a world-wide, royalty-free, non-exclusive license from the Data Provider
<b>Attribution</b>	Used and/or reproduced with the permission of (insert name of the National Geological Survey). All rights reserved
<b>Sub-licenses</b>	You must <ul style="list-style-type: none"> <li>- Include the same attribution requirement in any sub-licenses of the Data that you grant, and a requirement that further sub-licenses do the same</li> </ul>
<b>Endorsement</b>	Ensure no suggestion of endorsement
<b>Misrepresentation</b>	Ensure no misrepresentation
<b>Warranties/liabilities</b>	At the User's own risk, no warranty, no condition or representation as to the quality, accuracy or completeness of the data, information, or service, or its suitability for any use or purpose
<b>Governing law</b>	Any dispute not handled by negotiation, can be handled under the law of the country in which the Data Provider has its principal place of business unless otherwise specified by the Data Provider
<b>Changes to the</b>	Change of terms of license or change of license possible, these

<b>licenses</b>	terms continue to apply to data you already license from the Data Provider
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## 18.2 Specific OneGeology Europe License

The specific OneGeology Europe License is meant for data available with a charge and/or more restrictive conditions. The different options that are provided allow adjusting the license to specific needs for particular data made available to particular users. Options are provided for a view service and download service. If data is to be downloaded, different options are provided for users who form part of a public administration and those who are private entities, either commercial or non-commercial.

The specific license contains the following terms.

<b>Grant</b>	<p>This is a non-exclusive and non-transferable license to use the data for a limited period of time</p> <p><i>View service</i></p> <p>Allowed to</p> <ul style="list-style-type: none"> <li>- Consult the data</li> <li>- Display, navigate, zoom in/out, pan or overlay viewable spatial data sets</li> <li>- Display legend information and any relevant content of metadata</li> <li>- Optional</li> </ul> <p><i>Downloadable service</i></p> <p>Allowed to</p> <p>(1) User is part of public administration</p> <ul style="list-style-type: none"> <li>- Create a copy</li> <li>- Use</li> <li>- Create derivative products or integrate it</li> <li>- Available to contractors and to other public bodies</li> <li>- Optional: no charge/under conditions/at a charge</li> </ul> <p>(2) User is a private entity, commercial or non-commercial</p>
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	<ul style="list-style-type: none"> <li>- Create/Not create</li> <li>- Use/No use</li> <li>- Publish on Internet/not publish on the Internet</li> <li>- Create derivative products/Not create derivative products</li> <li>- Optional: No charge/under conditions/at a charge</li> <li>- Optional: User will provide copy of derivative product within timeframe</li> <li>- Optional: User will provide feedback about the product within timeframe in a specified form</li> <li>- Optional: others</li> </ul>
<b>Unauthorized use</b>	<p>Avoid unauthorized use</p> <p>No misrepresentation</p> <p>No endorsement</p>
<b>Attribution</b>	Used and/or reproduced with the permission of (insert name of the National Geological Survey). All rights reserved
<b>Warranties</b>	<p>No warranties</p> <p>No guarantee as to continued and uninterrupted service or error free</p>
<b>Security</b>	<p>User shall maintain adequate security measures to protect integrity and confidentiality</p> <p>Notify of any breach or suspected breach</p> <p>Optional [the User shall implement the following measures]</p>
<b>Liability</b>	At the User's own risk, no warranty, no condition or representation as to the quality, accuracy or completeness of the data, information, or service, or its suitability for any use or purpose
<b>Pricing and payment</b>	<p><i>Viewable service &amp; downloadable service</i></p> <ul style="list-style-type: none"> <li>- Free of charge</li> <li>- Charged as described             <ul style="list-style-type: none"> <li>o Details of charges</li> <li>o When payment is due</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>○ Payment arrangements</li> </ul>
<b>Access and delivery</b>	<p>Timely and efficient manner, without delay in major emergencies with impact on the environment</p> <p>Access arrangements</p>
<b>Processing of personal data</b>	In accordance with EU Data Protection Directive <sup>74</sup>
<b>Assignment, sub-licensing and contracting</b>	<ul style="list-style-type: none"> <li>- No rights to assign</li> <li>- No rights to sub-license</li> <li>- Contracting if               <ul style="list-style-type: none"> <li>○ Same obligations as the User under this license</li> <li>○ Not be given the power to grant rights to the Subject</li> <li>○ No right to use the Subject for purposes beyond contract</li> <li>○ No right to retain the subject</li> </ul> </li> </ul>
<b>Force Majeure</b>	<p>No liability for failures or no right to terminate this license for any delay or failure if caused by force majeure</p> <p>Obligation to inform</p>
<b>Conflict resolution</b>	<p>Negotiations, suspended license</p> <p>Term: 3 months, after that Court</p>
<b>Applicable law and jurisdiction</b>	Dispute under the law of [insert relevant jurisdiction]
<b>Termination</b>	<ul style="list-style-type: none"> <li>- 30 days' notice, both parties, reasonable cause</li> <li>- Material breach of contract: termination with immediate effect, other cases [XX] days written notice</li> <li>- Termination at end of license</li> </ul>

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<sup>74</sup> Directive 95/46/EC of the European Parliament and of the Council of 24.10.1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Data Protection Directive), *OJ L 281*

## 20 Overview

The review of these 15 existing licensing frameworks/licensing guidelines show that most of them have many elements in common, at least at the generic level of categories. Most of these licenses are also easily adaptable to the needs of the EGDI scope project. This way a bespoke EGDI license is not necessary and would only reduce interoperability and efficiency.

Generally, there are some requirements for a standard license to be suitable for EGDI-scope:

- The license needs to be streamlined;
- A limited number of options making the license as clear, transparent and usable as possible avoiding any complexities or overflow of information and legal terms;
- Machine-readability;
- The license needs to be cost-effective;
- Suitable for re-use of public sector information thus compliant with all the relevant Directives;
- User friendliness avoiding advanced legal terms and problems;
- Suitable for data with a high amount of conditions and the access to which is not necessarily free of charge;
- Flexibility to tailor the desired license for any type of data/datasets with any type of conditions defined.

In order to satisfy the needs of all the Geological Surveys of the EU, it might be preferable to use two types of licenses, one for the data/ data sets available free of charge for private and commercial purposes, with minimum conditions and a second one for data/ data sets available at a charge and with more restrictive conditions. It is best to choose a minimum amount of standard licenses, and to present them as clear and transparent as possible. More types of licenses would only result in a reduced interoperability, efficiency and transparency.

Licenses that are not suitable for the EGDI-scope project include the Open Data Commons and any public domain license. The former does not grant protection for the individual

elements of the protected database while the latter requires a full waiver of all intellectual property rights by the owners of the data.

Other licenses that are less suitable include the INSPIRE Licenses. They are drafted specifically to achieve greater harmonization of the access and licensing policies for spatial data in Europe. However, a disadvantage of these licenses are the fact that they are quite complex, with a high amount of text and legal issues described at an advanced level. This is particularly the case for the basic INSPIRE license. The specific INSPIRE license could be suitable for data with a higher number of conditions and the access to which is not necessarily free of charge. With specific adjustments this license could fit the purpose of EGDI scope.

Other licenses that are partially suitable are the Ordnance Survey License and the Creative Commons licenses. They both could be used to license data and/or datasets for which the number of conditions is limited and where the data is free of charge. As stated before, the Creative Commons licenses are among the most prominent and recognized licenses currently available. They are standardized, automated and this will reduce costs for both granting licenses and obtaining them. Version 4 of the Creative Commons licenses will also address the sui generis database rights which should make them suitable to license both publications as well as datasets. There are however still a number of issues, described in detail above, that make them less suitable for the needs of the Geological Surveys. The main problem would be a prohibition to re-use for commercial purposes and prohibition of creating derivative products which both would be in conflict with the PSI Directive. The Ordnance Survey License in this respect, was created specifically for the re-use of public sector information which creates no danger of compliance issues. The Ordnance Survey License thus should fit the requirements of the Geological Surveys for those data/datasets that are available free of charge and that are allowed for private and commercial re-use.

At this point, a license that seems to fulfill most of the above requirements for the datasets available at a charge or with more restrictive conditions concerns the GeoShared license. Although this license has not yet been used very often in practice, it does seem a good fit for the geological datasets of EGDI scope. The license comes with a number of standard conditions, but is easily adaptable to a great number of situations while limiting the options and keeping the license streamlined and very user-friendly which is key for the

EGDI scope platform. This license is moreover suitable for public sector information and to a certain extent tailored to the specific characteristics of geological data.

The EGDI-scope requirements and possible application of the licenses discussed above will be further tested in connection with the prioritized thematic areas and use cases, as reported in D2.4: Final report of user needs and functional requirements, in D5.4 – Guidelines for the legal and organizational framework. Please also find a comparative exercise in this respect in annex 1 where the licenses of a number of uses cases were identified, compared and analyzed.

The following table will provide an overview of the licenses that were discussed in more detail above. Please also find in annex 2 a manual for the GeoShared license for further guidance.

	Obligations	Fee	Usage	How	Duration/ termination
<b>Creative Commons</b>	Attribution <i>Options:</i> - Share-Alike or - No Derivatives	Free	Optional: - Commercial - Non-commercial	Non-transactional	Remain in force for the duration of the licensed work's copyright unless terminated by the licensor for a breach by the licensee
<b>CC0</b>	None	Free	Commercial and non-commercial	Non-transactional	Forever: work in public domain
<b>Open Data Commons</b>	Attribution <i>Options:</i> - Share-Alike - Openness - Share-Alike	Free	Commercial and non-commercial	Non-transactional	Remain in force for the duration of the licensed work's copyright unless terminated for a breach
<b>Open Government License</b>	- Attribution - No unfair use - No endorsement - No misrepresentation	Optional: - Free - Limited charge	Optional: - Commercial - Non-commercial	Non-transactional	Remain in force for the duration of the licensed work's copyright unless terminated for a breach

	- Comply with data protection laws				
<b>GeoShared</b>	<ul style="list-style-type: none"> <li>- Designation</li> <li><i>Optional</i></li> <li>- Source attribution</li> <li>- Time limit</li> <li>- No value added products</li> <li>- Compensation requirement</li> <li>- Purpose limitation</li> <li>- No redistribution</li> <li>- Derivative works only</li> <li>- Additional conditions</li> </ul>	<ul style="list-style-type: none"> <li>Optional</li> <li>- Free</li> <li>- At a charge</li> </ul>	<ul style="list-style-type: none"> <li>Commercial and non-commercial</li> <li><i>Optional</i></li> <li>- Purpose limitation</li> </ul>	Non-transactional	<ul style="list-style-type: none"> <li>Remain in force for the duration of the licensed work's copyright unless terminated for a breach</li> <li><i>Optional</i></li> <li>- Time limit</li> </ul>
<b>AusGOAL</b>	<ul style="list-style-type: none"> <li><i>Restrictive License Template</i></li> <li>- Protect confidential</li> </ul>	<ul style="list-style-type: none"> <li>Optional</li> <li>- At a charge</li> <li>- Free</li> </ul>	<ul style="list-style-type: none"> <li>You need authorization to use the material for commercial purposes</li> </ul>	Transactional	<ul style="list-style-type: none"> <li><i>Optional</i></li> <li>- The supplier can terminate the agreement</li> </ul>



	information - Protect personal information - Additional conditions  Need authorisation to: - copy - make available - transmit data electronically - making copies - online distribution - electronic transmission - distribution of hard copies	- indemnities			at any time upon written notice to the Customer - Date of expiry of contract
<b>Geo Connections</b>	<i>Unrestricted Model (A&amp;B)</i> royalty-free, non-exclusive, worldwide,	<i>Unrestricted</i> Options: - At a charge	<i>Unrestricted Model</i> Commercial and non-commercial	<i>Unrestricted Model</i> Web-wrap (non-transactional)	<i>Unrestricted Model</i> Automatic termination in case you breach the agreement, but for the



	non-assignable license to use, reproduce, extract, modify, translate, further develop and distribute the Canada Digital Data and to manufacture and license Value-Added Products, and to sublicense any or all of such rights, IF - Attribution - Written agreement for sub-licensing - No misrepresentation	- At no charge			purpose of completing orders, you may continue to supply VAP
	<i>End-use model (C&amp;D)</i> royalty-free, nonexclusive, worldwide, non-	<i>End-use model</i> Options: - At a charge - At no	<i>End-use model</i> - Internal use only - right to create derived products that do not	<i>End-use model</i> Transactional	<i>End-use model</i> - fixed period - if no breach, automatic renewal of 1 year





	assignable licence to use, reproduce, extract, modify, translate and further develop the Canada Digital Data, for the Licensee's own internal use, and as is necessary for the manufacture and distribution of Derived Products, IF <ul style="list-style-type: none"> <li>- Attribution</li> <li>- No publishing, communicating or distributing to 3<sup>rd</sup> party</li> <li>- No misrepresentation</li> </ul>	charge	incorporate the data		<ul style="list-style-type: none"> <li>- termination by either party if 30 days' notice</li> <li>- termination upon written agreement by both parties</li> </ul>
	<i>Reseller model (E&amp;F)</i> royalty, non-exclusive,	<i>Reseller model</i> Fixed fees/	<i>Reseller model</i> - For commercial and	<i>Reseller model</i> Transactional	<i>Reseller model</i> - fixed period



	<p>non-assignable license to use, reproduce, extract, modify and translate the Canada Digital Data, as is necessary for the purposes of promoting to the Market and distributing to End-Users the Canada Digital Data, in whole or in part, IF</p> <ul style="list-style-type: none"> <li>- no modification without authorization</li> <li>- attribution</li> <li>- on an end-use basis agreement if sold to end-users by reseller</li> <li>- no development of</li> </ul>	royalties	<p>non-commercial purposes</p> <ul style="list-style-type: none"> <li>- End-users cannot sell further, own personal use only</li> </ul>		<ul style="list-style-type: none"> <li>- if no breach, automatic renewal of 1 year</li> <li>- termination by either party if 30 days' notice</li> <li>- termination upon written agreement by both parties</li> </ul>
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	<p>new products with this data for distribution or use by 3<sup>rd</sup> parties</p> <ul style="list-style-type: none"> <li>- Reseller must notify Canada of infringements and reseller's intended use if infringing the contract</li> <li>- No misrepresentation</li> <li>- Reseller must, on 10 days' notice provide access to Canada to premises (max 1/year)</li> <li>- Any discrepancies with fees in excess of XXX% uncovered by audit, reseller shall</li> </ul>				
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	pay cost of audit + discrepancy				
	<p><i>Value-added reseller (G)</i></p> <p>nonexclusive, non-assignable license to use, reproduce, extract, modify, translate and further develop the Canada Digital Data for</p> <ul style="list-style-type: none"> <li>- integration into existing VAR products</li> <li>- making new VAR products</li> <li>- licensing to end-users incorporated Canada Digital data into VAR products</li> <li>- demonstration &amp; marketing</li> </ul>	<p><i>VA reseller</i></p> <p>Fixed fees/royalties</p>	<p><i>Value-added reseller</i></p> <ul style="list-style-type: none"> <li>- commercial and non-commercial</li> <li>- end-users personal use only</li> </ul>	<p><i>Value-added reseller</i></p> <p>Transactional</p>	<p><i>Value-added reseller</i></p> <ul style="list-style-type: none"> <li>- fixed period</li> <li>- if no breach, automatic renewal of 1 year</li> <li>- termination by either party if 30 days' notice</li> <li>- termination upon written agreement by both parties</li> </ul>

	IF <ul style="list-style-type: none"> <li>- attribution</li> <li>- distribution to end-users on an end-use basis</li> <li>- no sub-licensing</li> <li>- no misrepresentation</li> </ul>				
<b>APIE</b>	<ul style="list-style-type: none"> <li>- attribution</li> <li>- personal</li> <li>- non-exclusive right</li> <li>- world-wide</li> <li>- no re-sale</li> </ul>	Free of charge	Non-commercial and commercial <ul style="list-style-type: none"> <li>- Licensee shall not resell PSI as is to a 3<sup>rd</sup> party for commercialisation</li> </ul>	Non-transactional	Until the 31 <sup>st</sup> of December of the Year of the Contract, and then every 1 <sup>st</sup> of January by tacit renewal
<b>Ordnance Survey</b>	<ul style="list-style-type: none"> <li>- World-wide</li> <li>- Attribution</li> <li>- Sub-licensing only with attribution</li> </ul>	Free of charge	Non-commercial and commercial	Non-transactional	- Perpetual
<b>Inspire license</b>	<i>Basic Inspire License</i>	<i>Basic License</i>	<i>Basic Inspire License</i>	<i>Basic Inspire License</i>	<i>Basic Inspire License</i>



	<ul style="list-style-type: none"> <li>- Non-exclusive</li> <li>- Non-transferable</li> <li>- Other use than defined in license needs authorization</li> <li>- No assignment</li> <li>- No rights to sub-license</li> </ul>	Free of charge	Non-commercial and commercial	Transactional (written contract or clicking acceptance button)	<ul style="list-style-type: none"> <li>- Terminated by the Parties with 30 days notice</li> <li>- Termination can not be without a reasonable cause.</li> </ul>
	<p><i>Specific Inspire License</i></p> <ul style="list-style-type: none"> <li>- Attribution</li> <li>- Non-exclusive</li> <li>- Non-transferable</li> <li>- Other use than defined in license needs authorization</li> <li>- No assignment</li> <li>- No rights to sub-license</li> </ul>	<p><i>Specific license</i></p> <p>Free of charge or royalties</p>	<p><i>Specific Inspire License</i></p> <p>Non-commercial and commercial</p>	<p><i>Specific License</i></p> <p>Transactional (written contract or clicking acceptance button)</p>	<p><i>Specific Inspire License</i></p> <ul style="list-style-type: none"> <li>- Terminated by the Parties with 30 days notice</li> <li>- Termination can not be without a reasonable cause.</li> <li>- 60 days' notice without cause</li> <li>- Termination effective immediately in case of material breach of</li> </ul>

					contract
<b>GEOSS</b>	Guiding principles				
<b>SeaDataNet</b>	<ul style="list-style-type: none"> <li>- Non-exclusive</li> <li>- Non-transferable</li> <li>- Attribution</li> <li>- No resale or redistribution of SeaDataNet data to 3<sup>rd</sup> parties</li> </ul>	Free of charge unless otherwise stipulated	Commercial re-use might require prior written permission from the data source	Transactional (register and agree with the license for data access)	No information in the license about duration/termination
<b>EcoComet</b>	<i>Between NMS and Service provider</i> <ul style="list-style-type: none"> <li>- Non-exclusive license for value added services</li> <li>- Non-transferable</li> <li>- No assignment</li> <li>- No reproduction, distribution, license, transfer, assignment, sale, disclosure or</li> </ul>	<i>NMS and Service provider</i> <p>Fee within 30 days receipt by Licensee of licensor's invoice</p>	<i>Between NMS and Service provider</i> <p>Commercial and non-commercial use</p>	<i>Between NMS and Service provider</i> <p>Transactional</p>	<i>Between NMS and Service provider</i> <p>At any time by licensor</p> <ul style="list-style-type: none"> <li>- if fee is in arrears by 60 days following written demand</li> <li>- if licensee fails to remedy breach within 60 days of written notice</li> <li>- damage or breach</li> </ul>



	other action to any 3 <sup>rd</sup> party without consent licensor - confidentiality				contract
	<i>Between NMS and                  Publisher/broadcaster</i> Ibid.	<i>NMS &amp;                  Publisher/                  broadcaster</i> Ibid.	<i>Between NMS and                  Publisher/broadcaster</i> Ibid.	<i>Between NMS and                  Publisher/broadcast                  er</i> Ibid.	<i>Between NMS and                  Publisher/broadcaster</i> Ibid.
	<i>Between NMS and end-                  user</i> Ibid.	<i>NMS &amp; end-user</i> Ibid.	<i>Between NMS and end-                  user</i> Ibid.  End-user use of data shall be for its own commercial or personal purposes	<i>NMS and end-user</i> Ibid.	<i>Between NMS and end-user</i> Ibid.





	<p><i>Between NMS and university, research and educational establishment</i></p> <ul style="list-style-type: none"> <li>- non-exclusive</li> <li>- optional</li> <li>- licensee shall grant licensor a non-exclusive license to use the results obtained from the research project connected with license</li> </ul>	<p><i>NMS&amp; university, research&amp; educational</i></p> <p>Ibid.</p>	<p><i>Between NMS and university, research and educational establishment</i></p> <ul style="list-style-type: none"> <li>- only for non-commercial purposes</li> <li>- no exploitation for profit</li> <li>- only for scientific, research or educational purposes</li> </ul>		<p><i>Between NMS and university, research and educational establishment</i></p> <p>Ibid.</p>
<b>OneGeology</b>	<p><i>Basic 1Geology</i></p> <ul style="list-style-type: none"> <li>- World-wide</li> <li>- Non-exclusive</li> <li>- Attribution</li> <li>- Sub-licensing with attribution</li> </ul>	<p><i>Basic 1Geology</i></p> <ul style="list-style-type: none"> <li>- Royalty-free</li> </ul>	<p><i>Basic 1Geology</i></p> <p>Non-commercial and commercial</p>	<p><i>Basic 1Geology</i></p> <ul style="list-style-type: none"> <li>- Click-license OR</li> <li>- disclaimer</li> </ul>	<p><i>Basic 1Geology</i></p> <ul style="list-style-type: none"> <li>- perpetual</li> </ul>



	<ul style="list-style-type: none"> <li>- No endorsement</li> <li>- No misrepresentation</li> </ul>				
	<p><i>Specific 1Geology</i></p> <ul style="list-style-type: none"> <li>- non-exclusive</li> <li>- non-transferable</li> <li>- optional: view service OR/AND download service</li> <li>- Optional: user is part of public administration OR private entity/commercial/non-commercial</li> <li>- Additional conditions possible</li> <li>- No endorsement</li> <li>- No misrepresentation</li> </ul>	<p><i>Specific 1Geology</i></p> <ul style="list-style-type: none"> <li>- Free of charge or</li> <li>- Charge as described</li> </ul>	<p><i>Specific 1Geology</i></p> <p>Commercial and non-commercial depending on options licensor gives licensee</p>	<p><i>Specific 1Geology</i></p> <p>Transactional</p>	<p><i>Specific 1Geology</i></p> <ul style="list-style-type: none"> <li>- 30 days' notice with reasonable cause</li> <li>- Material breach of contract: termination effective</li> <li>- Other cases: XX days' written notice</li> <li>- Termination at end of the fixed licensing period</li> </ul>



	<ul style="list-style-type: none"><li>- Non-assignable</li><li>- No rights to sublicense</li></ul>				
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**Table 5:** Overview Licensing possibilities D5.2

## 21 Annex 1: Licensing framework for recommended datasets

As a comparative exercise, we looked at the licensing conditions of a number of prioritized datasets, in accordance with D3.3 - Implementation and prioritization plan for rolling out datasets on the EGDI, to identify the remaining barriers for an open access and licensing policy for EGDI-scope. The licenses and datasets that we looked at are the following:

Dataset	Description	Country
Geological Map of Poland	1:1 000 000	Poland
DigiMP1M	Seamless quaternary map of Finland 1:1 000 000	Finland
Gravel and aggregate data		Norway
Delfstoffen online viewer		Netherlands
PanGeo data	PanGEO data	EU

On the basis of these licenses, we made an overview of their characteristics in order to see their similarities and differences as well as possible barriers to the EGDI scope licensing policy.<sup>75</sup>

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<sup>75</sup> We did not receive the license for the Bulgarian or the Czech dataset so we could not analyse their conditions and take them into our comparison.

	Grant	Restrictions	Use	IPR	Liability	Applicable law
<b>Polish dataset – OneGeology Europe conditions</b>	From the 1GE portal free of charge,	Without any restrictions	Public, private and commercial use	Exclusive property of right-holders (NGS)	Excluded to the fullest extent of the law	Under the law of the country in which the respective right holder has its principal place of business
<b>Norwegian dataset – CC3.0 license<sup>76</sup></b>	Worldwide, royalty-free, non-exclusive, perpetual	Attribution	Public, private and commercial use		Excluded to the fullest extent of the law	
<b>Finish dataset – GTK's product license (v. 2)</b>	Worldwide, irrevocable parallel limited right of use, free	Attribution (original source and revision year of the material)	Public, private and commercial use		Excluded to the fullest extent of the law	Finnish law

<sup>76</sup> According to the Norwegian Mapping Authority the data is free for download and they could not help us further with any specific licensing conditions. When searching on their website, it was not possible to find a license however, it was mentioned that Creative Commons 3.0 was suitable for this data. Therefore, as a working hypothesis, we are using CC3.0 to compare.

	of charge and non-exclusive	Mark as (a) presented as or (b) modified Share-alike				
<b>PanGeo Data</b>	Free, non-exclusive, perpetual, worldwide, irrevocable, royalty-free	Attribution Share-alike	Public, private and commercial use		Excluded to the fullest extent of the law	Jurisdiction of English Courts, English law applies
<b>Delfstoffen Online</b>	Free of charge and completely open, No licensing conditions attached				Exclusion of liability via a disclaimer	

From this comparison, we can deduce the following. The licenses and datasets looked at are all offered free and under a license as open as possible. However, despite the fact that these datasets are offered at no charge, some of these datasets do still set a requirement on top of the general attribution requirement. This is for example a specification of the attribution requirement or a share-alike requirement.

These requirements will have to be taken into account when choosing an appropriate basic license. Overall, the datasets in this comparison are licensed as open as possible and should not present any barriers to an open EGDI-scope licensing policy. Of course, we only looked at a limited amount of the datasets and it should be taken into account that we did not receive responses from every geological survey or public authority responsible for the national datasets.

## 22 Annex 2 – Manual for the GeoShared License

This manual is provided to give a basic understanding and overview of the practical use of the GeoShared license that could be adapted for use within the EGDI scope project. This manual will explain how the license should be filled in with the different options provided. It is meant for data available with a charge and/or more restrictive conditions. If the data is made available free of charge and without restrictive conditions, another license can be used such as the Basic OneGeology-Europe License for example.

### 22.1 Definitions

In this section the definitions for the different licensing terms are provided.

- Derivative work:  
a work that is based on the Work or based on the Work and some other already existing Work. An example of a Derivative work is a tourist's hiking guide that is based on the topographical base data set.
- Distribute:  
any form of making available the content of a Work or a part thereof to third parties by the distribution of copies, by renting, by on-line or other forms of transmission.
- Extraction  
the permanent or temporary transfer of (part of) the content of the Work to another medium by any means or in any form. This is also understood to include viewing the Work on-line.
- Licensor  
the individual, individuals, entity or entities that offer(s) the Work under the terms of this License.
- Maker  
the individual, individuals, entity or entities who created the Work. With respect to the applicability of this License, the Maker is also understood to refer to the producer of a databank within the meaning of Directive 96/9/EC (or national implementation of this Directive), or the holder of a moral right.
- User  
an individual or entity exercising rights under this License and 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.

- Work

the work protected by intellectual property rights and that is offered under the terms of this license . With respect to the applicability of this License, the Work is also understood to include the database within the meaning of Directive 96/9/EC (or national implementation of this Directive), insofar as this database is protected by national law.

## **22.2 Fair Dealing Rights**

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.

## **22.3 License Grant**

Subject to the terms and conditions of this License, and the terms and conditions on use of article 4, the Licensor hereby grants the User a world-wide, non-exclusive and non-transferable License to exercise the rights in the Work as stated below:

- extracting the Work;
- creating, extracting and distributing a Derivative work, with due regard for the any intellectual property rights and other rights on the part of third parties, and on the understanding that it is made clear with respect to the Derivative work, including any translation in any medium, that changes were made to the original Work.

If the Geological Surveys decide to impose no specific restrictions on use of the Work, the following clause can be inserted.

The granted rights may be exercised in all of the currently known media and formats. These rights include the right to make such modifications as are technically necessary to exercise the rights in other media and formats. All rights not expressly granted by Licensor are hereby reserved.

## **22.4 Restrictions**

This section provides different options to allow the Geological Surveys to adjust the license to the specific needs for particular data to be made available to particular users.

The License offers possibilities to restrict certain types of uses or impose certain conditions such as

- Acknowledgement of intellectual property rights;
- The duration of the license;
- A required fee or at no charge;
- Purpose limitation so that the license can only be used for certain purposes;
- No distribution or sublicensing without prior consent of the licensor;
- No derivative work (the user is only allowed to provide derivative works to third parties if the original work cannot be independently selected from or in the Derivative Work);
- Any additional requirements.

This is an overview of the different possibilities.

#### *General requirements*

- 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.
- The User is not allowed to act as an intermediary of the Licensor, and/or to create an appearance of acting for or on behalf of the Licensor, without the prior consent of the Licensor.
- It is prohibited to include any authenticity features of the Work, including the logo of the Licensor, in a Derivative work.
- User may distribute the Work only under the terms of this License. User must include a copy of this License with every copy of the Work the User distributes.

#### *Attribution requirement*

- The User may not impose any effective technological measures on the Work that restrict the ability of a recipient of the Work from the User to exercise the rights granted to that recipient under the terms of the License

- If User distributes the Work or any Derivative Work, User must keep intact all copyright notices for the Work and provide, reasonable to the medium or means User is utilizing:
  - o (i) the name of the Maker (or pseudonym, if applicable) if supplied at the bottom of this License, and/or
  - o (ii) if the Maker and/or Licensor designate another party or parties (e.g., a sponsor institute, publishing entity, journal) for attribution in Licensor's copyright notice or by other means, the name of such party or parties if supplied at the bottom of this License;
  - o (iii) the title of the Work if supplied at the bottom of this License;
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- The credit required may be implemented in any reasonable manner; provided, however, that in the case of a Derivative Work, at a minimum such credit will appear, if a credit for all contributing authors of the Derivative Work appears, then as part of these credits and in a manner at least as prominent as the credits for the other contributing authors.
- User may only use the credit required by this Section for the purpose of attribution in the manner set out above and by exercising User's rights under this License.
- The Maker, Licensor and/or Party (ies) may, upon request, grant an exemption with respect to the compliance with one or more obligations arising from this article.

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- The User is only allowed to exercise the rights as granted to the User pursuant to article 3 for the purposes as specified at the bottom of this License or in the agreement referring to this License

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- The User is not allowed to distribute or to sublicense the Work without the prior consent of the Licensor.

#### *No derivatives*

- A Derivative Work is not subject to the terms and conditions of this License, on the understanding that the User is only allowed to distribute a Derivative work if the Work itself cannot be independently selected from or in the Derivative Work

#### *Custom additional conditions*

It is also possible to provide additional specific conditions. These additional conditions will be added to the license.

### **22.5 Restrictions regarding liability**

The license provides you the option to insert a clause regarding liability. If you do not tick this box, no restrictions regarding liability will apply.

In the alternative, the following liability clause will apply.

The Licensor is not liable towards the User for any damages, including 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, if and insofar as the law does not dictate otherwise.

### **22.6 Fee**

The User owes the Licensor and/or Maker a fee with respect to exercising the rights that arise from this License. The amount of this fee, and/or the manner in which this fee is to be paid, is explained in the agreement accompanying this License.

### **22.7 Term of validity/termination**

Subject to the above terms and conditions, the license granted here is for the duration of the period as specified at the bottom of this license or in the agreement referring to this License.

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.

This License and the rights granted hereunder will terminate automatically upon any breach by User of the terms of this License. Sections 1, 2, 5, 6, 7, and 8 will survive any termination of this License.

The User is to return the Work – including any copies – to the Licensor upon the termination of this License, and/or the User is to destroy these works at the request of the Licensor.

## **22.8 Miscellaneous**

This License is subject to [insert applicable law] law. Disputes are to be exclusively submitted to the competent court in [insert country of jurisdiction].

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, unless this can be deemed unreasonable towards an interested party.

The Licensor is allowed to unilaterally alter the terms and conditions of this License, provided that these alterations are made known. The alterations will take effect at the time that these are made known or on the date as specified in a notification of the alterations.

Only the [insert version] text of these conditions is authentic. In case of ambiguities or doubts as to the meaning of a certain part or paragraph or differences with the [insert version] text, the [insert version] text will be decisive.

## **22.9 Specific Terms and conditions**

- Name of the maker
- Name of other party
- Title of the Work
- Date of year of the Work
- Period
- Purpose of use

## 23 References

### 23.1 Legislation

Directive 2013/37/EU of the European parliament and of the council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information, OJ. L175/1

European Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), *OJ L* 108, 25.4.2007, p. 1–14 at

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007L0002:EN:NOT>

(accessed on 04/09/2013)

Directive 2003/98/EC of the European parliament and of the Council of 17 November 2003 on the re-use of public sector information, OJ L345/90

European Regulation 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data, *OJ L* 8, 12 at

<http://eur->

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:008:0001:0022:en:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:008:0001:0022:en:PDF)

(accessed on 04/09/2013)

European Directive 95/46/EC of the European Parliament and of the Council of 24.10.1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Data Protection Directive), *OJ L* 281 at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:en:HTML> (accessed on

04/09/2013)

### 23.2 Books and articles

CASEY, PROVEN AND DRIPPS (2007), The Pros and Cons for using Creative Commons Licenses in Digital Teaching and Learning Materials at <http://research-repository.st-andrews.ac.uk/handle/10023/3288> (accessed 04/09/2013)

GIDEON EMCEE, C. (2009), Building a sustainable framework for open access through information and communication technologies, *IDRC-CRDI*, 41

GUIBAULT, L., Licensing research data under Open Access conditions, in D. Beldiman (ed.), *Information and knowledge: 21<sup>st</sup> century Challenges in Intellectual property and knowledge governance*, Cheltenham, Edward Elgar, upcoming 2013

JANSSEN, K., The availability of Spatial and Environmental Data in the European Union: at the crossroads between Public and Economic Interests, Wolter Kluwer 2010, 617

JANSSEN K. and CROMPVOETS, J., Geographic Data and the Law, Leuven University Press, 2012, 199

JANSSEN K. and HUGELIER S. (2013), Open Data as the standard for Europe? A critical analysis of the European Commission's proposal to amend the PSI Directive, to be published in *EJLT*, 24

SURFDIRECT (2009), Reuse of material in the context of education and research, (21). Retrieved at

[http://learn.creativecommons.org/wp-content/uploads/2009/07/report\\_surfcc\\_reuse-of-material\\_eng\\_def.doc](http://learn.creativecommons.org/wp-content/uploads/2009/07/report_surfcc_reuse-of-material_eng_def.doc) (accessed 04/09/2013)

### 23.3 References online

[https://www.apiefrance.fr/sections/acces\\_thematique/reutilisation-des-informations-publiques/licence-type](https://www.apiefrance.fr/sections/acces_thematique/reutilisation-des-informations-publiques/licence-type)(accessed 04/09/2013)

<http://www.ausgoal.gov.au/>(accessed 04/09/2013)

<http://www.ausgoal.gov.au/restrictive-license-template>(accessed 04/09/2013)

[www.creativecommons.org](http://www.creativecommons.org) (accessed 04/09/2013)

<http://creativecommons.org/about/cc0> (accessed 04/09/2013)

<http://creativecommons.org/publicdomain/zero/1.0/deed.nl> (accessed 04/09/2013)

<http://data.ordnancesurvey.co.uk/>(accessed 04/09/2013)

<http://www.earthobservations.org/index.shtml>(accessed 04/09/2013)

<http://www.earthobservations.org/geoss.shtml>(accessed 04/09/2013)

[http://ec.europa.eu/research/environment/cf\\_includes/geo/pdf/gepw-3/posters/seadatanet\\_poster\\_seadatanet\\_aug2009.pdf](http://ec.europa.eu/research/environment/cf_includes/geo/pdf/gepw-3/posters/seadatanet_poster_seadatanet_aug2009.pdf)(accessed 04/09/2013)

<http://www.ecomet.eu/>(accessed 04/09/2013)

[ftp://ftp2.cits.rncan.gc.ca/pub/geott/ess\\_pubs/288/288853/cgdi\\_ip\\_08\\_e.pdf](ftp://ftp2.cits.rncan.gc.ca/pub/geott/ess_pubs/288/288853/cgdi_ip_08_e.pdf)(accessed 04/09/2013)

<http://geoconnections.nrcan.gc.ca/home>(accessed 04/09/2013)

<http://geogedeeld.geonovum.nl/>(accessed 04/09/2013)

<http://geogedeeld.geonovum.nl/samenstellen>(accessed 04/09/2013)

<http://opendatacommons.org> (accessed 04/09/2013)

The Open Database License:

<http://www.opendatacommons.org/licenses/odbl/1.0/>(accessed 04/09/2013)

<http://www.onegeology.org/>(accessed 04/09/2013)

<http://www.ordnancesurvey.co.uk/docs/licenses/os-opendata-license.pdf>(accessed 04/09/2013)

[http://www.osmfoundation.org/wiki/License/We\\_Are\\_Changing\\_The\\_License](http://www.osmfoundation.org/wiki/License/We_Are_Changing_The_License)(accessed 04/09/2013)

[http://www.osmfoundation.org/wiki/License/Why\\_CC\\_BY-SA\\_is\\_Unsuitable](http://www.osmfoundation.org/wiki/License/Why_CC_BY-SA_is_Unsuitable)(accessed 04/09/2013)

[http://www.osmfoundation.org/wiki/License/We\\_Are\\_Changing\\_The\\_License](http://www.osmfoundation.org/wiki/License/We_Are_Changing_The_License) (accessed 04/09/2013)

<http://sciencecommons.org/projects/publishing/open-access-data-protocol/>(accessed 04/09/2013)

[http://wiki.creativecommons.org/images/f/f6/V3\\_Database\\_Rights.pdf](http://wiki.creativecommons.org/images/f/f6/V3_Database_Rights.pdf)(accessed 04/09/2013)

Wiki OpenStreetMap. Retrieved at

[http://wiki.openstreetmap.org/wiki/Open\\_Database\\_License](http://wiki.openstreetmap.org/wiki/Open_Database_License) (accessed 04/09/2013)