



**adapt**  
sharing adaptation studies

# Adapt Repository Deposit Licence and Terms of Use



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This document is based on the Sample Repository Deposit Licence for Research Data in “Practical Data Management: A Legal and Policy Guide”, A Fitzgerald, K Pappalardo and A Austin (2008), available at <http://eprints.qut.edu.au/14923/>

## **BACKGROUND**

- A. The Depositor is the owner of copyright in the teaching resource/s that is being deposited into the digital repository or has been authorised by the owner/s of copyright to deposit the teaching resource/s into the digital repository and to make it available under this Licence.
- B. The Repository agrees to store the teaching resource/s in the digital repository and to make it available for access by other persons on the terms set out in this Licence.
- C. The repository will be governed by the Terms of use set out in the appendix to this agreement.
- D. The Repository agrees to make the teaching resource/s available for access and viewing in the digital repository and any additional uses permitted by the Repository Distribution (End-User) Agreement.
- E. The teaching resource/s is/are deposited into the digital repository under one of the Creative Commons licences, as specified by the Depositor. If a particular Creative Commons licence is not specified by the Depositor the teaching resource/s is/are deposited under a Creative Commons Attribution (CC BY) licence.
- F. By entering into this Licence and depositing the teaching resource/s into the digital repository, the Depositor does not thereby assign copyright in the teaching resource/s.
- G. The owner of copyright in the teaching resource/s reserves the right to make the teaching resource/s available in other locations and media.

### ***Interpretation***

1. **End-User** means a person accessing the Item made available by the Repository in the digital repository.  
**Item** means the teaching resource/s provided by the Depositor to the Repository for inclusion in the digital repository, including any metadata describing the teaching resource/s, and which is subject to the terms of this Licence.  
**Licence** means this Repository Deposit Licence.  
**Repository Distribution (End-User) Agreement** means the licence provided to End-Users under Clause 11(2) of this Licence.

### ***Term of Licence***

2. This Licence commences on the day on which it is agreed to by the parties and continues for the duration of copyright in the Item or until terminated in accordance with the terms of this Licence.

### ***Depositor's Declaration***

3. The Depositor declares that the Depositor:
  - (a) (i) is the owner of copyright in the Item; or
  - (ii) has the permission of the owner/s of copyright to grant to the Repository and End-Users the rights granted by this Licence.

### ***Depositor's Representations and Warranties***

4. (1) The Depositor represents and warrants that:

- (a) the Item, to the best of the Depositor's knowledge, does not infringe any third party's copyright; or
  - (b) if the Item contains material for which the Depositor does not own the copyright, the Depositor has:
    - (i) obtained all necessary permissions from the copyright owner/s to:
      - 1. include the material in the Item;
      - 2. provide the Item to the Repository; and
      - 3. grant to the Repository and End-Users the rights given under this Licence; and
    - (ii) clearly identified and acknowledged all third-party owned copyright materials within the content or metadata of the Item.
- (2) The Depositor warrants that the Item does not contain any defamatory, offensive or other unlawful matter and makes no improper invasion of the privacy of any person.
- (3) The Depositor warrants that neither the execution of this Licence nor the performance by the Depositor of its obligations under this Licence will cause the Depositor to be in breach of any agreement to which the Depositor is a party or is subject.
- (4) If the Item is based upon work that has been sponsored or funded by an agency or organisation other than the Repository, the Depositor represents that the Depositor has fulfilled any right of review or other obligation required of the Depositor under the contract or agreement with that agency or organisation.

#### ***Grant of Rights by Depositor to Repository Copyright***

5. (1) In consideration of the Repository storing and making the Item available through the digital repository, the Depositor grants to the Repository the non-exclusive right to reproduce, adapt, publish, communicate and distribute the Item for the purpose of:
- (a) making the Item available in the digital repository for End-Users to:
    - (i) access and view the Item; and
    - (ii) make such additional uses of the Item as permitted under the terms of the Repository Distribution (End-User) Agreement set out in Clause 11(2);
  - (b) modifying the Item as required for the technical operation or organisation of the digital repository; and
  - (c) making and keeping copies of the Item for use by the Repository for security, back-up and preservation.

#### ***Depositor's Rights***

6. (1) The Depositor reserves the right to use the Item and future versions in other ways, locations and media.
- (2) To avoid doubt, the parties acknowledge that by entering into this Licence and depositing the Item into the digital repository, the Depositor does not assign copyright in the Item, in whole or in part, to the Repository.

### ***Repository's Warranties and Obligations***

7. (1) The Repository undertakes that it will not alter or deal with the Item except as permitted by this Licence.

### ***Repository's Limitation of Liability***

8. (1) The Repository is not responsible for any mistakes, omissions, or legal infringements within the Item nor is it obliged to undertake legal action on the Depositor's behalf in respect of the Item.

### ***Assignment of Depositor's Rights to a Third Party***

9. (1) Subject to clauses 9(2) and 9(3), the Depositor may assign all or any of the Depositor's rights in the Item under this Licence .
- [(2) Upon assignment of copyright in the Item to a third party, the Depositor must inform the Repository of the assignment and provide to the Repository detailed contact information to facilitate the Repository making contact with the assignee.]
- [(3) The Depositor agrees that in the event of assigning copyright in the Item to a third party, the Depositor shall use its best endeavours to secure from the third party assignee all necessary rights to enable the Depositor to continue the operation of this Licence on the basis of:
- (a) the Depositor being a licensee of the copyright owner in the Item; and
  - (b) with a view to continuing unaltered the operation of this Licence.]

### ***Termination***

10. (1) The Repository may at any time immediately and without notice terminate this Licence upon the occurrence of any of the following events:
- (a) where it is discovered that the Item contains or describes material that has been falsified or produced as a result of fraudulent or deceptive actions by any person;
  - (b) where the Item infringes the legal rights of any third party;
  - (c) where the Item contains defamatory, offensive, confidential or culturally sensitive information that necessitates removal of the Item from the digital repository; or
  - (d) where it is discovered that the Depositor is not the owner of copyright or does not have the permission of the owner/s of copyright in the Item to deposit it into the digital repository under this Licence.
- (2) The Repository shall, upon demand being made by the Depositor, promptly remove the Item from the digital repository.
- (3) The Repository will remove the Item from the digital repository within 7 days of termination of this Licence, however the metadata describing the Item will be retained and a copy of the Item will be archived by the Repository but will not be publicly accessible.
- [(4) Where copyright in the Item has been assigned to another party and the Depositor has been unable, despite its best endeavours in accordance with Clause 9(3), to secure the rights necessary to enable the continuing operation of this Licence, this Licence shall automatically terminate.]

### ***Repository Distribution (End-User) Agreement***

11. (1) The Depositor authorises the Repository to make each Item provided by the Depositor to the Repository available for access by End-Users for viewing in the digital repository.
- (2) (a) The Depositor further authorises the Repository to make each Item provided by the Depositor to the Repository available for use by End-Users in accordance with the terms of one of the Creative Commons licences, as specified by the Depositor when providing the Item to the Repository.  
  
(b) If the Depositor does not specify a particular Creative Commons licence when providing the Item to the Repository, the Item will be provided by the Depositor to the Repository for use by End-Users in accordance with the terms of the Creative Commons Attribution (CC BY) licence.  
  
(c) All references to Creative Commons licences in this Clause 11(2) refer to licences in the suite of Creative Commons licences published by Creative Commons Australia, in the version current at the time the Item is provided by the Depositor to the Repository.
- (3) The Repository will take all reasonable steps to ensure that the terms of this Licence, including the terms of the Repository Distribution (End-User) Agreement applicable under Clause 11(2), are brought to the attention of End-Users accessing the Item in the digital repository.
- (4) To avoid doubt, this Licence does not extinguish any rights available to End-Users under the *Copyright Act 1968*, including but not limited to fair dealing for personal research or study.

### ***Governing Law***

12. This Licence is governed by the law of the State of Tasmania.

### ***Depositor's Indemnity***

13. The Depositor indemnifies the Repository against any claim that may arise regarding the Item, the Repository's use of the Item and any breach by the Depositor of its obligations, representations and warranties under this Licence.

## **Adapt Repository Terms of Use**

The Adapt Repository provides a service for sharing Creative Commons licenced Open Educational Resources that relate to adaptations.

Access to the items in the repository is available to all.

You will ensure that you comply with copyright restrictions and only publish items where you have the correct permissions and licences.

Items that are offensive, illegal or otherwise inappropriate will be removed from the repository.

When reviewing items in the repository you will be courteous and provide useful feedback for others.

You may remove your resources from the repository.

Your personal information will only be used for the purposes of administering the repository and will not be shared.

You may share your resources freely outside the repository, and you retain copyright to items you publish, under the terms of a Creative Commons licence.