



CREATIVE COMMONS MERCHANDISING POLICY

Plain English Summary

- Creative Commons Trademarks belong to Creative Commons but can be used with permission.
 - CC will provide CC-marked schwag for giving away at launch parties.
 - Licensees can, but do not have to, make and give away or sell various standard types of merchandise with CC logos.
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This Merchandising Policy (“Policy”) supplements the Trademark Policy, the Internet Services Policy, and the other policies available at <http://creativecommons.org/policies> (collectively “CC Policies”), and applies to persons who have entered into a separate written agreement with Creative Commons Corporation (“CC” or “Creative Commons”) as an Affiliate(s) (“Affiliate”), which may include a Memorandum of Understanding, Legal Lead Affiliate Agreement, Project Lead Affiliate Agreement, or previous/subsequent incarnations of such agreements (for purposes of this Policy, collectively “MOUs” and each an “MOU”). In addition, this Policy applies to anyone else (a “Third Party”) who wishes to make, use, give-away and/or sell any Merchandise (defined below) using the CC Marks (as defined below), or engage in any of the other activities contemplated by this Policy (none of which is permitted in the absence of express, written permission of CC), and who has obtained the express separate, written permission of CC to do so (such separate agreement, a “Merchandise License Agreement”). Collectively, Affiliates and Third Parties to whom this Policy applies are referred to herein as “Licensees” and individually as a “Licensee.”

PURPOSE

This Policy covers the use or application by Licensees of CC Marks as well as any translations of the CC Marks into any language or representations in other scripts and anything that is reasonably similar to the CC Marks, in connection with Merchandise. “CC Marks” means Creative Commons’ trademarks, which include among others the double C in a circle, the words and logotype “Creative Commons,” Creative Commons license buttons, all logos and trademarks identified on the [<http://creativecommons.org/downloads>] page (or linked to thereon), and any combination of the foregoing, whether integrated into a larger whole or standing alone.

“Merchandise” means T-shirts and other articles of apparel, badges or buttons, stickers, and any other tangible goods of whatever type and quality.

The purpose of this Policy is to ensure that CC and Licensees work together to protect the CC Marks. Additionally, this Policy is designed to ensure that the representations that are made to the public by and on behalf of CC in connection with the CC Marks are consistent and of high-quality.

TERMS OF POLICY

Creative Commons will consider deviations from the Policy on a case-by-case basis through conversations with the relevant Licensee; however no such deviations shall be effective unless specifically agreed to by Creative Commons in advance and in writing. As confirmed by the signing of the MOU or Merchandise License Agreement, and in consideration of the mutual exchange of promises set out in this Policy, Creative Commons and Licensee agree:

I. Creative Commons Rights in the CC Marks.

(a) Licensee acknowledges and agrees that CC has adopted and used the CC Marks since as early as 2001 in connection with, among other things, the provision of flexible copyright licenses and other legal tools, programs, activities and events, technical tools and Merchandise (“CC goods and services”).

(b) Licensee acknowledges and agrees that CC has applied for and/or secured trademark registrations for some of the CC Marks in various jurisdictions around the world, and has established substantial secondary meaning in the CC Marks due to CC’s long and widespread use and promotion of the CC Marks and the CC goods and services for which they are used.

(c) Licensee acknowledges and agrees that as a result of CC’s long and widespread use and promotion of the CC Marks, the CC Marks are well-known and recognized by the general public and associated in the public mind with CC and CC goods and services.

II. CC Swag for Jurisdiction Project Launches. CC agrees to send Affiliate a sample of the then-current CC goods and services in conjunction with launch events hosted by Affiliate of the project in the Jurisdiction (as defined below). Any and all such CC goods and services may only be given away for free at the launch party(ies) or otherwise as part of promoting the launch of the Jurisdiction project. For the avoidance of doubt, Affiliate may not sell these CC goods and services.

III. License to Manufacture.

(a) License to Manufacture. Subject to compliance with the terms and conditions of this Policy, including those set forth in (b), below, CC grants Licensee a

non-exclusive, royalty-free license to use the CC Marks exclusively in Licensee's jurisdiction or region (as established in writing, in advance, between CC and Licensee, the "Jurisdiction") on and in connection with the manufacture of the following Merchandise (collectively, the "Licensed Merchandise"): (i) T-shirts; (ii) sweat tops; (iii) caps; (iv) coffee cups; (v) buttons; (vi) stickers; and (vii) such other items as may be specifically approved in advance in writing by CC.

(b) Conditions of License to Manufacture. In addition to the other terms and conditions set forth in this Policy, the license granted herein is conditioned on the following:

(i) Licensee must clearly indicate on the Licensed Merchandise that the Licensed Merchandise is a product of the CC project in the Jurisdiction;

(ii) Licensee may include only the CC Marks on the Licensed Merchandise; provided, however, that Licensee may include other artwork or statements that are created and/or rightfully owned by Licensee or by an authorized representative of Licensee, with the prior, written consent of CC; and

(iii) Licensee may not include any marks from any other organization on the Licensed Merchandise without the prior, written consent of CC.

(c) CC Marks. In the manufacture of the Licensed Merchandise, Licensee must download and use the CC Marks only as made available on the official CC website (currently available at: <http://creativecommons.org/downloads>).

IV. Distribution of Licensed Merchandise.

(a) License to Distribute. CC grants Licensee a non-exclusive, worldwide, royalty-free license to distribute Licensed Merchandise manufactured in accordance with this Policy, either as gifts or for sale (which includes monetary or any other form of compensation). If Licensee elects to sell the Licensed Merchandise, Licensee (through its authorized employees and agents) must:

(i) Sell the Licensed Merchandise directly through its website or from its premises or at venues such as conferences, CC salons, regional or local CC Jurisdiction meetings or conferences, or similar events, in each case provided that such venues directly promote and are consistent with CC's mission and purpose and/or are officially sponsored or endorsed by CC in writing. For the avoidance of doubt, Licensee is prohibited from selling or otherwise distributing the Licensed Merchandise via wholesale or retail stores or at any other venues.

(ii) Use the proceeds from any sales to recoup Licensee's direct costs incurred in connection with the manufacture, distribution and sale of the Licensed Merchandise and, thereafter, only in the performance of Licensee's obligations under the MOU or Merchandise License Agreement, as applicable, and in either

case only directly in furtherance of promoting Creative Commons mission and activities.

(b) No Obligation. For the avoidance of doubt, nothing in this Policy obligates an Affiliate to manufacture, distribute or sell Licensed Merchandise. However, if Affiliate chooses to manufacture, distribute or sell Licensed Merchandise, Affiliate must comply with all of the terms and conditions of this Policy.

V. License Term.

(a) The License granted to Affiliate to use the CC Marks in the manufacture of the Licensed Merchandise in accordance with Section III, above, and/or to distribute the Licensed Merchandise in accordance with Section IV, above, commences upon execution of an MOU and continues until terminated in accordance with the provisions of this Policy or termination of the MOU, whichever occurs first.

(b) The License granted to Third Party to use the CC Marks in the manufacture of the Licensed Merchandise in accordance with Section III, above, and/or to distribute the Licensed Merchandise in accordance with Section IV, above, commences upon execution of a Merchandise License Agreement with CC and continues until terminated in accordance with the provisions of this Policy or pursuant to the terms of the Merchandise License Agreement, whichever occurs first.

VI. Nature of the Licenses Granted under this Policy.

(a) Nothing in this Policy may be construed as preventing CC from:

(i) Granting other licenses for the use of the CC Marks in connection with the manufacture of the Licensed Merchandise worldwide;

(ii) Granting other licenses for the distribution of the CC Marks in connection with the Licensed Merchandise worldwide; or

(iii) From itself utilizing the CC Marks in any way and in any place, whatsoever.

(b) Licensee recognizes the great value of the goodwill associated with the CC Marks and acknowledges that all rights in and to the CC Marks and the goodwill appurtenant are solely and exclusively the assets of CC.

(c) Licensee agrees that the Licensed Merchandise must be of a high standard and of such style, appearance and quality as to be adequate and suited to their exploitation to the best advantage and to the protection and enhancement of the CC Marks and the associated goodwill, that the Licensed Merchandise will be manufactured, sold and distributed in accordance with all applicable laws, and that the manufacture, sale and distribution will not reflect adversely upon the good name of CC or any CC

goods or services or the CC Marks.

(d) Licensee agrees that its every use of the CC Marks inures to the benefit of CC and that Licensee does not, at any time, acquire any right, title or interest in or to the CC Marks by virtue of any use it may make of the CC Marks.

(e) Licensee acknowledges and agrees that all artwork and designs involving the CC Marks, or any reproductions, are and remain the property of CC, and Licensee is entitled to use them and to license the use of them to others only under the terms of this Policy (when permitted).

VII. Quality Control.

(a) Upon CC's request, at any time during the term of this Policy, Licensee must send samples of the Licensed Merchandise to CC.

(b) Upon CC's request, during normal business hours, Licensee must make its or its subcontractor's manufacturing facilities available to CC for the purpose of CC assessing and verifying the quality of the Licensed Merchandise.

(c) If, in CC's reasonable judgment, Licensee's use of the CC Marks or the manufacture, distribution or sale of the Licensed Merchandise is not consistent with the high standard and quality of the CC Marks and associated goodwill, CC may notify Licensee and Licensee must promptly repair or change the use or activity in question and notify CC, including by submitting new samples where appropriate of the repair or change.

VIII. Sublicense & Assignment. Licensee acknowledges and agrees that:

(a) Licensee may authorize a sub-contractor to use the CC Marks solely and only to the extent necessary to manufacture the Licensed Merchandise in accordance with the terms of this Policy and the Merchandise License Agreement (where applicable) provided that the sub-contractor is bound to the same terms as the terms of this Policy and any applicable Merchandise License Agreement, and provided that Licensee acknowledges and agrees that Licensee is solely and wholly responsible to CC for the acts and omissions of any such subcontractor;

(b) Licensee may not authorize any person other than the sub-contractor referred to in clause VIII(a) above to use the CC Marks in any way; and

(c) The licenses granted hereunder are non-transferable and the rights and obligations under this Policy and any applicable Merchandise License Agreement may not be assigned in whole or in part. Any attempted assignment of such licenses or the rights or obligations under this Policy and any applicable Merchandise License Agreement by Licensee constitutes a material breach of this Policy and any applicable Merchandise License Agreement.

IX. Records. Licensee acknowledges and agrees that:

(a) Licensee must, for the duration of the Policy and any applicable Merchandise License Agreement, and for two years after termination of the rights provided hereby, by the applicable MOU or by any Merchandise License Agreement, keep accurate books of account and records covering all transactions related to the licenses, in particular all transactions documenting that the monies received from the sales of the Licensed Merchandise are being used in accordance with Article IV, above.

(b) Creative Commons and its duly authorized representatives may have free and full access, whether in person during reasonable business hours or by requesting copies, to examine, take extracts from and make copies of the books of account and records and all other documents and materials in the possession, custody or control of Licensee with respect to the subject matter of this Policy and any applicable Merchandise License Agreement.

X. Termination.

(a) Creative Commons or Licensee may terminate this Policy by giving the other party thirty days notice in writing, in which case the licenses granted under this Policy and any applicable Merchandise License Agreement terminate with respect to the Licensee at the end of the thirty-day notice period.

(b) In the event Licensee violates this Policy or the terms or conditions of any applicable Merchandise License Agreement, CC may terminate Licensee's licenses by written notice to Licensee of such violation and requesting cure (if such violation is susceptible to cure, in CC's discretion) within 30 days of the date of the notice ("Notice Period"). If Licensee fails to cure the violation or the violation is not capable of cure by the end of the Notice Period, Licensee's rights under this Policy and any applicable Merchandise License Agreement are terminated.

(c) Upon termination, the following shall immediately take place without need for further notice by Creative Commons:

(i) Licensee shall have no right to use the CC Marks or the Licensed Merchandise, and Licensee must immediately cease to manufacture, sell, offer for sale or distribute the Licensed Merchandise;

(ii) All Licensed Merchandise within Licensee's possession, custody and control after termination must be delivered, at Licensee's cost, to either CC or CC's designated representative as directed by CC; and

(iii) All rights to the CC Marks granted to Licensee revert to Creative Commons.

XI. Indemnity; Hold Harmless. Licensee agrees to indemnify CC and hold CC harmless for so long as the rights and obligations under this Policy and any applicable Merchandise License Agreement are in force and effect, and for two years after termination thereof against any claims, suits, losses or damage suffered or incurred by CC as a result of any allegedly unauthorized use by Licensee, its authorized representative or sub-contractors of any trademark, patent, process, artwork, idea, method or device by Licensee in connection with the Licensed Merchandise or any other alleged action by Licensee and also from any claims, suits, loss or damage arising out of alleged defects in the Licensed Merchandise.

Discussion Draft