

## E-Resources Licensing: The Good, The Bad, The Ugly Part 2



- **Introduction**
  - Todd Carpenter, Managing Director, NISO
- **Review of a Sample Licensing Agreement with Terms to be Mapped to ERMs**
  - Trisha L. Davis  
Head, Associate Professor and Head, Serials, Electronic Resources, and Rights Management Department  
Ohio State University Libraries
- **Review of a Sample Licensing Agreement with Terms to be Mapped to ERMs**
  - Clinton Chamberlain  
Coordinator for Electronic Resource Acquisitions  
University of Texas at Austin Libraries
- **Licensing/SERU Comparison**

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## NISO 2009 Events

<http://www.niso.org/news/events/2009/>

- October 8-9 (Boston, MA): **Library Resource Management Systems**
- October 13: **NISO Open Teleconference: NCIP**
- October 14 (NISO Webinar): **Bibliographic Control Alphabet Soup: AACR to RDA and Evolution of MARC**
- November 9: **NISO Open Teleconference**
- November 11 (NISO Webinar): **Data, Data Everywhere: Migration and System Population Practices**
- December 9 (NISO Webinar): **ONIX for Publication Licenses: Adding Structure to Legalese**
- December 14: **NISO Open Teleconference**

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## ERMI TERMS COMPARISON

### 3 Anonymous Licenses

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## 1. Authorized User Definition

- L1 Students, employees (including faculty, staff, affiliated researchers, independent contractors), library cardholders, walk-ins
- L2 Admin, faculty, staff, students, walk-ins for schools/academics. Staff, residents, walk-ins for publics.
- L3 Faculty (including temporary or exchange faculty), graduate students, undergraduate students, and staff. Walk-ins are allowed access, but not remote access.

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## 2. Fair Use Clause Indicator

- L1 *silent*
- L2 *silent*
- L3 Present

## 3. Digitally Copy

- L1 Permitted (interpreted)
- L2 Permitted (interpreted)
- L3 Permitted (explicit)

## 4. Digitally Copy Term Note

- L1 May download and digitally copy a reasonable portion of the Licensed Materials.
- L2 Use shall be for personal, non-commercial, educational and research purposes.
- L3 [May] browse, search, retrieve, display, download, print and store individual articles or book chapters for scholarly research, educational and personal use [consistent with Fair Use].

## 5. Print Copy

- L1 May print a reasonable portion of the Licensed Materials.
- L2 Permitted (explicit)
- L3 Permitted (explicit)

## 6. Print Copy Term Note

- L1 May print a reasonable portion of the Licensed Materials.
- L2 May print for individual use, or make copies for internal or personal use of others who are authorized users.
- L3 Copying and storing is limited to single copies of a reasonable number of individual articles. Copying and storing of entire issues by Authorized Users is not permitted.

## 7. Scholarly Sharing

- L1 Permitted (explicit)
- L2 *silent*
- L3 Permitted (explicit)

## 8. Scholarly Sharing Term Note

- L1 May transmit to a third party colleague in hard copy or electronically, minimal, insubstantial amounts of the Licensed Material for personal use or scholarly, educational, or scientific research or professional use but in no case for re-sale.
- L2 *silent*
- L3 Incidental and non-systematic sharing by Authorized Users with non-authorized individuals of limited amounts of Licensed Material for collaborative research and scholarly purposes, and not for re-transmission, is permitted.

## 9. Interlibrary Loan Print or Fax

- L1 Prohibited (interpreted)
- L2 Prohibited (explicit)
- L3 Permitted (explicit)

## 10. Interlibrary Loan Secure Electronic Transmission

- L1 Prohibited (interpreted)
- L2 Prohibited (explicit)
- L3 Permitted (explicit)

## 11. Interlibrary Loan Electronic

- L1 Prohibited (interpreted)
- L2 Prohibited (explicit)
- L3 Prohibited (interpreted)

## 12. Interlibrary Loan Term Note

- L1 Except as specifically provided elsewhere in this agreement, Licensee shall not knowingly permit anyone other than Authorized Users to use the Licensed Materials.
- L2 Interlibrary Loan is not permitted.
- L3 The electronic form of the Licensed Materials may be used as a source for Inter-Library Loan ("ILL") whereby articles can be printed and these print copies can be delivered via postal mail, fax, or fax-based service to fulfill ILL requests from an academic, research, or other non-commercial library. ILL through secure electronic transmission, ... ARIEL and Prospero systems, is permitted.

## 13. Course Reserve Print

- L1 Permitted (explicit)
- L2 Prohibited (interpreted)
- L3 Permitted (interpreted)

## 14. Course Reserve Electronic

- L1 Permitted (explicit)
- L2 Prohibited (interpreted)
- L3 Prohibited (explicit)

## 15. Course Reserve Term Note

- L1 May use a reasonable portion of the Licensed Materials in connection with specific courses of instruction offered by Licensee and/or its parent institution.
- L2 May not sell, transfer, publish, disclose, display or otherwise make available the Licensed Materials beyond the limits of the license.
- L3 **[Print]** Participating Libraries and their Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of course packs and other educational materials. **[Electronic]** Posting complete articles, chapters, issues, or books on personal or institutional websites is not allowed.

## 16. Electronic Link

- L1 Permitted (explicit)
- L2 Permitted (interpreted)
- L3 Permitted (interpreted)

## 17. Course Pack Print

- L1 Permitted (explicit)
- L2 Prohibited (interpreted)
- L3 Permitted (explicit)

## 18. Course Pack Electronic

- L1 Permitted (explicit)
- L2 Prohibited (interpreted)
- L3 Permitted (explicit)

## 19. Course Pack Term Note

- L1 May use a reasonable portion of the Licensed Materials in the preparation of Course Packs or other educational materials.
- L2 May not sell, transfer, publish, disclose, display or otherwise make available the Licensed Materials beyond the limits of the license.
- L3 Participating Libraries and their Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of course packs and other educational materials.

## 20. Remote Access

- L1 Yes.
- L2 Yes.
- L3 Yes, but not to walk-ins.

## 21. Concurrent User

- L1 Unlimited
- L2 Unlimited
- L3 Unlimited

## 22. Concurrent User Note

- L1 *silent*
- L2 *silent*
- L3 *silent*

## 23. Other Restriction Note

- L1 No use for commercial purposes.
- L2 *silent*
- L3 May not use routines designed to continuously and automatically search and index the service, such as web-crawling or spider programs, with the exception of LOCKSS.

## 24. Perpetual Access Right

- L1 Yes, available for purchase separately
- L2 Yes
- L3 Yes

## 25. Perpetual Access Note

- L1 In the event Licensee chooses to exercise the Perpetual Electronic Ownership Rights option ... perpetual rights are granted to the back files that were accessible during the term of this Agreement. ... The means by which Licensee shall have access to such Licensed Materials shall be in a manner and form substantially equivalent to the means by which access is provided under this Agreement. ... Licensee shall be billed a one-time fee for the ownership option. Annual fees apply if Licensee elects to continue to receive annual data updates.
- L2 Licensor commits to hosting the Licensed Materials for access for the numbers of years contracted for and paid for by the Licensee. If Licensee no longer requires hosting by Licensor, Licensor will deliver electronic files for the Licensee to host under the terms of the Agreement.

## 25. Perpetual Access Note (2)

- L3 Licensor agrees to provide continuing access to previously subscribed content for as long as Licensor retains the rights to do so and the Participating Library remains a Party to this Agreement. ... Upon normal termination of this Agreement, Licensor shall provide continuing access to ... that portion of the Licensed Material to which the Licensee was lawfully entitled up until the termination of this Agreement. Continuing access will be provided without additional cost from Licensor's server for up to (2) two years [and thereafter for a fee or via third party.]

## 26. Archiving Right

- L1 Yes, if perpetual electronic ownership rights option is exercised and paid for.  
L2 No  
L3 Yes

## 27. Archiving Format

- L1 *silent*  
L2 *silent*  
L3 Electronic and print.

## 28. Archiving Note

- L1 Upon request of Licensee, Licensee may receive from Licensor and/or create one (1) copy of the entire set of Licensed Materials to be maintained as a backup or archival copy during the term of this Agreement or as required to exercise Licensee's rights under Section XIV "Perpetual Electronic Ownership Rights."  
L2 *silent*  
L3 Participating Libraries may make one (1) electronic copy of all the Licensed Materials, as well as one (1) copy in print, from the electronic versions of the Licensed Materials to be maintained as a backup or for archival purposes. Use of LOCKSS technology for backup and archival purposes is permitted.

## 29. Confidentiality of User Information Indicator

- L1 Yes
- L2 No
- L3 Yes

## Additional Terms

The following list of terms should be tailored to the individual needs of the Licensee.

## Governing law and venue

- L1 Washington, DC
- L2 *silent*
- L3 Michigan; New York

## Notice requirement (# of days)

- L1 *silent*
- L2 *silent*
- L3 *silent*

## Breach cure (# of days)

|    |    |
|----|----|
| L1 | 30 |
| L2 | 30 |
| L3 | 30 |

## Indemnification clause

|    |               |
|----|---------------|
| L1 | Mutual        |
| L2 | <i>silent</i> |
| L3 | No            |

## Questions?

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## SERU Overview

## What is SERU?

### Shared Electronic Resources Understanding

- NISO Recommended Practice established in 2008
- Allows libraries and publishers to forego a license agreement in favor of a shared understanding of widely accepted practices

## Shift from Print and the Law of Unintended Consequences

- Print
- Electronic
- Unintended consequences of the shift to electronic content
  - Perception that librarians required licenses
  - Perception that publishers required licenses
  - Backlog of licenses for both parties

## Timeline for Development

### 2005-2006

- The problem & idea discussed at library meetings
- Publisher & library organizations supported exploration of the proposal
- Legal consultation

### 2007

- NISO established Working Group to create draft
- Draft vetted with stakeholders
- Pilot release with 6 month comment period

### 2008

- NISO approves SERU as a Recommended Practice

## Supporting Organizations

### Publishers

- ALPSP – Association of Learned and Professional Society Publishers
- SSP – Society for Scholarly Publishing

### Librarians

- ARL - Association of Research Libraries
- SPARC – Scholarly Publishing & Academic Resources Coalition

## Working Group Members

- California Digital Library
- American Psychological Association
- Oxford University Press
- Trinity University
- University of North Carolina Chapel Hill
- Libraries
- Association of Research Libraries (Co-Chair)
- Coalition
- Scholarly Publishing and Academic Resources
- University of North Carolina Chapel Hill
- Libraries
- Informed Strategies (Co-Chair)
- PALINET
- Georgetown University Law Center
- EBSCO Information Services
- Now Publishers, Inc.
- Duke University Press

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## Perceptions of Risk: Librarians

### Librarians

- Liability
- Loss of content, perpetual access, preservation
- Privacy issues
- Performance
- Statistics
- Loss of leverage

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## Perceptions of Risk: Publishers

- Content distributed more easily
- Content made accessible to unauthorized users
- Loss of revenue
- Costs of litigation
- Preservation, use of data

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## Working Group Discussions

- Avoid legal language
- Use language that represents widely accepted practices and that addresses only the most common situations
- Created for domestic use
- Document establishes the framework
- FAQ provides examples
- Type of library – mostly academic & government

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## Statements of Common Understanding

- The Subscription
- The Subscribing Institution and Its Authorized Users
- Use of Materials
- Inappropriate Use
- Confidentiality and Privacy
- Online Performance and Service Provision
- Archiving and Perpetual Access

## The Subscription (1a)

### Sample license

I. By this License between \_\_\_\_ (**Licensor**) and the institution named below ("Subscribing Institution" or "Subscriber"), Licensor, on its own behalf and on behalf of publisher ("Publisher"), grants the Subscribing Institution, at its Authorized Site, the right to access, via the Licensor online service, the full text electronic versions of the Publisher journals (the "Online Journals") for which the Subscribing Institution maintains a subscription, subject to the Terms and Conditions set forth in Section II, all of which are hereby agreed to by Licensor and the Subscribing Institution.

### SERU

The subscriber acquires the right to use the subscribed content for a specified time period through payment of an agreed upon subscription fee. The nature and extent of the subscribed content should be clarified at the outset as the publisher may allow access to content additional to the subscription.

## The Subscription (1b)

### Sample license

II.7a. This License will become effective upon receipt by Licensor of the License signed by an authorized agent of the Subscriber. Unless terminated sooner for cause in accordance with subparagraphs b and c below, this License will remain in effect with respect to each Online Journal while the Subscriber maintains a current paid subscription for online access or which includes online access to that Online Journal, and the License shall renew automatically for the term of any renewal subscription to that Online Journal upon receipt by Publisher of payment for that renewal subscription. This License will terminate with respect to each Online Journal when the Subscriber's paid subscription to that Online Journal lapses, and in such event the effective date of termination of this License with respect to that Online Journal shall be the last day of the paid subscription period. Upon lapse of subscription, no additional service shall be provided, except as set forth in paragraph 8.

### SERU

The subscriber acquires the right to use the subscribed content for a specified time period through payment of an agreed upon subscription fee. The nature and extent of the subscribed content should be clarified at the outset as the publisher may allow access to content additional to the subscription.

## The Subscription (2)

### Sample license

II.9. Licensor warrants that it has the power to enter into this License and the right and authority to grant the rights conferred herein to the Subscriber, and is authorized to execute this License on behalf of Publisher.

### SERU

The publisher has secured the rights necessary to provide access to the content to the subscribing institution.

## The Subscription (3)

### Sample license

II.1. The number of Authorized Users who may access the full text of the subscribed Online Journals concurrently is limited to the number of authorized IP addresses set forth in Section I of this License.

### SERU

A subscription to the publisher's content provides a subscribing institution and its authorized users with access to the subscribed content. The number of concurrent users is not restricted unless otherwise explicitly agreed upon by the publisher and subscribing institution. [ERMI Terms 21-22]

## The Subscribing Institution and Its Authorized Users (1): The Institution

### Sample license

II.1. An "Authorized Site" is a single, geographically contiguous campus, complex, or office building location that is under a single administration at which only the Subscriber and Authorized Users can access the Subscriber's secure network using an authorized IP address (set forth in Section I of this License). For an institution with locations in more than one city, each city is considered to be a different site. For an institution that has multiple locations in the same city that are administered independently, each location is considered to be a different site. No access from remote sites and no consortia or other forms of subscription sharing are allowed under this License.

### SERU

The subscriber is generally understood to be a single institution. In cases of ambiguity, the publisher and subscriber will explicitly agree on a definition of the subscribing institution and the pricing that applies to it.

## The Subscribing Institution and Its Authorized Users (2a): The Users

### Sample license

II.1. "Authorized Users" are individuals who are authorized by the Subscriber to access the Subscriber's information services available through the Subscriber's secure network at the Authorized Site using an authorized IP address (set forth in Section I of this License) and who are:

(a) officially affiliated or currently employed or registered with the Subscriber at the Authorized Site, whereby they are permitted such access in the Subscriber's ordinary course of business, whether from a computer terminal located at the Authorized Site or via remote access administered from the Authorized Site to an authorized IP address;

### SERU

The authorized user population will be defined in institutionally appropriate ways that respect the business interests of the publisher. The publisher will rely upon the subscribing institution's judgment in defining its user community, but may challenge any interpretation that it considers damaging to its interests. Unless agreed to otherwise, the following authorized user definitions are generally accepted by both publishers and libraries:

## The Subscribing Institution and Its Authorized Users (2b): The Users

### ERMI Term 1

#### Authorized User Definition

The language in the contract that defines the group of users allowed to use the Electronic Product.

### SERU

- Educational institutions (such as schools, universities, and colleges): Authorized users of the subscribed content include the institution's currently enrolled students, faculty, affiliated and visiting researchers, regular and contract staff, and other authorized users of the campus/institutional network. Alumni are not considered part of the authorized user community unless explicitly agreed to between the publisher and subscriber. [ERMI Term 1]
- Public libraries and other cultural memory institutions (such as museums, archives, etc.): Authorized users of the subscribed content are the library's or institution's network.

## The Subscribing Institution and Its Authorized Users (3a): Remote Access and Walk-Ins

### Sample license

II.1. (b) persons from the general public or invitees of the Subscriber who are occasional users of the Subscriber's information services at the Authorized Site, whereby they are permitted such access from designated computer terminals located at the Authorized Site in premises directly controlled by the Subscriber.

### SERU

Authorized users may access subscribed content from remote locations. [ERMI term 20]  
Visitors to the organization, such as walk-in users, are also allowed to use the subscribed content while on the subscribing institution's premises but are understood to lose this access upon departure and are excluded from remote access privileges. [ERMI terms 1&20]

## The Subscribing Institution and Its Authorized Users (3b): Remote Access and Walk-Ins

### ERMI terms 1 & 20

**Authorized User Definition**  
The language in the contract that defines the group of users allowed to use the Electronic Product.

**Remote Access**  
The right of an authorized user to gain access to an E-product from an off-site location

### SERU

Authorized users may access subscribed content from remote locations. [ERMI term 20]  
Visitors to the organization, such as walk-in users, are also allowed to use the subscribed content while on the subscribing institution's premises but are understood to lose this access upon departure and are excluded from remote access privileges. [ERMI terms 1&20]

## Use of Materials

### Sample license

2. **Permitted Uses** The Subscriber may, and may permit Authorized Users to:

[  
.]

The Subscriber and Authorized Users may only use this online access in a way that conforms with all applicable laws and regulations. Nothing in this License shall in any way exclude, modify, or affect anything the Subscriber or an Authorized User is permitted to do in respect of the Online Journals under the U.S. Copyright Act of 1976, as amended. Notwithstanding the foregoing, the Subscriber may fulfill interlibrary loan requests for content from the subscribed Online Journals in hard-copy by mail or fax only and in compliance with Section 108 of the Act and with the guidelines developed by the National Commission on New Technological Uses of Copyrighted Works (CONTU Guidelines) and published in U.S. Copyright Office Circular 21. The Subscriber specifically agrees that use by the Subscriber or Authorized Users other than as permitted above is a material breach of the terms of this License.

### SERU

Use of the subscribed content is generally governed by applicable copyright law. For subscribers in the United States, U.S. Copyright Law governs the use of subscribed content. Authorized uses include any uses permitted under the appropriate existing copyright law, including, where applicable, uses permitted as fair use. [ERMI term 2-6, 13-19]  
Some of the accepted uses of subscribed content by a subscribing institution and its users include interlibrary loan and ad hoc sharing of single articles by individuals for purposes of scholarship or private study. [ERMI terms 7-12]

## Use of Materials

### [ERMI term 2-19]

Fair Use  
Digitally Copy  
Print Copy  
Scholarly Sharing  
Interlibrary Loan Print or Fax  
Interlibrary Loan Secure Electronic Transmission  
Interlibrary Loan Electronic  
Course Reserve Print or Electronic  
Electronic Link  
Course Pack Print or Electronic

### SERU

Use of the subscribed content is generally governed by applicable copyright law. For subscribers in the United States, U.S. Copyright Law governs the use of subscribed content. Authorized uses include any uses permitted under the appropriate existing copyright law, including, where applicable, uses permitted as fair use. [ERMI term 2-6, 13-19]  
Some of the accepted uses of subscribed content by a subscribing institution and its users include interlibrary loan and ad hoc sharing of single articles by individuals for purposes of scholarship or private study. [ERMI terms 7-12]

## Inappropriate Use (1)

### Sample license

3. **Prohibited Uses** The Subscriber shall not, and shall not permit Authorized Users to:

[

]

### SERU

The subscribing institution recognizes that the material provided as part of the subscription is a valuable business asset of the publisher and that misuse of this material, such as unauthorized resale or systematic redistribution, could negatively affect the publisher's business. Both publishers and subscribing institutions will make reasonable efforts to prevent the misuse of the subscribed content. The subscribing institution will employ appropriate measures to ensure that access is limited to authorized users and will not knowingly allow unauthorized users to gain access.

## Inappropriate Use (2)

### Sample license

11.5.c. [The Subscriber will] use common and reasonable methods to inform Authorized Users of the terms and conditions set forth in the following paragraphs of this License: 2 (Permitted Uses); 3 (Prohibited Uses); 4 (Copyrights), and 7.c. (Suspension), and such other provisions as the Subscriber deems appropriate to enforce the terms of this License and prevent the unauthorized use of the Licensor online service and the Online Journals and the content contained therein;

### SERU

While the subscribing institution cannot control user behavior, an obligation to inform users of appropriate uses of the content is acknowledged, and the subscribing institution will cooperate with the publisher to resolve problems of inappropriate use.

## Inappropriate Use (3)

### Sample license

11.5.d [The Subscriber will] promptly notify Licensor of any unauthorized use of the Online Journals or other breach of the terms and conditions of this License which comes to the Subscriber's attention; and immediately on becoming aware or being notified by Licensor of any unauthorized use or other breach, make every attempt to enforce the terms of this License and take reasonable steps, including appropriate disciplinary action, both to ensure that such activity ceases and to prevent any recurrence;

### SERU

When questionable activity such as systematic downloading is detected, publishers should notify the subscribing institution as soon as possible. If the subscribing institution detects inappropriate use, publishers should be notified as soon as possible. Both publishers and the subscribing institution should make every effort to resolve the incident quickly.

## Inappropriate Use (4)

### Sample license

11.7.c. Notwithstanding subparagraph b above, Licensor reserves the right to suspend access to the Licensor online service and all Online Journals immediately, without prior notice to the Subscriber, upon detecting a material or persistent violation of a provision of either paragraph 2 (Permitted Uses) or paragraph 3 (Prohibited Uses) of this License. Licensor will use reasonable efforts to notify the Subscriber promptly by fax or e-mail about any such suspension. The suspension shall remain in effect until the Subscriber has remedied such violation to the reasonable satisfaction of Licensor. If no remedy has been effected within thirty (30) days after notification of suspension, Licensor may terminate this License immediately by written notice to the Subscriber. If, after having been satisfactorily remedied, the same or any other violation of either paragraph 2 (Permitted Uses) or paragraph 3 (Prohibited Uses) is detected by Licensor, then Licensor may terminate this License with respect to all Online Journals immediately by written notice to the Subscriber, without affording an opportunity to remedy. At the written request of Licensor, the Subscriber will terminate or suspend access to the Licensor online service and the Online Journals by an Authorized User who Licensor identifies as having violated a provision of either paragraph 2 (Permitted Uses) or paragraph 3 (Prohibited Uses) of this License.

### SERU

Suspension of access for the subscribing institution by a publisher may be necessary but should be an action of last resort and, if possible, notification should precede any suspension of access. Because legitimate activity (for example, access from a proxy server address or authorized data mining for research purposes) can sometimes be mistaken for systematic abuse, whenever possible publishers should employ appropriate techniques to detect true misuse and follow industry standards in this area as they emerge.

## Confidentiality and Privacy

### Sample license *Silent*

#### ERMI term 29

### **Confidentiality of User Information**

The requirement that user data should not be shared with third parties, reused or resold without permission.

### SERU

The subscribing institution and the publisher respect the privacy of the users of the content and will not disclose or distribute personal information about the user to any third party without the user's consent unless required to do so by law. The publisher should develop and post its privacy policy on its website. [ERMI term 29]

## Online Performance & Service Provision (a)

### Sample license

The Licensor will:

II.6.a. provide the Subscriber with information sufficient to enable access to the subscribed Online Journals after verification by Licensor of the Subscriber's authorized IP addresses set forth in Section I of this License, and after receipt of written notice from the Subscriber and verification by Licensor of any additions, deletions, or other revisions to the Subscriber's authorized IP addresses;

### SERU

Performance expectations for accessing the content include: generally uninterrupted availability, maintenance windows scheduled to minimize subscriber disruption, and sufficient bandwidth and system capacity to provide response time comparable to that experienced by users of similar websites.

Publishers recognize the importance of working with industry standards and best practices for online information delivery as these standards are developed and validated in the marketplace. Appropriate areas in which standards and best practices currently exist include: identifiers, usage statistics, link resolution, accessibility, and authentic

## Online Performance & Service Provision (b)

### Sample license

The Licensor will:

II.6.b. make available for access on the Licensor online service the electronic version of each issue of each subscribed Online Journal promptly after it is available.

### SERU

An online subscription generally involves both content and service provision. Content with a print equivalent should be replicated online in as complete and timely a manner as possible.

## Archiving & Perpetual Access (a)

### Sample license

**8. Archive Rights** After termination of this License with respect to all or any of the subscribed Online Journals, Licensor will provide the Subscriber with continuing access to the issues of such Online Journals published during the term for which a paid subscription for online access or which included online access was maintained for each such journal, either by continuing online access to the same material either from Licensor's server or a third party's server, or by supplying electronic files of the content of such Online Journal issues in a physical archival storage medium selected by Licensor, at a cost-based fee. The Subscriber will be permitted to copy that content from the physical archive copy to the Subscriber's information systems at the Authorized Site. The terms and conditions of paragraphs 2, 3, 4, 5, 9, and 10 of this License shall apply to the use of the archive copy.

### SERU

Both libraries and publishers recognize a responsibility to preserve electronic resources. In order to ensure future access, publishers should provide for secure archiving of the subscribed content to the extent that developing industry models allow, either by the subscribing institution or a trusted third party.

[ERMI terms 26-28]

Unless otherwise agreed, upon terminating a subscription the subscribing institution will retain access to the digital version of the subscribed content either at the publisher's site, from a copy maintained by the subscribing institution, or from a third party archive. [ERMI terms 24-25]

The means of implementing perpetual access and securing a trusted third party to archive content may vary from case to case, but both should be made available to subscribing institutions in some form.

Publishers may charge a reasonable annual fee to recover their costs for providing continuing access following termination of a subscription or for preparing archival copies. [ERMI term 25]

## Archiving & Perpetual Access (b)

### ERMI terms 24-28

Perpetual Access  
Archiving Right  
Archiving Format

### SERU

Both libraries and publishers recognize a responsibility to preserve electronic resources. In order to ensure future access, publishers should provide for secure archiving of the subscribed content to the extent that developing industry models allow, either by the subscribing institution or a trusted third party. [ERMI terms 26-28]

Unless otherwise agreed, upon terminating a subscription the subscribing institution will retain access to the digital version of the subscribed content either at the publisher's site, from a copy maintained by the subscribing institution, or from a third party archive. [ERMI terms 24-25]

The means of implementing perpetual access and securing a trusted third party to archive content may vary from case to case, but both should be made available to subscribing institutions in some form. Publishers may charge a reasonable annual fee to recover their costs for providing continuing access following termination of a subscription or for preparing archival copies. [ERMI term 25]

## Using SERU

- NISO Registry for publishers & libraries
- Forego license, link to SERU on NISO website, and reference in purchase communications
- Reference SERU in Purchase Order, along with business terms
- Orders can be placed through vendors such as serials agents or consortia
- For products and services that librarians and publishers agree to use it with

## What SERU Can & Cannot Do

- SERU cannot:
  - Eliminate all license agreements
  - Be used as a standard license or click through
  - Be customized
- SERU can:
  - Reduce costs
  - Streamline sales & acquisitions processes
  - Let libraries and publishers show that they employ best practices

## How you can get involved

- Join the SERUinfo discussion list
- Talk to your legal counsel and join the SERU Registry
- Librarians: Talk to publishers about SERU
- Publishers: See if your customers are willing to use SERU

[www.niso.org/workrooms/seru](http://www.niso.org/workrooms/seru)

Thank you!

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**E-Resources Licensing:  
The Good, The Bad, The Ugly  
Part 2**



**Questions?**

All questions will be posted with presenter answers on the NISO website following the webinar:

<http://www.niso.org/news/events/2009/licensing09/>

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