

# **RUSA Model Interlibrary Loan License Clause**

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### **Introduction**

This model clause was developed by the RUSA STARS Legislation & Licensing Committee in 2016-2017 to advocate for more standardized, modernized, and permissive license language than what currently exists in many electronic resource vendor licenses.

This model clause is recommended to all libraries for their use in negotiating interlibrary loan license terms with electronic resource vendors. This model clause is also offered to electronic resource vendors as suggested text for inclusion in vendor licenses.

### **1. Overview of Interlibrary Loan**

Interlibrary loan provides materials from other libraries and vendors that libraries cannot otherwise provide to their patrons from their local collections. The service is provided because libraries are not able to own or license access to all materials that their patrons might request. Libraries have provided interlibrary loan services widely in the United States of America for over 100 years starting with the loaning of physical books. The provision of copies of articles, chapters, and other materials have been widely provided by libraries since the 1970s, starting with mailed photocopies, then faxed copies, then email, and now primarily through other electronic delivery methods.

### **2. Legal basis for Interlibrary Loan**

Interlibrary loan has found its legal basis for physical loans in the first sale doctrine (17 U.S. Code § 109) and for copies of articles, chapters, and other materials in the fair use doctrine and library exemption (17 U.S. Code §107 and §108) in the U.S. copyright law.

### **3. Vendor Licenses and Interlibrary Loan**

Most electronic resources are licensed from vendors rather than purchased. Vendor licenses specify under what conditions the materials may be used by the licensing library and its patrons. Licenses may restrict use beyond what copyright law might otherwise allow. Vendors do not have consistent language relating to interlibrary loan use. Some licenses prohibit interlibrary loan use. Some licenses place restrictions that make the practice of interlibrary loan overly cumbersome for the lending libraries and/or borrowing libraries and their patrons. Other licenses prohibit the use of some transmission methods that are widely used by libraries.

### **4. Purpose of a Model Interlibrary Loan License**

The model interlibrary loan license clause stated in 5.0 is recommended to libraries and vendors to adopt in all electronic resource licenses. The goal is to standardize, simplify, and modernize license language for interlibrary loan purposes and to broaden the availability of licensed materials for interlibrary loan use. The clause is based upon the LibLicense 2014 Model License language.

### **5.0 Model Interlibrary Loan License Clause**

“Licensee may fulfill requests from other libraries or archives, a practice commonly called Interlibrary Loan. Licensee agrees to fulfill such requests in accordance with Sections 107 and 108 of the U.S. Copyright Act. Requests may be fulfilled using electronic, paper, or intermediated means, including but not limited to the prevailing technology of the day.”

<sup>1</sup> Refer to <http://liblicense.crl.edu/licensing-information/model-license/> (<http://liblicense.crl.edu/licensing-information/model-license/>) for more information.

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