

# VALE ELECTRONIC RESOURCE LICENSING AGREEMENTS PREFERRED TERMS

## Overview

This document outlines the preferred terms and conditions for negotiating electronic resource licensing agreements for VALE member libraries. The terms are divided into various categories that represent the consortial practices best meeting the needs of VALE members and their institutional users. It also distinguishes between commercial/non-profit vendors and publishers, highlighting different types of licensed materials, such as journals, books, and subject indexes.

VALE follows the principles set forth in the International Coalition of Library Consortia (ICOLC) "Statement of Current Perspective and Preferred Practices for Selection and Purchase of Electronic Information" (<http://icolc.net/statements>), unless stated otherwise.

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## 1. Authorized Use

- **Authorized Users:** Faculty, students, staff, and library walk-in patrons of subscribing VALE member institutions. New Jersey State Library authorized users also include state employees registered as borrowers.
  - **Remote Access:** Remote access is granted to Authorized Users, excluding walk-in patrons without direct affiliation to subscribing institutions. Access is secured through authentication systems like proxy servers or VPNs.
  - **Interlibrary Loan:** Sharing electronic articles and documents via Interlibrary Loan is permissible under fair use, with adherence to the same copyright limitations as paper copies. This includes compliance with 17 USC §108 and the **Guidelines for the Provision of Subsection 108(g)(2)**.
  - **Text and Data Mining:** Authorized Users may engage in text and data mining for academic research, scholarship, and educational purposes, sharing results in scholarly works. Licensors will provide copies of licensed materials for these activities without extra fees.
  - **Use in Scholarly Works:** Authorized Users may use brief excerpts, figures, tables, and citations from licensed materials with appropriate credit in their scientific, scholarly, and educational work.
  - **Electronic Reserve:** VALE member libraries may link to full-text articles in licensed databases via electronic reserves, ensuring access is restricted to Authorized Users.
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## 2. Artificial Intelligence (AI) in Licensing

VALE upholds the following principles for AI clauses in licensing agreements as found in ICOLC's [Statement on AI in Licensing](#):

- AI clauses will permit the use of AI for any and all legal purposes that support consortia members' core missions of non-commercial research, teaching, learning, and equitable access to information.
  - Multi-year licenses that include AI clauses will formally establish opportunities for the revision and/or updating of language related to AI during the term of the agreement to reflect legal or technological developments.
  - AI clauses will not restrict user actions in ways that are fundamentally unenforceable.
  - AI clauses will in no way prevent authorized users from making licensed content fully accessible to other authorized users in any legal manner.
  - AI clauses will not be introduced into a negotiation in a way that limits a consortium's opportunity to fully review the clauses in accordance with the consortium's regular review procedure.
  - AI clauses will not introduce new liability clauses beyond the scope of what has previously been agreed upon, especially for actions of authorized users.
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### 3. Licensing and Contractual Provisions

- **Transfer Code of Practice:** VALE prefers publishers who adhere to the [TRANSFER Code of Practice](#) for ensuring access continuity when journals are transferred between publishers.
  - **Long-Term Archiving:** VALE insists on contract language that ensures perpetual electronic access to resources (see “[Support for Urgent Action to Preserve Scholarly Electronic Journals](#)”).
  - **Automatic Renewals:** Automatic license renewals are not permitted for any VALE database licenses.
  - **Flexible License Terms:** VALE avoids contracts with inflexible terms, such as:
    - Non-disclosure requirements
    - No-cancellation clauses for individual titles
    - Minimum spending requirements for participation
  - **Aggregated Collections:** For licenses covering aggregated content, VALE requests:
    - **Notification of Content Removal:** Written notice of content removal within 30 days of any title's withdrawal.
    - **Compensation for Content Loss:** Reasonable compensation if significant content is removed or the collection shrinks by 10% or more. VALE may seek early termination for such losses.
  - **Price Changes:** Any database price change must be communicated to VALE at least 120 days before the license term ends.
  - **Usage Data:** Usage data must be provided to VALE and individual libraries at least quarterly, following **Project COUNTER** standards. Data should be available on demand through an online administrative module.
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### 4. Financial Terms

- **Fiduciary Agent:** NJEdge.Net, Inc. (EDGE) acts as the fiduciary agent for VALE, and requests payment terms of Net 45.
  - **Fiscal Responsibility:** Each participating institution is responsible for paying its share of fees, which are paid to NJEdge.Net, Inc.
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## 5. Compliance and Confidentiality

- **Compliance with Terms:** Participating libraries must take reasonable measures to ensure compliance with license terms, including signage and notifications.
  - **Confidentiality of Library Records:** VALE member libraries comply with New Jersey's **Confidentiality of Library Records Law**, which protects the confidentiality of personally identifiable information unless a subpoena or court order is issued.
  - **Confidentiality of Personally Identifiable Information:** Licensors must agree not to share personally identifiable information (e.g., IP addresses, usernames) with third parties, except as required by law. In case of a breach, the Licensor must notify the Licensee and Authorized Users as soon as possible.
  - **Indemnification:** The vendor indemnifies VALE and its members against claims related to copyright or intellectual property infringement arising from the use of licensed materials.
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## 6. Legal Provisions

- **Force Majeure:** Neither party is liable for delays or defaults caused by conditions beyond its control, such as Acts of God, government restrictions, wars, or labor strikes.
  - **Governing Law:** All licensing agreements are governed by the laws of the State of New Jersey.
  - **Accessibility Requirements:** Licensors must ensure compliance with New Jersey and federal disabilities laws, specifically [WCAG 2.0 Level AA](#) accessibility standards.
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## 7. Licensing Protocols

- **Official Consortium Representative:** The Chair of the Executive Committee is authorized to sign licensing agreements on behalf of VALE member institutions.
- **Authorized Signatures:** Agreements are signed by the Chair of the Executive Committee and the President & CEO of NJEdge, Samuel S. Conn.
- **Fiduciary Agent:** NJEdge.Net, Inc. (EDGE) is the fiduciary agent for VALE, handling all financial transactions related to licensing agreements.
- **Licensing Party:** All contracts and agreements should clearly identify the VALE consortium as the contracting party, listing all participating institutions.