ONIX-PL expression of LIBLICENSE Model License

Version 1, 26 November 2012

These notes accompany an ONIX-PL expression of the LIBLICENSE Standard Licensing Agreement, revised May 2008 (“LIBLICENSE”): see http://liblicense.crl.edu/licensing-information/model-license/. They should be read together with the accompanying HTML ‘full view’ and ‘summary view’ of the ONIX expression.

1. General
1.1 As with other ONIX-PL license expressions, the LIBLICENSE text is stored in full as part of the ONIX XML document, and is linked explicitly to elements in the expression, so that the justification for the ONIX elements can be seen by reference to the relevant LIBLICENSE wording.

1.2 Throughout the HTML ‘full page’ view, wording in red indicates a controlled term from the ONIX-PL Dictionary. A pop-up definition is displayed by placing the cursor over the text. Wording in blue represents a term which is locally-defined in one of the definitions in the expression, and the wording itself carries a hyperlink to the definition. In the HTML ‘summary view’, the conventions are slightly different, since red is used to highlight prohibitions (and green for permissions). Here, dark red is used for controlled terms, again with pop-up definitions, while text in blue is still used for locally-defined terms. For a fuller introduction to the ‘full view’ format and the ‘summary view’ format respectively, follow the links in this sentence.

2. License documents
2.1 The ONIX-PL expression begins with the License Documents section. In this section, following the table of contents at the top of the ‘full view’ HTML page, the LIBLICENSE text is reproduced, with added paragraph numbering where necessary to enable terms in the expression to be linked to the relevant text.

2.2 In the ‘summary view’, individual sections of LIBLICENSE text can be viewed by clicking on any area of the HTML page where a ‘more information’ icon is visible.

3. Expression detail
3.1 In the Expression Detail section of the ‘full view’ we record the type and status of the expression. The expression type is Model License, and the status is Draft.

3.2 Expression Detail does not appear in the ‘summary view’.

4. License detail
4.1 The License Detail section identifies the license as the LIBLICENSE Standard Licensing Agreement (Revised May 2008), and defines its status as Model. The renewal type for LIBLICENSE is Automatic, since Clause 6.2 specifies that the license
will renew for a further term unless cancelled by one of the parties. The License Document on which the expression is based is specified as the License which has been defined in a Document Definition. The rest of the License Detail section lists the labels which are used for key elements in the expression – for example, the Licensor is the agent who is labelled Licensor in the relevant Agent Definition. In this way, a formal link is established between definitions which are specific to this license and the controlled language of ONIX-PL.

4.2 In the ‘summary view’ the elements of License Detail are used in combination with related Definitions to generate the first six sections of the HTML page, down to and including Authorized Users.

5. Agent definitions

5.1 In ONIX-PL, the word Agent is used for any person or entity that plays a part in a license agreement or in actions which are permitted or prohibited under a license. The Agent Definitions section in the ‘full view’ defines and labels each of the agents which need to be referred to in the expression: in this case, Licensor, Licensee, Authorized User, Licensee Affiliated Person and Third Party Academic Institution. Licensee Affiliated Person is introduced because LIBLICENSE explicitly differentiates between ‘affiliated persons’ and ‘walk-in users’ in access permissions, while treating both types as ‘authorized users’ for other purposes. Third Party Academic Institution is introduced in connection with Usage Term [9] – see paragraph 10.7 below. The Agent Type in each case is specified as Organization or Person, as applicable. When the license expression is applied to a particular case, the two entities Licensor and Licensee should be specified by name.

5.3 In the ‘summary view’, elements from the Agent Definitions are used in the sections headed Licensor, Licensee and Authorized Users.

6. Resource definitions

6.1 The Resource Definitions section in the ‘full view’ provides a placeholder for a definition of the Licensed Content to which an instance of the license applies.

6.2 In the ‘summary view’, this definition is reflected in the section headed Licensed Content.

7. Time point definitions / Place definitions

Time Point Definitions in the LIBLICENSE ‘full view’ cover the start and end dates for the license term, which also appear in the opening section of the ‘summary view’.

8. Document definitions

The Document Definitions section in the ‘full view’ specifies the License as the LIBLICENSE Standard Licensing Agreement (Revised May 2008) and gives the web address for the model text. This information is listed under the heading License Document(s) at the top of the ‘summary view’.
9. **License grant**

The License Grant section in the ‘full view’ specifies that the license is non-exclusive, and has a link to Clause 1.2 in which the license grant is made. There is no corresponding section in the ‘summary view’.

10. **Usage terms**

10.1 The Usage Terms section is the most important part of the ONIX-PL expression. In the ‘full view’, each usage permission or prohibition is displayed in a format which corresponds directly to its representation in ‘native’ ONIX XML. Usage Terms are listed in the sequence in which they were entered into the expression. All of the following paragraphs 10.2 to 10.8 should be read in conjunction with the ‘full view’, but the discussion of how individual usages have been handled in the ONIX expression is equally relevant to understanding the ‘summary view’.

10.2 Each Usage Term starts on the left hand side of the page with a Usage Type value, which specifies the basic action involved in the usage, though additional qualifiers may be needed to describe it fully. Usage Term [7], which permits ‘scholarly sharing’ of portions of Licensed Content, is a good example of this kind of ‘compound’ usage definition. ‘Scholarly sharing’ is here expressed in ONIX-PL as Supply Copy of Licensed Content Part to Third Party Person for specified usage purposes.

10.3 Each Usage Term carries a status code, normally specifying either Permitted or Prohibited. However, where license wording is uncertain, it is possible to indicate explicitly that an interpretation has been made for the purposes of the ONIX expression, eg ‘Interpreted As Permitted’. Terms in the LIBLICENSE BY expression are coded Permitted, except for Usage Term [7], which is a generic prohibition on any usage other than that which is explicitly permitted.

10.4 Usage Terms [1] and [2] both deal with Access to the licensed materials, and this is where the distinction between a Licensee Affiliated Person and a Walk In User is made explicit: the former may access the materials on Licensee Premises or from a Remote Location, while the latter may do so on Licensee Premises only.

10.5 Usage Term [3] carries an annotation explaining that the intention of the linked clause in the LIBLICENSE is not entirely clear, since the words ‘Electronic Reserves’ are followed by text which could by itself be interpreted more broadly. The sample expression has erred on the side of specificity; and although this choice has involved interpretation, the intention to authorise use in electronic course reserves is clear, so that the status Permitted is used, rather than Interpreted As Permitted.

10.6 Usage Terms [7] and [8] represent an example of a (not uncommon) situation where a single sub-clause in the license text includes two quite separate usage permissions. In this case the first sentence relates to the declared topic of ‘scholarly sharing’, while the second deals with an authorized user’s right to quote extracts from licensed materials in her/his own publications, with suitable acknowledgment.

10.7 Usage Term [9] covers the use of licensed materials for interlibrary loan (ILL). With digital content, ILL is not truly a loan, it is the act of supplying a copy, subject to certain qualifications. This is normally expressed in ONIX-PL as Supply Copy of
Licensed Content Part to Third Party Library. LIBLICENSE, however, refers not only to other libraries but also to other academic institutions as authorized recipients. This is not currently¹ covered in the ONIX controlled vocabulary. The term Third Party Academic Institution has therefore been specified in an Agent Definition so that it can be used here.

10.8 Usage Terms [10] to [15] are all prohibitions. The ONIX-PL expression follows the LIBLICENSE text, which specifies these prohibitions as applying only to the Licensee, although logically they might be expected to apply equally to Authorized Users. This illustrates how the analysis required in order to create an ONIX expression of a license may sometimes show up weaknesses in the license itself.

10.9 Usage permissions and prohibitions are treated quite differently in the ‘summary view’. Here, the content of the ONIX-PL Usage Terms is extracted and sorted into lists of what licensed users are permitted to do, and what they are prohibited from doing. LIBLICENSE specifies four classes of user: the Licensee, Authorized Users as a whole, Licensee Affiliated Persons and Walk In Users. There is a separate list of permissions for each class. However, as noted above, the prohibitions listed in the LIBLICENSE text are limited to the Licensee, so that there is only a single list of these.

11. Other terms

11.1 The remaining sections, headed Supply Terms, Continuing Access Terms, Payment Terms and General Terms in the ‘full view’, cover the rest of the LIBLICENSE text, relating it to ONIX-PL standard term types. It is normal practice in an ONIX-PL expression to group together all the sub-clauses in the license text which relate to the same term type so that they are linked to a single term of the appropriate type. For example, Supply Term [1] is linked to three sub-clauses dealing with various aspects of Content Delivery.

11.2 Sometimes one of these other terms includes an element which it is useful to extract in a structured form so that it can be imported into a library management system. General Term [11] is a case in point. It provides placeholders for the length of each successive renewal term, and for the notice which must be given at the end of the current term in order to cancel automatic renewal.

11.3 Supply Terms, Continuing Access Terms, Payment Terms and General Terms (under the heading Other license terms and conditions) are also listed at the end of the ‘summary view’.

¹ In Issue 4 of the ONIX-PL Dictionary.