

## PREFACE

Norwegian writers, publishing firms, journal publishers, other copyright holders and the National Library of Norway all have a common goal, which is to enable access to literature and other copyright protected material, and to give the public an insight into and knowledge of the diversity in the Norwegian cultural heritage.

As part of this goal, the National Library of Norway and representatives for Norwegian copyright holders have agreed to collaborate on a pilot project in which Norwegian works are made available in a digital format via the Internet within a more closely defined subject area – **the northern areas**. Through this project, the parties aim to gain experience that can form the basis for future agreements on the digital dissemination of copyright protected Norwegian works. To this end, an

## AGREEMENT

has been entered into between the **National Library of Norway** (herein known as the National Library), and the following organisations: the **Norwegian Publishers' Association**, the **Norwegian Authors' Union**, the **Norwegian Non-Fiction Writers and Translators Association**, the **Norwegian Critics' Association** and the **Licensing and Collecting Society LINO**, on behalf of their respective members (herein known as the Licensing Organisations), in connection with a pilot project for the digital availability of copyright protected literary works.

### 1. Parties to the agreement

- 1.1 The National Library is a public institution and accountable to the Ministry of Culture and Church Affairs. The National Library's core activity is to collect, register, secure and preserve publicly available information, in all media, whereby these testimonies to Norwegian culture and society are preserved and made available for research and documentation, cf. the Act relating to the legal deposit of generally available documents of 9 June 1989, no. 32.
- 1.2 The Licensing Organisations consist of associations that organise publishing firms and writers, and which protect their respective members' interests with regard to copyright. At the time of signing the agreement, the Licensing Organisations have the following membership figures:

The **Norwegian Publishers' Association** represents 69 book and journal publishers.

The **Norwegian Authors' Union** represents 523 fiction writers. The **Norwegian Non-Fiction Writers and Translators Association** represents 5 175 members. The **Norwegian Critics' Association** represents 317 members and the **Licensing and Collecting Society LINO** represents 4 200 writers. Taking into account double membership etc., these organisations represent **6 190** individual members.

In a separate agreement with the Norwegian Visual Artists Copyright Society, the Norwegian Organisation for Visual Communication, the Society of Fine Art Photographers in Norway and the Norwegian Photographers' Union, **LINO** has the authority to enter into an agreement on behalf of the members of these organisations in the pilot project.

## 2. Background to the agreement

- 2.1 As part of its core activity – securing and preserving publicly available material – the National Library has initiated an extensive digitalisation programme with the aim of transferring all of the library collections from an analogue to a digital platform (including copyright protected literary works), and storing them in the Library's digital secured storage.

The National Library's digitalisation programme is founded on the Act relating to copyright in literary, scientific and artistic works, etc. of 12 May 1961, no. 2 with amendments.

As an extension of the digitalisation programme outlined in the first paragraph, the National Library, together with the Licensing Organisations, without conflicting with their financial interests and ideals, would like to make the digitalised material available to the general public.

- 2.2 The Licensing Organisations are working to expand the dissemination and commercial exploitation of the members' literary achievements – in analogue and/or digital format, and believes that a collaboration with the National Library's plans can help achieve such a goal.
- 2.3 On this basis, (cf. sections 2.1 and 2.2 above), the parties agree to collaborate on a **pilot project** within a more closely defined subject area – *the northern areas*. The aim of the pilot project is to gain experience with technological solutions, problems with links, agreement mechanisms, usage patterns etc., which can form the basis for any future agreements on the digital dissemination of copyright protected material.

This agreement regulates the terms of the pilot project collaboration. Unless otherwise specified, the agreement does not provide for any future collaboration between the parties.

- 2.4 The material that is made available through the pilot project and as covered by this agreement (cf. Appendix 1), is included in the National Library's distribution solutions via the website <http://www.nb.no>, and is presented in the digital room environment, which covers metadata, bibliographic data, differentiated access with regard to media and age, as well as material with different copyright statuses.

The National Library is responsible for the execution of the pilot project on the basis of its own resources.

## 3. Subject of the agreement – rights and obligations

- 3.1 The Licensing Organisations, and not the National Library, will clear the rights to the works that are covered by the agreement. Under the terms of this agreement, the Licensing Organisations, on behalf of their members, shall grant the National Library the right to make works covered by this agreement available to the public. Any rights that are not clarified shall be forwarded to LINO.
- 3.2 *Making available* is defined for the purposes of this agreement as rendering (on a data terminal) a work in a low resolution digital image format (e.g. JPEG) whereby users can search for cover pages, title pages and contents lists, as well as navigate between individual pages, read on the terminal and search text. Users will not, however, be given the capability to download or copy copyright protected material to their own computer equipment. Neither shall the National Library provide the capability for users to take printouts.

- 3.3 To the extent the National Library does not have warrant in legislation or regulations to digitalise works that are covered by this agreement, the Licensing Organisations give consent to digitalisation on behalf of their members.
- 3.4 The rights that are granted in accordance with sections 3.1–3.3 above are *non-exclusive*.
- 3.5 On the National Library's website (see section 2.4 above), users shall, via links, be given access to players in the book industry that agree to this (book sellers, Internet book sellers, publishing firms, suppliers of print-on-demand solutions etc.). The Licensing Organisations undertake to help ensure that the said websites accessed via links are open and non-discriminatory to all players in the industry, such that the links do not distort the competition in the market.
- In the same way, links will also be created on the National Library's website to the Norwegian library network, whereby users who so wish can loan relevant literature from local libraries.
- 3.6 Under the terms of the agreement with the Licensing Organisations, the National Library can provide digital samples of the works that are covered by this agreement, upon request by the Licensing Organisations – on behalf of a member for his own use. The Licensing Organisations/the member are/is not entitled to be provided with anything other than or in addition to that which the member has created or has rights to.
- 3.7 The parties shall cover the costs themselves. The financial settlements between the parties are fully regulated in the fee provisions in section 4 below.
- 3.8 A licensing organisation may withdraw individual works from the collaboration during the agreement period.

#### **4. Costs and fee terms**

- 4.1 The National Library shall bear the costs of digitalising works that are covered by this agreement.
- 4.2 With regard to the rights specified in sections 3.1 and 3.2 above, the National Library shall pay a one-off fee to the Licensing Organisations. The agreed fee is NOK 200 000.
- 4.3 The agreed fee specified in section 4.2 above shall be paid in full to LINO within 30 days of signing this agreement.

#### **5. Evaluation**

The parties shall meet quarterly during the pilot period and after the period in order to share experiences and assess any possible extension and/or expansion of the collaboration. The National Library shall collect the data from the parties' shared experiences.

#### **6. Loyalty**

The parties' rights and obligations pursuant to this agreement shall be carried out with loyalty and in such a way that the parties' interests, including those described in section 2 above, are protected.

## **7. Disputes**

In the event of a dispute arising between the parties concerning the execution or interpretation of this agreement, attempts must be made to resolve this by negotiation. Where no solution is reached within six – 6 – weeks of requesting negotiations, the dispute shall be settled by arbitration in accordance with section 32 of the Dispute Act (Norway). The court of arbitration shall consist of one or three members, and a foreman will be appointed by the magistrate at Oslo City Court. Arbitration shall take place in Oslo unless the parties agree otherwise.

## **7. Validity of agreement**

This agreement is valid from the time of signing by both parties until 30 September 2008, with no prior termination.

Upon cessation of the agreement, the right to digital availability, which is transferred under the terms of this agreement, reverts back to the licensees, unless the parties agree to further extend or expand the collaboration.

Six – 6 – original copies of this agreement have been drawn up, with one for each of the institutions that are party to the agreement.

Oslo, 14 March 2007

[Signature]  
**National Library of Norway**

[Signature]  
**Norwegian Authors' Union**

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**Norwegian Non-Fiction Writers  
and Translators' Association**

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**Norwegian Publishers'  
Association**

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**Licensing and Collecting Society LINO**

[Signature]  
**Norwegian Critics' Association**