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HELIN Task Force on Licensing Agreements Final Report, 2/28/2010

HELIN Task Force on Licensing Agreements

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The HELIN task force on licensing agreements was formed in late 2009 with the following members: Janice Schuster (chair) –PC; Paul Bazin-PC; Sue Reynolds-JWU; Debra Thomson-RIC; John Fobert-RWU; Chris Peterson-CCRI; Martha Rice Sanders-HELIN.

The task force met several times and discussed the issue of consortial licensing agreements for electronic books.

We agreed that it is vital that HELIN members maintain the same resource sharing rights in the electronic environment that they enjoy in the print environment. We recommend that each library continue to negotiate its own licensing agreements with vendors, rather than implement a HELIN-wide agreement at this time.

However, each HELIN library should attempt to keep the needs of consortium patrons at the forefront. The following are sample licensing agreement clauses that could be of use; libraries are encouraged to seek legal advice to ensure the clauses have the desired effects.

CLAUSES TO NEGOTIATE INTO HELIN LIBRARIES'S LICENSING AGREEMENTS:

Definition of Terms

HELIN:

The licensee belongs to the Higher Education Library Information Network (HELIN), consisting of the libraries at the following Rhode Island institutions:

- Brown University
- Bryant University
- Community College of Rhode Island
- Johnson & Wales University
- Providence College
- Rhode Island College
- Roger Williams University
- Salve Regina University
- University of Rhode Island
- Wheaton College (MA)

HELIN Loan:

HELIN loan allows borrowing of library resources reciprocally among member libraries, including all campuses, facilitated through online catalog requests.

Authorized Users:

Authorized Users include those persons affiliated with Licensee as full and part time students and employees (including faculty, staff, affiliated researchers and independent contractors) of Licensee and HELIN member institutions, regardless of the physical location of such persons, as well as occasional on-site walk-in users.

Authorized Uses

HELIN Loan:

The licensee may supply/loan through HELIN loan an entire licensed electronic book. The borrowing patron will have the same privileges in using the electronic book as is afforded the authorized users of the purchasing library. All loan periods, restrictions on check-out, and other requirements will be adhered to.

Interlibrary Loan:

Licensee may supply through interlibrary loan a portion or book chapter of any title being part of the licensed materials by post, fax or secure electronic transmission for the purposes of research or private study and not for commercial use. Specifically, copies may be made in compliance with Section 108 of U.S. Copyright Law (17 USC Section 108, "Limitations on exclusive rights: Reproduction by libraries and archives") and clause 3 of the Guidelines for the Proviso of Subsection 108(g)(2) prepared by the National Commission on New Technological Uses of Copyrighted Works. Licensee and Authorized Users may make all use of the Licensed Materials as is consistent with the Fair Use Provision of the United States. Any printing, copying or forwarding is to be done in accordance with the length limits set within each product.

Course Packs (print and electronic):

Licensee and Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of Course Packs or other educational materials for use in connection with specific courses of instruction offered by Licensee and/or its parent institution. A link to the Licensed Material may be incorporated in Electronic Course Packs. Each item shall carry appropriate acknowledgement of the source, listing title and author of the extract, title and author of the work, and the publisher. Course packs in non-electronic non-print perceptible form, such as audio or Braille, may also be offered to Authorized Users who are visually impaired.

Course Reserves (print and electronic):

Licensee and Authorized Users may use a reasonable portion of the Licensed Materials for use in connection with specific courses of instruction offered by Licensee and/or its parent institution. A link to the Licensed Material may be incorporated in Electronic Reserve collections.

Course Management Systems/Distance Education Courses:

Licensee and Authorized Users may use the Licensed Materials in connection with course management systems/distance education courses offered by Licensee and/or HELIN member institutions.

Delivery and Access

Access to Licensed Content from On- and Off-Campus:

Authorized users have the right to access the licensed book, portion, or book chapter of any licensed title from the server on the licensee's campus and remotely from off campus via their secure network's proxy, including a third-party proxy service that the licensee pays for as a member of a library consortium.