

**WEB DATABASE LICENCE**

**TERM SHEET**

<b>NLA</b>	<b>THE NEWSPAPER LICENSING AGENCY LIMITED</b> , a company registered in England with registered number 03003569 whose registered office is at Wellington Gate 7 & 9, Church Road, Tunbridge Wells, Kent TN1 1NL. NLA contact: Fax No:
<b>Licensee</b>	<i>[insert company name and details]</i> Licensee Contact: Fax No:
<b>Publisher Content</b>	The content from newspaper websites set out in Appendix 1.
<b>Licensed Services</b>	<i>[list]</i> as set out in Part A of each Service Schedule
<b>Fees</b>	The Licence Fee as set out in Appendix 4 and any applicable Service Fees as set out in the Service Schedules.
<b>Fee Commencement Date</b>	The Fees shall be payable from 1 January 2010 in accordance with Clause 5 below
<b>Licence Commencement Date</b>	
<b>Rights Granted</b>	Data Management Rights* and/or Distribution Rights* (*delete as appropriate)

The parties each agree to the terms of this agreement (which expression includes this Term Sheet, the attached Terms and Conditions, the Appendices and all Service Schedules).

Signed: \_\_\_\_\_  
For and on behalf of  
**THE NEWSPAPER LICENSING  
AGENCY LIMITED**

Signed: \_\_\_\_\_  
For and on behalf of  
**LICENSEE**

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **DEFINITIONS AND INTERPRETATION**

1.1 In this agreement, the words and phrases defined in bold on the Term Sheet shall have the meanings set out next to them and the following words and phrases shall have the following meanings:

**"Client"** means a Consumer Service Provider, Internal Service Provider, Distributor and/or End User contracted with the Licensee to receive Relevant Content under this agreement.

**"Consumer Service Provider"** means an entity who provides Links direct to consumers through a free internet-based universally available service and who has a valid NLA licence in place.

**"Data Management Rights"** means the rights to Scrape the Publisher Content to facilitate the Licensed Services as further set out in this agreement (excluding for the avoidance of doubt any Distribution Rights).

**"Distributor"** means an entity who utilises Scraped Content to provide Licensed Services to End Users and who has a valid NLA Licence in place (excluding for the avoidance of doubt the Licensee itself).

**"Distribution Rights"** means the right to provide the Licensed Services to End-Users as further set out in this agreement.

**"End User"** means an entity which is the end recipient of the Licensed Service who is contracted with the Licensee to use Links to access Publisher Content and who has a valid NLA End User Licence Agreement in place.

**"Fees"** means the Licence Fee, any Service Fees and any audit fee under clause 5.5.

**"Internal Service Provider"** means an entity who utilises Scraped Content to provide Licensed Services solely to Permitted Users who are the staff of that entity or its affiliates (being companies which are (i) a franchisee or subsidiary of the Licensee, or (ii) another subsidiary of a holding company of the Licensee, or (iii) a holding company of the Licensee).

**"Initial Term"** means the period of 12 months from the Licence Commencement Date.

**"Licence Fee"** means the annual fees payable for entering into and maintaining this agreement as set out in Appendix 4.

**"Link"** means a web hyperlink to Publisher Content.

**"NLA Web Database Licence"** means an agreement between the NLA and a third party data distributor equivalent in terms and purpose to this agreement.

**"NLA End User Licence Agreement"** means an agreement between the NLA and an End User relating to the use of the Relevant Content.

**"NLA Licence"** means an NLA Web Database Licence and/or NLA End User Licence Agreement and/or NLA Consumer Service Provider Licence as applicable.

**"Permitted User"** means an individual who is authorised by the End User to use the relevant Licensed Service being an employee of the End User or an individual performing the function of an employee on a temporary basis, and independent contractor or consultant for a long as they are contracted to an End User.

**"Publisher"** means each publisher of those newspaper websites which form part of the Publisher Content.

**"Publisher Metadata"** means data copied from Publisher Content which describes individual articles or stories in the Publisher Content (including without limitation headlines, bylines, website name) but which does not contain any body text. For the avoidance of doubt Publisher Metadata does not include any metatags or data independently created by Licensee in the course of processing and indexing Publisher Content with other material the rights to which remain vested in Licensee.

**"Relevant Content"** means the Text Extracts and/or Scraped Content (as set out in the relevant Service Schedule) relevant for an End User or Consumer Service Provider.

**"Scrape"** means to extract data from web pages by means of robots, spiders, crawlers or other automatic device or manual process used to monitor and copy web pages and web content, and "Scraped" and "Scraping" shall be construed accordingly.

**"Scraped Content"** means data Scraped from the Publisher Content.

**"Service Fees"** means any fees payable by Licensee in addition to the Licence Fee for the provision of the Licensed Services as set out in the Service Schedules.

**"Service Schedule"** means each document attached to this agreement in Schedule 2 describing a Licensed Service, along with the additional licence terms applicable to such Licensed Service.

**"Summary"** means a summary of any Publisher Content, other than in the form of a Text Extract.

**"Text Extract"** means a headline and a direct text extract of no more than 256 characters of an item of Publisher Content generated using Scraped Content.

**"Viewing Period"** means the period of 28 days from the date of publication on the Internet of the relevant Publisher Content (excluding Publisher Metadata) unless otherwise set out in the relevant Service Schedule.

**"Year"** means each 12 month period following the Licence Commencement Date.

## 2 THE LICENCE

- 2.1 In consideration of the Licensee's payment of the Fees and subject to the Licensee's compliance with the terms of this agreement, the NLA hereby grants the Licensee a non-exclusive, non-transferable licence to:
  - 2.1.1 subject always to clause 2.2, Scrape the Publisher Content solely for the purpose of searching for and extracting Scraped Content to the extent necessary to facilitate the Licensed Services;
  - 2.1.2 make copies of the Scraped Content in the Licensee's servers and retain such copies for back-up purposes for the Viewing Period;
  - 2.1.3 create an index to Scraped Content for the Licensee's own internal use and retain such index for the Viewing Period;
  - 2.1.4 provide the Licensed Services to its Clients as set out in the relevant Service Schedule(s); and
  - 2.1.5 use the name of the Publisher for the purpose of identifying that Publisher in the provision of the Licensed Service.

- 2.2 The provisions of clause 2.1.1 shall only apply where the Licensee is described on the Term Sheet as having Data Management Rights.
- 2.3 The purpose of this agreement is to allow the Licensee to provide the Licensed Services to its Clients. The NLA itself enters into a direct licence for use of the Relevant Content by those Clients under a separate NLA Licence and as such those rights are not sub-licensable by the Licensee under this agreement.
- 2.4 The Licensee will notify each Client of the requirement to have its own NLA Licence in place and any other licence required directly with the owner of the Publisher Content as described in Appendix 1. In particular, the Licensee shall, prior to delivering Licensed Services to a new Client or a prospective Client, and not less than once in every calendar year in the case of all the Licensee's Clients, send a letter or email substantially in the terms of Appendix 3.
- 2.5 All Links must be back to the website originally hosting the Publisher Content.
- 2.6 The additional licence terms in Appendix 1 and each Service Schedule will also apply to the provision of the Relevant Content through each Licensed Service.
- 2.7 For the avoidance of doubt, nothing in this agreement shall:
- 2.7.1 prevent any Licensee or other third party from seeking to obtain a licence to copy or reproduce Publisher Content directly from the relevant Publisher; or
- 2.7.2 prejudice any rights granted by the NLA or any Publisher to the Licensee under separate agreement.
- 2.8 In respect of prospective Clients, the Licensee may subject always to the terms and conditions of this Agreement and for a trial period of a maximum of 30 days provide a trial of the Licensed Services where set out in the relevant Service Schedule (which for the avoidance of doubt excludes any XML delivery) to up to five (5) named Permitted Users at each prospective Client, those named Permitted Users being fixed for the duration of the trial period there being no right to swap or substitute names. If the prospective Client already has an NLA Licence, and provided the Licensee obtains the NLA's prior written confirmation of this fact (such confirmation not to be unreasonably withheld), there is no limit on the number of Permitted Users at a prospective Client who may receive the relevant Licensed Service during the 30 day trial period. The Licensee is otherwise subject to the same obligations and restrictions under this Agreement in respect of prospective Clients as it is in respect of Clients, including for the avoidance of doubt providing all details for such prospective Clients in the monthly report(s) and payment of the relevant Service Fees.
- 2.9 It is agreed that the employees of the Licensee may make reasonable use of the Scraped Content for the purposes of demonstrating the Licensed Services to Clients (and potential Clients) and for internal testing and development of the Licensed Services only. If the Licensee wishes to provide any Licensed Services to its employees then such Licensed Services shall be subject to the Licensee taking out an appropriate NLA End User Licence Agreement.

### **3 LICENCE RESTRICTIONS**

- 3.1 Nothing in this agreement shall be construed as granting or accruing to the Licensee or any of its Clients any intellectual property rights in the Publisher Content, Scraped Content or Relevant Content other than expressly licensed in clause 2.1 of this agreement. In particular but without limitation, the Licensee shall not (except as expressly set out in this agreement and/or except to the extent that such acts do not constitute infringement of intellectual property rights):

- 3.1.1 republish or re-utilise the Scraped Content;
- 3.1.2 copy, modify, adapt, archive or create extracts of the Scraped Content or the Links;
- 3.1.3 supply to any third parties any copies of the Scraped Content;
- 3.1.4 store in digital or any other non-paper based format any Scraped Content;
- 3.1.5 remove or conceal any copyright or trade mark notices from any Scraped Content or Publisher Content; or
- 3.1.6 make any summaries of Publisher Content or Scraped Content (other than Text Extracts) by automatic means.
- 3.2 The Licensee acknowledges that on occasion one or more Publishers may need to remove certain parts of the Publisher Content for legal reasons and accordingly the Licensee will on receipt of a notice from the NLA promptly (and in any event at the latest within 24 hours of written or electronic notification from the NLA during the working week or by 11.58pm (UK time) of the next working day if notification is received on a Saturday, Sunday or Bank Holiday) and permanently remove from the Scraped Content and any Text Extracts any part of the Publisher Content identified in such notice. All notices will be treated as confidential by the Licensee. The Licensee shall confirm to the NLA by email that it has complied with such requests. In the event that such parts of the Scraped Content and Links are not removed as set out above, Licensee agrees to indemnify the NLA and its Publishers from all costs, claims and expenses resulting from such non-removal.
- 3.3 The Licensee acknowledges and agrees that any intellectual property rights in the Text Extracts are owned by the Publisher and any intellectual property rights in the Publisher Metadata shall be owned by the NLA.
- 3.4 The Licensee shall by not later than the seventh day following the end of each calendar month deliver to the NLA a monthly report in the form shown in each Service Schedule.
- 3.5 The Licensee shall only use Publisher Metadata for:
  - 3.5.1 internal indexing, digital rights management;
  - 3.5.2 billing and audit purposes;
  - 3.5.3 in connection with the planning, monitoring and evaluation service provided directly to End Users for their internal use provided that Publisher Metadata is not supplied to any End User who could reasonably be expected to use and/or distribute such Publisher Metadata outside of any such planning, monitoring and evaluation service or make the Publisher Metadata available as part of its business including as part of a consumer application; and/or
  - 3.5.4 as otherwise expressly agreed in writing by the NLA on such terms as it may reasonably require from time to time.
- 3.6 The Licensee shall not:
  - 3.6.1 keep any Publisher Metadata for longer than ten years and shall use reasonable endeavours to procure that it deletes the Publisher Metadata from its systems and records after such period;
  - 3.6.2 deliver any Text Extract or Publisher Metadata to any End User whom may be reasonably expected to distribute Text Extract and Publisher Metadata outside of its own organisation;

- 3.6.3 delete or alter in any way any copyright notices on or attached to any Publisher Content; or
- 3.6.4 authorise, incite or encourage Clients or prospective Clients to reproduce any Publisher Content otherwise than as permitted by an NLA licence or by law.
- 3.7 The Licensee shall be bound by the terms and conditions of each Publisher's website except to the extent expressly extended by this agreement.
- 3.8 This agreement does not confer on the Licensee any rights whatsoever in respect of Summaries

#### **4 LICENSEE OBLIGATIONS**

- 4.1 The Licensee acknowledges that certain Publishers impose additional requirements in relation to Scraping and accordingly agrees to comply with the additional requirements set out in Appendix 2 and notified to the Licensee from time to time.
- 4.2 The Licensee agrees to comply with the technical requirements and protocols set out in Appendix 2.
- 4.3 The Licensee will use all reasonable endeavours to prevent unauthorised use of the Scraped Content, the Links or any Publisher Content. If the Licensee believes that there has been any breach of security, the Licensee must notify the NLA immediately.
- 4.4 If the NLA reasonably believes that any Publisher Content is being used by the Licensee in any way which is not permitted by this agreement, the NLA may suspend the rights granted under this agreement on giving 24 hours notice (which for the avoidance of doubt shall be during normal business hours) to the Licensee detailing the breach and, where relevant, block access by the Licensee to any such Publisher Content (this being without prejudice to any other legal rights which the NLA may have). As provided in clause 8.2 the Licensee shall have 28 days from receipt of the notice from the NLA in which to remedy the breach otherwise the NLA shall be entitled to terminate this agreement.
- 4.5 The NLA reserves the right at its cost to monitor use of the Scraped Content to ensure compliance with this agreement.
- 4.6 Where the NLA reasonably suspects that the Licensee is in breach of this agreement or is infringing any intellectual property rights in any Publisher Content, provided it has received at least 24 hours' notice from the NLA (which for the avoidance of doubt shall be during normal business hours), it will allow inspection of its records by the NLA or by such person as the NLA shall appoint as inspector. The inspector shall have the right to have access to the Licensee's premises during business hours and shall be entitled to inspect the records, computers and business arrangements of the Licensee to verify that they are (i) in compliance with the terms of this agreement, and (ii) that the Licensee is not carrying out any infringing acts, and that no such acts are being carried out by any staff, members or Clients of the Licensee. It is agreed that the Licensee may request the NLA to appoint an independent accountant or firm of accountants to conduct such inspection of its records.
- 4.7 The cost of such audit shall be borne by the NLA if such audit does not confirm any breach by the Licensee its staff or members but otherwise shall be charged to the Licensee. If the audit reveals
  - 4.7.1 an underpayment of any fees due to the NLA then the Licensee shall forthwith remit to the NLA the amount of such underpayment (it being agreed that notwithstanding the foregoing provisions if the underspend is less than 5% of the fees payable to the NLA the NLA shall bear the cost of the audit); or

- 4.7.2 any other material breach of this agreement then the NLA shall serve notice on the Licensee of such breach in accordance with the terms of clause 8.2.
- 4.8 The Licensee will notify the NLA promptly in writing of any unlicensed use of the Publisher Content (or any part of it) of which the Licensee becomes aware.
- 4.9 On request by the NLA, the Licensee will immediately cease to provide any further services to any Client engaged in any unlicensed use unless and until it has obtained an appropriate licence from the NLA or from the relevant Publisher. The Licensee shall have no claim against the NLA arising from any such cessation of services to a Client.
- 4.10 As a condition to the NLA granting the Licensee the rights under this agreement and to enable the NLA to monitor the Licensee's compliance with the terms of this agreement, the Licensee will provide a single NLA member of staff (as advised by the NLA from time to time) with access to each Licensed Service provided by the Licensee. This Licensed Service will be provided to the NLA free of charge, it will use not more than two object keywords (which object keywords will be of no commercial interest to the NLA) and the Licensee will have no obligation to support the service other than to assist the NLA with carrying out audits pursuant to the terms of this agreement.

## 5 FEES

- 5.1 The Fees are payable by the Licensee, together with any VAT (or other tax) monthly from the Fee Commencement date as provided below.
- 5.2 The NLA reserves the right to revise the Licence Fee and/or the Service Fees no more than once in every calendar year. Where the Licence Fee and/or the Service Fees are revised, the NLA shall notify the Licensee of the revised Licence Fee and/or Service Fees, and the revised Licence Fee and/or Service Fees shall only become effective 3 months from the date of such notice. If the Licensee does not wish to accept the revision, it may invoke its right to terminate in accordance with clause 8.1.1.
- 5.3 The NLA may, without notice to the Licensee, set off any sums owed by the Licensee under this agreement to the NLA against any sums owed by the NLA to the Licensee by virtue of any other arrangement between the NLA and such Licensee. The NLA will provide the Licensee with written details of any such set off.
- 5.4 Subject to the provisions of clause 5.6 below, invoices issued by the NLA for all Fees are payable in sterling within 30 days after issue. The NLA is entitled to interest upon overdue amounts at a rate of 4% above the Bank of England base rate.
- 5.5 The Licensee shall keep all records necessary to determine the License Fee and the Service Fees and otherwise show its compliance with the terms of this agreement. In addition to the rights under clause 4.6, the NLA and its authorised agents shall have the right to access Licensee's premises during business hours on not less than one month's notice for the purpose of carrying out an annual audit in order to determine the accuracy of the Licence Fee and the Service Fees, security of the Publisher Content or otherwise conduct the NLA's statutory and internal audits. The Licensee shall be responsible for the costs of any audit carried out by the NLA and its authorised agents (it being agreed that such audit costs shall not exceed £6,000 per annum without prior consultation with the Licensee. It being acknowledged that the NLA shall collect the audit fees by monthly instalments in the direct debit as provided in clause 5.6 below).
- 5.6 The NLA shall collect the Fees and any End User fees due under clause 5.8 by direct debit not earlier than the 21st day of the calendar month following that to which it relates. If a direct debit arrangement is not already in place between the NLA and the Licensee the Licensee

shall sign and return to the NLA a direct debit mandate within 14 days of signature of this agreement.

- 5.7 Without prejudice to any other legal rights which the NLA may have, if through no fault of the NLA payment of any Fees and/or End User fees due under clause 5.8 are overdue the NLA shall be (without prejudice to any other legal rights which the NLA may have) entitled to suspend the rights granted under this agreement on giving 48 hours notice to Licensee (which notice for the avoidance of doubt shall be served during normal business hours).
- 5.8 The Licensee may by prior written notice to the NLA agree with any of its End Users that elect to pay the NLA a fixed rate of licence fees for the Licensed Service that such fees due to the NLA will be collected by the Licensee as agent for the NLA. Such fees will be payable in full by the Licensee to the NLA in the month following which they become due from the End Users and will be collected in accordance with clause 5.6 and subject to any process which the NLA reasonably notifies to the Licensee from time to time for their collection.
- 5.9 Failure of the Licensee to comply with the provisions of this clause 5 shall constitute a material breach for the purposes of clause 8.2.1.

## 6 **INDEMNITY**

- 6.1 Provided that the Licensee has complied and continues to comply with the terms of this agreement, the NLA agrees to indemnify the Licensee against any damages and/or reasonable legal costs incurred by the Licensee arising out of any claim by a third party that the Licensee has infringed their intellectual property rights as a result of exercising the rights granted to it in clause 2.
- 6.2 The indemnity in clause 6.1 is subject to the Licensee invoking it by giving to the NLA written notice within 14 days of becoming aware of any claim for damages or costs recoverable under clause 6.1. The Licensee shall make no admission as to liability or agree to any settlement or compromise for any such claim, nor shall the Licensee make any other response beyond a mere acknowledgement of receipt, without the prior written consent of the NLA. The NLA or the Publisher of the material subject to a claim will be entitled to conduct the defence of any such claim in the Licensee's name and to agree to any settlement arrangement as the NLA or such Publisher sees fit.

## 7 **LIMITATION OF LIABILITY**

- 7.1 Nothing in this agreement shall limit or exclude the liability of either party to the other in respect of:
  - 7.1.1 Fraud, death or injury to persons caused by negligence or any other liability which cannot by law be limited or excluded; and
  - 7.1.2 the Licensee's obligation to pay the Licence Fee.
- 7.2 Subject to clause 7.1, the parties shall not be liable to the other for any of the following types of loss or damage arising under this agreement, even in each case if the party has been advised of the possibility of such loss or damage:
  - 7.2.1 indirect or consequential loss; or
  - 7.2.2 loss of profits, revenue, contracts or anticipated savings.
- 7.3 Subject to clause 7.1, the NLA shall not be liable to the Licensee for any loss or damage arising from the Licensee's inability to scrape the Publisher Content or for any harm caused to any third party systems as a result of the Licensee's scraping activities whether or not in each case the NLA has been advised of the possibility of such loss or damage.

- 7.4 Subject to clause 7.1, the aggregate liability of the NLA for any liability arising under or in connection with this agreement however arising (including by way of negligence) shall be limited to an amount equal to the greater of (a) the total Fees paid to the NLA in the preceding 12 months and (b) £5,500.
- 7.5 These limitations of liability shall not apply in respect of any damage caused to the Licensee by the negligent act or omission of an NLA appointed inspector whilst on the Licensee's premises acting pursuant to clauses 4.6 and 5.5 above.

## 8 **TERM AND TERMINATION**

- 8.1 Unless terminated earlier in accordance with the terms of this agreement or by law, this agreement shall commence on the Licence Commencement Date, and shall continue in force unless terminated for any reason whatsoever:
- 8.1.1 on 3 months' notice from the Licensee to the NLA provided that no such notice shall take effect before expiry of the Initial Term; or
- 8.1.2 on 12 months' notice from the NLA to the Licensee.
- 8.2 Notwithstanding the above, the NLA may terminate this agreement by notice in writing at any time with immediate effect if:
- 8.2.1 the Licensee commits or causes any material breach of any of the provisions of this agreement, and (in the case of a remediable breach only) remains in breach 28 days after receiving notice from the NLA to remedy such breach; or
- 8.2.2 the Licensee becomes insolvent within the meaning of section 123 of the Insolvency Act 1986, resolves to go into voluntary liquidation, presents or has presented against it a winding-up petition, is dissolved, comes to a compromise arrangement with its creditors, has a liquidator, administrator, receiver, manager or administrative receiver or other encumbrancer appointed to, or security enforced over, the whole or any part of its assets or property, or becomes involved or suffers any event analogous to any of the foregoing.
- 8.3 Upon termination of this agreement:
- 8.3.1 the Viewing Period shall immediately terminate and the Licensee shall immediately erase all copies of Scraped Content and the Text Extracts, irrespective of format; and
- 8.3.2 all rights of the Licensee to provide Licensed Services to Clients shall terminate.

## 9 **NOTICES**

- 9.1 Notices between the parties relating to this agreement must be in writing and must be delivered personally or sent by prepaid first class post or fax transmission or email to the address or fax number or email address set out in the Term Sheet (or such other address, fax number or email address as may be notified in writing by either party to the other). Alternative details may be notified by a party for the purposes of this clause.
- 9.2 Notices shall be treated as being given as follows: if delivered by hand, when delivered; if sent by first class post, 48 hours after posting; if sent by fax, on the date of transmission. Any notices that are given out of business hours shall be deemed given on the next business day. For the purposes of this clause "business day" shall mean any day other than Saturday, Sunday or a bank holiday in England.

## 10 **CONFIDENTIALITY**

- 10.1 Neither party is to disclose to any person not a party to this agreement, with the exception of a professional adviser acting as such, any proprietary or confidential information obtained from the other party.
- 10.2 These obligations of confidentiality will not apply:
- 10.2.1 where the information is within the public domain (otherwise than as a result of a breach of this clause);
- 10.2.2 where use or disclosure of the information is required by law or by the regulations of a recognized stock exchange or pursuant to any judicial or government request, requirement or order; nor
- 10.3 so as to prevent disclosure by the NLA to the Publishers. The NLA will impose obligations of confidence in its mandate agreements with its Publishers to provide that they shall not use any confidential information disclosed to them for the purposes of competing with Licensee, nor disclose the same to any third party other than to its professional advisers and as provided in clauses 10.2.1. and 10.2.2. Without prejudice to the foregoing the NLA recognise the sensitivity of certain End User information and it is agreed that the NLA may only provide publishers with information that is aggregated and does not allow the Publishers to identify specific articles sent to individual End-Users.

## 11 **OTHER MATTERS**

- 11.1 The rights and remedies provided by this agreement may be waived only expressly in writing and specifically, and any failure to exercise or any delay in exercising a right or remedy by a party shall not constitute a waiver of any right or remedy.
- 11.2 Any waiver, acquiescence or delay by a party in enforcing any breach of the terms of this agreement shall have no effect in relation to any later breach.
- 11.3 Nothing in this agreement and no action taken by the parties pursuant to this agreement shall be construed as creating a partnership or joint venture of any kind between the parties. No party shall have the authority to bind the other party or to contract in the name of or create a liability against the other party in any way or for any purpose.
- 11.4 Each of the provisions contained in this agreement shall be construed as independent of every other such provision, so that if any provision of this agreement shall be determined by any court or competent authority to be illegal, invalid and/or unenforceable then such determination shall not affect any other provision of this agreement.
- 11.5 This agreement sets out the full terms of agreement between the Licensee and the NLA, and may not be amended except in writing and signed by the NLA and the Licensee.
- 11.6 The Licensee will not assign or sublicense the rights granted under this agreement without the prior written consent of the NLA.
- 11.7 The NLA will offer terms commensurate with those as contained in this agreement to third parties who are in the business of providing any Licensed Services in the European Economic Area and Switzerland.
- 11.8 Each party will at the request of the other party execute any document and do any thing reasonably necessary to implement this agreement and use all reasonable endeavours to procure that a third party executes any deed or document and does any thing reasonably necessary to implement this agreement.

11.9 In the event that there is a conflict between these Terms and Conditions and the terms of the Appendices to this agreement, these Terms and Conditions shall prevail.

11.10 No person other than the NLA, the Publishers and the Licensee shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce the terms of this agreement. This clause does not affect any right of any person which exists otherwise than under that Act to the extent of the conflict.

## 12 **LAW AND JURISDICTION**

12.1 This agreement shall be governed by and construed in accordance with English Law. The parties irrevocably agree that the English Courts shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this agreement save that the NLA may at its absolute discretion bring a cause of action in the Licensee's home jurisdiction.

## **Appendix 1**

### **PUBLISHER CONTENT**

The list of websites comprising Publisher Content can be found at [www.nla.co.uk](http://www.nla.co.uk)

The NLA, at its discretion, may update the list from time to time to either add or remove any publications. The following are excluded from the licence under this Agreement: (a) video and audio content; (b) photographs, illustrations and advertisements; and (c) material which is marked as being rights restricted (through ACAP or other methods).

Certain Publishers may require direct licences to be entered into between the Publisher and the End User for use of the Publisher Content. Details will be notified to the Licensee from time to time. Any such relevant Publisher Content must not be included in a Licensed Service without such a licence.

The NLA shall be entitled by 90 days written notice to the Licensee to put in place a minimum time period between the time of first publication of any or all Publisher Content and it being made available as part of a Licensed Service ('Time Restriction'). Licensee shall have the right to consult with NLA about such proposed Time Restriction for a period of 30 (thirty) days from receipt of the written notice. It is agreed that any such Time Restriction shall apply to all parties who have entered into a Web Database Licence with the NLA.

For the avoidance of doubt it is acknowledged and agreed that the Publisher Content does not include any websites owned by the News International Group and The Financial Times Limited.

## Appendix 2

### TECHNICAL REQUIREMENTS AND PROTOCOLS

If the Licensee has been granted the right to Scrape the Publisher Content as provided in clause 2.1 of the agreement, the Licensee agrees to:

- obey the robots exclusion standard or robots.txt convention;
- respect the crawl-delay value provided in the robots.txt; or if crawl-delay support does not exist within the Licensee's crawler, or is not provided at the Publisher's websites; to implement an appropriate politeness policy ensuring the Licensee's crawler does not in any way affect the Publisher's website performance;
- comply with any usage terms specified in each individual Publisher website's terms & conditions;
- comply with the ACAP (Automated Content Access Protocol) standard. More information regarding ACAP and its implementation can be found at <http://www.the-acap.org/>;
- ensure Licensee's IP address is available to the website Publisher at all times (i.e. IP addresses will not be masked, or misrepresented in any way);
- include an appropriate reference to the Licensee's organisation in the "User Agent" request header field. Ideally, this would be in the form of a valid, monitored e-mail address or alternatively, as a link to an appropriate webpage containing up to-date and relevant contact information;

## Appendix 3

### NOTICE TO CLIENTS

Under the terms of our agreement with the Newspaper Licensing Agency Limited ("**the NLA**") we are required to draw your attention to the following matters:

- 1 You need a licence from the NLA to view or distribute the web news content which derives from the websites listed by the NLA on its own website [www.nla.co.uk](http://www.nla.co.uk) and which we supply to you as part of our service. .
- 2 Applications to the NLA for a licence should be addressed to it at Wellington Gate, Church Road, Tunbridge Wells, Kent TN1 1NL, telephone 01892 525 273, fax 01892 525 275, email [copy@nla.co.uk](mailto:copy@nla.co.uk).
- 3 We are obliged to provide the NLA with your details. If information comes to our attention which leads us to believe that any client is viewing or distributing the web news content supplied through our service without a valid licence, we are required by the terms of our agreement with the NLA to disclose that information to the NLA.

## Appendix 4

### ANNUAL LICENCE FEE TARIFF

- a. If the Licensee is providing any of the Licensed Services set out in Service Schedules 1,2 or 3 the Licence Fee is £10,000 per annum (which shall include if applicable the Licensed Services set out in Service Schedules 4 and 5).
- b. If the Licensee is not providing any of the Licensed Services set out in Service Schedules 1,2, or 3 the Licence Fee shall be based on the number of Clients to whom the Licensee is providing the Licensed Services set out in Service Schedules 4 and 5 as follows:

Clients	Licence Fee
1 – 100	£5,000
100+	£10,000

It is agreed that in the event that the number of publisher websites comprising the Publisher Content as at 1 October 2009 reduces during the term of this Agreement the Licence Fee set out above shall be reduced as follows:

- i. 10% reduction in number of publisher websites – the Licence fee shall be reduced to:
- |         |        |
|---------|--------|
| 1 - 100 | £4,500 |
| 100+    | £9,000 |
- ii. 25% reduction in number of publisher websites – the Licence fee shall be reduced to:
- |         |        |
|---------|--------|
| 1 - 100 | £3,750 |
| 100+    | £7,500 |
- iii. 50% reduction in number of publisher websites – the Licence fee shall be reduced to:
- |         |        |
|---------|--------|
| 1 - 100 | £2,500 |
| 100+    | £5,000 |

It is further agreed that in the event that the number of publisher websites comprising the Publisher Content reduces by 50% then the Licensee shall additionally have the right to terminate this Agreement on 1 (one) months written notice to the NLA and the provisions of clause 8.3 shall apply.

## SERVICE SCHEDULES

## **Service Schedule 1**

### **Wholesale Distribution – Supply of Scraped Content to Distributor**

#### **Part A: Service Description**

The Licensee delivers full text of Scraped Content as XML data service to a Distributor (who then is separately licensed by the NLA to distribute Relevant Content to End Users).

#### **Part B: Additional Licence Terms**

All Clients licensed under this Service Schedule must be Distributors (that is excluding Consumer Service Providers, Internal Service Providers and End Users). The terms in this Part B shall be in addition to the Terms and Conditions which shall also apply to all use of the Publisher Content.

#### **Part C: Service Fees**

The Licensee shall pay the NLA a sum equivalent to 5% (five percent) of all fees payable to the Licensee from each Distributor to whom it provides Scraped Content (excluding any VAT or equivalent sales tax) or £3,000 per Distributor per Year, whichever is the greater.

Unless the parties have previously discussed and agreed an appropriate adjustment to the Service Fees, all fees payable by Clients to the Licensee for the Licensed Service must be negotiated on an arms-length commercial basis (for example, without limitation, the Licensed Service may not be used as a loss-leader or be discounted based on the purchase of other services or otherwise be priced so as to artificially reduce the fees payable for the Licensed Service).

## Part D: Reporting

### NLA MONTHLY RETURN

This form is for the recording and submission to NLA of the names of Websites Scraped to provide Scraped Content Distributors.. The form must be submitted monthly in the form of an Excel Spread sheet or such other form as may be agreed between the parties as provided in Clause 3.4 of the Licence.

Licensee Name

From Date:

To Date:

No. of Clients:

### WEBSITES IN THE NLA REPERTOIRE

Title Code	Website	e.g. ABC PCA	Client Name	Client Name	Client Name	Client Name	
WEBDS	<a href="http://www.dailystar.co.uk">www.dailystar.co.uk</a>	No					
WEBO	<a href="http://observer-guardian.co.uk">observer-guardian.co.uk</a>	Yes					
WEBDM	<a href="http://www.dailymail.co.uk">www.dailymail.co.uk</a>	No					
WEBDE	<a href="http://www.express.co.uk">www.express.co.uk</a>	No					
WEBDT	<a href="http://www.telegraph.co.uk">www.telegraph.co.uk</a>	Yes					
WEBG	<a href="http://www.guardian.co.uk">www.guardian.co.uk</a>	Yes					
WEBDMI	<a href="http://www.mirror.co.uk">www.mirror.co.uk</a>	No					
WEBMS	<a href="http://www.mailonsunday.co.uk">www.mailonsunday.co.uk</a>	No					
WEBI	<a href="http://www.independent.co.uk">www.independent.co.uk</a>	Yes					
<b>Total Links supplied</b>		<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Client Monthly Payment to Licensee (net of VAT) - £</b>							

## Service Schedule 2

### **Wholesale Distribution – Supply of Scraped Content to Consumer Service Provider**

#### **Part A: Service Description**

The Licensee either

- a) delivers full text of Scraped Content as XML data service to a Consumer Service Provider; or
- b) provides API access to Scraped Content held by Licensee in its local server for Consumer Service Provider to search for Relevant Content.

and the Consumer Service Provider is then separately licensed by the NLA to distribute Relevant Content to consumers through a free internet-based universally available service.

#### **Part B: Additional Licence Terms**

All Clients licensed under this Service Schedule must be Consumer Service Providers (that is excluding Internal Service Providers, Distributors and End Users).

The Licensee must ensure that each Consumer Service Provider has in place an NLA Consumer Service Provider Licence.

Provision of Scraped Content to Consumer Service Providers is subject to individual Publisher approval and the NLA shall use commercially reasonable endeavours to procure such approval. The NLA shall notify the Licensee as soon as is reasonably possible after being notified that a Consumer Service Provider is being licensed as to whether any Publisher has withdrawn consent for the provision of its Publisher Content to such Consumer Service Provider and Licensee shall cease delivering such Scraped Content or providing API access to such Scraped Content to the relevant Consumer Service Provider with immediate effect if it receives such notification. Licensee shall include in its agreements with Consumer Service Providers terms to this effect. Licensee shall have no claim against the NLA or the Publisher arising from the withdrawal of consent.

The terms in this Part B shall be in addition to the Terms and Conditions which shall also apply to all use of the Publisher Content.

#### **Part C: Service Fees**

The Licensee shall pay the NLA the following fees for each Consumer Service Provider to whom it delivers Scraped Content under this Service Schedule as follows.

- c. API Access only – Free of charge
- d. Full text of Scraped Content only – a sum equivalent to 5% (five percent) of all fees payable to the Licensee from each Consumer Service Provider to whom it provides Scraped Content or £3,000 per Consumer Service Provider per Year, whichever is the greater.

Unless the parties have previously discussed and agreed an appropriate adjustment to the Service Fees, all fees payable by Clients to the Licensee for the Licensed Service must be negotiated on an arms-length commercial basis (for example, without limitation, the Licensed Service may not be used as a loss-leader or be discounted based on the purchase of other services or otherwise be priced so as to artificially reduce the fees payable for the Licensed Service).

## Part D: Reporting

### NLA MONTHLY RETURN

This form is for the recording and submission to NLA of the names of websites Scraped to provide Scraped Content to Consumer Service Providers..

The form must be submitted monthly in the form of an Excel Spread sheet or such other form as may be agreed between the parties as provided in Clause 3.4 of the Licence.

Licensee Name

From Date:

To Date:

No. of Clients:

### WEBSITES IN THE NLA REPERTOIRE

Title Code	Website	e.g. ABC PCA	Client Name	Client Name	Client Name	Client Name	TOTAL
WEBDS	www.dailystar.co.uk	No					
WEBO	observer-guardian.co.uk	Yes					
WEBDM	www.dailymail.co.uk	No					
WEBDE	www.express.co.uk	No					
WEBDT	www.telegraph.co.uk	Yes					
WEBG	www.guardian.co.uk	Yes					
WEBDMI	www.mirror.co.uk	No					
WEBMS	www.mailonsunday.co.uk	No					
WEBI	www.independent.co.uk	Yes					
<b>Total number of websites scraped</b>		<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	

**Client Monthly Payment to Licensee (net of VAT) - £**

(note - API client service price should be recorded as zero)

### **Service Schedule 3**

#### **Wholesale Distribution – Supply of Scraped Content to Internal Service Providers**

##### **Part A: Service Description**

The Licensee delivers full text of Scraped Content as an XML data service to an Internal Service Provider and the Internal Service Provider then distributes Relevant Content to Permitted Users (as provided under an NLA End User Licence Agreement) for internal management use only.

##### **Part B: Additional Licence Terms**

All Clients licensed under this Service Schedule must be Internal Service Providers (that is excluding Distributors and Consumer Service Providers).

All Internal Service Providers receiving Scraped Content must hold their own Web Database Licence and NLA End User Licence Agreement.

The Licensee must ensure that Scraped Content is made available to End Users within 72 hours of publication by the relevant Publisher on its website.

Provision of Scraped Content to Internal Service Providers is subject to individual Publisher approval and the NLA shall use commercially reasonable endeavours to procure such approval. The NLA shall notify the Licensee as soon as is reasonably possible after being notified that a Internal Service Provider is being licensed as to whether any Publisher has withdrawn consent for the provision of its Publisher Content to such Internal Service Provider and Licensee shall cease delivering such Scraped Content or providing API access to such Scraped Content to the relevant Internal Service Provider with immediate effect if it receives such notification. Licensee shall include in its agreements with Internal Service Providers terms to this effect. Licensee shall have no claim against the NLA or the Publisher arising from the withdrawal of consent.

The terms in this Part B shall be in addition to the Terms and Conditions which shall also apply to all use of the Publisher Content.

##### **Part C: Service Fees**

The Licensee shall pay the NLA a sum equivalent to 5% (five percent) of all fees payable to the Licensee from each Internal Service Provider to whom it provides Scraped Content or £3,000 per Internal Service Provider per Year whichever is the greater.

Unless the parties have previously discussed and agreed an appropriate adjustment to the Service Fees, all fees payable by Clients to the Licensee for the Licensed Service must be negotiated on an arms-length commercial basis (for example, without limitation, the Licensed Service may not be used as a loss-leader or be discounted based on the purchase of other services or otherwise be priced so as to artificially reduce the fees payable for the Licensed Service).

## Part D: Reporting

### NLA MONTHLY RETURN

This form is for the recording and submission to NLA of the names of websites Scraped to provide Scraped Content to End Users. The form must be submitted monthly in the form of an Excel Spread sheet or such other form as may be agreed between the parties as provided in Clause 3.4 of the Licence.

Licensee Name

From Date:

To Date:

No. of Clients:

### WEBSITES IN THE NLA REPERTOIRE

Title Code	Website	e.g. ABC PCA	Client Name	Client Name	Client Name	Client Name	TOTAL
WEBDS	www.dailystar.co.uk	No					
WEBO	observer-guardian.co.uk	Yes					
WEBDM	www.dailymail.co.uk	No					
WEBDE	www.express.co.uk	No					
WEBDT	www.telegraph.co.uk	Yes					
WEBG	www.guardian.co.uk	Yes					
WEBDMI	www.mirror.co.uk	No					
WEBMS	www.mailonsunday.co.uk	No					
WEBI	www.independent.co.uk	Yes					
<b>Total number of websites scraped</b>		<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Client Monthly Payment to Licensee (net of VAT) - £</b>							

## **Service Schedule 4**

### **Retail distribution – Supply of Search Access to End User(s)**

#### **Part A: Service Description**

The Licensee for a fee licenses an End User for its Permitted Users to search the copy of the Scraped Content held by Licensee in its local server to search for Relevant Content. The results of the Permitted User's search are to be provided to the Permitted User in the form of Links plus Text Extracts.

Licensee may only provide up to a maximum of 100 (one hundred) days of Scraped Content for search purposes and the defined Viewing Period shall be amended accordingly.

#### **Part B: Additional Licence Terms**

The Licensee must ensure that each Permitted User at the End User has a unique username and password.

Permitted Users are only to be licensed to use the Publisher Content for their own internal use and not for systematic distribution to other employees of the End User except as permitted under an NLA End User Licence Agreement as set out below.

Licensee must ensure each End User has a valid NLA End User Licence Agreement in the form of either:

- a. a Web Content End User Licensing Agreement (WCEULA); or
- b. a Standard NLA End User Licence including Web Content licence with Search Access Addendum.

Licensee may offer to its prospective clients a trial of this Service as provided in clause 2.8 of the agreement.

The terms in this Part B shall be in addition to the Terms and Conditions which shall also apply to all use of the Publisher Content.

#### **Part C: Service Fees**

No charge to Licensee.

The fee tariff that the NLA intends to put into place for End Users is as set out in the relevant NLA price list from time to time.

## Part D: Reporting

### NLA MONTHLY RETURN -

This form is for the recording and submission to NLA of all web links under the NLA's Web Database Licence. The form should be submitted monthly by 7th day of the following month and submitted electronically in the form of an Excel spreadsheet or such other form as may be agreed between the parties.

Licensee Name

From Date:

To Date:

No. of Clients:

### WEBSITES IN THE NLA REPERTOIRE

Title Code	Website	e.g. ABC Bank	NO. OF LINKS SUPPLIED				
			Client Name	Client Name	Client Name	Client Name	
WEBDS	www.dailystar.co.uk						
WEBO	observer-guardian.co.uk						
WEBDM	www.dailymail.co.uk						
WEBDE	www.express.co.uk						
WEBDT	www.telegraph.co.uk						
WEBG	www.guardian.co.uk						
WEBDMI	www.mirror.co.uk						
WEBMS	www.mailonsunday.co.uk						
WEBI	www.independent.co.uk						
<b>Total Links supplied</b>							<b>89</b>

## **Service Schedule5**

### **Retail Distribution – Supply of Alerts Service to End User(s)**

#### **Part A: Service Description**

The Licensee for a fee searches for Relevant Content for End User(s) and sends alerts to such Relevant Content in the form of Links plus Text Extracts.

#### **Part B: Additional Licence Terms**

The Licensee must ensure that each Permitted User at the End User has a unique username and password.

The Licensee must ensure each End User has a valid NLA End User Licence Agreement in the form of either:

- a Web Content End User Licensing Agreement (WCEULA) or
- a Standard NLA End User Licence including Web Content licence.

The Licensee must ensure that Links plus Text Extracts are first made available to End Users within 72 hours of publication by the relevant Publisher on its website.

Licensee may offer to its prospective clients a trial of this Service as provided in clause 2.8 of the agreement.

The terms in this Part B shall be in addition to the Terms and Conditions which shall also apply to all use of the Publisher Content.

#### **Part C: Service Fees**

- a. Where the End User has an existing NLA Standard Agreement and the Licensee has elected to pay the variable rate the Licensee shall pay for the first Link plus Text Extract sent to such End-User at a rate of 5p per Link.
- b. Where the End User only has a WCEULA and the Licensee has elected to pay the variable rate the Licensee shall pay for the first Link plus Text Extract sent to such End User at a rate of 7.5p per Link.

The fee tariff that the NLA intends to put into place for its End Users is as set out in the relevant NLA price list from time to time.

As provided in Clause 5.8 of the agreement the Licensee may elect to collect the fixed fees from the End User on behalf of the NLA.

## Part D: Reporting

### NLA MONTHLY RETURN - ELECTRONIC WEB LINKS

This form is for the recording and submission to NLA of all web links under the NLA's Web Database Licence. The form should be submitted monthly by 7th day of the following month and submitted electronically in the form of an Excel spreadsheet or such other form as may be agreed between the parties.

Licensee Name

From Date:

To Date:

No. of Clients:

### WEBSITES IN THE NLA REPERTOIRE

Title Code	Website	e.g. ABC Bank	NO. OF LINKS SUPPLIED				TOTAL
			Client Name	Client Name	Client Name	Client Name	
WEBDS	www.dailystar.co.uk	0					0
WEBO	observer-guardian.co.uk	15					15
WEBDM	www.dailymail.co.uk	6					6
WEBDE	www.express.co.uk	5					5
WEBDT	www.telegraph.co.uk	22					22
WEBG	www.guardian.co.uk	19					19
WEBDMI	www.mirror.co.uk	2					2
WEBMS	www.mailonsunday.co.uk	4					4
WEBI	www.independent.co.uk	16					16
							0
<b>Total Links supplied</b>		<b>89</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>89</b>
<b>Total no. of Permitted Users</b>		<b>12</b>					<b>12</b>
<b>Type of Licence: NLA End User of WCEULA</b>		<b>WCEULA</b>					
<b>Method of payment: Variable or Fixed</b>		<b>Fixed</b>					