1. Parties, Acceptance, Master Terms for all Products

This Agreement is between the institution named below, as licensee ("Customer") and NewsBank, Inc., a Delaware corporation having its principal place of business at 4501 Tamiami Trail North, Suite 316, Naples, Florida 34103 ("NewsBank"), as licensor. This Agreement shall become effective the earlier of (a) when NewsBank receives a copy of this Agreement signed by Customer, or (b) when Customer accepts delivery of any NewsBank Product (the “Effective Date”). For purposes of this Agreement, delivery includes either shipment of physical goods or access by electronic means.

The terms of this Agreement shall apply to all NewsBank database products subscribed to by Customer from time to time (the “Product” or “Products”). For each Product subscribed to by Customer, there will be a corresponding NewsBank order confirmation, invoice, quotation or other similar document (a “Subscription Form”) setting forth certain additional terms specific to that Product (identification of Product, price, payment terms, whether remote use is authorized, number of concurrent users or number of downloads allowed, subscription period, etc.), but the terms of this Agreement shall continue to apply. In the event of conflict between the terms of any Subscription Form and the terms of this Agreement, this Agreement shall govern.

2. Products

The Products subject to this Agreement consists of (1) the NewsBank database(s) subscribed to by Customer from time to time and (2) software provided by NewsBank to Customer to search for and retrieve data from the database(s). NewsBank may provide the Products via the Internet or remote online access through a proprietary network and/or such other media as may be available and responsibly acceptable to Customer and NewsBank.

3. License

   a. NewsBank grants to Customer and to Customers' Authorized Users, defined herein as limited to library staff, faculty, and patrons/students of the Customer's institution or organization as well as other users of the Customer's on-site computer facilities (walk-in users), on the terms set forth in this Agreement and any Subscription Form(s), a non-exclusive, non-assignable, concurrent-use license to use each Product at the licensed site(s) identified in the Subscription Form applicable to such Product (the "Licensed Site") solely for non-commercial academic, educational and research purposes. Customer understands and acknowledges that all use is subject, after reasonable notice, to restrictions and disclaimers that NewsBank or its suppliers publish, from time to time.

   b. The licensed use of the Products consists of access, search, retrieval, viewing, printing, and downloading for non-commercial academic, educational and research purposes. Printing and downloading are limited to insubstantial portions of the data, for temporary storage.

   c. Customer will take reasonable steps to ensure that only Customer's Authorized Users use the Products, and that Customer’s Authorized Users do so in accordance with this Agreement.
d. Portions of this Agreement relevant to Authorized Users may appear in the form of “Terms and Conditions of Use” on or in the Products.

4. Express Restrictions

a. On-Site Use: Customer may make each Product available for authorized use at the Licensed Site over a computer network to the number of concurrent users or number of downloads listed in the Subscription Form for the relevant Product.

b. Remote Use: Customer, if granted a remote-use license, defined in the Subscription Form for the relevant Product, may make such Products available to Customer’s Authorized Users who are not at the Licensed Site; provided that such availability is limited to non-commercial academic, educational and research use by the number of concurrent users or number of downloads set forth in the Subscription Form(s) for the relevant Product(s), and is further subject to the following conditions:

   i. Authorized Users must access the Products only through the server or network located at the Licensed Site and Customer's server or network must have adequate security to allow access to the remote access account setup by NewsBank only by Authorized Users.

   OR

   ii. Users must access the Products only through user authentication programs supplied to Customer by NewsBank.

In no event may Remote Access be used to avoid the need for another school, library, or other potential similar customer from subscribing to a Product. If NewsBank reasonably determines that Remote Access activities hereunder may be impairing NewsBank's ability to make sales of the Product or other NewsBank products to other customers, NewsBank may require such Remote Access activity to be modified or terminated, either entirely or with respect to the Customer's Authorized User(s) whose activity is impairing NewsBank's business.

c. Without limiting any other restriction on use set forth in this Agreement, the following limitations apply to make sure that all use is for non-commercial academic, educational and research purposes and will not impair NewsBank’s ability to market its products to additional customers:

   i. In the event Customer is a non-school library, any permitted remote access is limited to use by individuals through personal computers at home for their own convenience and specifically excludes patrons who access the Products through a school, school library, corporation, business or other organization. Customer is specifically prohibited from granting any remote access to any school, school library, corporation, business or other organization.

   ii. Customer shall not provide any material from any Product to fulfill an interlibrary loan request from another library or organization.

5. Intellectual Property

a. Customer acknowledges that the Products consist of materials copyrighted by third parties and containing trademarks owned by third parties, and that NewsBank owns the
copyright of the compilations of these materials. Customer acknowledges that its use of the Products, including use by Customer's Authorized Users, must not infringe the rights of NewsBank or of any third parties.

b. Consistent with the fair-use provisions of the Copyright Act of the United States, Customer and Customer's Authorized Users will reproduce or store, and allow to be reproduced or stored, only insubstantial portions of the Products, resulting from specific searches for Customer's and/or Authorized Users’ own non-commercial academic, educational and research purposes. Customer and Customer's Authorized Users will not store or use, or allow to be stored or used, any portion of the Products in a searchable database without written permission of NewsBank.

6. Warranty, Liability, Indemnity

a. NewsBank does not warrant that use of the Products will be uninterrupted or error-free.

b. As a provider of data supplied by others, NewsBank does not warrant the accuracy or completeness of the Products, or results obtained by using them. NewsBank disclaims liability for any offensive, defamatory, or infringing materials in the Products.

c. Customer will take reasonable steps to ensure that Customer's Authorized Users will use the Products according to the terms of this Agreement, and that they will not bypass, or attempt to defeat, NewsBank's or Customer's security measures preventing unauthorized use of the Products.

d. To the extent allowed by law, the Customer shall indemnify NewsBank against any claims or losses, including reasonable attorneys’ fees, arising in whole or in part from any violation by the Customer of subparagraph 6.c.

e. NEWSBANK DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

f. To the extent allowed by law, neither NewsBank nor its suppliers will be liable for consequential or punitive damages, even if notified of their possibility.

7. Term and Termination

This Agreement will be in effect as of the Effective Date and continue to be in effect during each initial Product subscription period and any subsequent Product subscription renewal periods. Renewal subscriptions are subject to the mutual consent of both parties. Customer may not sell or otherwise transfer ownership of any physical media in which any Product may be delivered. NewsBank may terminate this Agreement for breach on thirty business days' notice.

8. Disputes

a. This document, including any Subscription Form(s), is the entire Agreement between Customer and NewsBank. With the exception of changes made to the Subscription Form(s), this Agreement may be modified only in writing, signed by both parties. A party's failure to exercise a right under this Agreement will not waive its other rights.
Any provision found to be unenforceable will be construed for maximum effect, and will not impair the other provisions.

b. Disputes will be subject to Connecticut law (without giving effect to its choice-of-law provisions). The parties mutually agree that all disputes between them will be decided exclusively in the state and/or federal courts of Connecticut. Customer commits to personal jurisdiction in Connecticut and will accept service of process of any complaint by certified United States postal mail or its domestic or foreign equivalent.

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