



## NewsBank License Agreement

### 1. Parties, Acceptance, Master Terms for all Products

This License Agreement ("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, purchase agreement 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. The terms of any document issued by Customer inconsistent with the terms of this Agreement are rejected, unless expressly agreed to by NewsBank in writing.

### 2. Products

The Products subject to this Agreement consists of (1) the NewsBank database(s) subscribed to by Customer from time to time including any trial access 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. Customer and Customers' Authorized Users are licensed to use the Products solely for 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. All other use is prohibited. The removal or altering of any copyright or other notices within the Product or using any

portion of Product for purposes of manual, automated or other machine-assisted indexing or classification of other publications is prohibited. The transmission of Content, as defined under Section 5a, (including, but not limited to, by way of e-mail, facsimile or other electronic means) is prohibited unless such transmission is between Authorized Users. Except as expressly provided for in this Agreement, you may not modify, publish, transmit (including, but not limited to, by way of e-mail, facsimile or other electronic means), display, participate in the transfer or sale of, create derivative works based on, or in any other way exploit any of the Content, in whole or in part without the prior written consent of NewsBank and (if applicable) its respective content providers.

- 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. The Product contains copyrighted material, trademarks and other proprietary information owned by NewsBank and its content providers, including without limitation, compilations, text, software, photographs, video, graphics, trademarks, service marks, logos, designs, and music and sound (the "Content"), and such Content is protected under U.S. copyright laws, U.S. trademark laws, and other intellectual property laws as well as international copyright and trademark laws and treaties. 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 are licensed to reproduce or store 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 and (if applicable) its respective content providers. Nothing contained herein shall be construed as granting the Customer and its Authorized Users or any third party any interest in or to the Product or Content. All rights in and to the Product and Content are expressly reserved by NewsBank and/or NewsBank's respective content providers.

## **6. Warranty, Liability, Indemnity**

- a. NewsBank and its respective content providers do not warrant that use of the Products will be uninterrupted or error-free
- b. NewsBank and its content providers do 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.


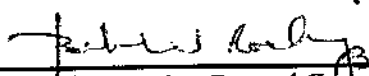
- d. Each party shall be responsible to the other party for claims or losses, including reasonable attorneys' fees, arising from their own negligent acts or willful acts of misconduct or from a breach of their representations and warranties made under this Agreement, to the extent of such parties liability as determined by a court of law.
- e. NEWSBANK AND ITS CONTENT PROVIDERS DISCLAIM ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Notwithstanding the foregoing, NewsBank warrants that the Product will conform to its advertised characteristics.
- f. To the extent allowed by law, neither NewsBank nor its content providers will be liable for consequential or punitive damages, even if notified of their possibility.
- g. NewsBank warrants that it has the authority to enter into this Agreement and to grant the licenses made under this Agreement. Provided that Customer shall have complied with all of the provisions of this Agreement, NewsBank will defend, indemnify and hold Customer harmless from any action based on a claim that Customer's use of the Product, in accordance with this Agreement, infringes any patent, copyright or trade secrets of any third party. NewsBank shall have the right to (a) receive prompt notice of all claims in writing, (b) control the defense of any such claim through counsel of its own selection, and (c) settle the claim at its own discretion. Customer shall cooperate in such defense and settlement and may participate in such defense at its own expense.

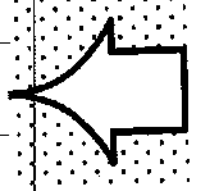
## 7. Term and Termination

This Agreement will be in effect as of the Effective Date and continue to be in effect for each Product trial and/or subscription period mutually agreed to by the parties for that Product. Customer may not sell or otherwise transfer ownership of any physical media in which any Product may be delivered. Either party may terminate this Agreement for material breach if such breach is not cured within thirty (30) business days following the other party's receipt of written notification of such breach.

## 8. Disputes

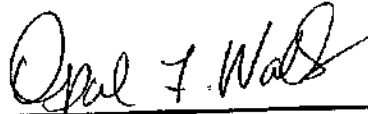
- a. This document, including any Subscription Form(s), is the entire Agreement between the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written. With the exception of changes made to the Subscription Form(s), this 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. Each third party content provider of Content has the right to assert and enforce these provisions directly on its own behalf as a third party beneficiary.
- b. Disputes will be subject to Illinois law (without giving effect to its choice-of-law provisions). Customer will accept service of process of any complaint by certified United States postal mail or its domestic or foreign equivalent.

<p>NewsBank, inc.</p> <p>Authorized by:</p> <p>NewsBank Employee: <u>John McDowell</u></p> <p>Employee Title: <u>Senior Vice President</u></p> <p>Employee Signature: <u></u></p> <p>Date: <u>8/25/10</u></p>	<p>NewsBank Customer</p> <p>Institution: Board of Education of the City of Chicago, a body politic and corporate, on behalf of Chicago Public Schools <u>LS/Jan</u></p> <p>Authorized by:</p> <p>N Approved as to Legal form: <u>Jan</u></p> <p>1 <u></u></p> <p>5 Patrick J. Rocks, General Counsel</p> <p>Date: _____</p>
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CPOR: 10-0528-CPOR-1261

  
 Opal Walls, Chief Purchasing Officer  
 10/19/10

**SUBSCRIPTION TERMS AGREEMENT  
BETWEEN  
NEWSBANK, INC. ("NEWSBANK")  
AND  
BOARD OF EDUCATION OF THE CITY OF CHICAGO ("LICENSEE")**

This Subscription Terms Agreement ("Agreement") between NEWSBANK and LICENSEE is for the procurement of on-line research materials subscriptions as noted herein.

1. **Contracting Party:** It is understood and agreed that the LICENSEE is the Board of Education of the City of Chicago, a body politic and corporate, on behalf of Chicago Public Schools.

2. **Term:** The subscription term under this Agreement shall be from July 1, 2010 through June 30, 2011 ("Term") pursuant to NEWSBANK's Renewal Notice #RN615861. LICENSEE shall be permitted to use and access the Licensed Content, as defined below, for the entire duration of the twelve-month period in accordance with the terms and conditions of the NewsBank License Agreement entered into between the parties (the "License Agreement"). *The total maximum compensation ("Total Maximum Compensation") payable to NEWSBANK for use of the Licensed Content, for the Term of the Agreement, shall not exceed Thirty Five Thousand One Hundred Dollars and 00/100 (\$35,100.00).*

3. **Early Termination Rights:** LICENSEE shall have the right to terminate this Agreement for any reason whatsoever upon thirty (30) calendar day's written notice to the other party. Such notice shall comply with the notice provision herein. The effective date of termination will be the date the notice is received by NEWSBANK or the date stated in the notice, whichever is later. Notwithstanding the foregoing, NEWSBANK shall not be required to issue any refunds or credits for any subscription fee(s) paid to NEWSBANK, except for in the event of termination due to a material breach by NEWSBANK that is not cured within a minimum curing period of 30 days.

4. **Licensed Content or Product:** Under this Agreement, NEWSBANK will provide Chicago Public School ("CPS") students with online access to the following resources (the "Licensed Content" or "Product"):

- NewsBank Tool Kit
- Chicago Tribune Historical Archive
- America's Newspapers by NewsBank
  - Online Training
  - Special Reports and News

Content is updated on an ongoing basis. Please note the following additional licensing terms with regard to use of the Products under this Agreement:

- Number of Concurrent/Simultaneous Users: Unlimited
- Number of Downloads: Unlimited
- Remote Use: Remote use is permitted for all newspaper titles for which the publisher has granted such use.

5. **Board Not Subject To Taxes:** LICENSEE warrants and represents that Federal excise tax does not apply to the LICENSEE by virtue of Exemption Certificate No. 36-600584; and State of Illinois Tax does not apply by virtue of Exemption Identification No. E9997-7109-04 to Chicago School District #299, Board of Education of Chicago, Illinois. The amounts to be paid to NEWSBANK hereunder shall not include such taxes and LICENSEE shall provide tax exempt certificates upon request.

6. **Compliance with Laws:** NEWSBANK is and will remain in compliance with all applicable local, state and federal laws, ordinances, regulations and statutes relating to this Agreement and the performance of the services to be rendered including but not limited to the Prevailing Wage Act, 820 ILCS 130/1 et. seq., Drug-Free Workplace and those relating to non-discrimination. Each party to this Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Board of Education of the City of Chicago has the authority to conduct certain investigations and that the Inspector General shall have access to all reasonable information and personnel necessary to conduct those investigations.

7. **Freedom of Information Act.** NEWSBANK acknowledges that this Agreement and all documents submitted to the Board related to this contract award are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state and federal laws that are applicable to this Agreement and that this Agreement is subject to reporting requirements under 105 ILCS 5/10-20.44. *NEWSBANK further acknowledges that this Agreement shall be posted on the Board's Internet website.*

8. **Board Members Excluded:** Except for the violation of copyright law committed by such individual, NEWSBANK agrees that no board member, employee, agent, officer or official of the LICENSEE will be personally charged by NEWSBANK with any liability or expense under this Agreement, or be held personally liable under this Agreement to NEWSBANK.

9. **Invoices:** All invoices shall be sent to the following address:

Board of Education of the City of Chicago  
Office of Library Services  
1326 West 14<sup>th</sup> Place, Room 218  
Chicago, Illinois 60608  
Attn: Jeremy Dunn, Director

10. **Legal Notices:** All notices required or desired under this Agreement shall be in writing and shall be sent (i) via registered or certified mail return receipt requested, or (ii) by an overnight courier service that provides proof of delivery. All legal notices to the LICENSEE shall be at the address in Paragraph 9 above. All legal notices to NEWSBANK shall be sent to:

NewsBank, inc.  
Attn: Scott Sawyer  
4501 Tamiami Trail North, Suite 316  
Naples, FL 34103

A notice shall be deemed to have been given when received by the party at such address, or to such other addresses as may be designated by a party in writing. In addition, copies of any legal notices sent to the LICENSEE shall be sent to:

Patrick J. Rocks, General Counsel  
The Board of Education of the City of Chicago  
Law Department – 7<sup>th</sup> Floor  
125 South Clark Street  
Chicago, IL 60603  
Fax: 773-553-1701

IN WITNESS WHEREOF, the parties have set their hands and seals as of the \_\_\_ day of \_\_\_\_\_, 2010.

**BOARD OF EDUCATION OF THE CITY  
OF CHICAGO**

**NEWSBANK, INC.**

By: Opal F. Walls 10/19/10  
Opal Walls, Chief Purchasing Officer

By: [Signature]  
Name: John McDowell  
Title: Senior Vice President

CPOR: 10-0528-CPOR-~~126~~ **1262**

Approved as to Legal Form: [Signature]

[Signature]  
Patrick J. Rocks, General Counsel

