

ECLIPS WEB DATABASE LICENCE

TERM SHEET

NLA	NLA MEDIA ACCESS LIMITED , a company registered in England with registered number 03003569 whose registered office is at Mount Pleasant House, Lonsdale Gardens, Tunbridge Wells, Kent, TN1 1HJ. NLA contact: Bob Johns (bjohns@nla.co.uk)
Licensee	
Licence Commencement Date	

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

Signed: _____
For and on behalf of
NLA MEDIA ACCESS LIMITED

Print Name: _____

Title: _____

Date: _____

Signed: _____
For and on behalf of
LICENSEE

Print Name: _____

Title: _____

Date: _____

1 DEFINITIONS AND INTERPRETATION

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:

"Approval Process" means the process for approving End Users and prospective Clients for use of the eClips Web Database Service as set out in Appendix 8.

"Archive Period" means the period of 100 days from the date of publication on the Internet of the relevant Web Article.

"Client" means an entity contracted with the Licensee to receive Media Monitoring Material.

"eClips Web Core Repertoire" means the newspaper websites as set out in the 'eClips Web Content List' found at <http://blog.nla.co.uk/ecwdocs/> as 'Core Repertoire' as amended from time to time.

"eClips Web Database" means the NLA's digital database of Web Articles from newspaper websites included in the eClips Web Repertoire.

"eClips Web Database Service" means the service to be provided by the NLA as set out in this agreement and the Publisher Profiles and eClips Web API and XML Specification.

"eClips Web Repertoire" means the newspaper websites included in the eClips Web Core Repertoire, the eClips Web Premium Repertoire, and the eClips Web Supplementary Repertoire.

"eClips Web API and XML Specification" means the technical document regarding, and shall be limited to, the features, functions, best practice and limitations of the eClips Web Database Service which can be found at <http://blog.nla-eclips.com/ecwdocs/>.

"eClips Web Premium Repertoire" means the newspaper websites set out in the 'eClips Web Content List' found at <http://blog.nla.co.uk/ecwdocs/> as 'Premium Websites' as amended from time to time.

"eClips Web Supplementary Repertoire" means the newspaper websites as set out in the 'eClips Web Content List' found at <http://blog.nla.co.uk/ecwdocs/> as 'Supplementary Repertoire Packages' as amended from time to time.

"eClips Web XML Feed" means the regular feed of Web Articles supplied in a structured text format.

"End User" means a Client who has a valid NLA End User Licence Agreement in place and approved by the NLA in accordance with the Approval Process set out in Appendix 8.

"Fees" means the Database Fees and Service Fees set out in in the 'eClips Web Price List' which can be found at: <http://www.nlamediaaccess.com/default.aspx?tabid=150> and any audit fee under clause 4.10 and/or clause 5.5.

"Initial Term" means the period of one (1) year from the Licence Commencement Date.

"Link" means the uniform resource locator ('URL') provided by the NLA which links to a Web Article, including a Web Database Link.

“Media Monitoring Material” means a Link with (if any) (i) accompanying Text Extract relating to the Web Article and (ii) associated Publisher Metadata referring to the Web Article (including without limitation bylines, website name and word count).

“News UK Repertoire” means the following newspaper websites as set out in the ‘eClips Web Content List’ found at <http://blog.nla.co.uk/ecwdocs/>: [thetimes.co.uk](http://www.thetimes.co.uk); [thesundaytimes.co.uk](http://www.thesundaytimes.co.uk); [thesun.co.uk](http://www.thesun.co.uk); [thescottishsun.co.uk](http://www.thescottishsun.co.uk).

“NLA eClips 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 receipt and use of the Media Monitoring Material.

“NLA Licence” means an NLA eClips Web Database Licence and/or NLA End User Licence Agreement as applicable.

“Permitted User” means an individual who is authorised by the End User to receive Media Monitoring Material being an employee of the End User or an individual performing the function of an employee on a temporary basis, an independent contractor or consultant for as long as they are contracted to an End User.

“Publisher” means each publisher of those newspaper websites which form part of the eClips Web Repertoire.

“Publisher Metadata” means data derived from the eClips Web Database which describes Web Articles (including without limitation headlines, bylines, website name) but which does not contain any body text.

“Publisher Profiles” means documentation regarding and shall be limited to the coverage and specific exclusions for each website in the eClips Web Repertoire and any instructions regarding the use of an individual website’s content which are not general to all which can be found at <http://blog.nla.co.uk/ecwdocs/>. **“Service Levels”** means the service levels and obligations, including the key performance indicators set out in Appendix 6.

“Summary” means a summary of any Web Article(s), other than in the form of a Text Extract.

“Text Extract” means a headline and/or a direct text extract of together no more than 256 characters (excluding spaces) from any Web Article.

“Web Article” means an article, report or other item (as further described in Appendix 1) in PDF form originating from any website which forms part of the eClips Web Repertoire.

“Web Database Link” means a Link which takes the Permitted User directly to the copy of the Web Article held in the eClips Web Database (or, as provided in clause 2.2 the secure database hosted by the Licensee).

“Year” means each 12 month period following the Licence Commencement Date.

2 RIGHTS GRANTED

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 shall make available to the Licensee the eClips Web Database Service and hereby grants the Licensee a non-exclusive, non-transferable licence to:

2.1.1 receive from the NLA the eClips Web XML Feed for the eClips Web Core Repertoire and such of the eClips Web Premium Repertoire and eClips Web Supplementary Repertoire as the Licensee

- has elected to include in its licence and use computer search software for the purpose of searching the eClips Web XML Feed to select Web Articles for its End Users;
- 2.1.2 access the eClips Web Database for the purpose of searching for, viewing and selecting Web Articles on behalf of End Users;
 - 2.1.3 save searches and to create Text Extracts and Links;
 - 2.1.4 make Links plus Text Extracts available to End Users noting that access to the eClips Web Database via the Links is limited to the Archive Period and controlled using individual usernames and passwords (in accordance with the Authentication Specification set out in Appendix 3 and Approval Process set out in Appendix 8) for each Permitted User and Permitted Users are themselves prevented from undertaking any search of the eClips Web Database and /or the eClips Web XML Feed other than to interrogate Publisher Metadata to sort and filter Web Articles and search headlines. The Licensee must ensure that Links plus Text Extracts are first made available to End Users within 72 hours of publication of the Web Article on the relevant website;
 - 2.1.5 provided the Licensee holds a licence to create and deliver to End Users paper copies of Web Articles, use the Web Articles sourced from the eClips Web Database (including Web Articles from the News UK Repertoire) for the purpose of making a paper copy;
 - 2.1.6 use the name of the Publisher for the purpose of identifying that Publisher in the provision of Media Monitoring Material.
- 2.2 During the Archive Period the Licensee may save copies of Web Articles sourced from the eClips Web Database (but excluding any Web Articles from the News UK Repertoire and any other websites that the NLA may advise the Licensee in writing are excluded from the provisions of this clause 2.2) in a secure database hosted by the Licensee and provide Permitted Users with Links and Text Extracts to such copy as part of its media monitoring services to its End Users (including commingling Web Articles with other content and keyword highlighting) provided that:
- 2.2.1 access is controlled using individual usernames and passwords (in accordance with the Authentication Specification set out in Appendix 3);
 - 2.2.2 Permitted Users are themselves prevented from undertaking any search of the copies of Web Articles held on the Licensee's secure database (which for the avoidance of doubt does not prevent searches of Publisher Metadata to sort and filter Web Articles and search headlines, or XML (but excluding any Publisher Metadata or XML from the News UK Repertoire and any other websites that the NLA may advise the Licensee in writing are excluded from the provisions of this clause 2.2.2) where the End User has included Search Access rights in its NLA End User Licence Agreement provided that results of the Permitted User's search are provided to the Permitted User in the form of Media Monitoring Material;
 - 2.2.3 the NLA reserves the right from time to time to introduce additional reasonable security and authentication requirements for the exercise of the rights granted in this clause 2.2. The NLA shall endeavour to give the Licensee 120 day's written notice of any additional security and authentication requirements unless there are good commercial reasons for a lesser notice period. If so requested by the Licensee in writing, the NLA shall consult with the Licensee about any proposed additional requirements;
 - 2.2.4 the NLA may serve not less than 120 days' notice on the Licensee to withdraw this right.
- 2.3 In exercising its rights under clauses 2.1.5 and 2.2 the Licensee shall be entitled to rebuild Web Articles only so as to be able to present them in a format consistent with the other content which it provides and also to serve such rebuilt Web Articles from the Licensee's secure, password protected servers, provided that the Licensee does not alter any of the content of

the article (including without limitation the headlines, bylines and body text) and includes with them a copyright message and publisher attribution in a form as approved by the NLA.

- 2.4 For the avoidance of doubt, nothing in this agreement shall prejudice any rights granted by the NLA or any Publisher to the Licensee under separate agreement.
- 2.5 In respect of prospective Clients, the Licensee may subject always to the terms and conditions of this agreement (including without limitation notification to the NLA in accordance with the Approval Process set out in Appendix 8) send Media Monitoring Material as part of a trial service for a period of up to 30 days no more than once in any 12 month period for each prospective Client. It is agreed that in respect of prospective Clients that do not already have an NLA Licence the NLA shall not itself contact such prospective Clients during the period of the trial but at the end of the 30 day trial period the NLA shall advise the Licensee as to whether or not such prospective Client has entered into an appropriate NLA Licence. If the prospective Client has not entered into an appropriate NLA Licence the Licensee may continue to provide the trial service to such prospective Client for a further 30 days from expiry of the initial 30 day trial period, during which time the Licensee shall notify the prospective Client of the requirement to have its own NLA Licence in place and any other licence as may be required directly with the relevant publisher of the Media Monitoring Material. At the expiry of 60 days from the commencement of the trial the Licensee shall cease providing the trial of the Licensed Service to the prospective Client (whether or not the prospective Client has entered into an appropriate NLA Licence). 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.
- 2.6 It is agreed that the employees of the Licensee may make reasonable use of the eClips Web Database for the purposes of demonstrating to Clients (and prospective Clients) and for internal testing and development only. If the Licensee wishes to provide Media Monitoring Material to its employees then this shall be subject to the Licensee taking out an appropriate NLA End User Licence agreement.
- 2.7 The NLA shall provide the eClips Web Database Service to the Licensee and shall do so using all reasonable care and skill and in accordance with the Service Levels in Appendix 6.
- 2.8 The NLA reserves the right to alter the form, function, facilities and/or content of the eClips Web Database Service from time to time. Except where there are good commercial reasons for a shorter notice period the NLA shall endeavour to provide 120 days' notice to the Licensee of any such changes. If so requested by the Licensee in writing the NLA shall consult with the Licensee about the proposed amendments. The Service Levels as set out in Appendix 6 shall continue to apply to any such alterations. This clause 2.8 shall not take precedence over the provisions in clause 4.2, Appendix 1 or Appendix 6 relating to alterations in the eClips Web Database Service.

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 Web Articles, the eClips Web XML Feed or the eClips Web Database or Text Extracts other than expressly licensed in clause 2 of this agreement. In particular but without limitation, the Licensee shall not (except as expressly set out in this agreement or any other agreement between the NLA and the Licensee and/or except to the extent that such acts do not constitute infringement of intellectual property rights):
- 3.1.1 republish or re-utilise Web Articles, the eClips Web XML Feed, or Text Extracts;
- 3.1.2 copy, modify, adapt, archive or create extracts of any Web Articles, eClips Web XML Feed or Text Extracts;

- 3.1.3 supply to any third parties any copies of the Web Articles, or Text Extracts;
- 3.1.4 supply to any Client, End User or any other third party copies of part or whole of the eClips Web XML Feed;
- 3.1.5 store in digital or any other non-paper based format any Web Articles, eClips Web XML Feed or Text Extracts;
- 3.1.6 remove, alter or conceal any copyright or trade mark notices from any Web Articles, eClips Web XML Feed or Text Extracts; or
- 3.1.7 make any summaries of Web Articles (other than in the form of Text Extracts) by automatic means.
- 3.2 The Licensee acknowledges that on occasion one or more Publishers may need to remove certain 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 any material held by the Licensee any Web Articles (or part of such Web Articles) 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 material is not removed as set out above, the 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 Web Articles, the eClips Web XML Feed, the Text Extracts and the Publisher Metadata are owned by the relevant publisher.
- 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 Appendix 7.
- 3.5 The Licensee may store any Publisher Metadata sent by the NLA provided it shall only use such Publisher Metadata:
 - 3.5.1 for internal indexing or digital rights management;
 - 3.5.2 for 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 otherwise 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 the NLA may reasonably require from time to time.
- 3.6 The Licensee shall not:
 - 3.6.1 deliver any Web Articles, eClips Web XML Feed, Text Extract or Publisher Metadata to any End User who may be reasonably expected to distribute such Web Articles, eClips Web XML Feed, Text Extract or Publisher Metadata outside of its own organisation;
 - 3.6.2 authorise, incite or encourage Clients or prospective Clients to reproduce any Web Articles otherwise than as permitted by an NLA Licence or by law.

3.7 This agreement does not confer on the Licensee any rights whatsoever in respect of Summaries.

4 LICENSEE OBLIGATIONS

4.1 The Licensee confirms that it has read the Publisher Profiles and eClips Web API and XML Specification and shall adhere to all obligations and restrictions as set out in such documentation.

4.2 The NLA reserves the right to amend the Publisher Profiles and eClips Web API and XML Specification from time to time. The NLA shall give 120 days' notice of any such amendments unless there are good reasons for a lesser notice period. If so requested by the Licensee in writing the NLA shall consult with the Licensee regarding such proposed amendments.

4.3 The Licensee must ensure that each Permitted User at the End User has a unique username and password and include in its agreements with End Users that such usernames and passwords may not be shared.

4.4 The Licensee shall comply with the Approval Process set out in Appendix 8 hereto prior to first sending Media Monitoring Material to End Users and prospective Clients.

4.5 On expiry of the Archive Period the Licensee must delete from its systems copies of the Web Articles.

4.6 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 Publisher as described in Appendix 1. In particular, the Licensee shall, prior to delivering Relevant Content to a prospective Client and not less than once in every calendar year in the case of all the Licensee's End Users send a letter or email substantially in the form of Appendix 4.

4.7 The Licensee will use all reasonable endeavours to prevent unauthorised use of the Web Articles, the eClips XML Feed, the Publisher Metadata or the eClips Web Database. If the Licensee believes that there has been any breach of security, the Licensee must notify the NLA immediately.

4.8 If the NLA reasonably believes that the use by the Licensee of any Web Articles or the eClips XML Feed or the eClips Web Database constitutes a material breach of this agreement the NLA may upon the expiry of 7 (seven) days' notice provided to the Licensee detailing the material breach (which for the avoidance of doubt shall be given during normal business hours), suspend the rights granted to the Licensee under this agreement and, where relevant, block access by the Licensee to Web Articles or the eClips Web XML Feed or the eClips Web Database (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 material breach otherwise the NLA shall be entitled to terminate this agreement.

4.9 The NLA reserves the right at its cost to monitor use of the Web Articles and the eClips Web XML Feed and the eClips Web Database to ensure compliance with this agreement.

4.10 Where the NLA reasonably suspects that the Licensee is in material breach of this agreement or is infringing any intellectual property rights in any Web Articles or the eClips Web XML Feed or the eClips Web Database, provided it has received at least 3 (three) working days' notice from the NLA (which for the avoidance of doubt shall be given during normal business hours), the Licensee 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.

- 4.11 The responsibility for payment of the cost of such an audit shall be as follows:
- 4.12 If such audit reveals any material breach by the Licensee, its staff or members the Licensee shall pay the cost of that audit.
 - 4.12.1 If such an audit reveals an underpayment of 5% or greater of the fees payable to the NLA (in which case the Licensee shall immediately remit to the NLA the amount of such underpayment), the Licensee shall pay the cost of that audit. Any such underpayment shall for the purpose of this agreement constitute a material breach.
 - 4.12.2 In all other circumstances the NLA shall pay the cost of the audit.
- 4.13 On request by the NLA (the NLA having used all reasonable commercial endeavours to avoid having to make such request), the Licensee will immediately cease to provide any further services to any Client engaged in any unlicensed use of the Web Articles 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.
- 4.14 As a condition of 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 type of service that include Web Articles. This 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 Licence Commencement Date as provided below.
- 5.2 The NLA reserves the right to revise the Fees no more than once in every calendar year at any time by not less than one month's notice in writing. The NLA shall consult with the Licensee about any such proposed increase during a period of least two months prior to the date upon which the amendment is due to take effect.
- 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 Fees and otherwise show its compliance with the terms of this agreement. In addition to the rights under clause 4.10, independent auditors appointed by the NLA shall have the right to access the Licensee's premises during business hours on not less than one month's notice for the purpose of carrying out an audit (such audit not to be carried out more frequently than once in any 12 month period and the NLA shall use its reasonable efforts to conduct such audit at the same time as any other audits required under any other agreements between the NLA and the Licensee and to minimise the audit costs payable by the Licensee) in order to determine the accuracy of the Fees, security of the Web Articles and the eClips Web XML Feed or otherwise conduct the NLA's

statutory and internal audits. The Licensee shall be responsible for the costs of any audit under this clause (it being agreed that such audit costs shall not exceed £2,500 per annum without prior consultation with the Licensee).

- 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 the Licensee (which notice for the avoidance of doubt shall be served during normal business hours). The NLA shall not exercise this right if payment of the overdue Fees and/or End User fees is in dispute as provided in clause 5.9.
- 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 under their NLA End User Licence Agreement 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 It is agreed that if the Licensee disputes any invoice or other statement of monies due, then the Licensee shall immediately notify the NLA in writing and the parties agree to negotiate in good faith to attempt to resolve any such dispute promptly. Both the Licensee and the NLA shall provide to the other all evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the parties have not resolved the dispute within 30 days of the Licensee giving notice to the NLA, the dispute shall be resolved by the independent auditors who would otherwise perform the audit pursuant to clause 5.5 of this agreement. Where only part of the invoice is disputed the undisputed amount shall be paid on the due date.
- 5.10 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.
- 5.11 In the event that the Licensee exercises its right to terminate this agreement as provided in clause 8.1 below the NLA shall refund to the Licensee any Fees paid in advance by the Licensee which relate to the period falling after the date this agreement has been so terminated.

6 **INDEMNITY**

- 6.1 Provided that the Licensee has exercised the rights granted to it in clause 2 in accordance 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 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;
 - 7.1.2 the Licensee's obligation to pay the Fees;
- 7.2 Subject to clause 7.1, the parties shall not be liable to each 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 arising; or
 - 7.2.2 loss of profits, revenue, contracts or anticipated savings.
- 7.3 Subject to clause 7.1, 7.4 and 7.5 the aggregate liability of the NLA for any liability arising under or in connection with this agreement however arising (including by way of negligence) but not any liability of the NLA under the indemnity in clause 6.1 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) £22,500.
- 7.4 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 4.10 and 5.5 above.
- 7.5 For the avoidance of doubt it is acknowledged that the provisions of this clause 7 do not apply to any claim for Service Credits as set out in Appendix 6.

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 Archive Period shall terminate at the expiry of the 100 days from the publication date of the relevant Web Article and the Licensee shall thereafter immediately erase all copies of Web Articles, Text Extracts, and the eClips XML Feed irrespective of format; and
- 8.3.2 all rights of the Licensee to provide Media Monitoring Material to End Users and prospective Clients shall terminate except, during the relevant Archive Period, End Users may continue to access Web Articles to which Links were provided prior to the date of termination.

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 or email, 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 (and for the avoidance of doubt all information relating to the Licensee's Clients shall comprise proprietary or confidential information) ("**Confidential Information**") obtained from the other party.
- 10.2 The NLA undertakes not to use or permit the use of Confidential Information for any promotional, competitive or commercial activity whatsoever save that the NLA shall be entitled to use the information for the purposes of carrying out its normal licensing activities in relation to the Licensee's Clients, which normal licensing activities shall, for the avoidance of doubt, not include the provision by the NLA of any data feed services.
- 10.3 These obligations of confidentiality will not apply:
- 10.3.1 where the information is within the public domain (otherwise than as a result of a breach of this clause);
- 10.3.2 where use or disclosure of the information is required by law or by the regulations of a recognised stock exchange or pursuant to any judicial or government request, requirement or order;
- 10.3.3 where the information was in the possession of the NLA prior to its disclosure by the Licensee or is subsequently acquired from a third party without any obligation of confidence; nor
- 10.3.4 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 for the benefit of the Licensee to provide that they shall not use any Confidential Information disclosed to them for the purposes of competing with the Licensee, nor disclose the same to any third party other than to their professional advisers or in the circumstances described in clauses 10.3.1. and 10.3.2 or those described in 10.3.3 where the information was in the possession of the Publishers. Without prejudice to the foregoing the NLA recognises 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 Web Articles sent to individual End-Users.

- 10.4 Where the Licensee reasonably suspects that the NLA has used or is using any Confidential Information in material breach of clause 10.2:
- 10.4.1 The Licensee shall have the right to inspect the NLA's records
- 10.4.2 After the expiry of 3 (three) working days' written notice of the Licensee's intention to inspect the NLA's records, the Licensee shall have the right to appoint an independent inspector or solicitor or firm of auditors or solicitors to have access to the NLA's premises during business hours and such independent inspector or solicitor or firm of auditors or solicitors shall be entitled to inspect the records, computers and business arrangements of the NLA to verify that the NLA is in compliance with the terms of this agreement. It shall be a term of appointment of any inspector that they shall only disclose to the Licensee information relating to the Licensee's clients.
- 10.4.3 The cost of such inspection shall be borne by the Licensee if such inspection does not confirm any material breach of clause 10.2 by the NLA, but otherwise shall be charged to the NLA.
- 10.4.4 If the inspection reveals that the NLA has materially breached the terms of clause 10.2, the NLA shall pay damages to the Licensee in such amount to be agreed between the Licensee and the NLA, or, in the absence of such agreement, in such amount as determined by a competent court.
- 10.5 To the extent that the relevant mandate agreements exclude the rights of third parties under the Contracts (Rights of Third Parties) Act 1999, any such exclusion shall be expressly stated not to apply to the obligations set out in this clause.

11 **DATA PROTECTION**

Each Party acknowledges and accepts that in performing their obligations under this Agreement they may process personal data belonging to or otherwise controlled by the other Party. Each Party hereby undertakes to the other Party that in such circumstances they will in respect of such personal data comply with any obligations under the Data Protection Act 1998 (as amended from time to time).

12 **OTHER MATTERS**

- 12.1 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.
- 12.2 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.
- 12.3 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.
- 12.4 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.
- 12.5 This agreement sets out the full terms of agreement between the Licensee and the NLA relating to its subject matter, and may not be amended except in writing and signed by the NLA and the Licensee.

- 12.6 Save as provided in this clause 12.6 the Licensee will not assign or sublicense the rights granted under this agreement without the prior written consent of the NLA. The Licensee may grant sublicences to any wholly-owned company within its corporate group (for the purpose of this clause a "Subsidiary") provided that the Licensee shall hold a single data repository of Web Articles saved in accordance with the provisions of clause 2.2 for itself and any such Subsidiaries and provided further that:
- 12.6.1 The Licensee notifies the NLA of all such sublicences and provides the NLA with such further information in relation to the sublicences as the NLA may reasonably require;
- 12.6.2 the sublicense shall be granted on terms no less strict than the terms of this agreement and shall not give any of the Subsidiaries the right to grant further sublicences;
- 12.6.3 the Licensee shall procure that the Subsidiaries observe the terms and conditions of their respective sublicences;
- 12.6.4 the Licensee shall report and make all payments due to the NLA on behalf of the Subsidiaries;
- 12.6.5 The Licensee shall be liable for any breach of the sublicense by any Subsidiary and any such breach shall constitute a breach by the Licensee of this agreement
- 12.7 The NLA will offer terms commensurate with those as contained in this agreement to third parties who wish to licence the eClips Web Database Service in the European Economic Area and Switzerland.
- 12.8 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.
- 12.9 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.
- 12.10 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 any conflict.
- 12.11 Words in the singular shall include the plural and vice versa.

13 **LAW AND JURISDICTION**

- 13.1 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

ECLIPS WEB REPERTOIRE

The eClips Web Repertoire will include Web Articles from the websites listed in the 'eClips Web Content List' found at <http://blog.nla.co.uk/ecwdocs/>, subject to specific exceptions listed in Publisher Profiles which include, but are not restricted to, video, audio, advertisements, rights restricted material, and user comments. The NLA, at its discretion, may update the list from time to time to either add or remove any publications.

Certain Publishers may require direct licences to be entered into between the Publisher and the End User for access and/or use of their Web Articles. Details will be notified to the Licensee from time to time. Any such relevant Web Articles 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 Web Articles and their being made available to Licensee's Clients ("Time Restriction"). The 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 an eClips Web Database Licence.

It is agreed that in the event that any Publisher requires a direct licence and/or a significant Time Restriction is imposed for any of its websites included in the eClips Web Repertoire the Licensee may elect to opt-out of receiving the relevant website and the Database Fee payable by the Licensee shall be reduced by the rebate sum set out in Appendix 5.

Websites may from time to time be added to or deleted from the eClips Web Repertoire and the NLA shall provide the Licensee with written notice of additions to and deletions from the eClips Web Repertoire and any special terms that may be applicable to any additional websites.

Appendix 2

ECLIPS WEB DATABASE SERVICE DESCRIPTION

Overview

The eClips Web Database Service covers the delivery of XML to licensees to allow them to create a local database of UK newspaper website content for the purpose of providing alert services to their clients.

The Service

The eClips Web Database Service will consist of:

- a feed of Web Articles appearing on the UK newspaper websites included in the eClips Web Repertoire available for download from the NLA's web service in XML (NewsML G2) format;
- access to a Search API to remotely interrogate the eClips Web Database for the purpose of identifying Web Articles relevant to individual Client briefs;
- individual XML files for all Web Articles including body text;
- for all Web Articles a Link to the live version of the story on the publisher website which also allows Permitted Users access to the copy on the eClips Web Database if the original has moved or changed or otherwise in accordance with publisher instructions;
- all versions of Web Articles in HTML and PDF formats, containing:
 - the full body text of the Web Article
 - any images associated with the Web Article
 - complete Publisher Metadata; and
 - any Licensee-specific or publisher-specific branding components.

Implementation policies

Policies on how the various components must be used, including any publisher-specific rules, are included in the Publisher Profiles and eClips Web API and XML Specification, and must be adhered to.

Appendix 3

NLA ECLIPS WEB DATABASE SERVICE AUTHENTICATION SPECIFICATION

Licensee Access

The Licensee will require a unique username and password. These details will need to be entered to:

- gain access to the NLA's HTTP server for downloading the eClips Web XML Feed
- use the search API call to interrogate the NLA eClips Web Database remotely.

End User Access

Permitted Users may be authenticated by either:

- Username and password sign-on; or
- IP address based authentication.

a. Username and password sign-on

Each Permitted User must have their own unique username.

Unless IP authenticated, Permitted Users of the eClips Web Database Service are prompted for their username and password to access Web Articles on the eClips Web Database.

The username and password are stored encrypted in the Permitted User's cookie file, and provided this file exists, the Permitted User will only be prompted the first time they access the eClips Web Database.

The Licensee is able to create and manage usernames and passwords in real-time.

Usernames and passwords must be a minimum of 4 characters. There are no restrictions on length, formatting or complexity though Permitted Users are encouraged to use a minimum 8 character password incorporating numbers, letters and other characters.

Usernames and passwords do not need to be periodically changed though Permitted Users are encouraged to do so.

Using cookies allows Permitted Users to access the eClips Web Database without requiring them to enter their login details once they have already done so. Any exception is subject to NLA written approval.

b. IP address authentication

IP authentication is only available for Clients by prior arrangement by the Licensee with the NLA.

The eClips Web Database Service supports single IP addresses, IP address ranges (e.g. 192.168.2.1. to 192.168.2.20) and wildcards (e.g. 192.168.2.*) or multiple instances of the above.

The eClips Web Database Service supports Permitted Users having multiple IP addresses.

With IP based authentication Permitted Users are not presented with a login screen.

A permanent cookie will be set for all IP authenticated Permitted Users in order to track the number of active Permitted Users. This cookie will be an incrementing number set every time a Permitted User connects who does not have a cookie (and therefore may overstate Permitted User numbers if Permitted Users delete their cookies).

IP authenticated Permitted Users can only access the eClips Web Database Service outside of their office provided they are using a username and password logon, or VPN or other mechanism that allow them to appear from a recognised IP address.

The supported IP addresses must be registered on the eClips Web Database Service 24 hours in advance and cannot be configured in real time.

Appendix 4

NOTICE TO CLIENTS

"Under the terms of our agreement with NLA media access 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 in the UK the web news content which derives from the websites listed by the NLA on its own website www.nla.co.uk.
- 2 Applications to the NLA for a licence should be addressed to it at Mount Pleasant House, Lonsdale Gardens, Tunbridge Wells, Kent TN1 1HJ, telephone 01892 525 273, fax 01892 525 275, email 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.
- 4 Some publishers may also require you to register or pay to use their website. If that is the case, you will need to do that before you can read their news content.

Appendix 5

FEE TARIFF ADJUSTMENTS – ECLIPS WEB CORE REPERTOIRE

eClips Web Core Repertoire

1. For the purposes of calculating any rebate to the Database Fee payable for the eClips Web Core Repertoire the Websites comprising the eClips Web Core Repertoire shall be allocated into 'National Sets' as follows:

National Set	Websites included
Associated	dailymail.co.uk
Guardian	theguardian.com (incl. observer.theguardian.com)
Independent	independent.co.uk; standard.co.uk
News International – A	thetimes.co.uk, thesundaytimes.co.uk
News International – B	News UK Repertoire excluding thetimes.co.uk, thesunday times.co.uk
Northern & Shell	express.co.uk, dailystar.co.uk
Telegraph	telegraph.co.uk, blogs.telegraph.co.uk
Trinity Mirror (nationals)	mirror.co.uk

2. In the event that a National Set is removed from the eClips Web Database Service then either:
 - a. The Licensee may elect to terminate this Agreement as provided in clause 8.1.1; or
 - b. The Database Fees payable for the eClips Web Core Repertoire shall be reduced by 12.5% for each National Set that is removed.
3. If a Publisher withdraws any content from the eClips Web Database Service which results in a decrease by at least one-third of the average number of Web Articles made available from that website in the previous 3 months the Licensee may elect to either:
 - a. opt-out of receiving the relevant National Set in which event the Database Fee payable by the Licensee for the eClips Core Repertoire shall be reduced by 12.5% for each National Set which Licensee elects not to receive; or
 - b. continue to receive the relevant National Set in which event the Database Fee payable by the Licensee shall be reduced by 6.25% for each National Set so affected.

Appendix 6

SERVICE LEVEL SCHEDULE

1 BACKGROUND AND DEFINITIONS

1.1 This Service Level Schedule sets out the service levels which the NLA will work to and the obligations with which it will comply when delivering the eClips Web Database Service and the mechanism by which Service Failures will be managed.

1.2 In this Service Level Schedule, defined terms have the meanings given below (in addition to those set out in clause 1 of this agreement):

"Available" means fully operational from the perspective of the Licensee such that the Licensee can access and/or use the eClips Web Database Service in accordance with the eClips Web Database Service Description and "Availability" has the same meaning;

"Business Hours" means 09:00 to 17:30 London time (BST/GMT as applicable) on a Working Day;

"Emergency Maintenance" means any maintenance provided by the NLA where:

- the Licensee reasonably suspects that the System or the eClips Web Database Service or any part of them has or may have developed a fault and notifies the NLA of the same; or
- the NLA reasonably suspects that the System or the eClips Web Database Service or any part of them has or may have developed a fault;

"Escalation Process" means the procedure followed by each of the Parties in the event of a Service Failure as set out in this Appendix 6;

"Force Majeure" means any cause affecting the Availability of the eClips Web Database Service beyond the NLA's reasonable control including electricity power failure, utilities failure, widespread disease, failure of telecommunications links, failure of transport infrastructure, any act of God, war, riot, fire or flood, act, restriction, regulation, bye-law, prohibition or measure of any kind on the part of any governmental, parliamentary or local authority, any import or export regulation or embargo, or any disaster;

"Key Performance Indicators" or "KPIs" means the key performance indicators set out in Table 1 of this Service Level Schedule;

"Non-Peak Period" means the period:

- (1) after 19:00 until 22:00 London time (BST/GMT as applicable) in each Working Day; and
- (2) after 11:00 until 22:00 London time (BST/GMT as applicable) on Saturdays, Sundays and Bank Holidays;

"Peak Period" means any period which is not a Non-Peak Period;

"Resolution" means resolving a Service Failure so that the eClips Web Database Service is Available or providing a work around which is agreed with the Licensee and "Resolve" and "Resolved" has the same meaning;

"Scheduled Maintenance" means routine maintenance that is carried out during Non-Peak Periods which is planned and for which the nature and purpose of the maintenance is notified to the Licensee at least 7 days in advance together with the expected duration of the System downtime;

"Service Failure" means any failure to meet a Service Level;

“Support Response Time” means the time measured in minutes from when the NLA receives notification until a response is issued;

“System” means the NLA’s proprietary system which hosts the eClips Web Database Service;

“System Support” means availability of the NLA's staff to answer queries relating to use of the eClips Web Database Service;

“Technical Support” means availability of the NLA’s out-of-hours engineering team to address serious technical issues with the eClips Web Database Service;

“Total Service Failure” means less than 50% of the total number of web Articles from the eClips Web Core Repertoire (excluding titles which the Licensee is receiving a rebate for under Appendix 5) have been made available by the NLA for two consecutive Peak Periods excluding any periods of Service Level Suspension;

“Unavailable” means in relation to a key aspect of an eClips Web Database Service that the key aspect is not available and “Unavailability” has the same meaning;

“Working Day” means Monday to Friday excluding UK Bank Holidays.

2 **SERVICE LEVELS**

2.1 The NLA shall use all reasonable endeavours to:

2.1.1 ensure its System is capable of providing the eClips Web Database Service in accordance with the KPIs;

2.1.2 ensure the eClips Web Database Service is made available to the Licensee in accordance with the KPIs and the rights granted by the NLA in respect of the relevant eClips Web Database Service;

2.1.3 provide System Support in accordance with the KPIs;

2.2 The NLA shall:

2.2.1 provide the Licensee with access to reports published by the NLA each month to show performance of the eClips Web Database Service against the KPIs; and

2.2.2 provide the Licensee with access to reports published by the NLA each day to give indications regarding the performance of the eClips Web Database Service.

2.3 If requested by 2 or more licensees, in January of each year the NLA will review its performance against the KPIs and if in the NLA’s reasonable opinion the performance of the eClips Web Database Service is found to meet the levels set out below (“Revised KPIs”), Table 1 shall be amended to include the Revised KPIs. If the Revised KPIs cannot be introduced the NLA will provide the Licensee with a written report for each review detailing its reasons for retaining the existing KPIs:

Revised KPIs

Availability – 99.95%

Completeness – 98%

3 **SERVICE LEVEL SUSPENSIONS**

- 3.1 The NLA shall not be responsible for a failure to meet any Service Level to the extent that such failure is attributable to any of the following events ("Service Level Suspensions"), provided in each case that the NLA shall notify the Licensee of the occurrence of these events:
- 3.1.1 Scheduled Maintenance (except that overruns from the notified or agreed downtime period will be taken into account when measuring performance against the relevant Service Levels);
- 3.1.2 any Unavailability resulting from:
- 3.1.2.1 the acts or omissions of the Licensee's local loop provider or any national or international telecoms circuit provider;
- 3.1.2.2 the acts or omissions of a Publisher (provided always that the NLA can demonstrate it has followed such escalation procedures as may be in existence with the relevant Publisher), including but not restricted to non-delivery of Web Articles, and major changes to the publisher supply format that have not been adequately communicated to the NLA;
- 3.1.2.3 the Licensee's applications, equipment, network or facilities;
- 3.1.2.4 the acts, omissions or wilful misconduct of the Licensee, its agents and/or employees or any Permitted User;
- 3.1.2.5 reasons of Force Majeure;
- 3.1.2.6 failure attributable to the Licensee;
- 3.1.2.7 the Licensee not internally authorising software upgrades or configuration changes required to maintain Availability. For the avoidance of doubt the scope of any software upgrades that the NLA can require the Licensee to undertake shall not require the Licensee to change its hardware or software operating system unless required by the relevant software vendor;
- 3.1.2.8 the Licensee failing to install new software releases provided by the NLA free of charge; and
- 3.1.2.9 the Licensee instructing the NLA not to work on a fault or failing to notify the NLA of a fault which has come to the Licensee's attention.

4 **SYSTEM MAINTENANCE**

4.1 Scheduled Maintenance

Provided that at least 7 days' notice has been provided to the Licensee together with an expected duration of any planned downtime, the NLA will undertake Scheduled Maintenance during Non-Peak Periods throughout the term of the Licensee's eClips Web Licence without the need to obtain the Licensee's consent. The NLA acknowledges that Scheduled Maintenance may be disruptive to the Licensee and will endeavour (where possible) to minimise the time taken to complete Scheduled Maintenance and to maintain availability of the eClips Web Database Service during periods of Scheduled Maintenance.

4.2 Emergency Maintenance

- 4.2.1 The NLA shall give as much notice as is reasonably practicable to the Licensee's technical contact prior to carrying out any Emergency Maintenance.

- 4.2.2 Where the Emergency Maintenance will lead to downtime of the eClips Web Database Service, the NLA will:
- 4.2.2.1 notify the Licensee within one (1) hour of the NLA receiving notification that an Emergency Maintenance event has occurred; and
 - 4.2.2.2 use reasonable endeavours to carry out the Emergency Maintenance within four (4) hours of receipt of the notification, and in any event as soon as is reasonably practicable.

5 **DISASTER RECOVERY**

- 5.1 In providing the eClips Web Database Service the NLA shall use commercially reasonable endeavours to seek to ensure that there is sufficient redundancy and resilience within its systems, so that there are no operationally significant single points of failure within its database, storage or network infrastructure. Additionally the NLA shall ensure that:
- 5.1.1 disaster recovery and business continuity plans are in place;
 - 5.1.2 regular backups of data are carried out; and
 - 5.1.3 offsite secure storage is utilised.

6 **SERVICE CREDITS**

- 6.1 Subject to the remaining provisions of this paragraph 6 (Service Credits) and the other provisions of this Licence, a Service Credit shall become due and payable to the Licensee by the NLA (or offset against any NLA invoice) where:
- 6.1.1 a Service Credit Event (as set out below in Table 1) occurs; and
 - 6.1.2 within 60 days of the occurrence of the Service Credit Event, the Licensee makes a claim for such Service Credit in writing to the NLA.
- 6.2 For each occurrence of a Service Credit Event in any single calendar month during the Term, one Service Credit shall become due and payable to the Licensee by the NLA.
- 6.3 Subject always to paragraph 3 (Service Level Suspensions) of this Appendix 6 and the other provisions of this paragraph 6 (Service Credits) Service Credit Events shall arise in the following situations:
- 6.3.1 2 Service Credit Events in the event of each Total Service Failure;
 - 6.3.2 1 Service Credit Event in the event of each Service Failure of KPIs 1 to 4 subject to the exceptions and conditions set out in the table below.
- 6.4 In any calendar month during the Term of this Licence, the NLA's maximum liability for Service Credit Events occurring in that calendar month shall be limited in the aggregate to a maximum of 20% of the total monthly Fees received by the NLA from the Licensee for the calendar month in which the Service Credit Events occurred. For the avoidance of doubt, this paragraph 6.4 states the Licensee's sole and exclusive right and remedy and the NLA's sole obligation and liability in respect of Service Credit Events and the Licensee shall not be entitled to recover any loss or liability or obtain such remedies as may be available to it either under the terms of this Licence or otherwise at law or in equity. Where a single set of circumstances gives rise to one

or more Service Credit Events, the Licensee shall be entitled to recover Service Credits in respect of a single Service Credit Event only.

6.5 Service Credits payable by the NLA in any single calendar month shall be calculated as follows:

$$A \times B \times 5\% = \text{Service Credits payable (subject to a maximum of 20\% of the monthly Fees)}$$

Where:

A = Total actual monthly Fees

B = Number of Service Credit Events.

Examples of calculation of Service Credits

Monthly Fees (£)	Number of Service Credit Events in a calendar month during the Term	Maximum Service Credit payable in a calendar month during the Term (£)
		0
16667	1	833
16667	2	1666
16667	3	2499
16667	4	3332
16667	5	3332

Any Service Credits payable shall be offset against the Fees otherwise payable to the NLA by the Licensee in accordance with this Agreement.

Table 1: Service Levels for the NLA eClips Web Database Service (Core Repertoire)

	Definition of KPI	Service Levels (to be measured in each case in respect of a calendar month)	Exceptions and Explanatory Notes	Service Credit Event
1.	<p><u>Availability</u></p> <p>Availability of the eClips Web Database Service during Peak Periods</p>	<p>99% of the total time (measured in minutes) during Peak Periods.</p>	<p>Periods of Scheduled Maintenance shall not count when measuring the Service Level achieved.</p> <p>No Service Credit Event arises where a Total Service Failure has already occurred in the relevant month.</p>	<p>A Service Failure in a Peak Period shall constitute a single Service Credit Event.</p>
2.	<p><u>Timeliness</u></p> <p>Automatically measuring the time the first version of each Web Article was available in the eClips Web Database Service, against the publication date associated with the first version of each Web Article.</p>	<p>95% of all first-version content received from publishers in the eClips Web Core Repertoire to be available within 120 minutes of publication.</p>	<p>Publication time of each Web Article is determined by using the timestamp provided in the source XML.</p>	<p>A Service Credit Event arises where:</p> <p>(1) a Service Failure; and</p> <p>(2) as a direct result of the Service Failure the Licensee either reverts to alternative methods to produce Media Monitoring Material in order to maintain its service to its Clients, or receives documented and verifiable complaints from its Clients.</p>
3.	<p><u>Completeness</u></p> <p>Measured on a random sample of Web Articles from the eClips Web Core Repertoire each month, comparing eClips Web content against the source website.</p>	<p>95% of all Web Articles on the participating websites in the eClips Web Core Repertoire to be available.</p>	<p>Subject to named exclusions (e.g. user generated content, forums and advertisements) as listed in the Publisher Profiles.</p>	<p>A Service Credit Event arises where there is:</p> <p>(1) a Service Failure; and</p> <p>(2) as a direct result of the Service Failure the Licensee either reverts to alternative methods to produce Media</p>

	Definition of KPI	Service Levels (to be measured in each case in respect of a calendar month)	Exceptions and Explanatory Notes	Service Credit Event
				Monitoring Material in order to maintain its service to its Clients, or receives documented and verifiable complaints from its Clients
4.	<p><u>Consistency</u></p> <p>Measured on a random sample of Web Articles from the eClips Web Core Repertoire each month, comparing eClips Web content against the source website.</p>	<p>95% of all Web Articles will match the source website article based on:</p> <p>Headline accuracy</p> <p>Body text accuracy</p> <p>Inclusion of all images</p>	<p>Subject to named exclusions (e.g. user generated content, forums and advertisements) as listed in the Publisher Profiles.</p> <p>For publications covered by the eClips Web Core Repertoire.</p>	<p>A Service Credit Event arises where there is:</p> <p>(1) a Service Failure; and</p> <p>(2) as a direct result of the Service Failure the Licensee either reverts to alternative methods to produce Media Monitoring Material in order to maintain its service to its Clients, or receives documented and verifiable complaints from its Clients.</p>
5.	<p><u>System Support</u></p>	<p>24 hours, 7 days a week</p>		
6.	<p><u>Technical Support</u></p> <p>Response time for calls or emails to the NLA's support number</p>	<p>Outside Business Hours: 1 hour</p> <p>Business Hours: 30 minutes</p>		-

Note that these Service Levels are for the eClips Web Core Repertoire. Appropriate service levels shall be issued by the NLA to cover the eClips Web Premium Repertoire and the eClips Web Supplementary Repertoire. Until the service levels for the eClips Web Premium Repertoire and the eClips Web Supplementary Repertoire are available the NLA shall use its reasonable endeavours to meet the targets as set out above for the eClips Web Core Repertoire, but no Service Credits shall become payable in the event that the NLA fails to meet any Service Level for a website included in the eClips Web Premium Repertoire and the eClips Web Supplementary Repertoire.

Contacts List (to be confirmed following signature of agreement)

The NLA Contact Details

CONTACT TYPE	Dept / Name	Email address	Telephone
Financial / Executive	Andrew Hughes	ahughes@nla.co.uk	+44 (0)20 7332 9359
Commercial / Client Services	Client Services	clientservices@nla.co.uk	+44 (0)20 7332 9380
Technical (Support)	Technical Support	support@nla.co.uk	+44 (0)844 482 2175

Licensee's Contact Details

CONTACT TYPE	Name	Email address	Telephone
Executive			
Commercial			
Financial			
Project Manager			
Service Issues			
Technical			

The NLA Technical Escalation Process

The Licensee and the NLA will follow an escalation process to be agreed between the parties.

Technical Escalation to NLA

Technical escalations to the NLA should occur in circumstances where there is an interruption to processing or data delivery that has not been resolved by internal methods.

The following is a non-exhaustive list of issues that should be escalated to the NLA.

- No XML available from the NLA where entitlement is expected
- Cannot connect to eClips Web Database Service
- Cannot view Web Articles where entitlement is expected

Escalation to the NLA during business hours (Mon-Fri 9AM – 5:30PM)

If an issue occurs that requires escalation to the NLA during business hours then the PCA should contact the Client Service team directly via email or via phone.

Details for escalation during business hours are as follows:

- Send email to clientservices@nla.co.uk
- Ring an NLA Account Manager: +44 207 332 9380

When ringing or emailing the NLA with an escalation, the following information must be provided to ensure that the issue can be resolved efficiently:

- Contact details for the person making the escalation
- Details regarding the issue that is being escalated
- Details regarding any investigation undertaken by the PCA (please include any error messages or screenshots)
- Confirmation that the NLA Client Support Tools have been reviewed
- Impact the issue is having on the PCA or PCA's clients

Escalation to the NLA outside business hours (Mon-Fri 5:30PM – 9AM, Sat & Sun, UK public bank holidays)

If an issue occurs that requires escalation to the NLA outside UK business hours then the PCA should contact the NLA Service Operations support team.

Details for escalation outside business hours are as follows:

- Ring the NLA Service Operations support number: **+44 (0)8444 822 175**
 - If the call does not connect for whatever reason, please try the alternate number: **+44 (0)20 3393 0665**
 - If the phone is not answered immediately, please leave a message providing contact details and a description of the issue.
 - After leaving a message, please send an email to support@nla.co.uk confirming an escalation has been made with contact details & a description of the issue.
- If the escalation is not confirmed by the NLA Service Operations support team within **5 minutes**, please call the support number again.
- If the escalation is still not confirmed within another **5 minutes**, please escalate the issue to the NLA Service Operations Incident Manager: **+44 (0)20 7332 9379**

Escalation by the NLA

It is most likely that any technical issue escalated to the NLA is already being investigated. The eClips Web Database Service is monitored at all times and issues are escalated to the NLA Service Operations Engineering team as they occur.

When an issue arises within the eClips Web Database Service that is determined to cause Client impact an incident is declared by the on-call engineer. Once an incident is declared, the Incident Management process begins.

The Incident Management process ensures that licensees:

- are *aware of an incident* occurring
- understand the *impact of the incident*

- know when an update will be provided on the *status of the incident*
- know when the *incident will be resolved* (if possible)

The Incident Management process ensures that the required resources from the NLA are actively pursuing a swift resolution to the incident and that licensees are kept up to date with developments towards resolution.

Incident Management Communication

During an incident, the Incident Manager will be available to support licensees via the support phone number. The Incident Manager is responsible for maintaining communication with licensees and ensuring that the on-call engineer is provided with the necessary resources and information required to resolve the incident as quickly as possible.

All communication during the Incident Management process will be sent to licensees via the escalation email distribution list.

A report following any incident will be made available via the eClips Web Database Service Blog within 24 hours of an incident being resolved.

Appendix 7
SAMPLE REPORTS

Part A: Reporting Links to Publisher Websites or the eClips Web Database

NLA MONTHLY RETURN - ELECTRONIC WEB LINKS TO PUBLISHER'S WEBSITE OR TO THE ECLIPS WEB DATABASE

This template is for the recording and submission to the NLA of **Links** (to the publisher's website or to copies hosted on the eClips Web Database) under the NLA's eClips Web Database Licence. The template should be submitted monthly by 7th day of the following month and submitted electronically in the form of an Excel spreadsheet, XML file or Text file

Details of the template can be found at <http://blog.nla.co.uk/hub-docs/>

Media Name	Media Code	Copy Type	Organisation Name	Customer ID	Permitted Users	No of Cuttings
www.dailymail.co.uk	WEBDM	6	XYZ Limited	342	3	5
www.express.co.uk	WEBDE	5	XYZ Limited	342	3	8
www.dailymail.co.uk	WEBDM	6	XYZ Limited	342	3	5
www.express.co.uk	WEBDE	5	XYZ Limited	342	3	8
Thesun.co.uk	WEBTSUN	4	ABC Plc	468	7	2
Thesundaytimes.co.uk	WEBSTO	4	ABC Plc	468	7	1
Thetimes.co.uk	WEBTTO	4	ABC Plc	468	7	3

Part B: Reporting Web Database Links to Licensee's secure database

NLA MONTHLY RETURN - ELECTRONIC WEB LINKS TO LICENSEE'S SECURE DATABASE

This template is for the recording and submission to NLA of **Web Database Links** to Web Articles stored by the Licensee in a secure database as provided in the NLA's eClips Web Database Licence. The template should be submitted monthly by 7th day of the following month and submitted electronically in the form of an Excel spreadsheet, XML file or Text file.

Details of the template can be found at <http://blog.nla.co.uk/hub-docs/>

Media Name	Media Code	Copy Type	Organisation Name	Customer ID	Permitted Users	No of Cuttings
www.dailymail.co.uk	WEBDM	6	XYZ Limited	342	3	5
www.express.co.uk	WEBDE	5	XYZ Limited	342	3	8
www.dailymail.co.uk	WEBDM	6	XYZ Limited	342	3	5
www.express.co.uk	WEBDE	5	XYZ Limited	342	3	8
Thesun.co.uk	WEBTSUN	4	ABC Plc	468	7	2
Thesundaytimes.co.uk	WEBSTO	4	ABC Plc	468	7	1
Thetimes.co.uk	WEBTTO	4	ABC Plc	468	7	3

Part C: Reporting Paper Copies printed from eClips Web

NLA MONTHLY RETURN – eClips Web Paper Copies

This template is for the recording and submission to NLA of Paper Copies of Web Articles sourced from eClips Web Database or held on the Licensee's secure database. The template should be submitted monthly by 7th day of the following month and submitted electronically in the form of an Excel spreadsheet, XML file or Text file.

Details of the template can be found at <http://blog.nla.co.uk/hub-docs/>

Media Name	Media Code	Copy Type	Organisation Name	Customer ID	Permitted Users	No of Cuttings
www.dailymail.co.uk	WEBDM	6	XYZ Limited	342	3	5
www.express.co.uk	WEBDE	5	XYZ Limited	342	3	8
www.dailymail.co.uk	WEBDM	6	XYZ Limited	342	3	5
www.express.co.uk	WEBDE	5	XYZ Limited	342	3	8
Thesun.co.uk	WEBTSUN	4	ABC Plc	468	7	2
Thesundaytimes.co.uk	WEBSTO	4	ABC Plc	468	7	1
Thetimes.co.uk	WEBTTO	4	ABC Plc	468	7	3

Appendix 8

APPROVAL PROCESS

1. End Users

- 1.1. Prior to supplying Media Monitoring Material to an End User (i.e. a Client who holds an NLA End User Licence Agreement), the Licensee must notify the NLA and adopt the following procedure:
 - 1.1.1. The Licensee will notify the NLA via email, in a standard format (as advised by the NLA to the Licensee from time to time) which shall include details of the End User.
 - 1.1.2. The NLA will use reasonable endeavours to respond to the Licensee's notifications within 24 hours of receipt and in any event within 48 hours of receipt (it being acknowledged that if the NLA fails to respond within 48 hours approval shall be deemed to have been given), the parties acknowledging that where the notification is received on a non Working Day, for the purposes of this Appendix 8 it will be deemed received on the next Working Day.
 - 1.1.3. The Licensee may begin providing Media Monitoring Material to the End User immediately upon receipt of the NLA's confirmation.

2. Clients

- 2.1 For any Clients who are not End Users (i.e. who do not hold an NLA End User Licence Agreement) that wish to receive Media Monitoring Material, subject to the provisions of clause 2.5 of this Agreement regarding trial periods the Licensee shall notify the NLA via email, in a standard format (as advised by the NLA to the Licensee from time to time) which shall include details of such Clients.
- 2.2 The NLA will notify the Licensee in the event that any Client fails to take out an appropriate NLA End User Licence Agreement.