

AGREEMENT

This license agreement (“Agreement”) is made by and between the **City and County of Denver**, a municipal corporation of the State of Colorado (the “City” or “Licensor”), on behalf of the Denver Public Library, located at 10 W. Fourteenth Ave. Pkwy, Denver CO 80204, and **NewsBank, Inc.**, located at 5801 Pelican Bay Boulevard, Suite 600, Naples, FL, 34103 (“Licensee”).

WHEREAS, Licensor owns and controls the rights to the content of the *Rocky Mountain News*, including certain photos, text, and other materials outlined in Exhibits A and B. The ASCII text and PDFs (including images within the page view) as listed in Exhibit A shall be the subject of this Agreement, referred to as the “Work”;

WHEREAS, the original photos, prints, negatives, and digitization of same, as well as other materials listed in Exhibit B, shall not be affected by this Agreement;

WHEREAS, Licensee is a provider of, *inter alia*, the services listed on Exhibit C and Licensor desires that Licensee provide such services to it, all on the terms and subject to the conditions set forth below and on the exhibits;

NOW, THEREFORE, the parties agree as follows.

ARTICLE 1: GRANT OF LICENSE

Solely for the purpose of providing the services set forth on Exhibit C, Licensor hereby grants Licensee the right to:

- (a) reproduce the Work, in whole or in part in any and all electronic media whether now existing or later developed, referred to herein as the “Media”;
- (b) sell, license and otherwise distribute the Work as contemplated herein;
- (c) permit and provide for the electronic searching and reproduction of the Work and portions thereof in the Media;
- (d) reproduce, transmit, and distribute the Work via Licensee’s sales agents, product partners and their products and services;
- (e) use the name to identify the source of the Work as the *Rocky Mountain News*.

For any use of any item of the RMN Archives, the item shall be attributed as follows: “Donated to the Denver Public Library by the Rocky Mountain News, under the permission of the City and County of Denver, other rights reserved.”

ARTICLE 2: REPRESENTATIONS

- (a) Licensor represents that it has the right to grant the licenses herein provided and that Licensee's exercise of the licensed rights will not violate any rights of any other party.
- (b) Licensee represents that all services will be performed by qualified personnel in a professional and commercially reasonable manner, consistent with industry standards, and that all services will conform to applicable specifications.

ARTICLE 3: STATUS OF LICENSEE AND APPROPRIATIONS

Each party hereto is an independent contractor and, except as provided herein and in the exhibits, each party is solely responsible for all expenses incurred pursuant to the exercising of its rights or performing its obligations hereunder, unless the other party has expressly authorized the reimbursement of an expense in writing. Further, any obligations of the City and County of Denver under and pursuant to this Agreement are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Agreement and paid into the Treasury of the City. Neither party is an agent of the other party and shall have no authority to obligate or bind the other party in any way.

ARTICLE 4: INSURANCE

- (a) **General Conditions:** Licensee agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Licensee shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Licensee. Licensee shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Licensee. The Licensee shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.
- (b) **Proof of Insurance:** Licensee shall provide a copy of this Agreement to its insurance

agent or broker. Licensee may not commence services or work relating to the Agreement prior to placement of coverage. Licensee certifies that the certificate of insurance attached as Exhibit D, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Licensee's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

- (c) **Additional Insureds:** For Commercial General Liability, Auto Liability, Professional, and Excess Liability/Umbrella, Licensee and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
- (d) **Waiver of Subrogation:** For all coverages, Licensee's insurer shall waive subrogation rights against the City.
- (e) **Subcontractors and SubLicensees:** All subcontractors and subLicensees (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Licensee. Licensee shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subLicensees maintain the required coverages. Licensee agrees to provide proof of insurance for all such subcontractors and subLicensees upon request by the City.
- (f) **Workers' Compensation/Employer's Liability Insurance:** Licensee shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Licensee expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Licensee's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Licensee executes this Agreement.
- (g) **Commercial General Liability:** Licensee shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.
- (h) **Business Automobile Liability:** Licensee shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-

owned vehicles used in performing services under this Agreement.

(i) **Additional Provisions:**

(1) For all Commercial General Liability and Excess Liability, the policies must provide the following:

- (a) That this Agreement is an Insured Contract under the policy;
- (b) Defense costs are in excess of policy limits;
- (c) A severability of interests, or separation of insureds provision (no insured vs. insured exclusion);
- (d) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City; and,

(2) For claims-made coverage:

- (a) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier

(3) Licensee shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Licensee will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

ARTICLE 5: DEFENSE AND INDEMNIFICATION

- (a) Licensee agrees to defend, indemnify, reimburse and hold harmless Licensor, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the Licensor. This indemnity shall be interpreted in the broadest possible manner to indemnify Licensor for any acts or omissions of Licensee or its subcontractors either passive or active, irrespective of fault, including Licensor’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of Licensor.
- (b) Licensee’s duty to defend and indemnify Licensor shall arise at the time written notice of the Claim is first provided to Licensor regardless of whether Claimant has filed suit on the Claim. Licensee’s duty to defend and indemnify Licensor shall arise even if Licensor is the only party sued by claimant and/or claimant alleges that Licensor’s negligence or willful misconduct was the sole cause of claimant’s damages.

- (c) Licensee will defend any and all Claims which may be brought or threatened against Licensor and will pay on behalf of Licensor any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of Licensor shall be in addition to any other legal remedies available to Licensor and shall not be considered Licensor's exclusive remedy.
- (d) Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Licensee under the terms of this indemnification obligation. The Licensee shall obtain, at its own expense, any additional insurance that it deems necessary for the Licensor's protection.
- (e) This defense and indemnification obligation shall survive the expiration or termination of this Agreement.
- (f) The party to be indemnified under this Article shall promptly notify the indemnitor of any such claim, action or proceeding and the indemnitor shall have the right to defend the same through counsel of its own selection. The indemnification obligations of the parties set forth in this Article shall survive termination and apply to the use of the Work following such termination as described herein.
- (g) Licensor has no objection to Licensee seeking its own indemnification agreement from Licensor's Donor of the Work.

ARTICLE 6: TERM AND TERMINATION

- (a) The initial term of Agreement shall commence on March 22, 2013 and expire on March 21, 2016. Notwithstanding the foregoing, either party may terminate the Agreement following a material breach by the other party if such material breach is not corrected within forty five (45) days of receiving written notice of such breach, or in the event of sale by Licensee of all or substantially all of the business or assets to which this Agreement pertains.
- (b) If the Agreement is terminated, the City is entitled to possession of all materials of any kind, including but not limited to, all files, text, microfilm, images, documents, photos, and equipment it owns that are in the Licensee's possession, custody, or control by whatever method the City deems expedient. The Licensee shall deliver all of the same in their original form and all other items and materials that were provided to Licensee by the City or the Licensor. All of these items and other materials are the property of the City. Licensee shall immediately cease all use of and destroy all other forms that they were prepared under the Agreement.
- (c) Upon and after termination, and without regard to any other rights either party may have, Licensee may continue to include the Work licensed during the term of this Agreement in the Media for up to twelve (12) months for use in connection with the Services to fulfill subscriptions sold during the Term of this Agreement providing that Licensee continues to pay royalties as outlined in Exhibit C.

ARTICLE 7: EXAMINATION OF RECORDS

- (a) At all times during and for five (5) years after the expiration of the term of this Agreement, Licensee shall keep complete books and records of all Licensor's Works sold by Licensee and preserve all information and documentation related to the Agreement, including, but not limited to, Licensee's invoices, collectively referred to as "Documentation". Such Documentation shall be made and kept in accordance with in sufficient detail to enable audit of the contract and the compensation payable hereunder by Licensee to be accurately determined, and shall be maintained in a single location in the United States.

- (b) Licensor and/or its designee, including the City Auditor, shall have the right, both during and after the term of this Agreement, upon fifteen (15) business days prior written notice to Licensee during normal business hours, to examine, inspect and copy the Documentation of Licensee. Licensee agrees to (i) make available such Documentation for audit by Licensor, and (ii) provide reasonable assistance necessary to enable Licensor to conduct such audit.

ARTICLE 8: LICENSEE'S CONFIDENTIAL INFORMATION

The City agrees to hold the Licensee's confidential information in confidence and to not permit any person or entity to obtain access to it except as required for the City's exercise of its rights under this agreement, and except as required by the Colorado Open Records Act., § 24-72-201, et seq., C.R.S. (2011). In no event, however, shall this executed agreement itself be treated as confidential, nor shall documents obtained from other sources. Licensee shall identify and pre-mark any document as confidential in advance of providing it to the City. In the event of a request to the City for disclosure of such information, the City shall advise Licensee of such request in order to give Licensee the opportunity to object to the disclosure of any of its documents, which it has pre-marked as proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and Licensee agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. Licensee further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of Licensee's intervention to protect and assert its claim of privilege against disclosure under this Article including but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

ARTICLE 9: RIGHTS AND REMEDIES NOT WAIVED:

In no event will any payment or other action by either party constitute or be construed to be a waiver by either party of any breach of covenant or default that may then exist on the part of the Licensee or Licensor. No payment, other action, or inaction by either party when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any

breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

ARTICLE 10: TAXES, CHARGES AND PENALTIES:

The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, et seq. The Licensee shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under the Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

ARTICLE 11: ASSIGNMENT

The Licensee shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract (other than with contractors used by Licensee in the ordinary course) performance obligations, under this Agreement without obtaining the City Librarian's prior written consent except that Licensee may sell all or substantially all of the business or assets to which this Agreement pertains, in which case Licensee shall give Licensor thirty (30) days advance written notice and Licensor may immediately terminate the agreement pursuant to Article 6. The City Librarian has sole and absolute discretion whether to consent to any such assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Licensee shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any sub-Licensee, subcontractor or assign.

ARTICLE 12: INUREMENT:

The rights and obligations of the parties to the Agreement inure to the benefit of and shall be binding upon the parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

ARTICLE 13: NO THIRD PARTY BENEFICIARY

Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Licensee receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

ARTICLE 14: NO AUTHORITY TO BIND CITY TO CONTRACTS

The Licensee lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code. Licensor will not be bound to any contractual matters until both parties have signed the Agreement and Licensor has notified Licensee that the City is bound to the terms of this Agreement per Article 33.

ARTICLE 15: SEVERABILITY

Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the parties can be fulfilled.

ARTICLE 16: CONFLICT OF INTEREST:

No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement; and the Licensee shall not hire, or contract for services with, any employee or officer of the City in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

The Licensee shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Licensee represents that it has disclosed any and all current or potential conflicts of interest, which shall include transactions, activities or conduct that would affect the judgment, actions or work of the Licensee by placing the Licensee's own interests, or the interests of any party with whom the Licensee has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement in the event it determines a conflict exists, after it has given the Licensee written notice describing the conflict and allowing Licensee 45 days to cure the conflict.

ARTICLE 17: NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT

- (a) This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").

- (b) The Licensee certifies that:
 - (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
 - (2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

- (c) The Licensee also agrees and represents that:
 - (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

- (2) It shall not enter into a contract with a subLicensee or subcontractor that fails to certify to the Licensee that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
- (4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Licensee to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- (5) If it obtains actual knowledge that a subLicensee or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subLicensee or subcontractor and the City within three (3) days. The Licensee will also then terminate such subLicensee or subcontractor if within three (3) days after such notice the subLicensee or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subLicensee or subcontractor provides information to establish that the subLicensee or subcontractor has not knowingly employed or contracted with an illegal alien.
- (6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3.

(d) The Licensee is liable for any violations as provided in the Certification Ordinance. If Licensee violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Licensee shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Licensee from submitting bids or proposals for future contracts with the City.

ARTICLE 18: DISPUTES

All disputes between the City and Licensee arising out of or regarding the Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the City Librarian as defined in this Agreement. Compliance with these administrative hearing procedures shall be a prerequisite to any court action.

ARTICLE 19: GOVERNING LAW; VENUE

The Agreement will be construed and enforced in accordance with applicable federal law, the

laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District.

ARTICLE 20: NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under the Agreement, the Licensee may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender variance, marital status, or physical or mental disability. The Licensee shall insert the foregoing provision in all subcontracts.

ARTICLE 21: COMPLIANCE WITH ALL LAWS

Licensee shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement.

ARTICLE 22: NO CONSTRUCTION AGAINST DRAFTING PARTY

The parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

ARTICLE 23: ORDER OF PRECEDENCE

In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

ARTICLE 24: SURVIVAL OF CERTAIN PROVISIONS

The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Licensee's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

ARTICLE 25: ADVERTISING AND PUBLIC DISCLOSURE

The Licensee shall not include any reference to the Agreement or to services performed pursuant

to the Agreement in any of the Licensee's advertising or public relations materials without first obtaining the written approval of the City Librarian. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Licensee shall notify the City Librarian in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials. Notwithstanding the forgoing, NewsBank reserves the right to list the Library as a subscriber to the applicable product on its list of current subscribers and list the City as a publishing partner for NewsBank's products. This listing shall not continue after the expiration of the Agreement.

ARTICLE 26: CITY EXECUTION OF AGREEMENT

The Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council. Licensors will notify Licensee in writing when the above has occurred and the Agreement is effective and binding.

ARTICLE 27: AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS

The Agreement is the complete integration of all understandings between the parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City or NewsBank at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City or NewsBank.

ARTICLE 28: USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS

The Licensee shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

ARTICLE 29: COUNTERPARTS OF THE AGREEMENT

The Agreement may be executed in counterparts, each of which is an original and constitute the same instrument.

ARTICLE 30: ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS

Licensee and Licensors mutually consent to the use of electronic signatures. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by either party in the manner specified by either party. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the

Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

ARTICLE 31: MISCELLANEOUS

(a) Licensee and Licensor each represents that they have the full power and authority to enter into this Agreement and that the persons signing this Agreement on behalf of each is authorized to bind their respective party to this Agreement.

(b) All notices required by the Agreement shall be in writing and sent to the parties as follows:

If to Licensor:

Denver Public Library
10 W. Fourteenth Ave. Pkwy
Denver CO 80204
Attention: City Librarian

If to Licensee:

NewsBank, Inc.
5801 Pelican Bay Blvd, Suite 600
Naples, FL 34103
Attention: Daniel S. Jones, President

A copy of any such notice shall also be provided to: Denver City Attorney's Office, 1437 Bannock St., Room 353, Denver, Colorado 80202.

Each party may from time to time change its address as set forth above by notifying the other party of its new address in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Attachments: Exhibits A, B, C, and D

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Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

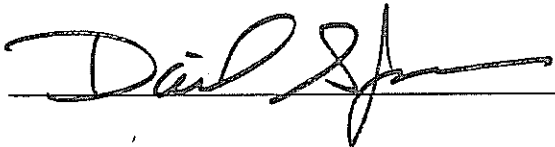
By _____

By _____



Contract Control Number: BOOKS-201415446-00

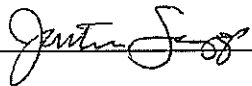
Contractor Name: NEWSBANK INCORPORATED

By: 

Name: DANIEL S. JONES
(please print)

Title: President
(please print)

ATTEST: [if required]

By: 

Name: Justin Scroggs
(please print)

Title: Dir. Publisher Services
(please print)



EXHIBIT A
THE WORK

ASCII Archive of the Work

Start Date **End Date**

Rocky Mountain News 01/01/1990 02/27/2009

Rocky Mountain News: Blogs 04/20/2005 03/04/2009

PDF of the Work

Start Date **End Date**

Rocky Mountain News 06/2003 02/2009

Microfilm of the Work

Start Date **End Date**

Rocky Mountain News 01/01/1947 02/27/2009

COPYRIGHT STATEMENT: Copyright © <YYYY> Rocky Mountain News. All Rights Reserved.

EXHIBIT B
MATERIALS NOT INCLUDED IN THE WORK

The following materials are not affected by this Agreement:

Original Photos, Prints, Negatives, Digitization of Same, Other Materials.

**EXHIBIT C
STATEMENT OF WORK**

Service / Content	Definition of Rights / Service	Royalty Rate / Cost	Additional Terms ¹
ASCII Archives Rocky Mountain News (1990 – 2009); PDF archives (06/2003 – 02/2009)	a) Exclusive ² worldwide distribution rights to the education/library market; b) Non- exclusive worldwide distribution rights to all other markets; c) Library may pursue a direct Agreement with Lexis/Nexis or may choose NewsBank to manage that redistribution Agreement on Library’s behalf. Licensee is granted the exclusive right to pursue additional redistribution opportunities on behalf of Licensor.	a) NewsBank will pay the Library 25% royalty on exclusive subscription sales b) NewsBank will pay the Library 20% royalty on non-exclusive subscription sales c) NewsBank will pay the Library 65% of net revenue received from Lexis/Nexis and any other redistribution opportunity. ³ d) <u>NewsBank and City of Denver acknowledge distribution will not be exclusive until sunset of the pre-existing Agreement with Westlaw expiring November 30, 2017.</u>	Goal: maximize revenue
Ecommerce hosting	NewsBank will provide Denver Public Library	NewsBank will pay the Library 65% net revenue on Ecommerce	Licensee will collaborate with the Licensor to make available a hosted

¹ Unless otherwise stated in the Agreement: a) NewsBank shall bear the expense of the services it provides; and, b) all royalty and other payments to either party shall be retroactive to 3/22/13.

² All rights, including exclusive rights, are subject to pre-existing licenses.

³ “Net Revenues” means the amount recognized, in accordance with generally accepted accounting principles in effect from time to time in the United States of America, as consistently applied, by Licensee from its Subscribers solely attributable to the Work portion within Licensee’s products less: (a) shipping, handling, data delivery, and any other costs of distribution; (b) normal and customary allowances and discounts that Licensee actually provides to Authorized Users; (c) sales and similar taxes that are added to the invoice by Licensee; (d) costs for training, search engine, interface, software enhancements, metadata and other products or services which make Licensee’s products marketable to and usable by Subscribers.

**EXHIBIT C
STATEMENT OF WORK**

Service / Content	Definition of Rights / Service	Royalty Rate / Cost	Additional Terms ¹
	Ecommerce hosting on their website for archives access to any person w/o a library card	transactions	<p>E-commerce archive of the Work.</p> <p>Licensee’s E-commerce Service will make the Work (ASCII text and PDFs) as described in Exhibit A, available through the e-commerce model. The availability shall be through URL links connecting to archives residing on Licensee’s server(s). The E-commerce Service will allow individuals to access and search online archives of the Work.</p> <p>Licensee will load the Work onto the E-commerce Service and use commercially reasonable efforts to make the E-commerce Service available to subscribers of the Services (“Subscribers”) seven days per week, twenty-four hours per day.⁴</p> <p>Licensee shall establish prices, terms and conditions for the provision of the Work to Subscribers.</p> <p>Licensee will be responsible for any/all costs associated including credit card billing, registration services, monthly usage, end user support, customer technical support</p>

⁴ “Subscriber” means customers of Licensee (Including redistribution customers) and their end users within the Permitted Market who subscribe, license or purchase Licensee’s product containing the Work, either for a subscription term (e.g., annual) or on a perpetual basis.

**EXHIBIT C
STATEMENT OF WORK**

Service / Content	Definition of Rights / Service	Royalty Rate / Cost	Additional Terms ¹
			<p>and connectivity issues, and responding to e-mail and other inquiries within one (1) business day, associated with the provision of e-commerce access to the Work via the E-commerce Service.</p> <p>Licensors and Licensee agree that Subscribers' identities and information about their accessing and purchasing the Work via the E-commerce Service shall not be used for solicitation or any other purpose not in compliance with applicable laws (including but not limited to C.R.S. 24-90-119 & 24-72-204(3)(a)(VII) & (IX)) which protect against disclosure of library user records, as well as records of public service users) and privacy policies.</p> <p>Licensee provision of access for the Licensor and its staff and patrons⁵ shall be at no cost and shall include online full-text, searchable access for the entire run of the newspaper (1990 --2009).Goals: turnkey website access for those with a library card; revenue opportunity</p>
Microfilm	NewsBank will provide	NewsBank will provide microfilm	Goal: uninterrupted secure storage

⁵ Patrons shall include any person who visits a Denver Public Library location in person, and all Denver Public Library cardholders outside of the Library who authenticate using DPL approved methods.

**EXHIBIT C
STATEMENT OF WORK**

Service / Content	Definition of Rights / Service	Royalty Rate / Cost	Additional Terms¹
Storage and Sales	microfilm storage in climate controlled/certified facility and support sales efforts	storage at no cost and pay 20% royalty on sales of RMN microfilm	facility and revenue opportunity
Redistribution	NewsBank will be granted non-exclusive redistribution rights to the Rocky Mountain News to vendors outside the educ/lib mkt	NewsBank will pay 65% royalty	Goal: maximize revenue outside the educ/lib mkt
Unlimited access for DPL library card holders	NewsBank will provide Denver Public Library unlimited internal and patron access to The Work for staff and any person who visits a Denver Public Library location and all DPL cardholders outside the library who authenticate.	NewsBank will invoice Denver Public Library \$6000 annually (\$500 per month) for unlimited, internal and patron access to The Work for staff and any person who visits a Denver Public Library location and all DPL cardholders outside the library who authenticate.	Licensor and Licensee agree that Patrons' identities and information about their accessing the Work shall not be used for solicitation or for any other purpose not allowed under applicable laws (including but not limited to C.R.S. 24-90-119 & 24-72-204) and privacy policies. Goal: 24x7 research quality with unlimited access for all Denver Public Library staff and card holders
America's News and Obituary content	Rocky Mountain News is currently part of the Denver Public Library's research collection provided by NewsBank	NewsBank will pay the Denver Public Library \$10,000 annually, beginning 3/22/13 pro-rated for partial years	Goal: RMN content will continue to be integrated into the research collection with unlimited access to library staff and patrons
Backfile/duplicate copy of ASCII Archives Rocky Mountain News (1990 – 2009) and PDF archives for DPL (06/2003 – 02/2009)	NewsBank will provide Denver Public Library with a backfile/duplicate of the ASCII Archives Rocky Mountain News (1990 – 2009) and PDF archives for its own records within thirty (30) days of execution of this Agreement	NewsBank will provide the backfile/duplicate of both at no cost to Denver Public Library	Goal: duplicate/backup copy for DPL

**EXHIBIT C
STATEMENT OF WORK**

Service / Content	Definition of Rights / Service	Royalty Rate / Cost	Additional Terms¹
Return of all Work to Licensee within 90 days of end of Agreement.	NewsBank will (within 90 days) return to Licensor all masters and any copies of the Work still in its possession at the end of Agreement.		Goal: timely return of materials to DPL



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/30/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Pierson & Smith a div of First Niagara Risk 40 Richards Avenue P O Box 5175 Norwalk CT 06854	CONTACT NAME: Ellen McAdam	
	PHONE (A/C No, Ext): (203) 853-2727	FAX (A/C No): (203) 852-9160
E-MAIL ADDRESS: Ellie.McAdam@fnrm.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Travelers Property Casualty Co		25674
INSURER B: Charter Oak Fire Insurance		25615
INSURER C: Farmington Casualty Company		41483
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES CERTIFICATE NUMBER: MASTER 13-14 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			6301476M971	3/14/2013	3/14/2014	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 10,000
	<input checked="" type="checkbox"/> Blkt Addl Ins by written contract						PERSONAL & ADV INJURY \$ 1,000,000
GEN'L AGGREGATE LIMIT APPLIES PER:				Blanket Waiver of Subrogation by written contract.			GENERAL AGGREGATE \$ 2,000,000
<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PRO-JECT	<input type="checkbox"/> LOC					PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY			BA1476M971	3/14/2013	3/14/2014	Policy Aggregate \$ 10,000,000
	<input checked="" type="checkbox"/> ANY AUTO						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per person) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/>	<input type="checkbox"/>				BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							Blkt AI/Written Contract \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR		HSMCUP1476M971	3/14/2013	3/14/2014	EACH OCCURRENCE \$ 20,000,000
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE \$ 20,000,000
DED		RETENTION \$					
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			HFUB1476M97112	3/14/2013	3/14/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A				E.L. EACH ACCIDENT \$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 500,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
The City of Denver and County of Denver are included as additional insureds by virtue of a written contract. Coverage is primary and non-contributory.

CERTIFICATE HOLDER City of Denver & County of Denver Denver, CO	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Bruce Rogers/EXM



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/13/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Pierson & Smith a division of First Niagara Risk Management 40 Richards Avenue PO Box 5175 Norwalk CT 06854	CONTACT NAME: Ellen McAdam	
	PHONE (A/C, No, Ext): (203) 853-2727 FAX (A/C, No): (203) 604-1037 E-MAIL ADDRESS: Ellie.McAdam@fnrm.com	
INSURED NewsBank, Inc. 5801 Pelican Bay Blvd Suite 600 Naples FL 34108-2734	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Great Northern Insurance Co	20303
	INSURER B: Federal Insurance Company	20281
	INSURER C: Chubb Indemnity Insurance Co	12777
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER Master 14-15 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY		36015745	3/14/2014	3/14/2015	EACH OCCURRENCE \$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 10000	
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC					GENERAL AGGREGATE \$ 2,000,000	
						PRODUCTS - COMP/OP AGG \$ Included	
A	AUTOMOBILE LIABILITY		73583403	3/14/2014	3/14/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
	<input checked="" type="checkbox"/> ANY AUTO - ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per person) \$	
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per accident) \$	
							PROPERTY DAMAGE (Per accident) \$
						Blanket Additional Insured \$	
B	<input checked="" type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR	79884434	3/14/2014	3/14/2015	EACH OCCURRENCE \$ 20,000,000	
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$ 20,000,000	
	<input type="checkbox"/> DED	<input type="checkbox"/> RETENTION \$					
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		71739432	3/14/2014	3/14/2015	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N				N/A	E.L. EACH ACCIDENT \$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 500,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
The City of Denver and County of Denver are included as additional insureds by virtue of a written contract. Coverage is primary and non-contributory.

CERTIFICATE HOLDER

CANCELLATION

City of Denver & County of Denver Denver, CO	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Bruce Rogers/EMCADA 