

Introduction

This Licence records the terms on which CLA, as agent for NLA ('Licensor') grants a licence to Educational Establishments in the United Kingdom to reproduce articles from NLA Newspapers and NLA Newspaper Websites.

Terms and Conditions

1 DEFINITIONS USED IN THESE TERMS

In this Licence, the following meanings apply:

"Application Form"

the NLA licence application form or (in the case of a renewal) NLA licence renewal form attached to these Terms;

"CLA"

The Copyright Licensing Agency Limited, registered in England and Wales under company number 1690026 with its registered address at Barnard's Inn, 86 Fetter Lane, London EC4A 1EN;

"Cutting"

- (i) an article, report, artistic work (including for the avoidance of doubt photographs), advertisement or other item in an NLA Newspaper, or on an NLA Newspaper Website, or
- (ii) a copy of the whole or part (including the headline) of such an article, report, artistic work or other item;

"Digital Cutting"

a Cutting in a digital format;

"E-fax"

delivery from a fax machine to a computer in the form of an electronic file;

"Hyperlink"

a reference in an electronic document that links to another place in the same document or to an entirely different document (excluding links to the NLA's hosted "eClips" database of Digital Cuttings);

"Indemnity Fee"

the fee payable in respect of past copying;

"Licence Fee"

the fee payable from the Commencement Date in respect of ongoing copying;

"Licensee"

the licensed entity as described in the most recently provided Application Form;

"Licence Period"

the Licence Period as specified in the Application Form;

"Licensor"

CLA acting as agent for NLA;

"Newspaper List"

the UK & Foreign Newspaper List, which is available from www.nlamediaaccess.com;

"NLA"

NLA media access Limited registered in England and Wales under company number 3003569 with its registered address at Mount Pleasant House, Lonsdale Gardens, Tunbridge Wells, Kent TN1 1HJ;

"NLA Newspaper"

one of the publications (including but not limited to newspapers) participating in the scheme operated by the NLA, a list of which is set out in the 'Newspapers' List which is available at www.nlamediaaccess.com;

"NLA Newspaper Website"

each of the websites hosted at the URLs listed on the 'Newspaper Website' List, which is available at www.nlamediaaccess.com;

"Price List"

the list of the NLA's prices from time to time in force, which is sent to prospective licensees with the Application Form and these Terms and is available from www.nlamediaaccess.com;

"Terms"

these terms, the Application Form (together with any documents which you are required to attach to it), the Price List, the Newspaper List and the Newspaper Website List.

2 THE LICENCE GRANTED

- 2.1 These Terms set out the conditions on which the Licensor, which is authorised by the publishers of the NLA Newspapers, grants you, the Licensee, a non-exclusive licence for the copying and circulation of Cuttings
- (i) for distribution to personnel for their internal use, and/or
 - (ii) for distribution to students for their educational and instructional purposes.

3 WHAT IS COVERED BY THIS LICENCE?

- 3.1 Subject to
- (i) the limitations set out in paragraph 4,
 - (ii) the rights that the Licensee elects to take when completing the Application Form, and
 - (iii) paragraph 9 below.
- These Terms give the Licensee the rights:
- a. to make photocopies, on paper both ad hoc and systematically as part of an internal press cuttings distribution service, of Cuttings;
 - b. to fax Cuttings (other than by E-fax);
 - c. to make Digital Cuttings by scanning in Cuttings from most NLA Newspapers (see the Newspaper List for exclusions);
 - d. to receive Digital Cuttings from a press cuttings agency, public relations consultancy or trade or professional association;
 - e. to print a hard copy of a Digital Cutting;
 - f. to (i) electronically copy and paste a Digital Cutting (or a Hyperlink to a Digital Cutting) into an e-mail or other document and/or send such an e-mail or other document to the Licensee's personnel, (ii) receive, open and view an e-mail containing a Digital Cutting (or an e-mail attachment comprising a Digital Cutting), (iii) circulate a Digital Cutting via the Licensee's intranet, and/or (iv) receive a Hyperlink to a Digital Cutting, and access the Digital Cutting via that Hyperlink;
 - g. to provide one copy of a Cutting made in accordance with these Terms to the Licensee's media evaluation advisor, solely for the purposes of that advisor providing media evaluation advice;
 - h. to include Cuttings in study packs;
 - i. to project Cuttings by illumination onto a screen.
- Each of the acts licensed in this paragraph 3 shall be deemed an act of copying for the purposes of these Terms.
- 3.2 Subject to the Licensee paying the Indemnity Fee, the Licensor agrees to indemnify the Licensee against any damages (other than damages for special, indirect or consequential loss) and/or reasonable legal costs incurred as a result of copying by

the Licensee before the Commencement Date which was covered by the NLA licence terms in force at the time when the copying was undertaken.

- 3.3 Provided the terms of the licence are complied with, the Licensor agrees to indemnify the Licensee against any damages (other than damages for special, indirect or consequential loss) and/or reasonable legal costs incurred by the Licensee as a result of the Licensee having made and used copies in accordance with the licence.
- 3.4 The indemnities in sub-paragraphs 3.2 and 3.3 are subject to the Licensee invoking them by giving the Licensor written notice within fourteen days of becoming aware of any claim for damages or costs recoverable under those sub-paragraphs. The Licensee shall make no admission as to liability or agree to any settlement or compromise any such claim without prior written consent of the Licensor. The Licensor or the publisher(s) of the material subject to such claim will be entitled in the Licensee's name to conduct the defence of the claim and to compromise it as in the Licensor's discretion it sees fit.
- 3.5 The Licensee agrees:
 - a. that the obligations in these Terms will apply to its students as if they were the Licensee;
 - b. to be responsible for ensuring that its students observe these Terms;
 - c. that it will be liable for any breach of these Terms by or caused by any students; and
 - d. that any such breach will also constitute a breach of these Terms by the Licensee.

4 LIMITATIONS TO THE RIGHTS GRANTED

The rights granted in these Terms:

- 4.1 are limited to copying and circulation of Cuttings for internal use taking place within the Licensee's premises in (i) the United Kingdom (including the Channel Islands and the Isle of Man), and (ii) those countries in relation to which the NLA does not have a licensing agreement with a foreign collecting society or publisher;
- 4.2 in respect of distribution to students for their educational and instructional purposes do not permit more than one copy of each Cutting being made for each student and teacher;
- 4.3 do not permit the creation of summaries of Cuttings; and
- 4.4 do not permit the creation of a library or archive of Cuttings.

5 THE OBLIGATIONS OF THE LICENSEE

The Licensee agrees and acknowledges:

- 5.1 to pay the Licence Fee in accordance with paragraph 7;
- 5.2 to pay the Indemnity Fee in accordance with paragraph 7, unless the Licensee establishes that the indemnity is not required because there has been no unlicensed past copying;
- 5.3 to use best endeavours to ensure that Cuttings made by and/or distributed to personnel are used only for internal use and/or for distribution to students for educational and instructional purposes and are not copied by the recipient to any person who is not one of the Licensees' personnel or students;
- 5.4 to notify the Licensee's personnel and students of, and use best endeavours to ensure their compliance with, these Terms;
- 5.5 to use best endeavours to ensure that each Cutting or collation of Cuttings made as part of the regular clippings service of the Licensee or for distribution to its students include the notice: "NLA licensed copy. No further copies may be made except under licence";
- 5.6 to complete and return the Renewal Form referred to in sub-paragraph 7.3 below before the expiry of these Terms. Failure to renew the licence may result in unlawful copying;
- 5.7 to make accurate and true statements in applying for and renewing the licence, and in otherwise providing information to the Licensor;
- 5.8 to attach to the Application Form and Renewal Form when submitted the documents required in the applicable sections of the Application Form and Renewal Form, fully and accurately completed;

- 5.9 to keep records sufficient to prove compliance with the Licensee's obligations under these Terms, including without limitation records of the numbers of copies of all Cuttings made ("Compliance Records");
- 5.10 to allow inspection of the Compliance Records by an independent accountant acting on the Licensor's behalf. The accountant shall have the right to have access to the Licensee's premises during business hours on at least one month's notice, and 24 hours' notice where the Licensor reasonably suspects that the Licensee is in breach of these Terms or is infringing copyright in an NLA Newspaper. The accountant shall be entitled to inspect the records, computers and business arrangements of the Licensee to verify that it is (i) in compliance with these Terms, and (ii) not carrying out any infringing acts, and that no such acts are being carried out by any personnel or students of the Licensee. If such inspection reveals an underpayment of fees Licensee shall forthwith remit the amount of the underpayment to the Licensor;
- 5.11 if the Licensee undertakes hard copy or digital systematic or frequent copying (as described in the Price List), to supply (i) a Survey Sheet with the Application Form and any Renewal Form, and (ii) upon request from the Licensor, a single copy of each Cutting listed in any Survey Sheets;
- 5.12 to monitor the levels and methods of copying and intended copying by the Licensee;
- 5.13 if (due to the Licensee changing its levels or methods of copying or circulation, or howsoever) the information provided in the application becomes (or is about to become) inaccurate, the Licensee must (i) immediately inform the Licensor, and (ii) promptly submit a revised Application Form. The Licensor will then invoice the Licensee for any additional fees which are due;
- 5.14 not to assign or sublicense the rights granted under these Terms without the prior written consent of the Licensor;
- 5.15 to accept that the Licensor shall incur no liability for any harm caused by the content of any of the NLA Newspapers being copied pursuant to these Terms, except as expressly set out in paragraphs 3.2 and 3.3;
- 5.16 to notify the Licensor promptly of any infringement of copyright in the NLA Newspapers (or any part of them) of which the Licensee becomes aware;
- 5.17 that neither it, nor any of its personnel nor students shall acquire any intellectual property rights in the Cuttings or the NLA Newspapers; and
- 5.18 without prejudice to paragraph 10, to use best endeavours to ensure that no alterations are made to the size or layout of Cuttings beyond what is reasonably required for educational purposes.

6 LENGTH OF THE LICENCE

- 6.1 These Terms shall enter into effect on the Commencement Date, and shall automatically expire twelve months after the Commencement Date. In the absence of notice from the Licensee prior to expiry that the Licensee will cease all copying on the expiry date, the licence shall be automatically renewed on the NLA terms applicable at the time. Continued copying by the Licensee following expiry of these Terms shall be deemed to be acceptance of renewal on the NLA terms applicable at the time. The Licensee shall be obliged to pay the licence fee due under such a renewed licence not later than 35 days after the expiry of these Terms. Failure to make the payment by this date will constitute a material breach of the licence. This paragraph shall survive termination or expiry of these Terms.

7 FEES

- 7.1 The Licence Fee and the Indemnity Fee are:
 - a. payable by the Licensee, together with any VAT (or other tax) due, upon the grant of the licence; and
 - b. calculated in accordance with the relevant sections of the Price List.
- 7.2 In calculating the basic component of the Licence Fee, the number of the Licensee's students should be aggregated with its personnel. The number of the Licensee's students shall be the full-time equivalence figure.
- 7.3 The Licensor will send the Licensee a Renewal Form (attaching the NLA terms

applicable on renewal) approximately 10 weeks before the expiry of these Terms. The Licensor will then submit a renewal invoice for the fee and VAT due.

- 7.4 In the event that the Licensee fails to return the Renewal Form by the expiry of these Terms, the licence shall be automatically renewed for a further period of 12 months on the NLA terms applicable at the time. In these circumstances, the Licence Fee payable in the renewal invoice will be based upon (i) the details provided by the Licensee of its copying in the previous year, (ii) the current Price List at the time, and (iii) reasonable assumptions as to the extent of the Licensee's copying.
- 7.5 Invoices issued by the Licensor for all fees are payable within 30 days after issue. The Licensor is entitled to interest upon overdue amounts at a rate of 4% above the Bank of England base rate.

8 TERMINATION OF THESE TERMS

- 8.1 Either party may terminate these Terms by 1 month's written notice given to the other. Provided all sums due from the Licensee have been paid, the Licensor will reimburse the Licensee with any unused proportion of the licence fee attributable to the period after termination has become effective on a pro rata basis, less an administrative charge of £75 plus VAT.
- 8.2 The Licensor may terminate these Terms by notice in writing with immediate effect if:
- the Licensee or any of its students commits or causes any breach of any of the provisions of these Terms, and (in the case of a remediable breach only) remains in breach fourteen (14) days after receiving notice from the Licensor to remedy such breach; or
 - the Licensee resolves to go into a 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 parts of its assets or property, or becomes insolvent or suffers any event analogous to any of the foregoing. In the event of such termination by the Licensor, no refund shall be due to the Licensee.

9 SPECIFIC CONDITIONS APPLYING TO DIGITAL RIGHTS

- 9.1 If the Licensee wishes to make and/or copy Digital Cuttings, it shall pay the Digital Fee, which is payable in addition to the Licence Fee and the Indemnity Fee (if any), and is calculated in accordance with the Price List.
- 9.2 NLA Newspapers marked "ND" in the Newspaper List may not be digitally copied.
- 9.3 Each person to whom the Licensee sends Digital Cuttings may make a single hard copy of each Digital Cutting delivered to them, for their own use in the course of their work/study.
- 9.4 If the Licensee is a client of a press cuttings agency or public relations consultancy, or a member of a trade or professional association, the Licensee is entitled to make a single hard copy of each Digital Cutting delivered to it by such entity. If the same Digital Cutting is delivered to several employees of the Licensee, each employee may print off a single copy.
- 9.5 The Licensee may print off multiple copies or may make multiple photocopies of Digital Cuttings for systematic distribution, provided it has complied with its obligations under these Terms (and in particular in paragraphs 5.1 and 5.11).

10 STATUTORY RIGHTS

- 10.1 These Terms are deemed to complement and extend the rights of the Licensee under the Copyright Designs and Patents Act 1988 and the Copyright (Visually Impaired Persons) Act 2002 and nothing in these Terms shall constitute a waiver of any statutory rights held by the Licensee from time to time under these Acts or any amending legislation.

11 OTHER MATTERS

11.1 Waiver

The rights and remedies provided by these Terms may be waived only expressly in writing and specifically, and any failure to exercise or delay in exercising a right or remedy by the Licensor shall not constitute a waiver of any right or remedy. Any waiver acquiescence or delay by the Licensor in enforcing these Terms shall have no effect in relation to any later breach.

11.2 Entire Agreement

These Terms set out the full terms of the agreement between the Licensee and the Licensor, and may not be amended except in writing and signed by the Licensor and the Licensee.

11.3 Rights of Third Parties

No person shall have any rights under the Contracts (rights of Third Parties) Act 1999 to enforce these Terms. This paragraph does not affect any right of any person which exists otherwise than under that Act.

12 PROPER LAW

12.1 These Terms are governed by the laws of and subject to the jurisdiction of the courts in that part of the United Kingdom (England and Wales, Scotland and Northern Ireland) in which the Licensee has its principal place of business. The Licence may also be governed by the laws of and subject to the jurisdiction of the courts of Jersey, Guernsey and the Isle of Man for licensees whose principal place of business is in Jersey, Guernsey and the Isle of Man respectively.