

**THE NATIONAL EXHIBITION CENTRE  
VENUE LICENCE AGREEMENT  
PART TWO**

**1 DEFINITIONS**

1.1 In this Agreement the following definitions will apply (unless the context otherwise requires):-

<b>“Additional Services”</b>	means any services or products provided to the Customer by NEC including those set out in Clause 3 which are in addition to the Services;
<b>“Additional Service Charge”</b>	means the additional amounts to be charged by NEC pursuant to Clause 3 at the rates prevailing at the time that such Additional Services are provided;
<b>“Alcohol”</b>	means any and all alcoholic beverages;
<b>"Agreement"</b>	means this agreement (being Part One and Part Two), the Rules and Regulations, the eGuide and the schedules hereto as may be varied in writing from time to time;
<b>“Build Period”</b>	means that part of the Licence Period during which the Exhibition is being built;
<b>“Break Period”</b>	means that part of the Licence Period during which the Exhibition is being dismantled;
<b>“Centre”</b>	means the National Exhibition Centre, Birmingham B40 1NT shown edged blue on the Venue Plan;
<b>“Contractor”</b>	means any contractor engaged by the Customer, Exhibitor or any Sub-Licensee to carry out any work of any type at the Venue in connection with the Exhibition;
<b>“Early Access Period”</b>	means any period prior to the Build Period during which NEC grants the Customer the right to access the Venue;
<b>“eGuide”</b>	means the eGuide guidance manual for achieving required standards while working onsite at Association of Event Venues (“AEV”) member venues as jointly published by the AEV (or any successor organisation) from time to time the current version of which has been provided to the Customer and is also available for download at <a href="http://www.aev.org.uk/eGuide">www.aev.org.uk/eGuide</a> and <a href="http://www.thenec.co.uk/exhibitions/information/legal/rulesandregulations">www.thenec.co.uk/exhibitions/information/legal/rulesandregulations</a> or such other website as may be notified to the Customer from time to time;

<b>“Exhibition”</b>	has the meaning as set out in Part One of this Agreement;
<b>“Exhibition Profile”</b>	means the nature and content of the Exhibition (including product categories) permitted for inclusion in the Exhibition as is more particularly described in Part One of this Agreement;
<b>“Exhibitor”</b>	means any person to whom the Customer delegates certain of its rights under this Agreement such as, but not limited to, a person who exhibits any goods or services within the Exhibition;
<b>"Fees"</b>	means together, the Licence Fees, Additional Service Charges and any other charges payable by the Customer to the NEC in accordance with Clause 4 and Part One of this Agreement;
<b>“Force Majeure Event”</b>	means any acts, events, omissions or accidents beyond the reasonable control of the affected party including without limitation strikes, lock-outs or other industrial disputes (whether involving the workforce of NEC or of any other party), act of God, war, riot, civil commotion, pandemic, malicious damage, compliance with any Law, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors or any necessary inspection, repair or replacement of any part of the centre (including the Venue), inaccessibility of transport links, failure of supply of fuel, power, communication, transport or other goods or services
<b>“Group”</b>	in relation to a company, means such company and its ultimate holding company and any subsidiaries of such ultimate holding company from time to time and ‘subsidiary’ and ‘holding company’ shall bear the meanings ascribed to them in section 1159 of the Companies Act 2006;
<b>“Halls”</b>	means the halls marked and numbered or named and edged red on the Venue Plan;
<b>“Intellectual Property Rights”</b>	means patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all existing and future rights capable of present assignment, applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
<b>“Late Exit Period”</b>	means any period after the Break Period during which NEC grants the Customer the right to remain in the Venue.

<b>“Law”</b>	means any relevant laws including any Act of Parliament or other legislation having effect in England and Wales, any codes, orders, byelaws, regulations or rules thereunder now existing or hereafter passed including any Premises Licence relating to the Centre;
<b>“Leftover Materials”</b>	means all structures, goods and waste and other materials brought onto the Venue or any other part of the Centre or otherwise generated by the Customer, Exhibitors or by Sub-Licensees (except for waste which NEC is responsible for removing as part of the Services) remaining in or on the Venue after the end of any Licence Period;
<b>“Licence Fees”</b>	means the fees payable for the hire of the Venue during the Licence Period as described in Part One of this Agreement;
<b>“Licence Period”</b>	means the licence period or periods set out in Part One of this Agreement each commencing at 8.00 am on the first day of each licence period and ending at 16.00pm on the last day of each Licence Period;
<b>“Party”</b>	means either NEC or Customer as the context may require and “Parties” shall be construed accordingly;
<b>“Premises Licence”</b>	means the licence from time to time applicable to the Centre permitting Alcohol to be sold or supplied on the premises at the Centre and/or entertainments to be conducted at the Centre;
<b>“Open Period”</b>	means the periods within the Licence Period during which the Exhibition is open to visitors as set out in Part One of this Agreement;
<b>“Rules and Regulations”</b>	means all of the rules and regulations which apply to the operation of the Venue and conduct of persons therein from time to time in force the current version of which has been provided (whether on paper or on a CD) to and read by the Customer and is also available for download at: <a href="http://www.thenec.co.uk/exhibitions/information/legal/rulesandregulations">www.thenec.co.uk/exhibitions/information/legal/rulesandregulations</a>
<b>“Safe Attendance Capacity”</b>	means the maximum number of people that may be in the Venue at any time based on the size of the Venue as more particularly set out in Part One of this Agreement;
<b>“Services”</b>	means the services to be provided by NEC during the Licence Period as are fully described in Part One of this Agreement;
<b>“Sub-Licensee”</b>	means any sub-licensee of the Customer or the Exhibitors being their respective Contractors, sub-contractors, employees or agents and shall include the Customers guests and visitors to the Exhibition;

<b>“VAT”</b>	means value added taxation levied in accordance with the Value Added Taxation Act 1994;
<b>"Venue"</b>	means the venue as described or ascertained in accordance with the provisions of Part One of this Agreement but excluding ducts under the floor of the Halls and the links, entrance foyers, restaurants and bars therein;
<b>“Venue FM Event”</b>	means a Force Majeure Event that affects the Centre (including the Venue) only and has the effect of making the Venue unavailable for the purposes of staging the Exhibition in circumstances where the Customer remains ready willing and able to stage the Exhibition; and
<b>“Venue Plan”</b>	means the venue plan set out in Part One of this Agreement.

1.2 In this Agreement:-

- 1.2.1 words denoting any gender shall include all genders and words denoting the singular shall include the plural;
- 1.2.2 references to persons or undertakings shall include individuals bodies corporate (wherever incorporated), unincorporated associations, partnerships and other unincorporated bodies;
- 1.2.3 references to any statute or statutory provision shall be deemed to include references to any statute or statutory provision that amends, extends, consolidates or replaces the same;
- 1.2.4 references to a time of day shall be to the time in London;
- 1.2.5 any negative obligation imposed on any party shall be construed as if it were also an obligation not to permit or suffer;
- 1.2.6 references to Parts, Clauses and Schedules are to parts, clauses of and schedules to this Agreement;
- 1.2.7 references to ‘includes’, ‘including’ or ‘in particular’ are to be construed as being by way of illustration and shall not limit or prejudice the generality of the foregoing words; and
- 1.2.8 if there is any conflict between the following, to the extent that there is any conflict only, the order of precedence shall be:- (1) Part One of this Agreement; (2) Part Two of this Agreement; (3) The Rules and Regulations and (4) the eGuide.

**2 LICENCE AND SERVICES**

- 2.1 In consideration of the payment by the Customer to NEC of the Licence Fees and subject to the Customer's compliance with the provisions of this Agreement and the Law, NEC:-
  - 2.1.1 hereby grants to the Customer and the Customer hereby accepts a revocable, non-assignable and non-exclusive licence to use the Venue for the sole purpose of staging the Exhibition during the Licence Period;
  - 2.1.2 shall ensure that access to the Venue shall be given to the Customer free from obstructions and in good condition for each Licence Period; and

- 2.1.3 shall provide the Services to the Customer.
- 2.2 It is agreed that there is no intention by NEC or the Customer to create a tenancy under the Landlord and Tenant Act 1954 Part II or of any nature in favour of the Customer and NEC retains the right at any time to access the Venue to exercise its rights under this Agreement or to use any area within the Venue provided that NEC shall use its reasonable endeavours to ensure that such use does not materially affect the holding of the Exhibition.
- 2.3 To the extent necessary for the proper enjoyment of the rights granted to the Customer, such rights may extend to the Exhibitors and Sub-Licensees provided always that the Customer:
- 2.3.1 shall not contract with Exhibitors and Sub-Licensees on terms that are in conflict with this Agreement;
- 2.3.2 requires such Exhibitors and Sub-Licensees to comply with and be subject to provisions that reflect the provisions of this Agreement and shall make it an express term in any such sub-licence that NEC may itself enforce such provisions pursuant to the Contracts (Rights of Third Parties) Act 1999; and
- 2.3.3 shall be liable to NEC for the acts and omissions of any Exhibitor or Sub-Licensee as if those acts or omissions were those of the Customer itself and NEC shall not be required to pursue the Exhibitor or Sub-Licensee before making any claim against the Customer in this regard.
- 2.4 The Customer shall comply and shall procure that its Exhibitors and Sub-Licensees shall comply with the Exhibition Profile (including only using the name of the Exhibition set out therein and not exhibiting any products or goods not included with the Exhibition Profile) in carrying out the Exhibition. The inclusion of any product category in the Exhibition Profile does not imply any exclusivity for the Customer in relation to exhibitions held at the Venue during the Licence Periods, the term of this Agreement or otherwise.
- 2.5 If any Fees remain unpaid 14 days after payment was due, NEC shall have the right to suspend the licence granted pursuant to this Agreement together with the provision of the Services and refuse access to the Venue by the Customer, its Exhibitors and Sub-Licensees until such time as any outstanding Fees have been paid in full.

### **3 ADDITIONAL SERVICES**

- 3.1 NEC may provide Additional Services relating to the Exhibition to the Customer as may be requested from time to time and the Customer shall pay the relevant Additional Service Charge. Such Additional Services will be provided subject to the provisions of this Agreement.
- 3.2 NEC (and all persons authorised by NEC) has the exclusive right to supply to the Customer, the Exhibitors and Sub-Licensees at the Venue:-
- 3.2.1 all gas and compressed air from the mains;
- 3.2.2 all electricity whether from the mains or generators up to but not beyond the distribution point;
- 3.2.3 all connections to stands and/or stages (as the case may be) for the supply of gas, water, compressed air, internet connections, telephones and electricity and for the removal of waste; and
- 3.2.4 the fixing to the buildings within the Venue of all primary rigging points or other primary fixings (including bolting down).

## **4 FEES**

- 4.1 The Customer shall pay to NEC the Fees as calculated and payable in accordance with the provisions of Part One of the Agreement.
- 4.2 All Fees shall be paid in full without any deduction or withholding and the Customer shall not be entitled to assert any credit or set off notwithstanding any claim or counterclaim the Customer may have against NEC under this Agreement or otherwise.
- 4.3 All Fees to be paid pursuant to this Agreement are exclusive of VAT which, where applicable, will be charged by NEC at the rate or rates applicable from time to time.
- 4.4 Interest shall be payable on the late payment of any Fees properly invoiced under this Agreement in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.5 Any Additional Service Charge shall be at such rate as NEC and the Customer may agree and invoices for such charges shall be paid within 30 days of the date of any such invoices.
- 4.6 The Customer shall pay to the Performing Rights Society, or to NEC as reasonably required by NEC, all fees due to The Performing Rights Society Limited in respect of the Exhibition within one month of the end of each Licence Period.

## **5 CONDUCT OF THE EXHIBITION**

- 5.1 NEC shall provide the Customer, Exhibitors and Sub-Licensees adequate access to and exit from the Venue as designated or otherwise notified to the Customer by NEC from time to time and the Customer shall not at any time obstruct in any way or park vehicles on the roadways and shall ensure that its Exhibitors and Sub-Licensees know and comply with these arrangements.
- 5.2 The Customer shall have the right to:-
  - 5.2.1 use the facilities of such of the lavatories and cloakrooms, restaurants, bars and kiosks at the Centre as NEC may make available provided that NEC shall be entitled at its absolute discretion to close any of these facilities in the light of the actual or expected level of utilisation; and
  - 5.2.2 erect stands and other temporary structures in the interior of the Halls.
- 5.3 The Customer shall not and shall procure that no Exhibitor or Sub-Licensee shall:-
  - 5.3.1 do anything or omit to do anything which prejudices any licence or consent relating to the Venue or the Exhibition;
  - 5.3.2 cause a breach of this Agreement, of any Law or cause a nuisance to NEC or to any occupiers of the Centre or of premises adjoining the Centre;
  - 5.3.3 Sell, provide or offer in any manner including but not limited to samples, any food, drinks (including Alcohol), cigarettes or other tobacco or other consumable refreshments of any nature whatsoever without the prior written consent of NEC (which may be withheld or granted as NEC may in its absolute discretion determine (including the terms and conditions of any such consent));
  - 5.3.4 use the Venue for any illegal or immoral purpose or for betting or gaming or for the holding of a lottery unless the lottery is permitted by the Gambling Act 2005;
  - 5.3.5 permit any animals to be brought on to the Venue (without the prior written consent of NEC) unless such animals are guide dogs or assistance dogs;

- 5.3.6 place or keep at the Venue or any part thereof any substance which is, or in the reasonable opinion of NEC is, of a dangerous, explosive or objectionable nature or (without the prior written consent of NEC such consent not to be unreasonably withheld or delayed) any naked flames;
  - 5.3.7 interfere with or make any alterations, attachments or additions to the Venue and not to place any unusual loads on any beam, pillar or other part of the structure of the Venue and in particular not to suspend any fittings from the structure of any roof within the Venue;
  - 5.3.8 sell or offer for sale at the Venue or elsewhere at the Centre any books, magazines, records, tapes or other goods of whatever nature without the prior written consent of NEC which consent may be subject to such conditions as NEC considers appropriate;
  - 5.3.9 make any application for a Temporary Exhibition Notice in respect of the Venue under the Licensing Act 2003 or otherwise;
  - 5.3.10 make arrangements for the broadcasting, recording, televising or webstreaming of the Exhibition without the prior written consent of NEC and in particular NEC reserves the right to charge a fee for granting the Customer rights for the public broadcasting, recording, televising or webstreaming of the Exhibition; or.
  - 5.3.11 exceed the Safe Attendance Capacity at any time during the Licence Period.
- 5.4 The Customer shall be responsible for the safe and effective staging of the Exhibition and save to the extent that NEC has agreed to provide the Services the Customer shall provide suitable qualified and experienced staff required for the purpose of safely staging the Exhibition.
  - 5.5 All property brought on to the Venue or the Centre (including Leftover Materials) is brought at the owner's risk and NEC does not accept responsibility for the safekeeping of property whether or not deposited with employees or representatives of NEC and NEC shall not be in any way responsible for any theft, loss or other damage in respect of such property and the Customer shall ensure that all Exhibitors and Sub-Licensees are aware of this.
  - 5.6 The Customer shall ensure that it has obtained all necessary licences, consents and/or permits required for the lawful staging of the Exhibition at the Venue.
  - 5.7 The Customer shall ensure that all Contractors are suitably trained and qualified and competent to carry out the work for which they have been engaged to carry out at the Venue.
  - 5.8 The Customer shall have and shall ensure that it and all Exhibitors have all necessary licences and consents relating to any Intellectual Property Rights used in connection with the Exhibition.
  - 5.9 The Customer and NEC shall each appoint a representative who shall meet as often as may be required to ensure that all operational matters relating to the Exhibition can be discussed and the Customer shall ensure that:-
    - 5.9.1 details of its representative are provided to NEC no later than 3 months before the commencement of the Licence Period; and
    - 5.9.2 its representative is present at the Venue during whole of the Licence Period
  - 5.10 At least three months prior to the commencement of any Licence Period, the Customer shall provide the following information to NEC in writing:-
    - 5.10.1 Floor plans;
    - 5.10.2 List of Exhibitors;
    - 5.10.3 List of Contractors; and
    - 5.10.4 List of the Customer's staff attending the Exhibition

and shall provide NEC with any relevant updates to such information in a timely manner.

## **6 PROMOTION AND ADVERTISING**

### **6.1 The Customer:**

6.1.1 acknowledges that NEC reserves the exclusive right to sell and place all advertising space in the Centre other than in the Halls within the Venue in the positions that NEC thinks fit;

6.1.2 shall only place or permit the placing of advertisements in the Halls within the Venue;

6.1.3 shall not and shall not permit the placing of advertisements or signage that NEC reasonably considers to be unlawful, offensive or unsightly and the Customer shall remove any such advertisement or signage upon the NEC's reasonable request to do so.

6.2 NEC reserves the right to require that the Customer obtain the prior written approval (such approval not to be unreasonably withheld or delayed) of NEC for all posters, advertisements, prospectuses, programmes and other publicity material relating to the Exhibition and the Customer shall ensure that all such publicity material complies with the Exhibition Profile in all material respects.

6.3 The Customer shall not undertake any marketing or advertising in connection with the Exhibition which may harm the reputation of NEC including the use of fly posting and/or is contrary to the Town and County Planning Act and any Regulations made there under or any other Law.

6.4 NEC has the exclusive right, at any time, to have one or more naming rights sponsors for the Venue and to require the Customer to publicise the sponsor's interest in the Venue in such manner as NEC shall reasonably require.

## **7 VACATION OF THE VENUE**

7.1 NEC has the right to vacant possession of the Venue on the expiration of each Licence Period and unless otherwise agreed in writing the Customer shall leave and handover the Venue to NEC no later than 16.00 hours on the last day of each Licence Period (time being of the essence) in as good and clean order (including the removal of all Leftover Materials) and condition as it was on the commencement of each Licence Period.

7.2 If the Customer fails to handover the Venue cleared of all Leftover Materials in accordance with this Agreement:-

7.2.1 NEC may remove and treat all Leftover Materials as refuse (regardless of the value, nature, state or condition of such Leftover Materials and whether they are owned by the Customer, Exhibitor, Sub-Licensee or another person) and dispose of these as NEC thinks fit, the cost of which shall be reimbursed to NEC by the Customer in full upon demand; and

7.2.2 the Customer shall upon receipt of NEC's invoice and without prejudice to NEC's other rights and remedies for each day or part of a day in respect of which such failure continues pay one full day's Licence Fee at the same rate per day as those applicable during each respective Licence Period in respect of any Hall not cleared of all Leftover Materials.

## **8 NEC'S AND RELATED RIGHTS**

8.1 NEC shall have the right:-

- 8.1.1 for all persons that are agents, employees or invitees of NEC who produce to the Customer an official pass issued by NEC to enter the Venue without payment at any time during each Licence Period;
- 8.1.2 where the Exhibition is open to the public, to admit only members of the public to the Venue for the purpose of attending the Exhibition upon production of an authentic prepaid admission ticket;
- 8.1.3 where the Exhibition is open only to trade visitors to only admit visitors based on criteria to be agreed with Customer prior to the Licence Period;
- 8.1.4 to take such action as it sees fit to ensure good conduct and safety at the Venue and the Centre, including:-
- 8.1.4.1 requiring that the Customer remove from the Venue, or NEC may bar access to or remove from the Venue, any person (including any Exhibitor or Sub-Licensee) who:-
- (a) in the reasonable opinion of NEC, who is acting contrary to the Exhibition Profile or may be undesirable, inappropriate, harmful (including harmful to the reputation and commercial interests of NEC), offensive or obscene or which may cause a breach of the Law or where applicable a breach of the peace;
- (b) infringes the Rules and Regulations or other agreements or matters referred to in this Agreement; or
- (c) unreasonably refuses to permit himself and his possessions to be searched on entering the Venue or the Centre or who in the reasonable opinion of NEC's security officers, poses a security risk.
- 8.1.4.2 requiring that the Customer remove from the Venue any installation or material including any stand, kiosk or catering facility within the Venue that, in the reasonable opinion of NEC, which is, contrary to the Exhibition Profile or may be undesirable, inappropriate, harmful (including harmful to the reputation and commercial interests of NEC), offensive or obscene or which may cause a breach of the Law.
- 8.1.4.3 requiring that the Customer, Exhibitor or Sub-Licensee cease any activity which, in the reasonable opinion of NEC, constitutes or may cause a breach of any of the Law, this Agreement or a breach of the peace or which gives rise to any such rights of removal referred to in Clause 8.1.4.1.
- and the Customer shall comply with any such request made pursuant to this Clause 8.1.4 or procure compliance with such request at once;
- 8.1.5 to enter the Venue at any time during the Licence Period for any purpose including inspecting, altering, repairing, maintaining, cleaning or adding to the Venue and its services or any part of the Venue or any erection of scaffolding, the use of other temporary structures or equipment around or within all or a part of the Venue even though this may cause loss of light, smell, noise or vibration and inconvenience to visitors provided that NEC will use all reasonable endeavours to ensure that the holding of the Exhibition is affected as little as is reasonably practicable by such action;
- 8.1.6 to suspend the rights granted to the Customer (in whole or in part) or take any action which, in its absolute discretion, it considers necessary including ordering an evacuation of the Venue, if any situation or event occurs which in NEC's opinion is a breach of this Agreement or constitutes or may constitute a serious danger to public safety without incurring any liability as a result except in so far as NEC is itself responsible for the situation or event;

- 8.1.7 to provide all catering facilities and refreshments at the Venue. NEC may exercise this right itself or may grant permission to third parties to provide catering facilities at the Venue; and
- 8.1.8 to operate the vehicle parks at the Centre in such manner as it considers appropriate taking account of the overall operation of the Centre.
- 8.2 Notwithstanding any rights granted to the Customer pursuant to this Agreement, NEC, Birmingham City Council, Network Rail (or its successors) and all other owner or owners for the time being of the Centre or any adjoining or neighbouring land shall enjoy:-
- 8.2.1 the free and uninterrupted passage and running of water, sewage, gas and electricity and other services from or to all or any part of the present or future buildings erected on the property at which the Venue is situated or any adjoining or neighbouring land through the sewers, drains, watercourses, water pipes, gas pipes, electric wires and other media which are now or may after the date of this Agreement be upon, in, under or over the Venue; and
- 8.2.2 the right to develop the adjoining or neighbouring land in any manner and for any purposes and to erect, maintain, alter, demolish or reconstruct or repair any buildings on the land and carry out work of any nature on the land and to erect scaffolding around the Venue even if this means that the free access of light and air to the Venue or any part of the Venue may be impaired and even if this means that the use and enjoyment of the Venue may be impaired due to noise, smell, smoke, vibration or other effects provided that NEC shall insofar as it has the power ensure that any such works or activities shall not materially and adversely affect the holding of the Exhibition.

and the Customer shall not raise any objection to or claim any compensation in respect of the exercise of any such rights.

- 8.3 The Customer shall reserve for the exclusive use of NEC, free of charge, 100 tickets per Exhibition.

## **9 HEALTH AND SAFETY**

- 9.1 The Parties acknowledge and accept their respective responsibilities relating to health and safety under the Law including in particular under the Health and Safety at Work, Act 1974 (the "1974 Act") and all regulations made under the 1974 Act in force which are relevant to this Agreement including relevant national and international published guidance and standards.
- 9.2 The Customer will comply and shall procure that its Exhibitors and Sub-Licensees comply at its or their own expense, with all requirements regarding the health and safety of persons at the Exhibition and the Centre including compliance with the eGuide and any reasonable requirements of NEC in this regard.
- 9.3 The Customer shall appoint a representative who shall be responsible for all health and safety matters relating to the Exhibition and shall notify NEC of such representatives contact details no later than 3 months before the Licence Period commences.
- 9.4 Upon written request and subject to the provisions of the Data Protection Act 1998, the Customer shall provide the NEC and/or its Insurers at no cost and within 7 days a copy of the accident investigation report prepared by the Customer or its representatives for any incident that occurs within the Venue during the Licence Period.

## **10 SECURITY**

- 10.1 The NEC shall only be responsible for the provision of the security services specified in the Services set out in Part One of this Agreement and any additional security services to be provided to the Customer by agreement between the Parties or pursuant to Clause 10.2.
- 10.2 If NEC, acting reasonably, is of the opinion that any additional security measures other than those included in the Services, are desirable (either generally or in respect of all or part of any particular Licence Period) it shall give such notice as is reasonably practical and the Customer shall be obliged to procure such additional security measures whether from NEC (for an Additional Service Charge) or otherwise.
- 10.3 The Customer will be responsible for the provision of close protection/security for individuals attending or appearing at the Exhibition at all times ensuring compliance with the Private Security Industry Act 2001.
- 10.4 Where the Customer appoints its own or an external security company to provide security at the Exhibition, the Customer shall ensure that the security provider:-
- 10.4.1 either be inspected and accredited to NSI Silver or Gold Standard or be an SIA approved contractor;
  - 10.4.2 complies with the Private Security Industry Act 2001; and
  - 10.4.3 completes such NEC site familiarisation training as NEC may reasonably require.

## **11 DURATION AND TERMINATION**

- 11.1 This Agreement shall continue until 1600 hours on the last day of the last Licence Period as set out in Part One of this Agreement, or until terminated otherwise in accordance with this Clause 11.
- 11.2 NEC may terminate this Agreement forthwith by giving written notice to the Customer if the Customer shall be in breach of any payment obligation and such breach is not remedied within fourteen (14) days of the Customer being specifically required in writing to do so.
- 11.3 Either Party (the "non-defaulting Party") may, without prejudice to any rights or remedies of the non-defaulting Party, terminate this Agreement forthwith by giving written notice to the other Party if the other Party shall be in material breach of any of the terms of this Agreement and in the case of a breach capable of remedy, such breach is not remedied:
- 11.3.1 in the case of such breach requiring remedy at any time during a Licence Period, within twenty four (24) hours of that other Party being specifically required by written notice to do so (whether such notice was received during or before the commencement of the relevant Licence Period); or
  - 11.3.2 in the case of a breach requiring remedy at any time outside a Licence Period, within fourteen (14) days of that other Party being specifically required by written notice to do so.
- 11.4 Either Party may terminate this Agreement forthwith in the event that the Other Party:
- 11.4.1 is unable to pay its debts as they fall due; or
    - (a) (in the case of a company), is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
    - (b) (in the case of a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986; or

- (c) (in the case of a partnership) has any partner to whom any of the foregoing apply; or
  - 11.4.2 makes or seeks to make any compromise or arrangement with its creditors; or
  - 11.4.3 has a petition presented, passes a resolution or an order is made for the winding up of that other Party; or
  - 11.4.4 has an application made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other Party or a floating charge holder over the assets of that other Party has become entitled to appoint or has appointed an administrative receiver; or
  - 11.4.5 being an individual, is the subject of a bankruptcy petition or order, dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 11.5 For the purposes of Clause 11.3 a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects other than as to time for performance.
- 11.6 In the event that NEC terminates this Agreement pursuant to this Clause 11 or the Customer terminates this Agreement (including cancellation of the Exhibition or the reduction in the size of the Exhibition for any reason whatsoever) other than pursuant to Clause 11.3 or 11.4 then all payments received prior to the date of such termination shall be forfeited to NEC and any outstanding unpaid Fees together with any additional costs incurred by NEC arising out of such termination (including any costs connected with publicising the cancellation of the Exhibition) shall become immediately payable by the Customer upon submission of an invoice by NEC but without prejudice to any rights and remedies of the Customer arising out of any such termination.
- 11.7 In the event that the Customer cancels the Exhibition for any reason whatsoever and, notwithstanding the provisions of Clause 11.6, NEC shall use its reasonable endeavours to resell the Venue or any part of it and shall reimburse the Customer 70% of any licence fees received from another customer or third party as a result of any such resale limited to a maximum of 70% of the Licence Fee paid by the Customer pursuant to this Agreement provided that NEC shall be entitled to sell other parts of the Centre ahead of any obligation to endeavour to resell the Venue pursuant to this Clause 11.7.
- 11.8 Upon termination of this Agreement for any reason whatsoever the Customer shall be deemed to have surrendered to NEC with immediate effect any right to occupy the Venue during the License Periods.

## **12 FORCE MAJEURE**

- 12.1 If by reason of any Venue FM Event, whether occurring before or during the Licence Period, the Exhibition cannot proceed then:
- 12.1.1 NEC shall, if practicable, use its reasonable endeavours to offer to substitute an alternative venue that is under the NEC's control or alternative dates for the Exhibition;
  - 12.1.2 if no alternative venue or dates (as the case may be) are made available or if the Customer acting in good faith, reasonably determines that the alternative venue or dates (as the case may be) are wholly unsuitable, NEC shall be entitled by notice in writing to cancel the Exhibition; and

- 12.1.3 NEC's liability in respect of such cancellation shall not exceed the payments received by NEC in respect of the Fees at the date of such cancellation minus all costs incurred by NEC in connection with the Exhibition and to the extent that the amount received at the date of such cancellation are less than such costs, NEC shall be entitled to seek immediate payment of the balance of such costs from the Customer.
- 12.2 If by reason of any Force Majeure Event (other than a Venue FM Event in which case the provisions of Clause 12.1 shall apply) whether occurring before or during the Licence Period, the Customer is unable to stage the Exhibition then NEC shall be entitled to retain all monies paid to NEC in respect of the Fee prior to the date of any such cancellation and to seek immediate payment of all monies remaining due to NEC by the Customer in respect of the Fee.
- 12.3 Save in respect of the circumstances referred to in Clauses 12.1 and 12.2 in which case the provisions of those Clauses shall apply, neither Party shall be liable to the other in respect of the performance of such of its other obligations under this Agreement as are prevented by any Force Majeure Event during the continuation of such events or for any loss or damage suffered by the other arising as a consequence of a Force Majeure Event.
- 12.4 If either Party is affected by a Force Majeure Event it shall forthwith notify the other of the nature and extent and the Parties, subject to the provisions of this Clause 12, will enter into discussions in good faith with a view to alleviating its effects and to agreeing such alternative arrangements as may be fair, reasonable and practicable.

### **13 INDEMNITY**

- 13.1 The Customer shall all times keep NEC indemnified against all actions, claims, demands, damages, losses, expenses, compensation, costs, charges, liabilities and proceedings which may arise in any manner whatsoever in relation to:-
- 13.1.1 any harm or damage caused to the Venue or to any other property situated at the Venue by the Customer, any Exhibitors or any Sub-Licensees (other than employees or guests of NEC)
- 13.1.2 cancellation of the Exhibition (in whole or in part);
- 13.1.3 closure of any stand at the Exhibition pursuant to Clause 8 of this Agreement;
- 13.1.4 all costs and liabilities incurred by NEC as a result of the actual number of attendees at the Exhibition exceeding the Safe Attendance Capacity;
- 13.1.5 the removal, ejection or denial of access (as the case may be) of any person to or from the Exhibition pursuant to Clause 8 of this Agreement;
- 13.1.6 any claims of whatever nature brought against NEC in consequence of the disposal of any Leftover Materials pursuant to Clause 7.2, whether by the Exhibitors, Sub-Licensees or the owner;
- 13.1.7 any breach or alleged breach by the Customer, any Exhibitor or Sub-Licensee of the Law; and
- 13.1.8 any default in relation to any of the Customer's obligations to vacate the Venue on time and in the same condition as the Venue was in at the commencement of the Licence Period.

### **14 INSURANCE**

- 14.1 NEC shall effect and maintain public liability insurance in the joint names of NEC and of the Customer, its Exhibitors and Contractors of no less than £100,000,000 (one hundred million pounds) in respect of any one occurrence or all occurrences of a series consequent on one original cause ("NEC PL Insurance").

- 14.2 If the Customer, its Exhibitors or Sub-Licensees causes or contributes to the occurrence giving rise to any claim relating to the NEC PL Insurance the Customer shall keep NEC fully and effectively indemnified in respect of all amounts paid or payable by NEC in respect of any applicable deductible under such policy of insurance such amount to be limited to £1,000,000 (one million pounds) for any such claim.
- 14.3 The Customer shall and shall procure that its Exhibitors and Contractors effect and maintain (at its or their own cost) the following insurance with an insurance company or underwriter of repute to:-
- 14.3.1 Employers liability insurance of not less than £5,000,000 (five million pounds); and
- 14.3.2 Public liability insurance of not less than £1,000,000 in respect of any one occurrence or all occurrences of a series consequent on one original cause arising out of or in connection with the Exhibition and caused by the Customer, an Exhibitor or Contractors;
- and the Customer shall upon request provide NEC with a copy of such policies of insurance and to inform NEC immediately it becomes aware that such insurance ceases to be maintained.
- 14.4 The Customer acknowledges that save for the NEC PL Insurance and notwithstanding that NEC agrees to provide security services as part of the Services responsibility for all insurance cover shall be the responsibility of the Customer, Exhibitor and/or Sub Licensee as the case may be (but not so as thereby to impose any obligation to effect such insurance).
- 14.5 NEC shall upon request provide the Customer with details of the amount and extent of the cover provided by the NEC PL Insurance and such other information as the Customer may reasonably require in relation to the insured risks and the terms and conditions of and exceptions from the insurances in effect for the Licence Periods. The Customer, its Exhibitors and Sub-Licensees shall be deemed to have full notice of the amount and extent of the cover and of such terms, conditions and exceptions whether or not such details are requested. The Customer shall immediately notify NEC of any act or thing which may cause any claim to arise under the NEC PL Insurance.
- 14.6 The Customer shall, and shall procure that it, its Exhibitors and Sub-Licensees shall not do anything (or omit to do anything) which it knows, or ought reasonably to know, shall cause NEC to incur any extra or increased insurance premium in relation to any insurance taken out by NEC nor make void or voidable any such policy of insurance. The Customer shall immediately notify NEC of any act or thing which may make void or voidable any policy or policies of insurance as aforesaid or which may cause the premium or premiums to be increased and to pay any extra premium or premiums charged.

## **15 LIMITATION OF LIABILITY**

- 15.1 The following provisions of this Clause 15 set out the entire financial liability of NEC (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 15.1.1 any breach of the Agreement; and/or
- 15.1.2 any representation, statement or tortuous act or omission (including negligence) arising out of or in connection with the Agreement.
- 15.2 Neither Party shall be liable to the other, whether in tort (including negligence or breach of statutory duty), contract, misrepresentation or otherwise for:
- 15.2.1 loss of profits; or
- 15.2.2 loss of business; or

- 15.2.3 depletion of goodwill or similar losses; or
- 15.2.4 loss of contract; or
- 15.2.5 loss of revenue; or
- 15.2.6 any special, indirect or consequential loss, costs, damages, charges or expenses;

provided that nothing in this Clause shall operate to exclude the liability of the Customer to pay the Fees.

- 15.3 Subject to NEC's obligation to have in place and maintain the NEC PL Insurance pursuant to this Agreement, NEC's total liability in contract, tort (including negligence or breach of statutory duty) misrepresentation or for any reason whatsoever or howsoever arising in connection with the performance or contemplated performance of this Agreement shall (save to the extent of any cover afforded by the NEC PL Insurance and actually recovered by NEC or the Customer under such policies but not further or otherwise) be limited to 10% of the Licence Fees applicable to the Licence Period in which any such liability arises or £100,000 (one hundred thousand pounds) whichever is the greater.
- 15.4 NEC shall have no liability to the Customer whether in contract, tort (including negligence or breach of statutory duty) misrepresentation or for any reason whatsoever or howsoever arising in connection with the performance or contemplated performance of this Agreement unless the Customer advises NEC in writing of any such claim within 12 months from the date that the Customer became aware, or ought reasonably to have been aware, of the facts or circumstances giving rise to such claim.
- 15.5 The provisions of this Clause 15 shall apply to any other agreement between the Customer and NEC for the provision of goods and services by NEC relating to the Exhibition except to the extent that such other agreement expressly provides otherwise.
- 15.6 Nothing in this Agreement shall exclude or limit or purport to exclude or limit the liability of either Party for death or personal injury caused by that Party's negligence or for fraudulent misrepresentation.

## **16 ASSIGNMENT**

- 16.1 Subject to Clause 2.3, the Customer shall not be permitted to assign, licence, charge or otherwise purport to grant rights over or transfer the benefit of this Agreement except to another member of the Customer's Group, in which case the prior written consent of the NEC shall be required (such consent not to be unreasonably withheld or delayed).
- 16.2 The Customer shall organise the Exhibition itself and shall not without the prior written consent of NEC (such consent not to be unreasonably withheld or delayed) appoint any third party as organiser of the Exhibition (or material part thereof) other than another company which is, at the date of this Agreement and remains at the date of the Exhibition, a member of the Customers Group.
- 16.3 Nothing in this Agreement shall prevent NEC from engaging sub-contractors provided that that the use of such sub-contractors shall not relieve NEC of any of its obligations under this Agreement.

## **17 NOTICES**

- 17.1 Any notices or other communications between the Parties to be given pursuant to this Agreement shall be in writing and shall be served by personal delivery or sending by registered or recorded delivery post to the addresses set out in Part One of this Agreement (or such other address as either Party) may notify in writing to the other from time to time for the purposes of this Clause 17).

- 17.2 Communications shall be deemed to have been received:
- 17.2.1 if delivered personally, at the time of delivery; and
  - 17.2.2 in the case of registered or recorded post, 48 hours from the date of posting.
- 17.3 In proving such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant person set out in this Clause 17 (or such other address as notified in accordance with this Clause 17) and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered letter.

## **18 MISCELLANEOUS**

- 18.1 Any dispute between the Parties arising out of or in connection with this Agreement shall be referred to a joint meeting of senior representatives of NEC and senior representatives of the Customer for resolution who shall meet as soon as practicable and negotiate in good faith with a view to resolving the dispute or difference. Failing a satisfactory resolution of the dispute within twenty (20) working days of such referral the Parties will attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
- 18.2 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 18.3 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of this agreement, and the validity and enforceability of the other provisions of this agreement shall not be affected and shall remain in full force and effect. If any provision of this Agreement (or part of any provision) is found to be invalid, illegal or unenforceable, but would be valid, legal or enforceable if some part of it were to be deleted or modified, said provision (or part provision) shall apply with such deletion(s) and/or modification(s) (as the case may be) as may be necessary to make it valid, legal and enforceable.
- 18.4 This Agreement and any documents incorporated into it by specific reference together with any separate written agreement relating to the provision of services relating to the Exhibition, constitute the entire agreement between NEC and the Customer with regard to the matters referred to therein and supersedes and extinguishes any previous agreement, undertaking, representation, warranty or arrangement between the Parties relating to the matters referred to therein, save that nothing in this Agreement shall limit or exclude any liability for fraud.
- 18.5 Each Party shall except with the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed) keep confidential any information about the content of this Agreement and the business affairs of the other Party which may come within its knowledge during the term of this Agreement and neither Party shall make any announcement regarding this Agreement save in accordance with the terms of this Agreement.
- 18.6 Nothing in this Agreement shall create or be deemed to create a partnership or the relationship of principal and agent or employer and employee between the Parties and neither Party shall be responsible for the acts or omissions of the employees or representatives of the other Party.
- 18.7 No variation to this Agreement or of any of the documents referred to in it shall be valid unless it is agreed in writing and signed by or on behalf of an authorised signatory of the Customer and NEC.
- 18.8 NEC may decide in its sole discretion whether or not it will exercise its rights under this Agreement (including the rights set out in Clause 10.2) and NEC shall be under no implied obligation to exercise any such rights.

- 18.9 No term of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party except where such rights are expressly granted by Clause 8.2. The terms of this Agreement may be varied, amended, modified cancelled or terminated by agreement in writing by duly authorised representatives of the Parties, without the consent of any third party.
- 18.10 Each Party warrants to the other that the execution of this Agreement by them is valid and binding upon them.
- 18.11 This Agreement shall be construed and take effect in all respects in accordance with English law and the English Courts shall have non-exclusive jurisdiction over any matter arising under or in connection with this Agreement.