

## NEP CONNECT LIMITED

### TERMS OF TRADE FOR THE PURCHASE OR HIRE OF GOODS AND SERVICES

#### 1. Definitions

"Contract" means these terms of trade and the Contract Document;

"Contract Document" means NEP Connect written offer in the form of a contract top sheet, letter and/or NEP Connect estimate or any equivalent document issued or accepted in writing by NEP Connect detailing the Customer, Deliverables, the Goods, the Services, the Contract Price, the Contract Period and any Special Conditions. Subject to Clause 3, such Contract Document shall in all respects be subject to the Contract, to the exclusion of all other terms and conditions;

"Contract Period" means, subject to Clause 21, the period specified in the Contract Document;

"Contract Price" means the amount payable by the Customer to NEP Connect for the relevant Goods and/or Services as specified in the Contract Document;

"Customer" shall be the organisation or individual as specified in the Contract Document to whom NEP Connect is supplying the Deliverables and shall be where relevant deemed to include all of its officers, employees, sub-contractors and/or agents, engaged in anyway in the Contract;

"Customer's Premises" means any premises being owned or occupied by the Customer;

"Deliverables" means any or all of the Goods and/or Services;

"Goods" means any item(s), including without limitation equipment, software, digital codes and consumables to be provided by NEP Connect pursuant to the Contract;

"Dry Hire" means the hire or loan of Goods to the Customer, not under the control of NEP Connect;

"IPR" means copyright and related rights, rights to inventions, patents, trade marks, business names and domain names, rights in designs, topography right, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), rights in get-up, goodwill and the right to sue for passing off, broadcast rights and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future anywhere in the world;

"Material" means any good or material provided by the Customer to NEP Connect in connection with this Agreement;

“Safety Requirements” means health, safety, fire and environmental requirements (whether legislative or otherwise), codes of practice, guidance and policy;

“Services” means the services of personnel (of whatsoever nature) supplied by NEP Connect pursuant to the Contract;

“NEP Connect Group Company” means any subsidiary company of NEP Connect any holding company and any wholly owned subsidiary company of such holding company (as defined in s. 1159 of the Companies Act 2006); and

“Special Conditions” means any amendments or additional conditions specified in the Contract Document which shall take precedence over these terms of trade.

Unless specified otherwise in the Contract Documentation, “NEP Connect” means NEP Connect Limited (company number 05075598) for products and services.

## **2. NEP Connect Offer**

All bookings made by the Customer for any Deliverables will be subject to the Contract Document. The Contract Document is quoted exclusive of VAT or any other local sales tax (which, if applicable, shall be applied at the appropriate rate) and is in good faith based on current costs. Written acceptance of the Contract Document (whether by email or signature thereof), commencement of the Services by NEP Connect or supply of the Goods by NEP Connect shall be deemed to be an order for the Deliverables which shall immediately become binding upon the parties and shall in all respects be subject to the Contract.

## **3. Prevailing Contract**

The Contract shall prevail at all times to the exclusion of all other terms and conditions including any terms and conditions on a purchase order which the Customer may purport to apply except as otherwise agreed in accordance with Clause 29.

## **4. Contract Price/Payment**

- (1) In consideration of the Deliverables supplied under the Contract the Customer shall pay to NEP Connect the Contract Price and any applicable VAT or other local sales tax, subject to and in accordance with this Clause 4.
- (2) NEP Connect shall submit an invoice to the Customer for payment due at the address as specified in the Contract Document quoting the relevant Contract Document number and the Customer shall remit full payment due within thirty (30) days of date of invoice.
- (3) In the event that the Customer fails to make payment by the due date NEP Connect shall, without prejudice to its other rights under the Contract (including but not limited to those set out in Clause 21) or otherwise, at law or in equity be entitled to:

- (a) charge the Customer interest from the date specified for payment of the principal sum described in Clause 4(2) upon the outstanding amount at such rate as NEP Connect may decide but which in any event shall not exceed 5% per annum above the sterling base rate of the Royal Bank of Scotland plc from time to time accruing daily until payment of the principal sum is paid in full;
- (b) require payment in advance for the continued performance of the Contract without incurring any liability whatsoever to the Customer;
- (c) refuse to further perform the Contract without incurring any liability whatsoever to the Customer;
- (d) suspend further performance of the Contract until the Customer has supplied a satisfactory credit reference or bank guarantee; or
- (e) be reimbursed by the Customer for all costs and expenses incurred in the collection of any overdue amount.

## **5. Cancellation**

- (1) Once an order becomes binding on the parties pursuant to Clause 2, it cannot be cancelled without the prior written agreement of NEP Connect.
- (2) Notwithstanding the provisions of Clause 5(1), in the event of a cancellation of the Contract NEP Connect reserves the right to charge a cancellation fee to the Customer. Without prejudice to the foregoing, the Customer shall in all circumstances remain liable to repay NEP Connect all monies committed or incurred by NEP Connect as a result of the Contract.

## **6. Expenses**

Where the Contract Price does not include travel and subsistence expenses NEP Connect shall be entitled to reimbursement of all such reasonable expenses required to be made by any person engaged by NEP Connect for the performance of the Contract. The level of such expenses shall be at current NEP Connect rates or where appropriate at actual cost (net of recoverable VAT or other local sales tax) and all payments made by the Customer to NEP Connect shall have VAT or any other local sales tax applied at the appropriate rate.

## **7. Supply of Goods, Facilities and/or Services**

- (1) NEP Connect shall supply the Customer with Goods that comply in all material respects with any specification supplied by NEP Connect to the Customer in respect of the Goods or, where no specification exists, of such a standard as to enable NEP Connect to service in all material respects the reasonable requirements of the Customer.
- (2) NEP Connect shall supply the Services with reasonable skill and care.
- (3) At NEP Connect's option, NEP Connect shall either repair or replace any Goods (or any defective part), re-perform any Services or offer a refund of all or a fair or

reasonable part of the price paid for the relevant Goods or Services (against return of the Goods, if applicable) that fail to comply with Clause 7(1) and 7(2), provided that such failure becomes apparent within the shorter of the Contract Period or within twelve months from the date the Customer has beneficial use thereof (or such other period as may be agreed) (the "Warranty Period") and provided that:

- (a) such defects are notified to NEP Connect within a reasonable period of such defect becoming apparent to the Customer (or, if shorter, within a reasonable period of when such defect ought to have become reasonably apparent to the Customer), and in any event within thirty days of such event;
  - (b) NEP Connect is permitted to make a full examination of the alleged defects;
  - (c) the defect did not occur as a result of misuse, neglect, alteration, modification, mishandling or unauthorised adjustment by any person other than NEP Connect personnel;
  - (d) the defect did not occur as a result of any act or omission of the Customer, its employees, agents or sub-contractors;
  - (e) the Customer undertakes to install free of charge to NEP Connect (if applicable) small replacement parts supplied by NEP Connect;
  - (f) the defect did not arise out of any information, design specification or materials supplied by the Customer; and
  - (g) nonpayment by the Customer of any outstanding amount due under the Contract shall automatically cancel any Warranty Period.
- (4) Where Services are supplied, any equipment supplied to perform the Services shall only be operated by NEP Connect personnel unless otherwise agreed between the parties.
- (5) If requested by the Customer, NEP Connect shall within a reasonable time provide to the Customer any information as may be reasonably required for the purpose of the Contract as agreed between the parties.
- (6) All warranties, conditions, terms and liabilities express or implied, statutory or otherwise, which are not expressly set out in the Contract are excluded except to the extent such exclusion is prohibited or limited by law.

## **8. Additional Goods and/or Services**

If the Customer requires any goods, facilities and/or services in addition to the Goods, Facilities and/or Services supplied pursuant to the Contract, and, NEP Connect agrees to provide such Goods, Facilities and/or Services, payment therefor shall be negotiated at the time and the supply of the Goods, Facilities and/or Services shall be in all respects subject to the Contract. Details of any costs relating thereto shall be agreed between the parties prior to the charges being incurred.

## **9. Health, Safety and Fire**

- (1) The Customer shall at all times comply with all applicable Safety Requirements including but not limited to those issued by the Health & Safety Commission and Executive and those NEP Connect Safety Requirements notified orally or in writing to the Customer.
- (2) The Customer shall:
  - (a) assess reasonably foreseeable risks to health and safety (including fire) that may affect NEP Connect or any third party arising out of or in any way connected with the performance of the Contract, and provide a copy of such assessment to NEP Connect upon reasonable request, and promptly take all reasonable steps to eliminate or adequately control such risks and shall notify and co-operate with NEP Connect accordingly;
  - (b) fully co-operate with NEP Connect and any others as necessary to ensure that all reasonably foreseeable risks to health and safety (including fire) that may affect NEP Connect arising out of or in any way connected with the performance of the Contract are eliminated or adequately controlled;
  - (c) consult with NEP Connect on the procedures to be followed in the event of serious and imminent danger to any persons that may affect NEP Connect arising out of or in any way connected with the performance of the Contract and shall comply therewith.

## **10. Usage of Deliverables**

- (1) The customer shall ensure that any person engaged by it to carry out any duties in connection with the Deliverables:
  - (a) is competent for such duties (which includes having relevant experience, training and/or qualifications) and shall use such due care, skill and diligence as would reasonably be expected of a competent Customer whilst discharging its obligations under the Contract,
  - (b) hold any necessary licence, permit and/or certificate required by law relating to such duties.
- (2) The Customer shall use the Deliverables only for the purpose as specified in the Contract Document (if any) and for no other purpose.
- (3) The Customer shall promptly inform NEP Connect of all relevant facts relating to the use of the Deliverables and shall within a reasonable time provide all such information as NEP Connect may reasonably require in relation to the Contract.
- (4) The Customer warrants that all information provided by it to NEP Connect under the Contract shall be accurate in all material respects and that the Customer is entitled to provide the information without recourse to any third party or that such third party approval has been obtained.

- (5) Where the Customer has use, possession or control of the Goods (whether under a Dry Hire arrangement or otherwise), the Customer shall comply with the following conditions:
- (a) The Customer shall not use the Goods in any hazardous manner or at any location or in any manner other than as agreed with NEP Connect.
  - (b) Subject to Clause 10(5)(d), the Customer shall at all times keep the Goods supplied under the Contract in good condition.
  - (c) The Goods are supplied at the Customer's own risk and the Customer shall be liable to NEP Connect for any loss thereof or damage thereto (otherwise than in consequence of any negligence on the part of NEP Connect) and the Customer shall notify NEP Connect promptly of any such loss or damage.
  - (d) The Customer shall not carry out any repair to or replacement of the Goods without the prior consent of NEP Connect. Subject to Clause 7(3), the cost of any repair or replacement by NEP Connect shall be paid by the Customer.
  - (e) The Customer shall not make any alteration(s) or addition(s) to the Goods without the prior consent of NEP Connect. Where NEP Connect so consents the Customer shall ensure that any such alteration(s) or addition(s) is of a temporary nature and the Customer shall be responsible for restoring the Goods to their original condition where applicable at the end of each periodic use thereof (as agreed with NEP Connect) and either upon expiry of the Contract Period or upon termination of the Contract, whichever is the earlier. Where the restoration has not been made to the satisfaction of NEP Connect the cost of any further restoration by NEP Connect shall be paid by the Customer.
- (6) Notwithstanding Clauses 9(1), 9(2) and 10(5), the Customer acknowledges that, where the Customer has use, possession or control of the Goods (whether under a Dry Hire arrangement or otherwise), the Customer shall be wholly responsible for the operation of the Goods and the health and safety of the Customer's employees, agents or contractors when such employees, agents or contractors are using the Goods. The Customer shall indemnify NEP Connect against all liabilities, claims, demands, damages, losses, costs and expenses (including legal costs) arising out of or in connection with:
- (a) the operation of the Goods; and/or
  - (b) the acts or omissions of the Customer and/or the Customer's employees, agents or sub-contractors, during any such period.
- (7) NEP Connect reserves the right to be present at any premises where the Deliverables are being supplied at all times.
- (8) The Customer shall allow NEP Connect full and convenient access at all reasonable times to the Customer's Premises or such other premises as required by NEP Connect for the purpose of carrying out the Contract.

- (9) The Customer shall not take the Goods and/or Services outside the United Kingdom without the prior consent of NEP Connect. Where NEP Connect so consents the Customer shall within a reasonable time obtain all necessary import permits and export licences if appropriate, licences and customs clearances and any other permissions whatsoever as required for the Goods and/or Services and the Customer shall pay all customs and import duties and any other costs associated with the performance of its obligations under this sub-clause.
- (10) Where applicable at the end of each periodic use of the Deliverables (as agreed with NEP Connect) and either upon expiry of the Contract Period or upon termination of the Contract, whichever is the earlier, the Customer shall:
- (a) in respect of any property of the Customer, remove from NEP Connect Premises all such property and in default NEP Connect shall be entitled to either arrange for transportation of such property to the Customer (and the provisions contained in Clause 11(2) shall apply in respect thereto) or subject to giving the Customer a reasonable period of notice dispose of such property as NEP Connect sees fit. NEP Connect shall be entitled to recover from the Customer all costs relating to the transportation or disposal of such property and in the case of the latter shall be entitled to retain any portion of any proceeds of sale for that purpose;
  - (b) promptly cease using the Services and, where title to the Goods has not passed to the Customer under Clause 12(2), leave the Goods in good condition, promptly cease using the Goods and promptly return the Goods to NEP Connect. If any part of the Goods is not returned, NEP Connect reserves the right to make further charges to the Customer whilst the Goods are inoperative. In the event that the Customer shall fail to comply with this Clause 10(10) NEP Connect shall be deemed to have irrevocably all reasonable powers and authority to do all things or acts necessary or advisable to retake possession of the Deliverables and shall be entitled to recover from the Customer all costs relating thereto.
- (11) Any equipment supplied by the Customer that is to be used by NEP Connect shall remain at the Customer's own risk and expense and NEP Connect shall not assume any responsibility for such equipment.
- (12) Where the Contract includes the secondment of NEP Connect personnel (of whatsoever nature) to the Customer, they shall be subject to the direction, control and management of the Customer. The Customer shall be responsible for all tasks performed by such persons and NEP Connect shall not be liable to the Customer for any works which are performed by them.
- (13) The Customer shall at its own expense make available for the use by NEP Connect for purposes of the Contract such supplies of electricity, water, gas, air and other services as agreed between the parties.
- (14) Where the Customer requires the use of any Services on Customer's Premises or a third party's premises, it shall use its reasonable endeavours to provide a secure area(s) for any NEP Connect property as agreed between the parties. The secure area(s) shall be provided at the Customer's own expense (where the cost thereof is not included in the Contract Price) and NEP Connect accepts no liability for

such property whilst in the secure area(s) other than in consequence of any negligence on the part of NEP Connect.

- (15) The Customer shall not move or otherwise interfere with any NEP Connect property unless specifically authorised by NEP Connect to do so.

#### **11. Delivery of Goods**

- (1) Unless otherwise agreed in writing with NEP Connect:
  - (a) the delivery instructions for any Goods shall be as specified in the Contract Document; and
  - (b) Goods shall be supplied at the Customer's own expense.
- (2) Where Goods are being sold to the Customer, or hired to the Customer for the Customer's use (whether under a Dry Hire arrangement or otherwise), the risk in the Goods shall pass to the Customer at the time of despatch from NEP Connect's premises (or any other premises from where they are despatched to the Customer) and the Customer is advised to arrange and maintain insurance in respect of such loss after such time.
- (3) In respect of any property of the Customer which NEP Connect transports on behalf of the Customer such transportation shall be carried out at the Customer's own risk and expense and insurance responsibility.

#### **12. Title in Goods**

- (1) Where the Contract consists of the hiring out or leasing of Goods, the Goods shall remain at all times the sole and exclusive property of NEP Connect and the Customer shall not sell assign let pledge mortgage charge encumber or part with possession of or otherwise deal with the Goods or any interest therein or create or allow to be created any lien thereon and NEP Connect may terminate the Contract with immediate effect upon written notice in the event of the Customer making any attempt to do so.
- (2) Where the Contract consists of the sale of Goods, title shall pass from NEP Connect to the Customer when the Contract Price and any monies outstanding from the Customer to NEP Connect are paid in full. Notwithstanding that title to the Goods has not passed under this Clause 12(2) NEP Connect shall be entitled to sue for the Contract Price and any other monies outstanding once payment thereof has become due.

#### **13. Intellectual Property Rights**

- (1) All IPR's arising from the performance of the Contract shall vest in and be owned by the Customer. For the avoidance of doubt, no assignment of any Pre-existing IPR will be assigned under this Contract. "Pre-existing IPR" means any IPR owned by NEP Connect or any NEP Connect Group Company at the commencement of this Contract.



- (2) NEP Connect shall defend the Customer, in its name at NEP Connect's expense, from and against any claim brought by a third party alleging that the Goods infringe any Intellectual Property Rights ("IPR Claim") and shall indemnify the Customer against all damages and costs assessed against the Customer that are payable as part of a final judgment or settlement, provided that the Customer:
  - (a) notifies NEP Connect promptly in writing of an IPR Claim;
  - (b) permits NEP Connect to control the defence of the IPR Claim; and
  - (c) agrees to any reasonable settlement of the IPR Claim, in each case at NEP Connect's cost.
- (3) Should the Goods become, or in NEP Connect's opinion be likely to become, the subject of an IPR Claim, NEP Connect may, at its sole option and/or election use reasonable commercial efforts to (a) obtain for the Customer the right to continue using the Goods pursuant to this Contract, or (b) replace or modify the Goods so that it ceases to infringe.
- (4) The indemnity obligation above shall not apply to any IPR Claim arising out of (i) the combination of the Goods with other products not claimed to be owned or developed by or on behalf of NEP Connect, (ii) the modification of the Goods, or any part thereof, unless such modification was made by or for NEP Connect, (iii) any infringement caused by any action of the Customer or the detailed specification or requirements of the Customer; (iv) any trademarks, logos, branding or other Intellectual Property Rights of the Customer or (v) the use of the Goods in breach of this Contract. The Customer shall indemnify and hold harmless NEP Connect from and against any liabilities, claims, demands, damages, losses, costs and expenses (including legal costs) incurred by NEP Connect resulting from or arising out of third party claims brought against NEP Connect as a result of any of the matters specified in this Clause 13(4).

#### **14. Indemnity**

The Customer shall indemnify NEP Connect against all liabilities, claims, demands, damages, losses, costs and expenses (including legal costs) which may be incurred by or brought against NEP Connect in respect of:

- (a) injury to any person or loss of or damage to any property arising out of or in connection with the use by the Customer of any Goods and/or Services as a result of any act or omission by the Customer;
- (b) any breach of or non-compliance by the Customer of any of its obligations or warranties under the Contract;
- (c) the Customer's negligence or willful default;
- (d) any claims from third parties made as a result of its acts or omissions;
- (e) any claims from third parties that the (including relating to infringement of any IPR supplied under or used in connection with the Contract).

## **15. Liability**

- (1) Nothing in the Contract excludes either party's liability for death or personal injury caused by that party's negligence or willful default or any other liability that cannot be excluded or prohibited by law.
- (2) Subject to Clause 15(1) NEP Connect shall only be liable to the Customer for any accidental loss or damage where such accidental loss or damage is caused by the negligence or default of NEP Connect.
- (3) In no circumstances shall NEP Connect be liable for (i) any loss of or damage to profit, revenue, anticipated savings, data, use, contract, goodwill, opportunities or business or (ii) any indirect or consequential loss of any nature whatsoever.
- (4) In any event, and notwithstanding anything contained in the Contract, NEP Connect's liability in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever arising by reason or in connection with this Contract, the Goods and/or the Services (except in relation to death or personal injury) shall be limited to the Contract Price payable in respect of the Goods and/or Services giving rise to the claim.

## **16. Insurance**

- (1) The Customer shall arrange and maintain insurance throughout the Contract Period to cover its legal liabilities and the responsibilities imposed by the Contract including but not limited to public liability insurance with a scope of cover appropriate to the Deliverables supplied under the Contract with an adequate indemnity limit which shall be no less than ten million pounds sterling (£10,000,000) in respect of any one claim or incident. For the avoidance of doubt, such minimum insurance level shall not be a limit of liability under the Contract.
- (2) Where the Customer engages a sub-contractor the Customer shall ensure that the insurance requirements as specified in Clause 16(1) extend as necessary to cover the liabilities and responsibilities of the sub-contractor under the Contract or that the subcontractor holds its own insurance in accordance with Clause 16(1).
- (3) The Customer shall provide to NEP Connect prior to the commencement of the Contract Period satisfactory evidence of compliance with this Clause 16.
- (4) Where the Contract consists of Dry Hire of Goods:
  - (a) the Customer shall arrange and maintain adequate insurance in relation to the loss of or damage to any Goods hired or loaned to the Customer by NEP Connect.
  - (b) the Customer shall be responsible to NEP Connect for the prompt repair or replacement (at NEP Connect's option) of Goods lost or damaged whilst in the charge and control of the Customer, other than to the extent that the loss

or damage is caused by NEP Connect's breach of any of the provisions of the Contract or any other of its omissions.

- (5) NEP Connect shall not be liable for any loss, cost, damage liability or claim (including without limitation any consequential or indirect loss and/or any loss of or damage to profit, revenue, anticipated savings, data, use, contract, goodwill, opportunities or business), whether or not in the contemplation of the parties at the time of entering into the Contract, incurred by the Customer as a result of the loss of or damage to the Goods (by whatever means) during the course of their being in the use, possession or control of the Customer, and the Customer is advised to arrange and maintain insurance in respect of such loss.

#### **17. Warranties**

The Customer undertakes, warrants and represents that:

- (1) Except as otherwise agreed prior to performance of the Contract, it shall obtain for NEP Connect all necessary consents, permissions and/or clearances in third party rights (including IPR's) with respect to the Material.
- (2) All Material is fit for the purpose for which it is supplied and, where relevant, is of satisfactory quality, good construction, suitable and sound material and adequate strength and has been tested prior to delivery.

#### **18. Force Majeure**

- (1) Neither party shall be liable for any failure to fulfil its obligations under the Contract by reason of any event beyond its reasonable control including but not by way of limitation Acts of God, strikes, lockouts, war, riot, civil commotion, order or Act of Government (whether national or international), any such occurrence being deemed an event of force majeure.
- (2) If either NEP Connect or the Customer is prevented or delayed from or in performing any of its obligations under the Contract by an event of force majeure then that party shall be entitled by notice in writing to the other party given at any time during the subsistence of the event to suspend the Contract for the duration of the event. Where the party giving notice is unable to proceed with the Contract by reason of matters arising from the event for a period of three (3) months following notice of suspension then such party shall have the right to terminate the Contract with immediate effect in writing.

#### **19. NEP Connect Authority**

The Customer shall comply with any directions given to it by any personnel or agent of NEP Connect with regard to a matter within the competence of such person and the Customer shall ensure that all its personnel and/or agents and any other person present at the instance of the Customer shall comply with such directions.

#### **20. Compliance**

The Customer shall provide, if requested by NEP Connect, evidence of compliance with any of its obligations under the Contract.

## 21. Termination

- (1) NEP Connect shall be entitled to terminate the Contract with immediate effect in writing if at any time during the Contract Period:
  - (a) the Customer shall fail to make any payment due under the Contract in full in accordance with Clause 4;
  - (b) the Customer shall commit or cause to be committed any material breach of its obligations under the Contract and
    - (i) the material breach is capable of remedy and the Customer fails to remedy the material breach within 30 days of receipt of a written notice to the Customer specifying the breach and requiring its remedy (in which case NEP Connect may remedy the breach and recover the costs thereof from the Customer and terminate the Contract in accordance with this Clause 21; or
    - (ii) the material breach is not capable of remedy.
  - (c) the Customer commits an act of bankruptcy or insolvency, is unable to pay its debts as or when they fall due or makes any composition or arrangement with its creditors, or goes into liquidation whether voluntary or compulsory, or if any order is made or a resolution is passed for the winding up of the Customer (except for the purpose of a solvent amalgamation or reconstruction), or if it ceases or prepares to cease trading, or if it suffers the appointment of a receiver, administrative receiver, administrator or similar officer over the whole or part of any of its assets; or
  - (d) there is a change of control of the Customer. For the purposes of this paragraph (d) "control" means the ability to direct the affairs of the Customer whether by virtue of contract, ownership of shares or otherwise howsoever in relation to the subject matter of the Contract;
  - (e) NEP Connect exercises its rights under Clause 12(1); or
  - (f) the continued performance thereof is prevented by reason of any event beyond the reasonable control of NEP Connect or the Customer (any such occurrence being deemed an event of force majeure).
- (2) The Customer shall be entitled to terminate the Contract with immediate effect in writing if at any time during the Contract Period:
  - (a) NEP Connect shall commit or cause to be committed any material breach of its obligations under the Contract and
    - (i) the material breach is capable of remedy and NEP Connect fails to remedy the material breach within 30 days of receipt of a written notice to NEP Connect specifying the breach and requiring its remedy; or

- (ii) the material breach is not capable of remedy; or
  - (b) NEP Connect commits an act of bankruptcy or insolvency, is unable to pay its debts as or when they fall due or makes any composition or arrangement with its creditors, or goes into liquidation whether voluntary or compulsory, or if any order is made or a resolution is passed for the winding up of NEP Connect (except for the purpose of a solvent amalgamation or reconstruction), or if it ceases or prepares to cease trading, or if it suffers the appointment of a receiver, administrative receiver, administrator or similar officer over the whole or part of any of its assets.
- (3) Upon termination of the Contract for any cause whatsoever all sums accrued due to NEP Connect under the Contract shall immediately become due and payable to NEP Connect.
- (4) Termination of the Contract for any reason shall not affect any rights or liabilities accruing or already accrued at the date of termination. Any termination of the Contract howsoever caused shall also not affect the continuance in force of any provision hereof which expressly or by implication is intended to come into or continue in force after termination.

## **22. Assignment**

- (1) The Customer shall not without the prior written consent of NEP Connect sub-contract, assign or transfer the benefit of the Contract in whole or in part or any of its obligations under the Contract.
- (2) NEP Connect may perform any of its obligations or exercise any of its rights under the Contract itself or through any NEP Connect Group Company, provided that any act or omission of any such other member shall be deemed to be the act or omission of NEP Connect.
- (3) NEP Connect may at any time assign, transfer, charge or deal in any other manner with any of its rights and obligations hereunder, and may sub-contract any or all of its obligations under the Contract.

## **23. Screen Credits/Advertising Material**

If requested by NEP Connect, the Customer shall use its best endeavours to afford NEP Connect a credit in the end roller credits of any programme(s) produced by the Customer utilising the Deliverables and in any associated advertising or other material.

## **24. Information and Confidentiality**

- (1) Except to the extent required for the purposes of performing its obligations under the Contract, the Customer will not use or make available at any time during or after the Contract to any third party any information relating to the business or affairs of NEP Connect or NEP Connect which is disclosed or otherwise is in its

possession under or in respect of the Contract, including this Contract and its subject matter except in relation to information which:

- (a) is or later comes into the public domain otherwise than through an act or omission of the Customer; or
  - (b) was already known to the Customer at the time of disclosure otherwise by an unauthorised disclosure by a third party; or
  - (c) disclosure is required by law, order of court, the requirements of any regulatory authority or taxation authority or the rules of any stock exchange; or
  - (d) the Customer has the prior written consent of NEP Connect to do so.
- (2) Notwithstanding Clause 24 (1), the Customer may disclose information to its employees, professional advisors, agents and subcontractors solely on a need-to-know basis, provided that:
- (a) the Customer procures that any person to whom such disclosure is made complies with the obligations under this Clause 24 as if it were a party to the Contract; and
  - (b) the Customer is liable for the acts and/or omissions of each such party.

## **25. Anti-Bribery Requirements**

- (1) The Customer shall and shall procure that persons associated with it or other persons who are receiving the Deliverables in connection with this Agreement shall:
- (a) comply with all Relevant Laws for the Deliverables;
  - (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 (UK) if such activity or practice or conduct had been carried out in the UK;
  - (c) immediately notify NEP Connect (in writing) if the Customer or its employees, agents or other persons who perform or have received the Deliverables for the Customer is investigated by any law enforcement agency or customer in relation to corrupt practices and any breach of anti-bribery and anti-corruption laws; and
  - (d) not do, or omit to do, any act that will cause or lead NEP Connect, and/or each of SIS LIVES's subsidiary companies (as that term is defined in the Companies Act 2006 (UK)), to be in breach of Relevant Laws.
- (2) The Customer acknowledges that NEP Connect has made available its own Anti-Bribery Policy (including online at <http://www.sislive.tv/download/policies/Anti%20Corruption%20Policy%20June%202011.pdf>) and the Customer confirms that it has established an equivalent policy within its organisation.

- (3) Relevant Laws means in respect of each party:
- (a) any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time to which that party is subject to in any jurisdiction, including those relating to anti-bribery and anti-corruption such as, but not limited to, the Bribery Act 2010 (UK);
  - (b) the common law as applicable to that party from time to time;
  - (c) any binding court order, judgment or decree affecting that party; and
  - (d) all applicable statutory and all other rules, regulations, instruments and provisions in force from time to time including the rules, codes of conduct, codes or practice, practice requirements, guidance and accreditation terms stipulated by any regulatory authority relevant to that party.
- (4) **Notices**  
Any notice required to be given pursuant to the Contract shall be in writing and sent either by hand, prepaid recorded delivery, registered post, facsimile transmission or electronic mail to NEP Connect or the Customer at the address as specified in the Contract Document and the notice shall be deemed to have been received by the addressee at the time of delivery (if by hand) or within seventy two (72) hours of posting or twenty four (24) hours if sent by facsimile transmission or electronic mail to the correct facsimile transmission number (with correct answerback) or correct electronic mail number of the addressee.
- (5) **Waiver**  
The failure of either party to exercise or enforce any right conferred upon it by the Contract shall not be deemed to be a waiver of any such right or operate so as to bar the exercise or enforcement thereof at any time(s) thereafter. No waiver of any term or condition of the Contract shall operate as a waiver of another or constitute a continuing waiver.
- (6) **No Agency, Partnership or Joint Venture**  
Nothing in the Contract shall be deemed to constitute either party as the agent of the other or create a partnership or joint venture between the parties and the Customer shall have no power to bind NEP Connect or to contract in the name of or create a liability against NEP Connect in any matter whatsoever other than as set out in the Contract.
- (7) **Variation**  
Any amendment or variation to the Contract shall be made by prior written agreement between the parties.
- (8) **Severability**  
The unenforceability of any single provision of the Contract shall not affect any other provision thereof.

**31. Whole Contract**

The Contract and any appendices and any documents annexed thereto and/or referred to therein constitute the entire understanding between the parties with respect to the subject matter thereof and supersede all prior agreements, negotiations and discussions between the parties relating thereto.

**32. Law**

This Contract shall be governed in accordance with English Law. In the event of a dispute concerning this Contract, the parties shall in their first instance use their best endeavours to attempt to resolve the dispute at senior management level within 14 days of such dispute arising, failing which it is irrevocably agreed that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with this Contract and that accordingly any suit, action or proceeding arising out of or in connection with this Contract, whether contractual or non-contractual (in this Clause referred to as "Proceedings") may be brought in such courts. Nothing in this Clause shall limit the right of NEP Connect to take Proceedings against the Customer in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking by NEP Connect of Proceedings in any other jurisdiction, whether concurrently or not.