

## **NEW ENGLAND LIBRARY ASSOCIATION 2023 CONFERENCE EXHIBITOR AGREEMENT**

**This Exhibitor Agreement ("Agreement") is entered into by and between NEW ENGLAND LIBRARY ASSOCIATION (NELA) and Exhibitor.**

The 2023 **NELA** Annual Conference will be held at the MassMutual Center in Springfield, MA from October 15th - 17th. The exhibit hall will be open on Monday, October 16th and Tuesday, October 17th.

### **1. LOCATION OF EXHIBITS**

All exhibits will be located under one roof at the MassMutual Center in Springfield, MA.

### **2. DEFINE TERMS**

- a. "Agreement" shall mean the herein Exhibitor Agreement.
- b. "Event" shall mean the specific **NELA 2023 Conference** event encompassed by this agreement.
- c. "Facility" shall mean the **MassMutual Center in Springfield, MA**.
- d. "Booth", "Space", or "Exhibit", shall mean the area leased to Exhibitor by **NELA**, pursuant to this Agreement.

### **3. EFFECTIVE DATE AGREEMENT**

This Agreement shall become legally binding and effective only when Exhibitor has signed the registration form and a payment in full has been received by **NELA**.

### **4. ASSUMPTION OF RISK**

Exhibitor expressly assumes all risks associated with, resulting from or arising in connection with the Exhibitor's participation in or presence at Event, including, but not limited to theft, loss, or damage of property, damage or injury to person or persons, (including death), or loss of income or future income, whether caused by negligent, intentional, or accidental acts, acts of God, acts of war, acts of terrorism, governmental emergency, public health necessity, imposition of martial law, labor strike or unrest, or otherwise or the inability of Facility to host Event. Neither **NELA** nor Facility accepts any responsibility for theft, loss or damage of property, including items stored by or at **NELA** or Facility, damage or injury to person or persons, (including death), or loss of income, whether caused by negligent, intentional, or accidental acts, acts of God, acts of war, acts of terrorism, governmental emergency, public health necessity, imposition of martial law, labor strike or unrest, or otherwise.

### **5. GENERAL RELEASE**

Exhibitor hereby agrees to release **NELA** and Facility, their officers, agents, directors, stockholders, owners, attorneys, insurers, lawyers, assigns, and affiliated and subsidiary corporations, and employees, and each of them, from all actions, suits, liens, losses, debts, damages, claims, causes of actions, personal injuries or property damage, including subrogation claims, specifically including, but not limited to, those claims and causes of actions which may arise out of the participation of **NELA**, exhibitor, and/or Facility, in the Event and/or any acts which occur between the date of the Signing of this Agreement and the conclusion of the Event.

### **6. INDEMNIFICATION**

Exhibitor agrees to indemnify, hold harmless, and otherwise defend, including but not limited to acquiring legal defense, **NELA** and Facility against any and all claims, damages, costs, fees (including reasonable attorney's fees), demands, suits, causes of action, arbitration demands and arbitrations, liens and mechanics liens, which result from Exhibitor's participation or presence at the Event, including but not limited to:

- a. Any breach by Exhibitor of this or any Agreement, covenant, promise or other obligation under this Agreement.
- b. Any violation by Exhibitor of any City, County or Municipal Ordinance, or State or federal law.
- c. Any claim of infringement by Exhibitor of patent, copyright, trademark, trade secret, or other proprietary rights.
- d. Claims of libel, slander, defamation or similar harms by Exhibitor.
- e. Claims involving personal injury, wrongful death, property damage, emotional distress, loss of income or future income, misrepresentation, and fraud.
- f. Any other claims involving negligence, breach of contract, or intentional torts.
- g. Any injury or damage to exhibitors' displays, equipment, and other property brought upon the premises of the exhibition facility.

Any legal defense shall be at the discretion and direction of **NELA**, including but not limited to litigation, settlement or other legal process. Exhibitor shall give prompt notice of any claim to **NELA** and Facility, shall provide such cooperation and assistance to **NELA** and Facility as is reasonably necessary to defend the claim, and shall allow **NELA** and Facility to have the sole control of the defense, provided, however, that the Exhibitor retains the right to participate in the defense at its own expense. This indemnity shall survive termination of the Agreement for three (3) years.

#### **7. LIMITATION OF LIABILITY**

Neither **NELA** nor Facility shall be liable for any lost profits, or indirect, indirect, collateral, incidental, special, general, consequential or punitive damages, or failure to realize expected savings or other commercial or economic loss of any kind regardless of whether **NELA** or Facility is deemed negligent and whether or not Exhibitor is informed of the possibility of such damages. In no event shall **NELA** or Facility's actual damages exceed the amount actually paid to **NELA** by Exhibitor pursuant to this Agreement.

#### **8. DISCLAIMER**

**NELA** makes no representation, warranties, guarantees or promises or statements express or implied (either in fact or by operation of law), regarding the number of people who will attend the Event, the amount of revenue Exhibitor can expect to generate from the Event, the number of visitors to visit your booth regardless of location, or any other matters regarding the Event including but not limited to the quality of any services or facilities provided under this agreement. Oral or written information or advice provided by **NELA** or Facility, prior to or after the execution of this Agreement are hereby disavowed, and unless expressly included in this Agreement shall not create any warranty.

#### **9. INSURANCE**

Exhibitor shall obtain and keep in force during the term of the installation and use of the exhibit premises, policies of Comprehensive General Liability Insurance and Contractual Liability Insurance insuring and specifically referring to contractual liability set forth in an amount no less than \$1M Combined Single Limit for personal injury and property damage. **NELA** will be named as coinsured. Exhibitor will provide proof of insurance by September 15, 2023.

#### **10. EXHIBITOR'S RESPONSIBILITY TO INSURE PROPERTY**

Exhibitor is required to insure its property against damage, loss, or theft. **NELA** assumes no responsibility to protect, insure, or otherwise prevent theft, loss, or damage to Exhibitor's property. Exhibitor will provide proof of insurance prior to arrival at the event.

#### **11. QUALIFICATIONS/ELIGIBILITY OF EXHIBITOR**

**NELA** in its sole discretion determines whether a prospective exhibitor is eligible to participate in the Event. **NELA** reserves the right to restrict or remove any Exhibit that **NELA**, in its sole discretion determines to be objectionable or inappropriate or otherwise inconsistent with the purposes of **NELA** or Event.

#### **12. ASSIGNMENT OF EXHIBIT HALL LOCATION**

- a. Statements as to booth location, in the absence of a written agreement, are not binding upon **NELA**. **NELA** retains sole discretion to determine where to place Exhibitor.
- b. **NELA** reserves the right to determine the eligibility of exhibit space applicants and individual products to be exhibited.
- c. **NELA** will make space assignments in the order applications are received. Location preferences will be accommodated as far as possible.

Booths are 8' x 10' and vary in location. Please see floor plan online for details. Each 8' x 10' booth includes an 8' high backwall, 3' high side rails with drapes, one(1) wastebasket, and a 7" x 44" Exhibitor ID sign.

Tables are 8' x 2' and vary in location. Please see floor plan for details. Each tabletop package includes an 8' x 2' x 30" high skirted table, two(2) folding chairs, one(1) wastebasket, and a 7" x 44" Exhibitor ID sign. **Please note that no additional furnishings are allowed in the tabletop spaces. Also, no displays of any kind may be placed in front of or to the side of your table, so as not to infringe on the sight line of other exhibitors.**

Hours and dates for installing, showing and dismantling exhibits shall be those specified by management in setup instructions to be issued to each exhibitor approximately two (2) months prior to Conference.

**NELA** maintains sole discretion to assign space at the Event and determine the dates of assignment. Any such assignment does not guarantee or imply that a similar space will be assigned for future Events. **NELA** reserves the right to change the floor plan, assignment, or Exhibitor location prior to or during the Event, if **NELA** determines that to do so in the best interest of the Event.

### **13. CANCELLATION OF AGREEMENT BY EXHIBITOR**

- a. A refund of the registration fee, minus an administrative fee of 20% of the registration fee, will be given for cancellations received up to one month prior to the event, by email to [info@nelib.org](mailto:info@nelib.org).
- b. No refunds will be issued less than one month prior to the event.
- c. Emergencies, e.g., illness, death in the family, may be submitted to [info@nelib.org](mailto:info@nelib.org). Emergency cases must be submitted prior to the end of the event. **NELA** may require proof of emergency, i.e. doctor's note, etc. If sufficient documentation is provided, a refund of the registration fee less the administrative fee may be offered by **NELA**. In any particular instance, the sole discretion to offer a refund resides with **NELA**.
- d. In lieu of cancellation, Exhibitor has the option of converting its registration fee into a sponsorship of **NELA** or Event. Sponsorship is not subject to the administrative fee.
- e. **NELA** reserves the right to treat Exhibitor's downsizing of booth space as a material deviation of this Agreement and relinquishing the requested booth space, entitling **NELA** to relocate Exhibitor to another booth space at **NELA's** discretion and choosing.
- f. The terms delineated in subsection a. of this paragraph are agreed-upon liquidated damages, as compensation for the harms **NELA** will suffer due to Exhibitor's cancellation. These harms may include, but not limited to, monies expended by **NELA** to prepare for the Event, or loss of revenue due to the inability to lease the space to other Exhibitors. **NELA** may be unable to determine the exact amount of damages in a particular instance of cancellation, the terms delineated in subsection a. of this paragraph are agreed-upon liquidated damages and shall not constitute a penalty.

### **14. CANCELLATION OF AGREEMENT BY NELA**

**NELA** reserves the right to cancel this Agreement, upon immediate written or verbal notice, in the event of any material deviation of the Agreement by Exhibitor, including but not limited to the following:

- a. If Exhibitor fails to make any payment required by this Agreement.
- b. Substantial deviation in booth size or merchandise displayed.
- c. If **NELA** determines Exhibitor is displaying, or attempting to display, objectionable or inappropriate material. Content such as, but not limited to:
  - i. Off-topic messages, or those that are in contrast to **NELA's** Mission Statement or Strategic Vision
  - ii. Libelous and/or defamatory statements
  - iii. Personal attacks, insults, or offensive/threatening language
  - iv. Illegal content
- d. Exhibitor's failure to adhere to booth assembly, occupation, and/or dismantling.
- e. If **NELA** does not receive payment in full by October 2, 2023.
- f. Any other material deviation as determined within **NELA** sole discretion.

### **15. EFFECT OF CANCELLATION OF AGREEMENT**

In the event of cancellation by Exhibitor pursuant to Paragraphs 13 or **NELA** pursuant to Paragraphs 13 or 14 of this Agreement, **NELA** reserves the right to take any or all of the following steps:

- a. Refuse Exhibitor permission to move in and set up booth at Facility.
- b. Refuse Exhibitor access to Facility, except, to remove Exhibitor's property that is already in Facility at the time of cancellation.
- c. Enter into another Agreement with another vendor for the booth space **NELA** set aside for Exhibitor, which space becomes available due to this cancellation. (**NELA** is not obligated to re-rent the booth space in an effort to mitigate damages.)
- d. Where cancellation is made by Exhibitor under Paragraph 13, a refund of the registration fee, minus an administrative fee of 20% of the registration fee, will be given for cancellations received up to one month prior to the event, by email to [info@nelib.org](mailto:info@nelib.org). No refunds will be issued less than one month prior to the event.
- e. Where cancellation is made by **NELA** under Paragraph 14, the sole discretion to refund the registration fee advanced by Exhibitor pursuant to this Agreement resides with **NELA**.

### **16. CANCELLATION OF EVENT**

- a. **NELA** reserves the right to cancel Event due to circumstances beyond **NELA's** control or not reasonably anticipated by **NELA**, including but not limited to, acts of God, acts of war, acts of terrorism,

governmental emergency, public health necessity, imposition of martial law, labor strike or unrest, or otherwise or the inability of Facility to host Event.

- b. If Event is canceled pursuant to subsection a. of this Paragraph, **NELA** shall refund to Exhibitor all registration or other fees payments advanced for booth space, minus a share of costs and expenses incurred by **NELA** prior to cancellation. Such refund shall release **NELA** and Facility from any and all liabilities due to cancellation.

#### **17. RESCHEDULING/RELOCATION/RENAMING OF EVENT**

- a. **NELA** reserves the right to rename the Event, relocate the Event to another Facility within the same city as the original Facility, or reschedule the Event to a date between fifteen (15) days before and fifteen (15) following the Event was originally scheduled to begin.
- b. If **NELA** renames, relocates, or reschedules the Event pursuant to subsection a. of this Paragraph, Exhibitor will not be entitled to any refund of monies advanced. However, **NELA** will make a space available for Exhibitor, within **NELA's** discretion, at the new location, on the new date of Event.

#### **18. ACCESS TO SPACE BY EXHIBITOR**

- a. **NELA** reserves the right to determine dates and times when Exhibitor may assemble, occupy, and dismantle booths and exhibits. **NELA** and Exhibitor agree that these times are determined by **NELA** to be in the best interest of the Event and must be strictly adhered to by Exhibitor.
- b. Exhibitor and authorized employees of Exhibitor's are permitted in Exhibitor areas.
- c. Exhibitor's allowance of unauthorized personnel in Exhibitor areas will constitute a breach of the Agreement, entitling **NELA** to take appropriate remedies pursuant to Paragraph 15 of Agreement, including but not limited to, immediately taking possession of the booth.
- d. Staff of participating Facility has no authority regarding Exhibit booths or Exhibit areas, other than other individuals **NELA** may designate in its discretion.
- e. No refund will be given to Exhibitor if **NELA** takes possession of the booth pursuant to subsection b of this Paragraph.

#### **19. EVENT HOURS AND EXHIBITOR RESPONSIBILITIES**

**NELA** will distribute separate information regarding Event hours. However, Exhibitor agrees to abide by the following:

- a. Exhibitor booths must remain open in accordance with the hours described in the program distributed in advance of Event, or as amended by **NELA**.
- b. Exhibitor agrees to make every effort to maintain and staff displays during all hours exhibits are open.

#### **20. ADVERTISING AND PROMOTIONAL MATERIALS**

- a. Exhibitor grants to **NELA** a fully paid perpetual merchandising license to use, display and reproduce Exhibitor's name, trade name, trademark(s) or product name in every advertising medium utilized for the Event.
- b. **NELA** shall not be liable for any errors in any listing, advertising or promotional materials, or for omitting any Exhibitor from the directory or other lists, advertising, or other promotional materials.
- c. Exhibitor grants **NELA** the right to take photographs of Exhibitor's booth space, exhibits, or merchandise, before, during, or after the Event's scheduled times, and further grants **NELA** the right to use such photographs for promotional purposes. Exhibitor agrees not to interfere with **NELA's** attempts to take such photographs for promotional purposes.

#### **21. DAMAGE TO FACILITY**

Exhibitor shall promptly pay for any and all damages to Facility, associated facility, booth equipment, or property of **NELA** or other Exhibitors which harm is caused by Exhibitor.

#### **22. COMPLIANCE WITH LAWS**

- a. Prior to the scheduled date of the Event, Exhibitor shall be solely responsible for obtaining licenses, permits or credentials required by Federal, State, or local law applicable to Exhibitor's activities at Event.
- b. Exhibitor shall be solely responsible for obtaining any necessary tax identification number and paying for all taxes, use fees, or other government fees, levies, or penalties which become due in connection with Exhibitor's activities at Event.
- c. Exhibitor shall comply with all the rules and regulations of the Facility, including those pertaining to Union Labor. Exhibitor shall not permit the delivery of merchandise at Facility without express permission of **NELA**.

### **23. USE OF COPYRIGHTED MATERIALS**

Exhibitor shall not play, or permit the playing, performance, or distribution of, copyrighted materials at the Event, unless it has obtained all necessary rights, permissions, and/or licenses, and paid all required royalties, fees, or other payments. Permission for music protected by copyright is required from ASCAP, BMI, and/or SESAC when music is used at conventions or used for commercial or business presentations.

### **24. ATTENDANCE**

**NELA** retains sole right to control attendance, in conjunctions with State and local laws.

### **25. CONDUCT OF EXHIBITOR**

- a. Exhibitor at all times shall conduct itself in accordance with normal standards of decorum and good taste.
- b. **NELA** reserves the right to close a booth, terminate a contract, or withdraw acceptance of a contract due to Exhibitor's failure to abide by this provision.
- c. **NELA** in sole judgment may refuse to consider any Exhibitor for participation in future events for failure to abide by this provision.
- d. **NELA** reserves the right to regulate the sound, whether it be music, voice, special or artificial effects to the extent that the same interferes with other lessees within the facilities or is determined to be objectionable or inappropriate or otherwise inconsistent with the purposes of **NELA** or Event or otherwise violates the terms or the rules and regulations of the lease agreement.

### **26. NON-ASSIGNMENT OF AGREEMENT**

This Agreement may not be assigned, nor may any right thereto, to any individual or entity. Any attempt to do so is expressly null and void.

### **27. INCORPORATION OF ENTIRE AGREEMENT**

- a. This Agreement constitutes the entire expressed understanding of **NELA's** and Exhibitor's rights, obligations, and liabilities, with respect to its subject matter and supersedes any and all previous and contemporaneous understandings may not be altered by Exhibitor without the express written permission of **NELA**. Parol Evidence may not be used to contradict any provision of the Agreement.
- b. Notwithstanding subsection a. of this Paragraph, **NELA** may adopt additional rules or regulation, upon reasonable written notice to Exhibitor, if **NELA** determines they are necessary and in the best interest of the Event. Exhibitor agrees to observe and abide by such additional rules and regulations as if set forth in this Agreement.

### **28. GOVERNING LAWS**

- a. This Agreement and any dispute arising here of, shall be governed and interpreted by the laws of the City, County, Municipal and/or State where the Event is held.
- b. If any action should be instituted to resolve a dispute arising out of any matter relating to this Agreement, the parties expressly agree that said dispute shall be resolved within the Courts of the state where the Event is held.
- c. Exhibitor agrees to waive any right to contest personal or subject matter jurisdiction in the event is instituted as described in subsection b. of this Paragraph.

### **29. EXHIBITOR MANUAL AND MATERIALS HANDLING**

Approximately 6-8 weeks prior to the Event, **NELA** will provide Exhibitor with an Exhibitor Manual from **NELA's** chosen exhibitor services provider, which will contain information integral to Exhibitor's participation in the Event, including information regarding freight. The Exhibitor Manual may also contain special updates regarding additional rules and regulations, including but not limited to, registration, shipping and receiving, utilities and building services, exhibitor display rules, and move-in/assembly and move out /dismantling of booths. Exhibitor agrees to exhibit only products that it manufactures, represents, or distributes.

**NELA** and Facility shall not accept or store display materials or empty crates, and Exhibitor shall make his or her own arrangements for shipment, delivery, receipt and storage of such materials and empty crates. Such arrangements must be made through **NELA's** chosen exhibitor services provider. Exhibitor shall provide exhibitor services provider with copies of all bills of lading. All shipments and deliveries to the Event shall be prepaid.

### **30. SECURITY**

The exhibit hall will be locked to the public overnight. However, it is the sole responsibility of the Exhibitor to safeguard goods, materials, equipment, and displays at all times. Neither **NELA**, the conference facility, the official contractor, nor the security company will be liable for any damages or loss of property arising from the Exhibitor's occupancy of the exhibit space and participation in the conference.

### **31. OUTSIDE CONTRACTORS**

- a. In the interest of providing the best qualified craftsmen in numbers sufficient to handle all of the services necessary to ensure the smooth operation, **NELA** reserves the right to retain outside contractors to provide certain services, which services are to be determined by **NELA**.
- b. No outside contractors, other than those hired by **NELA**, will be allowed to perform the services described in Subsection a. of this Paragraph.
- c. Non-exclusive services may be performed by Exhibitor-Appointed contractors (EAC) within guidelines specified by **NELA**.

### **32. USE OF AISLES AND COMMON AREAS**

- a. Distribution of samples and printed materials, including advertising, is restricted to the exhibit booth space and shall not be in a manner that is objectionable or inappropriate or otherwise inconsistent with the purposes of **NELA** or Event. The determination of whether the manner of display is acceptable resides with **NELA**.
- b. The use of aisles, passageways and overhead spaces remains exclusively under the control of **NELA**. Any use of these areas by Exhibitor, including the displaying or hanging of signs, decorations, banners, advertising materials or special exhibits, is strictly prohibited without the express written approval of **NELA**.
- c. Exhibitor must arrange equipment to allow Event visitors access through the aisles and not force visitors to stand in the aisles while examining equipment or watching demonstrations.
- d. Each exhibit must have the number of the booth (or one number for a contiguous series of booths) prominently displayed on each aisle the booth faces.

### **33. SUBLETTING/ADDITIONAL EXHIBITORS**

- a. No subletting or sharing of exhibit space will be permitted without the prior written consent of **NELA**.
- b. If **NELA** allows additional exhibitors, a fee will be assessed in the amount of \$500.00.
- c. Additional exhibitors will not be entitled to complimentary items set forth in the Exhibitor's offering with respect to the particular event. Only the Exhibitor who signed the original Agreement will be entitled to these items.

### **34. FIRE PREVENTION**

- a. All materials used for display or any other purpose, including those used in special constructed exhibits, such as fabric, must be flame proof and meet all fire regulations.
- b. The use of crepe paper and any decorative paper of any type is prohibited.
- c. All displays must be inspected to confirm that they comply with fire regulations and this section. Displays that do not pass inspection will be ordered closed until such fire hazards are corrected against the danger of fire.
- d. All booth equipment, tables, chairs, displays, and any other Exhibit supplies must not protrude into aisles. Violation of this Subsection may result in **NELA** or Fire Marshall closing down Exhibit.

### **35. EXHIBITOR DELAY IN ARRIVAL AT EVENT**

If Exhibitor, through circumstances beyond its control, is delayed beyond the scheduled arrival time, Exhibitor must notify **NELA** at the Event site. Non-notification will result in resale of Exhibit space and all monies advanced by Exhibitor will be immediately forfeited.

### **36. MONITORING OF EXHIBITS**

All persons entering the exhibit hall must register. Persons attending the conference will be given registration badges to permit their admission to the exhibit area. Registration to the exhibits only (not for admission to programs) will be available to anyone who obtains an Exhibit Hall Only Pass.

Visitor's badges (Exhibit Hall Only passes) that allow guests to visit the exhibits (not valid for programs) will be available at the conference registration desk for a nominal fee. Exhibitors and their representatives should inform their customers (librarians, educators, architects, etc.) that they may obtain the exhibit pass at the conference registration desk. **NELA** welcomes all interested persons to the exhibits.

### **37. SEVERABILITY**

In the event any provision of this Agreement is held unenforceable pursuant to a decree or decision by a court or other tribunal of competent jurisdiction or binding arbitration, the remaining provisions of this Agreement shall remain valid and in full force and effect.

### **38. WAIVER**

Failure to enforce any provision of this Agreement shall not be construed to be a waiver of such provision. No provision of this Agreement or breach thereof may be waived except in a writing signed by the party against whom the waiver is sought to be enforced. Any waiver in one or more instances by either of the parties of any breach by the other of any provisions contained in this Agreement shall not be considered a waiver of any succeeding or preceding breach.

### **39. REMEDY**

**NELA** reserves the right to exercise any and all appropriate responses (including, but not limited to, removal from the show floor and/or forfeiture of offending exhibitor's payment) in response to any action by Exhibitor deemed objectionable or inappropriate or otherwise inconsistent with the purposes of **NELA** or Event. The determination of whether the Exhibitor action is unacceptable resides with **NELA**. If a booth is found not adhering to the above rules, the booth will be closed down immediately and absolutely no refunds given. **NELA** employees cannot make any exceptions to this rule. Any exceptions or changes must be in writing and signed by one of the current conference co-chairs.

### **40. AUTHORITY**

**As this agreement will not be effective until an Exhibitor Registration Form is completed, signed by the Exhibitor and payment in full received by NELA, by completing a registration form, Exhibitor's Agent(s) agrees that he/she is fully authorized to enter into this agreement and bind Exhibitor to its terms. Furthermore, Exhibitor's Agent(s) acknowledges that he/she has fully reviewed and understood this agreement and consulted with legal counsel, or waived the right to consult with legal counsel. These terms are non-negotiable and any failure to comply with the terms listed above will be a violation of this agreement and grounds for immediate removal from the event and forfeiture of any payment received.**