



## TERMS AND CONDITIONS

FOR THE SALE OF GOODS  
AND SUPPLY OF SERVICES

OCTOBER 2018



**The Customer's attention is particularly drawn to the provisions of clause 13 (Limitation of liability).**

## 1. INTERPRETATION

1.1 In these terms and conditions:

**"Background Intellectual Property"** means Intellectual Property Rights in the Deliverables and/or in any process, device, tool or technique used by a Party in fulfilling its obligations under the Contract and which Intellectual Property Rights already exists at the date of the Contract or is generated other than through the performance of work under the Contract;

**"Business Day"** means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

**"Charges"** means the charges made by LST for the provision of the Services and the Goods;

**"Conditions"** means these terms and conditions as amended from time to time in accordance with clause 20.1;

**"Contract"** means the agreement concluded between LST and the Customer for the supply of Goods and/or Services, in accordance with these Conditions;

**"Customer"** means the party who purchases or agrees to purchase the Goods and/or Services;

**"Deliverables"** means (i) the Goods; and (ii) any documents, articles or other materials, and any data or other information which are stated in the Order to be provided by LST to the Customer and resulting from the performance of the Services;

**"Foreground Intellectual Property"** means Intellectual Property Rights arising out of the performance of any work by LST and/or Customer under the Contract (but for the avoidance of doubt excluding Background Intellectual Property);

**"Goods"** shall mean the goods (or any part of them) set out in the Order (whether expressly or by reference to LST's quotation);

**"Intellectual Property Rights"** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), 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 in any part of the world.

**"Order"** means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's acceptance of LST's quotation, as the case may be;

**"Party"** means either of LST and the Customer as applicable, together being the **"Parties"**;

**"Proprietary Information"** means trade secrets, and all other information of a confidential or proprietary nature including but not limited to any and all technical information, data, drawings, process information and know-how and embracing reports, computer software (whether in object or source code) and designs and any information concerning products, customers, business accounts, financial or contractual arrangements or other dealings, transactions or affairs, reports, recommendations, advice or tests and development plans, and in whatever form whether in writing, given orally or contained in an electronic format, and which is either marked as confidential (or with some similar legend) or otherwise clearly intended to be confidential;

**"Services"** shall mean the services to be provided by LST to the Customer as set out in the Order (whether expressly or by reference to LST's quotation);

**"LST"** means Luminous Show Technology Limited (registered in England & Wales number 1105910);

**"Specification"** means the description, purpose and technical specification for the Goods and the Services, that is agreed in writing by LST and the Supplier; and

**"Work"** means the performance of the Services and/or the supply of Deliverables.

1.2 In the Contract references to (i) any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced; (ii) the masculine include the feminine and the neuter and vice versa; (iii) the singular include the plural and vice versa; and (iv) to clauses are references to the clauses set out in these Conditions. The headings to these Conditions will not affect their interpretation.

## 2. APPLICATION OF TERMS

2.1 These Conditions are the only terms upon which LST is prepared to deal with the Customer and they shall govern the Contract to the entire exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 Each quotation by LST for the performance of Work shall be an offer by LST to supply the Work set out in the quotation subject to these Conditions.

2.3 An Order shall only be deemed to be accepted when the Customer (a) issues written acceptance of the Order; or (b) otherwise gives clear indication to LST that LST's quotation has been accepted, at which point and on which date the Contract shall come into existence (**"Commencement Date"**).

2.4 Any quotation given by LST shall only remain valid and capable of acceptance for a period of 20 Business Days from its date of issue.

2.5 LST shall be entitled to terminate the Contract by giving written notice to the Customer within 10 Business Days of the Commencement Date where LST reasonably believes that it will not be able to supply the Work in accordance with Contract.

2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

## 3. SUPPLY OF GOODS & SERVICES

3.1 The Services and the Deliverables are described in the Specification.

3.2 LST shall: (i) perform the Services; and (ii) supply the Deliverables.

3.3 The Customer shall be responsible for providing all appropriate instructions, documents, licences or authorisations in a timely manner to enable LST to perform the Services and deliver the Deliverables.

3.4 To the extent that the Goods are to be manufactured in accordance with a Specification supplied in whole or in part by the Customer, the Customer shall indemnify LST against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by LST arising out of or in connection with any claim made against LST for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with LST's use of the Specification. This clause 3.4 shall survive termination of the Contract.

3.5 LST reserves the right to amend the Specification if required by any applicable statutory or regulatory requirement, and LST shall notify the Customer in any such event.

## 4. DELIVERY

4.1 LST shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after LST notifies the Customer that the Goods are ready.

4.2 Where it has been agreed that the Customer will collect (or arrange collection of) the Goods from the Delivery Location, the Customer shall collect the Goods from the Delivery Location within three Business Days of LST notifying the Customer that the Goods are ready.

4.3 Where it has been agreed that the Customer will collect (or arrange collection of) the Goods from the Delivery Location, delivery shall be completed on completion of loading of the Goods at the Delivery Location. In all other circumstances, delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

4.4 Unless specifically stated in the Order that time of delivery is of the essence, any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. LST shall not be liable for any delay in delivery of the Goods that is caused by a force majeure event (within the meaning of clause 16) or the Customer's failure to provide LST with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5 If LST fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. LST shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a force majeure event (having the meaning in clause 16) or the Customer's failure to provide LST with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

4.6 If for any reason the Customer does not take or accept delivery of any Goods when they are ready for delivery, then delivery of the Goods shall be deemed to have completed at 9.00 am on the third Business Day following the day on which LST notified the Customer that the Goods were ready. LST may store the Goods and the Customer shall pay LST its reasonable charges in respect of such storage. If the Goods have not been collected by the Customer within sixty (60) Business Days from the date of first being advised of their availability, LST may dispose of such Goods at the Customer's expense and after deducting reasonable storage and selling costs, LST shall account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

4.7 The Customer shall notify LST of any damage to Deliverables or shortfall in quantity as soon as practicable but not later than two (2) calendar days after delivery.

## 5. PRICE AND PAYMENT TERMS

5.1 The price for Goods:

5.1.1 shall be the price set out in the Order or, if no price is quoted, the price set out in LST's published price list as at the date of the Order; and

5.1.2 shall unless otherwise specified in the Order, be exclusive of all costs and charges of packaging, insurance, transport, import duties and local tariffs (if any), which shall be invoiced to the Customer in addition to the price.

5.2 The charges for Services shall be as set out in the Order or as are otherwise agreed between LST and the Customer.

5.3 LST shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom LST engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by LST for the performance of the Services, and for the cost of any materials.

5.4 LST reserves the right to:

5.4.1 increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to LST that is due to:

- (a) any factor beyond the control of LST (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- (c) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give LST adequate or accurate information or instructions in respect of the Goods.

5.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where

any taxable supply for VAT purposes is made under the Contract by LST to the Customer, the Customer shall, on receipt of a valid VAT invoice from LST, pay to LST such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

5.6 LST shall invoice the Customer at the times stated in the Contract, or otherwise: (i) in respect of the Services, at the end of each month in which the Services are provided; and (ii) in respect of the Goods, upon delivery.

5.7 The Customer shall pay to LST the Charges in respect of the Work by bank transfer to a bank account nominated by LST within 14 days of submission of an invoice by LST.

5.8 Where the Contract requires payment of the Charges or any part of the Charges in advance by way of deposit, LST shall not be obliged to commence work in respect of the Goods or the Services until the deposit is received in full in cleared funds.

5.9 If the Customer disputes any invoice or part thereof, the Customer shall immediately notify LST in writing of the reasons therefore. The Customer shall immediately pay the undisputed portion of the invoice and the Parties shall seek to resolve the dispute within 14 days, and in the absence of a resolution the provisions of clause 18 (Dispute Resolution) shall apply. Upon resolution of the dispute, such sum as is agreed by the Parties as payable shall be paid immediately to LST, together with any interest due under clause 5.9.

5.10 If the Customer fails to pay LST any sum due pursuant to the Contract, the Customer will be liable to pay interest to LST on such sums from the due date for payment at an annual rate equivalent to the base lending rate from time to time of NatWest Bank Plc plus 4 percentage points, accruing on a daily basis until payment is made, whether before or after any judgement.

5.11 Whenever under the Contract any sum of money shall be recoverable from or payable by the Customer, LST may deduct the same from any sum then due to the Customer under the Contract or any other contract between LST and the Customer.

## 6. INTELLECTUAL PROPERTY RIGHTS

6.1 Ownership of Background Intellectual Property shall remain unaffected by the Contract.

6.2 Ownership of any and all Foreground Intellectual Property shall vest exclusively with LST and/or its contractors.

6.3 On delivery of the Deliverables and receipt by LST from the Customer of the Charges, LST shall grant or procure the grant to the Customer of a non-exclusive, irrevocable, royalty-free right and licence to use; (i) the Goods; and (ii) the Intellectual Property Rights in the Deliverables (excluding the Goods) solely for the purposes expressly stated in the Contract as being the purpose for which the Deliverables are supplied or, if no such purpose is stated, (i) in relation to the Goods, solely for the purpose stated within their accompanying documentation as being that for which they are primarily designed and in any event, solely in accordance with any instructions set out in such documentation; and (ii) in relation to any Deliverables (excluding the Goods) solely for the purposes of its internal testing and evaluation of the Deliverables (not involving their commercial use or disclosure to any third party).

6.4 The Customer undertakes not itself, nor to assist or authorise or purport to authorise any third party to reverse-engineer, de-compile, copy or reproduce all or any part of the Deliverables nor seek or attempt to do so or to otherwise gain access to any Proprietary Information contained or incorporated in the Deliverables nor to use the same and/or any Intellectual Property Rights in the Deliverables for any purpose outside the scope of the licence granted to it by clause 6.3.

6.5 The Customer grants to LST a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to LST for the term of the Contract for the purpose of manufacturing and supplying the Deliverables and providing the Services to the Customer.

## 7. RISK AND TITLE

7.1 The Deliverables shall be at the risk of the Customer from completion of delivery in accordance with clause 4.

7.2 Where the Contract states that ownership of any Deliverables shall pass to the Customer, such ownership shall not pass until LST has received in full (in cash or cleared funds) all sums due to it in respect of (i) the Work; and (ii) all other sums which are or which become due to LST from the Customer under the Contract.

7.3 LST shall be entitled to recover payment for the Work notwithstanding that ownership of the Deliverables or any part of them has not passed to the Customer.

7.4 Until title to the Deliverables has passed to the Customer, the Customer shall:

7.4.1 store the Deliverables separately from all other goods held by the Customer so that they remain readily identifiable as LST's property;

7.4.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Deliverables;

7.4.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on LST's behalf from the date of delivery;

7.4.4 notify LST immediately if it becomes subject to any of the events listed in clause 15.1.2 to 15.1.5 (inclusive); and

7.4.5 give LST such information relating to the Goods as LST may require from time to time.

7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 15.1.2 to 15.1.5 (inclusive), then, without limiting any other right or remedy LST may have:

7.5.1 the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and

7.5.2 LST may at any time:

- (a) require the Customer to deliver up all Deliverables in its possession which have not been resold, or irrevocably incorporated into another product; and
- (b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## 8. WORK PERFORMED ON LST'S OR CUSTOMER'S PREMISES

8.1 The Customer's employees, agents and representatives shall abide by such regulations, including security and health and safety regulations, as are applicable to their presence on LST's premises. A copy of those regulations will be available from LST on demand.

8.2 Where the Contract requires LST to perform work at the Customer's premises, the Customer shall be responsible for arranging, in good time and at its own expense, all permits, licences or other permissions necessary to enable LST's employees, agents and representatives to gain access to, and perform the work at, such premises. LST's employees, agents and representatives working on the Customer's premises shall abide by such regulations detailed in the Contract as are applicable to their presence on the Customer's premises.

## 9. WARRANTY AND EXCLUSIVE REMEDY

9.1 LST warrants:

9.1.1 that it shall use reasonable skill and care in performance of the Services; and

9.1.2 at the time of delivery the Goods shall be, and shall perform, substantially in accordance with the Specification as expressly stated in any plans, drawings and other documents expressly incorporated into the Contract;

9.2 Notwithstanding the generality of the foregoing LST makes no warranty that all or any of the Deliverables will be suitable for or to enable the Customer to achieve any particular purpose even when such purpose has been notified to LST and it is the Customer's sole responsibility to ensure that the Specification fully complies with (a) the Customer's requirements; and (b) all relevant regulations and legislation.

9.3 In the event that:

9.3.1 in the case of Deliverables (except Goods), within the period of three (3) months from delivery of such Deliverables (and subject always to clause 9.6 below), any defect or fault is found to exist in the Deliverables which defect or fault causes LST to be in breach of its warranty at clause 9.1.1; or

9.3.2 in the case of Goods, within the period of three (3) months from delivery of the Goods (and subject always to clause 9.6 below), any defect or fault is found to exist in the Goods which defect or fault causes LST to be in breach of its warranty at clause 9.1.2;

LST shall at its option either (i) repair or replace such Deliverables (or the defective part); or (ii) re-perform the relevant Services or part thereof; or (iii) refund such proportion of the Charges paid to LST by the Customer for them as is reasonable, PROVIDED THAT, if LST so requests, the Customer shall, at the Customer's expense, return any Deliverables or the part which is defective to LST.

9.4 LST makes no warranty that all or any of the Deliverables will not infringe the rights of any third party.

9.5 LST makes no warranty in connection with the use of all or any of the Deliverables by the Customer and/or any third party to whom they are supplied by or through the Customer for any purpose not expressly licensed under clause 6.3 and the Customer hereby indemnifies LST from and against any claims against LST arising from or relating to any such use of the Deliverables.

9.6 LST shall have no liability of any kind for breach of its warranty in clause 9.1.2 in circumstances where:

9.6.1 the Customer alters or effects or attempts to effect repair of the Goods without LST's prior written consent; or

9.6.2 the Customer fails to give written notice of the alleged breach to LST within ten (10) days of the time when the Customer discovers or ought to have discovered it and in any event no later than ten (10) days after the expiry of the warranty period stated in clause 9.3, or having given such notice:

(a) fails to give LST a reasonable opportunity to examine the Deliverables concerned; or

(b) fails (having been asked to do so by LST) to return, at the Customer's cost, such Deliverables for examination at LST's place of business; or

(c) continues to make full or substantially full use of such Deliverables: or

9.6.3 the defect arises as a result of:

(a) defects in any Customer supplied materials, components, equipment or other resources, or the Customer failing to follow LST's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Deliverables or (if there are none) good trade practice, or

(b) fair wear and tear or misuse; or

9.6.4 the Deliverables differ from their Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

9.6.5 any sums remain due and outstanding under the Contract at the date of receipt by LST of the notice referred to in clause 9.5.2.

9.7 Where LST supplies, under the Contract, any goods supplied by a third party, LST does not give any warranty, guarantee or assurance of any kind as to their quality, fitness for purpose or otherwise, but shall, where reasonably possible, assign to the Customer the benefit of any warranty, guarantee or indemnity given by the party supplying the goods to LST.

9.8 Except as provided in this clause 9, LST shall have no liability to the Customer in respect of the Deliverables' failure to comply with the warranty set out in clause 9.1.

9.9 The terms of these Conditions shall apply to any repaired or replacement Deliverables supplied by LST.

9.10 THE CUSTOMER ACKNOWLEDGES AND ACCEPTS THAT THE WARRANTIES AT CLAUSE 9.1 AND ASSOCIATED REMEDIES AT CLAUSE 9.3 ARE ITS SOLE AND ENTIRE WARRANTIES AND REMEDIES IN CONNECTION WITH THE SUPPLY TO IT BY LST OF THE DELIVERABLES AND THE PERFORMANCE BY LST OF ANY WORK TO

BE CARRIED OUT UNDER THIS CONTRACT. ALL OTHER REPRESENTATIONS AND WARRANTIES WHICH MAY OTHERWISE BE IMPLIED (BY STATUTE OR OTHERWISE) IN RELATION TO SUCH SUPPLY ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.

## 10. CUSTOMER OBLIGATIONS

10.1 The Customer shall:

10.1.1 ensure that the terms of the Order and any information it provides in connection with the Specification are complete and accurate;

10.1.2 co-operate with LST in all matters relating to the Services and the supply of the Deliverables;

10.1.3 provide LST with such information and materials as the Supplier may reasonably require in order to supply the Services and Deliverables, and ensure that such information is complete and accurate in all material respects;

10.1.4 prepare the Customer's premises for the delivery of the Deliverables, and where relevant, the supply of the Services;

10.1.5 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

10.1.6 comply with all applicable laws, including health and safety laws;

10.1.7 keep all materials, equipment, documents and other property of LST ("**LST Materials**") at the Customer's premises in safe custody at its own risk, maintain the LST Materials in good condition until returned to LST, and not dispose of or use the LST Materials other than in accordance with LST's written instructions or authorisation; and

10.1.8 comply with any additional obligations as set out in the Specification.

10.2 If LST's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):

10.2.1 without limiting or affecting any other right or remedy available to it, LST shall have the right to suspend performance of the Services and the supply of Deliverables until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

10.2.2 LST shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from LST's failure or delay to perform any of its obligations as set out in this clause 10.2; and

10.2.3 the Customer shall reimburse LST on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

## 11. LIMITATION OF LIABILITY THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

11.1 LST has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £1,000,000 per claim. The limits and exclusions in this clause reflect the insurance cover LST has been able to arrange and the Charges paid for the Goods and the Services by the Customer. The Customer is responsible for making its own arrangements for the insurance of any excess loss. As such, the following provisions set out the entire financial liability of LST (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer arising under or in connection with the Contract in respect of:

11.1.1 any breach of the Contract;

11.1.2 any representation, statement or tortious act or omission including negligence;

11.1.3 breach of statutory duty or any liability otherwise arising under or in connection with the Contract.

11.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

11.3 Nothing in the Contract shall exclude or limit the liability of LST for;

11.3.1 death or personal injury caused by LST's negligence; or

11.3.2 fraud committed by LST (including fraudulent misrepresentation); or

11.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession)

11.3.4 any other matter which it would be illegal, or in breach of any statutory provision, for LST to exclude or attempt to exclude its liability for.

11.4 Subject to clause 11.3, LST's aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the Charges payable under the Contract.

11.5 This clause 11.5 sets out specific heads of excluded loss and exceptions from them:

11.5.1 Subject to clause 11.2 the types of loss listed in clause 11.5.3 are wholly excluded by the parties, but the types of loss and specific losses listed in clause 11.5.4 are not excluded.

11.5.2 If any loss falls into one or more of the categories in clause 11.5.3 and also falls into a category, or is specified, in clause 11.5.4 then it is not excluded.

11.5.3 The following types of loss are wholly excluded:

(a) Loss of profits.

(b) Loss of sales or business.

(c) Loss of agreements or contracts.

(d) Loss of anticipated savings.

(e) Loss of use or corruption of software, data or information.

(f) Loss of or damage to goodwill.

(g) Indirect, special or consequential loss, damage, costs or expenses.

11.5.4 The following types of loss and specific loss are not excluded:

(a) Sums paid by the Customer to LST pursuant to the Contract, in respect of any Goods or Services not provided in accordance with the Contract.

(b) Wasted expenditure.

(c) Additional costs of procuring and implementing replacements for, or alternatives to, Goods or Services not provided in accordance with the Contract. These include reasonable consultancy costs, additional costs of management time and other personnel costs, and costs of equipment and materials.

(d) Losses incurred by the Customer arising out of or in connection with any third party claim against the Customer which has been caused by the act or omission of LST. For these purposes, third party claims shall include demands, fines, penalties, actions, investigations or proceedings, including those made or commenced by subcontractors, LST's personnel, regulators and customers of the Customer.

11.6 For the avoidance of doubt, and subject to clause 11.3, LST shall not be liable for any loss, damage or liability to the extent caused by the negligence, wilful misconduct or other fault of the Customer, its employees, agents or contractors or a breach by the Customer of the Contract; in each case howsoever caused.

11.7 Unless the Customer notifies LST that it intends to make a claim in respect of an event within the notice period, LST shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event and shall expire six months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

11.8 Any result or recommendations given in reports, plans, drawings or other Deliverables are correct in all material respects to the best of LST's knowledge at the time and on the basis of the instructions and information provided by the Customer. LST shall not be liable for any claims, actions or consequential damages suffered by the Customer or any third party by use of such reports, plans, drawings or other Deliverables for any purpose or in respect of any project other than the specific purpose and project for which they have been supplied. The Customer hereby agrees to indemnify LST against such liability arising from the use of such reports, plans, drawings or other documents.

11.9 The information presented in reports, plans, drawings or other documents is not intended to convey or constitute legal advice, and is not a substitute for obtaining legal advice.

## 12. DESCRIPTION

12.1 Except to the extent that they form part of the Specification or are expressly incorporated into this Contract, all drawings, descriptive matter, specifications and advertising issued by LST and any descriptions or illustrations contained in LST's catalogues, brochures or any other materials provided by LST to the Customer are issued or published for the sole purpose of giving an approximate idea of the matters described in them and will not form part of the Contract.

## 13. SAFETY

13.1 The Customer shall, in accordance with statutory health and safety requirements, provide prior written notice to LST of any health or safety hazards associated with any Customer facilities used by LST in connection with the performance of the Services.

13.2 LST may at any time make any changes to the Services which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Goods or the Services. LST shall within a reasonable time notify the Customer that such changes have been made. In the event that changes are made to the Goods or the Services resulting from safety or other statutory requirements which become effective after the date of this Contract, then the reasonable charges associated with such change shall be to the Customer's account and LST shall be entitled to a reasonable extension of time for performance of the Services or to supply the Goods (as the case may be).

## 14. COMMERCIAL CONFIDENTIALITY

14.1 Without prejudice to the rights of either Party arising elsewhere in the Contract, all Proprietary Information exchanged between the Customer and LST shall be treated as commercially confidential in accordance with this clause.

14.2 Neither Party shall use, disclose or knowingly permit to be disclosed to any person (except those employees, agents or sub-contractors who need to know the information for the purposes of the Contract) any Proprietary Information of the other Party without the prior written consent of the other Party and both Parties shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Parties.

14.3 The obligations of confidentiality owed by one Party to the other set out in this Clause shall remain in force despite the completion (or earlier determination) of the Contract but shall not apply to information which:

14.3.1 is in or enters the public domain (otherwise than by a breach of the receiving Party's confidentiality obligations under this Agreement);

14.3.2 is known without restriction to the receiving Party at the time of disclosure without breach of any obligation of confidentiality;

14.3.3 becomes known to the receiving Party without restriction from an independent source having the right to convey it;

14.3.4 is shown to the reasonable satisfaction of the originating Party to have been generated independently by the receiving Party;

14.4 Neither Party shall use the other Party's Proprietary Information for any purpose other than to perform its obligations under the Contract.

14.5 Nothing herein shall prevent the disclosure of information by the receiving Party to the extent required by applicable law or regulatory authority to which

such Party is subject or pursuant to any order of court or other competent authority or tribunal PROVIDED THAT:

14.5.1 the receiving Party first gives the other Party, where possible, the opportunity to make and/or manage the necessary disclosure;

14.5.2 where the receiving Party is required to make the disclosure itself, the disclosure made is the minimum required (having regard to all possible exemptions from disclosure) and is made under maximum possible constraints of confidentiality; and

14.5.3 the other Party is provided with full information on the intended disclosure and is fully consulted.

14.6 The Parties acknowledge that damages would not be an adequate remedy for any breach of this clause and that (without prejudice to any other rights or remedies that the Parties may be entitled to as a matter of law), both Parties will be entitled to the remedies of injunction, specific performance, and other equitable relief to enforce the provisions of this clause and no proof of special damages shall be necessary for the enforcement of the provisions of this clause.

## 15. TERMINATION FOR BREACH

15.1 Without prejudice to any rights of action or remedy which have accrued or shall accrue, either Party (the "**Terminating Party**") may at any time by written notice terminate the Contract if;

15.1.1 the other Party is in breach of any material obligation under the Contract and if the breach is capable of remedy, the other Party has failed to remedy such breach within thirty (30) days of written notice to that Party requiring remediation of the breach; or

15.1.2 any distress, execution or other process is levied upon any of the assets of the other Party; or

15.1.3 the other Party enters into any compromise or arrangement with its creditors, or takes any step or action in connection with its entering administration, provisional liquidation (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court (except for the purposes of amalgamation or reconstruction as a solvent company) or if a petition is presented to court, or if a receiver and/or manager, administrative receiver or administrator is appointed in respect of the whole or any part of the other Party's undertaking or assets or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

15.1.4 the other Party ceases or threatens to cease to carry on its business; or

15.1.5 the financial position of the other Party deteriorates to such an extent that in the opinion of the Terminating Party the capability of the other Party adequately to fulfil its obligations under the Contract has been placed in jeopardy.

15.2 Where LST terminates the Contract under this clause, the Customer shall within seven (7) days:

15.2.1 pay to LST: (i) all outstanding payments invoiced by LST under the Contract at the date of termination; (ii) in addition a fair and reasonable price for work done or in progress but not invoiced for at the date of termination; (iii) all costs (including overheads) and liabilities incurred by LST arising out of or resulting from termination, including but not limited to suppliers' and sub-contractors' cancellation charges; and (iv) a sum in respect of the profits which LST would have made under the Contract but for its termination; and

15.2.2 return all of LST's Proprietary Information and any Deliverables which have not been fully paid for. If the Customer fails to do so, then LST may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

15.3 Without affecting any other right or remedy available to it, LST may suspend the supply of Services or any further deliveries of Goods under the Contract or any other contract between the Customer and LST if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.5 (inclusive), or LST reasonably believes that the Customer is about to become subject to any of them.

## 16. FORCE MAJEURE

16.1.1 LST shall not be liable for any failure to perform, or any delay in performing, its obligations if the failure or delay is due directly or indirectly to any cause beyond the reasonable control of LST.

16.2 In the event of failure or delay arising from such circumstances, LST will provide full details to the Customer and shall take all reasonable steps to mitigate the effect of the delay. Performance of the Contract shall be suspended for such time as the delay continues.

16.3 Either Party may terminate this Contract upon written notice to the other Party and if the event of Force Majeure lasts more than 180 days. In such event the Parties shall be released from all obligations under the Contract and the Customer shall pay to LST within seven (7) days: (i) all outstanding payments invoiced by LST under the Contract at the date of termination; and (ii) in addition a fair and reasonable price for work done or in progress but not invoiced for at the date of termination.

## 17. ASSIGNMENT

17.1 The Customer shall not be entitled to assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the prior written consent of LST, such consent not to be unreasonably withheld.

17.2 LST may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract or any part of it to any person, firm or company.

## 18. DISPUTE RESOLUTION

18.1 If any dispute arises out of or in connection with this Contract (“**Dispute**”) the Parties undertake that, prior to the commencement of any legal proceedings, they will seek to have the Dispute resolved amicably by use of an alternative dispute resolution procedure acceptable to both Parties. Either Party will be entitled to initiate the process by written notice to the other.

18.2 If the Dispute has not been resolved to the satisfaction of either Party within thirty days of initiation of the procedure or if either Party fails or refuses to participate in or withdraws from participating in the procedure then either Party may deal with the Dispute through legal proceedings.

## 19. EXPORT LICENCES & IMPORTING

19.1 LST shall use reasonable endeavours to obtain all necessary UK export or other licences, consents, clearances and/or authorisations (together, the “**Export Licences**”) required in order to sell and export the Services and Deliverables.

19.2 The Customer shall, at its own cost and expense, assist LST in obtaining an end-user certificate, undertaking or such other information as shall be reasonably required by LST to pursue any application for Export Licences.

19.3 In the event that such Export Licences are not granted or are revoked, then:

19.3.1 such event shall be deemed to be a force Majeure event under clause 16 and LST shall have no liability to the Customer for completing the sale of any Services or Deliverables affected by such Export Licences, or for any loss, expense or damage whatsoever suffered by the Customer; and

19.3.2 notwithstanding clause 16.3, LST may, by notice in writing to the Customer, immediately terminate this Contract or any part of it relating to the Services or Deliverables in respect of which the Export Licences have not been granted or have been revoked.

19.3.3 Where the goods are supplied for export from the United Kingdom, the provision of this clause 19 shall (subject to any terms agreed in writing between LST and the Customer) apply notwithstanding any other provision of the Contract.

19.3.4 The Customer is responsible for complying with any legislation or regulations governing the importation of Goods into the country of destination and for the payment of any duties thereon.

19.3.5 The Customer shall be responsible for arranging for testing and inspection of the Goods at LST’s premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the goods which would be apparent on

inspection and which is made after shipment or in respect of any damage during transit.

## 20. MISCELLANEOUS

20.1 No amendment to the Contract shall be effective unless signed on behalf of both Parties.

20.2 A person who is not a party to this Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

20.3 Failure by either Party to enforce, at any time or for any period, any one or more of the terms or conditions of the Contract shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of the Contract.

20.4 The Contract constitutes the entire agreement between the parties in connection with its subject matter and neither Party has relied on any representation or promise except as expressly set out in the Contract. Each Party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

20.5 If any provision of these terms and conditions is held by any competent authority to be illegal, void, voidable, invalid, unenforceable or unreasonable in whole or in part it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be affected.

## 21. NOTICES.

21.1 Any notice or other communication given to a Party under or in connection with the Contract shall be in writing and shall be:

21.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

21.1.2 sent by email to:

(a) to LST at [info@luminous-showtech.com](mailto:info@luminous-showtech.com); and

(b) to the Customer at the email address specified in the Order, or if no email address is specified in the Order, the email address customarily used by LST to contact the Customer.

21.2 Any notice or communication shall be deemed to have been received:

21.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and

21.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; and

21.2.3 if sent email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 21.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

21.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## 22. GOVERNING LAW AND JURISDICTION

22.1 The Contract shall be governed by and construed in accordance with English law.

22.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English Courts.