TERMS & CONDITIONS

1. 1. DEFINITIONS
1.1 "Lucate Systems Ltd" shall mean Lucate Systems Ltd trading as Cairnscorp™, or any agents or employees thereof.
1.2 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from Lucate Systems Ltd.
1.3 "Products" shall mean:
1.3.1 all Products of the general description specified on the front of this agreement and supplied by Lucate Systems Ltd to the Customer; and
1.3.2 all Products supplied by Lucate Systems Ltd to the Customer; and
1.3.3 all Inventory of the Customer that is supplied by Lucate Systems Ltd; and
1.3.4 all Products supplied by Lucate Systems Ltd and further identified in any invoice issued by Lucate Systems Ltd to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
1.3.5 all Products that are marked as having been supplied by Lucate Systems Ltd or that are stored by the Customer in a manner that enables them to be identified as having been supplied by Lucate Systems Ltd; and
1.3.6 all of the Customer's present and after-acquired Products that Lucate Systems Ltd has performed work on or to or in which goods or materials supplied or financed by Lucate Systems Ltd have been attached or incorporated.
1.3.7 The above descriptions may overlap but each is independent of and does not limit the others.
1.4 "Products and Services" shall mean all products, goods, services and advice provided by Lucate Systems Ltd to the Customer and shall include without limitation the manufacture and supply of a range of canvas products, repairs, maintenance and installation and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Products and Services by Lucate Systems Ltd to the Customer.
1.5 "Price" shall mean the cost of the Products and Services as agreed between Lucate Systems Ltd and the Customer and includes all disbursements eg charges Lucate Systems Ltd pay to others on the Customer's behalf subject to clause 4 of this contract.

2. ACCEPTANCE
2.1 Any instructions received by Lucate Systems Ltd from the Customer for the supply of Products and Services shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION
3.1 The Customer authorises Lucate Systems Ltd to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Products and Services provided by Lucate Systems Ltd to any other party.
3.2 The Customer authorises Lucate Systems Ltd to disclose any information obtained to any person for the purposes set out in clause 3.1.
3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE
4.1 Where no price is stated in writing or agreed to orally the Products and Services shall be deemed to be sold at the current amount as such Products and Services are sold by Lucate Systems Ltd at the time of the contract.
4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the Products and Services that is beyond the control of Lucate Systems Ltd between the date of the contract and delivery of the Products and Services.

5. PAYMENT
5.1 Payment for Products and Services shall be made in full on or before the 20ᵗʰ day of the month following the date of the invoice ("the due date"). Progress payments will apply to large orders.
5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
5.3 Any expenses, disbursements and legal costs incurred by Lucate Systems Ltd in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.
5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
5.5 A deposit may be required.

6. QUOTATION
6.1 Where a quotation is given by Lucate Systems Ltd for Products and Services:
6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
6.1.2 The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
6.1.3 Lucate Systems Ltd reserve the right to alter the quotation because of circumstances beyond its control.
6.2 Where Products and Services are required in addition to the quotation the Customer agrees to pay for the additional cost of such Products and Services.

7. RISK
7.1 The Products and Services remain at Lucate Systems Ltd's risk until delivery to the Customer.
7.2 Delivery of Products and Services shall be deemed complete when Lucate Systems Ltd gives possession of the Products and Services directly to the Customer or possession of the Products and Services is given to a carrier, courier, or other bailee for purposes of transmission to the Customer.
7.3 The time agreed for delivery shall not be an essential term of this contract unless the Customer gives written notice to Lucate Systems Ltd making time of the essence.
7.4 Where Lucate Systems Ltd delivers Products and Services to the Customer by instalments and Lucate Systems Ltd fails to deliver or supply one or more instalments the Customer shall not have the right to cancel the contract but shall have the right to claim compensation as a severable breach.

8. AGENCY
8.1 The Customer authorises Lucate Systems Ltd to contract either as principal or agent for the provision of Products and Services that are the matter of this contract.
8.2 Where Lucate Systems Ltd enters into a contract of the type referred to in clause 8.1 it shall be read with and form part of this agreement and the Customer agrees to pay any amounts due under that contract.

9. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)
9.1 Title in any Products and Services supplied by Lucate Systems Ltd passes to the Customer only when the Customer has made payment in full for all Products and Services provided by Lucate Systems Ltd and of all other sums due to Lucate Systems Ltd by the Customer on any account whatsoever. Until all sums due to Lucate Systems Ltd by the Customer have been paid in full, Lucate Systems Ltd has a security interest in all Products and Services.
9.2 If the Products and Services are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Products and Services shall remain with Lucate Systems Ltd until the Customer has made payment for all Products and Services, and where those Products and Services are mixed with other property so as to be part of or a constituent of any new Products and Services, title to these new Products and Services shall deemed to be assigned to Lucate Systems Ltd as security for the full satisfaction by the Customer of the full amount owing between Lucate Systems Ltd and Customer.
9.3 The Customer gives irrevocable authority to Lucate Systems Ltd to enter any premises occupied by the Customer or on which Products and Services are situated at any reasonable time after default by the Customer or before default if Lucate Systems Ltd believes a default is likely and to remove and repossess any Products and Services and any other property to which Products and Services are attached or in which Products and Services are incorporated. Lucate Systems Ltd shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Lucate Systems Ltd may either resell any repossessed Products and Services and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and Services and credit the Customer's account with the invoice value thereof less such sum as Lucate Systems Ltd reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.

9.4 Where Products and Services are retained by Lucate Systems Ltd pursuant to clause 9.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
9.5 The following shall constitute defaults by the Customer:
9.5.1 Non payment of any sum by the due date.
9.5.2 The Customer intimates that it will not pay any sum by the due date.
9.5.3 Any Products and Services are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products and Services.
9.5.4 Any Products and Services in the possession of the Customer are materially damaged while any sum due from the Customer to Lucate Systems Ltd remains unpaid.
9.5.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distains against any of the Customer's assets.
9.5.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
9.5.7 Any material adverse change in the financial position of the Customer.
9.6 If the Credit Repossession Act applies to any transaction between the Customer and Lucate Systems Ltd, the Customer has the rights provided in that Act despite anything contained in these terms and conditions of trade.

10. SECURITY INTEREST FOR SERVICE PROVIDERS
10.1 The Customer gives Lucate Systems Ltd a security interest in all of the Customer's present and after-acquired property that Lucate Systems Ltd has performed services on or to or in which goods or materials supplied or financed by Lucate Systems Ltd have been attached or incorporated.

11. GENERAL LIEN
11.1 The Customer agrees that Lucate Systems Ltd may exercise a general lien against any Products and Services or property belonging to the Customer that is in the possession of Lucate Systems Ltd for all sums outstanding under this contract and any other contract to which the Customer and Lucate Systems Ltd are parties.
11.2 If the lien is not satisfied within seven (7) days of the due date Lucate Systems Ltd may, having given notice of the lien at its option either:
11.2.1 Remove such Products and Services and store them in such a place and in such a manner as Lucate Systems Ltd shall think fit and proper and at the risk and expense of the Customer; or
11.2.2 Sell such Products and Services or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.

12. DISPUTES
12.1 No claim relating to Products and Services will be considered unless made within seven (7) days of delivery.
12.2 No Products will be accepted for return without prior approval of Lucate Systems Ltd.

13. LIABILITY
13.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Lucate Systems Ltd which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Lucate Systems Ltd, Lucate Systems Ltd's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
13.2 Except as otherwise provided by clause 13.1 Lucate Systems Ltd shall not be liable for:
13.2.1 Any loss or damage of any kind including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products and Services provided by Lucate Systems Ltd to the Customer; and
13.2.2 The Customer shall indemnify Lucate Systems Ltd against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Lucate Systems Ltd or otherwise, brought by any person in connection with any matter, act, omission, or error by Lucate Systems Ltd its agents or employees in connection with the Products and Services.

14. WARRANTY
14.1 Manufacturer's warranty applies where applicable.
14.2 No representation, condition, warranty or premise expressed or implied by law or otherwise applies to the Products and Services except where goods are supplied or services provided pursuant to the Consumer Guarantees Act 1993 or except where expressly stated in this contract.
14.3 Lucate Systems Ltd does not provide any warranty that the Products and Services are fit and suitable for the purpose for which they are required by the Customer and shall not be liable if they are not.

15. CONSUMER GUARANTEES ACT
15.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Products and Services from Lucate Systems Ltd for the purposes of a business in terms of section 2 and 43 of that Act.

16. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES
16.1 If the Customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for Lucate Systems Ltd agreeing to supply Products and Services and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to Lucate Systems Ltd the payment of any and all monies now or hereafter owed by the Customer to Lucate Systems Ltd and indemnify Lucate Systems Ltd against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

17. CANCELLATION
17.1 Lucate Systems Ltd shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part any contract for the supply of Products and Services to the Customer if the Customer fails to pay any money owing after the due date or the Customer commits an act of bankruptcy as defined in section 19 of the Insolvency Act 1967.
17.2 Any cancellation or suspension of this agreement shall not affect Lucate Systems Ltd's claim for money due at the time of cancellation or suspension or for damages for any breach of any terms of this contract or the Customer's obligations to Lucate Systems Ltd under this contract.

18. MISCELLANEOUS
18.1 Lucate Systems Ltd shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
18.2 Failure by Lucate Systems Ltd to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Lucate Systems Ltd has under this contract.
18.3 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
18.4 The client shall not assign all or any of its rights or obligations under this contract without the written consent of Lucate Systems Ltd.
18.5 Where these terms and conditions of trade are at variance with the order or instructions from the Customer these terms and conditions of trade shall prevail.
18.6 Unless Lucate Systems Ltd elects otherwise, any dispute between the parties is to be dealt with in accordance with the Arbitration Act 1996.