

# LUMATIC PLATFORM TERMS OF USE (v8.15.2020)

Thank you for using Lumatic Imagery, LLC (“Lumatic Imagery”) and its products and services. These Terms of Use apply to your access to and/or use of our Services and any information, products, services or other things provided or made available to you by Lumatic.

All digital photographic or image experiences created and managed by Lumatic Imagery (hereinafter referred to as “Lumatic Imagery”) including but not limited to any photographs, website, application, digital delivery experience, etc. are part of the Lumatic Imagery Platform ( the Lumatic Imagery Platform along with any Services provided by Lumatic are collectively hereinafter referred to as the “Platform”). This Platform is owned and operated by Lumatic Imagery. Access and use of this Platform is provided by Lumatic Imagery to you on condition that you accept these Terms of Use, and by accessing or using the Platform, you agree to these Terms of Use. BY USING OR ACCESSING THE LUMATIC IMAGERY PLATFORM, ANY SERVICES OR THE PLATFORM, OR BY SUBMITTING ANY COMMUNICATIONS OR CONTENT TO LUMATIC IN RELATION THERETO, YOU AGREE TO ALL OF THESE TERMS OF USE, WHICH, ALONG WITH ANY WRITTEN AGREEMENT(S) EXECUTED BETWEEN YOU AND LUMATIC FORM A LEGALLY BINDING AGREEMENT BETWEEN YOU AND LUMATIC. THESE TERMS OF USE AND ANY OTHER WRITTEN AGREEMENTS ARE COLLECTIVELY THE “AGREEMENT.”

These Terms of Use provide you with information regarding the terms upon which Lumatic Imagery agrees to provide, permit and allow you access to and the use of the Platform. Lumatic Imagery may revise and update these Terms of Use at anytime and without notice. It is your responsibility to review the Terms of Use posted on the Platform to check for changes. You agree to be bound by any such changes if you should continue to use the Platform after any such change is made. Any changes will be effective only after the effective date of the change and will not affect any dispute arising prior to the effective date of the change.

Your continued access or use of this Platform after any such changes are posted will constitute your acceptance of these changes. If at any time these terms and conditions are no longer acceptable to you, you should immediately cease use of the Platform.

## 1. PLATFORM MEMBERSHIP

### 1.1 Registration Data and Account Security

As part of your consideration for your use of the Platform, you agree to register and activate a personal Membership Account by: (a) providing accurate, current and complete information about you as may be prompted by any registration forms on the Platform (“Registration Data”); (b) maintaining and promptly updating the Registration Data, and any other information you provide to Lumatic Imagery, to keep it accurate, current and complete; (c) maintaining the security of any and all of your passwords and identification; (d) notifying Lumatic Imagery immediately of any unauthorized use of your account or other breach of security; (e) accepting all responsibility for any and all activities that occur under your account; and (f) accepting all risks of unauthorized access to the Registration Data and any other information you provide to Lumatic Imagery.

You are responsible for the security of Your own data and any of your data relating to the Platform. Lumatic Imagery is not responsible to you or to any third party for unauthorized access to any data or the unauthorized use of your data or any information belonging to you by any third party unless the unauthorized use resulted from Lumatic Imagery’s reckless or gross negligent failure to take commercially reasonable steps to protect such data.

You are responsible for the use of the Platform by any of your members, employees, officers, agents or representatives or any person who gains access to the Platform as a result of your failure to use reasonable security precautions, even if such use was not authorized by you.

### 1.2 Rules of Conduct

You acknowledge that the Platform contains or may contain information, software, photographs, illustrations, audio files, video files, animations and other material (collectively, hereinafter referred to as "Content") which is protected by copyright, trademark or other proprietary rights of Lumatic Imagery and its affiliates or other third parties (including other Members).

Content is provided to the Platform through Lumatic Imagery upload or Member upload (the terms of which are outlined in the Content Supply Agreement section below), either on an exclusive or non-exclusive basis. Subject to the provisions of the applicable Content Supply Agreement, you may post on the Platform any Content owned wholly by you. You may download Content only in accordance with the terms of these Terms of Use, specifically the terms outlined in the License for Downloaded Content section below.

You may not use the Platform or the Content for any purpose not related to your business with Lumatic Imagery. You may not modify, publish, transmit, transfer or sell, reproduce, create derivative works from, distribute, perform, display, reverse engineer or in any way exploit any of the Content or Platform, in whole or in part, except as otherwise expressly permitted in these Terms of Use and any other agreement entered into at the time such Content was downloaded.

You are specifically prohibited from: (a) downloading, copying, or re-transmitting any or all of the Platform or the Content without, or in violation of, an agreement with Lumatic Imagery; (b) using any data mining, robots or similar data gathering or extraction methods; (c) manipulating or otherwise displaying the Platform or the Content by using framing or similar navigational technology; (d) registering, subscribing, unsubscribing, or attempting to register, subscribe, or unsubscribe any party for any Lumatic Imagery product or service if you are not expressly authorized by such party to do so; and (e) using the Platform or the Content for any purpose that is unlawful or other than for its intended purpose, as determined solely in Lumatic Imagery's discretion.

By way of example, and not as a limitation, you agree that when uploading to or communicating via the Platform, you shall not do any of the following:

- Defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy) of others.
- Publish, post, distribute or disseminate any defamatory, infringing, obscene, pornographic, sexual, indecent or unlawful material or information.
- Upload or otherwise transfer files that contain software or other material protected by intellectual property laws (or by rights of privacy or confidentiality) unless you own or control the rights thereto or have received all necessary consents.
- Upload or otherwise transfer files that contain viruses, corrupted files or any other similar software or programs that may damage or inhibit the operation of another computer.
- Delete any author attributions, legal notices, or proprietary designations or labels in any file that is uploaded.
- Falsify the origin or source of software or other material contained in a file that is uploaded.
- Advertise or offer to sell any goods or services or conduct or forward surveys, contests or chain letters.
- Use any communications or Content or other information obtained through the Platform in a manner that is competitive with the Platform or Lumatic Imagery's business.

You also agree not to use the Platform in any manner that could damage, disable, overburden, or impair the Platform or interfere with any other party's use and enjoyment of the Platform. You also agree not to attempt to gain unauthorized access to any other Lumatic Imagery Member accounts, computer systems or networks associated with the Platform. You also agree not to obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Platform.

### 1.3 Term and Termination

Your Membership Account is effective until terminated. Subject to any continuing obligations set forth in the Agreement, You may terminate your Membership Account at any time by **contacting Lumatic Imagery** or by such other means of written notice acceptable to Lumatic Imagery which enables confirmation of your identity and your intention to terminate; upon receipt of such notice, Lumatic Imagery will deactivate your Membership Account.

Lumatic Imagery reserves the right, in its sole discretion, to restrict, suspend or terminate your right to access the membership portions of the Platform at any time for any breach of this Terms of Use document without prior notice or liability. Lumatic Imagery may be updating the Platform continuously and may change, suspend or discontinue all or any aspect of the Platform at any time, including the availability of any feature, database, or Content, without prior notice or liability. In the event that Lumatic Imagery suddenly removes all Platform Content, and Content is intact, Lumatic Imagery will make removed Content available per Member written request within 90 days of removal date.

Termination of your Membership Account does not relieve you of your responsibilities to pay any amounts due to Lumatic Imagery under these Terms of Use or your obligations to not use the membership portions of the Platform or any Content other than in the manner permitted under these Terms of Use. Termination of your Membership Account shall operate without prejudice to Lumatic Imagery's rights, defenses and limitations of liability provided under these Terms of Use, which rights, defenses and limitations of liability shall survive termination of your Membership Account.

## 1.4 Vendor Membership Accounts

If you have been granted access to the Platform as a Photographer or other vendor, as part of your consideration for your use of the Platform, you agree to register and activate a personal Membership Account pursuant to Section 1.1 of these Terms of Use, and you understand and acknowledge that your engagement as a Photographer or other vendor and use of the Platform is governed by all terms herein.

## 2. PLATFORM CONTENT

### 2.1 Managing Content

Lumatic Imagery reviews all communications or Content uploaded to the Platform, but is not responsible for the subject or details of such communications or Content. Notwithstanding the foregoing, Lumatic Imagery reserves the right to delete, move or edit any communication or Content that it may determine, in its sole discretion, violates or may violate these Terms of Use or is otherwise unacceptable. You shall remain solely responsible for all communications made or Content uploaded under your Member Name. Lumatic Imagery shall have the right but not the obligation to correct any errors or omissions in any Content, as it may determine in its sole discretion. You acknowledge that any screening of Content performed by Lumatic Imagery to determine Accepted Content is done as a courtesy only.

Lumatic Imagery respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please provide Lumatic Imagery with notice of such infringement in the manner described under Notice and Procedure for Making Claims of Infringement.

### 2.2 License for Downloaded Content

All of the Platform Content is owned by Lumatic Imagery. All rights not expressly granted in these Terms of Use are reserved by Lumatic Imagery and suppliers of Content. Content made available for viewing, downloading, exporting, or any other purpose is for the pleasure of the Member, but does not constitute a transfer of ownership. Every file downloaded from the Platform comes with a standard license. Extended licenses are available upon request for an additional fee at the sole discretion of Lumatic Imagery.

You may use Content on the Platform for Platform related experiences. You may only download Content if it is made readily available to do so by Lumatic Imagery via a "download", "share", "save", or "export" button. You may use downloaded Content in any way that is not restricted (see Restricted Uses below). Subject to those restrictions and the rest of these Terms of Use, the rights granted to you by Lumatic Imagery in Content that you download (the "Licensed Content") are:

- **Perpetual**, meaning there is no expiration or end date on your rights to use the Content.

- **Non-exclusive**, meaning that you do not have exclusive rights to use the Content. Lumatic Imagery can license the same Content to others.
- **Unlimited**, meaning you can use the Content in an unlimited number of projects and in any media.
- **Without Credit**, meaning you do not need to include a photo credit for commercial use, but if you are using Content for editorial purposes, you must include the following credit adjacent to the Content or in visual production credits: "Provided by Lumatic Imagery."

For purposes of this agreement, "use" means to copy, reproduce, modify, edit, synchronize, perform, display, broadcast, publish, or otherwise make use of.

**Member can use Licensed Content for:** websites; blog posts; social media; advertisements; marketing campaigns; corporate presentations; newspapers; magazines; books; film and television productions; web and mobile applications; products for personal use; product packaging.

Restricted Uses of Content include:

- No Unlawful Use.** You may not use Content in a pornographic, defamatory or other unlawful manner.
- No False Representation of Authorship.** You may not falsely represent that you are the original creator of a work that is, or is made up largely of, downloaded Content.
- No Products for Resale.** Unless you purchase an extended license, you may not use Content in connection with any goods or services intended for resale or distribution where the primary value lies in the Content itself.
- No Electronic Templates.** Unless you purchase an extended license, you may not use Content in electronic or digital templates intended for resale (for example, website templates, business card templates, electronic greeting card templates, brochure design templates).
- Limited Print Run.** Unless you purchase an extended license, you may not reproduce the Content more than 500,000 times in physical print form. This restriction does not apply to electronic reproduction.
- No Removal of Source Metadata.** Unless you purchase an extended license, you may not remove the copyright symbol, the name of Lumatic Imagery, the Content's identification number or any other information that may be embedded in the electronic file containing the original Content, and to maintain appropriate security to protect the Content from unauthorized use by third parties. You may make one (1) copy of the Content for back-up purposes.

Lumatic Imagery reserves the right to monitor downloads and user activity to ensure compliance with these Terms of Use. If Lumatic Imagery determines that you are in breach of this or any other term of this agreement, it may suspend access to your account and seek further legal remedies.

Upon reasonable notice, you agree to provide Lumatic Imagery with sample copies of projects or end uses that contain licensed Content, which may include providing Lumatic Imagery with free of charge access to any pay-walled or otherwise restricted access website or platform where Content is reproduced. In addition, upon reasonable notice, Lumatic Imagery may, at its discretion, either through its own employees or through a third party, audit your records directly related to this agreement and your use of licensed Content in order to verify compliance with these Terms of Use. Where Lumatic Imagery reasonably believes that Content is being used outside of the scope of the license granted under this agreement, you agree, at Lumatic Imagery's request, to provide a certificate of compliance signed by an officer of your organization, in a form to be approved by Lumatic Imagery.

## 2.3 Licensed Transfer

Unless given Lumatic Imagery's prior written consent, the licensed rights to use downloaded Content are personal to you and are **non-transferable** and **non-sublicensable**, meaning that you cannot transfer or sublicense them to anyone else. There are two exceptions:

- **Employer or client or team or group.** If you are downloading on behalf of your Group, then your Group can use the Content. In that case, you represent and warrant that you have full legal authority to bind your Group to these Terms of Use. If you do not have that authority, then your Group may not use the Content.
- **Subcontractors.** You may allow subcontractors (for example, your printer or mailing house) or distributors to use Content in any production or distribution process related to your final project or end use. These subcontractors and distributors may not use the Content for any other purpose.

Please note that user restrictions apply. Each license is unique to a single Member. This means that you may share Content within your Group with your unique licence, but the Content may only be available to one person at

any one time. Unless you purchase an extended license, you may not store the Content on a server (giving more than one person simultaneous access to the Content). Multiple users may download and licence the same file, but must do so using their unique Member account.

Lumatic Imagery may assign the Agreement, without notice or consent, to any corporate affiliate or to any successor in interest, provided that such entity agrees to be bound by these terms.

## 2.4 License Termination/Cancellation/Withdrawal

- a. **Termination.** Any Content license is effective until it is terminated by either party. You can terminate any Content license by ceasing use of the Content and deleting or destroying any copies that were derived from your license. Lumatic Imagery may terminate any license at any time if you fail to comply with the Agreement, in which case you must immediately: cease using the Content; delete or destroy any copies; and, if requested, confirm to Lumatic Imagery in writing that you have complied with these requirements.
  - **Social Media Termination.** If you use the Content on a social media platform or other third party website and the platform or website uses (or announces that it plans to use) the Content for its own purpose or in a way that is contrary to these Terms of Use, your Content licence shall immediately terminate.
- b. **Content Withdrawal.** Lumatic Imagery may discontinue licensing any item of Content at any time in its sole discretion. Upon notice from Lumatic Imagery, or upon your knowledge that any Content may be subject to a claim of infringement of a third party's right for which Lumatic Imagery may be liable, Lumatic Imagery may require you to immediately, and at your own expense: cease using the Content, delete or destroy any copies; and ensure that your clients, distributors, team, and/or employer do likewise.

## 2.5 Content Supply Agreement

Lumatic Imagery has full ownership and full rights to use, display, make available for viewing, and licence any and all Content for use on and off of the Lumatic Platform in any way that it desires. Content provided on the Platform is sourced in multiple ways, including without limitation,

1. **Photographer Upload.** Content provided on the Platform can be sourced through Photographers. Photographers are either direct employees of Lumatic Imagery or are individual photographers or photography firms who have entered into a work-for-hire agreement or other agreement that provides for transfer of ownership of photography assets to Lumatic Imagery (herein referred to as "Photographers") with Lumatic Imagery. As a Photographer, you agree and acknowledge that your acceptance of these Terms of Use constitutes a signed, written agreement. Any photography assets or other work ("Work") created during or in conjunction with any and all shoots you perform as a Photographer on behalf of Lumatic (directly or in providing products or services to or for a Lumatic Imagery client/customer or at the direction of Lumatic Imagery), either solely or jointly with others, whether or not such Work is made or conceived during business hours or with the use of Lumatic Imagery's facilities, materials or personnel, and whether or not such Work is able to be copyrighted, is a "work made for hire" as that term is defined under the copyright law of the United States, and Lumatic Imagery may register the copyright in such Work as author and copyright owner thereof. In the event that a Work is not considered to be a "work made for hire," Certified Photographer, without royalty or other consideration, does hereby forever sell, assign, transfer, release and convey, exclusively, irrevocably and unconditionally, to Lumatic Imagery, its successors and assigns, Photographer's entire right, title and interest in and to each such Work.
2. **Member Upload.** From time-to-time, Lumatic Imagery may make Content upload opportunities available to you. If you elect to take advantage of the upload opportunities, then you agree to give Lumatic Imagery non-exclusive ownership of the Content that you upload. You agree to only upload imagery that is fully owned by you. This means that Lumatic Imagery will have complete rights to display, reproduce, and make available for download the Content that you upload. In the event that you want Lumatic Imagery to cease using the uploaded Content, then you must contact Lumatic Imagery with specific details describing the Content and the limitations you wish to place on Lumatic Imagery's use of it. Your upload of Content does not guarantee that Lumatic Imagery will use or display it on the Platform.

## 3. POINTS & PLATFORM PURCHASES

### 3.1 Points

Points (“Points”) are a flexible tool to represent value held in the Platform and with Lumatic Imagery. Points can be used to engage services, order products, enhance Platform experiences, and interact with Platform actions which require and consume (“Spend”) Points. The Points economy (“Economy”) is designed to allow you to flexibly interact with and utilize the Platform. Lumatic Imagery offers individual and bundled groups of Points (“Points Packages”) available for sale for various prices. These Terms of Use contain important information regarding Points Packages, the Economy, and the terms of Spending Points. Many actions taken on the Platform regarding Points constitute a binding agreement between you and Lumatic Imagery and will govern your acquisition, use, and balance (“Balance”) of Points.

Acquiring and maintaining a Balance entitles you to take advantage of certain Platform experiences (“Experiences”) that may change from time to time and, which may be made available for limited times, all as determined by Lumatic Imagery in its sole discretion. By purchasing or claiming free Points from Lumatic Imagery, you accept the terms of this agreement and any modified terms included therein.

### 3.2 Purchasing Points

Points Packages can be purchased from the Points Purchase Page within the membership portion of the Platform. When purchasing on behalf of a group or organization, you warrant that you are authorized to make said purchase and that the billing information provided is accurate.

### 3.3 Points Package Subscription

Points Packages may include regular recurring purchases on a defined schedule (“Points Package Subscription.”) These Points Package Subscriptions will start on the date of your Points Package purchase and will continue until terminated as defined in “3.11 Subscription Termination” below. You may change your auto-renewal preferences in your Platform account. Lumatic Imagery may deactivate your Subscription without prior notice if Lumatic Imagery is unable to process payment provided by you.

### 3.4 Eligibility

To purchase a Points Package, you must be 18 years of age or older, have a Platform Member account, and agree to these Terms of Use and the Lumatic Imagery Privacy Policy. In the event that you purchase a Points Package on behalf of a group you verify that you are authorized to do so. If you manage a Subscription on behalf of a group that requires regular interval consent to renew contracts, then your booking of individual services will act as your consent and each service booked update the Term of your Subscription.

### 3.5 Acquiring Points

Points can be acquired in a variety of ways.

- **Purchased**, Points Packages may be purchased with money via the Platform. The cost and subsequent value of Points may fluctuate from time to time. Individual point value may increase or decrease as the Economy changes. No guarantee is made to Point value in terms of dollars or other controlled currencies.
- **Awarded**, Lumatic Imagery may, from time to time, award, give away, or make opportunities available to earn Points. At its sole discretion, Lumatic Imagery may award Points for purchases made, referrals, feedback, and other actions. The distribution of awarded, given away, or earned Points by Lumatic Imagery does not require Lumatic Imagery to provide the same or any offering at any time or to any Member in the future.
- **Transferred**, from time to time, Lumatic Imagery may allow Members to transfer Points to other Members. In the event that Lumatic Imagery makes a Points transfer opportunity available, and you elect to participate in said Points transfer, then you understand that you may give or receive the agreed upon number of Points to or from the other Member which will add to or deduct said Points from your Balance accordingly.

Upon notice, Lumatic Imagery reserves the right to revalue or modify, without liability to Members, all or part of the Economy and Points’ value structure and offers and any product or service made available by Lumatic Imagery. Lumatic Imagery reserves the right to adjudicate all Points discrepancies in its sole discretion, and you agree to abide by any such adjudication. You can check your Balance at any time on your Member account on the Platform.

### 3.6 Spending Points

Lumatic Imagery may populate the Economy with various services, products or experiences on which you can Spend Points. By selecting “purchase”, “book”, “schedule”, “subscribe”, or “approve” on any service, product, or experience made available in the Economy, you are consenting to Spend Points on said service, product, or experience and understand that doing so will reduce Points from your Balance. When Spending Points on any services, products or experiences made available to you, you accept all terms laid out in these Terms of Use and also the specific terms as laid out here:

- **Services** – For all services, such as photoshoots, video shoots, event services, personal services and more, you will provide all relevant details required to perform the service, as required by Lumatic Imagery to book the service. Lumatic Imagery will only accept service requests that are made far enough in advance of the service due date, as determined by Lumatic Imagery in its sole discretion. Lumatic Imagery reserves the right to decline any service request for any reason. Based on the details that you provide about the service, Lumatic Imagery will list the number of Points required to book the service. It is up to your sole discretion to decide if you want to Spend your Points on the service that you are booking. If you opt to book the service, you authorize the Points to be deducted from your Balance and commit to the details that you outlined, and Lumatic agreed upon, in the service request. Upon booking a service the following is agreed upon by you and Lumatic Imagery:
  - You will organize all aspects of the service not claimed as the responsibility of Lumatic Imagery and will not expect Lumatic Imagery to assist in anything other than the agreed upon service.
  - You will organize sufficient access to all resources required by Lumatic Imagery to complete your service; including, but not limited to space, tools, materials, persons and support.
  - You will not hold Lumatic Imagery responsible for any reduction in quality of service or Content created during the service for any reason outside of Lumatic Imagery’s reasonable control.
  - You will notify Lumatic Imagery immediately to any changes to the scope, timing, or other details of the service requested while understanding that any changes may affect the ability of Lumatic Imagery to complete the service. If, at the sole discretion of Lumatic Imagery, changes to the service request are not possible for the agreed upon number of Points, then Lumatic Imagery will propose a new number of Points required to complete the service and it will be up to you to decide if you want to update the number of Points that you will Spend on the service. If it is necessary to cancel the service request due to changes, then the terms outlined in the “Points Refunds” section herein will take effect.
  - If booking a service on behalf of a group, that you are certified to make an authorized purchase on behalf of the group and that all Members associated with the group that you represent are consenting to Lumatic Imagery providing the booked service and creating Content that may include imagery and references to their likeness and information.
  - Lumatic Imagery will perform the service to the high quality of Lumatic Imagery’s standards and will seek to capture and create the highest quality Content possible.
  - Lumatic Imagery may, by its own processes or through the use of a third party, edit any Content in any way that it sees fit before making it available for you or anyone else on the Platform.
  - Understanding that Lumatic Imagery works with a variety of team members and support persons which are a mixture of employees, freelancers, and third-party vendors, you authorize Lumatic Imagery, at its sole discretion to choose any person, persons, or third-party vendor or vendors to complete your service.
  - Lumatic Imagery will own all Content that is created while completing your service unless specifically agreed upon by you and Lumatic Imagery and reduced to writing. Lumatic Imagery may make the Content created while completing the service available to you or other Platform Members in the form of a licensed download, product, or otherwise at any time regardless of the existence or status of your account.
  - Lumatic Imagery will make a reasonable attempt to deliver Content that is created while completing your service to you within five days of the service date. If said Content is not delivered to you within five days of the service date, then you may notify Lumatic Imagery of the delay and then, upon receipt of your notification of delay, Lumatic Imagery will have an additional ten days to make the Content available to you.
- **Products** – For all products, such as physical products, digital products, and other creations, Lumatic Imagery will provide a detailed description of the product, its cost in Points, and any relevant details regarding your

purchase or subscription to the product. It will be at your sole discretion to Spend your Points on any product made available to you. Points are available for redemption for the purchase of products only while supplies last. Product quantities may be limited. By purchasing a product, you warrant that you have thoroughly researched the product and there are no refunds for product purchases. Product purchases made with Points will ship in the normal course of business.

- **Experiences** – Lumatic Imagery may also make experiences available in exchange for Points. Experiences cover a very wide range of offerings made available by Lumatic Imagery for Points. As with services and products, experiences cost Points; it is up to Lumatic Imagery to decide if an experience will be made available to you and it is up to your sole discretion to decide if you want to Spend your Points on an experience.

If you have more Points than are necessary to complete a purchase, the appropriate number of Points required to complete the purchase will be applied and deducted from your Balance; Points not needed to complete the purchase will remain in your account. If you have Points in your Balance, but not enough to complete the purchase, you will be prompted to purchase another Points Package or may be given an opportunity to earn awarded Points or an awarded Points Package.

### 3.7 Points Refunds

Spending Points deducts Points from your Balance. During the initial purchase Term, a Points Package can be refunded within 14 days of your purchase date, provided that you have not Spent any Points from the package. In the event that you have Spent Points, or the 14 day period has passed, refunds shall only be provided as set forth and to the extent permitted as follows::

- Spending Points on a Service deducts Points from your Balance immediately at the time the Service is ordered. Such points shall only be refunded if the event is canceled 14 days or more before the date the Service was to be provided (the “Service Date”). If a cancellation occurs fewer than 14 days before the Service Date, no refund is due though Lumatic Imagery reserves the right to refund all, none, or part of your Points at its sole discretion.
- Spending Points on a Product deducts Points from your Balance immediately and no refund is possible.
- Spending Points on an Experience deducts Points from your Balance immediately and that deduction is final unless otherwise noted by Lumatic Imagery.

All requests for refunds must be made in writing or via functions provided in the Platform. If the request is approved, Lumatic Imagery will issue a credit to your account Balance.

### 3.8 Economy Changes

**Lumatic Imagery may modify any aspect of the Economy at any time and for any reason in its sole discretion, including the availability or Points price of any Service, Product or Experience.** You may request delivery of the originally offered service, product or experience at the price in Points published when you purchased your current Points and Lumatic Imagery can choose to deliver the originally offered service, product or experience for the requested Points, or give you a pro rata refund of the purchase price of the points associated with the originally selected service, product or experience.

### 3.9 Points Expiration

Points will expire at the end of the Term outlined with your Subscription or Points Purchase. Some subscription packages may define a portion of unused points available to “rollover” to the next Subscription period. If you do not redeem Points within the designated time frame, you forfeit all such Points. Points are not redeemable for cash. You can always check your Points balance in your Member account.

### 3.10 Transfer of Points

You may only assign or transfer Points to other Member accounts in the following instances:

- If Lumatic Imagery makes the opportunity for Member to Member transfers available to you via the Platform.
- If Lumatic Imagery makes Member Points pooling available to Members who want to merge Points for the purposes of spending merged Points.
- If Lumatic Imagery makes other Point transfer options available.



In all cases, it is at the sole discretion of Lumatic Imagery to allow you or any other Member to transfer Points to another Member. From time to time, Lumatic Imagery may permit transfers, but doing so does not require or set precedence for Lumatic Imagery to permit transfers at any other time.

### **3.11 General Points and Points Package Conditions**

Awarded Points may be taxable, depending on the value of the item and the federal, state, and local tax laws applicable to you; you are solely responsible for reporting such items on your tax returns and paying any associated tax liability. Lumatic Imagery reserves the right at its sole discretion to prohibit any Member from participating in any aspect of the Platform or Economy if Lumatic Imagery deems or suspects that such Member has engaged in or has attempted to engage in any of the following:

- a. acting in violation of these Terms of Use,
- b. damaging, tampering with or corrupting the operation of the Platform,
- c. acting with intent to harass or abuse any other Member,
- d. acting with any inappropriate, fraudulent, potentially fraudulent, or unusual behavior or activity; or
- e. activity deemed in the sole discretion of Lumatic Imagery to be generally inconsistent with the intended operation of the Platform and Economy.

Any decision Lumatic Imagery makes relating to termination or suspension of any Member's participation in the Platform, the Economy, and ability to hold a Balance shall be final and binding in all respects. Lumatic Imagery shall be the sole determiner in cases of suspected abuse, fraud, or breach of these Terms of Use.

### **3.12 Subscription Termination**

Your Points Package Subscription will automatically renew at the end of every Term for another Term unless terminated by you or Lumatic Imagery as set forth in this Section. Lumatic Imagery may terminate it, with notice given to you, for any reason.

In order for you to terminate your subscription, you must provide Lumatic Imagery no less than thirty days written notice of your intent to do so. If, within that thirty days, no more Points Package renewals are scheduled to occur, then you are not liable for any additional purchases. However, if, within that thirty days, one or more Points Package renewals are scheduled to occur, then you are responsible for the payment of said Points Package or Points Packages. Knowing that certain Platform features and experiences are only available to Points Package and Subscription Members, you understand that terminating your Subscription may alter your Platform experience. Lumatic Imagery retains the right to display, sell, and promote all of its Content regardless of the status of your or other Member Subscriptions, Balances, and accounts. You understand that your termination of a Subscription does not deactivate or delete your account or account information. This means that if you terminate your subscription, you may still be able to access and use certain features of the Platform and your account.

### **3.13 Payment Plans**

Any payment plan on unpaid balances is offered as a courtesy only, and payment of such shall be treated as payment of debt and is not to be interpreted as a proration of services purchased. If you fail to pay an invoice in full within the time specified, Lumatic Imagery may add a service charge of 1.5% per month, or such lesser amount as is allowed by law, on any unpaid balance until payment is received.

## **4. MANAGING GROUPS**

### **4.1 Management of Groups**

Your Member account is unique to you and information you submit to the Platform reflects you as an individual. You may, from time to time, be linked to manage ("Manage") and administer groups, which are a multi-Member organization in which Members share affiliation and Connected to the collective organization ("Group"). In that event, you certify that you will only approve a Connection to a group if you are fully authorized by that group to manage, administer, represent, and act on behalf of the group. In the event that you are Connected to a group that you are not authorized to be Connected to, you agree to contact Lumatic Imagery immediately to address the misplaced access and cooperate in correcting the discrepancy.

#### **4.2 Group Points Package Subscriptions**

As a Manager of a group, you may be able to purchase Points Packages and sign up for Subscriptions on behalf of the group. In doing so, you understand that you are binding the group to the terms outlined in the Points & Platform Purchases section of these Terms of Use as if the group were Member of the Platform. Even if, in the future, you are no longer a Manager of the group, your actions taken to activate Points Package Subscriptions for the group will persist for the Term and automatically renew until canceled.

#### **4.3 Inviting Members and Group Connections**

As a Manager of a group, you may be able to invite Members to the platform. If you invite Members to the platform, you understand that they will be automatically connected to the Group and will immediately have access to all of the Group's Content including the Group's Private Content.

#### **4.4 Indemnification and Discounts**

From time to time, Lumatic Imagery may provide Groups with certain discounts on Points Packages (in relation to overlap costs with another photography vendor, certain incentives, upgrades, and other promotions), and may provide indemnification of certain fees that could be incurred by Groups buying and active Subscription due to claims of breach by another photography vendor that the Group is under contract with. Lumatic Imagery does not encourage or support a Group's breach of their existing contracts, and Groups should reasonably attempt to fulfill obligations under any existing contracts.

If Lumatic Imagery agrees to indemnify Groups buying an active Subscription for claims of a breach with another photography vendor's contract, the Group is required to notify Lumatic Imagery in writing within 3 days of receiving any notice of a breach claim and before any response is sent. Lumatic Imagery has the right, but not the obligation, to work with your Group and approve any responses to notice of breach and will work to resolve the conflict in a mutually agreeable fashion and with a minimum of expense. Lumatic Imagery can pay for and designate legal counsel for Group to engage with and such fees will be counted towards the total indemnification limit available in this clause.

Any discounts or indemnification amounts provided by Lumatic Imagery to a Group is in consideration of such Group renewing their Points Package for a subsequent term in which such discount or indemnification is not applied. If Group fails to renew for a subsequent term with a full cost contract (without a discount or indemnification), such discount or indemnification will be forfeited by the Group, and the amount of such forfeited discount or indemnification will become immediately due and payable.

## **5. PRIVACY & TRADEMARKS**

### **5.1 Intellectual Property**

All materials (including the organization and presentation of such material) on the Platform (herein referred to as the "Materials") are the property of Lumatic Imagery and its licensors and may be protected by intellectual property laws including laws relating to copyrights, trade-marks, trade-names, internet domain names, and other similar rights.

Unless you have entered into a separate agreement with Lumatic Imagery, any other use of these Materials without Lumatic Imagery's written permission is prohibited. You may not create derivative works from or otherwise exploit the Materials in any way.

Lumatic Imagery also appreciates any feedback or other suggestions about services that you may submit, but you understand that Lumatic Imagery may use such feedback or suggestions without any obligation to compensate you for them.

### **5.2 Trademarks**

Lumatic Imagery and any other product or service name or slogan contained in the Platform are trademarks of Lumatic Imagery and its suppliers or licensors, and may not be copied, imitated or used, in whole or in part, without the prior written permission of Lumatic Imagery or the applicable trademark holder. You may not use metatags or any other "hidden text" utilizing "Lumatic Imagery" or any other name, trademark or product or service name of

Lumatic Imagery without Lumatic Imagery's prior written permission. In addition, the look and feel of the Platform, including all page headers, custom graphics, button icons and scripts, is the service mark, trademark and/or trade dress of Lumatic Imagery and may not be copied, imitated or used, in whole or in part, without Lumatic Imagery's prior written permission. All other trademarks, registered trademarks, product names and company names or logos mentioned in the Platform are the property of their respective owners. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof by Lumatic Imagery.

### 5.3 Privacy

Lumatic Imagery is committed to respecting the privacy and personal information of the individuals with whom Lumatic Imagery interacts. The Lumatic Imagery Privacy Policy describes privacy policies and practices and how Lumatic Imagery collects, uses and discloses the personal information of those individuals who visit lumaticimagery.com or the Platform. Please see the Lumatic Imagery Privacy Policy for further details.

### 5.4 Licensed Content Representations and Warranties.

Lumatic Imagery makes the following representations and warranties:

- a. **Warranty of Non-Infringement.** Your use of the Content in accordance with this agreement and in the form delivered by Lumatic Imagery will not infringe on any copyright, moral right, trademark or other intellectual property right and will not violate any right of privacy or right of publicity; and all necessary model and/or property releases for use of the Content in the manner authorized by these Terms of Use have been obtained. Note that you are solely responsible for any edits made to the Content (whether using a Lumatic Imagery editing tool or otherwise).
- b. **Caption/Metadata Disclaimer.** While Lumatic Imagery has made reasonable efforts to correctly categorize, keyword, caption and title the Content, Lumatic Imagery does not warrant the accuracy of such information, or of any metadata provided with the Content.
- c. **No Other Warranties.** EXCEPT AS PROVIDED IN THE "WARRANTY OF NON-INFRINGEMENT" SECTION ABOVE, THE CONTENT IS PROVIDED "AS IS" WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. LUMATIC IMAGERY DOES NOT REPRESENT OR WARRANT THAT THE CONTENT WILL MEET YOUR REQUIREMENTS OR THAT ITS USE WILL BE UNINTERRUPTED OR ERROR FREE.
- d. **License Indemnification of you by Lumatic Imagery.** Provided that licensed downloaded Content is only used in accordance with these Terms of Use and you are not otherwise in breach of these Terms of Use, and as your sole and exclusive remedy for any breach of the warranties set forth in the "warranty of non-infringement" section above, Lumatic Imagery agrees, subject to the terms of this section, to defend, indemnify and hold harmless you, your corporate parent, subsidiaries and affiliates, and each of your respective officers, directors and employees from all damages, liabilities and expenses (including reasonable outside legal fees) arising out of or in connection with any breach or alleged breach by Lumatic Imagery of its warranty in the "warranty of non-infringement" section above. This indemnification does not apply to the extent any damages, costs or losses arise out of or are a result of modifications made by you to the Content or the context in which the Content is used by you. This indemnification also does not apply to your continued use of Content following notice from Lumatic Imagery, or upon your knowledge, that the Content is subject to a claim of infringement of a third party's right. The party seeking indemnification must promptly notify in writing the other party about the claim. The indemnifying party (the one covering the costs) has the right to assume the handling, settlement or defense of any claim or litigation, in which case the indemnified party (the one not covering the costs) has to cooperate in any way reasonably requested by the indemnifying party. The indemnifying party will not be liable for legal fees and other costs incurred prior to the other party giving notice of the claim for which indemnity is sought.
  - i. **Maximum Aggregate Liability.** Lumatic Imagery's total maximum aggregate liability (meaning the total amount Lumatic Imagery is responsible for, whether under this agreement or any other agreement for the same Content) is limited to \$10,000 US dollars per item of Content. This limit applies regardless of the number of times you license the same piece of Content from Lumatic Imagery.

## **5.5 Consent to Use of Your Image and Likeness**

For consideration of your access to the platform, you agree and affirm that you are providing Lumatic Imagery an irrevocable, perpetual and unrestricted right and permission to take, use, re-use, publish, and republish photographic portraits, pictures, or video of you or in which you may be included, in whole or in part, or composite or distorted in character or form, without restriction as to changes or alterations, in conjunction with your own or a fictitious name, or reproductions thereof in colour or otherwise, made through any medium at Lumatic Imagery's offices or elsewhere, and in any and all media now or hereafter known, specifically including but not limited to print media and distribution over the internet for illustration, promotion, art, editorial, advertising, trade, or any other purpose whatsoever.

You also consent to the use of any published matter in conjunction with such photographs. You hereby waive any right that you may have to inspect or approve the finished product or products and the advertising copy or other matter that may be used in connection with them or the use to which they may be applied. You hereby release, discharge, and agree to hold harmless Lumatic Imagery, their legal representatives, and assigns, and all persons acting under their permission or authority or those for whom they are acting, from any liability by virtue of any blurring, distortion, alteration, optical illusion, or use in composite form, whether intentional or otherwise, that may occur or be produced in the taking of such photographs or in any subsequent processing of them, as well as any publication of them, including without limitation any claims for libel or violation of any right of publicity or privacy.

## **5.6 Confidential Information**

You acknowledge that the Confidential Information (defined herein) which you obtain through the use of the Platform constitutes valuable, confidential, proprietary information of Lumatic Imagery and its licensors, and you agree that during the term of your Member Account and thereafter you shall not, without the express written consent of Lumatic Imagery, use or disclose to any other person any such Confidential Information, except as specifically authorized under these Terms of Use or as required by applicable law.

For the purposes of these Terms of Use, "Confidential Information" means these Terms of Use, any contract (and the terms therein) between you or any Group and Lumatic Imagery, and any and all data, information, documents, software or materials relating to the business and management of Lumatic Imagery, its members, affiliates, licensors or licensees, that is designated as confidential or ought reasonably to be considered confidential, including but not limited to: their business model and operations, processes, products, designs, pricing, promotions, business plans, business opportunities, finances, research, development, know-how, trade-secrets, training materials, personnel, clients, methodologies, Platform Content belonging to others and other intellectual property. For the avoidance of doubt, you agree and affirm that it is a breach of these Terms of Use (and of any contract between you or a Group that you Manage and Lumatic Imagery) for you to disclose the terms of any contract between you or a Group that you Manage and Lumatic Imagery to a competitor of Lumatic Imagery.

## **5.7 Competitor Exclusion**

Notwithstanding the grants of access set forth above, Lumatic Imagery expressly and without limitation revokes the right of any competitor to access the Platform in any way and for any purpose, including, but not limited to, through employees, officers, directors, third-party agents, affiliates, or independent contractors. If you are a Lumatic Imagery competitor, you acknowledge that any access of the Platform is without legal authorization, and agree to immediately discontinue such access, and to direct all parties within your control or under your direction to cease accessing the Platform on your behalf or for your benefit.

# **6. GENERAL LEGAL**

## **6.1 Platform and Materials Provided "As is"**

THE PLATFORM, INCLUDING ANY CONTENT CONTAINED THEREIN, ARE PROVIDED "AS IS" WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. LUMATIC IMAGERY DOES NOT

REPRESENT OR WARRANT THAT THE PLATFORM OR THE CONTENT WILL MEET YOUR REQUIREMENTS OR THAT THEIR USE WILL BE UNINTERRUPTED OR ERROR FREE.

LUMATIC IMAGERY DOES NOT REPRESENT OR WARRANT THAT THE PLATFORM OR ANY CONTENT AVAILABLE FOR DOWNLOADING THROUGH THE PLATFORM WILL BE FREE OF VIRUSES OR SIMILAR CONTAMINATION OR DESTRUCTIVE FEATURES.

EXCEPT TO THE EXTENT EXPRESSLY SET FORTH HEREIN, LUMATIC IMAGERY EXPRESSLY DISCLAIMS AND EXCLUDES ANY AND ALL WARRANTIES, CONDITIONS, REPRESENTATION AND GUARANTEES WITH RESPECT TO THE PLATFORM OR ANY SERVICE OR PRODUCT PROVIDED IN RELATION THERETO, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. NO REPRESENTATIONS OR OTHER STATEMENT OF FACT OR OPINION WHETHER MADE BY EMPLOYEES, AGENTS OR AFFILIATES OF LUMATIC IMAGERY, WHICH ARE NOT EXPRESSLY SET FORTH IN THIS AGREEMENT, SHALL BE DEEMED TO BE A WARRANTY BY LUMATIC IMAGERY FOR ANY PURPOSE OR GIVE RISE TO ANY LIABILITY OF LUMATIC IMAGERY WHATSOEVER. NO PROVISION OF THE UNIFORM COMMERCIAL CODE SHALL APPLY TO THIS AGREEMENT OR THE GOODS OR SERVICES PROVIDED HEREUNDER.

## **6.2 Limitation of Liability**

YOU ASSUME ALL RESPONSIBILITY AND RISK FOR USE OF THE PLATFORM, THE ECONOMY, THE CONTENT, AND THE MATERIALS INCLUDING WITHOUT LIMITATION ANY OF THE INFORMATION CONTAINED THEREIN.

IN NO EVENT SHALL LUMATIC IMAGERY OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS, AGENTS, PARENT COMPANIES, SUBSIDIARIES, AFFILIATES, SUPPLIERS, ADVERTISING AND PROMOTIONS AGENCIES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF PROFITS, INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) IN CONNECTION WITH ANY CLAIM, LOSS, DAMAGE, ACTION, SUIT OR OTHER PROCEEDING ARISING UNDER OR OUT OF THESE TERMS OF USE, INCLUDING WITHOUT LIMITATION YOUR USE OF, RELIANCE UPON, ACCESS TO, OR EXPLOITATION OF THE PLATFORM, THE CONTENT OR ANY PART THEREOF, OR ANY RIGHTS GRANTED TO YOU HEREUNDER, EVEN IF LUMATIC IMAGERY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE.

IN ANY EVENT, THE TOTAL MAXIMUM AGGREGATE LIABILITY UNDER THESE TERMS OF USE OR IN RESPECT OF THE USE OR EXPLOITATION OF ANY OR ALL PARTS OF THE PLATFORM OR THE CONTENT IN ANY MANNER WHATSOEVER SHALL BE LIMITED TO FIVE (\$5.00) DOLLARS.

SOME JURISDICTIONS DO NOT ALLOW FOR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN SUCH JURISDICTIONS, THE LIABILITY OF LUMATIC IMAGERY OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS, OR AGENTS SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

## **6.3 Linked websites**

The Platform may provide links to third party websites or for your convenience only. The inclusion of these links does not imply that Lumatic Imagery monitors or endorses these websites. Lumatic Imagery does not accept any responsibility for such websites. Lumatic Imagery shall not be responsible or liable, directly or indirectly, for any damage or loss, caused or alleged to be caused by or in connection with the use of or the reliance upon any information, Content, goods or services available on or through any third party websites or linked resources.

## **6.4 Internet software or computer viruses**

Due to technical difficulties with the Internet, Internet software or transmission problems could produce inaccurate or incomplete copies of information contained on the Platform. Computer viruses or other destructive programs may also be inadvertently downloaded from the Platform.

Lumatic Imagery shall not be responsible or liable for any software, computer viruses or other destructive, harmful or disruptive files or programs that may infect or otherwise impact your use of your computer equipment or other property on account of your access to, use of, or browsing on the Platform or your downloading of any of the Materials or Content from the Platform. Lumatic Imagery recommends that you install appropriate anti-virus or other protective software.

## **6.5 Platform Updates**

Lumatic Imagery updates the information on the Platform regularly. However, Lumatic Imagery cannot guarantee or accept any responsibility or liability for the accuracy, currency or completeness of the information on the Platform. Lumatic Imagery may revise, supplement or delete information, services and/or the resources contained in the Platform and reserves the right to make such changes without prior notification to past, current or prospective visitors.

## **6.6 Indemnification**

You agree to indemnify, defend and hold Lumatic Imagery and its affiliates, and their respective directors, officers, employees, shareholders, partners and agents (collectively, the "Lumatic Imagery Parties") harmless from and against any and all claims, liability, losses, costs and expenses (including lawyers' fees on a solicitor and client basis) incurred by any Lumatic Imagery Party in connection with: (i) any use or alleged use of the Platform under your Member Name by any person, whether or not authorized by you; (ii) any communication made or Content uploaded under your Member Name; or (iii) any breach by you of these Terms of Use. Lumatic Imagery reserves the right, at your expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with Lumatic Imagery's defense of such claim.

## **6.7 Notice and Procedure for Making Claims of Infringement**

Lumatic Imagery, LLC respects the copyright of others, and asks all users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please provide Lumatic Imagery with a written communication including substantially the following information:

- a. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- b. description of the copyrighted work or other intellectual property that you claim has been infringed;
- c. a description of where the material that you claim is infringing is located on the Platform;
- d. your address, telephone number, and email address;
- e. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- f. a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Please address your letter as follows:

Lumatic Imagery, LLC  
PO Box 30005  
Indianapolis, IN  
46230  
USA  
Attention: CEO of Lumatic Imagery, LLC

## **6.8 Email**

Feel free to contact Lumatic Imagery via email. However, the Internet is not a fully secure medium and any communication may be lost, intercepted or altered. Lumatic Imagery is not liable for any damages related to communications to or from the Platform. You agree with respect to any information provided by you to Lumatic Imagery through the Platform or via email that:

- Lumatic Imagery has no obligation concerning such information;
- the information is non-confidential;
- Lumatic Imagery may use, disclose, distribute or copy the information and may use any ideas, concepts or know-how contained in the information for any purpose without compensation; and
- the information is truthful and disclosure of the information does not violate the legal rights of others.

## **6.9 Age and Responsibility**

You represent and warrant that you are of sufficient legal age to use the Platform and to create binding legal obligations for any liability you may incur as a result of the use of the Platform. You agree to be responsible for all of your use of the Platform (as well as for use of your Member Name and password(s) by others, including without limitation, minors living with you). You agree to supervise all usage by minors of the Platform under your name or account.

## **6.10 Applicable law**

The Platform is controlled, operated and administered by Lumatic Imagery from within the state of Indiana, USA. The Platform can be accessed from all states and territories of the USA, as well as from other countries around the world. As each of these jurisdictions has laws that may differ from those of the state of Indiana, by accessing the Platform, you acknowledge and agree that all matters relating to access to, or use of the Platform shall be governed by the laws of the state of Indiana and the federal laws of the USA applicable therein (without reference to conflicts of laws principles). You hereby irrevocably submit to the exclusive jurisdiction of the Courts of the state of Indiana, USA with respect to any claims or disputes whatsoever arising hereunder and acknowledge that you do so voluntarily.

You consent to service of any required notice or process upon you by email, registered mail or overnight courier with proof of delivery notice, addressed to the address or contact information provided by you at the time you are first granted access to the membership portions of the Platform, or such other address as you may advise Lumatic Imagery in writing to use, from time to time.

The prevailing party shall be entitled to recover its reasonable legal costs relating to that aspect of its claim or defense on which it prevails, and any opposing costs awards shall be offset. Notwithstanding the foregoing, Lumatic Imagery shall have the right to commence and prosecute any legal or equitable action or proceeding before any court of competent jurisdiction to obtain injunctive or other relief against you in the event that, in the opinion of Lumatic Imagery, such action is necessary or desirable to protect its intellectual property rights. The parties agree that, notwithstanding any otherwise applicable statute(s) of limitation, any arbitration proceeding shall be commenced within two years of the acts, events or occurrences giving rise to the claim.

## **6.11 General**

Lumatic Imagery's failure to insist upon or enforce strict performance of any provision of these Terms of Use shall not be construed as a waiver of any provision or right.

If any provision or part thereof of these Terms of Use is wholly or partially unenforceable the parties or, in the event the parties are unable to agree, a court of competent jurisdiction, shall put in place thereof an enforceable provision or provisions, or part thereof, that as nearly as possible reflects the terms of the unenforceable provision or part thereof. This Agreement is personal to you and is not assignable by you without Lumatic Imagery's prior written consent. Lumatic Imagery may assign this Agreement without your consent to any other party so long as such party agrees to be bound by its terms.

No action of either party, other than express written waiver, may be construed as a waiver of any provision of this agreement.

The parties have requested that these Terms of Use and all documents relating thereto be drawn up in English.

## **6.12 Contact**

If you have concerns relating to the Platform or these Terms of Use, please **contact Lumatic Imagery**. All notices required to be sent to Lumatic Imagery under this agreement should be sent via email to [support@lumaticimagery.com](mailto:support@lumaticimagery.com). All notices to you will be sent via email to the email set out in your Registration Data.

### **6.13 Acknowledgement**

YOU ACKNOWLEDGE THAT YOU HAVE READ THESE TERMS OF USE, UNDERSTAND THEM, AND AGREE TO BE BOUND BY ALL TERMS LISTED. YOU FURTHER AGREE THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN YOU AND LUMATIC IMAGERY, WHICH SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATION BETWEEN YOU AND LUMATIC IMAGERY RELATING TO THE SUBJECT OF THESE TERMS OF USE. NO TERMS OF THIS AGREEMENT MAY BE ADDED OR DELETED UNLESS MADE IN WRITING AND ACCEPTED IN WRITING BY BOTH PARTIES, OR ISSUED ELECTRONICALLY BY LUMATIC IMAGERY AND ACCEPTED IN WRITING BY YOU. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THESE TERMS OF USE AND THE TERMS CONTAINED IN ANY OTHER PURCHASE ORDER SENT BY YOU, THESE TERMS OF USE WILL APPLY.