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Luma One Terms of Service

Effective as of October 15, 2018

Welcome to Luma One!

Luma One is a cloud-based Video Platform Service by Luma One Corporation. Our Platform makes it simple for people to train and communicate to give others the knowledge they need to get work done. Since our Platform is cloud based, you can access it through the web and through any number of device types (e.g., desktop, laptop, tablets, and smartphone devices) that you choose.

This document, the Luma One Terms of Service (“**Terms**”), outlines the terms regarding your use of our Platform. These Terms are a legally binding contract between you and Luma One Corporation so please read carefully. If you do not agree with these Terms, do not register or use any of the Services.

By using, accessing or browsing the Luma One Service, platform and Platform including applications, mobile, software, websites or other properties owned or operated by Luma One or by registering for a Luma One account (“**Services**”) you are agreeing to be bound by these Terms for the Services provided by Luma One (“**Luma One**” or “**we**”). If you reside in the United States, you are entering into this contract with Luma One, Inc.

If you are using the Services on behalf of an organization, you are agreeing to these Terms for that organization and promising to Luma One that you have the authority to bind that organization to these Terms (in which event, “**you**” and “**your**” will refer to that organization) unless that organization has a separate paid contract in effect with us, in which event the terms of that contract will govern your use of the Services.

1. PRIVACY

In order to operate and provide the Services, we collect certain information about you. We use and protect that information as described in our **Privacy Policy**. You acknowledge your use of the Services is subject to our Privacy Policy and understand that it identifies how Luma One collects, stores, and uses certain information.

2. CHANGES TO THESE TERMS

We reserve the right to modify these Terms. We will post the most current version of these Terms on www.luma.one (the “**Site**”). If we make material changes to these Terms, we will notify you via the Services and/or by email to the address associated with your account. If you do not accept the changes, you must stop using and cancel your account by emailing

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cancel@luma.one. Your continued use of our Services after we publish or send a notice about our changes to these Terms means that you are consenting to the updated terms.

3. YOUR ACCOUNT

Certain aspects of the Services may require you to obtain an account by completing a registration form and designating a user ID and password. When registering with Luma One you must: (a) provide true, current and complete information about yourself on the registration form and (b) maintain such information so it continues to be true, current and complete.

You are entirely responsible for all materials and information that you upload, post or otherwise transmit via the Services (please also see our Acceptable Use Policy in Section 10). Only you may use your Luma One account and you are responsible for your account. If you become aware of any unauthorized use of the Services or your account, or have any questions about your account please contact Luma One Support at support@luma.one.

4. EMAIL SELECTED FOR YOUR ACCOUNT

You get to choose what email address(es) you register for an account. Please be aware, however, that if the domain of the email address associated with your account is owned or controlled by an organization (such as your work or school) and that organization establishes a direct relationship with us and wishes to add your account to such relationship, then you may be rolled into that organization's account after notification. Following that notice, if you choose not to change the email address associated with your account, your account will be controlled by the organization.

If an organization provided you with your account (e.g., an employer or school), you understand that this organization has rights to your account and may: (a) manage your account (including suspending or canceling); (b) reset your password; (c) view your usage and profile data, including how and when your account is used; and (d) manage the Content in your account.

5. CONSENT TO ELECTRONIC COMMUNICATIONS AND SOLICITATION

By registering with Luma One or signing up for Services, you understand that we may send you (including via email) information regarding the Services, such as: (a) notices about your use of the Services, including notices of violations of use; (b) updates to the Services and new features or Platform; and (c) promotional information and materials regarding Luma One's Platform and services. Please review your settings in your account to control the messages you receive from us or unsubscribe by following the instructions in the message.

Notices emailed to you will be considered given and received when the email is sent. If you don't consent to receive notices (other than promotional materials) electronically, you must stop using the Services.

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6. CONTENT

We call all the video and other electronic materials that you upload and store on your account “**Content**”. All Content uploaded by you into your account is yours! We don't control, verify, or endorse the Content that you or others put on the Services. You are responsible for: (a) all Content you place in your Luma One account(s) and share through the Services and (b) making sure that you have all the rights you need to the Content. In addition, by storing, using or transmitting Content you cannot and will not violate any law or these Terms (please also see the Acceptable Use Policy in Section 10).

You agree to provide Luma One (as well as agents or service providers acting on Luma One’s behalf to provide the Services) the right to transmit, process, use and disclose Content and other information which we may obtain as part of your use of the Services but only: (i) as necessary for us to provide the Services, (ii) as otherwise permitted by these Terms, (iii) as otherwise required by law, regulation or order, or (iv) to respond to an emergency.

7. COPYRIGHT COMPLAINTS AND REMOVAL POLICY

Luma One respects the intellectual property of others and will respond to notices of alleged copyright infringement that comply with the law. We reserve the right to delete or disable Content alleged to violate copyright laws or these Terms and reserve the right to terminate the account(s) of violators.

If you believe there has been a violation of your intellectual property rights, please contact Support at support@luma.one.

8. CONFIDENTIAL INFORMATION

During your use of the Services, Luma One may share with you information that is confidential, sensitive or should be kept secret. For example, if we tell you about our product roadmaps, product designs and architecture, technology and technical information, provide you with security audit reviews, business and marketing plans, or share with you our business processes, these should always be considered confidential to Luma One.

Similarly, we agree that your Content, credit card/banking information and information contained in your account is confidential to you.

Also, if either of us provide any documents to the other that are labeled “confidential” (or something similar), or provide information (either in writing or verbal) that is of a type that a

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reasonable person should understand to be confidential such information is to be treated as confidential information.

However, if you tell us information that: (a) we already know at the time you tell us; (b) was told to us by a third party who had the right to tell us; (c) is generally available to the public; or (d) was independently developed by us without using any of your confidential information, then that information will not be considered confidential. The same goes for information that we tell you that falls into any of these categories.

Lastly, we both agree that: (i) we will treat each other's information with the same degree of care that we treat our own confidential information; (ii) will use each other's confidential information only in connection with these Terms and the Services; (iii) only share the information with others who have a need to know and who have agreed in writing to treat it as confidential (as we've outlined in this section); and (iv) not share the information with any third party except as allowed in these Terms or through the Services. Of course, confidential information will always remain the property of its owner.

9. CONTENT STORAGE

The Services are provided from the United States, Singapore and the European Union. You must specify where your services are to be provided from. By using and accessing the Services, unless otherwise specified, you understand and agree to the storage of Content and any other personal information in the United States or Singapore or the European Union as specified. However, you understand that you (or other people that you collaborate with) can access the Services (including Content) from outside of the United States (subject to applicable law) and that nothing prohibits the processing of other information outside of the United States. Luma One does offer its Platform outside of the United States, Singapore and the European Union and those Platform are subject to the Luma One Zone specific terms in Section 25.

10. ACCEPTABLE USE POLICY

You agree you will not, nor will you encourage others or assists others, harm the Services or use the Services to harm others. For example, you must not use the Services to harm, threaten, or harass another person, organization or Luma One and/or to build a similar service or website. You must not: (a) damage, disable, overburden, or impair the Service (or any network connected to the Services); (b) resell or redistribute the Services or any part of it; (c) use any unauthorized means to modify, reroute, or gain access to the Services or attempt to carry out these activities; (d) use any automated process or service (such as a bot, a spider, or periodic caching of information stored by Luma One) to access or use the Services; (e) use the Services beyond the features allocation and amounts provided in that Service or in violation of our fair use policy; (f) use the Services to violate any law of distribute malware or malicious Content; or (g) distribute, post, share information or Content you don't have the right to or is illegal.

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As part of our efforts to protect the Service, protect our customers, or to stop you from breaching these Terms we retain the right to block or otherwise prevent delivery of any type of file, email or other communication to or from the Services.

We also reserve the right to deactivate, change and/or require you to change your Luma One user ID and any custom or vanity URLs, custom links, or vanity domains you may obtain through the Services.

11. SUSPENSION AND TERMINATION OF THE SERVICE

We reserve the right to suspend or terminate your access to the Service at any time in our sole discretion. You understand that if your account is suspended or terminated, you may no longer have access to the Content that is stored with the Services.

Upon termination you may request access to your Content, which we will make available, except in cases where we have terminated your account due to your violation of these Terms or the Acceptable Use Policy terms in Section 10. You must make such request within 30 days following termination otherwise, any Content you have stored with the Services may not be retrievable and we will have no obligation to maintain Content stored in your account after this 30-day period.

12. UPDATES TO THE SERVICE

We can make necessary deployments of changes, updates or enhancements to the Services at any time. We may also add or remove functionalities or features, or we may suspend or stop the Services altogether.

13. THIRD PARTY SERVICES

Luma One may make available to you optional third-party applications, services or Platform, for use in connection with the Services ("**Third-Party Platform**"). These Third-Party Platform are not necessary for the use of the Services and your use (and any exchange of any information, license, payments etc., are between you and the third party provider) is solely between you and the applicable third party provider. Luma One makes no warranties of any kind and assumes no liability of any kind for your use of such Third-Party Platform.

If you have any questions or concerns regarding the Third-Party Platform, then please contact the applicable third party provider.

14. LUMA ONE PROPRIETARY RIGHTS

All contents of the Site and Services including but not limited to logo, design, text, software, technical drawings, configurations, graphics, other files, and their selection and arrangement

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and Luma One Confidential Information belong to Luma One, and/or its suppliers, affiliates, or licensors.

Luma One or its licensors own and reserve all right, title and interest in and to the Services and all hardware, software and other items used to provide the Services, other than the rights we expressly grant to you to use the Services and Luma One Confidential Information. No title to or ownership of any proprietary rights related to the Services or Luma One Confidential Information is transferred to you pursuant to these Terms.

If you provide comments, suggestions and recommendations to Luma One about a Service (e.g., modifications, enhancements, improvements) (collectively, "**Feedback**"), you are automatically assigning this Feedback to Luma One.

15. NO WARRANTY OR CONDITIONS

TO THE EXTENT NOT PROHIBITED BY LAW, LUMA ONE AND ITS AFFILIATES (AND ASSOCIATED SERVICE PROVIDERS) (A) PROVIDE THE SERVICES "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE", (B) MAKE NO REPRESENTATIONS OR WARRANTIES OR CONDITIONS WHETHER EXPRESS OR IMPLIED (E.G. WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT), AND (C) DO NOT GUARANTEE THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE OR FREE OF HARMFUL COMPONENTS, THAT THE CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED.

IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SERVICE OR WITH THESE TERMS OF SERVICE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USE OF THE SERVICES.

16. INDEMNIFICATION

To the extent not prohibited by law, you will defend Luma One against any cost, loss, damage, or other liability arising from any third party demand or claim that any Content or information provided by you, or your use of the Services: (a) infringes a registered patent, trademark, or copyright of a third party, or misappropriates a trade secret (to the extent that such misappropriation is not the result of Luma One's actions); or (b) violates applicable law or these Terms. Luma One will reasonably notify you of any such claim or demand that is subject to your indemnification obligation.

17. LIMITATION OF LIABILITY

TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT WILL LUMA ONE, ITS AFFILIATES, RESELLERS, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE FOR: ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, COVER OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, REVENUE, GOODWILL, USE OR CONTENT) HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, INCLUDING, WITHOUT

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LIMITATION, CONTRACT, TORT, WARRANTY, NEGLIGENCE OR OTHERWISE, EVEN IF LUMA ONE HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES.

THE AGGREGATE LIABILITY OF LUMA ONE AND ITS AFFILIATES, OFFICERS, RESELLERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS, RELATING TO THE SERVICES WILL BE LIMITED TO THE GREATER OF: (A) ONE AND A HALF (1.5) TIMES THE MOST RECENT MONTHLY OR YEARLY FEE THAT YOU PAID FOR THAT SERVICE; OR (B) ONE HUNDRED DOLLARS (\$100 U.S.D.). THE LIMITATIONS AND EXCLUSIONS ALSO APPLY IF THIS REMEDY DOES NOT FULLY COMPENSATE YOU FOR ANY LOSSES OR FAILS OF ITS ESSENTIAL PURPOSE.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES. IN SUCH AN EVENT, THIS LIMITATION WILL NOT APPLY TO YOU TO THE EXTENT PROHIBITED BY LAW.

18. DISPUTE RESOLUTION AND GOVERNING LAW

You must comply with all domestic and international export laws and regulations that apply to your use of the Services, such as software. These laws include restrictions on destinations, end users, and end use.

You agree that the Terms, and your relationship with Luma One will be governed by the laws of the Province of Ontario, regardless of conflict of laws principles. We both agree that the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act does not apply to these Terms. We both agree that all of these claims can only be litigated in courts in Ottawa, Ontario and we each agree to personal jurisdiction in those courts. However, you agree that Luma One can apply for injunctive remedies in any jurisdiction.

19. FEES

Luma One offers both free and paid Services. If you choose to subscribe to a paid Service, you agree to pay the fees ("**Fees**") as quoted to you when you purchase that Service. We may calculate taxes payable by you based on the billing information that you provide us at the time of purchase. You are responsible for all charges related to using the purchased Service (for example, data charges and currency exchange settlements). You will pay the Fees in the currency Luma One quoted at the time of purchase. Luma One reserves the right to change the eligible currencies at any time.

Luma One reserves the right to change its prices at any time, however, if we have offered a specific duration and Fee for your use of the Service, we agree that the Fee will remain in force for that duration. After the offer period ends, your use of the Service will be charged at the then-current Fee(s). If you don't agree to these changes, you must stop using the Service and cancel via email to support@luma.one (with cancellation confirmation from a Luma One

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representative). If you cancel, your Service ends at the end of your current Service period or payment period, and no refunds for previously paid services will be issued.

If you do not cancel in accordance with these Terms, the subscription for the Service will automatically renew at the then-current price and for the same subscription period. We will charge your credit card on file with us on the first day of the renewal of the subscription period.

20. BILLING/PAYMENT

If you select a paid Service, you must provide us with current, complete, accurate and authorized payment method information (e.g. credit card information). You authorize us to charge your provided payment method for the Services you have selected and for any paid feature(s) that you choose. We may bill: (a) in advance; (b) at the time of purchase; (c) shortly after purchase; or (d) if you have elected a subscription service, on a recurring basis. To the extent Luma One has not received your payment, in order to bring your account up to date, we may bill you simultaneously for both past due and current amounts. If you do not cancel your account, we may automatically renew your Service(s) and charge you for any renewal term. You understand that failure to pay any charges or fees may result in the suspension or cancellation of your Services.

21. SUBSCRIPTION PERIOD

You may elect one of the following subscription plans and billing options (please note that there might be only one of these options available depending on the Service purchased):

A monthly subscription plan (“**Monthly Subscription Plan**”). The subscription period for the Monthly Subscription Plan will be for one month and will automatically renew unless you cancel your Monthly Subscription Plan at least thirty business days prior to the renewal date. You will be billed on or about the same day each month until such time that you cancel.

An annual subscription plan (“**Annual Subscription Plan**”). The subscription period for the Annual Subscription Plan will be for one year and will automatically renew each year on the anniversary unless you cancel at least thirty business days prior to your renewal date. You will be billed annually on or about the same day each year until such time that you cancel. Note that under the Annual Subscription Plan you will not be permitted to cancel, or downgrade the Luma One Service you have selected until the anniversary date. **Be aware that you are committing to a one-year plan; if you are not certain, we recommend choosing the Monthly Subscription Plan.**

If you select the Monthly Subscription Plan, you can switch to the Annual Subscription Plan at any time. If you select the Annual Subscription Plan, you may not change to the Monthly Subscription Plan until the end of the one-year term of your Annual Subscription Plan.

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21. LUMA ONE SUBSCRIPTION SPECIFIC TERMS

If you are purchasing a Luma One subscription plan, the following additional terms apply to you:

You: (a) will only receive the features and functionality that are included in the specific subscription plan that you have purchased, (b) are responsible for setting your configurations of the Luma One Service, and (c) are responsible for managing any of your devices and/or any systems that you use to access the Luma One Service.

22. LUMA ONE PLATFORMSPECIFIC TERMS

If you are purchasing any of the Platform, the following additional terms apply to you:

"API" is the application-programming interface used by you to access functionality provided by Luma One.
"Content" means the same specified in Section 6, but includes Content uploaded by Platform Users.
"Monthly Platform Bandwidth Consumption" is the Platform Bandwidth consumed on a monthly calendar basis by or on behalf of: (a) a User; or (c) a Platform Service Account, not to exceed your allotted amount.
"Platform Application" is an application used by or on behalf of you that uses the API for the purposes of access to the Service.
"Platform Application User" is a user with a unique identifier that is created and provisioned by you and such user's access to Content in the Service is governed through the Platform Application.
"Platform Bandwidth" is the flow of data to or from the Service as a result of the Platform Application, measured in gigabytes (GB), not to exceed your allotted amount.
"Platform Product(s)" is the Luma One API(s) that provide programmatic access to the Service from a Platform Application, and any additional Platform Product features and functionalities. The Platform include certain features that permit a Service Account/User/Platform Application User to view, annotate, and comment on Content, take assessments, surveys and polls (" View ") if set forth in your order. Luma One's APIs, tools and services made available for development of a Platform Application with respect to the APIs are also Platform Product(s).
"Platform Service Account" is a non-Luma One software application with a unique identifier that is created and provisioned by you and your access to Content in the Service is governed through the Platform Application.
"Platform Storage" is the total amount of Content, measured in gigabytes (unless otherwise specified), stored by or on behalf of all Platform Application Users, Platform Service Accounts and any other users of Platform, not to exceed your allotted amount.
"Platform Use Limit(s)" is the amount as specified and allocated to you for: (i) Monthly Platform Bandwidth, Monthly Platform API Calls, Platform Storage and number of Monthly Active Users; and (ii) any other applicable usage limits or restrictions.
"User(s)" is any person who is permitted by you to access, store, retrieve or manage Content in any account.

You receive the features and functionality that are provided in the specific Platform Product(s) that you have registered or purchased. You agree to only incorporate the API into the Platform Applications for the sole purpose of accessing certain functionality subscribed to by you, solely

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through the API and associated tools and services. You will ensure that your usage of the Platform is at all times in conformance with the Platform Use Limits, these Terms and applicable law.

If you exceed the Platform Use Limits, additional fees will be due and/or reasonable restrictions may be placed on your account until any such excess usage is adequately eliminated by you.

You may not co-brand any Platform or use any Luma One trademarks, logos, or other Luma One marks to promote and market the Platform without Luma One's prior written consent.

You will not, and will make sure that the Platform Application does not and you will not permit use of the Platform Application: (a) to violate these Terms; (b) to perform hidden activities without Platform Application User consent (such as downloading components or other software); (c) that may alter a Platform Application User's system without permission from the Platform Application User; (d) impersonate, or misrepresent an affiliation with, any person or entity; (e) use in any manner not authorized by a Platform Application User; except as otherwise authorized by a Platform Application User with respect to such Platform Application User's Content; (f) mine or analyze any Content transmitted to, retrieved from or stored in the Platform Platform/the Service (including, but not limited to, through spiders, robots, crawlers, data mining tools, scrapers, or other automated means, or services employing any such means); (g) circumvent any security measures or content filtering devices; (h) use or affect the Platform in any manner that could damage, disable, overburden or impair the Platform (including, but not limited to, flooding the Platform with an excessive amount of data or content); or (i) permit use in connection with any purposes or intended application which involves risks or dangers that could lead to death, serious bodily injury, severe physical or property damage, or use for purposes that otherwise require significant safety precautions (e.g. uses of the Platform in connection with operation of emergency services, air traffic control, mass transport systems, or nuclear facilities).

23. LUMA ONE ZONES SPECIFIC TERMS

If you are purchasing the Luma One Platform that enables the storing of Content in specific Location(s) and by specific Service Provider(s) ("**Luma One Zones**"), the following additional terms in this Section apply to you.

Subject to the terms in this Section and a purchase of a Luma One Zones account for each user, Luma One agrees to store your Content in the specific geographic location(s) named at the time of purchase ("**Location(s)**") and with the entities providing the geographic storage of Content as named at the time of purchase ("**Service Provider(s)**").

You understand and agree that: (a) by utilizing Luma One Zones, the terms of this Section 25 supersede and replace any and all provisions in these Terms regarding the location of Content storage and related controls (but only those terms); (b) the applicable Service is provided from the United States and that for Luma One Zones, while the Content will be stored and may be

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partially processed in the Location(s), (c) it is only the Content generated after your purchase and provisioning of Luma One Zones that will be stored in the Location(s) selected at the time of purchase; (d) certifications of Service Provider(s) may vary based on selected Service Provider(s) and Location(s); and (e) it is your responsibility to configure and properly utilize the applicable Service and Luma One Zones to address your obligations related to data types and data residency obligations.

In order to maintain Luma One's obligations to you for the provision of Luma One Zones, you acknowledge and agree that Luma One may change the Service Provider(s) at any time during your Subscription Plan. Luma One agrees to provide you with at least thirty (30) days prior written notice of such change in Service Provider prior to implementation unless such change is necessary to prevent imminent harm to you, Luma One, or the Services, in which case Luma One will notify you as soon as reasonably practicable thereafter.

25. TRAINING OR CONSULTING SERVICES

25.1 Consulting Services. In the event you order any professional, educational, operational or technical services (collectively, "**Consulting Services**"), the nature, details and duration of the Consulting Services will further described in the datasheet or statement of work which is referenced.

25.2 Deliverables and Luma One Tools. Luma One will own and retains all rights, title and interest in and to the any training materials or other tangible materials provided to you as part of the Consulting Services (each, a "**Deliverable**") (excluding any of your Confidential Information), and related intellectual property rights. Subject to these Terms, Luma One grants you a royalty free, limited, non-exclusive, non-transferable and terminable license to use the Deliverables solely for your authorized use of the Luma One Service during your subscription term. Nothing herein shall be construed to assign or transfer any intellectual property rights in the proprietary tools, libraries, know-how, techniques and expertise ("**Luma One Tools**") used by Luma One to develop the Deliverables and to the extent such Luma One Tools are delivered with or as part of the Deliverables, they are licensed, not assigned, to you on the same terms as the Deliverables.

25.3 Consulting Services Warranty. In regard to Consulting Services only, Luma One warrants that: (a) it and each of its employees, consultants and subcontractors, if any, have the necessary knowledge, skills, experience, qualifications, and resources to provide and perform the Consulting Services in accordance with the applicable datasheet or statement of work; and (b) the Consulting Services will be performed in a professional and workmanlike manner in accordance with industry standards and in accordance with the scope of services outlined in the applicable datasheet or statement of work. You acknowledge that Luma One's ability to successfully perform the Consulting Services is dependent upon your provision of timely information, access to resources, and participation as outlined in the applicable Consulting Services. If through no fault or delay of you the Consulting Services do not conform to the foregoing warranty, and you notify Luma One within seven (7) calendar days of Luma One's

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delivery of the Consulting Services, Luma One will re-perform the non-conforming portion(s) of the Consulting Services at no additional cost to you.

26. GENERAL TERMS

26.1 Severability; Entire Agreement. These Terms apply to the maximum extent permitted by relevant law. If a court holds that we cannot enforce a part of these Terms as written, you and we will replace those terms with similar terms to the extent enforceable under the relevant law, but the rest of these Terms will remain in effect. This is the entire contract between you and us regarding the Service. It supersedes any prior contract or oral or written statements regarding your use of the Services.

26.2 Assignment and transfer. We may assign, transfer, or otherwise dispose our rights and obligations under this contract, in whole or in part, at any time without notice. You may not assign this contract or transfer any rights to use the Service, unless we allow you to do so in writing.

26.3 Independent Contractors; No third-party beneficiaries. Luma One and you are not legal partners or agents; instead, our relationship is that of independent contractors. This contract is solely for your and our benefit. It is not for the benefit of any other person, except for permitted successors.

26.4 Waiver. The failure of either of us to insist upon or enforce strict performance of any of the provisions of these Terms or to exercise any rights or remedies under these Terms will not be construed as a waiver or relinquishment to any extent of such right to assert or rely upon any such provision, right or remedy in that or any other instance; rather, the same will remain in full force and effect.

26.5 Government Terms. If Customer is a U.S. government entity or if this Agreement otherwise becomes subject to the Federal Acquisition Regulations (FAR), Customer acknowledges that elements of the Luma One Service constitute software and documentation and are provided as "Commercial Items" as defined at 48 C.F.R. 2.101, and are being licensed to U.S. government User as commercial computer software subject to the restricted rights described in 48 C.F.R. 2.101 and 12.212.