

## Lumeo Terms of Service

Last Updated: 11/29/21

Welcome, and thank you for your interest in Lumeo, Inc. ("**Lumeo**," "**we**," or "**us**") and our website at [www.lumeo.com](http://www.lumeo.com), along with our related websites, networks, applications, firmware, and other products and services provided by us (collectively, the "**Service**"). These Terms of Service are a legally binding contract between you and Lumeo regarding your use of the Service.

### PLEASE READ THE FOLLOWING TERMS CAREFULLY.

**BY CLICKING "I ACCEPT," OR BY DOWNLOADING, INSTALLING, OR OTHERWISE ACCESSING OR USING ANY PART OF THE SERVICE**, YOU AGREE THAT YOU HAVE READ AND UNDERSTOOD, AND, AS A CONDITION TO YOUR USE OF THE SERVICE, YOU AGREE TO BE BOUND BY, THE FOLLOWING TERMS AND CONDITIONS, INCLUDING LUMEO'S PRIVACY POLICY AND ACCEPTABLE USE POLICY (TOGETHER, THESE "**TERMS**"). IF YOU ARE NOT ELIGIBLE, OR DO NOT AGREE TO THESE TERMS, THEN YOU DO NOT HAVE OUR PERMISSION TO USE THE SERVICE. YOUR USE OF THE SERVICE, AND LUMEO'S PROVISION OF THE SERVICE TO YOU, CONSTITUTES AN AGREEMENT BY LUMEO AND BY YOU TO BE BOUND BY THESE TERMS.

**ARBITRATION NOTICE.** Except for certain kinds of disputes described in Section 17, you agree that disputes arising under these Terms will be resolved by binding, individual arbitration, and BY ACCEPTING THESE TERMS, YOU AND LUMEO ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING. YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend your rights under this contract (except for matters that may be taken to small claims court). Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. (See Section 17.)

1. **Lumeo Service Overview.** Lumeo is a "no-code" custom video analytics platform that allows you to deliver new solutions easily with drag and drop tools and pre-built analytic building blocks. Lumeo works with existing cameras and video management systems, and once video sources are connected, enables you to build and deploy your own customer video processing pipelines using Lumeo, third party, or your own video analytics models.
2. **Free or Trial Versions.** Lumeo may offer "trial" versions or features of the Service (each, a "**Trial Service**"). Lumeo will determine, at its sole discretion, the availability, duration (the "**Trial Period**"), features, and components of each Trial Service. ANY TRIAL SERVICE IS PROVIDED "AS IS" WITHOUT ANY WARRANTIES. Notwithstanding anything to the contrary in these Terms, in no event will Lumeo be liable to you or any third party for any damages or liability related to, arising out of, or caused by any Trial Service and/or any modification, suspension, or termination thereof. Lumeo at its sole discretion shall determine whether or

not to continue to offer any Trial Service, and may cease offering any Trial Service at any time. Upon completion of a Trial Period, you may lose access to the applicable Trial Service. Any production candidate or non-production version of the Service will be considered a Trial Service. Except as expressly provided in this Section 2, these Terms govern your use of the Trial Service as part of the Service.

3. **Eligibility.** You must be at least 18 years old to use the Service. By agreeing to these Terms, you represent and warrant to us that: (a) you are at least 18 years old; (b) you have not previously been suspended or removed from the Service; and (c) your registration and your use of the Service is in compliance with any and all applicable laws and regulations. If you are an entity, organization, or company, the individual accepting these Terms on your behalf represents and warrants that they have authority to bind you to these Terms and you agree to be bound by these Terms.
4. **Accounts and Registration.** To access most features of the Service, you must register for an account. When you register for an account, you may be required to provide us with some information about yourself, such as your name, email address, or other contact information. You agree that the information you provide to us is accurate and that you will keep it accurate and up-to-date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your account. If you believe that your account is no longer secure, then you must immediately notify us at [info@lumeo.com](mailto:info@lumeo.com).
5. **General Payment Terms.** Certain features of the Service may require you to pay fees. Before you pay any fees, you will have an opportunity to review and accept the fees that you will be charged. All fees are in U.S. Dollars and are non-refundable (except for the refunds set forth in Section 5.3).
  - 5.1 **Price.** Lumeo reserves the right to determine pricing for the Service. Lumeo will make reasonable efforts to keep pricing information published on the website up to date. We encourage you to check our website [[www.lumeo.com](http://www.lumeo.com)] periodically for current base-pricing information. Lumeo may change the fees for any feature of the Service on a going-forward basis, including additional fees or charges, and Lumeo will use reasonable efforts to give you advance notice of changes before they apply. Lumeo, at its sole discretion, may make promotional offers with different features and different pricing to any of Lumeo's customers. These promotional offers, unless made to you, will not apply to your offer or these Terms.
  - 5.2 **Authorization.** You authorize Lumeo and its third party payment processors to charge all sums for the orders that you make and any level of Service you select

as described in these Terms or published by Lumeo, including all applicable taxes, to the payment method specified in your account. If you pay any fees with a credit card, Lumeo or its third party payment processors may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase.

- 5.3 **Subscription Service.** The Service may include offerings subject to automatically recurring payments for periodic charges ("**Subscription Service**"). If you activate a Subscription Service, you authorize Lumeo or its third party payment processors to periodically charge, on a going-forward basis and until cancellation of either the recurring payments or your account, all accrued sums on or before the payment due date for the accrued sums. The "**Subscription Billing Date**" is the date when you purchase your first subscription to the Service. Your account will be charged automatically on the Subscription Billing Date all applicable fees and taxes for the next subscription period ("**Subscription Fees**"). Unless earlier terminated in accordance with these Terms, the Subscription Service will continue for the initial term and will automatically renew for successive terms (each, a "**Renewal Term**" and, together with the Initial Subscription Term, the "**Subscription Service Term**") unless you provide Lumeo with written notice of non-renewal of the Subscription Service at least 30 days prior to the end of the Initial Subscription Term or then-current Renewal Term, as applicable. You may cancel the Subscription Service by contacting us at: [info@lumeo.com](mailto:info@lumeo.com). Lumeo may cancel your Subscription Service for any cause or no cause, with or without notice. All Subscription Fees paid by you are non-refundable and are considered up-front payments for the Subscription Service; provided that, in the event Lumeo terminates your Subscription Service without cause, Lumeo will refund you a pro-rata portion of any unused Subscription Fees paid by you. Lumeo or its third party payment processor will bill the periodic Subscription Fee to the payment method you provide to us during registration (or to a different payment method if you change your payment information).
- 5.4 **Delinquent Accounts.** Lumeo may suspend or terminate access to the Service, including fee-based portions of the Service, for any account for which any amount is due but unpaid. In addition to the amount due for the Service, a delinquent account will be charged with fees or charges that are incidental to any chargeback or collection of any of the unpaid amount, including collection fees.

## 6. Licenses

- 6.1 **Limited License.** Subject to your complete and ongoing compliance with these Terms and payment of all applicable fees, Lumeo grants you a limited, worldwide, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use the Service for your business purposes, including the right to use the Service in providing your own services to your customers.
- 6.2 **License Restrictions.** Except as otherwise explicitly provided in the Terms or as may be expressly permitted by applicable law, you will not, and will not permit or authorize third parties to: reproduce, distribute, publicly display, or publicly perform the Service; rent, lease, or otherwise permit third parties (or other persons not authorized by these Terms) to use the Service; use the Service provide services to third parties (e.g., as a service bureau); use the Service for any benchmarking activity or in connection with the development of a competitive product; circumvent or disable any security or other technological features or measures of the Service or use the Service in a manner that Lumeo reasonably believes poses a threat to the security of Lumeo-controlled computer systems; modify, translate, reverse engineer, decompile, disassemble, or otherwise derive the source code or the underlying ideas, algorithms, structure, or organization from the Service (except to the extent that applicable law prevents the prohibition of such activities); or use or access the Service in a manner that materially impacts or burdens Lumeo or Lumeo's servers and other computer systems, interferes with Lumeo's ability to make available the Service to any third party, or otherwise breaches Lumeo's Acceptable Use Policy.
- 6.3 **Feedback.** If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Service ("**Feedback**"), then you hereby grant Lumeo an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit the Feedback in any manner and for any purpose, including to improve the Service and create other products and services.
7. **Ownership; Proprietary Rights.** The Service is owned and operated by Lumeo. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Service ("**Materials**") provided by Lumeo are protected by intellectual property and other laws. All Materials included in the Service are the property of Lumeo or its third party licensors. Except as expressly authorized by Lumeo, you may not make use of the Materials. Lumeo reserves all rights to the Materials not granted expressly in these Terms.
8. **Third Party Terms**

- 8.1 **Third Party Services and Linked Websites.** Lumeo may provide tools through the Service that enable you to export information, including Customer Materials, to third party services (such as Google Sheets or various data reporting tools). By using one of these tools, you agree that Lumeo may transfer that information to the applicable third party service. Third party services are not under Lumeo's control, and, to the fullest extent permitted by law, Lumeo is not responsible for any third party service's use of your exported information. The Service may also contain links to third party websites. Linked websites are not under Lumeo's control, and Lumeo is not responsible for their content.
- 8.2 **Third Party Software.** The Service may include or incorporate third party software components that are generally available free of charge under licenses granting recipients broad rights to copy, modify, and distribute those components ("**Third Party Components**"). Although the Service is provided to you subject to these Terms, nothing in these Terms prevents, restricts, or is intended to prevent or restrict you from obtaining Third Party Components under the applicable third party licenses or to limit your use of Third Party Components under those third party licenses.

## 9. Customer Materials

- 9.1 **Customer Materials Generally.** Certain features of the Service may permit users to upload or input content to the Service, including photos, video, images, folders, data, text, and other types of works ("**Customer Materials**"). You retain any copyright and other proprietary rights that you may hold in the Customer Materials that you post to the Service or otherwise make available to Lumeo.
- 9.2 **Limited License Grant to Lumeo.** By providing Customer Materials to or via the Service, you grant Lumeo a worldwide, non-exclusive, irrevocable, royalty-free, fully-paid, fully-transferable right and license (with the right to sublicense) to host, store, transfer, display, perform, reproduce, modify for the purpose of formatting for display, and distribute your Customer Materials, in whole or in part, in any media formats and through any media channels now known or hereafter developed (a) for the purpose of exercising Lumeo's rights and performing its obligations under these Terms and (b) in perpetuity, in an aggregated form that does not identify you as the source thereof, for Lumeo's business purposes, including to develop and improve Lumeo's and its affiliates' products and services.
- 9.3 **Customer Materials Representations and Warranties.** Lumeo disclaims any and all liability in connection with Customer Materials. You are solely responsible for your Customer Materials and the consequences of providing Customer Materials

via the Service. By providing Customer Materials via the Service, you affirm, represent, and warrant that:

- a. you are the creator and owner of the Customer Materials or have the necessary licenses, rights, consents, and permissions to authorize Lumeo and users of the Service to use and distribute your Customer Materials as necessary to exercise the licenses granted by you in this Section, in the manner contemplated by Lumeo, the Service, and these Terms;
- b. your Customer Materials, and the use of your Customer Materials as contemplated by these Terms, does not and will not: (i) infringe, violate, or misappropriate any third party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (iii) cause Lumeo to violate any law or regulation; and
- c. your Customer Materials could not be deemed by a reasonable person to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate.

**9.4 Customer Materials Disclaimer.** We are under no obligation to edit or control Customer Materials that you or other users post or publish, and will not be in any way responsible or liable for Customer Materials. Lumeo may, however, at any time and without prior notice, screen, remove, edit, or block any Customer Materials that in our sole judgment violates these Terms or is otherwise objectionable. You understand that when using the Service you will be exposed to Customer Materials from a variety of sources and acknowledge that Customer Materials may be inaccurate, offensive, indecent, or objectionable. You agree to waive, and do waive, any legal or equitable right or remedy you have or may have against Lumeo with respect to Customer Materials. If notified by a user or content owner that Customer Materials allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the Customer Materials, which we reserve the right to do at any time and without notice. For clarity, Lumeo does not permit copyright-infringing activities on the Service.

**9.5 Monitoring Content.** Lumeo does not control and does not have any obligation to monitor: (a) Customer Materials; (b) any content made available by third parties; or (c) the use of the Service by its users. You acknowledge and agree that Lumeo reserves the right to, and may from time to time, monitor any and all information transmitted or received through the Service for operational and

other purposes. If at any time Lumeo chooses to monitor the content, Lumeo still assumes no responsibility or liability for content or any loss or damage incurred as a result of the use of content. During monitoring, information may be examined, recorded, copied, and used in accordance with our Privacy Policy.

10. **Emails.** We may send you emails concerning our products and services, as well as those of third parties. You may opt out of promotional emails by following the unsubscribe instructions in the promotional email itself.

11. **Prohibited Conduct.** IN ADDITION TO ANY LIMITATIONS DESCRIBED IN OUR ACCEPTABLE USE POLICY [<https://lumeo.com/legal/aup>], BY USING THE SERVICE YOU AGREE NOT TO:

- a. use the Service for any illegal purpose or in violation of any local, state, national, or international law;
- b. harass, threaten, demean, embarrass, or otherwise harm any other user of the Service;
- c. violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third party intellectual property right;
- d. interfere with security-related features of the Service, including by: (i) disabling or circumventing features that prevent or limit use or copying of any content; or (ii) reverse engineering or otherwise attempting to discover the source code of any portion of the Service except to the extent that the activity is expressly permitted by applicable law;
- e. interfere with the operation of the Service or any user's enjoyment of the Service, including by: (i) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (ii) making any unsolicited offer or advertisement to another user of the Service; (iii) collecting personal information about another user or third party without consent; or (iv) interfering with or disrupting any network, equipment, or server connected to or used to provide the Service;
- f. perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation, accessing any other Service account without permission, or falsifying your age or date of birth;
- g. sell or otherwise transfer the access granted under these Terms or any Materials (as defined in Section 7) or any right or ability to view, access, or use any Materials; or

- h. attempt to do any of the acts described in this Section 11 or assist or permit any person in engaging in any of the acts described in this Section 11.

**12. Modification of these Terms.** We reserve the right to change these Terms on a going-forward basis at any time upon 7 days' notice. Please check these Terms periodically for changes. If a change to these Terms materially modifies your rights or obligations, we may require that you accept the modified Terms in order to continue to use the Service. Material modifications are effective upon notice to you or your acceptance of the modified Terms. Immaterial modifications are effective upon publication. Except as expressly permitted in this Section 12, these Terms may be amended only by a written agreement signed by authorized representatives of the parties to these Terms. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.

**13. Term, Termination and Modification of the Service**

- 13.1 Term.** These Terms are effective beginning when you accept the Terms or first download, install, access, or use the Service, and ending when terminated as described in Section 13.2 (or section 5.3 if you are purchasing a Subscription Service).
- 13.2 Termination.** If you violate any provision of these Terms, your authorization to access the Service, including a Subscription Service, and these Terms automatically terminate. In addition, Lumeo may, at its sole discretion, terminate these Terms or your account on the Service, or suspend or terminate your access to the Service, at any time for any reason or no reason, with or without notice. Except for termination of a Subscription Service (which can be terminated in accordance with Section 5.3), you may terminate your account and these Terms at any time by or contacting customer service at [info@lumeo.com](mailto:info@lumeo.com).
- 13.3 Effect of Termination.** Upon termination of these Terms: (a) your license rights will terminate and you must immediately cease all use of the Service; (b) you will no longer be authorized to access your account or the Service; (c) you must pay Lumeo any unpaid amount that was due prior to termination; and (d) all payment obligations accrued prior to termination and Sections 6.3, 7, 9.2, 13.3, 14, 15, 16, 17, and 18 will survive.
- 13.4 Modification of the Service.** Lumeo reserves the right to modify or discontinue the Service at any time (including by limiting or discontinuing certain features of the Service), temporarily or permanently, without notice to you. Lumeo will have no liability for any change to the Service or any suspension or termination of

your access to or use of the Service, except for the refunds set forth in Section 5.3.

14. **Indemnity.** To the fullest extent permitted by law, you are responsible for your use of the Service, and you will defend and indemnify Lumeo and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (together, the “**Lumeo Entities**”) from and against every claim brought by a third party, and any related liability, damage, loss, and expense, including reasonable attorneys’ fees and costs, arising out of or connected with: (a) your unauthorized use of, or misuse of, the Service; (b) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (c) your violation of any third party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or (d) any dispute or issue between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of those claims.

15. **Disclaimers; No Warranties**

THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS. LUMEO DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (B) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. LUMEO DOES NOT WARRANT THAT THE SERVICE OR ANY PORTION OF THE SERVICE, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICE, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND LUMEO DOES NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICE OR LUMEO ENTITIES OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OF THE LUMEO ENTITIES OR THE SERVICE THAT IS NOT EXPRESSLY STATED IN THESE TERMS. WE ARE NOT RESPONSIBLE FOR ANY DAMAGE THAT MAY RESULT FROM THE SERVICE AND YOUR DEALING WITH ANY OTHER SERVICE USER. YOU UNDERSTAND AND AGREE THAT YOU USE ANY PORTION OF THE SERVICE AT YOUR OWN DISCRETION AND RISK, AND THAT WE ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICE) OR ANY LOSS OF DATA, INCLUDING CUSTOMER MATERIALS.

THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS SECTION APPLY TO THE FULLEST EXTENT PERMITTED BY LAW. Lumeo does not disclaim any warranty or other right that Lumeo is prohibited from disclaiming under applicable law.

## **16. Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE LUMEO ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICE OR ANY MATERIALS OR CONTENT ON THE SERVICE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY LUMEO ENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.

EXCEPT AS PROVIDED IN SECTION 17.5 AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF THE LUMEO ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICE OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE GREATER OF: (A) THE AMOUNT YOU HAVE PAID TO LUMEO FOR ACCESS TO AND USE OF THE SERVICE IN THE 12 MONTHS PRIOR TO THE EVENT OR CIRCUMSTANCE GIVING RISE TO CLAIM; OR (B) \$100.

EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 16 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## **17. Dispute Resolution and Arbitration**

- 17.1 Generally.** In the interest of resolving disputes between you and Lumeo in the most expedient and cost effective manner, and except as described in Section 17.2 and 17.3, you and Lumeo agree that every dispute arising in connection with these Terms will be resolved by binding arbitration. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in

contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND LUMEO ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.

- 17.2 **Exceptions.** Despite the provisions of Section 17.1, nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law in aid of arbitration; or (d) to file suit in a court of law to address an intellectual property infringement claim.
- 17.3 **Opt-Out.** If you do not wish to resolve disputes by binding arbitration, you may opt out of the provisions of this Section 17 within 30 days after the date that you agree to these Terms by sending a letter to Lumeo, Inc., Attention: Legal Department – Arbitration Opt-Out, 66 Franklin Street, Suite 300, Oakland, CA 94607 that specifies: your full legal name, the email address associated with your account on the Service, and a statement that you wish to opt out of arbitration (“**Opt-Out Notice**”). Once Lumeo receives your Opt-Out Notice, this Section 17 will be void and any action arising out of these Terms will be resolved as set forth in Section 18.2. The remaining provisions of these Terms will not be affected by your Opt-Out Notice.
- 17.4 **Arbitrator.** Any arbitration between you and Lumeo will be settled under the Federal Arbitration Act and administered by the American Arbitration Association (“**AAA**”) under its Consumer Arbitration Rules (collectively, “**AAA Rules**”) as modified by these Terms. The AAA Rules and filing forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by contacting Lumeo. The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding arbitration agreement.
- 17.5 **Notice of Arbitration; Process.** A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if that other party has not provided a current physical address, then by electronic mail (“**Notice of Arbitration**”). Lumeo’s address for Notice is: Lumeo, Inc., 66 Franklin Street, Suite 300, Oakland, CA 94607. The Notice of Arbitration must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (“**Demand**”). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days

after the Notice of Arbitration is received, you or Lumeo may commence an arbitration proceeding. All arbitration proceedings between the parties will be confidential unless otherwise agreed by the parties in writing. During the arbitration, the amount of any settlement offer made by you or Lumeo must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the arbitrator awards you an amount higher than the last written settlement amount offered by Lumeo in settlement of the dispute prior to the award, Lumeo will pay to you the higher of: (i) the amount awarded by the arbitrator; or (ii) \$10,000.

- 17.6 **Fees.** If you commence arbitration in accordance with these Terms, Lumeo will reimburse you for your payment of the filing fee, unless your claim is for more than \$10,000, in which case the payment of any fees will be decided by the AAA Rules. Any arbitration hearing will take place at a location to be agreed upon in Alameda County, California, but if the claim is for \$10,000 or less, you may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) by an in-person hearing as established by the AAA Rules in the county (or parish) of your billing address. If the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In that case, you agree to reimburse Lumeo for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.
- 17.7 **No Class Actions.** YOU AND LUMEO AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and Lumeo agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.
- 17.8 **Modifications to this Arbitration Provision.** If Lumeo makes any future change to this arbitration provision, other than a change to Lumeo's address for Notice

of Arbitration, you may reject the change by sending us written notice within 30 days of the change to Lumeo's address for Notice of Arbitration, in which case your account with Lumeo will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.

- 17.9 **Enforceability.** If Section 17.7 or the entirety of this Section 17 is found to be unenforceable, or if Lumeo receives an Opt-Out Notice from you, then the entirety of this Section 17 will be null and void and, in that case, exclusive jurisdiction and venue described in Section 18.2 will govern any action arising out of or related to these Terms.

## 18. Miscellaneous

- 18.1 **General Terms.** These Terms, together with the Privacy Policy and any other agreements expressly incorporated by reference into these Terms, are the entire and exclusive understanding and agreement between you and Lumeo regarding your use of the Service. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. Throughout these Terms the use of the word "including" means "including but not limited to". If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect.
- 18.2 **Governing Law.** These Terms are governed by the laws of the State of California without regard to conflict of law principles. You and Lumeo submit to the personal and exclusive jurisdiction of the state courts and federal courts located within Alameda County, California for resolution of any lawsuit or court proceeding permitted under these Terms. We operate the Service from our offices in California, and we make no representation that Materials included in the Service are appropriate or available for use in other locations.
- 18.3 **Privacy Policy.** Please read the Lumeo Privacy Policy [<https://lumeo.com/legal/privacy>] carefully for information relating to our collection, use, storage, disclosure of your personal information. The Lumeo

Privacy Policy is incorporated by this reference into, and made a part of, these Terms.

- 18.4 **Additional Terms.** Your use of the Service is subject to all additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to from the Service (the “**Additional Terms**”). All Additional Terms are incorporated by this reference into, and made a part of, these Terms.
- 18.5 **Consent to Electronic Communications.** By using the Service, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.
- 18.6 **Contact Information.** The Service is offered by Lumeo, Inc., located at 66 Franklin Street, Suite 300, Oakland, CA 94607. You may contact us by sending correspondence to that address or by emailing us at [info@lumeo.com](mailto:info@lumeo.com).
- 18.7 **Notice to California Residents.** If you are a California resident, under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at (800) 952-5210 in order to resolve a complaint regarding the Service or to receive further information regarding use of the Service.
- 18.8 **No Support.** We are under no obligation to provide support for the Service. In instances where we may offer support, the support will be subject to published policies.
- 18.9 **International Use.** The Service is intended for visitors located within the United States. We make no representation that the Service is appropriate or available for use outside of the United States. Access to the Service from countries or territories or by individuals where such access is illegal is prohibited.