



## LUMIN SERVICE USER AGREEMENT

Last Modified: March 27, 2018

Effective Date: March 27, 2018

### 1. Overview.

**1.1. Introduction.** This Lumin Service User Agreement (this “*User Agreement*”) is an agreement between you (referred to in this User Agreement as “*you*” or “*your*”) and Coulomb Inc. (d/b/a Lumin), a Delaware corporation (referred to in this User Agreement as “*Lumin*”, “*we*”, “*us*”, or “*our*”), the provider of the Lumin website located at <https://luminsmart.com> (the “*Lumin Website*”) and the Lumin Service (as defined below). **You agree to read this User Agreement carefully.**

**1.2. Your Company.** If you create or access a Lumin Account (as defined below) on behalf of a company, organization or other entity (“*Your Company*”), then (a) you represent and warrant to us that you have the authority and authorization to bind Your Company to this User Agreement, and (b) throughout this User Agreement, except in this Section 1.2, the terms “*you*” and “*your*” refer jointly to both you and Your Company. If you do not have such authority and authorization, or if you or Your Company do not agree to all of the provisions of this User Agreement, neither you nor Your Company are permitted to access or use the Lumin Service.

**1.3. Children.** You may only create or use a Lumin Account (as defined below) or use the Lumin Service if you are (a) at least eighteen (18) years old, and (b) allowed by law to enter into a binding contract.

**1.4. Privacy Policy.** Our Lumin Privacy Policy, located at <https://luminsmart.com/legal/privacy> (the “*Privacy Policy*”), is part of this User Agreement and explains how we collect and use your information. We will only share your Account Information with third parties as permitted by this User Agreement and the Privacy Policy.

### 2. Definitions. As used in this User Agreement:

**2.1. “Intellectual Property Rights”** means all worldwide copyrights, trademark rights, patent rights, trade secret rights, moral rights, publicity rights, and all other intellectual property rights, and all rights, causes of action, or rights of enforcement relating to any intellectual property.

**2.2. “Lumin IP”** means the Lumin System (together with all updates, modifications, versions, improvements, and derivatives thereof), and all associated and related Intellectual Property Rights.

**2.3. “Lumin Smart Panel”** means a physical Lumin Smart Panel device designed, developed, assembled, manufactured, distributed, or sold by Lumin.

**2.4. “Lumin Service”** means access to and use of the Lumin System.

**2.5. “Lumin System”** means the system further described in Section 3 below, which consists of (a) the Lumin Smart Panels, including the firmware and software installed on or in the Lumin Smart Panels (as may be updated from time to time as described in this Agreement); and (b) the software, mobile apps,



website apps, and application program interfaces (APIs) used to configure, manage, and control the Lumin Smart Panels or to access and view data from the Lumin Smart Panels, as the same may be updated to time from time by Lumin.

**2.6.** “Usage Data” means Connected Lumin Smart Panel Data (as defined below) and data about your use of the Lumin System, such as the features you access and use and when you use them.

**3. Description of Lumin System.** The Lumin System reimagines the link between the utility and the consumer and the load panel or circuit breaker panel. The Lumin System facilitates home/building remote control of consumption via individual circuits and unlocks real-time measurement of demand and electricity usage. You understand that the Lumin Service may not be available at all times and that your ability to access and use the Lumin Service may be interrupted or delayed as the result of maintenance, upgrades, or other circumstances. You acknowledge and agree that the Lumin System is always evolving and that we may, at any time and without notice to you, add or remove features or functionality of the Lumin System or modify the Lumin Service, in whole or in part. Each Lumin Smart Panel has a physical “Manual Override” switch (the “Override Switch”), and when the Override Switch is utilized as prescribed in the User Manual, the Lumin Smart Panel will operate in pass-through mode such that all circuits will be on and the Lumin Smart Panel will be disconnected from the Lumin Service.

**4. Updates to this User Agreement.** As technology changes and as our business grows and develops, we may modify this User Agreement and the Privacy Policy from time to time. The amended User Agreement or Privacy Policy will include an effective date, and the amended User Agreement and Privacy Policy will be effective on that date. When we modify this User Agreement or the Privacy Policy, we will give you notice at least thirty (30) days before the effective date of the amended User Agreement or Privacy Policy by (a) posting the amended User Agreement and/or Privacy Policy on the Lumin Website, (b) by prominently displaying a message within the Lumin Service; and/or (c) by sending you an e-mail (if you have provided us with your e-mail address as part of your Account Information (as defined below)). However, no changes to this User Agreement will apply retroactively and any changes to the governing law or dispute resolution provisions set forth in Sections 10 and 11 below will not apply to any disputes for which Lumin and you have received actual notice on or before such effective date. If you continue to access or use the Lumin Service after the User Agreement or Privacy Policy is amended, you agree to be bound by the revised User Agreement and Privacy Policy. If you do not accept the revised User Agreement or Privacy Policy, you agree that you will promptly (1) stop using the Lumin Service; (2) close your Lumin Account (as defined below), and (3) physically switch the Override Switch on each of your Lumin Smart Panels to “On” to make each Lumin Smart Panel operate in pass-through mode and to disconnect it from the Lumin Service. You can access historical versions of this User Agreement and other policies at: <https://luminsmart.com/legal/archive>.

## **5. Your Lumin Account.**

**5.1. Registration.** In order to use the Lumin Service, you must register with Lumin and create an account (a “Lumin Account”). Our registration process currently requires you to complete a signup form and provide your e-mail address and select a username and password (your “Login Credentials”). In certain cases, we may create a Lumin Account for you and/or provide you with your Login Credentials. We may permit or require you to provide additional information in order to use the Lumin Service or certain features of the Lumin Service. As used in this User Agreement, “Account Information” means all



information associated with your Lumin Account, including without limitation Connected Lumin Smart Panel Data (as defined below). You agree to update your Account Information, as necessary, to ensure that it remains current, accurate, and complete.

**5.2. Connected Lumin Smart Panels.** The Lumin Service allows you to connect one or more Lumin Smart Panels to your Lumin Account. When you connect a Lumin Smart Panel to your Lumin Account (each, a “*Connected Lumin Smart Panel*”), the information received from the Connected Lumin Smart Panel (“*Connected Lumin Smart Panel Data*”) will be added to your Lumin Account. Connected Lumin Smart Panel Data includes information about the electricity used by each circuit in the Lumin Smart Panel, the category assigned to that circuit (such as HVAC, water heater, range, dryer, clothes washer, dishwasher, well pump, microwave, refrigerator, or furnace), any custom names assigned to the circuits (such as “downstairs HVAC”), and information about when the circuit is turned on and off. The Lumin Smart Panels are designed to enable the firmware and software contained within the Lumin Smart Panel to be upgraded from time to time through the installation of patches, fixes, updates, modifications, enhancements, revisions, or new versions thereof (collectively, “*Software Updates*”). You understand and agree that we may, from time to time, remotely install Software Updates on your Connected Lumin Smart Panels, and you agree to promptly comply with any instructions we provide to facilitate or complete the installation of Software Updates.

**5.3. Your Account Information.** We value and respect your privacy, and we will only use your Account Information as permitted by this User Agreement and the Privacy Policy. In order for us to provide the Lumin Service to you, you grant us a worldwide, royalty-free, non-exclusive, transferable, sublicensable, perpetual, and irrevocable license to use, copy, adapt, create derivative works of, store, host, publish, display, distribute, communicate, and transmit your Account Information. We will only share your Account Information with third parties as permitted by the Privacy Policy.

**5.4 Moving.** If you move or sell your home where a Lumin Smart Panel is installed, you may, if permitted by the terms of the separate agreement covering your purchase of such Lumin Smart Panel, uninstall your Lumin Smart Panel and install it at your new home or residence, provided that such removal and installation is undertaken by a licensed electrician in accordance with the documentation and installation/removal instructions provided by Lumin. In this case, there is no need for you to establish a new Lumin Account. When installed in your new home and connected to the WIFI network used at your new home, the Lumin Smart Panel will collect information relating to the electrical circuits which it is connected to in your new home and you may continue to use your existing Lumin Account provided that you update any Account Information such as your new address. If you move and do not intend to transfer your Lumin Smart Panel(s) to your new home, you must notify Lumin in writing and terminate your Lumin Account. If you move and your Lumin Smart Panel(s) remains connected to your WI-FI network at your prior residence, it will continue to collect information regarding electricity usage at such residence.

## **6. Using the Lumin Service.**

**6.1. Permission to Use the Lumin Service.** Subject to your compliance with this User Agreement, we grant you permission to access and use the Lumin Service in connection only with your Connected Lumin Smart Panels. If you violate this User Agreement, your permission to use the Lumin



Service will automatically terminate. Your permission to access and use the Lumin Service is personal, non-exclusive, non-assignable, and non-sublicensable.

**6.2. Restrictions and Responsibilities.** You agree that you will only access and use the Lumin Service through your Lumin Account. You are responsible for maintaining the confidentiality of the Login Credentials used to access your Lumin Account. You acknowledge and agree that you are responsible for any activities that occur through your Lumin Account, whether or not authorized by you. You agree to immediately notify us of any security breach associated with your Login Credentials or your Lumin Account and of any unauthorized use of your Lumin Account. We will not be liable for any losses (to you or others) caused by any unauthorized use of your Lumin Account. You agree that you will not, directly or indirectly, reverse engineer, disassemble, alter, or modify any part of the Lumin System, attempt to do so, or permit others to do so. You understand that the Lumin System is currently still undergoing active development. You acknowledge that the Lumin Service may not function as intended or desired, that Lumin may remove, change, or add Lumin System features, and that access to the Lumin Service may be interrupted from time to time. **You expressly agree that you will not connect any Lumin Smart Panels to any electrical circuits, devices, or systems that (a) are mission-critical, (b) are used in or associated with any medical facilities or medical equipment, (c) are used in or associated with any devices, equipment, or systems that perform life-sustaining or life-saving functions, or (d) are used in or associated with any nuclear facilities.**

**6.3. No Disruptive Activities.** You agree that you will not:

**6.3.1.** Tamper with or open the hardware enclosure for your Lumin Smart Panels;

**6.3.2.** Circumvent, compromise, or undermine the security or integrity of the Lumin System, or attempt to do so;

**6.3.3.** Probe, scan, or test the vulnerability of the Lumin System, or any systems, networks, servers, computers, devices, or equipment owned or controlled by Lumin or any users of the Lumin System;

**6.3.4.** Attempt to gain unauthorized access to, interfere with, damage, or disrupt any part of the Lumin System, or any server, network, computer, device, system, or database owned or controlled by Lumin (or any users of the Lumin System) or related to, associated with, or connected to the Lumin System;

**6.3.5.** Use any automated device, process, or means (such as robots or spiders) to access or use the Lumin System for any purpose, except as expressly authorized by Lumin in writing;

**6.3.6.** Use the Lumin System in any manner that we believe could disable, overburden, damage, impair, or interfere with the proper operation of the Lumin System; or

**6.3.7.** Interfere with or disrupt the performance or integrity of the Lumin System or any data transmitted by or through the Lumin System.



## **7. Intellectual Property Rights.**

**7.1. Generally.** You acknowledge and agree that except as otherwise expressly stated in this User Agreement, Lumin IP and all content and intellectual property associated with, or incorporated within, the Lumin System (including manuals, users guides, and other content and materials) (collectively, “*Lumin Materials*”), together with all Intellectual Property Rights therein and thereto, are owned by Lumin or its third party licensors. This User Agreement does not grant to you, and you will not acquire, any right, title, or interest in or to the Lumin IP, the Lumin System, or any Lumin Materials or any associated Intellectual Property Rights associated with any of the foregoing, except for the permissions expressly granted to you under this User Agreement. You may not (a) upload or post any of the Lumin IP or the Lumin Materials to any other website or file sharing service, or (b) publicly make available, display, distribute, or perform any of the Lumin IP or the Lumin Materials, or (c) engage in hotlinking or framing with respect to any of the Lumin IP or the Lumin Materials.

**7.2. Feedback and Usage Data.** The collection of Feedback and Usage Data is an essential component of the ongoing development of the Lumin System. We encourage you to send us messages, feedback, or data, including, for example, ideas, comments, suggestions, or questions related to the Lumin System, the Lumin Service or any other product or service (collectively, “*Feedback*”). In addition, we may occasionally request specific Feedback related to your experience using the Lumin System, and you agree to promptly provide the requested Feedback to us. You agree not to send us any information or ideas that are sensitive or confidential, and you agree that any Feedback we receive from you will not be considered confidential. By sending or providing Lumin with any Feedback and/or Usage Data, you hereby grant, and shall grant, Lumin a royalty-free, worldwide, perpetual, irrevocable, sublicenseable and assignable license to fully commercialize, display, distribute and use such Feedback and/or Data Usage. If Lumin develops any improvements, works, software, products or service offerings based on such Feedback and/or Usage Data, Lumin shall solely own all such improvements, works, software, products or service offerings and all Intellectual Property Rights therein without any obligations to you, including any payment obligation or obligation to credit or attribute you as providing the Feedback and/or Data Usage which Lumin used to develop such improvements, works, software, products or service offerings. You represent and warrant that any Feedback that you provide does not and will not infringe, misappropriate, or violate the Intellectual Property Rights or other rights of any third party.

**8. Disclaimers and Limitation of Liability.** The provisions of this Section 8 apply to the maximum extent permitted under applicable law. In addition, some jurisdictions do not permit the limitation of liability in contracts or the disclaimers of implied warranties, so some or all of the provisions of this Section 8 may not apply to you.

**8.1. WITHOUT LIMITING THE LIMITED WARRANTY PROVIDED BY LUMIN WITH RESPECT TO THE LUMIN SMART PANELS WHICH YOU PURCHASED (IF ANY), TO THE FULLEST EXTENT PERMITTED BY LAW, THE LUMIN SERVICE AND THE LUMIN MATERIALS AND YOUR USE OF THE FOREGOING ARE AT YOUR OWN RISK AND THE LUMIN SERVICE AND THE LUMIN MATERIALS ARE PROVIDED “AS IS”, “WITH ALL FAULTS” AND “AS AVAILABLE”, AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED.**



**8.2.** EXCEPT FOR THE LIMITED WARRANTY PROVIDED BY LUMIN WITH RESPECT TO THE LUMIN SMART PANELS WHICH YOU PURCHASED (IF ANY), TO THE FULLEST EXTENT PERMITTED BY LAW, LUMIN HEREBY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE, RELATING TO THE LUMIN SERVICE OR THE USE THEREOF BY YOU OR ANY OTHER PERSON.

**8.3.** TO THE FULLEST EXTENT PERMITTED BY LAW, LUMIN SHALL NOT HAVE ANY LIABILITY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES SUFFERED BY YOU OR ANY OTHER PERSON ARISING OUT OF, RELATED TO, OR ASSOCIATED WITH (A) THE LUMIN SERVICE OR THE USE THEREOF BY YOU OR ANY OTHER PERSON, (B) THE PERFORMANCE OR NON-PERFORMANCE BY LUMIN OF ANY OF ITS OBLIGATIONS UNDER THIS USER AGREEMENT, OR (C) THE OPERATION OR MALFUNCTION OF THE LUMIN SERVICE, REGARDLESS OF WHETHER OR NOT WE, YOU, OR ANY PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**8.4.** TO THE FULLEST EXTENT PERMITTED BY LAW, THE LIABILITY OF LUMIN TO YOU OR ANY OTHER PERSON FOR ANY REASON AND UPON ANY CAUSE OF ACTION (WHETHER BASED IN TORT, CONTRACT, OR ON ANY LEGAL OR EQUITABLE GROUND OR THEORY OF RECOVERY) ARISING OUT OF OR RELATING TO (A) THE LUMIN SERVICE OR THE USE THEREOF BY YOU OR ANY OTHER PERSON, OR (B) THE OPERATION OR MALFUNCTION OF THE LUMIN SERVICE, WILL BE LIMITED TO THE LESSER OF YOUR ACTUAL DAMAGES OR THE TOTAL AMOUNT PAID BY YOU TO LUMIN (OR TO LUMIN'S AUTHORIZED RESELLER) FOR THE PURCHASE OF YOUR CONNECTED LUMIN SMART PANELS. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING TORT, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, NON-INFRINGEMENT, AND OTHER CAUSES OF ACTION OR ALLEGATIONS.

**8.5.** SOME JURISDICTIONS MAY NOT ALLOW OR MAY OTHERWISE LIMIT THE PERMISSIBLE SCOPE OF DISCLAIMERS AND LIMITATIONS SUCH AS THOSE APPEARING IN THIS SECTION 8. ACCORDINGLY, SOME OF THE LIMITATIONS AND DISCLAIMERS APPEARING IN THIS SECTION 8 MAY NOT APPLY TO YOU. THE PROVISIONS OF THIS SECTION 8 WILL CONTINUE TO APPLY EVEN IF YOU STOP USING THE LUMIN SYSTEM AND WILL SURVIVE THE EXPIRATION, CANCELLATION, OR TERMINATION OF THIS USER AGREEMENT.

**8.6.** Notwithstanding any other provision of this User Agreement to the contrary, nothing in this User Agreement will be deemed to limit our liability for any personal injury, death, or property damage occurring on our premises to the extent that such personal injury, death, or property damages results from our negligence, recklessness, or willful misconduct. The limitations of liability set forth in this Section 8: (a) only apply to the extent permitted by law, and (b) do not apply to the extent that such liability results from our gross negligence, recklessness, or willful misconduct.



**8.7. New Jersey Consumers.** Notwithstanding any other provision of this User Agreement to the contrary, if you are a New Jersey “consumer” within the meaning of N.J. Stat. § 56:12-15, nothing in this User Agreement waives (a) any rights you may have under N.J. Stat. §§ 56:12-14 - 56:12-18, or (b) any rights you may have to recover (i) your attorneys’ fees, (ii) your share of any arbitrators’ and administrative fees of arbitration, or (iii) your court costs, filing fees, and other reasonable costs of suit.

**9. Indemnification.** You will, at your expense, defend, indemnify and hold harmless Lumin, and its employees, officers, directors and agents, from, against, and with respect to any and all liabilities, claims, losses, damages, injuries (including personal injury, sickness, and death), interest, fines, taxes, premiums, assessments, penalties, costs, and expenses (collectively, “*Claims*”), including any and all attorneys’ fees and expenses incurred in the defense of Claims, arising out of or related to: (a) the installation, use of, and access to the Lumin System and/or the Lumin Service by you or your employees, representatives or agents; (b) the use of your Lumin Account (whether by you or any other person); (c) your breach or violation of any provision of this User Agreement; (d) our exercise of any rights or licenses granted by you to us; (e) any inaccuracy in or breach of any of the representations or warranties made by you; (f) your violation or alleged violation of any law or infringement of any third party right, including any Intellectual Property Rights or privacy rights; (g) your negligence, recklessness, or willful misconduct; or (h) any claim that your use of the Lumin Service caused damage to a third party. You will pay all amounts payable to third parties in connection with any settlement or compromise, and pay any resulting costs, damages, and reasonable attorneys’ fees awarded to third parties by a court of competent jurisdiction with respect to any such claims. You will have no liability under this Section 9 unless Lumin (a) promptly notifies you in writing of the claim, action, or proceeding, with your liability under this Section 9 reduced only to the extent that a delay by Lumin in notifying you of the claim adversely affects your ability to defend or settle such claim or increases the scope of liability or amount of damages, (b) gives you full authority, and at your expense, information and reasonable assistance necessary to defend or settle such claim, action or proceeding, and (c) gives you sole control of the defense and settlement of such claim, action or proceeding and all negotiations relating thereto, provided, however, you may not, without Lumin’s prior written consent, settle, compromise or consent to the entry of any judgment in any such claim where such consent, settlement, or compromise imposes any material adverse condition on Lumin. The provisions of this Section 9 will continue to apply even if you stop using the Lumin System and will survive the expiration, cancellation, or termination of this User Agreement.

**10. Governing Law and Interpretation.** This User Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Virginia and the applicable federal laws of the United States, without regard to the conflicts of law provisions of any jurisdiction. Without limiting the foregoing provision, you and Lumin expressly agree: (a) that the Virginia Uniform Computer Information Transactions Act, Virginia Code §§ 59.1-501.1 *et seq.* (“*UCITA*”) are expressly excluded from this User Agreement, (b) that any and all terms contained in UCITA will have no force or effect on any portion of this User Agreement, and (c) that UCITA does not apply to this User Agreement or the Lumin Service. We retain all rights at law and in equity to enforce the provisions of this User Agreement in accordance with applicable laws.

**11. Dispute Resolution.**



**11.1. Service of Legal Process.** To the extent permitted by law, if your Account Information does not contain your current and accurate physical address (or if we are unable, after reasonable efforts, to effect service of process on you at such physical address), you hereby irrevocably agree to accept service of process by any means of communication associated with your Lumin Account or your use of the Lumin Service, including service by U.S. mail, e-mail, short message service (SMS), or messages or alerts displayed or sent to you through the Lumin System, and you waive any objections to service of process by such methods.

**11.2. Venue.** Any and all claims or disputes arising out of or relating to (a) this User Agreement, (b) the Lumin Service or the use thereof by you or any other person, (c) the performance or non-performance by you or Lumin of any obligations under this User Agreement, or (d) actual or alleged infringement by you or any of the Lumin IP, the Lumin Service, the Lumin System or any Intellectual Property Rights of Lumin, will be commenced and maintained only in a state or federal court of competent subject matter jurisdiction situated or located in Albemarle County, Virginia or the City of Charlottesville, Virginia. YOU AND LUMIN BOTH CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION OF AND VENUE IN ANY SUCH COURT (AND IN ANY OF THE APPROPRIATE APPELLATE COURTS THEREFROM) AND IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION (INCLUDING ANY OBJECTION BASED ON INCONVENIENT FORUM) WHICH YOU OR LUMIN MAY NOW OR HEREAFTER HAVE TO VENUE IN ANY SUCH COURT.

**11.3. Waiver of Jury TRIAL.** YOU AND LUMIN IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT YOU OR LUMIN MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO (A) THIS USER AGREEMENT, (B) THE LUMIN SERVICE OR THE USE THEREOF BY YOU OR ANY OTHER PERSON, (C) THE PERFORMANCE OR NON-PERFORMANCE BY YOU OR LUMIN OF ANY OBLIGATIONS UNDER THIS USER AGREEMENT, OR (D) ACTUAL OR ALLEGED INFRINGEMENT BY YOU OR ANY OF THE LUMIN IP, THE LUMIN SERVICE OR THE LUMIN SYSTEM OF ANY INTELLECTUAL PROPERTY RIGHTS. YOU CERTIFY AND ACKNOWLEDGE THAT: (1) NEITHER LUMIN NOR ANYONE ACTING ON BEHALF OF LUMIN HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT LUMIN WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION; (2) YOU HAVE CAREFULLY CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (3) YOU ARE MAKING THIS WAIVER KNOWINGLY AND VOLUNTARILY; AND (4) YOU HAVE BEEN INDUCED TO ENTER INTO THIS USER AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS IN THIS SECTION 11.3.

**11.4. Class Action Waiver.** You and Lumin further agree that any lawsuit will be conducted in your and Lumin's individual capacities only and not as a class action or other representative action, and you and Lumin expressly waive the right to file a class action or seek relief on a class basis. You have the right to opt out of the foregoing class action waiver by completing, signing, and mailing a valid opt-out notice to Lumin within sixty (60) days after the date you first began using the Lumin Service. In order to be valid, the opt-out notice must (1) be typed (handwritten opt-out notices are not valid), (2) include a statement that you are opting out of the class action waiver in this User Agreement, (3) include your full



legal name, mailing address, and the e-mail address associated with your Lumin Account, (4) be signed by you, and (5) be mailed to Lumin, Attn: User Agreement Opt-Out, 212 East Main Street, Suite 202, Charlottesville, VA 22902. You understand and agree that you are responsible for retaining proof of mailing and delivery.

**12. Termination.** We reserve the right, without any liability to you, to modify, suspend, disable, delete, close, or terminate your Lumin Account and to suspend or terminate your permission to access and use the Lumin Service for violation of this User Agreement, or for any other reason. If you wish to end your relationship with us, you may request the closure of your Lumin Account at any time by contacting us at [info@lumin.com](mailto:info@lumin.com). You must also terminate your account as set forth in Section 5.4 above. After the closure of your Lumin Account, we may retain your Account Information indefinitely for accounting, legal, and other purposes. This User Agreement and all rights and permission granted by Lumin to you will automatically terminate upon the closure, deletion, or termination of your Lumin Account. Any termination, cancellation, or expiration of this User Agreement notwithstanding (and notwithstanding the closure, deletion, or termination of your Lumin Account or your stopping using the Lumin System), Sections 6.2, 6.3, 7, 8, 9, 10, 11, and 13, and provisions which are by their terms intended to survive and continue, will survive and continue.

### **13. Miscellaneous.**

**13.1. Reservation of Rights.** We reserve all rights relating to the Lumin System, the Lumin Service and the content and information available on or through the Lumin Service (including all of the Lumin Materials) not expressly granted to you by this User Agreement.

**13.2. Severability; Non-Waiver.** If any provision of this User Agreement is determined to be invalid or unenforceable, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and will not affect the validity or enforceability of any of the remaining provisions of this User Agreement. No waiver by us, and no failure by us to exercise any of our rights or remedies hereunder, will be deemed to constitute a waiver of such provision, right, or remedy in the future, or of any other provision, right, or remedy hereunder, unless such waiver is set forth in a written instrument signed by an authorized officer of Lumin.

**13.3. No Assignment.** This User Agreement is personal to you. Neither this User Agreement nor any of your rights or obligations may be sold, transferred, delegated, or assigned by you without our prior written consent, and any attempt to do so without such consent will be void, and no rights will devolve by operation of law or otherwise upon any assignee, receiver, liquidator, trustee, or other person. Subject to the foregoing, this User Agreement will be binding upon and inure to the benefit of the parties and their respective successors, assigns, and legal representatives. Except for third parties covered by your indemnification obligations under this User Agreement, nothing in this User Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person other than Lumin and you.

**13.4. Entire Agreement.** This User Agreement contains the entire agreement and understanding between you and us with respect your use of the Lumin Service and this User Agreement supersedes and replaces any other prior or contemporaneous agreements, terms, or conditions applicable to the subject matter of this User Agreement.



**14. Contacting Us.** If you have any questions about this User Agreement or the Lumin Service, you may contact us by e-mailing us at [info@lumin.com](mailto:info@lumin.com) or by writing to us at Lumin, 212 East Main Street, Suite 202, Charlottesville, VA 22902.