



**Date:** March 2018

**Lumiere London Limited  
Terms & Conditions**

# Lumiere London Limited - Terms & Conditions

## 1. INTERPRETATION

1.1 Definitions. In these Terms & Conditions, the following definitions apply:

**Business Day:** A day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**Charges:** The charges payable by the Customer for the supply of the Services in accordance with clause 5.

**Commencement Date:** Has the meaning set out in clause 2.2.

**Contract:** The contract between Lumiere and the Customer for the supply of Services in accordance with these Terms & Conditions.

**Customer:** The person or firm who purchases Services from Lumiere.

**Deliverables:** The deliverables set out in the Order produced by Lumiere for the Customer, including the provision of the Premises and Equipment.

**Equipment:** Any and all equipment as required by the Customer during the provision of the Services, and as set out in the Order.

**Intellectual Property Rights:** All patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Lumiere:** Lumiere London Limited, a limited company incorporated in England and Wales and whose registered office is situated at 1-2 Silex Street, London, SE1 0DW with company number 06397558.

**Lumiere Materials:** Has the meaning set out in clause 4.1(e).

**Order:** The Customer's order for Services as set out in writing in the e-mail sent to the Customer by Lumiere, which shall include details of booking, including, but not limited to the date, Premises, catering and Equipment requirements.

**Premises:** The space made available to the Customer as set out in the Order.

**Services:** The services, including the Deliverables, supplied by Lumiere to the Customer as set out in the Specification.

**Specification:** The description or specification of the Services as set out in writing in the e-mail sent to the Customer by Lumiere.

**Terms & Conditions:** these terms and conditions as amended from time to time in accordance with clause 11.8.

1.2 Construction. In these Terms & Conditions, the following rules apply:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) A reference to a party includes its personal representatives, successors or permitted assigns;
- (c) A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory

provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

- (d) Any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) A reference to **writing** or **written** includes faxes and e-mails.

## **2. BASIS OF CONTRACT**

- 2.1 The Customer's written notification of receipt of the Order constitutes an offer by the Customer to purchase Services in accordance with these Terms & Conditions.
- 2.2 The offer referred to in clause 2.1 shall only be deemed to be accepted when Lumiere issues written acceptance at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Lumiere which is not set out in the Contract.
- 2.4 Any samples, drawings, photographs, descriptive matter or advertising issued by Lumiere, and any descriptions or illustrations contained in Lumiere's catalogues or brochures or website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Terms & Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by Lumiere shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

## **3. SUPPLY OF SERVICES**

- 3.1 Lumiere shall supply the Services to the Customer in accordance with the Specification in all material respects.
- 3.2 Lumiere shall use all reasonable endeavours to meet any performance dates specified in the Specification, and shall make the Premises available for use by the Customer on any performance dates specified in the Specification, and time shall not be of the essence for performance of the Services.
- 3.3 Lumiere shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Lumiere shall notify the Customer in any such event.

3.4 Lumiere warrants to the Customer that the Services will be provided using reasonable care and skill.

**4. CUSTOMER'S OBLIGATIONS – PLEASE READ CAREFULLY**

4.1 The Customer shall:

- (a) Ensure that the terms of the Order and any information provided in the Specification are complete and accurate;
- (b) Co-operate with Lumiere in all matters relating to the Services;
- (c) Provide Lumiere with such information and materials as Lumiere may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
- (d) Obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start, including any necessary licences in respect of the Customer's supply and consumption of alcohol; and
- (e) Keep and maintain all materials, Equipment, documents and other property of Lumiere (**Lumiere Materials**) at the Premises in safe custody, maintain Lumiere Materials in good condition, and not dispose of or use Lumiere Materials other than in accordance with Lumiere's written instructions or authorisation.

4.2 If Lumiere's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) Lumiere shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Lumiere's performance of any of its obligations;
- (b) Lumiere shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Lumiere's failure or delay to perform any of its obligations as set out in this clause 4.2; and
- (c) The Customer shall reimburse Lumiere on written demand for any costs or losses sustained or incurred by Lumiere arising directly or indirectly from the Customer Default.

4.3 The Customer shall be responsible for any damage caused to the Premises or Lumiere Materials during the Service. Any damage caused by the Customer or the Customer's guests to the Premises or Lumiere Materials will be chargeable to the Customer and such charges will be based on the cost of repair and/or replacement. For the avoidance of doubt, this Clause 4 shall also apply to Lumiere Materials that are lost or stolen.

**5. CHARGES AND PAYMENT**

5.1 The Charges for the Services shall be on a time and materials basis:

- (a) The Charges shall be calculated in accordance with Lumiere's standard daily fee rates, as set out in the Specification;
- (b) Lumiere's standard daily fee rates are calculated on the basis of an eight-hour day from 9.00 am to 6.00 pm on Business Days;

- (c) Lumiere shall be entitled to charge an overtime rate of £150.00 plus VAT per hour per Premises for any time during which the Services are provided outside the hours referred to in clause 5.1(b); and
  - (d) Lumiere shall be entitled to charge the Customer for any expenses reasonably incurred in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, expenses that occur on the date on which the Premises are made available to the Customer, including, but not limited to, any corkage charges in respect of the supply and/or consumption of alcohol, additional Equipment or miscellaneous hardware, additional food and beverages, cleaning costs, crockery costs, couriers, printing costs and additional time during which the Services are provided, and for the cost of services provided by third parties and required by Lumiere for the performance of the Services, and for the cost of any Lumiere Materials.
- 5.2 Lumiere reserves the right to increase its standard daily fee rates from time to time. Lumiere will give the Customer written notice by e-mail of any such increase prior to the Customer placing an Order.
- 5.3 Lumiere shall invoice the Customer in advance of the Services.
- 5.4 The Customer shall pay each invoice submitted by Lumiere:
  - (a) Within 10 Business Days of the date of the invoice, and in any event prior to the date on which the Services are to be provided; and
  - (b) In full and in cleared funds to a bank account nominated in writing by Lumiere, and Time for payment shall be of the essence of the Contract.
- 5.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Lumiere to the Customer, the Customer shall, on receipt of a valid VAT invoice from Lumiere, pay to Lumiere such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.6 Without limiting any other right or remedy of Lumiere, if the Customer fails to make any payment due to Lumiere under the Contract by the due date for payment (**Due Date**), Lumiere shall have the right to charge interest on the overdue amount at the rate of 8% per cent per annum above the then current Bank of England base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 5.7 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Lumiere in order to justify withholding payment of any such amount in whole or in part. Lumiere may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Lumiere to the Customer.

**6. INTELLECTUAL PROPERTY RIGHTS**

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Lumiere.
- 6.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on Lumiere obtaining a written licence from the relevant licensor on such terms as will entitle Lumiere to license such rights to the Customer.
- 6.3 All Lumiere Materials are the exclusive property of Lumiere.

**7. CONFIDENTIALITY**

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 7 shall survive termination of the Contract.

**8. LIMITATION OF LIABILITY**

- 8.1 Nothing in these Terms & Conditions shall limit or exclude Lumiere's liability for:
- (a) Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) Fraud or fraudulent misrepresentation; or
  - (c) Breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 8.2 Subject to clause 8.1:
- (a) Lumiere shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss, including loss arising out of or in connection with loss of opportunity or time, arising under or in connection with the Contract; and
  - (b) Lumiere shall under no circumstances whatever be liable to the Customer for any illness incurred as a result of a food allergy or intolerance to any food supplied by Lumiere and consumed by the Customer or any third party on the Premises.
  - (c) Lumiere's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Services.

8.3 Except as set out in these Terms & Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

8.4 This clause 8 shall survive termination of the Contract.

## **9. TERMINATION**

9.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) The other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing of the breach;
- (b) The other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) The other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) A petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) The other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) A creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) A floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) A person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) Any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1(b) to clause 9.1(i) (inclusive);

- (k) The other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
  - (l) The other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 9.2 Without limiting its other rights or remedies, Lumiere may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 9.3 Without limiting its other rights or remedies, Lumiere shall have the right to terminate the Contract by giving the Customer one months' written notice.
- 9.4 Without limiting its other rights or remedies, the Customer shall have the right to terminate the Contract by giving Lumiere the following notice prior to the date on which the Premises is to be made available to the Customer:
  - (a) More than 90 Business Days' written notice, in which circumstances the provisions of clause 10.1(a) and 10.2 shall apply;
  - (b) Between 90 and 31 Business Days' written notice, in which circumstances the provisions of clause 10.1(b) and 10.2 shall apply;
  - (c) Between 30 and 15 Business Days' written notice, in which circumstances the provisions of clause 10.1(c) and 10.2 shall apply.
  - (d) Between 14 and 8 Business Days' written notice, in which circumstances the provisions of clause 10.1(d) and 10.2 shall apply.
  - (e) 7 Business Days' or less, in which circumstances the provisions of clause 10.1(e) and 10.2 shall apply.
- 9.5 Without limiting its other rights or remedies, Lumiere shall have the right to suspend provision of the Services under the Contract or any other contract between the Customer and Lumiere if the Customer becomes subject to any of the events listed in clause 9.1(b)) to clause 9.1(l), or Lumiere reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 9.6 The Customer shall have the right to rearrange the date on which the Premises are to be made available to the Customer in accordance with the following:
  - (a) In the event that the Customer provides Lumiere written notice of the requested rearranged date more than 90 Business Days prior to the date on which the Premises is to be made available to the Customer, the Customer shall not incur any additional fee.
  - (b) In the event that the Customer provides Lumiere written notice of the requested rearranged date between 90 and 31 Business Days prior to the date on which the Premises is to be made available to the Customer, the Customer agrees to pay to Lumiere an additional fee equal to 10% of the value of the Charges, excluding catering costs.
  - (c) In the event that the Customer provides Lumiere written notice of the requested rearranged date between 30 and 15 Business Days prior to the date on which the Premises is to be made available to the Customer, the Customer agrees to pay to Lumiere an additional fee equal to 20% of the value of the Charges, excluding catering costs.
  - (d) In the event that the Customer provides Lumiere written notice of the requested rearranged date between 14 and 8 Business Days prior to the date on which the Premises is to be made available to the Customer, the Customer agrees to pay to



Lumiere an additional fee equal to 50% of the value of the Charges, excluding catering costs and 25% of the catering costs.

- (e) In the event that the Customer provides Lumiere written notice of the requested rearranged date with 7 Business Days (or less) prior to the date on which the Premises is to be made available to the Customer, the Customer agrees to pay to Lumiere an additional fee equal to 75% of the value of the Charges.

9.7 Notwithstanding clause 9.6(a)-(e), additional fees may be payable for specialist catering orders, where the Customer has provided Lumiere with written notice to rearrange the date the Premises was to be made available to the Customer, irrespective of notice period.

## **10. CONSEQUENCES OF TERMINATION**

10.1 Where the Customer has terminated the Contract by way of written notice in accordance with clause 9.4, the Customer agrees that:

- (a) In the event that the Customer terminated the Contract with 90 Business Days' notice, no Charges will be incurred by the Customer;
- (b) In the event that the Customer terminated the Contract with between 90 and 31 Business Days' notice, Lumiere shall be entitled to 10% of the Charges, excluding catering costs;
- (c) In the event that the Customer terminated the Contract with between 30 and 15 Business Days' notice, Lumiere shall be entitled to 20% of the Charges, excluding catering costs;
- (d) In the event that the Customer terminated the Contract with between 14 and 8 Business Days' notice, Lumiere shall be entitled to 50% of the Charges, excluding catering costs and 25% of catering costs;
- (e) In the event that the Customer terminated the Contract with 7 Business Days' notice (or less), Lumiere shall be entitled to 100% of the Charges.

10.2 Notwithstanding clause 10.1(a)-(e), additional fees may be payable for specialist catering orders, where the Customer has terminated the Contract by way of written notice, irrespective of notice period.

10.3 On termination of the Contract for any reason:

- (a) The Customer shall immediately pay to Lumiere all of Lumiere's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Lumiere shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) The Customer shall return all of Lumiere Materials and any Deliverables in its possession which have not been fully paid for. If the Customer fails to do so, then Lumiere may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) The accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## 11. GENERAL

### 11.1 Force majeure:

- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of Lumiere including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Lumiere or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- (b) Lumiere shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents Lumiere from providing any of the Services for more than 4 weeks, Lumiere shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

### 11.2 Assignment and subcontracting:

- (a) Lumiere may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of Lumiere, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

### 11.3 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by e-mail to the parties last known e-mail address, or sent by fax to the other party's main fax number.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by e-mail, on the date it was sent, or if sent by fax, on the next Business Day after transmission.
- (c) This clause 11.3 shall not apply to the service of any proceedings or other documents in any legal action.

### 11.4 Waiver:

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or

restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

11.5 Severance:

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

11.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

11.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.

11.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by Lumiere.

11.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.