

1. General Information

	Seller	Buyer ("THE BUYER")
Company Name	LumaPix Inc	
Address	2220 Lapiniere, Suite 203 Brossard, Québec, Canada J4W 1M2	
Phone	1 877 586-2749	
Fax	1 866-658-5042	
Contact Name	Bob Winkler	
Contact email ID	YearbookSales@LumaPix.com	
Today's date		

2. Description, Quantity and Price

Yearbook Software Licenses				
TOTAL # of LICENSES ORDERED (min. 10)			<i>See pricing table for unit price</i>	
Usage	PSPA Import Size	Qty	Unit Price	Ext. Price
In-studio use	<400 individuals			
	>=400 individuals			
In-school use	<400 individuals			
	>= 400 individuals			
Software License Total (A)				
Remote Storage Licenses				
Elementary Schools				
Middle Schools				
High Schools				
Subtotal				
Remote storage 100% attach discount (-10 %)				
Remote Storage License Total (B)				
Totals (A) + (B)				
Taxes	5% GST applies to Canadian customers			
	7.5% PST applies to Quebec customers			
Grand Total				

3. Payment Methods

Orders under \$5000		• Due on receipt of order
Option1: Credit Card <input type="checkbox"/> Visa <input type="checkbox"/> Mastercard	Name on card:	Number:
		Expiration:

Orders from \$5000 – \$10,000		• Due 30 days after receipt of invoice
Option 1: Credit Card <input type="checkbox"/> Visa <input type="checkbox"/> Mastercard	Name on card:	Number:
		Expiration:
Option 2: PayPal invoice	Your PayPay ID: (invoice sent from finance@LumaPix.com)	
Option 3: Check (invoice to be provided)	Payable to: LumaPix Inc. 2220 Lapiniere, Suite 203, Brossard, Quebec, Canada J4W 1M2	

Orders over \$10,000	*Installment payments due 30 days of invoice date		
Payment invoiced in installments	Payment Schedule	Payment Date	Amount
	Installment 1: On receipt		33.3%
	Installment 2: 60 days		33.3%
	Installment 3: 120 days		33.3%

4. Signatures

Signature	<p>THE BUYER hereby accepts the terms set forth in this Order Form and the attached YearbookFusion Terms Of Use Agreement, which is hereby included by reference.</p> <p>IN WITNESS WHEREOF, THE BUYER has executed this by a duly authorized representative as the date set forth below.</p> <p>THE BUYER</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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Order Form version: 20101014 YearbookFusion Terms of Use Agreement version: 20100903

LumaPix YearbookFusion Terms of Use Agreement

IMPORTANT: THIS SOFTWARE TERMS OF USE AGREEMENT ("AGREEMENT") IS A LEGAL AGREEMENT BETWEEN YOU ("THE BUYER") AND LUMAPIX. READ IT CAREFULLY BEFORE COMPLETING THE INSTALLATION PROCESS AND USING THE PRODUCT OR OFFERING IT TO YOUR CUSTOMERS. IT PROVIDES A LICENSE TO USE THE PRODUCT AND CONTAINS TERMINATION AND WARRANTY INFORMATION AND LIABILITY DISCLAIMERS. BY PURCHASING THE PRODUCT, YOU ARE CONFIRMING YOUR ACCEPTANCE OF THE PRODUCT AND AGREEING TO BECOME BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, THEN DO NOT PURCHASE THE PRODUCT OR OFFER IT TO YOUR CUSTOMERS.

1. DEFINITIONS

THE PARTIES -	means LUMAPIX and you, THE BUYER.
THE PRODUCT -	means the installed YearbookFusion software, associated web services including storage and the LUMAPIX marketplace, content offered in that marketplace, and utilities for managing preferences and license balances.
REP ID -	means a unique identifier for an entity doing business with LUMAPIX as a BUYER. REP accounts are managed in the LUMAPIX RepAdmin tool, including preferences and CREDITS balances for each REP.
END USER -	means a unique user of THE PRODUCT. For clarify, the term END USER engenders both individuals and organizations: INDIVIDUAL END USER: a single company or person (e.g. a pro photographer) END USER ORGANIZATION: a group of users who are expressed in a single user database - (e.g. a school).
USER ID -	means a unique identifier for an END USER. The USER ID may be associated with a given REP ID (e.g. a yearbook BUYER). In the case of an organization, a single USER ID is assigned to the entire organization.
SOFTWARE LICENSE -	means a database entry reflecting a USER ID's ability to use THE PRODUCT for a specified duration, with specified features enabled or disabled, on a specified number of machines.
CREDIT -	means a token representing a SOFTWARE LICENSE for accounting purposes. Balances of CREDITS are managed per BUYER in the RepAdmin tool. Allocating a credit to an END USER ORGANIZATION decreases the balance of available credits for a given BUYER, creates a USER ID representing that END USER if necessary, and adds a SOFTWARE LICENSE for that USER ID.
ABUSE -	means acts by THE BUYER which in LUMAPIX's sole determination are intended to circumvent the licensing policy described herein.
END USER DATA -	means content created or assembled by END USERS, including YearbookFusion projects, images, graphics, fonts, and presets. Locations where END USER DATA may reside include the END USER's local machine, LAN storage at the END USER's facility, in REMOTE STORAGE, and on machines or storage maintained by THE BUYER.
REMOTE STORAGE -	means a repository of data and associated web services for access to that data which resides elsewhere than on the END USER's machines or attached storage.
REMOTE STORAGE LICENSE -	means a database entry reflecting a USER ID's ability to use REMOTE STORAGE for a specified duration, with specified features enabled or disabled, with a specified cap on storage or transmission volume.

2. CREDITS AND EXPIRATION

- 2.1. CONSUMPTION OF LICENSES. CREDITS are sold to THE BUYER to be allocated to END USERS on the basis of one CREDIT per END USER per year. THE BUYER may at their discretion chose to not allocate CREDITS to a given END USER in a given year.
- 2.2. CREDIT EXPIRATION. CREDITS do not expire; any balance of unused CREDITS associated with THE BUYER remain available to THE BUYER for allocation to END USERS indefinitely.
- 2.3. LICENSE EXPIRATION. Activation of SOFTWARE LICENSES by the END USER marks the start of a period of use, after which duration the SOFTWARE LICENSES will cease to function. This period is determined by LUMAPIX, specified in the order form, and agreed to by THE BUYER at the time of ordering.
- 2.4. RECLAIMING / REALLOCATING CREDITS. At their discretion, THE BUYER may contact LUMAPIX to request that a LICENSE which has been created for an END USER be converted back into a CREDIT in that BUYER's account. LUMAPIX may at their sole discretion accept or decline this request. This is understood by THE BUYER to be an unusual event; requests representing more than 20% of a BUYER's license volume in the current year may result in determination by LUMAPIX that ABUSE is taking place.

3. ABUSE

- 3.1. BUYER WARRANT. THE BUYER agrees that one license represents one END USER per year, and that use of THE PRODUCT to produce output for more than one END USER constitutes ABUSE. THE BUYER warrants that no effort will be made to circumvent this arrangement, including without limitation re-using a USER ID to produce output for more than one END USER.
- 3.2. DETECTION OF ABUSE. LUMAPIX may use any means at its disposal to detect ABUSE, including without limitation database analysis, statistical analysis of usage, and contacting END USERS. Determination that ABUSE has occurred is at LUMAPIX's sole determination.
- 3.3. RESPONSE TO ABUSE. Detection of ABUSE by a BUYER is grounds for termination by LUMAPIX with cause.

4. SERVICE LEVEL AGREEMENT

- 4.1. **SUPPORT.** Commercially reasonable efforts will be made to respond to phone and email enquiries.
- 4.2. **INSTALLED APPLICATION.** Any incidents or data loss related to defects in THE PRODUCT reported by END USERS or THE BUYER shall be addressed with commercially reasonable efforts by LUMAPIX to address the problem or recover lost data.
- 4.3. **REMOTE STORAGE.**
- 4.3.1. The REMOTE STORAGE option is provided by a third party (the "RS HOST"). At the time of execution of this contract, the RS HOST is Amazon Inc. LUMAPIX may change the RS HOST without notice to THE BUYER. In the event of such a change, LUMAPIX shall make all commercially reasonable efforts to minimize the impact of the change to END USERS and to update THE BUYER with details of the transition.
- 4.3.2. In the event of failure or defect in the REMOTE STORAGE services, including without limitation interruption or termination of services, loss or corruption of project data:
- (i) LUMAPIX will make THE BUYER aware of the issue
 - (ii) LUMAPIX will provide THE BUYER with up-to-date information regarding the state of the service and user data, as provided to LUMAPIX by the RS HOST.
 - (iii) In the event that LUMAPIX pursues reparations from the RS HOST per the terms of the RS HOST's service level agreement, the following policy shall be observed:
 1. Any reparations received from the RS HOST shall be distributed to all clients of the REMOTE STORAGE option on the basis of the amount of data stored by each BUYER.
 2. LUMAPIX shall keep no reparations for itself.
- 4.3.3. The service level agreements provided by Amazon are located at <http://aws.amazon.com/s3-sla/> and <http://aws.amazon.com/ec2-sla/>
- 4.3.4. **GRACE PERIOD.** REMOTE STORAGE is understood by THE BUYER to become inoperative upon expiration of an END USER's REMOTE STORAGE LICENSE. Content will remain available to end users for a period of sixty (60) days after expiration in a read-only format, and then be deleted. THE BUYER agrees to instruct END USERS that all content is to be locally backed up prior to license expiration.

5. CONTENT

- 5.1. THE BUYER may make use of means provided by LUMAPIX to publish to END USERS content such as clip art, templates, or fonts ("CONTENT"). In this event,
- (i) THE BUYER hereby releases LumaPix to distribute CONTENT
 - (ii) THE BUYER hereby warrants:
 1. THE BUYER owns legal title to CONTENT and has the right to sell or distribute CONTENT to third parties.
 2. THE BUYER has the right to release LUMAPIX to distribute CONTENT.
 - (iii) THE BUYER hereby assumes all legal and financial responsibility for CONTENT and agrees to protect LUMAPIX from and pay any expenses related to legal proceedings, damages, attorney's fees, or other amounts in the event that THE BUYER's rights to distribute CONTENT are found to be deficient.

6. PAYMENT

- 6.1. In the event that THE BUYER requests deferred or installment payment options for fees due to LUMAPIX,
- (i) THE BUYER hereby agrees to waive demand, notice of non-payment and protest, and in case suit shall be brought for the collection thereof, or the same has to be collected upon demand of an attorney, to pay reasonable attorney's fees for making such collection.

7. TRADEMARK INFORMATION

- 7.1. **MARKS.** LumaPix®, FotoFusion®, YearbookFusion™, and the FotoFusion logo, ("THE MARKS") are the property of LUMAPIX. THE BUYER is hereby given non-transferrable permission to reproduce THE MARKS in your marketing and sales material, to the extent that such reproduction is not injurious to LUMAPIX, at LUMAPIX's sole determination. This permission shall terminate coincident with this agreement. The following guidelines shall apply for use of THE MARKS:
- Initial mention: LumaPix®:YearbookFusion™
 - Subsequent mentions: YearbookFusion

8. TERM, TERMINATION, REMEDY AND CURE

8.1. TERM / EXPIRATION THROUGH INACTIVITY. If a period of five (5) calendar years expires without the purchase of new credits or the allocation of existing credits by THE BUYER, and all SOFTWARE LICENSES associated with THE BUYER have expired, and all REMOTE STORAGE LICENSES associated with the BUYER have expired, then this agreement is considered terminated.

8.2. NOTICE OF BREACH; OPPORTUNITY TO CURE. If either of THE PARTIES breaches any provision of this Agreement, the aggrieved party may give written notice to the other by email detailing the other's violations. If such violation is not corrected to the reasonable satisfaction of the aggrieved within thirty (30) days after the date of notice of violation, the aggrieved may, without further notice, declare the other to be in breach of this Agreement and terminate "with cause".

8.3. TERMINATION BY LUMAPIX WITH CAUSE. In the event that LUMAPIX has determined that ABUSE has taken place, and that no remedy by THE BUYER is possible, LUMAPIX may terminate this agreement in the following manner:

- a) Sending notification by email that ABUSE has taken place
- b) Terminating all active END USER licenses, which may result in the loss of END USER DATA

8.4. TERMINATION BY LUMAPIX WITHOUT CAUSE. LUMAPIX may terminate this agreement without cause at any time in the following manner:

- a) Sending notification by email that termination is imminent
- b) Refunding THE BUYER for all payments made for currently-active USER IDs and all CREDITS in THE BUYER's account
- c) Making commercially reasonable efforts to ensure that
 - END USER SOFTWARE LICENSES remain active until their normal expiration
 - END USER DATA on REMOTE STORAGE remain accessible by END USERS until the normal expiration of the REMOTE STORAGE LICENSE.

8.5. TERMINATION BY THE BUYER WITH OR WITHOUT CAUSE. THE BUYER may at any time terminate this agreement by sending notification by email of their intent to terminate this agreement. LUMAPIX will respond in the following manner:

- a) Refunding THE BUYER for all CREDITS in THE BUYER's account
- b) Making all commercially reasonable efforts to ensure that
 - END USER SOFTWARE LICENSES remain active until their normal expiration
 - END USER DATA on REMOTE STORAGE remain accessible by END USERS until the normal expiration of the REMOTE STORAGE LICENSE.

8.6. TERMINATION PROCESS. Regardless of cause, in the event of termination of this agreement by any of the following causes, the following terms apply:

- a) THE BUYER's right to reproduce THE MARKS is cancelled
- b) THE BUYER's access to the Rep Admin tool is removed
- c) THE BUYER's ability to allocate SOFTWARE LICENSES is removed

9. WARRANTIES AND DISCLAIMERS

9.1. NO WARRANTY. THE PRODUCT IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THE WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, LUMAPIX MAKES NO WARRANTY THAT (i) THE SERVICES AND MATERIALS WILL MEET YOUR REQUIREMENTS, (ii) THE MATERIALS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE OR MATERIALS WILL BE EFFECTIVE, ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS OR INFORMATION PURCHASED OR OBTAINED BY YOU FROM THE PRODUCT WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS IN THE PRODUCT WILL BE CORRECTED.

9.2. ERRORS. THE PRODUCT COULD INCLUDE TECHNICAL OR OTHER MISTAKES, INACCURACIES OR TYPOGRAPHICAL ERRORS. LUMAPIX MAY MAKE CHANGES TO THE PRODUCT, INCLUDING THE PRICES AND DESCRIPTIONS OF ANY PRODUCTS LISTED HEREIN, AT ANY TIME WITHOUT NOTICE.

9.3. LIABILITY. IN NO EVENT SHALL LUMAPIX OR ITS SUPPLIERS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOSS OF USE, DATA OR PROFITS, WHETHER OR NOT LUMAPIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE PRODUCT OR OF ANY PRODUCT REFERENCED OR LINKED TO FROM THE PRODUCT.

9.4. BUYER COPYRIGHT INDEMNIFICATION. THE BUYER agrees to indemnify and hold harmless LUMAPIX for all liability, damages and attorney fees that may be incurred in any legal action connected with copyright infringement involving graphical content provided by THE BUYER to LUMAPIX and made available via THE PRODUCT.

9.5. LUMAPIX COPYRIGHT INDEMNIFICATION. LUMAPIX agrees to indemnify and hold harmless THE BUYER for all liability, damages and attorney fees that may be incurred in any legal action connected with copyright infringement involving graphical content not provided by THE BUYER to LUMAPIX and made available via THE PRODUCT.

LumaPix YearbookFusion Terms of Use Agreement

10. GENERAL

- 10.1. GOVERNING LAW AND JURISDICTION. THE PARTIES agree that all matters relating to access to, or use of, THE PRODUCT shall be governed by the statutes and laws of the Province of Quebec. THE PARTIES agree to irrevocably attorn to the jurisdiction of the courts of the Province of Quebec.
- 10.2. ASSIGNABILITY. This Agreement is not assignable or transferable, in whole or in part, by either party to any third party, whether voluntary, by operation of law, or otherwise without the other party's written consent, except pursuant to a sale of substantially all of the assets of the assigning party.
- 10.3. NOTICES. Any notice required for or permitted by this Agreement shall be in writing and shall be sent by prepaid, recorded delivery or by electronic mail or facsimile and shall be deemed to have been received within five (5) business days of posting or one (1) business day if sent by electronic mail. All notices must be sent to the addresses that the receiving party may have provided for the purpose of notice in accordance with this Section.
- 10.4. NO AGENCY. Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.
- 10.5. FORCE MAJEURE. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of riots, insurrection, fires, flood, storm, explosions, war, governmental action, labor conditions, earthquakes, material shortages, or any other cause which is beyond the reasonable control of such party.
- 10.6. WAIVER. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.
- 10.7. SEVERABILITY. In the event of invalidity of any provision of this Agreement, the parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement. It is expressly understood and agreed that each and every provision of this agreement is intended by the parties to be severable and independent of any other provision and to be enforced as such.
- 10.8. HEADINGS. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such section, or in any way affect this Agreement.

- 10.9. ENTIRE AGREEMENT. The provisions of this Agreement constitute the entire agreement between the parties and supersede all prior agreements, understandings or representations, oral or written, relating to the subject matter hereof with the exceptions of a Non Disclosure Agreement agreed by THE PARTIES to form an extension to this agreement, and a Sales Agreement which incorporates this Agreement by reference. This Agreement may not be modified except in writing signed by a duly authorized representative of each party.