

Zoomo - LUMOS SMART BAG END USER AGREEMENT

EXECUTION

This agreement sets out the terms under which the Rider will use the LUMOS Smart Bag as part of their rental services with Zoomo.

By signing below, the Rider agrees to the terms and conditions of this agreement:

Signature

Full Name

Date

TERMS AND CONDITIONS

This Agreement is between Zoomo Pty Ltd (ACN 617 521 150) (**Zoomo, we, our or us**) and you, the person or entity that registers as a Rider (**you or your**), together the **Parties** and each a **Party**. This Agreement forms the entire agreement under which we will engage you to provide the Services to us.

1. ACCEPTANCE AND TERM

1.1 You accept this Agreement by the earlier of:

- (a) signing this document or;
- (b) commencing the supply of any part of the Services.

1.2 This Agreement will commence on the date you accept this Agreement and will continue until terminated in accordance with its terms (**Term**).

2. REGISTRATION

2.1 You may be contacted by Zoomo to verify your identity and obtain further details. Zoomo has absolute discretion to accept or reject your request (**LUMOS Smart Bag Request**).

2.2 If your LUMOS Smart Bag Request is rejected, Zoomo will provide you with written notice of your unsuccessful request within a reasonable amount of time and this Agreement will immediately terminate.

2.3 If your LUMOS Smart Bag Request is accepted, Zoomo will let you know via email or in person, and, once you collect the Equipment from Zoomo (in accordance with clause 6), you may commence the provision of the Services in accordance with this Agreement.

3. ENGAGEMENT

3.1 During the Term, you agree to provide the Services:

- (a) in accordance with this Agreement, our reasonable instructions and all applicable Laws;
- (b) with due care, skill and diligence; and
- (c) in a proper and professional manner, and in accordance with best industry practice.

3.2 Zoomo will provide a discount to your rentals for your provision of the Services. Lumos will have no responsibility for the discount of the rental.

4. YOUR RESPONSIBILITIES

4.1 You agree to:

- (a) ensure your Equipment is clearly and fully visible and not covered or partially covered;
- (b) Use the bag for a minimum of one hour over a three week period.
- (c) conduct yourself in a manner that reflects favourably on Zoomo, Lumos and Lumos's clients;
- (d) not commit any act or omission, directly or indirectly, which may bring Zoomo (or Zoomo's Personnel or clients) or Lumos (or their Personnel or clients) into breach of any Law, the subject of any Liability, or into disrepute;
- (e) comply with the provisions of this Agreement and all applicable Laws;
- (e) comply with any reasonable policies and procedures as notified by Lumos or Zoomo to you;
- (g) not make any false or misleading representations with respect to Lumos's clients;
- (h) provide Lumos and/or Zoomo with such access to enable Lumos and/or Zoomo to comply with our obligations under this Agreement, without delay or disruption and free from harm or injury; and
- (i) promptly provide Lumos and/or Zoomo with all information in connection with the Services and this Agreement that may be reasonably requested.
- (j) immediately return the bag if it is not used over a three month period. If the Bag is not immediately returned, you shall be subject to the fee stipulated for in the table in Section 6.

5. WARRANTIES AND REPRESENTATIONS *backpack*

5.1 Each Party represents, warrants and agrees that:

- (a) it has full legal capacity, right, authority and power to enter into this Agreement, to perform its obligations under this Agreement, and to carry on its business;

- (b) this Agreement constitutes a legal, valid and binding agreement, enforceable in accordance with its terms;
- (c) if applicable, it holds a valid ABN which has been advised to the other Party; and
- (d) if applicable, it is registered for GST purposes.

5.2 You represent, warrant and agree that:

- (a) you have not relied upon representations or warranties made by Lumos or Zoomo, unless expressly stipulated in this Agreement;
- (b) this Agreement does not conflict with any Law or any other instrument binding on you;
- (c) without limiting any of our other rights, you agree to promptly re-perform and re-supply any part of the Services that is not performed or provided to Lumos or Zoomo in accordance with this Agreement, or, to refund Zoomo any amounts paid or discount provided by Zoomo for it;
- (d) you will keep the Equipment under your custody and control at all times, and you will not sublease, rent, sell, or otherwise transfer the Equipment to any other person;
- (e) you are an independent contractor, are not an employee of Lumos or Zoomo, and accordingly, are not entitled to any Employee Benefits;
- (f) you agree to effect and maintain all insurances reasonably required for you to supply the Services; and
- (g) nothing in this Agreement gives rise, or is intended to give rise, to you being an employee, partner, joint venture party or agent of Lumos or Zoomo.

6. Equipment

6.1 To provide the Services, you will need to collect the Equipment from Zoomo and sign an Asset Handover Form.

(1) Collection

6.2 Once Lumos or Zoomo have accepted your LUMOS Smart Bag Request, Zoomo will work with you to find a suitable time and location (in Sydney) for you to collect the Equipment. Once agreed, Zoomo will use reasonable endeavours to make available the Equipment at the collection location by the collection time, and you agree to:

- (a) use reasonable endeavours to collect the Equipment from the collection location and by the collection time as agreed between the Parties; and
- (b) comply with any policies and procedures which apply at the collection location from which you collect the Equipment.

6.3 As between the Parties, you agree to pay for the reasonable costs of collecting the Equipment.

(2) Security Deposit

6.4 Unless otherwise agreed between the Parties, Zoomo may charge you the Security Deposit. You must pay the Security Deposit upfront in full upon request.

6.5 You agree that the Security Deposit (if applicable) will be charged to you where the LUMOS Smart Bag has been damaged or otherwise requires repair.

(3) Condition of the Equipment

6.6 You are responsible for determining whether the Equipment will be suitable and fit for your particular purposes.

6.7 By signing the Asset Handover Form, you agree that the Equipment is in good condition, clean, free from major damage or defect, fit for purpose and in accordance with this Agreement (**Original Condition**), unless expressly set out in the Original Condition Report, in which case the condition set out in the Original Condition Report will be deemed to be the Original Condition.

(4) Loss or damage to the Equipment

6.8 During the Term, you agree to:

- (a) protect and keep the Equipment in the Original Condition, subject to any fair wear or tear;
- (b) prevent the Equipment from being subject to any loss, theft, damage, vandalism or destruction and notify Zoomo or Lumos immediately if the Equipment is stolen, lost, destroyed or damaged (for example, damaged from being dropped or scratched, the screen of the LUMOS Smart Bag is cracked or fabric is ripped or stained).

6.9 You agree:

- (a) to notify Zoomo or Lumos immediately if there are any technical, functional, cosmetic or mechanical issues with the Equipment;
- (b) to only allow Zoomo or Lumos to service or repair the Equipment; and
- (c) that you are responsible for the costs of any repairs or replacement of the Equipment that are necessary as a result of loss, theft, damage, vandalism, misuse or neglect to the Equipment during the Term and where Zoomo undertake the repairs or replacement on your behalf, you agree to pay Zoomo the costs of the repairs or replacement, as a debt due and immediately payable. See below table for costs you are liable for:

Event	One-off	Recurring
Rider liable to pay		
Bag holding fee		\$2.50 (weekly)
Screen has been smashed/cracked	\$180	
Screen is missing LED light bulbs	\$180	
Cable pulls and tampering	\$180	
Water damage/short circuit (if rider forgets to zip up screen pocket)	\$180	
Bag tears from bag handling	\$30	
Bag returned without power bank	\$40	
Cleaning fee: Bag is returned in a state that requires Zoomo to clean it (including, but not limited to, food/drink spills, stains or marks)	\$20	
If entire bag is lost or stolen and needs to be replaced the entire bond is required (no power bank = +\$40)	\$200 (\$240)	
Failure to return Bag after a three week period of no use (no power bank = +\$40)	\$200 (\$240)	
Rider not liable to pay		
Bag is not connected to the server (does not appear online when on)		
Screen is flickering or the colour is not displaying correctly		

6.10 Where you notify Zoomo of any issues with, or damage to, the Equipment, you may be asked to provide images or videos of the issue, and Zoomo will make an assessment as to whether the issue or damage was caused by you, or by fair wear and tear. If it was caused by fair wear and tear, Zoomo will contact Lumos to service and repair the Equipment or replace the Equipment, within a reasonable amount of time, at Lumos's cost.

(5) Risk and title

6.11 Risk in the Equipment will pass to you once the Equipment is in your custody or control. You will be solely responsible for the Equipment until it is returned to us and/or Zoomo and is in the relevant Party's full custody and control.

6.12 Title in the Equipment will remain with Lumos and/or Zoomo (as applicable), and you take the Equipment as bare bailee only.

(7) Access

6.13 You agree to provide Lumos (and their Personnel) and Zoomo (and their Personnel) with reasonable access to any premises where the Equipment is located, free from harm or risk to health or safety:

- (a) at the times and on the dates requested by Lumos and/or Zoomo to enable either Party to assess the condition of the Equipment or exercise any rights it may have under this Agreement; and/or
- (b) to enable the relevant Party to comply with its obligations under this Agreement or at law.

(8) Return of the Equipment

6.14 On termination or expiry of this Agreement, you agree to promptly return the Equipment to Zoomo and/or Lumos in the Original Condition, at the return location and time reasonably requested by the relevant Party.

(9) Recording location data and working hours

6.15 The LUMOS Smart Bag records and transmits location data and the length of time it is turned on (LUMOS Smart Bag Data).

6.16 You acknowledge and agree:

- (a) the LUMOS Smart Bag Data will be used to determine the total number of hours you have provided the Services; and
- (b) unless the LUMOS Smart Bag is recording and transmitting the LUMOS Smart Bag Data, you will not be considered to be providing the Services.

6.17 It is your responsibility to ensure that the LUMOS Smart Bag is recording and transmitting the LUMOS Smart Bag Data. Please contact Zoomo promptly if you are having issues with your LUMOS Smart Bag transmitting LUMOS Smart Bag Data.

7. INTELLECTUAL PROPERTY

7.1 You acknowledge and agree that Lumos owns all Intellectual Property Rights in any Intellectual Property or content (including copyright and trademarks) shown on the LUMOS Smart Bag (or any advertising or media on the LUMOS Smart Bag) and any algorithms or machine learning models used on the LUMOS Smart Bag (**Our Intellectual Property**), and as between the Parties, these Intellectual Property Rights will at all times vest, or remain vested, in Lumos.

7.2 As between the Parties, ownership of all Intellectual Property Rights in any Intellectual Property developed, adapted, modified or created in connection with this Agreement, or the supply of the Services will at all times vest, or remain vested, in Lumos.

7.3 We grant you a non-exclusive, revocable, worldwide, non-sublicensable and non-transferable right and licence, for the duration of this Agreement, to use Our Intellectual Property solely for the performance of your obligations under this Agreement.

7.4 In the use of any Intellectual Property Rights in connection with this Agreement, you agree that you must not commit any Intellectual Property Breach. Where you reasonably suspect that such a breach may have occurred, you must notify the relevant Party immediately.

7.5 You acknowledge and agree that Lumos or Zoomo may monitor, analyse and compile statistical and performance information based on and/or related to your use of the LUMOS Smart Bag (including the LUMOS Smart Bag Data) (**Analytics**). You acknowledge and agree that Lumos owns all rights in the Analytics, and that we may use the Analytics for our own internal business purposes. We may also provide such information and insights to clients, provided that the Analytics do not contain any identifying information.

7.6 This clause 7 will survive termination or expiry of this Agreement.

8. LIABILITY

8.1 Despite anything to the contrary, to the maximum extent permitted by law, you are liable for, and agree to indemnify and hold Lumos and/or Zoomo harmless in respect of, any Liability that we or Zoomo may suffer, incur or otherwise become liable for, arising from or in connection with:

- (a) any property loss or damage, death or personal injury, arising from your provision of the Services or use of the Equipment;
- (b) any loss (including theft) of, or damage to, when you are responsible for the risk in the Equipment;
- (c) any failure to return the Equipment to Lumos or Zoomo in its Original Condition;
- (d) any breach by you of clauses 7 or 10.5; or
- (e) you or any of your Personnel infringing the rights of any third party (including Intellectual Property Rights).

8.2 To the maximum extent permitted by law:

- (a) no Party will have any Liability under or in connection with this Agreement for any Consequential Loss; and
- (b) a Party's liability for any Liability under this Agreement will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party (or any of its Personnel).

8.3 This clause 8 will survive the termination or expiry of this Agreement

9. TERMINATION

9.1 Any Party may terminate this Agreement at any time by giving 7 days' notice in writing to the other Parties.

9.2 This Agreement will terminate immediately upon written notice by a Party (**Non-Defaulting Party**) if:

- (a) the Defaulting Party breaches a material term of this Agreement and that breach has not been remedied within 5 Business Days of the Defaulting Party being notified of the breach by the Non-Defaulting Party; or
- (b) the Defaulting Party is unable to pay its debts as they fall due.

9.3 Upon expiry or termination of this Agreement, you agree to:

- (a) immediately stop providing the Services;
- (b) promptly return the Equipment to Zoomo;
- (c) immediately pay any amounts due and payable to Lumos and/or Zoomo by you under this Agreement; and
- (d) where this Agreement is terminated by Lumos and/or Zoomo under clause 9.2, you also agree to pay Lumos or Zoomo additional costs, reasonably incurred, and which arise directly from such termination.

9.4 Upon expiry or termination of this Agreement, you agree to return to Lumos or Zoomo or destroy (at our discretion) all property belonging to Lumos or Zoomo (including any Confidential Information and any of the relevant Party's Intellectual Property) in your possession.

9.5 Termination of this Agreement will not affect any rights or liabilities that a Party has accrued under it.

9.6 This clause 9 will survive the termination or expiry of this Agreement

10. GENERAL

10.1 Amendment: This Agreement may only be amended in writing and as agreed by the Parties.

10.2 Assignment: Subject to clause 10.3, a Party must not assign or deal with the whole or any part of its rights or obligations under this Agreement without the prior written consent of the other Party (such consent is not to be unreasonably withheld).

10.3 Assignment of debt: You agree that Lumos and/or Zoomo may assign or transfer any debt owed by you to Lumos and/or Zoomo, arising under or in connection with this Agreement, to a debt collector, debt collection agency, or other third party.

10.4 Counterparts: This Agreement may be executed in any number of counterparts that together will form one instrument.

10.5 Confidentiality: Other than where the disclosure is permitted by law, you agree to (and agree to ensure that your Personnel do) keep confidential, and not permit any unauthorised use of, all Confidential Information. This clause 10.5 will survive the termination or expiry of this Agreement.

10.6 Disputes: A Party may not commence court proceedings relating to any dispute, arising from this Agreement (Dispute) without first meeting with a senior representative of the other relevant Party to seek (in good faith) to resolve the Dispute. Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction, or will operate to prevent a Party from taking steps to recover any debt.

10.7 Entire agreement: This Agreement contains the entire understanding between the Parties, and supersedes all previous discussions, communications, negotiations, understandings, representations, warranties, commitments and agreements, in respect of its subject matter.

10.8 Governing law: This Agreement is governed by the laws of New South Wales. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.

10.9 GST: If and when applicable, GST payable on the Price will be set out in the manner agreed upon by Zoomo.

10.10 Joint and several Liability: Where you constitute two or more individuals or entities, you will each be jointly and severally liable under this Agreement.

10.11 Notices: Any notice given under this Agreement must be in writing addressed to the relevant address last notified by the recipient to the Parties. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.

10.12 Online execution: This Agreement may be executed by means of such third party online document execution service as we nominate subject to such execution being in accordance with the applicable terms and conditions of that document execution service.

10.13 Relationship of Parties: This Agreement is not intended to create a partnership, joint venture, employment or agency relationship between the Parties.

10.14 Severance: If a provision of this Agreement is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that

part of that provision) will be severed from this Agreement without affecting the validity or enforceability of the remainder of that provision or the other provisions in this Agreement.

10.15 Subcontracting: You agree to not subcontract the provision of any part of the Services without the prior written consent of Lumos and/or Zoomo, which may be withheld at our absolute discretion. You agree that any approval to subcontract given does not discharge you from any Liability under this Agreement and you are liable for the acts and omissions of the subcontractor.

11. INTERPRETATION AND DEFINITIONS

11.1 Any reference to \$ or dollars refers to the currency of Australia from time to time.

11.2 In this Agreement, unless the context otherwise requires, capitalised terms have the meaning given to them in the registration form, within these terms and conditions and:

Agreement means this LUMOS Smart Bag End User Agreement and all attachments included, or referred to, in this end user agreement.

Asset Handover Form means the form you sign setting out that you have taken control of a LUMOS Smart Bag.

Business Days means a day on which banks are open for general banking business in New South Wales, excluding Saturdays, Sundays and public holidays.

Confidential Information includes information which:

- (a) is disclosed to you in connection with this Agreement at any time;
- (b) is prepared or produced under or in connection with this Agreement at any time;
- (c) relates to our business, assets or affairs or the business, assets or affairs of Zoomo; or
- (d) relates to the subject matter of, the terms of and/or any transactions contemplated by this Agreement,

whether or not such information or documentation is reduced to a tangible form or marked in writing as "confidential", and howsoever the you receive that information.

Consequential Loss means any indirect, special or consequential loss or damage, being limited to those losses that cannot be considered to arise naturally (that is, according to the usual course of things) from the relevant breach, act or omission, whether or not such loss or damage may reasonably be supposed to have been in the contemplation of the Parties at the time they entered into this Agreement as the probable results of the relevant breach, act or omission.

Equipment means the LUMOS Smart Bag and the e-bike together, provided to you to complete the Services.

Employee Benefits means all benefits owing to employees under the relevant employment legislation including minimum wage, superannuation, workers compensation, leave entitlements or any other employee benefit.

GST has the meaning which it is given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Intellectual Property means any copyright, registered or unregistered designs, patents or trade marks, domain names, know-how, inventions, processes, trade secrets or Confidential Information, circuit layouts, software, computer programs, databases or source codes (including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing).

Intellectual Property Breach means any breach by you of any of the Intellectual Property Rights of Lumos and/or Zoomo (or any breaches of third-party rights, including any Intellectual Property Rights of third parties), including using or exploiting the Intellectual Property belonging to Lumos and/or Zoomo for purposes other than as expressly stated in this Agreement (including, without limitation, using our Intellectual Property for commercial purposes or on-selling our Intellectual Property to third parties).

Intellectual Property Rights means, for the duration of the rights in any part of the world, any industrial or intellectual property rights, whether registrable or not, including in respect of Intellectual Property

Law or Laws means all applicable laws, orders, judgments, rules, regulations, codes, guidelines, policies, protocols, consents, approvals, permits and licences, and any requirements or directions given by any government or similar authority with the power to bind or impose obligations on the relevant Party in connection with this Agreement or the provision of the Services.

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party, a Party or otherwise.

LUMOS Smart Bag means the Leggo Studio / LUMOS delivery bag, including the bag itself, the LED screen, 4G SIM card and GPS tracker.

LUMOS Smart Bag Request means the request to use the LUMOS Smart Bag as part of their Zoomo services.

Personnel means, in respect of a Party, any of its employees, consultants, suppliers, subcontractors or agents, but in respect of us does not include you.

Price means the price Zoomo will pay you.

Rider means an individual who is registered as an active food delivery partner in Australia for any major application, and uses the Equipment as their LUMOS Smart Bag and e-bike for food delivery and to provide Services.

E-bike means the Zoomo e-bike

Security Deposit means a refundable deposit (except as expressed in the Agreement) of \$150 (incl GST) or as otherwise agreed between the Parties, to be held by us as a security by us throughout the Term for the performance of any of your obligations, and satisfaction of any of your liabilities, under this Agreement.

Services means wearing our LUMOS Smart Bag while riding your e-bike in public places to display and make visible our LED advertisements or media that we make available on the LUMOS Smart Bag, and includes any other activities, work or services not particularised in this Agreement that are otherwise reasonable, necessary or incidental to the proper performance of the Services.