



Terms of Service

Last updated:- 26th Sept 2018.

You indicate acceptance of these terms of service by placing an order with Lighting Diagram. These terms will not be varied for individual customers.

DEFINITIONS

In this Agreement the following words and expressions shall have the following meanings:-

- "downtime" means any service interruption in the availability of the service.
- "intellectual property rights" means patents, trade marks, design rights, applications for any of the foregoing, copyright, topography rights, database rights, rights in know-how, trade or business names and other similar rights or obligations, whether registrable or not in any country.
- "Lighting Diagram" means Eventured Ltd trading as Lighting Diagram a limited liability company registered in England, company N° 11203935 - Registered Office Address: International House, 24 Holborn Viaduct, CITY OF LONDON, London EC1A 2BN
- "IP address" stands for internet protocol address which is the numeric address for the server.
- "ISP" stands for internet service provider.
- "server" means the computer server equipment operated by Lighting Diagram in connection with the provision of the Service.
- "the Service" means image creation and hosting, and any other services or facilities provided by Lighting Diagram.
- "Customer" means any individual or business that subscribes to use "the Service" paid or unpaid.

- "virus" means a computer programme that copies itself or is copied to other storage media, including without limitation magnetic tape cassettes, memory chips, electronic cartridges, optical discs and magnetic discs, and destroys, alters or corrupts data, causes damage to the user's files or creates a nuisance or annoyance to the user and includes without limitation computer programs commonly referred to as "worms" or "trojan horses".
- "visitor" means a third party who has accessed the Website.

Product specifications and details may be found at lightingdiagram.com

Words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

The headings of the paragraphs of this Agreement are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

INTRODUCTION

Lighting Diagram provides a web based software tool to allow customers to create photographic lighting diagrams and upload photographs to display alongside their lighting diagram.

PAYMENT

- Payment for an Lighting Diagram subscription is handled exclusively by our payment provider Gumroad Inc (<https://gumroad.com>), you must agree and abide to their terms of sale when subscribing to the Service.

SOFTWARE LICENCE AND RIGHTS

- Lighting Diagram grants to the Customer and its employees, agents and third party consultants and contractors, a royalty-free, world-wide, non-transferable, non-exclusive licence to use Lighting Diagram Software in object code form only, in accordance with the terms of this Agreement. For the avoidance of doubt, this Agreement does not transfer or grant to the Customer any right, title, interest or intellectual property rights in Lighting Diagram Software.
- In relation to Lighting Diagram's obligations under this Agreement in connection with the provision of the Services, the Customer grants to Lighting Diagram a royalty-free, world-wide, non-exclusive licence to use the created Lighting Diagrams and

associated uploaded image for promotional purposes. For the avoidance of doubt, this Agreement does not transfer or grant to Lighting Diagram any right, title, interest or intellectual property rights in the Customers Content.

- The Customer undertakes that he will not himself or through any third party, sell, lease, license or sublicense Lighting Diagram Software.
- Lighting Diagram may make such copies of the Customer Content as may be necessary to perform its obligations under this Agreement, including back up copies of the Content. Upon termination or expiration of this Agreement, Lighting Diagram shall destroy all such copies of the Content and other materials provided by the Customer as and when requested by the Customer.
- The Customer may use in return for a paid subscription create and export an unlimited amount of High Resolution Lighting Diagram's and use in commercial media such as - but not limited to, books, magazines, dvd's, websites, apps.

SERVICE LEVELS AND DATA BACKUP

- Lighting Diagram shall use its reasonable endeavours to make the server and the Service available to the Customer 100% of the time but because the Service is provided by means of computer and telecommunications systems, Lighting Diagram makes no warranties or representations that the Service will be uninterrupted or error-free and Lighting Diagram shall not, in any event, be liable for interruptions of the Service or downtime of the server.
- Lighting Diagram carries out data backups in the event of systems failure. Even though every effort is made to ensure data is backed up correctly Lighting Diagram accepts no responsibility for data loss or corruption.

ACCEPTABLE USE POLICY

The website and use of the Service may be used for lawful purposes only, in particular the Customer agrees not to:-

- upload any images that are defamatory, obscene, indecent or unlawful, or any image which infringes any intellectual property rights, via the Services or on the Website.
- make available or upload files to the website or to the Services

that the Customer knows contain a virus, worm, trojan or corrupt data.

- The Customer has full responsibility for their account. The Customer should not share their account details with any other party and it should be kept secret to them.
- If the Customer fails to comply with the Acceptable Use Policy outlined here Lighting Diagram shall be entitled to withdraw the Service and terminate the Customer's account without notice.

ALTERATIONS AND UPDATES

All alterations and updates to the Customers data shall be made by the Customer using the online account management facility. The Customer will be issued with a password in order to access their account. The Customer must take all reasonable steps to maintain the confidentiality of this password. If the Customer reasonably believes that this information has become known to any unauthorised person, the Customer agrees to immediately inform Lighting Diagram and the password must be changed.

WARRANTIES

- The Customer warrants and represents to Lighting Diagram that Lighting Diagram's use of the Content in accordance with this Agreement will not infringe the intellectual property rights of any third party and that the Customer has the authority to license the Content to Lighting Diagram as stated herein.
- All conditions, terms, representations and warranties that are not expressly stated in this Agreement, whether oral or in writing or whether imposed by statute or operation of law or otherwise, including, without limitation, the implied warranty of satisfactory quality and fitness for a particular purpose are hereby excluded. In particular and without prejudice to that generality, Lighting Diagram shall not be liable to the Customer as a result of any viruses introduced or passed on to the Customer.

INDEMNITY

The Customer agrees to indemnify and hold Lighting Diagram and its employees and agents harmless from and against all liabilities, legal fees, damages, losses, costs and other expenses in relation to any claims or actions brought against Lighting Diagram arising out of any breach by the Customer of the terms of this Agreement or other

liabilities arising out of or relating to the Website.

LIMITATION OF LIABILITY

- The entire liability of Lighting Diagram to the Customer in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the charges paid for the Services under this Agreement in respect of which the breach has arisen.
- In no event shall Lighting Diagram be liable to the Customer for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or Lighting Diagram had been made aware of the possibility of the Customer incurring such a loss.

TERM AND TERMINATION

This Agreement becomes effective upon a customer using the Service, and shall continue until terminated by either party in writing of its intention to terminate the Agreement.

Lighting Diagram shall have the right to terminate this Agreement with immediate effect by notice in writing to the Customer if the Customer fails to make any payment when it becomes due.

Either party may terminate this Agreement forthwith by notice in writing to the other if:

- the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within a reasonable time of being given written notice from the other party to do so; or
- the other party commits a material breach of this Agreement which cannot be remedied under any circumstances

On termination all data held in the customers account will be deleted. A customers account will be terminated without notice if it is found to be unused for a long period of time determined solely at our discretion.

ASSIGNMENT

- Lighting Diagram may assign or otherwise transfer this Agreement at any time.
- The Customer may not assign or otherwise transfer this Agreement or any part of it without Lighting Diagram's prior written consent which shall not be unreasonably withheld.

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FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, the act or omission of any Internet Service Provider, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.

SEVERANCE

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

NOTICES

Any notice to be given by either party to the other may be sent by email.

ENTIRE AGREEMENT

This Agreement contains the entire Agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. This Agreement may be updated without notice.

GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.

GDPR (General DATA Protection Regulation) PRIVACY NOTICE

To protect your privacy we will not distribute any of your details to third parties other than is described herein, or unless required to do so by law. Lighting Diagram is committed to ensuring that your privacy is protected, as such all data is only handled over the SSL (Secure Sockets Layer) protocol and is stored on UK based servers.

Sub-Contractors

The list below discloses the Sub-contractors Lighting Diagram uses in the provision of its service and what personal information if applicable is shared with each Sub-contractor.

Sub-contractor:- **Cloudways Limited**

Registered Business Address:- 52 Springvale, Pope Pius XII Street, Mosta MST 2653, Malta

Actual Location of Processing:- UK

Details of personal information shared with the Sub-contractor:-

No personal details of the Customer are directly shared with this Sub-contractor but in their role as Data Processor they are permitted to access information they store on our behalf in accordance with their terms of service and the Data Processing Agreement (DPA).

Privacy Policy Link:- <https://www.cloudways.com/en/terms.php#privacy>

Data Processing Agreement (DPA):- https://lightingdiagram.com/cloudways_dpa.pdf

Sub-contractor:- **Mailgun Technologies Inc**

Registered Business Address:- 535 Mission St. 14th Floor San Francisco, CA 94105

Actual Location of Processing:- Ireland

Details of personal information shared with the Sub-contractor:-

Lighting Diagram utilises the Mailgun product provided by Mailgun Technologies Inc. This is a transactional email service used **solely** by Lighting Diagram to communicate with the Customer about their account. The email address exposed to the Mailgun service is the email the Customer has saved in their Lighting Diagram account.

Privacy Policy Link:- <https://www.mailgun.com/privacy-policy>

Data Processing Agreement (DPA):- https://lightingdiagram.com/mailgun_dpa.pdf

Should we ask you to provide certain information by which you can be identified when using the Service, then you can be assured that it will only be used in accordance with this privacy notice. Lighting Diagram may change this notice by updating this page. You should check this page from time to time to ensure that you are happy with any changes.

Types of data we collect

- Google Analytics

When someone visits Lighting Diagram we use a third party service, Google Analytics, to collect standard internet log information and details of visitor behaviour patterns. We do this to find out things such as the number of visitors to the various parts of the site. This information is only processed in a way which does not identify anyone. We do not make, and do not allow Google to make, any attempt to find out the identities of those visiting our website.

- Personal Data

The following personal information is used by the Service to identify you the Customer:-

- Email address (required)
- Full Name (optional)

The required personal information is mandatory in order to fulfil our obligations and provide the Service. We will use your email address solely as the primary means of communicating with you about your account.

You are entitled to view, amend, or delete any of the personal or business information that we hold. If you wish to delete your account, thereby removing all data we and any third party as described herein may hold about you please contact support requesting that your account and data be fully deleted.

- Cookies

What is a cookie?

Cookies are text files containing small amounts of information which are downloaded to your personal computer, mobile or other device when you visit a website. Cookies are then sent back to the originating website on each subsequent visit, Cookies are useful because they allow a website to recognise a user's device.

What cookies do we set and how long do they last?

Persistent cookies - these cookies remain on a user's device for the period of time specified in the cookie. They are activated each time that the user visits the Service that created that particular cookie. The only persistent cookie that a Customer needs to be aware of is the login session cookie. This cookie allows the Service to link the actions of a Customer during a browser session. A browser session starts when a user opens the browser window and finishes when they close the browser window. Session cookies are created temporarily. Once you close the browser, all session cookies are deleted. There is an option on the account login page to remain logged into the account, if selected, a session cookie is written to the Customer device which expires after 30 days.

Security

We are committed to ensuring that your information is secure. In order to prevent unauthorised access or disclosure we have put in place suitable physical, electronic and managerial procedures to safeguard and secure the information we collect and deliver online.