

## **Lutely Terms of Use**

**Last Updated:** November 14, 2025

This Terms of Use (this “**Agreement**”) governs all usage of the Lutely website, <https://lutely.com/> and Lutely Software-as-a-Service application (“**Platform**”) offered by License Lounge, Inc., a Delaware corporation, d/b/a Lutely (“**Lutely**”, “**we**”, “**us**”, or “**our**”). By using the Platform or any part of it in any way, you agree to this Agreement effective on the date that you first use, access or make payment for or relating to the Platform (the “**Effective Date**”). Certain other agreements described below incorporate this Agreement.

IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY ARE AT LEAST EIGHTEEN YEARS OF AGE OR ANY HIGHER AGE IN THEIR JURISDICTION THAT IS REQUIRED TO FORM A BINDING CONTRACT AND THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM “**YOU**” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY OR DOES NOT AGREE WITH THIS AGREEMENT, SUCH INDIVIDUAL MAY NOT USE THE PLATFORM.

**This Agreement may be modified from time to time by Lutely in its sole discretion. Your continued use of the Platform is contingent upon your acceptance of the modified terms of this Agreement.** If Lutely makes substantial changes, Lutely may notify you by sending an e-mail to the last e-mail address you provided to us (if any) and/or by prominently posting notice of the changes within the interface of the Platform itself. You are responsible for providing Lutely with your most current email address. In the event that the last e-mail address that you provided Lutely is not valid, or for any reason is not capable of delivering to you the notice described above, Lutely’s dispatch of the e-mail containing such notice will nonetheless constitute effective notice of the changes described in the notice. Any changes to this Agreement will be effective immediately for you if the revised Agreement is displayed to you before your first use of the Platform. Otherwise, changes to this Agreement will be effective 30 calendar days after the earliest of the

dates that Lutely either emails you notice of the revision or posts notice of the revision on the Platform. Your continued use of the Platform following notice of such changes shall indicate your acknowledgement of such changes and agreement to be bound by this Agreement as so amended.

## **1. OVERVIEW**

Lutely publishes the Platform to enable you and others to:

- Upload Content and use tools made available on the Platform to create Derivatives and Visuals;
- Explore, discover, publish, stream, listen to, buy, and sell downloads ("**Downloads**") of Content;
- Buy and sell licenses to Content provided by Lutely Creators ("**Licenses**"); and
- Enjoy other features as this Agreement provides.

In this Agreement, "**Content**" means recordings (audio, video, media, and any other recordings), compositions, Derivatives (as defined below), Visuals (as defined below), and other content (a) to which Creators offer or sell Licenses through the Platform or to which Licensees purchase Licenses through the Platform, through Content License Agreements or otherwise, (b) which Creators sell or which Purchasers buy access to through the Platform, (c) that Creators upload to the Platform for other purposes, or (d) that are created using the tools on the Platform. "Content" does not include any Lutely Data.

You may use the Platform in any of the following ways that you wish:

- As a "**Creator**," meaning that you upload Content to the Platform, publish Content through the Platform, or create Content using tools on the Platform, and are subject to this Agreement's provisions relating to Creators.
- As a "**Licensee**," meaning that you purchase one or more Licenses from Creators and are subject to this Agreement's provisions relating to Licensees.

- As a **“Purchaser,”** meaning that you purchase one or more pieces of Content from Creators to stream or download.
- As a **“Member,”** meaning that you have purchased subscription-based access to the Platform from Lutely (your **“Subscription”**) and are subject to this Agreement’s provisions relating to Members.
- To browse, explore, read, watch, stream, and listen to Content on the Platform and use other Platform features that do not require you to make payment.

Those using the Platform in any or all of the ways described above, regardless of whether they have created an account, are referred to collectively in this Agreement as **“Users.”**

The Platform includes some features that you may use at no cost (**“Free Features”**). Except as this Agreement otherwise expressly states, your use of Free Features is subject to this Agreement to the same extent as your use of any other features of the Platform.

Your use of the Platform in all ways is subject to this Agreement and, depending on how you choose to use the Platform, to separate additional agreements between you and either Lutely or other Users or both.

## **2. HOW LICENSES AND CONTENT LICENSE AGREEMENTS WORK**

When a Creator offers a particular Content item to potential Licensees through the Platform, the Creator has the option to select certain variable features of that License in addition to the standard variables that all Licenses offer. For example, depending on the variables selected by the Creator, the License offered through the Platform may be a recording license or a sync license, or it may offer exclusive or non-exclusive options.

By completing a License purchase transaction through the Platform, a Licensee enters into a written agreement with the Creator of the applicable Content (a **“Content License Agreement”**) that reflects the variables selected by the Licensee. Because of the variability that the Platform allows Creators and Licensees, not all

Content License Agreements are identical. **Before completing a License purchase, Licensees should use the “View sample license” option displayed in the Platform to review a sample of the Content License Agreement that will govern their License once they complete the purchase.**

As a convenience to Users while they browse Content, the Platform displays summaries of the features that would apply to Licenses to Content items should those Users license them. Those summaries are not parts of any binding agreement, however. The individual Content License Agreement for each Content item is the final and entire agreement between the Creator and the Licensee regarding the License to that Content item.

### **3. HOW CONTENT PURCHASES AND DOWNLOADS WORK**

The Creator has the option to select which of the Creator’s Content, if any, they wish to make available for purchase as a Download. Lutely may retain a portion of the profit from such Download sales, as described in the Help section of the Platform at the time of the purchase.

When a Purchaser purchases a Download, the audio file will be made available for download (and, subject to availability, streaming through the Platform) through the Purchaser’s Platform account following payment of the Download fee by the Purchaser. By purchasing a Download, you as a Purchaser agree that you enter into a legally binding contract to purchase the Download, regardless of when your Download Fee is paid or received.

The Purchaser acknowledges and agrees that the purchase of a Download constitutes only the purchase of the digital file (audio, video, media, or other recordings) for download solely for personal, non-commercial use. Use, reproduction, modification, distribution, or storage of any Download for any use other than personal, non-commercial use is prohibited. Users seeking to use Content for other than personal, non-commercial use must purchase a separate License from the Creator, if available

### **4. ADDITIONAL DEFINITIONS**

The following terms have the meanings given below in addition to other terms defined herein:

**“Derivatives”** means individual audio files comprising or derived from audio files. Examples include, but are not limited to: audio files solely including vocals, guitars, drums, or other instruments, as distinct from audio files that include entire compositions; “clean” versions of audio files with censored lyrics; videos created using audio files in combination with Platform algorithms; and text such as lyrics derived from audio files.

**“Download Fee”** means a fee paid or payable by a Purchaser to a Creator in connection with the purchase of a Download through the Platform.

**“Entity”** means a limited liability company, corporation, partnership or any other business organization, non-profit organization or other legal entity that is not a natural person.

**“Intellectual Property”** means copyrights, patents, trademarks, trade secrets, and trade dress.

**“License Fee”** means a fee paid or payable by a Licensee to a Creator in connection with the purchase of a License through the Platform.

**“Lutely AI”** means Lutely’s proprietary artificial intelligence applications and technologies.

**“Lutely Marks”** means any and all trademarks, service marks, logos or other branding owned or controlled by Lutely relating to Lutely, to the Platform or to any other products or services offered by Lutely. “Lutely Marks” does not include any Intellectual Property of any third party.

**“Lutely Data”** means written, audio, video, multimedia, artistic and all other content in and made available through the Platform that is not Content.

**“Systems”** means any and all hardware, software or other systems that you own, lease or control.

**“Third-Party Materials”** means software, information, products and materials made available by third parties (other than Users) and incorporated into the Platform.

**“Updates”** means updates, upgrades, bug fixes, patches, error corrections and/or releases of new features by Lutely, including any related documentation, relating to the Platform.

**“Visuals”** means images or videos created using the Platform, including but not limited to visual material created using Platform tools applied to Content.

**“Your Published Content”** means Content that you as a Creator have offered or published, or to which you have sold a License or Download, through the Platform.

**“Your Data”** means Your Published Content together with all other data, materials, information, files and other content, whether in written, audio, video, multimedia or other format, that you upload or provide to Lutely. Examples of Your Data that is not Your Published Content include information that you provide to Lutely in connection with registration or with your usage of the Platform but which is not seen by other Users.

## **5. LUTELY’S RESPONSIBILITIES**

**5.1. Availability.** Lutely will use commercially reasonable efforts to make the online elements of the Platform available 24 hours a day, 7 days a week, 365 days a year, except for: (a) planned downtime (of which Lutely will give at least 24 hours’ advance electronic notice), (b) downtime resulting from downtime of Lutely’s hosting provider or of any other Third-Party Materials’ providers; and (c) force majeure events defined in this Agreement.

**5.2. Non-Disclosure.** Lutely will use commercially reasonable efforts to protect Your Data from disclosure to third parties. This commitment shall not apply, however, to data, information or materials (a) that the Lutely [Privacy Policy](#), this Agreement or other written agreements between you and Lutely which reserve Lutely’s right to disclose in other ways; (b) that you choose to publish as Content or in any other way; (c) that is or becomes in the public domain through no fault of Lutely; (d) that is or becomes known to Lutely via other means that do not violate

your rights; or (e) that Lutely is required by law to disclose, or discloses in order to pursue or enforce its legal rights against you or against other Users.

**5.3. Deletion of Your Data and Your Published Content.** Except as we otherwise agree with you or disclose to you, Lutely may permanently delete Your Data or any portion of it at (a) any time after your Subscription terminates, with respect to those portions of Your Data that require Subscription access to create or store, and (b) at any time, with respect to those portions of Your Data that are created using Free Features and which are not incorporated into a Subscription. You accept the risk of such deletion and agree to maintain copies, stored outside of the Platform, of any of Your Data that you do not wish to lose permanently.

**5.4. Customer Support.** If you submit questions, comments or requests for support to Lutely, Lutely will use commercially reasonable efforts to reply but makes no warranty as to the promptness of or your satisfaction with such replies.

**5.5. Updates.** Lutely will make Updates to the Platform from time to time in Lutely's sole discretion.

## **6. ACCESS AND USE**

**6.1. Your Access.** Subject to and conditioned on your compliance with this Agreement, Lutely grants you a non-exclusive, non-transferable right to access and use the Platform for your Own Use during the Term. If you are an individual, then "Own Use" in this Agreement means use only by you (not extending to any family members, household members or others). If you are an Entity, then Own Use means use throughout that Entity. In all cases, Own Use also extends to others acting with your permission in connection with the Platform, such as managers, agents, or others who assist Creators with the Platform.

**6.2. Use Restrictions.** You agree that you will not at any time during or permanently after the Term, directly or indirectly, and except as you and Lutely may otherwise agree in writing:

6.2.1. sell, resell, license, sublicense, distribute, rent or lease any part of the Platform or any Lutely Data, or disclose any of them to any third parties

without compensation, except as authorized in a Content License Agreement to which you are party.

6.2.2. use the Platform to store, use or transmit material in violation of third-party privacy rights, contractual rights or Intellectual Property rights.

6.2.3. use the Platform to store or transmit any code, files, scripts, agents or programs intended to do harm (including viruses, worms, time bombs or Trojan horses), or disable, impair or conduct penetration tests or scans of any hardware, software or other systems that Lutely owns, leases or controls.

6.2.4. gain unauthorized access to the Platform, interfere with it or disrupt its integrity or performance.

6.2.5. access or use any Intellectual Property owned or made available to you by Lutely, or modify, copy, or create derivative works based on the Platform or any part of it.

6.2.6. frame or mirror any part of the Platform, other than framing on your own intranets (if you are an Entity) or otherwise for your Own Use.

6.2.7. remove or modify any attributions, proprietary marks or notices appearing in the Platform, including Lutely Marks or any other attributions, property marks or notices relating to Third-Party Materials.

6.2.8. use the Platform in a way not expressly authorized by this Agreement.

6.2.9. disassemble, reverse engineer, or decompile any part of the Platform, or access it to (1) build a product or service competitive to Lutely, (2) build a product or service copying or using ideas, features, functions or graphics of the Platform, or (3) determine whether the Platform or any part of it is within the scope of any patent.

Any use of the Platform in breach of this Agreement by you that in Lutely's judgment threatens the security, availability or functioning of any Lutely

Products may result in Lutely's immediate termination of this Agreement as between you and Lutely.

**6.3. Service Suspension.** Lutely may temporarily suspend your access to any part or all of the Platform if: (i) Lutely reasonably determines that (A) there is a threat to the Platform, (B) your use of the Platform disrupts or poses a security risk to the Platform, to Lutely or to any other User, (C) you have used the Platform for fraudulent or illegal activities, (D) you become the subject of any bankruptcy, liquidation, dissolution, or similar proceeding, or (E) Lutely's provision of the Platform to you becomes prohibited by applicable law; (ii) any vendor of Lutely has suspended or terminated Lutely's access to or use of any Third-Party Materials; (iii) Lutely receives a court order or law enforcement request directing such suspension; or (iv) you fail to make timely payment of any Fees. In the case of any suspension pursuant to subclauses (i) through (iii) above, Lutely will use commercially reasonable efforts to provide written notice before the suspension, to provide updates regarding resumption of access to the Platform following the suspension, and to resume providing access to the Platform promptly after the event giving rise to the suspension is cured, but you acknowledge that such notice is not always possible. The notice described in this paragraph may be made by methods including email messages to Users' email addresses and/or posting alert messages on the Platform.

**6.4. Modification and Discontinuance.** Lutely may modify the Platform and/or Lutely Data at any time during the Term, with or without prior notice to you, provided that no such modification will render the Platform materially less functional to you during the Term. Lutely will not be liable to you or to any third party for any modification permitted by this section. It may be necessary for Lutely to perform repairs or maintenance or remotely patch or upgrade the Platform, which may temporarily degrade the quality of the Platform or the Lutely Data or result in a partial or complete outage of the Platform or the Lutely Data.

**6.5. Feedback.** Lutely may allow you to provide Lutely with comments or suggestions about the Platform ("**Feedback**"). You hereby grant Lutely a perpetual, irrevocable, non-exclusive, worldwide, royalty-free license to copy and store any

Feedback and use it to develop new products, improve or modify the Platform or as Lutely otherwise wishes.

## **6.6. Lutely's Licenses, Rights and Ownership.**

**6.6.1. Users.** You hereby grant Lutely a limited, worldwide, non-exclusive, non-transferable, royalty-free, fully paid-up right, license, and authorization:

- a. to store and make copies of Your Data during the Term;
- b. to publish Your Published Content (and Your Data, to the extent you use the Platform's tools and settings to make Your Data available to other Platform Users and to the public) to other Platform Users and to the public through the Platform as well as through Lutely's accounts on YouTube and other third-party social media platforms;
- c. to share Your Published Content with third parties, to the extent you separately authorize Lutely to do so (including by entering into Content License Agreements or selling to Purchasers) and to the extent described in Lutely's Privacy Policy; and
- d. to store, make copies of, publish, modify and create derivative works of Your Data to the extent necessary for Lutely to operate the Platform and to exercise any of Lutely's rights hereunder or to fulfill any of its obligations hereunder or pursuant to applicable law.

**6.6.2. Creators.** In addition to the rights, licenses, and authorizations granted in Section 6.6.1, when you use the Platform as a Creator, you hereby grant Lutely a limited, worldwide, non-exclusive, non-transferable, royalty-free, fully paid-up right, license, and authorization:

- a. to create Derivatives and Visuals based on Your Published Content, other files within Your Data that you upload to the Platform for storage, or any prompts you enter on the Platform;
- b. during and permanently after the Term, to store and make copies of those Derivatives or Visuals, to use those Derivatives or Visuals and

Your Data to train, test, and improve the Lutely artificial intelligence (“AI”) tools, and to create and store derivative works of Your Published Content and Your Data to the extent necessary for Lutely to exercise its rights and licenses in this subsection (visit the Help section of the Platform to learn more about how Lutely uses or does not use Your Published Content and Your Data for AI training);

- c. to transmit Content License Agreements to you and to the Licensee of each Content item that you offer through the Platform, once that Licensee has completed their purchase the applicable License, consistent with the variable License terms you have opted through the Platform to offer; and
- d. to store, make copies of and publish Your Published Content to the extent necessary, and for as long as necessary, for Lutely to make Your Published Content available to Licensees who have purchased Licenses to it.

**6.6.3. Licensees.** In addition to the rights, licenses, and authorizations granted in Section 6.6.1, when you use the Platform as a Licensee you hereby grant Lutely a limited, worldwide, non-exclusive, non-transferable, royalty-free, fully paid-up right, license, and authorization:

- a. to transmit Content License Agreements to you and to the Creator of each Content item to which you purchase a License through the Platform, once you have completed your License purchase, consistent with the variable License terms you have selected through the Platform.

Lutely’s rights, licenses and authorizations in Section 6.6.1(a) above last throughout the Term and for a post-Term period sufficient to exercise its rights hereunder, and are irrevocable during all such periods.

Lutely’s rights, licenses and authorizations in all other parts of this Section 5.6 last during the Term and perpetually after its termination, and are irrevocable at all times.

**6.7. Inquiries from Lutely.** You agree to respond promptly and truthfully to any inquiries, forms, or questions from Lutely regarding the creation and authorship of Content you upload to the Platform, including but not limited to questions regarding whether such Content was created by or with the assistance of artificial intelligence or other software tools. You acknowledge that your answers to such inquiries and questions may be disclosed by Lutely to other users of the Platform when describing Content made available on the Platform.

**6.8. Reservation.** All right, title, and interest in the Intellectual Property embodied in the Platform and the Lutely Marks will belong solely to Lutely or to the applicable third-party licensor. You will have no rights in the Platform except as agreed in writing between you and Lutely.

## **7. PROVISIONS APPLICABLE TO ALL USERS**

**7.1. Links from the Platform.** If the Platform contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links in advertisements, including banner advertisements and sponsored links. Lutely has no control over the contents of those sites or resources and accepts no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any third-party website linked to the Platform, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

**7.2. Publication of Your Data and Your Published Content; Privacy Policy.** By using the Platform, you acknowledge that we will use your personally identifiable information as described in our Privacy Policy, as it may be amended from time to time, and you acknowledge that your voluntary use of Platform features that allow you to publish Your Data and Your Published Content (to other Users, to the public, and in some cases to YouTube and other platforms) may result in the published content and information becoming permanently in the public domain.

**7.3. Acceptable Use.** You agree that your use of the Platform, including but not limited to Your Data, will adhere to Lutely's Acceptable Use Policy, as modified from time-to-time by Lutely, available at <https://lutely.com/acceptableuse>. The use of automated systems or software to extract data from the Platform or

www.lutely.com for commercial purposes is prohibited, unless expressly authorized in writing by Lutely.

**7.4. Representations & Warranties.** You represent and warrant that any materials uploaded by you to the Platform, including but not limited to Your Data, will not infringe or violate the copyright or any common-law or equitable right nor any personal, proprietary, or other right of any kind whatsoever (including, but not limited to patents, copyrights, trademarks, publicity rights or moral rights) of any third party.

**7.5.** YOU AGREE, IN ADDITION TO ANY OTHER INDEMNIFICATION OBLIGATIONS HEREUNDER, TO INDEMNIFY, DEFEND AND HOLD HARMLESS LUTELY AND LUTELY'S OFFICERS, EMPLOYEES, DIRECTORS, AGENTS, INDEPENDENT CONTRACTORS, LICENSORS AND SUPPLIERS FROM AND AGAINST ANY THIRD-PARTY CLAIMS, DEMANDS, ACTIONS AND PROCEEDINGS, AND ANY RESULTING LIABILITIES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE LEGAL FEES AND EXPENSES), BROUGHT AGAINST ANY LUTELY INDEMNITEE, RESULTING FROM A BREACH OF ANY WARRANTY IN THIS SECTION 7 BY YOU OR OTHERS UNDER YOUR CONTROL OR ACTING ON YOUR BEHALF.

## **8. ADDITIONAL PROVISIONS RELATING TO CREATORS**

As a Creator, by entering into this Agreement and by uploading Content to the Platform:

**8.1.** you agree that you are responsible for selecting through the Platform the variable License or purchase terms that you wish to apply to each Content item that you offer for licensing or purchase, for reviewing and understanding the Content License Agreements between you and each Licensee that result from your selections and from your use of the Platform, and for all other aspects of your relationship with each Licensee and Purchaser.

**8.2.** YOU ACKNOWLEDGE YOUR UNDERSTANDING THAT BY ENTERING INTO A CONTENT LICENSE AGREEMENT YOU ARE GRANTING IMPORTANT RIGHTS TO A

LICENSEE AND GIVING UP IMPORTANT RIGHTS OF YOUR OWN, AND THAT THAT CONTENT LICENSE AGREEMENT MAY HAVE SIGNIFICANT LEGAL CONSEQUENCES AND TAX CONSEQUENCES FOR YOU.

**8.3.** YOU ACKNOWLEDGE THAT YOU HAVE BEEN ADVISED BY LUTELY, BY YOUR ACCEPTANCE OF THIS AGREEMENT, TO CONSULT AN ATTORNEY OF YOUR CHOICE BEFORE ENTERING INTO A CONTENT LICENSE AGREEMENT.

**8.4.** YOU ACKNOWLEDGE THAT LUTELY AND ITS ATTORNEYS AND TAX ADVISORS DO NOT REPRESENT YOU IN CONNECTION WITH THE PLATFORM OR ANY CONTENT LICENSE AGREEMENTS AND YOU ARE NOT RELYING ON ANY REPRESENTATIONS FROM LUTELY OR ITS ATTORNEYS OR TAX ADVISORS WHEN MAKING DECISIONS.

**8.5.** you acknowledge that by agreeing to a Content License Agreement, you are entering into a legally binding contract to provide the License regardless of when the License Fee is paid or received.

**8.6.** you acknowledge that Lutely is not a party to any Content License Agreement, or to any other agreement (except this Agreement) between you and any Licensee.

**8.7.** you agree that any dispute you may have with any Licensee regarding a License, a Content License Agreement or the Content subject to that Content License Agreement is a private matter between you and the Licensee that Lutely cannot and will not assist in resolving.

**8.8.** you represent and warrant that you are the sole owner and/or have exclusive control and administration over and in Your Published Content, including all sound recording rights and its underlying composition and are free and clear of all encumbrances, restrictions and/or anything that would prevent you from granting (a) to Lutely, all rights in and/or licenses to Your Published Content as this Agreement provides and (b) to each Licensee with whom you enter into a Content License Agreement, all of those rights and Licenses set forth in that Content License Agreement.

**8.9.** you represent and warrant that (a) Your Data, its sound recording and underlying composition are wholly original, do not include any unauthorized samples/interpolations, and are not copied or derived from any other work; and (b)

the use of Your Data(including, but not limited to, those uses provided for herein) by Lutely in accordance with this Agreement, by each Purchaser, and by each Licensee in accordance with the applicable Content License Agreement between that Licensee and you, will not infringe or violate the copyright or any common-law or equitable right nor any personal, proprietary, or other right of any kind whatsoever (including, but not limited to patents, copyrights, trademarks, publicity rights or moral rights) of any third party.

**8.10.** you represent and warrant that that you are free to enter into and perform this Agreement and all Content License Agreements and are not and will not be under any disability, restriction or prohibition, contractual or otherwise, with respect to your rights to enter into this Agreement and all Content License Agreements, to grant all of the rights granted hereunder, and to fully perform each and every term and provision hereof.

**8.11.** you agree that you shall not enter into any Content License Agreement if your agreement to such Content License Agreement would violate any other agreement between you and any third party.

**8.12.** YOU AGREE, IN ADDITION TO ANY OTHER INDEMNIFICATION OBLIGATIONS HEREUNDER, TO INDEMNIFY, DEFEND AND HOLD HARMLESS LUTELY AND LUTELY'S OFFICERS, EMPLOYEES, DIRECTORS, AGENTS, INDEPENDENT CONTRACTORS, LICENSORS AND SUPPLIERS FROM AND AGAINST ANY THIRD-PARTY CLAIMS, DEMANDS, ACTIONS AND PROCEEDINGS, AND ANY RESULTING LIABILITIES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE LEGAL FEES AND EXPENSES), BROUGHT AGAINST ANY LUTELY INDEMNITEE, RESULTING FROM A BREACH OF ANY WARRANTY IN THIS SECTION 7 BY YOU OR OTHERS UNDER YOUR CONTROL OR ACTING ON YOUR BEHALF.

## **9. ADDITIONAL PROVISIONS RELATING TO LICENSEES**

By purchasing a License, you as a Licensee agree that:

**9.1.** you are responsible for reviewing and understanding the applicable Content License Agreement before making the purchase.

**9.2.** you enter into a legally binding contract to purchase the License, regardless of when your License Fee is paid or received.

**9.3.** Lutely does not transfer the License from the Creator or to you.

**9.4.** Lutely is not a party to that Content License Agreement or any other agreement between you and that Creator.

**9.5.** any dispute with a Creator regarding a License, a Content License Agreement or the Content subject to that Content License Agreement is a private matter between you and the Creator that Lutely cannot and will not assist in resolving.

## **10. TERM AND TERMINATION**

**10.1. Agreement Term.** This Agreement applies to you at all times that you use the Platform in any way (the “**Term**”), whether you use Free Features or Subscription features, and unless Lutely terminates this Agreement as provided herein.

**10.2. Subscription Term.** The term of your Subscription (the “**Subscription Term**”) consists of the Initial Subscription Term and any Renewal Subscription Terms, unless terminated earlier or extended in the ways described here. The “**Initial Subscription Term**” is the subscription period you select in your online registration form (one month or one year). The Subscription Term will automatically renew for successive periods of the same length as the Initial Subscription Term (each, a “**Renewal Subscription Term**”) after the Initial Subscription Term’s end unless you cancel your Subscription by using the cancellation tools in the Platform’s interface before the next upcoming Subscription renewal. Any cancellation that complies with this section will irrevocably terminate your Subscription effective on the last day of the then-current Initial Subscription Term or Renewal Subscription Term.

**10.3. Termination.** Lutely may terminate your Subscription (a) immediately by notice to you if you have failed to cure any material breach of this Agreement within 14 days after receiving notice of same from Lutely or if you become insolvent, are liquidated or dissolved or if any proceedings are commenced by, for or against you under any bankruptcy, insolvency, reorganization of debts or debtors relief law; (b) on 14 days’ notice to you if you have breached any payment obligation under this Agreement; or (c) on 90 days’ notice to you for any reason. To the extent you use

Free Features or have purchased Downloads without having an active Subscription, Lutely may also in its sole discretion terminate this Agreement with you entirely at any time. Termination of this Agreement may result in termination of your access to the Platform and in loss of access to any Content or Downloads you have uploaded to or purchased through the Platform.

**10.4. Effect of Termination.** Any termination of your Subscription will simultaneously and automatically terminate your access to Subscription-based Platform features. Any termination of this Agreement will simultaneously and automatically terminate all licenses and access authorizations that Lutely grants to you pursuant to this Agreement. Termination of either your Subscription or of this Agreement as between you and Lutely will not, by itself, terminate or otherwise affect any Content License Agreement in effect between you and any other User or other third party.

## **11. FEES AND TAXES**

**11.1. Fees to Lutely.** In consideration of the rights granted to you hereunder, you will pay Lutely the Fee(s) specified in the Platform interface for any Platform services, downloads, or Subscriptions that you have purchased, through any payment method authorized therein, including but not limited to Subscription fees, service fees, fees associated with a la carte use of Platform tools, fees associated with purchase of Content for stream or download, and fees associated with Content License Agreements. Fees are subject to periodic adjustment by Lutely. Any adjusted Subscription Fees will take effect in the next Renewal Term after Lutely has given you notice of the upcoming adjusted Fee. Lutely will charge all Fees to the payment card or other account provided by you through the Platform, or such updated account information as you may later provide to Lutely. Lutely will charge the Subscription Fee(s) for the Initial Term to that card or account at the time of your first registration for the Platform and will charge the Fee(s) for any Renewal Terms associated with a Subscription on the first date of such Renewal Terms. Your authorization to Lutely to charge your payment account for the Initial Term also authorizes Lutely to charge you for each Renewal Term unless and until this Agreement is terminated. You may discontinue future charges under this

Agreement by terminating as this Agreement provides. **All Fees are nonrefundable except as expressly provided herein.**

**11.2. License Fees to Creators.** By entering into a Content License Agreement, you as a Licensee promise to make payment to the relevant Creator in accordance with the terms of that Content License Agreement, with this Agreement, and with any additional written instructions, terms or conditions published in the Platform regarding Content License Agreements.

**11.3. Taxes.** Each party will be responsible for its own taxes properly levied on it by virtue of its undertakings hereunder.

## **12. MUTUAL WARRANTIES**

Each party warrants to the other party that:

**12.1.** the warranting party has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement.

**12.2.** the warranting party, if an Entity, is duly organized, validly existing, and in good standing as a corporation or other entity under the laws of the jurisdiction of its incorporation or other organization.

**12.3.** the agreement to this Agreement by the warranting party's representative has been duly authorized by all necessary corporate or organizational action of such party, and when so executed, this Agreement will constitute the legal, valid, and binding obligation of such party.

## **13. YOUR ADDITIONAL REPRESENTATIONS AND WARRANTIES**

In addition to any other representations or warranties herein, you warrant to Lutely that you are not an agency, department, or other unit of any federal, state, county, municipal or other governmental entity in the United States of America or in any other country and that your use of the Platform consistent with this Agreement will not cause you to be in breach of (a) any end user license agreements, Terms of Use or other agreements relating to your Systems, (b) any internal policies or practices

applicable to you relating to information security, data security or similar matters or (c) any applicable laws worldwide.

#### **14. DISCLAIMERS**

EXCEPTING THOSE WARRANTIES EXPRESSLY SET FORTH HEREIN, THE PLATFORM IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. LUTELY HEREBY DISCLAIMS ALL WARRANTIES TO YOU AND TO ANY THIRD PARTY, WHETHER EXPRESS, IMPLIED OR STATUTORY, REGARDING THE PLATFORM AND REGARDING ALL CONTENT AND LICENSES, INCLUDING WITHOUT LIMITATION ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, RESULTS OF USE, RELIABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND ANY WARRANTIES OR CONDITIONS ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. LUTELY ALSO DISCLAIMS ANY WARRANTY THAT THE PLATFORM WILL BE UNINTERRUPTED, ERROR-FREE, VIRUS-FREE, OR SECURE.

THE DISCLAIMERS IN THIS SECTION APPLY TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR IN ANY OTHER AGREEMENT BETWEEN YOU AND LUTELY.

#### **15. LIMITATION OF LIABILITY**

EXCEPT WITH RESPECT TO EITHER PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER OR DAMAGES ARISING FROM EITHER PARTY'S VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, (A) NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES RELATING TO THIS AGREEMENT AND (B) A PARTY'S AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS RELATING TO OR ARISING FROM THIS AGREEMENT UNDER ANY THEORY WILL NOT EXCEED THE TOTAL FEES PAYABLE BY YOU TO LUTELY UNDER THIS AGREEMENT IN THE THREE MONTHS BEFORE THE EVENT GIVING RISE TO THE CLAIM OR \$10,000, WHICHEVER AMOUNT IS LESS.

LUTELY WILL HAVE NO LIABILITY TO ANY THIRD PARTY FOR ANY LOSSES OR DAMAGES OF ANY TYPE RELATING TO THIS AGREEMENT, TO CONTENT OR TO LICENSES UNDER ANY THEORY OF LIABILITY.

THE LIMITATIONS IN THIS SECTION SHALL APPLY TO ALL CLAIMS FOR DAMAGES, WHETHER BASED IN CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE OR TORT, OR PURSUANT TO STATUTE OR OTHERWISE, AND REGARDLESS OF THE PERSON BRINGING THE CLAIM. THIS SECTION IS INTENDED TO EXCLUDE CLAIMS TO THE GREATEST EXTENT THAT APPLICABLE LAW PERMITS.

## **16. INDEMNIFICATION**

IN ADDITION TO ANY OTHER INDEMNIFICATION OBLIGATIONS HEREUNDER, YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS (COLLECTIVELY "**INDEMNIFY**" OR "**INDEMNIFICATION**") LUTELY AND LUTELY'S OFFICERS, EMPLOYEES, DIRECTORS, AGENTS, INDEPENDENT CONTRACTORS, LICENSORS AND SUPPLIERS ("**LUTELY INDEMNITEES**") FROM AND AGAINST ANY THIRD-PARTY CLAIMS, DEMANDS, ACTIONS AND PROCEEDINGS, AND ANY RESULTING LIABILITIES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE LEGAL FEES AND EXPENSES), BROUGHT AGAINST ANY LUTELY INDEMNITEE, RESULTING FROM A BREACH OF THIS AGREEMENT BY YOU OR OTHERS UNDER YOUR CONTROL OR ACTING ON YOUR BEHALF.

## **17. GENERAL**

**17.1. Cumulative Provisions.** Each covenant, representation, warranty, license and other provision of this Agreement that applies to a party is cumulative of other covenants, representations, warranties, licenses and other provision that apply to that party by virtue of this Agreement or of a Supplemental Agreement, except as this Agreement or a Supplemental Agreement expressly states.

**17.2. Nature of Relationship.** Each party will act as an independent contractor of the other with respect to this Agreement, and employees and independent contractors of one party will not be considered those of the other. This Agreement creates no agency, partnership, joint venture, other joint relationship or fiduciary relationship. Neither party may make any commitments binding on the other, nor may either party make any representation that they are acting for, or on behalf of, the other.

**17.3. Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement except as this Agreement may expressly provide.

**17.4. Assignment.** You may not assign or transfer any of your obligations, licenses or rights under this Agreement without Lutely's prior written consent. Lutely may assign this Agreement without your prior notice or consent.

**17.5. Force Majeure.** Neither party will be held liable for failure to perform any obligation of or delay in performance resulting from or contributing to any cause beyond that party's reasonable control, including without limitation any act of God, act of civil or military authority, act of war or terrorism, act (including delay, failure to act, or priority) of any governmental authority, power outages, civil disturbance, insurrection or riot, sabotage, fire, severe weather conditions, earthquake, flood, strike, work stoppage or other labor difficulty, embargo, delay in transportation or embargoes. The affected party's obligations will be suspended solely to the extent caused by the force majeure and so long as it lasts, and the time for performance of the affected obligation will be extended by the time of the delay that the force majeure causes.

**17.6. Export Regulations.** Each party warrants that it will comply in all respects with any export and re-export restrictions imposed by any U.S. or foreign law to the Platform and that it is not named on any U.S. government denied-party list.

**17.7. Agreement Binding on Successors.** This Agreement will bind and inure to the benefit of the parties and their heirs, administrators, successors, and permitted assigns.

**17.8. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

**17.9. Waiver.** No waiver of any breach of any provision of this Agreement will constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

**17.10. Entire Agreement.** This Agreement is the entire understanding of the parties and supersedes all prior agreements between them concerning its subject matter. Any amendment must be in writing and expressly state that it is amending this Agreement.

**17.11. Governing Law.** The laws of Delaware, except for conflict-of-law rules, will apply to any dispute between you and Lutely related to the Platform, to any Content or to this Agreement.

**17.12. ARBITRATION.** Any dispute, claim or controversy between you and Lutely relating to this Agreement or the breach, termination, enforcement, interpretation or validity of it, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in the county and state in the United States where Lutely at that time has its principal place of business, before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the arbitrator's award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

**17.13. Attorneys' Fees.** In any dispute between you and Lutely, the prevailing party shall be entitled to payment from the non-prevailing party or parties for any reasonable costs and/or legal fees incurred in connection with the enforcement of their rights, defense of any claims or any or remedies provided for hereunder as against the other.

**17.14. Notices.** Notices to Lutely under this Agreement are deemed received only when sent by email to [notices@lutely.com](mailto:notices@lutely.com).

**17.15.** All notices of copyright infringement claims should be sent to the copyright agent designated in our [DMCA Policy](#) in the manner and by the means set out therein.

**17.16. Other Lutely Products and Versions.** This Agreement does not provide you with access to, licenses to or any other rights relating to any Lutely product or service except as provided herein.

**17.17. Survival.** The following sections of this Agreement will survive their termination, in addition to any other section expressly providing for its survival: sections 8 (additional provisions relating to Creators); 11 (fees and taxes); 14 (disclaimers); 15 (limitation of liability); 16 (indemnification); 17.4 (assignment); 17.6 (export regulations); 17.7 (successors); 17.9 (waiver); 17.10 (entire agreement); 17.11 (governing law); 17.12 (arbitration), 17.13 (attorneys' fees); 17.14 (notices); 17.16 (other Lutely services, products and versions).