

# TERMS OF SERVICE

## Welcome to Creable!

### Introduction

The following terms and conditions (referred to collectively as "Terms of Service") apply to Your use of our Website ([www.creable.com](http://www.creable.com) and [www.creable.io](http://www.creable.io)) and any services provided on the Website and are made and entered into by and between creable AG with its principal offices at Bahnhofstrasse 1a, 8862 Schübelbach, Switzerland (hereafter "Creable", "we", "us") and You.

Depending on Your use of our Website and any services provided by us, You qualify as a "Creator", an "Advertiser", a "Third Party Visitor" (as defined hereafter), or a combination of those three "User Types". Different terms and conditions apply to each User Type.

You will be considered a "**Creator**" if You set up an account on our Website and use any services provided in the "Creator Mode". If this is the case, the "Terms of Service for Creators" apply to You.

The Terms of Service for Creators start on page 2 below.

You will be considered an "**Advertiser**" if You set up an account on our Website and use any services provided in the "Advertiser Mode". If this is the case, the "Terms of Service for Advertisers" apply to You.

The Terms of Service for Advertisers start on page 12 below.

You will be considered a "**Third Party Visitor**" if You visit the Website or use any services provided by us that do not require the registration of an account on our Website. This includes in particular (but not exclusively) every individual or legal entity who visits an account of a Creator on our Website or uses any services provided by us to enter into an agreement with a Creator regarding the performance of marketing or other services. If this is the case, the "Terms of Service for Third Party Visitors" apply to You.

The Terms of Service for Third Party Visitors start on page 22 below.

We kindly ask You to take the time to read the Terms of Service carefully as they govern Your legal relationship with us.

Please be aware that, depending on Your use of our Website and services provided by us, you may qualify as more than one User Type and are required to comply with the terms and condition of each of those User Types.

# TERMS OF SERVICE FOR CREATORS

The following terms and conditions (referred to collectively as "Terms for Creators" apply to Your use of our Website and Services as a Creator (as defined in Section 1 below, hereafter "Creator" or "You").

## 1. Definitions

- 1.1. "Advertiser" means every User who sets up an account on our Website and uses Services in the "Advertiser Mode" (as shown on the Website in the workspace column).
- 1.2. "Content" means any material posted or uploaded by a User to the Website, a Social Media Platform or any other media outlet (such as, for example, print or radio) in connection with a Third Party Visitor/Creator Transaction, including any photos, videos, audio (for example music and other sounds), livestream material, data, text (such as comments and hashtags), metadata, images, interactive features, emojis, GIFs, memes, and any other material whatsoever.
- 1.3. "Creator" or "Creators" means an individual (or a legal entity on behalf of an individual) who has set up an account on our Website and uses Services in the "Creator Mode" (as shown on the Website in the workspace column).
- 1.4. "Creator Earnings" means the sum of all Third Party Visitor Payments minus our charges and fees. Generally, Creator Earnings are calculated respectively measured on a monthly basis.
- 1.5. "Standard Agreement between Third Party Visitor and Creator" means the terms which govern each Third Party Visitor/Creator Transaction, which can be accessed via the following link: <https://creable.com/standardagreement.pdf>. The party referred to as "Brand" in the Standard Agreement means the Third Party Visitor.
- 1.6. "Service" or "Services" includes every feature and functionality, as well as all features and functionalities collectively, that are accessible via our Website after Your have set up an account either in the "Creator Mode" (as shown on the Website in the workspace column).
- 1.7. "Social Media Platform" means any social media platform such as for example Facebook, Instagram, YouTube, Snapchat or TikTok.
- 1.8. "Subscription Period" means the period of Your access to our Services. Unless otherwise agreed upon in a written agreement, the Subscription Period will be twelve (12) months and automatically renewed year after year unless You notify us in writing 90 days prior to the termination of the current Subscription Period.
- 1.9. "Tax" shall include all forms of tax and statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of Switzerland or any other jurisdiction.
- 1.10. "Third Party Visitor" or "Third Party Visitors" means an individual or legal entity who visits the Website or uses any Services that do not require the registration of an account on our Website. This includes in particular (but not exclusively) every individual or legal entity who visits an account of a Creator on our Website or uses Services to enter into an agreement with a Creator regarding the performance of marketing or other services;
- 1.11. "Third Party Visitor/Creator Transaction" means any transaction between a Third Party Visitor and a Creator on the Website and any transaction that follows

an interaction between a Third Party Visitor and a Creator on the Website (such as, for example, a Third Party Visitor accessing a Creator account on the Website), a correspondence between a Creator and a Third Party Visitor on the Website or via the Services or a Third Party Visitor contacting a Creator based on information or data made available on the Website our via our Services.

- 1.12. "Third Party Visitor Payment" means any and all payments made by a Third Party Visitor to us in connection with (i) a Third Party Visitor/Creator Transaction (including any VAT elements) or (ii) by way of a tip for a Creator.
- 1.13. "User" means all individuals and legal entities accessing our Website or using our Services. This includes Advertisers, Creators and Third Party Visitors.
- 1.14. "VAT" means Swiss value added tax and any other tax imposed in addition to or in substitution for it at the rate from time to time imposed and any equivalent or similar governmental, state, federal, provincial, or municipal indirect tax, charge, duty, impost or levy in any other jurisdiction.
- 1.15. "Website" means [www.creable.com](http://www.creable.com) or [www.creable.io](http://www.creable.io).

## **1. Agreement Acceptance**

All of the terms of these Terms for Creators apply without modification by You and together constitute legally binding terms between You and Creable. By using or accessing the Website and/or Services, You understand and agree to abide by these Terms for Creators whether on Your own behalf or on behalf of the Creator You represent personally or as part of a legal entity. If You are entering into these Terms for Creators on behalf of a legal person (which represents a Creator), You confirm that You have the authority to bind the Creator, the legal person and its affiliates to these Terms for Creators. If You do not agree, You may not use or access the Website and/or any of the Services.

## **2. Amendments**

From time to time, Creable may revise, amend or otherwise change these Terms for Creators without prior notice to You. You acknowledge and agree that it is Your responsibility to review these Terms for Creators periodically for changes. You agree that Your use of the Services or the Website after the effective date of such change will constitute Your consent to the revised, amended, or otherwise changed Terms for Creators or Terms for Creators. If You do not agree to the changes, You must stop using the Services and You must stop accessing our Website.

## **3. Your Use of The Services**

We offer our Services to the extent chosen and paid by You after Your account registration on our Website (Your "Subscription"). To the agreed extent, the Services are granted to You during the Subscription Period as a limited, revocable, non-exclusive, non-transferable, personal and non-assignable license. Accordingly, You agree that You will not reproduce, duplicate, copy, sell, trade or resell the Services for any purpose. You must not obscure, alter, remove or delete any copyright or other proprietary notices contained in the Services. You will not copy, modify, adapt, translate or otherwise create derivative works of any of the Services obtained from the Website. You warrant that You will not attempt or assist others to attempt or actually reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the software. You agree to comply with all applicable laws and regulations in Your use of and access to the Website and Services.

#### **4. Provision of the Services**

- 4.1. You understand and agree that Creable may modify, terminate, suspend, or otherwise adjust any and all aspects of the Services at any time without prior notice to You.
- 4.2. You acknowledge and agree that Creable can disable access to Services for non-payment or other material breach of the Terms for Creators, You may be prevented from accessing Your files or other content which is contained in Creable's Website or Services and Your account may be suspended indefinitely or terminated without Your consent. During any period when access to Your account is suspended, any Third Party Visitor Payment which would otherwise have fallen due during the period of suspension will be suspended, and we may withhold all or any part of the Creator Earnings due to You but not yet paid out.
- 4.3. You acknowledge and agree that You are allowed to use only single account per person. In case You are being represented by an agent, agency, management company or other third party of legal person, You are allowed to use a single account for Yourself and Your representatives.
- 4.4. You acknowledge and agree to receive communications from us electronically, including by emails and messages posted to Your account on the Website.
- 4.5. You acknowledge and agree that the pricing of our Services is flexible and subject to change at any time. We do not guarantee that the pricing will remain the same throughout the validity of these Terms for Creators. Should, however, the pricing change, You will have a chance to cancel Your Subscription without further obligation of either party towards the other.
- 4.6. You acknowledge and agree that any violation of these Terms for Creators is cause for permanent suspension or termination of Your account.
- 4.7. You acknowledge and agree that Creable will use reasonable care and skill in providing the Services to You, but is not responsible for, in particular, the following:
  - The accuracy or completeness of any data, material, information or other outputs (collectively "Data") from the Website, Services or provided to You on our Website or via our Services by any third party (such as, for example an Advertiser, another Creator or a Third Party Visitor). In particular, Creable:
    - does not verify the accuracy of Data;
    - has no control over such Data; and
    - does not guarantee that Data displayed on the Website our via the Services is accurate.
  - The utility or benefit of our Services to Your business or, if applicable, to You personally.
  - The future accessibility of any particular feature and functionality of our Services.
  - The compatibility of our Services with all devices or operating systems.
  - Any lost, stolen, or compromised User accounts, passwords, email accounts, or any resulting unauthorized activities or resulting unauthorized payments.
- 4.8. You acknowledge and agree that Creable is not party of any agreements between Third Party Visitors and Creators (such as Third Party Visitor/Creator

- Transactions) and that we do not authorize or approve Content and views expressed by Creators or Third Party Visitors on our Website or elsewhere (such as, for example, on Social Media Platforms).
- 4.9. You acknowledge and agree that only individuals can be Creators. Every Creator is bound personally by the Terms for Creators. If You have an agent, agency, management company or other third party which assists You with the operation of Your Creator account on the Website (or operates it on Your behalf), this does not affect Your personal legal responsibility. Our relationship is with You, and not with any third party, and You will be legally responsible for ensuring that all use of Your account complies with the Terms for Creators.

## **5. Security**

As part of the registration process, You may be required to provide certain information including, but not limited to, Your name, the business name, address, phone number, credit card, and email address. You agree that any registration information You give to Creable will always be accurate, correct and up to date. You will be held responsible for any activity that occurs under account, keys or passwords. You are solely responsible for any and all activity that occurs on or through Your account, keys or passwords. You agree to notify Creable immediately of any unauthorized use of Your account, keys, passwords or any other breach of security. Creable may access Your account, keys, passwords from time to time to provide You assistance with technical or billing issues or in order to maintain or improve the Services.

## **6. Data Protection**

- 6.1. We comply with the General Data Protection Regulation EU 2016/679 (GDPR).
- 6.2. Please read our Privacy Policy (accessible under the following link: <https://creable.com/privacy.pdf>) for more information about how we process personal data.

## **7. Charged Services**

- 7.1. Certain features of the Website or the Services are associated with charges or fees ("Charged Services"). For use of such Services You may purchase access to a "Subscription Plan".
- 7.2. Creable offers different Subscription Plans You can choose from. All charges and fees are listed in percentages of total Third Party Payments or, where applicable, in USD unless expressly identified otherwise. You authorize us to deduct our charges and fees from Third Party Payments before any Creator Earnings are paid to you in accordance with these Terms for Creators.
- 7.3. To access the parts of the Services that are associated with charges and fees, You must provide requested details and follow applicable billing procedures. Billing procedures are subject to change at any time without prior notice to You.

## **8. Third Party Visitor/Creator Transactions**

- 8.1. All Third Party Visitor/Creator Transactions are contracts between Third Party Visitors and Creators on the terms of the Standard Agreement between Third Party Visitor and Creator (link: <https://creable.com/standardagreement.pdf>). Although we facilitate Third Party Visitor/Creator Transactions by providing the Website and Services, we are not a party to the Standard Agreement between Third Party Visitor and Creator or any other contract which may exist between a Third Party Visitor and Creator, and are not responsible for any Third Party Visitor/Creator Transactions.

- 8.2. When You receive confirmation from Creable, either in the 'Statements' page of Your Creator account or by email (or both), that the Third Party Visitor/Creator Transaction has been confirmed, You must perform Your part of such Third Party Visitor/Creator Transaction (for example, by providing the customised Content paid for by the Third Party Visitor and/or allowing the Third Party Visitor to use any of Your Content or market Your personal Third Party Visitor).
- 8.3. We are not responsible for and do not endorse any aspect of any Content requested, created, uploaded or posted by You or any other Creator or Third Party Visitor. We do not have any obligation to monitor any Content and have no direct control over what Your Content may comprise.
- 8.4. You also agree to act as custodian of records for the Content that You upload to our Website and/or create in connection with a Third Party Visitor/Creator Transaction.

## **9. Payouts to Creators**

- 9.1. All Third Party Visitor Payments will be received by a third-party payment provider approved by us which will receive payments from Third Party Visitors, deduct our fees and charges and forward your Creator Earnings to you.
- 9.2. All Third Party Visitor Payments and Creator Earnings are transacted in USD, unless specified otherwise. The third-party payment provider and/or Your bank may charge You currency conversion or transfer fees to receive the money. We do not have control over currency exchange rates or charges imposed by Your bank or Your e-wallet company, and we and our subsidiary companies will not be responsible for paying any charges imposed by the third-party payment provider or Your bank.
- 9.3. If a Third Party Visitor seeks a refund or chargeback from us or their credit card provider in respect of a payment made to You, this may reduce Your Creator Earnings in the charged-back or refunded amount or result in a claim by the Third Party Visitor against You in the charged-back or refunded amount.
- 9.4. Except for Payout Options involving payment by direct bank transfer, we do not store any data disclosed by You when You register Your Payout Options with a third-party payment provider.

## **10. Links from and to the Website or Services and Domain Names**

- 10.1. Links to our Website and Services. You may link to our Website or Services, provided You do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but You must not establish a link in such a way as to suggest any form of association, approval, or endorsement on our part. In addition, You must comply with the terms of service of any other website where You place a link to or otherwise promote Your Creator account. When promoting Your Creator account, You must not impersonate Creable or give the impression that Your Creator account is being promoted by us if this is not the case. You must not promote Your Creable account by using Google Ads or any similar advertising platform or search engine advertising service.
- 10.2. Links from our Website or Services. If our Website or Services contain links to other sites and resources provided by third parties, these links are provided for Your convenience only. Such links should not be interpreted as approval by us of those linked websites or information You may obtain from them. We have no control over the contents of those sites or resources and accept no responsibility for them or for any loss or damage that may arise from Your use of them. If You

decide to access any of the third-party websites linked to Creable, You do so entirely at Your own risk and subject to the terms and conditions of use for such websites.

10.3. Domain Names. In some instances, Creable may allow Creators to register or use domain names that contain the Creable trademark or a confusingly similar term. However, You will not register such a domain name, unless:

- The domain name is registered by the Creator.
- The domain name redirects to the Creator's Creable profile. Domain names containing the Creable trademark or a confusingly similar term must not direct to any other website, including link aggregators.
- The Creator obtains prior written permission from Creable and signs a licensing agreement or uses a function on Creable to register the domain.

10.4. If You would like to register a domain name containing the Creable trademark or a confusingly similar term, please contact support@creable.com. Failing to comply with these provisions or the licensing agreement will be considered a violation of the licensing agreement and may result in Creable filing a domain dispute against the registrant.

## **11. Circumstances in which we may withhold Creator Earnings**

11.1. We may instruct a third party payment provider to withhold all or any part of the Creator Earnings due to You but not yet paid out:

- if we think that You have or may have seriously or repeatedly breached any part of the Terms for Creators;
- if You attempt or threaten to breach any part of the Terms for Creators in a way which we think has or could have serious consequences for us or another User (including actual or possible loss caused to us or another User); or
- if we suspect that all or any part of the Creator Earnings result from unlawful or fraudulent activity, either by You or by the Third Party Visitor who made the Third Party Visitor Payment resulting in the Creator Earnings,

for as long as is necessary to investigate the actual, threatened or suspected breach by You or the suspected unlawful activity (as applicable). If following our investigation, we conclude that (i) You have seriously or repeatedly breached any part of the Terms for Creators; (ii) You have attempted or threatened to breach any part of the Terms for Creators in a way which has or could have serious consequences for us or another User (including actual or possible loss caused to us or another User), and/or (iii) the Creator Earnings result from unlawful or fraudulent activity, we may notify You that You have forfeited Your Creator Earnings.

11.2. We may also instruct the third party payment provider to withhold all or any part of the Creator Earnings due to You but not yet paid out if we receive notice that You have secured, encumbered, pledged, assigned, or otherwise allowed a lien to be placed on Creator Earnings. We undertake no duty to pay Creator Earnings to third-party lienholders and may withhold payment of Creator Earnings until the lien has been removed.

11.3. We shall not have any responsibility to You if we instruct the third party payment provider to withhold or forfeit any of Your Creator Earnings where we have a right to do so under these Terms for Creators.

11.4. If we have instructed the third party payment provider to withhold all or any part of the Creator Earnings due to You and we determine that part of the Creator Earnings withheld by the third party payment provider is unrelated to breaches by You of the Terms for Creators or suspected unlawful or fraudulent activity, then we may instruct the third party payment provider to pay the part of the Creator Earnings which we determine to be unrelated to breaches by You of the Terms for Creators or suspected unlawful or fraudulent activity to You. However, You agree that if we consider that Your breach(es) of the Terms for Creators has or may cause us loss, we may instruct the third party payment provider to withhold all Creator Earnings due to You but not yet paid and we may set off such amounts against any losses suffered by us.

11.5. If once we have finished our investigation we determine that Creator Earnings are forfeited, we will (unless prohibited by law) use our best efforts to ensure that any Third Party Visitor Payments which resulted in forfeited Creator Earnings are returned to the relevant Third Party Visitors who paid such Third Party Visitor Payments.

## **12. Promoting Tax compliance and VAT**

12.1. We recommend that all Creators seek professional advice to ensure You are compliant with Your local Tax and VAT rules, based on Your individual circumstances.

12.2. By using our Website or Services as a Creator, You warrant (which means You make a legally enforceable promise) that You have reported and will report in the future the receipt of all payments made to You in connection with Your use of our Website or Services to the relevant Tax authority in Your jurisdiction, as required by law.

12.3. By using Website or Services as a Creator You further warrant (which means You make a legally enforceable promise) that You will at all times comply with all laws and regulations relating to Tax which apply to You. If, at any point whilst You have a User account, any Tax non-compliance occurs in relation to You (including a failure by You to report earnings or the imposition on You of any penalty or interest relating to Tax) or if any litigation, enquiry, or investigation is commenced against You that is in connection with, or which may lead to, any occurrence of Tax non-compliance, You agree that You will:

- notify us by email to support@creable.com in writing within 7 days of the occurrence of the Tax non-compliance or the commencement of the litigation, enquiry or investigation (as applicable); and
- promptly provide us by email to support@creable.com with:
  - details of the steps which You are taking to address the occurrence of the Tax non-compliance and to prevent the same from happening again, together with any mitigating factors that You consider relevant; and
  - such other information in relation to the occurrence of the Tax non-compliance as we may reasonably require.
- For the avoidance of doubt, You are responsible for Your own Tax affairs and we and our subsidiary companies (i) are not responsible for advising You on Your Tax affairs and will not be liable in respect of any general information provided on Creable or by support@creable.com in respect of Tax, and (ii) will not be liable for any non-payment of Tax by Creators.

- We reserve the right to close Your Creable account if we are notified of or become aware of any Tax non-compliance by You.

### **13. General Restrictions**

You may only use the Website or Services as specified above. You are restricted from using the Service for any other usage, including:

- 13.1. Use of Charged Services without fulfilling payment responsibilities.
- 13.2. Use any means to modify or reroute the Service.
- 13.3. Broadcast, reproduce, republish, post, transmit or distribute any part of the Services (other than as specifically allowed pursuant to these Terms for Creators).
- 13.4. Assign, syndicate, resell or otherwise transfer or make available data/content obtained via the Service to third parties (unless You have specific written agreement with Creable for this).
- 13.5. Copy, modify, create a derivative work from, reverse engineer or reverse assemble the Service, or otherwise attempt to discover any source code, or allow any third party to do so.
- 13.6. Use the Services in any way that harms Creable, its affiliates, resellers, distributors, customers, service providers and/or suppliers, as determined by Creable in its sole discretion;
- 13.7. Use the Services in any manner that could damage, disable, overburden, or otherwise harm the Services and/or Website or interfere with any other party's use and enjoyment of the Services and/or Website;
- 13.8. Use any meta tags or any other "hidden text" utilizing Creable's name or trademarks without the prior written consent of Creable;
- 13.9. Display the Website in frames or utilize any other techniques to display the Website (or any content on the Website) without the prior written consent of Creable;
- 13.10. Use the Services in any manner which is contrary to the provisions of any applicable third party terms of use or other agreements (including any requirement to secure written permission prior to making certain utilization of content);
- 13.11. Use the Services to "stalk" or otherwise harass another; and/or collect or store personal data about any other person.
- 13.12. Employ any technique to compile any false or misleading information or content;
- 13.13. Harm minors in any way;
- 13.14. Use the Services in any manner that violates or infringes the rights of any third parties, including without limitation copyright, trademark, patent publicity, or other proprietary rights;
- 13.15. Use the Services in any manner that any applicable local, state, national or international laws or regulations;
- 13.16. Use the Services to gain unauthorized access to any third party services, User accounts, computer systems, or networks;
- 13.17. Use the Creable domain name or other contact information as a pseudonymous reply email, postal, and/or fax address (or any other type of return address) for

- any communication transmitted from another location or through another service or otherwise impersonate Creable or any other third party;
- 13.18. Create multiple tokens, keys or passwords for disruptive or abusive purposes, or with overlapping use cases. Mass tokens, keys or passwords creation may result in suspension of all related tokens, keys or passwords.
- 13.19. You acknowledge and agree that in case we detect multiple accounts or/and promotion plans established for one person, we at our sole discretion may, without warning and refund, terminate such multiple accounts or/and promotion plans.

## **14. Publicity**

You grant Creable the right to add Your name and company logo to its customer list and web site. Except for the foregoing, neither party may use the other party's name or logo without the other party's prior written consent.

## **15. Cancellation Or Termination**

- 15.1. You may cancel the Services at any time, with or without cause. You understand and accept that by cancelling the Services: i) You may not receive a refund; ii) You may be obligated to pay all charges due until the end of the subscription; iii) You may lose access to and use of Your tokens, keys or passwords and any Services and Services credits contained therein.
- 15.2. You acknowledge and agree that Creable may terminate keys or passwords for cause with or without prior notice to You. Cause for termination includes but is not limited to infringement or violation of the Terms for Creators, as determined by Creable in its sole discretion, partial or complete discontinuance of the Services and/or Website, extended periods of inactivity, request to do so by law, and non-payment of fees or charges owed by You to Creable.
- 15.3. Cancellation or termination will result in immediate cessation of access to the Services, and deletion of Your tokens, keys or passwords and all Services contained therein. All terminations are at the sole discretion Creable, and You agree that Creable shall not be liable to You or any third party as a result of termination.
- 15.4. Upon termination or expiration of these Terms for Creators for any reason, all licensed rights granted in these Terms for Creators to You will immediately cease to exist and You will irrecoverably delete any and all data You received from Creable. Sections 4, 8 to 14, 16 and 17 to 22, as well as Your obligation to pay any charges or fees applicable, will survive any expiration or termination of these Terms for Creators for any reason.

## **16. Proprietary Rights**

- 16.1. You confirm that You own all intellectual property rights (examples of which are copyright and trademarks) in Your Content or that You have obtained all necessary rights to Your Content which are required to grant licenses in respect of Your Content to us and to other Users.
- 16.2. You agree to grant us a license under all Your Content to perform any act restricted by any intellectual property right (including copyright) in such Content, for any purpose reasonably related to the provision and operation of Creable. Such acts include to reproduce, make available and communicate to the public, display, perform, distribute, translate, and create adaptations or derivative works of Your Content, and otherwise deal in Your Content. The license which You grant

to us is perpetual, non-exclusive, worldwide, royalty-free, sublicensable, assignable and transferable by us. This means that the license will continue even after Your agreement with us ends and You stop using Creable, that we do not have to pay You for the license, and that we can grant a sub-license of Your Content to someone else or assign or transfer the license to someone else. This license will allow us, for example, to add stickers, text, and watermarks to Your Content, to make Your Content available to other Users of Creable, as well as to use Your Content for other normal operations of Creable. We will never sell Your Content to other platforms, though we may sell or transfer any license You grant to us in the Terms for Creators in the event of a sale of our company or its assets to a third party.

- 16.3. Whilst we do not own Your Content, You grant us the limited right to submit notifications of infringement (including of copyright or trademark) on Your behalf to any third-party website or service that hosts or is otherwise dealing in infringing copies of Your Content without Your permission. Although we are not under any obligation to do so, we may at any time submit or withdraw any such notification to any third-party website or service where we consider it appropriate to do so. However, we do not and are under no obligation to police infringements of Your Content. You agree that if we request, You will provide us with all consents and other information which we reasonably need to submit notifications of infringement on Your behalf. Please see our Complaints Policy for how to make a complaint about infringement of intellectual property rights.
- 16.4. You waive any moral rights which You may have under any applicable law to object to derogatory treatment of any Content uploaded by You on Creable. This waiver does not affect in any way Your ownership of any intellectual property rights in Your Content or the rights which You have to prevent Your Content from being copied without Your permission. The waiver is intended to allow us when dealing with Your Content to add watermarks, stickers or text to Your Content.

## **17. Contact Us**

If You have any questions about these Terms for Creators, please contact us at support@creable.com or: creable AG, Bahnhofstrasse 1a, 8862 Schübelbach, Switzerland.

## **18. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY**

- 18.1. To the fullest extent permitted by applicable law, Creable and its affiliates, officers, employees, agents, partners, and licensors expressly disclaim all warranties of any kind, express or implied, as to the accuracy, adequacy or completeness of any of the information contained in this Website or created by the Services. The Website and Services are provided to You on an "as is" basis, without any warranties as to merchantability or fitness for a particular purpose or use nor with respect to the results which may be obtained from the use of Services.
- 18.2. Creable makes, in particular, no warranty or guarantee that:
  - the Services will meet Your requirements;
  - the Services will be error-free, secure, or uninterrupted;
  - any errors will be corrected;
  - the quality of the Services will meet Your expectations; and
  - no loss or damage arises from Your reliance on any Data, in particular, but not exclusively, in connection with Third Party Visitor/Creator Transactions.

If You decide to rely on any Data shown on the Website or via our Services or any other data provided to You by a Creator, Advertiser, Third Party Visitor or other third party, You do so entirely at Your own risk.

- 18.3. Creable shall have no responsibility or liability for any errors or omissions nor shall it be liable for any damages, whether direct or indirect, special or consequential, even if they have been advised of the possibility of such damages. No advice or information, whether oral or written, obtained by You from Creable or its Services shall create any warranty not expressly stated in the Terms for Creators.
- 18.4. In no event shall the liability of Creable or any of their affiliates pursuant to any cause of action, whether in contract, tort, or otherwise, exceed the fee paid by You for access to such Services. Furthermore, Creable shall have no responsibility or liability for delays or failures due to circumstances beyond their control.
- 18.5. Except where prohibited by applicable law, any claim or cause of action which You have concerning Creable (including those arising out of or related to Your agreement with us) must be filed within one year after the date on which such claim or cause of action arose or the date on which You learned of the facts giving rise to the cause of action (whichever is the earlier), or be forever barred.

## **19. Indemnification**

You indemnify and hold Creable harmless (i) from and against any and all claims from Third Party Visitors related to Third Party Visitor/Creator Transactions to which You are a party, (ii) from and against any and all third party claims arising out of Your failure to comply with applicable laws, social media platform rules or other applicable regulations in connection with Your account on Creablr or a Third Party Visitor/Creator Transaction to which You are a party and (iii) from and against any loss or damage, including loss of profit, we suffer as a result of You failing to comply with Your obligations under the Terms for Creators or any contract between You and a Third Party Visitor. This includes, but is not limited to, any kind of fines, damage payments or costs of legal proceedings.

## **20. Miscellaneous**

- 20.1. Severability. If any aspect of these Terms for Creators with us is unenforceable, the rest will remain in effect.
- 20.2. No waiver. If we fail to enforce any aspect of these Terms for Creators, this will not be construed as a waiver.
- 20.3. Transfer rights. You cannot transfer Your rights or obligations under these Terms for Creators without our prior written consent. In contrast, we may transfer or assign our rights and obligations under these Terms for Creators to others. For example, this could occur if our ownership changes (as in a merger, acquisition, or sale of assets) or by law. In addition, we may choose to delegate the performance of any of our obligations under these Terms for Creators to any third party, but we will remain responsible to You for the performance of such obligations.
- 20.4. Entire agreement. The Terms for Creators form the entire agreement between us and You regarding Your access to and use of Creable, and supersede any and all prior oral or written understandings or agreements between us and You. No implied licenses or other rights are granted to You in relation to any part of our Website or Services, except as expressly set out in these Terms for Creators.

## **21. Governing Law and Jurisdiction**

21.1. These Terms for Creators are governed and construed in accordance with the laws of Switzerland (excluding Swiss Private International Law and international treaties, if any). Material Swiss law will apply to:

- any claim that You have arising out of or in connection with these Terms for Creators or You use of our Website or our Services (including noncontractual disputes or claims); and
- any claim that we have arising out of or in connection with these Terms for Creators, Your use of our Website or our Services (including noncontractual disputes or claims).

21.2. All disputes arising out of or in connection with these Terms for Creators, including disputes regarding its conclusion, validity, conclusion, validity, binding effect, amendment, breach, termination or rescission shall be subject to the exclusive jurisdiction of the courts of Switzerland at the seat of Creable.

## **22. Other terms which may apply to Your use of our Website or Services**

The following terms may also apply to Your use of Creable and You agree to them:

- 22.1. Terms of Service for Advertisers (starting on page 14 below).
- 22.2. Terms of Service for Third Party Visitors (starting on page 22 below).
- 22.3. Privacy Policy (link: <https://creable.io/privacy.pdf>) – which tells You how we use Your personal data and other information we collect about You.
- 22.4. Standard Agreement between Third Party Visitor and Creator (link: <https://creable.com/standardagreement.pdf>) – which does not form part of Your agreement with us, but which governs and sets out the terms applicable to each Third Party Visitor/Creator Transaction You enter into on the Website.

**Last updated: December 2022**

# TERMS OF SERVICE FOR ADVERTISERS

The following terms and conditions (referred to collectively as "Terms for Advertisers" apply to Your use of our Website and Services as an Advertiser (as defined in Section 1 below, hereafter "Advertiser" or "You").

## 1. Definitions

- 1.1. "Advertiser" means every User who sets up an account on our Website and uses Services in the "Advertiser Mode" (as shown on the Website in the workspace column).
- 1.2. "Service" or "Services" includes every feature and functionality, as well as all features and functionalities collectively, that are accessible via our Website after You have set up an account either in the "Advertiser Mode" (as shown on the Website in the workspace column).
- 1.3. "Subscription Period" means the period of Your access to our Services. Unless otherwise agreed upon in a written agreement, the Subscription Period will be twelve (12) months and automatically renewed year after year unless You notify us in writing 90 days prior to the termination of the current Subscription Period.
- 1.4. "User" means all natural persons and legal entities accessing our Website or using our Services. This includes Advertisers, Creators and Third Party Visitors.
- 1.5. "Website" means [www.creable.com](http://www.creable.com) or [www.creable.io](http://www.creable.io).

## 2. Agreement Acceptance

All of the terms of these Terms for Advertisers apply without modification by You and together constitute legally binding terms between You and Creable. By using or accessing the Website and/or Services, You understand and agree to abide by these Terms for Advertisers whether on Your own behalf or on behalf of a legal person You represent. If You are entering into these Terms for Advertisers on behalf of a legal person, You represent that You have the authority to bind the legal person and its affiliates to these Terms for Advertisers, in which case the terms "You" or "Your" shall refer to that legal person and its affiliates. If You do not agree, You may not use or access the Website and/or any of the Services.

## 3. Amendments

From time to time, Creable may revise, amend or otherwise change these Terms for Advertisers without prior notice to You. You acknowledge and agree that it is Your responsibility to review these Terms for Advertisers periodically for changes. You agree that Your use of the Services or the Website after the effective date of such change will constitute Your consent to the revised, amended, or otherwise changed Terms for Advertisers or Terms for Advertisers. If You do not agree to the changes, You must stop using the Services and You must stop accessing our Website.

## 4. Your Use of The Services

We offer our Services to the extent chosen and paid by You after Your account registration on our Website (Your "Subscription"). To the agreed extent, the Services are granted to You during the Subscription Period as a limited, revocable, non-exclusive, non-transferable, personal and non-assignable license. Accordingly, You agree that You will not reproduce, duplicate, copy, sell, trade or resell the Services for any purpose. You must not obscure, alter, remove or delete any copyright or other proprietary notices contained in the Services. You will not copy, modify, adapt, translate or otherwise create derivative works of any of the Services obtained from the Website. You warrant that You will not attempt or assist others to attempt

or actually reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the software. You agree to comply with all applicable laws and regulations in Your use of and access to the Website and Services.

## **5. Provision of the Services**

- 5.1. You understand and agree that Creable may modify, terminate, suspend, or otherwise adjust any and all aspects of the Services at any time without prior notice to You.
- 5.2. You acknowledge and agree that Creable can disable access to Services for non-payment or other material breach of the Terms for Advertisers, You may be prevented from accessing Your files or other content which is contained in Creable's Website or Services and Your account may be suspended indefinitely or terminated without Your consent.
- 5.3. You acknowledge and agree that You are allowed to use only single account per person. In case of legal person, You are allowed to use single account for multiple employees.
- 5.4. You acknowledge and agree to receive communications from us electronically, including by emails and messages posted to Your Creable account.
- 5.5. You acknowledge and agree that the pricing of our Services is flexible and subject to change at any time. We do not guarantee that the pricing will remain the same throughout the validity of these Terms for Advertisers. Should, however, the pricing change, You will have a chance to cancel Your Subscription without further obligation of either party towards the other.
- 5.6. You acknowledge and agree that any violation of these Terms for Advertisers is cause for permanent suspension or termination of Your account without any refund of payments already made.
- 5.7. You acknowledge and agree that Creable will use reasonable care and skill in providing the Services to You, but is not responsible for, in particular, the following:
  - The accuracy or completeness of any data, material, information or other outputs from the Website as well as a result of our Services (the "Search Results").
  - The utility or benefit of any Search Results for Your business.
  - The future accessibility of any particular feature and functionality of our Services.
  - The compatibility of our Services with all devices or operating systems.
  - Any lost, stolen, or compromised User accounts, passwords, email accounts, or any resulting unauthorized activities or resulting unauthorized payments.
- 5.8. You acknowledge that the Services are made available to You without any warranties of any kind. By using the Services You understand and agree that You do so at Your sole discretion and risk.

## **6. Security**

As part of the registration process, You may be required to provide certain information including, but not limited to, Your name, the business name, address, phone number, credit card, and email address. You agree that any registration information You give to Creable will always be accurate, correct and up to date. You are responsible for protecting any tokens,

keys or passwords for Creable's Website and Services from unauthorized access. You will be held responsible for any activity that occurs under Your tokens, keys or passwords. You are solely responsible for any and all activity that occurs on or through Your tokens, keys or passwords. You agree to notify Creable immediately of any unauthorized use of Your tokens, keys, passwords or any other breach of security. Creable may access Your tokens, keys, passwords from time to time to provide You assistance with technical or billing issues or in order to maintain or improve the Services.

## **7. Privacy Policy**

- 7.1. We comply with the General Data Protection Regulation EU 2016/679 (GDPR).
- 7.2. Important information for data controllers: You acknowledge that when processing personal data of individuals, You may become a data controller and You must comply with GDPR.
- 7.3. If You are an individual and process personal data in the course of a purely personal or "household" activity, You may be exempt from the application of GDPR. If You are unsure whether this exemption applies, please, obtain legal advice.
- 7.4. If You are a legal person, You may become a data controller for the purposes of GDPR when You process personal data about natural persons. This is the case whether You obtain personal data through Us or through any other third party (for instance, if You manually compile Your own database from Instagram). If GDPR applies to You, You hereby confirm that You and Us (the "Parties"):
  - 1) each independently determines the purposes and means of the processing of personal data and acts as an independent controller;
  - 2) the Parties do not jointly determine the purposes and means of the processing and do not act as joint controllers;
  - 3) neither of the Parties processes personal data on behalf of the other Party and does not act as a processor;
  - 4) each of the Parties shall independently take all necessary measures to comply with applicable data protection laws.
- 7.5. Cookie Policy. Creable Services use cookies to distinguish You from other customers. This helps Creable to provide You and all our other customers with a good experience and also allows Creable to improve Services.

## **8. Charged Services**

- 8.1. Certain features of the Website or the Services are associated with charges or fees ("Charged Services"). For use of such Services You may purchase access to a "Subscription Plan".
- 8.2. Creable offers different Subscription Plans You can choose from. All charges and fees are listed in USD unless expressly identified otherwise. You agree to pay any applicable charges and fees associated with Your use of the Services either by upfront yearly payment for the entire value of Subscription or in monthly instalments.
- 8.3. To access the parts of the Services that are associated with charges and fees, You must provide requested details and follow applicable billing procedures. Billing procedures are subject to change at any time without prior notice to You. By providing a payment method, You represent that You are authorized to use the payment method You provided and that the information provided by You is

true and accurate. Creable accounts can be billed in advance or on a monthly basis and are non-refundable. There will be no refunds or credits for partial use of Service, upgrade/downgrade refunds, refunds for unused features, or refunds for failures or inaccessibility of Service due to circumstances beyond Creable control. In order to treat everyone equally, no exceptions will be made. Downgrading Your Service may cause the loss of content or features. Creable does not accept any liability for such loss. Creable reserves the right to suspend or terminate Your access to the Services for nonpayment. If Your Subscription is terminated for any reason, You are still liable for a remaining unpaid period of Your Subscription if Your Subscription is purchased on monthly basis. Creable may recover such payments due and in that case You will bear all the expenses related to such recovery or/and debt collection.

## **9. General Restrictions**

You may only use the Service as specified above. You are restricted from using the Service for any other usage, including:

- 9.1. Use of Charged Services without fulfilling payment responsibilities.
- 9.2. Use any means to modify or reroute the Service.
- 9.3. Broadcast, reproduce, republish, post, transmit or distribute any part of the Services (other than as specifically allowed pursuant to these Terms for Advertisers).
- 9.4. Assign, syndicate, resell or otherwise transfer or make available data/content obtained via the Service to third parties (unless You have specific written agreement with Creable for this).
- 9.5. Copy, modify, create a derivative work from, reverse engineer or reverse assemble the Service, or otherwise attempt to discover any source code, or allow any third party to do so.
- 9.6. Use the Services in any way that harms Creable, its affiliates, resellers, distributors, customers, service providers and/or suppliers, as determined by Creable in its sole discretion;
- 9.7. Use the Services in any manner that could damage, disable, overburden, or otherwise harm the Services and/or Website or interfere with any other party's use and enjoyment of the Services and/or Website;
- 9.8. Use any meta tags or any other "hidden text" utilizing Creable's name or trademarks without the prior written consent of Creable;
- 9.9. Display the Website in frames or utilize any other techniques to display the Website (or any content on the Website) without the prior written consent of Creable;
- 9.10. Use the Services in any manner which is contrary to the provisions of any applicable third party terms of use or other agreements (including any requirement to secure written permission prior to making certain utilization of content);
- 9.11. Use the Services to "stalk" or otherwise harass another; and/or collect or store personal data about any other person.
- 9.12. Employ any technique to compile any false or misleading information or content;
- 9.13. Harm minors in any way;

- 9.14. Use the Services in any manner that violates or infringes the rights of any third parties, including without limitation copyright, trademark, patent publicity, or other proprietary rights;
- 9.15. Use the Services in any manner that any applicable local, state, national or international laws or regulations;
- 9.16. Use the Services to gain unauthorized access to any third party services, User accounts, computer systems, or networks;
- 9.17. Use the Creable domain name or other contact information as a pseudonymous reply email, postal, and/or fax address (or any other type of return address) for any communication transmitted from another location or through another service or otherwise impersonate Creable or any other third party;
- 9.18. Create multiple tokens, keys or passwords for disruptive or abusive purposes, or with overlapping use cases. Mass tokens, keys or passwords creation may result in suspension of all related tokens, keys or passwords.
- 9.19. You acknowledge and agree that in case we detect multiple accounts or/and promotion plans established for one person, we at our sole discretion may, without warning and refund, terminate such multiple accounts or/and promotion plans.

## **10. Special Reservations concerning Search Results**

- 10.1. You may use the data/content collected from any Search Results solely during the duration of Your Subscription Period, for legitimate business purposes and in accordance with all applicable local, state, national or international laws and regulations.
- 10.2. You understand and acknowledge that data/content collected from any Search Results may not be exhaustive and the analysis of the data/content is based on indexed third-party data sources. Creable does not verify the accuracy of such third-party data sources.
- 10.3. You understand and agree that all Search Results are based on publicly available data/content and indexed third-party data/content.
- 10.4. You understand and agree that the data/content indexed in any Search Results may require access to third party sites and such third parties may prevent Creable from indexing such data/content. Furthermore, government regulations and/or compliance with applicable laws may prevent Creable from indexing certain data/content or displaying it to You. You agree that You shall evaluate and bear all risks associated with the Services, including any reliance on the accuracy, completeness, or integrity of such Services. By using the Website and Services, You represent and warrant that You have such knowledge and experience in financial and business matters that You are capable of evaluating the merits and risks of the information made available in the Website and Services, and make effective use of the Services provided by Creable as an analytical tool.
- 10.5. You acknowledge and agree that any use of the data/content indexed in any Search Results except as specifically described in these Terms for Advertisers is strictly prohibited.
- 10.6. The Website may contain links to other sites on the internet which are owned and operated by third party vendors and other third parties (the "External Websites"). You acknowledge that Creable is not responsible for the availability of, or the materials located on or through, any External Websites.

10.7. You acknowledge that by accessing the Website, You may come into contact with content that You find harmful, offensive, threatening, indecent or objectionable and You acknowledge that Creable shall have no liability to You for the content including, but not limited to explicit language and other potentially offensive material.

## **11. Publicity**

You grant Creable the right to add Your name and company logo to its customer list and web site. Except for the foregoing, neither party may use the other party's name or logo without the other party's prior written consent.

## **12. Cancellation Or Termination**

- 12.1. You may cancel the Services at any time, with or without cause. You understand and accept that by cancelling the Services: i) You may not receive a refund; ii) You may be obligated to pay all charges due until the end of the subscription; iii) You may lose access to and use of Your tokens, keys or passwords and any Services and Services credits contained therein.
- 12.2. You acknowledge and agree that Creable may terminate keys or passwords for cause with or without prior notice to You. Cause for termination includes but is not limited to infringement or violation of the Terms for Advertisers, as determined by Creable in its sole discretion, partial or complete discontinuance of the Services and/or Website, extended periods of inactivity, request to do so by law, and non-payment of fees or charges owed by You to Creable.
- 12.3. Cancellation or termination will result in immediate cessation of access to the Services, and deletion of Your tokens, keys or passwords and all Services contained therein. All terminations are at the sole discretion of Creable, and You agree that Creable shall not be liable to You or any third party as a result of termination.
- 12.4. Upon termination or expiration of these Terms for Advertisers for any reason, all licensed rights granted in these Terms for Advertisers to You will immediately cease to exist and You will irrecoverably delete any and all data You received from Creable. Sections 5, 9 to 11, 13 and 15 to 18, as well as Your obligation to pay any fees applicable, will survive any expiration or termination of these Terms for Advertisers for any reason.

## **13. Proprietary Rights**

You acknowledge and agree that the Website and Services are the exclusive property of Creable and except as may be otherwise provided herein, Creable does not grant any express or implied right in them to You. You agree not to remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) which may be affixed to or contained within the Website. Creable owns the copyright for the Website as a compilation, and all Services accessible from the Website. All content included on the Website, such as text, graphics, logos, button icons, images, data compilations, and software, is the property of Creable or its content suppliers and protected by international copyright laws. Any third party marks displayed on the Website and/or Services are the property of their respective owners. You further acknowledge that the Services may contain information which is designated confidential and that You shall not disclose such information without Creable's prior written consent.

## **14. Contact Us**

If You have any questions about these Terms for Advertisers, please contact us at support@creable.com or: creable AG, Bahnhofstrasse 1a, 8862 Schübelbach, Switzerland.

## **15. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY**

- 15.1. To the fullest extent permitted by applicable law, Creable and its affiliates, officers, employees, agents, partners, and licensors expressly disclaim all warranties of any kind, express or implied, as to the accuracy, adequacy or completeness of any of the information contained in this Website, Services or indexed by the Search Results. The Website, Services and Search Results are provided to You on an "as is" basis, without any warranties as to merchantability or fitness for a particular purpose or use nor with respect to the results which may be obtained from the use of Services.
- 15.2. Creable makes, in particular, no warranty that:
  - the Services will meet Your requirements;
  - the Services will be error-free, secure, or uninterrupted;
  - any errors will be corrected; and
  - the quality of the Services will meet Your expectations.
- 15.3. Any Services or Search Results downloaded or otherwise accessed through the use of the Website is at Your own discretion and risk and Creable shall have no responsibility or liability for any errors or omissions nor shall it be liable for any damages, whether direct or indirect, special or consequential, even if they have been advised of the possibility of such damages. No advice or information, whether oral or written, obtained by You from Creable or its Services shall create any warranty not expressly stated in the Terms for Advertisers.
- 15.4. In no event shall the liability of Creable or any of their affiliates pursuant to any cause of action, whether in contract, tort, or otherwise, exceed the fee paid by You for access to such Services. Furthermore, Creable shall have no responsibility or liability for delays or failures due to circumstances beyond their control.
- 15.5. Except where prohibited by applicable law, any claim or cause of action which You have concerning Creable (including those arising out of or related to Your agreement with us) must be filed within one year after the date on which such claim or cause of action arose or the date on which You learned of the facts giving rise to the cause of action (whichever is the earlier), or be forever barred.

## **16. Miscellaneous**

- 16.1. Severability. If any aspect of these Terms for Advertisers with us is unenforceable, the rest will remain in effect.
- 16.2. No waiver. If we fail to enforce any aspect of these Terms for Advertisers, this will not be construed as a waiver.
- 16.3. Transfer rights. You cannot transfer Your rights or obligations under these Terms for Advertisers without our prior written consent. In contrast, we may transfer or assign our rights and obligations under these Terms for Advertisers to others. For example, this could occur if our ownership changes (as in a merger, acquisition, or sale of assets) or by law. In addition, we may choose to delegate the performance of any of our obligations under these Terms for Advertisers to any third party, but we will remain responsible to You for the performance of such obligations.

16.4. Entire agreement. The Terms for Advertisers form the entire agreement between us and You regarding Your access to and use of Creable, and supersede any and all prior oral or written understandings or agreements between us and You. No implied licenses or other rights are granted to You in relation to any part of Creable or its Services, except as expressly set out in these Terms for Advertisers.

## **17. Governing Law and Jurisdiction**

17.1. These Terms for Advertisers are governed and construed in accordance with the laws of Switzerland (excluding Swiss Private International Law and international treaties, if any). Material Swiss law will apply to:

- any claim that You have arising out of or in connection with these Terms for Advertisers or You use of our Website, our Services or any Search Results (including noncontractual disputes or claims); and
- any claim that we have arising out of or in connection with these Terms for Advertisers, Your use of our Website, our Services or any Search Results (including noncontractual disputes or claims).

17.2. All disputes arising out of or in connection with these Terms for Advertisers, including disputes regarding its conclusion, validity, conclusion, validity, binding effect, amendment, breach, termination or rescission shall be subject to the exclusive jurisdiction of the courts of Switzerland at the seat of Creable.

## **18. Other terms which may apply to Your use of our Website or Services**

The following terms may also apply to Your use of Creable and You agree to them:

- 18.1. Terms of Service for Creators (starting on page 2 above).
- 18.2. Terms of Service for Third Party Visitors (starting on page 22 below).
- 18.3. Privacy Policy ([link: https://creable.com/privacy.pdf](https://creable.com/privacy.pdf)) – which tells you how we use your personal data and other information we collect about you.
- 18.4. Standard Agreement between Third Party Visitor and Creator ([link: https://creable.com/standardagreement.pdf](https://creable.com/standardagreement.pdf)) – which does not form part of your agreement with us, but which governs and sets out the terms applicable to each Third Party Visitor/Creator Transaction you enter into on the Website.

**Last updated: December 2022**

# TERMS OF SERVICE FOR THIRD PARTY VISITORS

The following terms and conditions (referred to collectively as "Terms for Third Party Visitors" apply to Your use of our Website and Services as a Third Party Visitor (as defined in Section 1 below, hereafter "Third Party Visitor" or "You").

## 1. Definitions

- 1.1. "Advertiser" means every User who sets up an account on our Website and uses Services in the "Advertiser Mode" (as shown on the Website in the workspace column).
- 1.2. "Content" means any material posted or uploaded by a User to the Website, a Social Media Platform or any other media outlet (such as, for example, print or radio) in connection with a Third Party Visitor/Creator Transaction, including any photos, videos, audio (for example music and other sounds), livestream material, data, text (such as comments and hashtags), metadata, images, interactive features, emojis, GIFs, memes, and any other material whatsoever.
- 1.3. "Creator" or "Creators" means an individual (or a legal entity on behalf of an individual) who has set up an account on our Website and uses Services in the "Creator Mode" (as shown on the Website in the workspace column).
- 1.4. "Creator Earnings" means the sum of all Third Party Visitor Payments minus any VAT elements and minus our charges and fees. Generally, Creator Earnings are calculated respectively measured on a monthly basis.
- 1.5. "Service" or "Services" means any and all features and functionalities accessible on the Website that do not require the registration of an account either as Advertiser or Creator.
- 1.6. "Standard Agreement between Third Party Visitor and Creator" means the terms which govern each Third Party Visitor/Creator Transaction, which can be accessed via the following link: <https://creable.com/standardagreement.pdf>. The party referred to as "Brand" in the Standard Agreement means the Third Party Visitor.
- 1.7. "Tax" shall include all forms of tax and statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of Switzerland or any other jurisdiction.
- 1.8. "Third Party Visitor" or "Third Party Visitors" means an individual or legal entity who visits the Website or uses any Services that do not require the registration of an account on our Website. This includes in particular (but not exclusively) every individual or legal entity who visits an account of a Creator on our Website or uses Services to enter into an agreement with a Creator regarding the performance of marketing or other services;
- 1.9. "Third Party Visitor/Creator Transaction" means any transaction between a Third Party Visitor and a Creator on the Website and any transaction that follows an interaction between a Third Party Visitor and a Creator on the Website (such as, for example, a Third Party Visitor accessing a Creator account on the Website), a correspondence between a Creator and a Third Party Visitor on the Website or via the Services or a Third Party Visitor contacting a Creator based on information or data made available on the Website our via our Services.
- 1.10. "Third Party Visitor Payment" means any and all payments made by a Third Party Visitor to us in connection with (i) a Third Party Visitor/Creator Transaction (including any VAT elements) or (ii) by way of a tip for a Creator.

- 1.11. "User" means all natural persons and legal entities accessing our Website or using our Services. This includes Advertisers, Creators and Third Party Visitors.
- 1.12. "VAT" means Swiss value added tax and any other tax imposed in addition to or in substitution for it at the rate from time to time imposed and any equivalent or similar governmental, state, federal, provincial, or municipal indirect tax, charge, duty, impost or levy in any other jurisdiction.
- 1.13. "Website" means [www.creable.com](http://www.creable.com) or [www.creable.io](http://www.creable.io).

## **2. Agreement Acceptance**

All of the terms of these Terms for Third Party Visitors apply without modification by You and together constitute legally binding terms between You and Creable. By using or accessing the Website and/or Services, You understand and agree to abide by these Terms for Third Party Visitors whether on Your own behalf or on behalf of a legal person You represent. If You are entering into these Terms for Third Party Visitors on behalf of a legal person, You represent that You have the authority to bind the legal person and its affiliates to these Terms for Third Party Visitors, in which case the terms "You" or "Your" shall refer to that legal person and its affiliates. If You do not agree, You may not use or access the Website and/or any of the Services.

## **3. Amendments**

From time to time, Creable may revise, amend or otherwise change these Terms for Third Party Visitors without prior notice to You. You acknowledge and agree that it is Your responsibility to review these Terms for Third Party Visitors periodically for changes. You agree that Your use of the Services or the Website after the effective date of such change will constitute Your consent to the revised, amended, or otherwise changed Terms for Third Party Visitors or Terms for Third Party Visitors. If You do not agree to the changes, You must stop using the Services and You must stop accessing our Website.

## **4. Website Use**

Unless specified otherwise, You may access the Website and Services free of charge. However, You agree that You will not reproduce, duplicate, copy, sell, trade or resell the Services for any purpose. You must not obscure, alter, remove or delete any copyright or other proprietary notices contained in the Services. You will not copy, modify, adapt, translate or otherwise create derivative works of any of the Services obtained from the Website. You warrant that You will not attempt or assist others to attempt or actually reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the software. You agree to comply with all applicable laws and regulations in Your use of and access to the Website and Services.

## **5. Provision of the Website Use**

- 5.1. You understand and agree that Creable may modify, terminate, suspend, or otherwise adjust any and all aspects of the Website and Services at any time without prior notice to You.
- 5.2. You acknowledge and agree that Creable can disable access to the Website and any Services in its sole discretion.
- 5.3. You acknowledge and agree to receive communications from us electronically, including by emails.
- 5.4. You acknowledge and agree that the pricing of our Services is flexible and subject to change at any time. We do not guarantee that the pricing will remain the same throughout the validity of these Terms for Third Party Visitors. Should, however,

the pricing change, You will have a chance to cancel Your Subscription without further obligation of either party towards the other.

- 5.5. You acknowledge and agree that Creable will use reasonable care and skill in providing the Services to You, but is not responsible for, in particular, the following:
  - The accuracy or completeness of any data, material, information or other outputs (collectively "Data") from the Website, Services or provided to You on our Website or via our Services by any third party (such as, for example an Advertiser, a Creator, a Third Party Visitor or a Third Party Visitor). In particular, Creable:
    - does not verify the accuracy of Data;
    - has no control over such Data; and
    - does not guarantee that Data displayed on the Website our via the Services is accurate.
  - The utility or benefit of our Services to Your business or, if applicable, to You personally.
  - The future accessibility of any particular feature and functionality of our Services.
  - The compatibility of our Services with all devices or operating systems.
- 5.6. You acknowledge and agree that Creable is not party of any agreements between Third Party Visitors and Creators (such as Third Party Visitor/Creator Transactions) and that we do not authorize or approve Content and views expressed by Creators or Third Party Visitors on our Website or elsewhere (such as, for example, on Social Media Platforms).

## **6. Privacy Policy**

- 6.1. We comply with the General Data Protection Regulation EU 2016/679 (GDPR).
- 6.2. Important information for data controllers: You acknowledge that when processing personal data of individuals, You may become a data controller and You must comply with GDPR.
- 6.3. If You are an individual and process personal data in the course of a purely personal or "household" activity, You may be exempt from the application of GDPR. If You are unsure whether this exemption applies, please, obtain legal advice.
- 6.4. If You are a legal person, You may become a data controller for the purposes of GDPR when You process personal data about natural persons. This is the case whether You obtain personal data through Us or through any other third party (for instance, if You manually compile Your own database from Instagram). If GDPR applies to You, You hereby confirm that You and Us (the "Parties"):
  - 1) each independently determines the purposes and means of the processing of personal data and acts as an independent controller;
  - 2) the Parties do not jointly determine the purposes and means of the processing and do not act as joint controllers;
  - 3) neither of the Parties processes personal data on behalf of the other Party and does not act as a processor;

- 4) each of the Parties shall independently take all necessary measures to comply with applicable data protection laws.
- 6.5. Cookie Policy. Creable Services use cookies to distinguish You from other customers. This helps Creable to provide You and all our other customers with a good experience and also allows Creable to improve Services.

## 7. Third Party Visitor/Creator Transaction

- 7.1. All Third Party Visitor/Creator Transactions are contracts between Third Party Visitors and Creators on the terms of the Standard Agreement between Third Party Visitor and Creator (link: <https://creable.com/standardagreement.pdf>). Although we facilitate Third Party Visitor/Creator Transactions by providing the Website and Services, we are not a party to the Standard Agreement between Third Party Visitor and Creator or any other contract which may exist between a Third Party Visitor and Creator, and are not responsible for any Third Party Visitor/Creator Transaction.
- 7.2. Creators, and not Creable, are solely responsible for determining the pricing applicable to Third Party Visitor/Creator Transactions. All prices appear in USD only, unless specified otherwise.
- 7.3. You authorize us and our subsidiary companies to supply Your payment card details (if You provide us with any) to a third-party payment provider for the purpose of processing Your Third Party Visitor Payment. All Third Party Visitor Payments will be charged in USD. Your payment card provider may charge You currency conversion fees. We do not have control over currency exchange rates or charges imposed by Your payment card provider or bank and we and our subsidiary companies will not be responsible for paying any charges or fees imposed by Your payment card provider or bank.
- 7.4. If You choose to provide details of two or more payment cards, then if You try to make a Third Party Visitor Payment from the first card and the card is rejected for any reason, then the other payment card will be used to collect the full Third Party Visitor Payment.
- 7.5. The payment provider will take (i) periodic payments from Your payment card for Third Party Visitor Payments; and (ii) immediate payments from Your payment card for Third Party Visitor Payments for all other transactions (such as, for example, one-time fees or any tips paid by You to a Creator). You authorize and consent to each of these payments being debited using Your supplied payment card details.
- 7.6. You agree that You will not make unjustified requests for a refund in respect of any Third Party Visitor/Creator Transaction and waive Your right to request a refund in respect of any tips to a Creator. You agree that You will also not make unjustified chargeback requests via Your payment card provider. If we consider that any request for a refund or chargeback request was made by You in bad faith, we have the right to prevent You from accessing our Website or using our Services.
- 7.7. We are not responsible for and do not endorse any aspect of any Content requested, created, uploaded or posted by You or any other User. We do not have any obligation to monitor any Content and have no direct control over what Your Content may comprise.

- 7.8. You also agree to act as custodian of records for the Content that You upload to the Website and/or create in connection with a Third Party Visitor/Creator Transaction.

## **8. Links from and to the Website or Services**

- 8.1. Links to our Website and Services. You may link to our Website or Services, provided You do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but You must not establish a link in such a way as to suggest any form of association, approval, or endorsement on our part. In addition, You must comply with the terms of service of any other website where You place a link to or otherwise promote Your Creator account. When promoting Your Creator account, You must not impersonate Creable or give the impression that Your Creator account is being promoted by us if this is not the case. You must not promote Your Creable account by using Google Ads or any similar advertising platform or search engine advertising service.
- 8.2. Links from our Website or Services. If our Website or Services contain links to other sites and resources provided by third parties, these links are provided for Your convenience only. Such links should not be interpreted as approval by us of those linked websites or information You may obtain from them. We have no control over the contents of those sites or resources and accept no responsibility for them or for any loss or damage that may arise from Your use of them. If You decide to access any of the third-party websites linked to Creable, You do so entirely at Your own risk and subject to the terms and conditions of use for such websites.

## **9. General Restrictions**

You may only use the Service as specified above. You are restricted from using the Service for any other usage, including:

- 9.1. Use any means to modify or reroute the Service.
- 9.2. Broadcast, reproduce, republish, post, transmit or distribute any part of the Services (other than as specifically allowed pursuant to these Terms for Third Party Visitors).
- 9.3. Assign, syndicate, resell or otherwise transfer or make available data/content obtained via the Website or Services to third parties (unless You have specific written agreement with Creable for this).
- 9.4. Copy, modify, create a derivative work from, reverse engineer or reverse assemble the Website or Services, or otherwise attempt to discover any source code, or allow any third party to do so.
- 9.5. Use the Services in any way that harms Creable, its affiliates, resellers, distributors, customers, service providers and/or suppliers, as determined by Creable in its sole discretion;
- 9.6. Use the Services in any manner that could damage, disable, overburden, or otherwise harm the Services and/or Website or interfere with any other party's use and enjoyment of the Services and/or Website;
- 9.7. Use any meta tags or any other "hidden text" utilizing Creable's name or trademarks without the prior written consent of Creable;
- 9.8. Display the Website in frames or utilize any other techniques to display the Website (or any content on the Website) without the prior written consent of Creable;

- 9.9. Use the Services in any manner which is contrary to the provisions of any applicable third party terms of use or other agreements (including any requirement to secure written permission prior to making certain utilization of content);
- 9.10. Use the Services to "stalk" or otherwise harass another; and/or collect or store personal data about any other person.
- 9.11. Employ any technique to compile any false or misleading information or content;
- 9.12. Harm minors in any way;
- 9.13. Use the Services in any manner that violates or infringes the rights of any third parties, including without limitation copyright, trademark, patent publicity, or other proprietary rights;
- 9.14. Use the Services in any manner that any applicable local, state, national or international laws or regulations;
- 9.15. Use the Services to gain unauthorized access to any third party services, User accounts, computer systems, or networks;
- 9.16. Use the Creable domain name or other contact information as a pseudonymous reply email, postal, and/or fax address (or any other type of return address) for any communication transmitted from another location or through another service or otherwise impersonate Creable or any other third party;

## **10. Publicity**

You grant Creable the right to add Your name and company logo to its customer list and web site. Except for the foregoing, neither party may use the other party's name or logo without the other party's prior written consent.

## **11. Cancellation Or Termination**

- 11.1. You may stop accessing the Website or using the Services at any time.
- 11.2. Creable may prevent You from accessing the Website, using the Services or prevent You from performing Third Party Visitor/Creator Transactions, in case of a breach of these Terms for Third Party Visitors by You or in case Creable, in its sole discretion, suspects a breach of these Terms for Third Party Visitors by You.

## **12. Proprietary Rights**

You acknowledge and agree that the Website and Services are the exclusive property of Creable and except as may be otherwise provided herein, Creable does not grant any express or implied right in them to You. You agree not to remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) which may be affixed to or contained within the Website. Creable owns the copyright for the Website as a compilation, and all Services accessible from the Website. All content included on the Website, such as text, graphics, logos, button icons, images, data compilations, and software, is the property of Creable or its content suppliers and protected by international copyright laws. Any third party marks displayed on the Website and/or Services are the property of their respective owners. You further acknowledge that the Services may contain information which is designated confidential and that You shall not disclose such information without Creable's prior written consent.

## **13. Contact Us**

If You have any questions about these Terms for Third Party Visitors, please contact us at support@creable.com or: creable AG, Bahnhofstrasse 1a, 8862 Schübelbach, Switzerland.

## **14. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY**

- 14.1. To the fullest extent permitted by applicable law, Creable and its affiliates, officers, employees, agents, partners, and licensors expressly disclaim all warranties of any kind, express or implied, as to the accuracy, adequacy or completeness of any of the information contained in this Website or created by the Services. The Website and Services are provided to You on an "as is" basis, without any warranties as to merchantability or fitness for a particular purpose or use nor with respect to the results which may be obtained from the use of Services.
- 14.2. Creable makes no warranty or guarantee that:
  - the Services will meet Your requirements;
  - the Services will be error-free, secure, or uninterrupted;
  - any errors will be corrected;
  - the quality of the Services will meet Your expectations;
  - a Creator will, even after agreeing to a Third Party Visitor/Creator Transaction, perform any kind of services or do so in a satisfactory manner or achieve any kind of result. If You decide to agree with a Creator on a Third Party Visitor/Creator Transaction, You do so entirely at Your own risk.
  - no loss or damage arises from Your reliance on any Data, in particular, but not exclusively, in connection with Third Party Visitor/Creator Transactions. If You decide to rely on any Data shown on the Website or via our Services or any other data provided to You by a Creator, Advertiser, Third Party Visitor, Third Party Visitor or other third party, You do so entirely at Your own risk.
- 14.3. Creable shall have no responsibility or liability for any errors or omissions nor shall it be liable for any damages, whether direct or indirect, special or consequential, even if they have been advised of the possibility of such damages. No advice or information, whether oral or written, obtained by You from Creable or its Services shall create any warranty not expressly stated in the Terms for Third Party Visitors.
- 14.4. In no event shall the liability of Creable or any of their affiliates pursuant to any cause of action, whether in contract, tort, or otherwise, exceed the fee paid by You for access to such Services. Furthermore, Creable shall have no responsibility or liability for delays or failures due to circumstances beyond their control.
- 14.5. Except where prohibited by applicable law, any claim or cause of action which You have concerning Creable (including those arising out of or related to Your agreement with us) must be filed within one year after the date on which such claim or cause of action arose or the date on which You learned of the facts giving rise to the cause of action (whichever is the earlier), or be forever barred.

## **15. Indemnification**

You indemnify and hold Creable harmless (i) from and against any and all claims from Creators related to Third Party Visitor/Creator Transactions to which You are a party, (ii) from and against any and all third party claims arising out of Your or a Creator's failure to comply with

applicable laws, social media platform rules or other applicable regulations in connection with a Third Party Visitor/Creator Transaction to which You are a party and (iii) from and against any loss or damage, including loss of profit, we suffer as a result of You failing to comply with Your obligations under these Terms for Third Party Visitors or any contract between You and a Creator. This includes, but is not limited to, any kind of fines, damage payments or costs of legal proceedings

## **16. Miscellaneous**

- 16.1. Severability. If any aspect of these Terms for Third Party Visitors with us is unenforceable, the rest will remain in effect.
- 16.2. No waiver. If we fail to enforce any aspect of these Terms for Third Party Visitors, this will not be construed as a waiver.
- 16.3. Transfer rights. You cannot transfer Your rights or obligations under these Terms for Third Party Visitors without our prior written consent. In contrast, we may transfer or assign our rights and obligations under these Terms for Third Party Visitors to others. For example, this could occur if our ownership changes (as in a merger, acquisition, or sale of assets) or by law. In addition, we may choose to delegate the performance of any of our obligations under these Terms for Third Party Visitors to any third party, but we will remain responsible to You for the performance of such obligations.
- 16.4. Entire agreement. The Terms for Third Party Visitors form the entire agreement between us and You regarding Your access to and use of Creable, and supersede any and all prior oral or written understandings or agreements between us and You. No implied licenses or other rights are granted to You in relation to any part of Creable or its Services, except as expressly set out in these Terms for Third Party Visitors.

## **17. Governing Law and Jurisdiction**

- 17.1. These Terms for Third Party Visitors are governed and construed in accordance with the laws of Switzerland (excluding Swiss Private International Law and international treaties, if any). Material Swiss law will apply to:
  - any claim that You have arising out of or in connection with these Terms for Third Party Visitors or You use of our Website or our Services (including noncontractual disputes or claims); and
  - any claim that we have arising out of or in connection with these Terms for Third Party Visitors, Your use of our Website or our Services (including noncontractual disputes or claims).
- 17.2. All disputes arising out of or in connection with these Terms for Third Party Visitors, including disputes regarding its conclusion, validity, conclusion, validity, binding effect, amendment, breach, termination or rescission shall be subject to the exclusive jurisdiction of the courts of Switzerland at the seat of Creable.

## **18. Other terms which may apply to Your use of our Website or Services**

The following terms may also apply to Your use of Creable and You agree to them:

- 18.1. Terms of Service for Advertisers (starting on page 2 above).
- 18.2. Terms of Service for Creators (starting on page 14 above).
- 18.3. Privacy Policy (link: <https://creable.com/privacy.pdf>) – which tells You how we use Your personal data and other information we collect about You.

18.4. Standard Agreement between Third Party Visitor and Creator (link: <https://creable.com/standardagreement.pdf>) – which does not form part of Your agreement with us, but which governs and sets out the terms applicable to each Third Party Visitor/Creator Transaction You enter into on the Website.

**Last updated: December 2022**