

MUSIC WANDERING TERMS OF USE

Last updated on June 7, 2022 (the “Effective Date”).

Welcome to Music Wandering! These terms of use (the “Terms”) are between Ellen Larson, an individual, p/k/a “Ellen Tsai”, currently d/b/a “Music Wandering”, and its related companies (collectively, “Music Wandering”, “we”, “us”, or “our”) and you. These Terms govern your use of the website, www.musicwandering.com (the “Site”), all related products and/or services, and any other products and/or services we provide in connection with the Site (collectively, the “Services”). Please read these Terms carefully because they constitute a binding legal agreement between you and us.

These Terms are divided into the following 17 sections:

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1. INTRODUCTION.

1.1. ACCEPTANCE OF TERMS. By accessing or using the Services in any way, (a) you represent that you have read and understood these Terms, and (b) you agree to be bound by these Terms. If you do not agree with these Terms, then please do not use the Services. You should print or otherwise save a copy of these Terms for your records.

1.2. ELIGIBILITY. To access, use, and/or register for the Services you must (a) be eighteen (18) years of age or older, and (b) have the power to enter a binding contract with us and are not barred from doing so under any applicable laws. You also represent and warrant that any registration information that you submit to us is accurate, true, and complete, and that you will keep it that way at all times.

1.3. CHANGES TO THE TERMS. We may unilaterally change these Terms, the terms of the [Privacy Policy](#) (attached and incorporated herein), and/or the terms of the [Purchase Agreement](#) (attached and incorporated herein) at any time. If we make any changes to these Terms, we will change the Effective Date above, and where appropriate, may notify you via e-mail or announcement on the Site. You understand and agree that by using the Services after the Terms are changed, that your continued use of the Services constitutes your acceptance of the Terms, [Privacy Policy](#), and [Purchase Agreement](#) as revised. We encourage you to check the Terms, [Privacy Policy](#), and [Purchase Agreement](#) before using the Site each time.

2. ACCESS TO THE SITE.

2.1. ACCESS TO THE SITE; NEWSLETTER. You are not required to register and create an account with us in order to use the Services. You may, but are not required, to register for our newsletter. When you register for such newsletter, you will be required to provide certain information ((e.g. (a) email address and (b) first and last name).

2.2. ACCESS TO CONTENT THAT YOU PROVIDE TO MUSIC WANDERING. Without limiting anything contained herein, you agree and acknowledge that we may access, use, preserve, and/or disclose information that you provide to us if legally required to do so or if we have a good faith belief that such access, use, disclosure, or preservation is reasonably necessary to (a) comply with legal process or request, (b) enforce these Terms, including investigation of any potential violation, (c) detect, prevent, or otherwise address security, fraud, or technical issues, or (d) protect the rights, property, or safety of us, our users, or the public as required or permitted by law.

3. DESCRIPTION OF THE SERVICES.

3.1 THE SERVICES. The Services Music Wandering provides currently include, but are not limited to: (a) Digital downloads of sheet music embodying original musical composition(s); and (b) Digital downloads of sound recording(s) embodying original musical compositions in the form of MP3 files. Such digital downloads shall be provided to you via email with a link that expires seventy-two (72) hours after purchase, with the ability to click such link a maximum of three (3) times after purchase.

3.2 CHANGING THE SERVICES. We may modify, suspend, or stop the Services, in whole or part, either temporarily or permanently, at any time, with or without prior notice to you. You agree that we shall not be liable to you or any third party for any modification or cessation of the Services. You acknowledge that we have no express or implied obligation to provide, or continue to provide, the Services, or any part thereof, now or in the future. Any new services and features will be subject to these Terms, as well as any additional terms of use that we may release for those specific services or features.

3.3 “AS IS” NOTICE. You understand and acknowledge that the Services are being provided and are made available on an “AS IS” basis. The Services may contain errors or inaccuracies that could cause failures, corruption, or loss of your information. We strongly encourage you to back-up all data and information on your devices prior to using the Services in any way. YOU ASSUME ALL RISKS AND COSTS WHATSOEVER ASSOCIATED WITH YOUR USE OF THE SERVICES. Additionally, we are not obligated to provide any maintenance, technical, or other support for the Services.

3.4 FEEDBACK. As part of using the Services, we may provide you with the opportunity to submit comments, suggestions, or other feedback regarding your use of the Services. You agree that in the absence of a separate written agreement to the contrary, we will be free to use any feedback you provide for any purpose without any compensation to you.

4. PRICES AND PAYMENT.

4.1 FEES. All fees are set forth on the Site in proximity to the relevant Service. All fees shall be paid in accordance with the [Purchase Agreement](#).

4.2 CHANGES TO FEES. We reserve the right, in our sole discretion, to modify the fees and/or institute additional charges for use of the Services. In such a case, we will notify you of the fees involved and you will not be charged without your prior consent.

4.3 DEBIT OR CREDIT CARD PAYMENT. If you elect to request the Services, you agree to pay to us the displayed rate in exchange for receiving the Services for the elected type of Service and in accordance with the [Purchase Agreement](#). You agree that all fees or charges (including any taxes and late fees, as applicable) associated with your access to the Site and/or Services shall be made via debit or credit card. You hereby authorize Music Wandering to charge and/or place a hold on your debit or credit card with respect to any charges for Services. You authorize the issuer of the debit or credit card to pay any amounts described herein without requiring a signed receipt, and you agree that these charges are to be accepted as authorization to the issuer of the debit or credit card to pay any amounts described herein without requiring a signed receipt, and you agree that these charges are to be accepted as authorization to the issuer of the debit or credit card to pay all such amounts. You authorize Music Wandering and/or any other company who bills products or services, or acts as billing agent for Music Wandering to continue to attempt to charge and/or place holds with respect to all sums described herein, or any portion thereof, to your debit or credit card until such amounts are paid in full. You agree to provide Music Wandering with updated debit or credit card information upon Music Wandering's request and/or any time the information you previously provided is no longer valid. You acknowledge and agree that neither Music Wandering nor any Music Wandering affiliated company will have any liability whatsoever for any non-sufficient funds or other charges incurred by you as a result of such attempts to charge, and/or place holds on, your debit or credit card. When payment is made by credit card or debit card, payment will also be subject to the terms and conditions established by the credit or debit card issuer. Your debit and/or credit card information will be stored with Music Wandering.

4.4 TAXES. You are responsible for all taxes or other government fees and charges, if any, which are assessed based on the Services.

4.5 REFUND POLICY. All payments to us are nonrefundable.

5. LICENSE TO USE THE SERVICES.

5.1. **OUR PROPRIETARY RIGHTS.** You agree and acknowledge that Music Wandering and/or our licensors own all legal right, title, and interest in and to the Services, and any related software, including but not limited to, any content we provide to you as a part of and/or in connection with the Services, including all intellectual property rights that exist therein, whether registered or not, and wherever in the world they may exist (collectively, the “Software”). You further agree and acknowledge that the Software contains proprietary and confidential information that is protected by applicable intellectual property and other laws. Using the Software does not give you any rights of ownership in them.

5.2. **LICENSE TO USE THE SERVICES.** Subject to your strict compliance with these Terms and the [Purchase Agreement](#), we grant you a limited, personal, nonexclusive, revocable, and nontransferable license to use the Software as we provide to you as part of the Services.

5.3. **LIMITATIONS ON USE.**

5.3.1. You agree to use the Services only for purposes as permitted by these Terms, the [Purchase Agreement](#), and any applicable laws or regulations. We reserve the right to modify or impose any limitations on the use of the Services at any time, with or without notice to you. All rights that are not expressly granted by us in these Terms and/or the [Purchase Agreement](#) are reserved.

5.3.2. You agree to not, or to permit anyone else to, reproduce, copy, duplicate, modify, create a derivative work of, reverse engineer, decompile, or otherwise attempt to discover the source code (unless expressly permitted or required by law), sell, resell, rent, trade, lease, sublicense, assign, grant a security interest in, or otherwise transfer any right in the Software, except as expressly permitted in these Terms and/or [Purchase Agreement](#).

6. **YOUR CONDUCT; COMMUNITY GUIDELINES.**

6.1. **PROHIBITED CONDUCT.** You agree that you will NOT use the Services to do any of the following (the “Prohibited Conduct”):

(a) Upload, download, embed, post, email, transmit, store, or otherwise make available anything that infringes any copyright, patent, trademark, trade secret, right of publicity, confidential information, or any other rights of any person or entity;

(b) Upload, download, embed, post, email, transmit, store or otherwise make available any content that is unlawful, harassing, threatening, harmful, tortuous, defamatory, libelous, abusive, promotes violence, obscene, vulgar, promotes pornography, invasive of another’s privacy, hateful, inflammatory, racially or ethnically offensive, attacks an individual or group, incites hatred on grounds of race, gender, religion or sexual orientation, promotes drug use, or is otherwise objectionable in our sole discretion;

(c) Stalk, harass, abuse, threaten, or harm another;

(d) Mislead as to the origin of any content or information you provide to us, deceive any person, or misrepresent your identity or affiliation with any person or entity;

(e) Post, send, transmit, or otherwise make available any unsolicited or unauthorized email messages, advertising, promotional materials, junk mail, spam, or chain letters;

(f) Use or attempt to use another user’s information, unless you have express permission from that other user;

(g) Upload, download, embed, post, email, transmit, store, or otherwise make available anything that contains viruses or any other computer code, files or programs designed to harm, interfere or limit the normal operation of the Services, or any other computer software or hardware, or which does or might restrict or inhibit any other user’s use and enjoyment of the Services;

(h) Commit or engage in, or encourage, induce, solicit, or promote, any conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any law or regulation;

(i) Use any content in any way that is designed to create a separate content service or that replicates any part of the Services;

(j) Sell or transfer, or offer to sell or transfer, your account to any third party without the prior written approval from us;
and/or

(k) Collect, attempt to collect, and/or store personal information on any other users of the Services to be used in connection with any of the foregoing prohibited activities.

6.2. **FLAGGING AND REPORTING VIOLATIONS.**

6.2.1. If while using the Services, you encounter conduct that you believe to be Prohibited Conduct, you may report it by sending an email to: admin@musicwandering.com.

6.2.2. Our staff will review so-called “flagged” information from you to determine whether it is Prohibited Conduct. If Music Wandering finds conduct is Prohibited Conduct, we will promptly take appropriate steps to address the Prohibited Conduct.

6.3. ENFORCEMENT. You agree to comply with the above conditions, and acknowledge and agree that we have the right, in our sole discretion, to suspend and/or terminate your access to the Site and/or Services or take such other action as we see fit if you breach any of the above conditions or any of the other terms of these Terms and/or [Purchase Agreement](#). Without limiting any other rights or remedies of us under these Terms, we reserve the right to investigate any situation that appears to involve any of the above Prohibited Conduct, and may report such matters to, and cooperate with, appropriate law enforcement authorities in prosecuting any users who have participated in any such violations. We reserve the right, in our sole discretion, to determine whether your conduct is Prohibited Conduct.

7. REPRESENTATIONS AND WARRANTIES. Without limiting any other representations and warranties contained herein, you represent and warrant to us as follows:

(a) All information and content that you provide to us is an original work by you, or you have obtained all rights, licenses, consents, and permissions necessary in order to use, and (if and where relevant) to authorize us to use, such information and content pursuant to these Terms, including but not limited to, the right to upload, reproduce, store, transmit, distribute, share, publicly display, publicly perform, make available, and otherwise communicate to the public such information and content through or via the Site and the Services;

(b) All information and content that you provide to us does not and will not violate the rights of any third party in any way whatsoever, including but not limited to, any intellectual property rights, performers’ rights, rights of privacy or publicity, or rights in confidential information;

(c) All information and content that you provide to us does not and will not create any liability on the part of us, our subsidiaries, affiliates, successors, and assigns, and their respective employees, agents, directors, officers and/or shareholders; and

(d) You are eighteen (18) years of age or older, legally permitted to enter into these Terms and to grant us all the rights granted in these Terms, and these Terms will not interfere with any contract to which you are a party.

8. COPYRIGHT NOTICE; TRADEMARK NOTICE.

8.1. COPYRIGHT NOTICE. All materials used on the Site are protected by copyright, and are owned or controlled by Music Wandering, or licensed to Music Wandering. Unauthorized copying, reproduction, republishing, uploading, posting, transmitting, or duplicating of any of the Site’s content is prohibited. All rights reserved.

8.2. TRADEMARK NOTICE. All Music Wandering trademarks, service marks, trade names, logos, graphics, and domain names used in connection with the Services are trademarks and/or service marks or registered trademarks and/or service marks of Music Wandering in the United States and/or other countries. Any other trademarks, service marks, graphics, and logos used in connection with the Services may be the trademarks and/or service marks of their respective owners. You are not granted any right or license to use any of the above trademarks and/or service marks, whether for commercial or non-commercial use, and further agree that you shall not remove, obscure, or alter any proprietary notices (including trademark and copyright notices) that may be affixed to or contained within the Services. All rights reserved. If you believe that any of your trademarks and/or service marks have been infringed by anyone using the Services, please contact us at: admin@musicwandering.com.

9. PRIVACY. All personal data that you provide to us in connection with your use of the Services is collected, stored, used, and disclosed by us in accordance with our [Privacy Policy](#). You acknowledge and agree that by accepting these Terms, you also accept the terms of our [Privacy Policy](#).

10. LINKS AND THIRD-PARTY MATERIALS. Certain content, components, and/or features of the Services may include materials from third parties and/or hyperlinks to other web sites, resources, or content. You acknowledge and agree that because we may have no control over such third-party sites and/or materials, we are not responsible for the availability of such sites or resources, and do not endorse or warrant the accuracy of any such sites or resources, and shall in no way be liable or responsible for any content, advertising, products, or materials on or available from such sites or resources. You further acknowledge and agree that we shall not be responsible or liable in any way for any damages you incur or allege to have incurred, either directly or indirectly, as a result of your use and/or reliance upon any such content, advertising, products, or materials on or available from such sites or resources.

11. EXPORT CONTROL. Use of the Services may be subject to the export and import laws of the United States and other countries. You agree to comply with all applicable export and import laws and regulations. In particular, but without limitation, the Services may not be exported or re-exported (a) into any U.S. embargoed countries, or (b) to anyone on the U.S. Treasury Department's list of specially designated nationals or the U.S. Department of Commerce denied person's list or entity list. By using the Services, you represent and warrant that you are not located in any such country or on any such list. You agree not to upload to your account any data or software that cannot be exported without prior written government authorization. This export control clause shall survive termination or cancellation of these Terms and/or the [Purchase Agreement](#).

12. TERM AND TERMINATION. These Terms will continue to apply to you until terminated by either you or us. You may stop using the Services at any time for any reason by contacting us. You agree and acknowledge that we may terminate these Terms or suspend your access to the Services at any time, for any reason, with or without prior notice or explanation, including in the event of your actual or suspected unauthorized use of the Services or non-compliance with these Terms and/or the [Purchase Agreement](#), in our sole discretion. We will also suspend or terminate your access to the Site and/or Services without warning if ordered to do so by a court, and/or in other appropriate circumstances, as determined by us, in our sole discretion. If you or us terminate these Terms, or if we suspend your access to the Services, you acknowledge and agree that (a) we shall have no liability or responsibility to you in any way whatsoever, (b) you will lose all access to the Services, (c) we will not refund any amounts that you have already paid unless explicitly provided in these Terms, to the fullest extent permitted under applicable law, and (d) you will lose all access to the Services.

13. DISCLAIMERS. You understand and agree to the following:

13.1. YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK AND THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS. WE AND OUR AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, AND LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, WE AND OUR AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, AND LICENSORS MAKE NO WARRANTY THAT (a) THE SERVICES WILL MEET YOUR REQUIREMENTS, (b) YOUR USE OF THE SERVICES WILL BE TIMELY, UNINTERRUPTED, SECURE OR ERROR FREE, (c) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF THE SERVICES WILL BE ACCURATE OR RELIABLE, AND (d) ANY DEFECTS OR ERRORS PROVIDED TO YOU AS PART OF THE SERVICES WILL BE CORRECTED.

13.2. ANY MATERIAL TRANSMITTED, STORED, ACCESSED, OR OTHERWISE MAINTAINED THROUGH THE USE OF THE SERVICES IS DONE SO AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES OR LOSS OR CORRUPTION OF DATA THAT RESULTS FROM ANY SUCH USE OF THE SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

13.3. WHERE THE LAW OF ANY JURISDICTION LIMITS OR PROHIBITS THE DISCLAIMER OF IMPLIED OR OTHER WARRANTIES AS SET OUT ABOVE, THE ABOVE DISCLAIMERS SHALL NOT APPLY TO THE EXTENT THAT THE LAW OF SUCH JURISDICTION APPLIES TO THESE TERMS.

14. LIMITATION OF OUR LIABILITY.

14.1. YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAWS, MUSIC WANDERING AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, AND LICENSORS SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSSES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM (a) THE USE OR INABILITY TO USE THE SERVICES, (b) ANY CHANGES MADE TO THE SERVICES OR ANY TEMPORARY OR PERMANENT CESSATION OF ANY OF THE SERVICES, (c) THE UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR CONTENT OR DATA, (d) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE AND/OR SEND OR RECEIVE YOUR CONTENT OR DATA ON OR THROUGH THE SERVICES, (e) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON OR VIA THE SERVICES; AND (f) ANY OTHER MATTERS WHATSOEVER RELATING TO THE SERVICES.

14.2. YOU EXPRESSLY UNDERSTAND AND AGREE THAT AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THE SERVICES SHALL NOT BE MORE THAN THE AMOUNTS PAID BY YOU TO US DURING THE PRIOR TWELVE MONTHS IN QUESTION.

14.3 Nothing in these Terms removes or limits our liability for fraud, fraudulent misrepresentation, personal injury, or death caused by our negligence.

15. INDEMNITY. You agree to defend, indemnify, and hold us, our affiliates, subsidiaries, directors, officers, employees, agents, partners, and licensors harmless from any claim or demand, (including attorneys' fees, expert fees, expenses, and court costs), whether or not an action is actually commenced, made by a third party, relating to or arising from any of the following: (a) any content you submit, post, transmit, or otherwise make available through the Services; (b) your use of the Services; (c) any violation by you of these Terms and/or the [Purchase Agreement](#); or (d) your violation of any rights of another. This obligation shall survive the termination or expiration of these Terms, the [Purchase Agreement](#), and/or your use of the Services.

16. NOTICES; CONTACTING US.

16.1. We may provide you with notices regarding the Services, including changes to these Terms, via email, regular mail, or postings on the Site and/or the Services.

16.2. If you have any questions about these Terms, please contact us via email at: admin@musicwandering.com.

17. GENERAL.

17.1. ENTIRE AGREEMENT. These Terms, together with the [Privacy Policy](#) and the [Purchase Agreement](#) contain the entire understanding between you and us regarding your use of the Services, and supersedes all prior agreements, representations, and understandings between you and us relating to the subject matter hereof. In the event that any terms contained in these Terms conflict with the terms contained in the [Purchase Agreement](#) or [Privacy Policy](#), the terms of the [Purchase Agreement](#) shall prevail.

17.2. SEVERABILITY. If any provision of these Terms is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Terms will be severable and remain in effect.

17.3. WAIVER. Any failure by us to enforce your strict performance of any provision of these Terms will not constitute a waiver of our right to subsequently enforce such provision or any other provision of these Terms.

17.4. CHOICE OF LAW. The validity, construction, and performance of this Agreement shall be governed and construed in accordance with the laws of the State of California, without giving effect to any conflict of laws provisions.

17.5. MANDATORY ARBITRATION. If a dispute arises out of or relating to any aspect of these Terms, all of the parties agree to try and settle the dispute quickly and fairly through discussion. If the dispute cannot be settled through discussion, all parties agree to first try in good faith to settle the dispute by private mediation before resorting to arbitration. If a dispute cannot be resolved with either discussion or mediation, then the dispute shall be submitted for binding arbitration to ADR Services, Inc. in San Diego County, California under ADR Services' arbitration rules. In the event that ADR Services no longer exists, Music Wandering shall select another arbitration service in San Diego County to conduct the binding arbitration under such services' rules. In the event of an arbitration (or any other court proceeding), the prevailing party shall be entitled to recover reasonable attorneys' fees and costs related to such action, suit, or proceeding. You and Music Wandering thus KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION IN CONNECTION WITH THESE TERMS. FURTHER, YOU AND MUSIC WANDERING AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR OUR INDIVIDUAL CAPACITY, AND NOT AS A CLASS MEMBER OR IN ANY REPRESENTATIVE CAPACITY OR PROCEEDING.

17.6. ASSIGNMENT. We shall have the right to assign or delegate any of our rights or obligations of these Terms, in whole or in part, at any time, with or without prior notice to you. You may not assign these Terms in any way. All obligations contained in these Terms shall extend to and be binding upon the parties' respective successors, assigns, and designees.

17.7. NO THIRD-PARTY BENEFICIARIES. Except as otherwise expressly provided in these Terms, you agree that there shall be no third-party beneficiaries to these Terms.

17.8. LANGUAGE; TRANSLATIONS. Any translation of these Terms is done for local requirements. In the event of a dispute between the English and any non-English versions, the English version of these Terms shall govern.

17.9. STATUTE OF LIMITATIONS. You agree that any claim or cause of action arising out of or related to these Terms or the use of the Services must be filed within one (1) year after the cause of action arose or is forever barred.

17.10. CLAUSE HEADINGS. Headings within these Terms are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer.