

# Terms of Service

Last updated on July 21, 2014

Please read carefully the following terms and conditions (“Agreement”) before using the Service offered by Closeli, Inc. and its affiliates (collectively, “Closeli” or “we”). The Agreement below governs your access and use of the Site, Application, and Closeli Service (collectively the “Service(s)”) and constitutes a binding legal agreement between you and Closeli.

By using the Service you accept this Agreement and agree to be bound by the terms of the Agreement. If you do not agree to these terms, please do not use the Service. Closeli reserves the right, at its sole discretion, to change, modify, add or remove portion of the Agreement at any time by posting a notice on the Site, or by sending you a notice via email or postal mail. Your use of the Service following such notification constitutes your acceptance of the terms and conditions of this Agreement as modified.

## Access to the Services

Closeli, Inc is the provider of Closeli, a service that provides a cloud platform available on your phone, web browser and other devices where you can access, organize, and review recordings captured through your camera (the “Closeli Service”). The Closeli Service can be accessed through [www.closeli.com](http://www.closeli.com) (the “Site”), and/or through our application for browsers and mobile devices (the “Application”).

Closeli may change, suspend or discontinue the Service at any time, including the availability of any feature, database, or Content. Closeli may also impose limits on certain features and services or restrict your access to parts or all of the Service without notice or liability. You may only use the Service and the camera product (the “Product”) for your own personal, non-commercial use, and not for the use or benefit of any third party. Any software component embodied in the Product is licensed to you, and not sold.

The Service are available to persons aged 18 years or older. By using the Service, you represent and warrant that you are 18 or older. You will be solely responsible for acquiring and maintaining all Internet services and other hardware and software required to access and use the Service. Closeli will not be responsible for any loss or corruption of data or any other loss or damage of any kind arising from any such hardware, software and Internet services.

## Site and Services Content

Your content which includes recordings captured from the Product (the “Content”) belongs to you. Closeli does not claim any ownership rights in any of your Content and nothing in this Agreement will be deemed to restrict any rights that you may have to use and exploit your Content. However, in order for the Service to work, we need the right to access your Content. By using the Service you grant Closeli a worldwide, non-exclusive, transferable, royalty-free license, to use, view, copy, adapt, modify, distribute, transfer, display, transmit, and otherwise access your

Content solely in connection with providing the Service to you.

You acknowledge and agree that you are solely responsible for all of the Content that you make available through the Service. Accordingly, you represent and warrant that you have all rights, licenses, consents and releases that are necessary to grant to Closeli the rights to access your Content. You also represent and warranty that neither your Content nor your posting, uploading, submission or transmittal of your Content or Closeli's use of your Content will infringe, misappropriate or violate a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

Under no circumstances will Closeli be liable in any way for any Content, including, but not limited to, any errors or omissions in any Content, or any loss or damage of any kind incurred in connection with use of or exposure to any Content posted, emailed, accessed, transmitted, or otherwise made available via the Service.

## Restrictions

You warrant, represent and agree that you will not contribute any Content or otherwise use the Service in a manner that (i) infringes or violates the intellectual property rights or proprietary rights, rights of publicity or privacy, or other rights of any third party; (ii) violates any law, statute, ordinance or regulation; (iii) is harmful, fraudulent, deceptive, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, or otherwise objectionable; (iv) impersonates any person or entity, including without limitation any employee or representative of Closeli; or (v) contains a virus, trojan horse, worm, time bomb, or other harmful computer code, file, or program. Closeli reserves the right to remove any Content from the Service at any time, for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content or if Closeli is concerned that you may have breached the immediately preceding sentence), or for no reason at all.

You are responsible for all of your activity in connection with the Service. Any fraudulent, abusive, or otherwise illegal activity may be grounds for termination of your right to access or use the Service. You may not post or transmit, or cause to be posted or transmitted, any communication or solicitation designed or intended to obtain password, account, or private information from any other user of the Service. Use of the Service to violate the security of any computer network, crack passwords or security encryption codes, transfer or store illegal material (including material that may be considered threatening or obscene), or engage in any kind of illegal activity is expressly prohibited. You will not run Maillist, Listserv, any form of auto-responder, or "spam" on the Service, or any processes that run or are activated while you are not logged on to the Site, or that otherwise interfere with the proper working of or place an unreasonable load on the Service's infrastructure. Further, the use of manual or automated software, devices, or other processes to "crawl," "scrape," or "spider" any page of the Site is strictly prohibited. You will not decompile, reverse engineer, or otherwise attempt to obtain the source code of the Service. You will be responsible for withholding, filing, and reporting all taxes, duties and other governmental assessments associated with your activity in connection with the Service.

## **Intellectual Property**

You agree that the Service, including, but not limited to, products, graphics, user interface, editorial content, and the scripts and software used to implement the Service, contains proprietary information and material that is owned by Closeli and/or its licensors and/or third party product or service providers, and is protected by applicable intellectual property and other laws, including but not limited to copyright laws. You agree that you will not use such proprietary information or materials in any way whatsoever except for use of the Service in compliance with this Agreement. No portion of the Service may be reproduced in any form or by any means, except as expressly permitted in this Agreement.

## **Privacy Policy**

See our Privacy Policy at <http://www.closeli.com/about-privacy-policy.html> for information and notices concerning Closeli's collection and use of your personal information with respect to the Service. The Privacy Policy is hereby incorporated by reference; your acceptance of this Agreement constitutes your acceptance and agreement to be bound by our Privacy Policy.

## **International Use**

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable content. Please note that information published on this Site or otherwise made available to you by the Service may refer to products, programs or services that are not available in your country. Contact [closeli.cn \(http://www.closeli.com\)](http://www.closeli.com) for information regarding the products, programs and services that may be available to you.

The Service is controlled, operated, and administered by Closeli from its offices within the United States of America. Closeli makes no representation that the Service is appropriate or available for use at other locations outside the United States, and access to the Service from territories where the Service is illegal is prohibited. If you access the Service from a location outside the United States, you are responsible for compliance with all local laws where you reside.

## **Exports**

You agree to comply fully with all U.S. export laws and regulations to ensure that neither any technical data related thereto nor any direct product thereof are exported or re-exported directly or indirectly in violation of, or used for any purposes prohibited by, such laws and regulations.

## **Storage of Content**

Subject to the terms and conditions of this Agreement, Closeli will use reasonable efforts to store your Content, if any, in connection with your use of the Service if such storage is a feature provided with the Service. You acknowledge and agree that Closeli shall have no responsibility for the loss, deletion, or destruction of any Content, including any stored Content and that no Closeli

party is under any obligation to preserve, provide access to or return to you any Content. You understand and agree that you transmit, display or receive content through the services at your own discretion and risk and that you will be solely responsible for any damage to your property (including your device and computer system) or loss of data that results from such content.

## Warranty Disclaimer

You acknowledge that Closeli has no control over, and no duty to take any action regarding: which users gain access to the Service; what Content you access via the Service; what effects the Content may have on you; how you may interpret or use the Content; or what actions you may take as a result of having been exposed to the Content. You release Closeli from all liability for you having acquired or not acquired Content through the Service. The Service may contain, or direct you to websites containing, information that some people may find offensive or inappropriate. Closeli makes no representations concerning any content contained in or accessed through the Service, and Closeli will not be responsible or liable for the accuracy, copyright compliance, legality or decency of material contained in or accessed through the Service. Closeli makes no representations or warranties regarding suggestions or recommendations of services or products offered or purchased through the Service. **EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS SECTION, THE SERVICE, CONTENT, WEBSITE, PRODUCTS AND SERVICE OBTAINED THROUGH THE SITE, AND ANY SOFTWARE ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THAT USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.**

## Registration and Security

As a condition to using the Product or some aspects of the Service, you may be required to register with Closeli and select a password and user name ("Company User ID"). You shall provide Closeli with accurate, complete, and updated registration information. Failure to do so shall constitute a breach of this Agreement, which may result in immediate termination of your account. You may not (i) select or use as a Company User ID a name of another person with the intent to impersonate that person; or (ii) use as a Company User ID a name subject to any rights of a person other than you without appropriate authorization. Closeli reserves the right to refuse registration of or cancel a Company User ID in its discretion. You shall be responsible for maintaining the confidentiality of your password.

## Indemnity and Limitation of Liability

You will indemnify and hold Closeli, its parents, subsidiaries, affiliates, officers, and employees harmless (including, without limitation, from all damages, liabilities, settlements, costs and attorneys' fees) from any claim or demand made by any third party due to or arising out of your

access to the Service, use of the Service, your violation of this Agreement, or the infringement by you or any third party using your account of any intellectual property or other right of any person or entity.

**LIMITATION OF LIABILITY. IN NO EVENT SHALL CLOSELI OR ITS SUPPLIERS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE WITH RESPECT TO THE WEBSITE OR THE SERVICE OR THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY (I) FOR ANY AMOUNT IN THE AGGREGATE IN EXCESS OF THE GREATER OF \$100 OR THE FEES PAID BY YOU FOR THE SERVICE AND ANY PRODUCTS OR SERVICE PURCHASED THROUGH THE SERVICE DURING THE 12-MONTH PERIOD PRECEDING THE APPLICABLE CLAIM; (II) FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER; (III) FOR DATA LOSS OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICE; (IV) FOR ANY LOSS INCLUDING BUT NOT LIMITED TO MONETARY LOSS RESULTED FROM ANY FALSE FACE DETECTION OR RECOGNITION IN CONNECTION WITH THE SERVICE; OR (V) FOR ANY MATTER BEYOND CLOSELI'S REASONABLE CONTROL. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.**

## **Paid Accounts**

**Billing.** You can upgrade your account to use additional features of the Service ("Paid Service"). We'll automatically bill you from the date you subscribe to the Paid Service and on each periodic renewal until it is unsubscribed. You're responsible for all applicable taxes, and we'll charge tax when required to do so.

**No Refunds.** You may unsubscribe your Paid Service at any time but you won't be issued a refund.

**Downgrades.** Your Paid Service will remain in effect until it is unsubscribed or terminated under this Agreement. If you don't pay for your Paid Service on time, we reserve the right to suspend it or downgrade your service. You will not be able to access any saved videos from your account from the expiration date of the Paid Service.

**Changes.** We may change the fees in effect but will give you advance notice of these changes via a message to the email address associated with your account.

## **Third Party Websites**

The Service may contain links to third party websites or services ("Third Party Websites") that are not owned or controlled by Closeli. When you access Third Party Websites, you do so at your own risk. You hereby represent and warrant that you have read and agree to be bound by all applicable policies of any Third Party Websites relating to your use of the Service and that you will act in accordance with those policies, in addition to your obligations under this Agreement.

Closeli has no control over, and assumes no responsibility for, the content, accuracy, privacy policies, or practices of or opinions expressed in any Third Party Websites. In addition, Closeli will not and cannot monitor, verify, censor or edit the content of any Third Party Website.

By using the Service, you expressly relieve and hold harmless Closeli from any and all liability arising from your use of any Third Party Website. Your interactions with organizations and/or individuals found on or through the Service, including payment and delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such organizations and/or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any of these third parties. You agree that Closeli shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings. If there is a dispute between participants on this site, or between users and any third party, you understand and agree that Closeli is under no obligation to become involved. In the event that you have a dispute with one or more other users, you hereby release Closeli, its officers, employees, agents, and successors in rights from claims, demands, and damages (actual and consequential) of every kind or nature, known or unknown, suspected or unsuspected, disclosed or undisclosed, arising out of or in any way related to such disputes. If you are a California resident, you shall and hereby do waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor."

## **Termination**

This Agreement shall remain in full force and effect while you use the Service. You may terminate your use of the Service at any time. Closeli may terminate or suspend your access to the Service or your membership at any time, for any reason, and without warning, which may result in the forfeiture and destruction of all information associated with your membership. Closeli may also terminate or suspend any and all Service and access to the Site immediately, without prior notice or liability, if you breach any of the terms or conditions of this Agreement. Upon termination of your account, your right to use the Service, access the Site, and any Content will immediately cease. All provisions of this Agreement which, by their nature, should survive termination, shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, and limitations of liability.

## **Dispute Resolution**

You and Closeli agree that any dispute, claim or controversy arising out of or relating to these Terms or the breach, termination, enforcement, interpretation or validity thereof or the use of the Service (collectively, "Disputes") will be settled by binding arbitration. You acknowledge and agree that you and Closeli are each waiving the right to a trial by jury or to participate as a plaintiff or class member in any purported class action or representative proceeding. Further, unless both you and Closeli otherwise agree in writing, the arbitrator may not consolidate more

than one person's claims, and may not otherwise preside over any form of any class or representative proceeding. If this specific paragraph is held unenforceable, then the entirety of this "Dispute Resolution" section will be deemed void. Except as provided in the preceding sentence, this "Dispute Resolution" section will survive any termination of these Terms. The arbitration will be administered by the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the "AAA Rules") then in effect, except as modified by this "Dispute Resolution" section. The Federal Arbitration Act will govern the interpretation and enforcement of this Section.

## **Miscellaneous**

This Agreement constitutes the entire agreement between you and Closeli regarding the Service and governs your use of the Service superseding any prior agreements between you and Closeli regarding the Service. If any part of this Agreement is held invalid or unenforceable, that portion will be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions will remain in full force and effect.

You may not assign or transfer this Agreement, by operation of law or otherwise, without Closeli's prior written consent. Any attempt by you to assign or transfer this Agreement, without such consent, will be null and of no effect. Closeli may assign or transfer this Agreement, at its sole discretion, without restriction. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their successors and permitted assigns.

This Agreement and any action related thereto will be governed by the laws of the State of California without regard to its conflict of laws provisions. The exclusive jurisdiction and venue of any action to prevent the actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights will be the state and federal courts located in the Santa Clara County, California and each of the parties hereto waives any objection to jurisdiction and venue in such courts.

The failure of Closeli to enforce any right or provision of this Agreement will not constitute a waiver of future enforcement of that right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Closeli.