

Standard Terms and Conditions

nViso offers software and professional services involving the capture and analysis of consumer emotions using 3D Facial Imaging technology, including reporting, visualization, and interpretation of emotional responses. These standard terms and conditions shall apply to the ad-hoc usage of nViso's Emotion Recognition Software-as-a-Service (SaaS) and Professional Services.

1. SERVICES

The Services will involve the processing of images and videos ("Content") supplied by Client to nViso, in order to enable nViso to generate emotion profiling data (the "Data") on behalf of Client. The Services further involve the analysis, reporting, visualization, and interpretation of the the Data provided in a set of deliverables (the "Report") to the Client for an ad-hoc survey or project.

2. COPYRIGHT; OWNERSHIP

2.1 Copyright in the Report of any survey or project conducted for Client on an exclusive basis shall be deemed to be vested in Client; and Client grants to nViso a license to retain all survey or project results in those databases used by nViso for benchmarking and validation of nViso analyses, provided that such materials are available solely on a non-identifiable basis in the nViso databases.

2.2 Client may use the Report in the conduct of its business with partners, suppliers, customers and others with whom it has business relationships. Prior written agreement must be secured from nViso regarding any general publication from the Report in advertising or promotion of Client's products or services or in trade or consumer publications. The Report may not be used in legal proceedings. If Client publicizes or otherwise discloses the Report outside of Client's organization, such publication or disclosure must be accurately labeled, not be presented in a misleading manner and acknowledge nViso as the source of the information.

2.3 All research methodologies, templates, approach to questionnaire design, general market research know-how, pre-existing nViso intellectual property and nViso syndicated or syndicable data used or developed by nViso in conducting the survey or project remains the sole and exclusive property of nViso.

2. INTELLECTUAL PROPERTY IN CONTENT

3.1 Intellectual Property in Content. Client or its licensors shall retain all right, title, and interest in all Content provided to nViso.

3.2 License to Content. Client or its licensors shall grant to nViso a non-exclusive, worldwide, royalty-free, transferable license to use, store, copy, display, distribute, and process all Content for the purpose of providing the Services.

3.3 Warranties and Representations. Client warrants and represents that it solely owns all right, title, and interest in all Content, or in the alternative, that it has procured all licenses necessary to authorize nViso to perform the Services set forth herein at no charge to nViso. Client further warrants and represents that it shall procure a release from any persons depicted in any Content supplied to nViso, which expressly authorizes nViso to use the Content for the performance of Services set forth herein.

3.4 Reimbursement of Costs. Client agrees to reimburse nViso for all reasonable costs and expenses that nViso incurs from Client's failure to obtain all licenses and releases as set forth herein.

4. INTELLECTUAL PROPERTY IN DATA

4.1 Ownership of Data. nViso shall retain all right, title, and interest in the proprietary and copyrightable elements of the Data and all trade secrets contained therein.

4.2 License to Data. nViso grants to Client a non-exclusive, non-transferable license to (a) use, distribute, display, and publish the Data for internal reporting purposes only, (b) to include with any original or copy of the Data a visually prominent proprietary notice in a form reasonably acceptable to nViso, which indicates that nViso is the source of the Data; and (c) to grant sublicenses to Client clients ("Sublicensees") for the use, distribution, display and publication of the Data for their internal purposes only on terms substantially similar to the license set forth herein.

Neither Client nor any Sublicense shall distribute, share, sell, repackage, or otherwise disclose or transfer all or any part of the Data to any third party other than to another Sublicensee.

Any failure to abide by the restrictions set forth in this Section shall expressly constitute a material breach of this Agreement.

5. CLIENT RESPONSIBILITIES

5.1 Handling Data with Industry Standard of Care. Client shall be responsible for using and protecting the Data in accordance with the standard of care established by appropriate market research industry organizations such as ESOMAR and CASPRO <http://www.casro.org/codeofstandards.cfm>.

5.2 Informed Consent of all Content. Client shall be solely responsible for collecting informed consent from individuals depicted in any Content. nViso adheres to a strict opt-in policy of data collection and reserves the right to demand evidence that informed consent has been collected before providing any Services. Client shall further be responsible for ensuring that the sharing of Content with nViso complies with all applicable data privacy and protection laws.

5.3 Back-up and Storage of all Content. Subscriber acknowledges and agrees that Client shall be solely responsible for the back-up and storage of Content. nViso disclaims all liability for any loss or damage of Content.

5.4 Confidential Information in Content. If any Content contains confidential information, Subscriber agrees to clearly identify all such confidential information.

6. PROJECT SCHEDULE

6.1 nViso will use reasonable efforts to deliver the Report in accordance with the schedule quoted in the proposal, but shall not be held liable for delays or other failure to perform its obligations occasioned by factors outside its control (including, without limitation, postal or other communication delays, industrial disputes, fire or accident, governmental act or natural catastrophe).

6.2 Client shall provide nViso with all necessary assistance in formulating the survey questionnaires and shall approve the final questionnaire in a timely manner. nViso shall not be liable for any delay in the project schedule resulting from any late changes requested by Client to the project's research criteria or methodology or resulting from Client's delay in providing prototypes or other materials necessary for nViso to perform its services. The project timeline shall be extended to reflect any Client-caused delays. Client shall be responsible for any costs incurred by nViso as a result of such Client-caused delays, including without limitation the costs of additional overtime wages which shall be in addition to the agreed fee for the Services.

7. CONFIDENTIALITY

7.1 nViso and Client acknowledge that each may disclose Confidential Information to the other during the term of the survey or project. "Confidential Information" means any confidential or trade secret information disclosed by one party to the other party, either orally or in writing, including but not limited to the terms and conditions of this Agreement, as well as customer lists, marketing and product plans, technology, systems, business processes, and any other financial, sales, marketing or business information that is not (1) disclosed in public materials or otherwise in the public domain; (2) lawfully obtained from a third party without any obligation of confidentiality; (3) lawfully known to the receiving party prior to disclosure by the other party; or (4) independently developed by the receiving party. Each party will treat all Confidential Information of the other party with the same degree of care as it accords to its own Confidential Information, but in no event less than a reasonable degree of care; and, if requested by the other party, will destroy or return to the other party all Confidential Information upon termination or expiration of this Agreement.

8. ACCURACY

8.1 Client recognizes that the data contained in the Report are estimates derived from sample surveys carried out in accordance with accepted market research methods and as such are subject to limits of statistical error.

8.2 nViso shall use reasonable endeavors to ensure the accuracy of the Report. Sources of information are not always under nViso's control.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 nViso shall refund any fees paid for Reports or other contract deliverables that it fails to deliver. nViso shall use reasonable efforts to correct errors Client identifies in information nViso has delivered. If Client returns all copies of uncorrectable erroneous information delivered by nViso, nViso shall reimburse Client for its proven actual damages from such errors, up to an aggregate maximum not to exceed nViso's charges for the erroneous information. Except for the liabilities specifically assumed in the indemnification provisions of this Agreement and for breaches of confidentiality (paragraph 7), neither party shall otherwise be liable, in contract, tort (including negligence) or otherwise, for any loss, expense or damage of any kind including, without limitation, direct, special, incidental or consequential damages, due to any failure to furnish or delay in furnishing any services, any errors in any services, reports or data, or their use by Client or others. NISO SHALL NOT BE LIABLE FOR ANY CLAIM BROUGHT MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED. These remedies are exclusive.

9.2 nViso will indemnify and hold harmless Client, as well as its officers, directors, employees and agents, against any cause of action based on a claim for personal injury or damage to tangible property resulting from any act or omission of nViso or any of its employees or agents; provided that Client gives nViso prompt written notice of such claim and nViso has control of the action including sole right of settlement. nViso shall pay any final award or settlement resulting from such claim.

9.3 Client agrees to indemnify and hold harmless nViso, as well as its officers, directors, employees and agents, against all claims, damages, loss or expenses arising from Client's disclosure of the report outside of Client's internal organization or from any use of the Report other than as expressly permitted in under these terms and conditions.

9.4 In the event that nViso is commissioned to conduct a project requiring respondents to examine, use or consume any materials, including, without limitation, food, drink or medications, the Client shall indemnify nViso, as well as its officers, directors, employees and agents, against any claim by anyone relating

About nViso

nViso is a leading provider of emotion recognition software based at the Federal Institute of Technology in Lausanne, Switzerland (EPFL) developing technologies for deciphering emotions by interpreting human facial expressions and eye movements. The company provides a Emotion Recognition SaaS based solution which provides direct access to emotion data and online reporting for brands, marketers, and researchers.

Only using a webcam, nViso proprietary 3D Facial Imaging artificial intelligence technology, tracks hundreds of different facial points to capture human emotions. The technology is based on theoretical work by Dr. Paul Ekman, which demonstrates that universal emotions are precisely, and sub-consciously revealed by minor changes in micro-expressions in the face.



Ready For
SmartCloud Services

Contact

nViso SA
PSE-D
Site EPFL
1015 Lausanne
Switzerland

Phone: +41 21 693 85 11
Email: info@nviso.ch
Web: <http://www.nviso.ch>
TVA : CHE-112.479.650

to the description, presentation, use or consumption of these materials, whether or not the Client is the manufacturer or distributor of or agent for distribution of such materials.

10. PAYMENT TERMS

10.1 Unless stated to the contrary in the proposal the fee for the survey or project shall be payable in one instalment (100%) due on the date of acceptance of the proposal or confirmation of the order.

10.2 Invoices, including those for any applicable tax, are due upon presentation Interest accrues on invoices unpaid after thirty days at the lesser of 1.5% per month or the maximum allowed by law. Client agrees to indemnify nViso and pay all other costs and expenses nViso may incur in recovering the amount due, including any attorneys' fees (on own lawyer-client basis) debt collection agency fees.

10.3 In the event the scope of the survey expands, nViso reserves the right to renegotiate the project fees.

10.4 Transnational research conducted by or for nViso may be affected by currency exchange rate fluctuations. In the event exchange rate changes lead to an effective decrease of 5% or more in one or more of the markets between the date of project commissioning and date of delivery of the final deliverable, nViso reserves the right to renegotiate the project fees.

11. TERMINATION

11.1 Either party may terminate this Agreement in the event of a material breach by the other party which remains uncured after thirty (30) days following notice, or in the event the other party becomes the subject of a proceeding in bankruptcy/insolvency or its equivalent.

11.2 Termination for Convenience: Should Client cancel a survey or project after it has been commissioned, Client will be liable to pay that proportion of the agreed fee that covers all work carried out and expenses incurred and financial commitments entered into by nViso subsequent to the date of commissioning and prior to the date of termination, plus 25% of all remaining fees.

12. NON-SOLICITATION

12.1 Client agrees that it will not solicit or hire any nViso employee on whom nViso depends, in whole or in part, for performance of its obligations under this Agreement without first giving nViso written notice of its intent to do so and a reasonable time within which to secure a replacement. nViso shall be relieved of servicing obligations performed by that employee during any time that a position is made vacant by Client's hiring any such nViso employee. Client shall reimburse nViso for recruiting, hiring, training, relocation and other out-of-pocket costs incurred in securing a replacement.

13. GENERAL

13.1 These terms, together with the proposal and its acceptance, shall constitute the entire contract between nViso and Client with respect to the survey described in the proposal.

13.2 No alterations to the specifications set forth in the proposal or to the contract shall be made unless proposed in writing by one party and accepted in writing by the other party.

13.3 This Contract and the parties' respective rights and duties shall be interpreted and governed in accordance with the laws of Switzerland without regard to its conflict of laws principles.