

# Terms of Use Agreement

Last Updated: October 14, 2016

Access to FocusVision services, including but not limited to, Videostreaming, Intervu, Memphis, Librarian, and 24tru are provided by FocusVision Worldwide, Inc.

For purposes of this agreement, "FocusVision" shall mean FocusVision Worldwide, Inc. and its affiliates, and their officers, directors, managing directors, partners, and employees. The "Services" shall mean focus group videostreaming ("VideoStreaming"), live, two-way audio-video focus groups ("InterVu") and archive and storage services ("Librarian", "24tru").

Absent a fully executed Services Agreement, this Terms of Use Agreement (the "Agreement") describes your rights and responsibilities and states the terms and conditions under which you may use the Services. Please read this document carefully. The term "you" as used herein refers to all individuals and/or entities accessing the Services for any reason. By continuing to use the Services, you are indicating your acceptance to be bound by the terms and conditions of this Agreement between you and FocusVision. **If you do not accept the terms and conditions stated here, FocusVision is not willing to allow you to use the Services and you should immediately stop using the Services.** You must be at least 18 years of age to use the Services. **If you are not at least 18 years old, you should immediately stop using the Services.** It is your responsibility to review this Agreement periodically. FocusVision reserves the right to modify this Agreement from time to time without notice and in its sole discretion at any time by updating this web page, and your continued use of the Services after any modifications by FocusVision shall constitute your acceptance of such modifications.

## 1. Cancellation Policy

It is the responsibility of you the client or your representatives to cancel projects placed on the FocusVision calendar. There is no penalty for projects cancelled 3 or more business days in advance of the project date.

### Portable Studio:

- Within 2 business days of project start date: (North America/LATAM/APAC) USD \$500. (EMEA) €400
- Same day cancellation: (North America/LATAM/APAC) USD \$800. (EMEA) €640

### InterVu:

- Project days cancelled after 6PM ET the prior business day will be billed the 2 hour minimum.
- For Device Usability, within 2 business days of project date: (North America/LATAM/APAC) USD \$500. (EMEA) €400.

Same day cancellation: (North America/LATAM/APAC) \$800. (EMEA) €640 Euros

#### For VideoStreaming:

- Within 2 business days of project start date: (North America/LATAM/APAC) USD \$300 / (EMEA) €240
- Same day cancellation: (North America/LATAM/APAC ) USD \$500 / (EMEA) €400

## 2. Invoicing

You will be billed for the times listed on your confirmation. Any scheduling changes should be communicated with your FocusVision project coordinator before the start date of the project. Changes to the Project Billing Contact cannot be made after the project's completion.

## 3. Archiving

FocusVision will automatically archive projects on the FocusVision website for 90 days unless otherwise instructed by the client.

## 4. Copyright and Intellectual Property Right Ownership

The Services contain pre-existing material owned by FocusVision which is protected under copyright, trademark and other intellectual property laws. You shall not acquire any intellectual property rights in the pre-existing materials or Services by virtue of this Agreement, including, but not limited to, patent, copyright, trademark or trade secret.

The parties acknowledge and agree that all intellectual property produced in performance of the Services will remain your property, and FocusVision will provide further assurances of such property claims if needed.

## 5. Disclaimer of Warranties

All Services are provided "as is" without any representations or warranties of any kind (whether express or implied). To the fullest extent permissible under applicable law, FocusVision and its respective members, officers, directors, employees, Information Providers, suppliers, and agents (collectively, the "FocusVision Parties") hereby disclaim all representations and warranties, express, implied or statutory, including, without limitation, all implied warranties of title, non-infringement, merchantability, and fitness for a particular purpose, and all representations and warranties (1) relating to the adequacy, timeliness, accuracy or completeness of any Information or the Services, (2) that your use of the Services will be uninterrupted, error-free, or secure, (3) or that defects will be corrected immediately.

## 6. Disclaimer of Damages and Limitation of Liability

In no event will either Party be liable (or any other third party claiming through Client via indemnity or otherwise) for any indirect, incidental, special or consequential damages, including damages for loss of profits, revenue, data or data use, even if the Party is or was advised of the possibility of such damages.

The liability of FocusVision to Client (or any other third party claiming through Client via indemnity or otherwise) arising from the Services, use of the Deliverables or FocusVision's breach of this Agreement, however caused and whether the claim arises in contract, tort, breach of warranty, strict liability or other theory of liability, will, to the maximum extent permitted by law, be limited to direct damages actually incurred and will not exceed the Fees collected by FocusVision for the specific Services giving rise to the liability. In no event will FocusVision have any liability for claims to the extent attributable to the acts or omissions of Client or any third party claiming through Client via indemnity or otherwise.

## 7. Indemnity

Each party (each, in such capacity, the "indemnifying party") shall defend, indemnify and hold harmless the other party, its affiliates and its agents, and successors and permitted assigns thereof (each, in such capacity, the "indemnified parties"), against any and all claims, and resulting damages, losses and expenses, to the extent arising out of the following by the indemnifying party or its personnel, agents or representatives (i) a breach of this Agreement or any Work Order or (ii) the negligence or willful misconduct in connection with this Agreement or any Work Order. The indemnified parties shall give the indemnifying party prompt written notice of any matter upon which the indemnified parties intend to base a claim for indemnification under this section.

## 8. Jurisdictional Issues

FocusVision makes no representation that (i) materials or the Services are appropriate or available for use in other locations or (ii) that any products, instruments or services discussed are appropriate or available for use or sale in any jurisdiction. If you choose to access the Services from any location then you do so on your own initiative and at your own risk, and you are responsible for compliance with all applicable local laws. FocusVision reserves the right to limit the availability of the Services to any person, geographic area, or jurisdiction it desires, at any time and in its sole discretion.

## 9. Privacy

FocusVision's policy with respect to the collection and use of your personal information is set forth in its Privacy Policy. For more information please click here: <https://www.focusvision.com/privacy-statement/>

## 10. Termination

This Agreement, as amended by FocusVision from time to time in accordance with its terms, shall remain effective indefinitely until terminated by you or FocusVision with fourteen (14) days' written notice. Where this Agreement is terminated prior to the conclusion of an active project, the project and Client will remain subject to these terms until completion.

## 11. Miscellaneous

If any provision of this Agreement is found to be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions. No waiver by you or FocusVision of any breach, default or condition hereunder shall be deemed to be a waiver of any other preceding or subsequent breach, default or condition. Any heading, caption or section title contained in this Agreement is inserted only as a matter of convenience and in no way defines or explains any section or provision hereof. This Agreement, together with all FocusVision policies referred to herein, constitutes the entire agreement between you and FocusVision relating to the subject matter herein and supersedes and any all prior or contemporaneous written or oral agreements.