



Terms of Use for IE PRO BRANDS

Revised June 1, 2018

Thank you for choosing IE PRO BRANDS!

1. DESCRIPTION OF SERVICE

IE PRO BRANDS is a product of Emotive Analytics to be used by companies interested in understanding what attributes are associated with selected marketing entity brands both implicitly and explicitly. IE PRO BRANDS is a product by which Emotive Analytics conducts these 'brand profiling' studies within categories selected by Emotive Analytics and offers reports for sale by interested parties. Emotive Analytics provides this service with the express condition that You agree to be bound by the terms and conditions set forth herein. Your purchase or use of IE PRO BRANDS reports and its site represents that you have read and accepted these Terms. Emotive Analytics reserves the right to change these terms and conditions at any time, and You must consult the most recent version of these Terms (not an older cached version) each time you view IE PRO BRANDS. **Do not use IE PRO BRANDS if you do not agree to all of the following terms and conditions.**

If there exists a valid alternative agreement between Emotive Analytics and your organization for conducting IE PRO BRANDS studies, or if your organization is working with Emotive Analytics to perform a custom study that is not available through IE PRO BRANDS, those Terms take precedence over these Terms.

2. SPECIFICATION OF IE PRO BRANDS SERVICES

- A. For purposes of these Terms, "You," "User," and "Users" refers to any person visiting the IE PRO BRANDS site; selecting, processing, and purchasing IE PRO BRANDS reports, or otherwise using IE PRO BRANDS by any method.
- B. IE PRO BRANDS studies and its reports will allow You to see implicit and explicit associations targeted people have with selected brands within selected categories and determine the degree to which those associations impact selected outcomes of interest (e.g., amount bid for the brands' products, services, or representations of them).
- C. All procedures and components of IE PRO BRANDS studies – which include the survey approach, brands, categories, attributes, outcome measures, classifications questions, analytical procedures, and reporting formats among others – are selected by Emotive Analytics and accepted by Users. Specifics of the components of each IE PRO BRANDS study are made available on the IE PRO BRANDS site.

- D. The IE PRO BRANDS reports, which come from the studies described above, are made available for selection, purchase, processing, and downloading by the online pages of the IE PRO BRANDS site.

3. LIMITED LICENSE; IE PRO BRANDS SUBJECT TO CHANGE

- A. Subject to Your compliance with these Terms and Your payment of any applicable fees, Emotive Analytics grants You a non-exclusive, non-transferable, royalty-free, revocable right to use IE PRO BRANDS reports for Your own internal business purposes.
- B. Emotive Analytics may make modifications to IE PRO BRANDS studies and reports at any time, as it deems appropriate, and in its sole discretion.

4. YOUR CONTENT; CONFIDENTIALITY; NONDISCLOSURE

- A. In the event that You share any Content in the process of using IE PRO BRANDS services or products, Emotive Analytics will not share, sell, or otherwise make available specific information about You or Your Content, except as required by law. As User Content is shared, Emotive Analytics may maintain a database of such Content that is used only for internal purposes and as a backup for You, but we are not obligated to do so. If we maintain at any time a backup of Content, we may discontinue maintaining such back up at any time and without prior notice to, or permission from, you.

B. *Acceptable Usage:*

- 1. IE PRO BRANDS is designed to be used for the selection, purchase, processing, and downloading of reports created, designed, and made available by Emotive Analytics and its partners.
- 2. Execution of item B.1 is made through an established User account, which includes the User's name, company information, contact information, username, and password. User is responsible for establishing and securing its own account information. Although, Emotive Analytics will perform reasonable efforts to secure such account information if needed, they are under no obligation to do so.
- 3. Once selected, purchased, processed, and downloaded by User, IE PRO BRANDS reports are to be saved by User and User claims all responsibility for doing so. Although, Emotive Analytics will perform reasonable efforts to secure such reports if needed, they are under no obligation to do so.

C. *Unacceptable Usage:*

- 1. You are solely responsible for all Content, and may be held legally liable for Your survey(s) or for the manner in which Your Content is distributed to third parties. Emotive Analytics does not monitor Your Content. However, we reserve the right to remove any Content from IE PRO BRANDS that we determine is in violation of our Terms.

2. Emotive Analytics may suspend Your account at any time without notice for conduct that violates these Terms. Additionally, Users who violate these Terms or have knowledge of misuse in their surveys or accounts are subject to legal liability and prosecution. The following is a non-exhaustive list of content and behaviors that are UNACCEPTABLE to Emotive Analytics.

Users may not:

- a) Reverse engineer or tamper with the security of any aspects of the IE PRO BRANDS system (which includes its proprietary programming).
- b) Make unauthorized copies of any procedures within the IE PRO BRANDS system.
- c) Upload or expose the IE PRO BRANDS system to any Content that contains or contains links to: nudity, pornography, adult content, sex, profanity, graphic violence, or foul language.
- d) Upload or expose the IE PRO BRANDS system to any Content that contains or promotes any hacking code or efforts of any kind.
- e) Upload or expose the IE PRO BRANDS system to any Content that contains any computer viruses or any malicious programming of any kind.
- f) Upload or expose the IE PRO BRANDS system to any Content that infringes any copyrights, trademarks, patents, trade secrets, or other intellectual property, or uses any natural person's likeness, private information or personally identifiable information without such person's prior written consent or without consent via publicly usable information.
- g) Upload or expose the IE PRO BRANDS system to any Content that is racist or otherwise extremely offensive to others, including content that aggravates, harasses, threatens, defames, or abuses others.
- h) Extract any programming code from the IE PRO BRANDS system.
- i) Upload or expose the IE PRO BRANDS system to any programming code that alters IE PRO BRANDS in any way.
- j) Re-sell or share any elements of IE PRO BRANDS, including procedures, data, reports, graphs, or any other elements, to parties beyond those within the Users' company or those working with the User who have a specific need for the Content in its specific working relationship with the User without written consent from Emotive Analytics (through its Founder & CEO, Paul Conner). Violation of this policy allows Emotive Analytics to recover from re-seller or sharer at least all revenue generated from elements re-sold as well as appropriate compensation for damages deemed so by appropriate authorities (legislative, judicial, or any other appropriate authorities).

5. IE PRO BRANDS PROGRAMMING AND PROCEDURES

Emotive Analytics owns all right, title, and interest in and to the IE PRO BRANDS system as delivered, all related programming, software and technology, and all content provided in connection with IE PRO BRANDS, including all intellectual property rights in the foregoing. Nothing contained on this web site should be construed as granting any license or right to use any trademark without the prior written permission of Emotive Analytics.

6. CONFIDENTIAL INFORMATION

Confidential Information includes these Terms, IE PRO BRANDS programming and procedures, license agreements, business and marketing plans and strategies, non-public business and technology information, trade secrets, Content included in surveys by User, any written materials marked as confidential, and any other information, including visual and oral information, which reasonably should be understood to be confidential.

7. INDEMNIFICATION

To the extent allowed by law, You agree to indemnify and hold harmless Emotive Analytics against all claims and expenses for non-negligent actions and results, including reasonable attorneys' fees, arising from the use of the IE PRO BRANDS system and reports. This indemnification expressly includes Your responsibility for any and all liability arising from the violation or infringement of copyrights, trademarks, or other proprietary rights, and from the use of any libelous or unlawful material contained within Your survey.

8. TERMINATION

Emotive Analytics reserves the right to suspend or terminate Your use of IE PRO BRANDS at any time, without notice, if You are found in violation of our Your Content restrictions or any other Terms of Use herein, or otherwise upon sixty (60) days written notice.

9. LIMITATION OF WARRANTIES

ALL IE PRO BRANDS CONTENT, PROGRAMMING, AND PROCEDURES ARE PROVIDED ON AN "AS IS" BASIS. EMOTIVE ANALYTICS DOES NOT WARRANT THAT THE SERVICES OR ITS SOFTWARE WILL BE ERROR-FREE OR THAT ALL NON-CONFORMITIES CAN OR WILL BE CORRECTED. EMOTIVE ANALYTICS MAKES NO IMPLIED OR EXPRESS WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO IE PRO BRANDS. FURTHERMORE, EMOTIVE ANALYTICS DOES NOT MAKE ANY WARRANTIES, REPRESENTATIONS, OR CONDITIONS WITH RESPECT TO ANY THIRD PARTY CONTENT, EXPRESS OR IMPLIED.

IN THE EVENT THAT IE PRO BRANDS DOES NOT WORK AS DESCRIBED, YOU WILL BRING ERRORS TO EMOTIVE ANALYTICS' ATTENTION IMMEDIATELY UPON FINDING SUCH ERRORS (OR EMOTIVE ANALYTICS WILL BRING SUCH ERRORS TO YOUR ATTENTION IF THEY ARE FOUND). IN THIS INSTANCE, EMOTIVE ANALYTICS WILL MAKE EVERY REASONABLE EFFORT TO CORRECT ERRORS WITH ITS CONTENT, PROGRAMMING, AND PROCEDURES AND BRING ACCURATE DATA TO YOU AFTER THE ERRORS ARE CORRECTED. THIS MAY INCLUDE REFUND OF MONIES SPENT, BUT SUCH RETURN IS NEGOTIABLE, AND NOT GUARANTEED BY EMOTIVE ANALYTICS.

10. LIMITATION OF LIABILITY

EMOTIVE ANALYTICS DISCLAIMS ANY LIABILITY FOR DAMAGES CAUSED BY IE PRO BRANDS, UNLESS DUE TO ITS INTENTIONAL WRONGDOING. EMOTIVE ANALYTICS' TOTAL LIABILITY FOR ANY CLAIM OR DAMAGE ARISING OUT OF OR RELATED TO ITS SERVICES OR WEB SITE IS LIMITED TO YOUR DIRECT DAMAGES, WHICH SHALL NOT EXCEED THE FEES YOU HAVE PAID TO EMOTIVE ANALYTICS. IN NO EVENT SHALL EMOTIVE ANALYTICS BE LIABLE FOR LOST PROFITS, LOST DATA, INTERRUPTIONS OF BUSINESS, OR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE IE PRO BRANDS, REGARDLESS OF WHETHER EMOTIVE ANALYTICS HAS NOTICE OF THE POTENTIAL FOR SUCH LOSS OR DAMAGE.

FURTHERMORE, ANY LIABILITY CLAIMS AWARDED SHALL NOT EXCEED 1 MILLION DOLLARS PER OCCURRENCE OR 2 MILLION DOLLARS FOR MULTIPLE CLAIMS BY THE SAME PARTY.

11. OTHER TERMS.

- A. *Entire Agreement*: These Terms and any other relevant Terms, conditions, policies or agreements constitute the entire agreement and understanding between You and Emotive Analytics. If there is a conflict or contradiction between the provisions of these Terms and any other agreement, the relevant section of the agreement shall prevail in the following order: 1) Pre-existing agreements between You and Emotive Analytics and 2) these Terms of Use.
- B. *Assignment Restrictions*: You are not permitted to assign or sublicense any aspect of IE PRO BRANDS, including purchased reports, to third parties without prior written permission of Emotive Analytics.
- C. *Choice of Law*: These Terms will be governed by the laws of the United States and the State of Missouri.
- D. *Time Limits on Claims; Mediation; Place for Resolution of Claims*. Each User agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of IE PRO BRANDS, these Terms or any other agreement with Emotive Analytics must be filed within eighteen (18) months after such claim or cause of action arose or be forever barred. All disputes arising under, or in any way connected with use of the IE PRO BRANDS, shall subject to mediation in accordance with the rule and procedures of either United States Arbitration and Mediation or the American Arbitration Association, and, if necessary, litigated exclusively in the state and federal courts residing in the State of Missouri, and in no other court or jurisdiction. You hereby submit to the jurisdiction of the state and federal courts sitting in the State of Missouri.
- E. *Severability*: In the event that any one or more of these provisions should be held invalid, illegal or unenforceable, such provisions will be modified, if possible, to the minimum extent necessary to make them valid and enforceable, or if they cannot be so modified, then severed, and the remaining provisions contained herein will not in any way be affected or impaired.

- F. *Waiver*: Emotive Analytics' failure to enforce strict performance of any provision of these Terms does not constitute a waiver of the right to subsequently enforce such provision.
- G. *No Third Party Beneficiaries*: These Terms create no rights for third party beneficiaries.