



RNL Personalized Video – ThankView Terms of Use

These ThankView Terms of Use are entered into by and between ThankView, LLC (the “**Company**”) and the Client (the “**Client**”) identified in the Statement of Work (“**SOW**”). This Agreement governs the Client’s relationship with, and use of, the Company’s products and/or services made available by the Company (the “**ThankView Platform**”). This Agreement is effective as of the effective date of the SOW (“**Effective Date**”).

1. **Services.** Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Client with the ThankView Platform.
2. **Intellectual Property/Licenses.**
 - a. **License.** Subject to **Intellectual Property Ownership**. Except as specifically set forth herein, each party shall retain all intellectual property rights in its intellectual property and for any works or materials which it creates in connection with this Agreement. Except as licensed herein, this Agreement does not transfer any intellectual property rights between the Parties. For clarification purposes (i) Client retains all right, title and interest in any video messages sent by Client (“**Messages**”) and replies to video message sent by Client (“**Replies**”) using the ThankView Platform (collectively, Messages and Replies shall be referred to as “**User Content**”) and all derivative works thereof; and (ii) Company retains all right, title and interest in and to the ThankView Platform and all improvements and modifications thereto and all derivative works thereof. Other than as expressly set forth in this Agreement, no license or other rights in or to a party’s products, services or intellectual property is granted, and all such licenses and rights are hereby expressly reserved.
 - b. **License.** Subject to the terms of this Agreement, Client grants Company a perpetual, worldwide, transferable, non-exclusive license, together with the right to sublicense, to use, distribute (directly and indirectly), modify, extend, and make derivative works from any User Content, solely in connection with providing recipients of Client’s Messages with access to the ThankView Platform and the ability to create Replies.
 - c. **Suggestions.** Client may, from time to time, provide suggestions, techniques, know-how, comments, feedback or other input to Company with respect to the ThankView Platform (collectively, “**Suggestions**”). Each Suggestion shall not, absent a signed, written agreement with Company, create an obligation of confidentiality for Company. Client shall not give any Suggestion that is subject to license terms or restrictions that seek to require any Company technology, service, product or documentation incorporating or derived from such Suggestion, or any Company intellectual property, to be licensed or otherwise shared with Client or any third party. Furthermore, except as otherwise set forth in a separate, subsequent written agreement between the parties, Company shall be free to use, disclose, reproduce, license or otherwise distribute and exploit each Suggestion as it sees fit, entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise.

3. Confidentiality; Proprietary Rights.

- a. **Proprietary Information.** Each party (the “**Receiving Party**”) understands that the other party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business or organization (hereinafter referred to as “**Proprietary Information**” of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Client includes non-public data provided by Client to Company to enable the provision of the ThankView Platform (“**Client Data**”). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the ThankView Platform or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, (b) was in its possession or known by it prior to receipt from the Disclosing Party, (c) was rightfully disclosed to it without restriction by a third party, (d) was independently developed without use of any Proprietary Information of the Disclosing Party, or (e) is required to be disclosed by law.
- b. **Client Data.** Unless otherwise provided in this Agreement, as between Company and Client, Client shall own all right, title and interest in and to the Client Data. Company shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the ThankView Platform and related systems and technologies (including, without limitation, information concerning Client Data and data derived therefrom), and Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the ThankView Platform and for other development, diagnostic and corrective purposes in connection with the ThankView Platform and other Company offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business.
- c. **Remedies.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of this Agreement, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.
- d. Client may from time to time engage in non-commercial or commercial email messaging through ThankView to users. For any such messages Client shall be responsible for (i) ensuring that such messaging includes only users who either have consented to receiving such messages or have not opted out to receive such messages and (ii) ensuring the content of such messages, including, if applicable, any email headers, comply with the CAN- SPAM Act and any other applicable law related to anti-spamming, consumer protection, data privacy, electronic commerce, false advertising, or unlawful materials. Furthermore, Client ensures that they are GDPR compliant for consent for all EU message recipients.
- e. This provision, (a) (iii), is for educational institution use only: If Client is an educational institution, Client certifies that it is FERPA-compliant with regards to education, personnel, student, and other records. Client shall also define “school officials” and “legitimate educational interest” broadly enough, as permitted by FERPA, to permit Company to provide the Services to Client. Company will maintain the confidentiality of

personnel, Student, and other records in accordance with the requirements of applicable law.

4. Representations and Warranties; Disclaimer.

- a. **Client Representations and Warranties.** Client represents and warrants as of the Agreement Date and for as long as this Agreement is in effect that:
 - i. Client’s use of the ThankView Platform shall comply with the Company’s standard published Terms of Use and Privacy Policy then in effect (the “**Terms and Policies**”) and all applicable laws and regulations.
 - ii. Client will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the ThankView Platform or any software, documentation or data related made; modify, translate, or create derivative works based on the ThankView Platform (except to the extent expressly permitted by Company or authorized within the ThankView Platform); use the ThankView Platform for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.
 - iii. Client will obtain and maintain any equipment and ancillary services needed to connect to, access, or otherwise use the ThankView Platform, including, without limitation, video cameras, hardware, servers, software, operating systems, networking, web servers and the like (collectively, “**Equipment**”).
 - iv. None of Client’s Messages will infringe or violate any third party’s rights, including intellectual property rights, rights of publicity, or misappropriation of trade secrets.
- b. **DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 5, EACH PARTY HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY OF ITS PRODUCTS OR SERVICES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

5. Indemnification.

- a. Client (the “**Indemnifying Party**”) shall defend (at Company’s request), indemnify, and hold harmless Company, its officers, directors, employees, stockholders, and the successors and assigns of the foregoing (the “**Indemnified Party**”), from and against any and all losses, damages, expenses, costs, claims, suits, proceedings, investigations, or other liabilities (including reasonable attorney’s fees and costs and amounts awarded by a court of competent jurisdiction or agreed to in settlement) arising out of (i) the actions or inactions of the Indemnifying Party, including without limitation negligence and willful misconduct of the Indemnifying Party or its employees or agents, (ii) an allegation that the Client’s Messages or Replies infringe a copyright, or misappropriates a trade secret, or otherwise infringes, violates or misappropriates a third party’s intellectual property rights or rights of publicity.
- b. Client shall not take any action to settle or defend any such claim, suit, or proceeding that would in any manner impose obligations (monetary or otherwise) on Company without Company’s prior written consent.

6. Limitation of Liability.

- a. **Limitation of Liability.** IN NO EVENT SHALL COMPANY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED \$500.
- b. **Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL COMPANY HAVE ANY LIABILITY TO CLIENT FOR ANY LOST PROFITS, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED, AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. SOME STATES AND JURISDICTIONS DO NOT ALLOW LIMITATIONS ON DURATION OR THE EXCLUSION OF AN IMPLIED WARRANTY, SO THE ABOVE LIMITATION MAY NOT APPLY.
- c. **Limitation of Action.** Except for actions for breach of Sections 2 or 3 or failure to comply with indemnification obligations under Section 6, no action (regardless of form) arising out of this Agreement may be commenced by either party more than one (1) year after the cause of action has accrued.

7. Third Party Services.

- a. The ThankView Software may rely on third-party services (collectively, "**Third Party Services**" and individually a "**Third Party Service**"), including, Clipchamp for video recording. These services are not subject to any of the warranties, service commitments, or other obligations under this Agreement. The Company will not be liable to the Client for any damages arising out of or related to any Third Party Services. Company may disable or restrict access to any Third Party Services at any time. By using or enabling any Third Party Service, Client expressly permits the Company to disclose Proprietary Information to the extent necessary to utilize the Third Party Services.

8. Miscellaneous.

- a. **Relationship of Parties.** The parties are independent contractors and will have no power or authority to assume or create any obligation or responsibility on behalf of each other. This Agreement will not be construed to create or imply any partnership, agency or joint venture.
- b. **Non-exclusive.** Nothing contained in this Agreement shall be construed as creating an exclusive relationship between Client and Company.
- c. **Taxes.** Each party shall be liable for all taxes, duties, levies or tariffs or charges of any kind imposed by any federal, state or local governmental entity with respect to the net income recognized by such party in connection with this Agreement.
- d. **Governing Law.** The Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement. Each party consents to, and agrees that each party is subject to, the exclusive jurisdiction of the state and federal courts of the State of New York with respect to any actions arising in connection with this Agreement including, without limitation, actions for interpretation, enforcement, or breach hereof.

- e. **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior express written consent of the other party. Notwithstanding the foregoing, either party may assign this Agreement together with all rights and obligations hereunder, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets related to this Agreement. This Agreement shall bind and inure to the benefit of the parties, their respective successors, and assigns.
- f. **Waiver Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.
- g. **Force Majeure.** Neither Party hereto shall be responsible for any failure to perform its obligations under this Agreement if such failure is caused by acts of God, war, strikes, revolutions, lack or failure of transportation facilities, laws or governmental regulations or other causes that are beyond the reasonable control of such Party. Obligations hereunder, however, shall in no event be excused but shall be suspended only until the cessation of any cause of such failure.
- h. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior or contemporaneous oral or written agreements. Each party acknowledges and agrees that the other has not made any representations, warranties or agreements of any kind, except as expressly set forth herein. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment, or waiver is to be asserted.
- i. **Severability.** If any provision of this Agreement shall be held illegal or unenforceable, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- j. **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.
- k. To deliver more of your emails to inboxes and to keep our email reputation healthy, we require Client to maintain a spam rate below 0.1% and a bounce rate below 10%.