



# Realeyes Special Terms of Service for XP Attention & Emotion and Verify

Realeyes OÜ  
Vahe 15  
11615 Tallinn  
Estonia

**Effective Date:**

**2024-01-31**

**Realeyes** offers services provided by **Realeyes OÜ** (Vahe 15, Tallinn 11615, Estonia, registry code: 11730664) and its affiliates (collectively "Realeyes," "us," "we," or "our").

These Special Terms of Service ("**Special Terms**") set out the terms on which Realeyes provides Client (also referred to as 'you', 'your' or 'user') its software, application, and other products and services ("**Services**"). By using the Services, Client agrees to be bound by these Special Terms, including all other terms and policies incorporated herein by reference, and enters into a legally binding agreement with Realeyes ("**Agreement**").

The Services are governed by two separate but complementary sets of terms: the [Terms of Service](#) ("**General Terms**") and these Special Terms. By using the Services, Client agrees to comply with both sets of terms. If there is a conflict or inconsistency between the General Terms and the Special Terms, the provisions of the Special Terms shall supersede and take precedence over the conflicting or inconsistent provisions in the General Terms.

If the Client is utilizing the Services on behalf of an organization, the Client represents that they have the authority to bind such organization to this Agreement. The terms "Client" and "user" will encompass the individual user and the respective organization. Should the Client not concur with these terms in full, they are advised not to use our Services. Client and Realeyes are referred to herein individually as a "**Party**" and jointly as the "**Parties**".

## 1. **Services Description**

Realeyes has developed proprietary online Software as a Service ("**SaaS**") providing computer vision capabilities. The Services provided by Realeyes through this SaaS include:

### 1.1 **XP Attention & Emotion**

The market-leading Vision AI (Artificial Intelligence) models offered by Realeyes are of premier quality and lightweight, designed to operate locally on the client-side subsequent to a methodical integration into Clients host application. Upon securing the user's consent, our Software Development Kit ("**SDK**") activates the webcam feed, analyzing images at a rate of up to 32 frames per second. This subsequently captures five measurements every second, gauging users' likelihood of manifesting Attention and several emotion classifiers. Data, in real-time, is provisioned on the client-side for the host application's benefit. Concurrently, near-real-time data is relayed to the cloud or other specified endpoints utilizing a publisher/subscriber architecture.

### 1.2 **Verify**

The Verify service employs our premier Vision AI models, designed to function either locally on the client-side or within the cloud, safeguarded behind a secure API endpoint. Upon obtaining user consent, the SDK activates the webcam feed, seizes an image, and channels it through Realeyes' proprietary Vision AI. This procedure calculates a user's distinct facial embedding. Such embedding can then be juxtaposed against a pre-existing user set for authentication purposes and to discern any duplications. Furthermore, Verify possesses the capability to identify bots, potential demographic discrepancies via age/gender assessments, and attempts at presentation or injection attacks wherein users strive to elude verification.

These SaaS solutions are collectively referred to herein as "**Software**". For the Software to work as intended and engage its full potential, Realeyes requests Client's permission to use the front-facing or secondary camera on its device. Realeyes does not store video or images from camera on Client's device or systems, servers or cloud storage. Only binary outputs of the data derived from video or images are sent to Realeyes' servers. Any images accessed from the camera will be discarded immediately after processing it on Client's device, where such technical processing should not take longer than one second at most. For more information about controls over the data, please refer to Realeyes [Privacy Policy](#).

## 2. **License, restrictions and prohibited use**

Realeyes hereby grants Client a non-exclusive, non-transferable, limited license to access and use the Services.

Client shall not, and shall not permit any third party to: (a) modify, adapt, or create derivative works based on the Services. For the purposes of this Agreement, "modify" means to change, edit, adapt, translate, decompile, or otherwise alter the Software or any of its components, including but not limited to its source code, logic, algorithms, layout, and user interface.; (b) sublicense, rent, lease, loan, or otherwise transfer the Services or any rights granted herein; (c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the Services; (d) remove or alter any copyright, trademark, or proprietary notice on the Services; (e) sell, resell or commercially use the Services or (f) use the Services other than for their intended purpose and in any manner that could interfere with, disrupt, negatively affect or inhibit other users from fully enjoying the Services or that could damage, disable, overburden or impair the functioning of the Services in any manner.

## 3. **User Data and ownership**

The Service analyses engagement and emotional reactions while Client uses or interacts with Third-party applications that Client share and create by using our Services (collectively referred to as '**User Data**'). Except as otherwise provided in Section 4, Client owns User Data that is originated from its users in the course of using the Services. Realeyes has no ownership rights in or to User Data. Client is solely responsible for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to User Data. User Data is Confidential Information pursuant to the Confidentiality section below. Client represents and warrants that has the right and all consents necessary to provide and input User Data into the Services and for Realeyes to process User Data as contemplated herein.

To provide the Services to Client, Realeyes needs certain rights to access, analyse, and use User Data. For this purpose, Client grant Realeyes a non-exclusive and royalty-free license to use, reproduce, and analyse User Data for the purpose of providing the Services and support product development.

Client represents and warrants that: (i) owns all rights in and to User Data or, has the necessary licenses, rights, consents, and permissions required by applicable law to grant the rights in these Terms, including in respect of any other individuals who are using at the same time as Client the same Third-party application on the same device and therefore appearing together with Client on the camera feed of the given Third-party application; (ii) Realeyes' use of such User Data as permitted by these Terms, will not violate any rights of or cause any injury to any person or entity; (iii) will not violate any applicable law, rule or regulation, including export control laws and privacy laws; (iv) no children under the age of 16 will appear in the camera feed of the given Third-party application that Client uses.

#### **4. Intellectual Property Rights, Use of Aggregated Data**

The Services, including but not limited to the source code, logic, algorithms, layout, user interface, and documentation, as well as all related trademarks, copyrights, patents, and other intellectual property rights, are and shall remain the sole and exclusive property of the Realeyes. This Agreement does not grant Client any rights, implied or otherwise, to the Software or any related intellectual property, except for the limited license expressly granted herein. Client shall not attempt to infringe upon or contest the validity of the Realeyes' intellectual property rights in any jurisdiction.

Nothing in this Agreement prohibits Realeyes from using any aggregated, de-identified information it collects and uses in connection with the Services (collectively referred to as "**Aggregated Data**") for data analytics purposes, including to create statistics, publish reports and other analytics to improve the quality of its services. The purposes include machine learning and training, quality assurance purposes, enhancing its reporting capabilities and otherwise supporting the development, improvement and enhancement of Realeyes products, technologies, methods, processes, algorithms, ideas and inventions.

Before being used, all data will be anonymized, aggregated and deidentified so that it does not directly or indirectly identify or reveal such information that can be associated to Client; any outputs will be aggregated, anonymized and de-identified so they in no event include any information directly or indirectly identifying or revealing such information that can under any reasonably likely circumstance or through any reasonably likely technique, be associated to Client; and Realeyes must not make any attempt to re-identify Client to any Aggregated Data and have implemented technical safeguards and business processes that prevent and prohibit re-identification.

#### **5. Privacy Terms**

Client acknowledges that the Services will process biometric data. All such data and information will be collected and used by Realeyes in accordance with [Realeyes Privacy Policy](#), which Client acknowledges.

**5.1 Applicable laws.** Parties agree to comply with all applicable local laws or regulations relating to the processing of personal data as contemplated under this Agreement, including in particular, but not limited to, the following as amended, extended or re-enacted from time to time: (i) **EC Directive 2002/58/EC on Privacy and Electronic Communications**; (ii) **GDPR** (the General Data Protection Regulation (EU) 2016/679); (iii) **the UK GDPR** (with the meaning given to it in section 3(10) of the Data Protection Act 2018, as supplemented by section 205(4) of that Act); (iv) **USA Data Privacy Laws** (any US state law concerning the processing of personal data, as implemented in the relevant US state, including, but not limited to: the California Consumer Privacy Act 2018, Cal. Civ. Code §§ 1798.100 et seq. (as amended) the

Virginia Consumer Data Protection Act (as amended) and the Colorado Privacy Act, the Connecticut Privacy Act, the Utah Consumer Privacy Act (when in force); and (v) **LGDP** (General Personal Data Protection Act Law No. 13.709 / 2018).

**5.2 Data processors.** When appointing data processors, Parties shall carry out adequate due diligence to ensure those can comply with the terms under Article 28 GDPR; and enter into a written agreement with each data processor on terms required under Article 28 GDPR.

**5.3 Security Measures.** Parties shall maintain appropriate technical and organizational measures to ensure the security and confidentiality of the personal data processed through the Services.

**5.4 Data Breach.** In the event of a personal data breach, Parties shall comply with all obligations under data protection legislation described above in respect to the mitigation, and remediation of any personal data breach. Parties and their data processors shall take any and all measures necessary to minimize the adverse impacts of the personal data breach, to restore the security, confidentiality, and/or integrity of the personal data, and to prevent a recurrence of any personal data breach.

**5.5 User Consent.** Realeyes is responsible for obtaining the required informed consent from users for the collection, processing, and storage of personal data.

**5.6 Data Storage and Retention.** Data will be retained only for the period necessary to fulfill the purposes outlined in this Agreement and to support Realeyes' product development process, unless a longer retention period is required by law.

**5.7 Data Sharing.** Neither party shall share the processed personal data with third parties unless required by law or explicitly permitted in writing by both parties.

**6. Pricing, invoicing and payment terms**

Client agrees to pay Realeyes based on a consumption-based, pay-as-you-go pricing model. Charges for the use of the Services will be calculated based on the number of API calls placed to Services within a month and metered at \$0.10 per call. Payment for the usage of the Services shall be made by Client within 30-days calculated from the date of the invoice.

**a. Tier 1 - Student & Hobbyist**

Students - "Learn the tools and workflows professionals use on the job"

<b>Feature</b>	<b>Description:</b>
<b>Pricing</b>	Free
<b>Eligibility</b>	Students 16 years or older enrolled in accredited educational institutions.  Can provide valid consent to collection & processing of their personal information.
<b>Includes</b>	<ul style="list-style-type: none"> <li>• Latest version of SDK.</li> <li>• Resources to get started and learn.</li> </ul>

Personal / Startups - "Start creating with the free version"

<b>Feature</b>	<b>Description:</b>
<b>Pricing</b>	Free
<b>Eligibility</b>	Revenue or funding was less than \$100k in the last 12 months.
<b>Includes</b>	<ul style="list-style-type: none"> <li>• Latest version of SDK.</li> <li>• Resources to get started and learn.</li> </ul>

**b. Tier 2 - Individuals & Teams**

Pro - "Unlock your app's potential with human measurement of Attention, Emotion & Identity"

<b>Feature</b>	<b>Description:</b>
<b>Pricing</b>	<p>30-day free trial, followed up by:</p> <p><b>XP Attention &amp; Emotion</b> – 100 free measured hours / month. After that it is tiered pricing by volume:</p> <ul style="list-style-type: none"> <li>• up to 500 measured hours <ul style="list-style-type: none"> <li>○ Client-side - \$0.92 / hour</li> <li>○ Server-side - \$1.53 / hour</li> </ul> </li> <li>• up to 4000 measured hours <ul style="list-style-type: none"> <li>○ Client-side - \$0.64 / hour</li> <li>○ Server-side - \$1.07 / hour</li> </ul> </li> <li>• 4000+ measured hours <ul style="list-style-type: none"> <li>○ Client-side - \$0.45 / hour</li> <li>○ Server-side - \$0.75 / hour</li> </ul> </li> </ul> <p><b>Verify</b> - 100 free calls / month. A fee of \$0.10 per call thereafter for the SDK implementation, or \$0.20 per call for the redirect solution. Additional per call fees may apply for enhanced storage size and retention requirements.</p>
<b>Eligibility</b>	Revenue or funding exceeds \$100k in the last 12 months.
<b>Includes</b>	<ul style="list-style-type: none"> <li>• Latest version of SDK</li> <li>• Cloud data pipeline processing in GCP (for XP Attention &amp; Emotion)</li> <li>• Resources to get started and learn</li> <li>• Access to technical support</li> </ul>

**c. Tier 3 - Enterprise**

Enterprise - "Manage complex integrations of Vision AI with expert support and creation tools that scale for teams of any size"

<b>Feature</b>	<b>Description:</b>
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<b>Pricing</b>	Contact Us
<b>Eligibility</b>	N/A
<b>Includes</b>	<ul style="list-style-type: none"> <li>• Latest version of SDK</li> <li>• Cloud data pipeline processing in GCP (for XP Attention &amp; Emotion)</li> <li>• Expedited access to technical support</li> <li>• On-demand consulting and training</li> <li>• Early access to new features and capabilities</li> <li>• Quarterly business reviews and Product team access</li> </ul>

### 7. Support and maintenance

Realeyes shall provide Client with reasonable support and maintenance for the Software. Client acknowledges that the Software is provided "as-is" and Realeyes makes no warranties, other than those stated in "Warranty and disclaimer of other warranties" section, regarding its fitness for a particular purpose or that it will be error-free.

### 8. Technical Specifications

To use the Services, at least the following supported browsers and hardware requirements are required:

	<b>Web</b>	<b>Mobile</b>	<b>Desktop / Server</b>
Required Memory	30 MB	500 MB	253 MB
File Size	30 MB	100 MB	150 MB
Platform Support	Chrome, Safari, Edge	Android 6.0+, iOS 13.0+	12+Windows, Linux, Mac OS (Operating System)

Further information is available on the technical specifications at [Realeyes Experience Platform](#).

### 9. Third-Party applications

Realeyes Software may be integrated into or be provided in connection with Third-party applications. Realeyes does not control any such Third-party applications. Realeyes additionally makes no claim, warranty or representation regarding the Third-party application and accepts no responsibility for (i) the quality, content, nature, accuracy, safety, appropriateness or reliability of Third-party applications, or (ii) any loss, damage or harm of any sort incurred as the result of Client's interaction with Third-party applications. Client's use of any Third-party application and interactions or communications with Third-Party Service Providers is solely between Client and the applicable Third-Party Service Provider (including, without limitation, being subject to any terms of service or terms of use governing those Third-party applications). There is no implied affiliation, endorsement, or adoption by Realeyes of these Third-party Service Providers and Realeyes shall not be responsible for any content

provided on or through these Third-Party applications. Realeyes advises Client to read the terms of use and legal agreements that apply to these Third-Party Services.

The Services may be accessed across multiple devices; however, it should be linked to a unique account hash for each Client. Client(s) must ensure the uniqueness of their account hash when integrating the Services into their applications. Unauthorized replication or sharing of the account hash shall be considered a material breach of this Agreement, leading to immediate termination and revocation of the license. For licensing related to multiple account hashes, Client must obtain additional licenses from Realeyes.

#### **10. Warranty and disclaimer of other warranties**

Realeyes represents and warrants that it will take reasonable commercial efforts to ensure that the Services, in the form and when provided to Client, will be free of any viruses, malware, or other harmful code. For any breach of the foregoing warranty, Client's sole and exclusive remedy, and Realeyes' sole obligation, is to provide a replacement copy of the Services promptly upon notice.

ALL SOFTWARE, SUPPORT AND MAINTENANCE AND ANY ADDITIONAL SERVICES ARE PROVIDED "AS IS," AND REALEYES EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY, OR MERCHANTABILITY, WHETHER EXPRESS, IMPLIED, OR STATUTORY. REALEYES WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF REALEYES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER REALEYES NOR ANY OF ITS THIRD PARTY SUPPLIERS MAKES ANY REPRESENTATION, WARRANTY OR GUARANTEE AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF ANY SOFTWARE OR ANY CONTENT THEREIN OR GENERATED THEREWITH, OR THAT: (A) THE USE OF ANY SOFTWARE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE; (B) THE SOFTWARE WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM, OR DATA; (C) THE SOFTWARE (OR ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SOFTWARE) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; (D) ERRORS OR DEFECTS WILL BE CORRECTED; OR (E) EXCEPT AS EXPRESSLY SET FORTH IN SECTION, THE SOFTWARE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. CLIENT MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

#### **11. Term**

This Agreement shall commence on the date of acceptance or first download, install, access, or use of the Service, and shall continue until terminated by either party in accordance with the terms herein.

#### **12. Termination**

This Agreement may be terminated by either Party if the other Party commits a material breach of this Agreement or breach of applicable law and fails to cure such breach within thirty (30) days after receiving written notice. Termination is not an exclusive remedy for either Party under this Agreement.

Should the Client violate any provision of these Terms, or its access or use of the Service violates any law or regulation, then Client's license to use the Service and these Terms shall automatically terminate without any further action of Realeyes. Additionally, Realeyes may, at its sole discretion, terminate these Terms, or suspend or terminate Client's access to the Service, at any time for any reason, with or without notice.

The Client may terminate these Terms and its access to Realeyes Services at any time by uninstalling the Software from its device or removing the Software from the given Third-party application.

### **13. Effects of termination**

Following termination as per section above, all licenses granted under this Agreement shall immediately terminate and revert to Realeyes. Client shall cease all use of the Services and immediately remove all installations of the Software from its systems and devices. Client shall return or, at the discretion of the Realeyes, destroy all copies of the Software and any associated documentation, in all forms and types of media, in its possession or control. Client shall certify in writing to Realeyes that it has complied with all such requirements within 30-days of the termination date, if requested.

Any unpaid amounts or fees owed by Client to Realeyes shall become immediately due and payable and clauses or terms of this Agreement that by their nature should survive termination, including but not limited to **Intellectual Property Rights, Use of Aggregated Data; Warranty; Confidentiality; Indemnification; and Limitation of Liability** shall continue to be effective or enforceable after the termination of the Agreement.

### **14. Modification of Services**

Realeyes reserves the right to modify or suspend all or portions of the Service at any time, temporarily or permanently, without notice to Client. Realeyes will have no liability for any loss or harm related to Client's inability to access or use all of parts of the Service.

### **15. Indemnification**

Client hereby agrees to indemnify, defend, and hold harmless Realeyes and its officers, directors, employees, agents, licensors, suppliers, and any third-party information providers to the Service against all losses, expenses, damages, and costs, including attorneys' fees, incurred by Realeyes arising out of or related to Client's unauthorized or improper use of the Software, Client's violation of this Agreement, or Client's violation of any law, regulation, or third-party rights. This indemnification obligation will survive the termination of this Agreement and Client's use of the Software. Realeyes shall promptly notify the Client in writing of any claims or legal actions in respect to matters covered by this indemnification. The Client shall have sole control over the defense of such claims and actions and may settle such claims at its sole discretion. Realeyes may, at Clients' expense, engage counsel to observe and to participate in the defense.

### **16. Limitation of Liability**

IN NO EVENT WILL REALEYES BE LIABLE UNDER THIS AGREEMENT OR ANY THEORY OF RECOVERY FOR ECONOMIC LOSSES (INCLUDING LOSS OF REVENUES, PROFITS, CONTRACTS BUSINESS OR ANTICIPATED SERVICES). EXCEPT FOR CLIENT'S OBLIGATIONS OF INDEMNITY OR A BREACH OF ITS OBLIGATIONS OF CONFIDENTIALITY, NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (HOWEVER



ARISING, INCLUDING NEGLIGENCE) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. REALEYES' TOTAL LIABILITY FOR DAMAGES UNDER THIS AGREEMENT SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID BY CLIENT TO REALEYES UNDER THIS AGREEMENT. NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, NEITHER PARTY EXCLUDES NOR LIMITS ITS LIABILITY TO THE OTHER PARTY FOR DAMAGES RESULTING FROM THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF ITS AGENTS OR EMPLOYEES, FRAUDULENT MISREPRESENTATION, OR FOR ANY OTHER LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW.

#### **17. Confidentiality**

Each party (the "**Receiving Party**") understands that the other party (the "**Disclosing Party**") has disclosed or may disclose information relating to the Disclosing Party's business (hereinafter referred to as "**Confidential Information**"). In respect of Confidential Information, provision of Section 6 from [General Terms](#) applies.

#### **18. Governing Law**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and such disputes shall be finally settled by arbitration under the Rules of Arbitration of International Chamber of Commerce by three (3) arbitrators appointed in accordance with the said rules. The arbitration shall proceed in the English language in London. The arbitration award shall be final and binding upon both parties.

#### **19. Assignment**

All of Realeyes' rights and obligations under this Agreement are freely assignable by Realeyes to any other person or company without restriction and without obtaining Client's approval. Client may not assign any of its rights and obligations to any third party by operation of law or otherwise without Realeyes' prior written approval.

#### **20. Severability**

If any provision of this Agreement is held to be invalid or unenforceable, such provision will be struck from this Agreement and the remaining provisions will remain in full force and effect.

#### **21. Export Controls**

Client warrants that is not a citizen or a permanent resident of a country that is subject to applicable U.S. trade sanction laws and regulations (e.g., Cuba, North Korea, Iran, Sudan, and Syria, as such list may be amended) or and equivalent EU or UK sanctions that would prevent Realeyes from providing Client access to the Services. Client warrants that is not named on any government sanctions, debarment, or exclusion list or export-controlled related restricted party list (collectively, "**Sanctions Lists**"). Client will immediately discontinue its use of the Services if Client or any of its personnel is placed on any Sanctions List. Client also warrants that it will not export, re-export, or transfer the Software to an entity on any Sanctions List or otherwise use the Software in a manner that would be in violation of applicable laws. Notwithstanding anything to the contrary in these Terms, Realeyes may terminate this Agreement, effectively immediately if Client is in breach of the obligations in this section.

#### **22. Entire agreement**

This Agreement incorporating the General Terms of Service, Special Terms of Service and referenced documentation constitutes the entire agreement between the Parties.

**Changes to the Terms**

Realeyes may update these Terms from time to time. Realeyes will notify Client of changes by posting an announcement on its website, providing a notice during the use of the Service, or updating the date at the top of these Terms. Client is immediately bound by any changes to these Terms (by any of the means mentioned above) if Client continues using Realeyes Services after it is notified of these changes. Client's continued use of the Services after such notice confirm its acceptance of the changes.