

# Swarm Innovation Profiler Terms And Conditions

## Swarm Innovation Profiler ([enterprise.swarmvision.com](http://enterprise.swarmvision.com), [www.swarmvision.com](http://www.swarmvision.com), [scan.swarmvision.com](http://scan.swarmvision.com)) Terms of Use

Updated October 21, 2018

The Swarm Innovation Profiler is a product of Swarm Vision Inc. created to help individuals and organizations develop their innovation skills. Your use of Swarm Vision products or services is governed by these Terms of Use. You should not use Swarm Vision products or services if these Terms are unacceptable to you.

*By clicking the 'Agree and continue' button, you acknowledge that you do not acquire any ownership rights in these copyrighted materials by accessing them. You may not copy, reverse engineer or distribute the materials. You are advised that Swarm Vision aggressively enforces its intellectual property rights to the fullest extent of the law.*

*By clicking the 'Agree and continue' button, you agree not to hold Swarm Vision Inc., its employees, agents, clients or officers, or any of its certified associates liable or otherwise responsible for the results generated from, or the consequences derived from the interpretations and use of, the Swarm Innovation Profiler (the "Profiler").*

Swarm Vision may, in its sole discretion, modify or revise this Agreement and may impose new or additional terms at any time by updating or modifying the Purchase and Use Terms. Changes to the Purchase and Use Terms will be posted to the Swarm Innovation Profiler website ([enterprise.swarmvision.com](http://enterprise.swarmvision.com)).

Such modifications and additional terms will be effective immediately and incorporated into these Purchase and Use Terms. Continued use of the website, materials, and associated products implies acceptance of the updated and modified terms. Thus, Swarm Vision encourages all users to visit the website periodically to review the Agreement.

Swarm Vision reserves the right to change, suspend, or discontinue any aspect of its Swarm Innovation Profiler products and services at any time, including the availability of any feature, database, or content. Swarm Vision may also impose limits on certain features and services or restrict your access to parts or all of its offerings without notice or liability.

For the purposes of these Purchase and Use Terms, the words content, assessment(s), tool(s), skill clusters(s), and sub-clusters(s), the Profiler nomenclature and Profiler visual designs refer jointly and separately to the Swarm Innovation Profiler and the products and services.

## **Swarm Innovation Profiler Content**

All Profiler-related materials published by Swarm Vision in any form of media, including, but not limited to, text, news articles, photographs, images, illustrations, audio clips, video clips, assessment results, trademarks, service marks, logos, training materials, and other material (collectively, the "Content"), are protected by U.S. and international copyright and other intellectual property laws and are owned or controlled by Swarm Vision, Inc.

You may use the Content on the Swarm Vision website and from Profiler workshops for personal or organizational purposes. You may not copy or republish Content from the website, your personal Profiler results and Interpretation Guide, or workshop materials.

To protect the science and concepts behind Swarm Vision's Strengths work, Swarm Vision reserves the right to audit any user created content from our client engagements. Based on the results of that audit, Swarm Vision may require modification of the user-created content.

For specific copyright information, please review the Trademark and Copyright Guidelines.

If you are purchasing or accessing Profiler assessments for use by someone other than yourself, you are responsible for complying with the additional Professional Conduct Rules.

## **Control of Individual Profiler Results**

If an employer, coach, consultant, or other individual or entity (collectively, the "Purchaser") purchases Profiler access for an individual, the Purchaser may be granted access to the results, but the individual will still retain the right to request removal of their results from our database by notifying us at:

Swarm Vision Inc.  
PO Box 806  
Los Altos CA 94023  
[admin@swarmvision.com](mailto:admin@swarmvision.com)

Purchasers who receive access to individual results have an obligation to protect the privacy and confidentiality of the individual.

The Swarm Innovation Profiler may only be used by individuals aged 18 years and over.

## **Representations, Warranties, and Limitation of Liability**

The Swarm Vision website and Content are provided on an "as is" basis. SWARM VISION, TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, AND NON-INFRINGEMENT OF PROPRIETARY OR THIRD-PARTY RIGHTS. Under no circumstances, including, but not limited to, negligence, shall Swarm Vision, its subsidiaries, affiliates, agents, or licensors be liable for any direct, indirect, incidental, special, or consequential damages that result from the use of or the inability to use Profiler materials, products, or services. You specifically acknowledge and agree that Swarm Vision is not liable for any defamatory, offensive, or illegal conduct of any user. You agree that any kind of legal claim (whether in Contract, Tort, or otherwise) in any way connected with the Content on Swarm Vision's Profiler site shall not exceed the amount you paid to Swarm Vision for the use of the Profiler. If you are dissatisfied with any Profiler materials, products, or services or with any Profiler product terms and conditions, your sole and exclusive remedy is to discontinue using the Profiler-based product.

## **Indemnification**

You agree to indemnify and hold Swarm Vision, its officers, directors, shareholders, predecessors, successor in interest, employees, agents, subsidiaries, and affiliates harmless from any demands, loss, liability, claims, or expenses (including attorneys' fees), made against Swarm Vision by any third party due to or arising out of or in connection with your use of the Swarm Vision website or the Content.

## **User Names and Passwords**

To access Swarm Vision's sites and content, you will be provided with a unique user name and password. You are responsible for maintaining the confidentiality of passwords and account information and are responsible for all acts or omissions that occur while your password or account is used. You may not use the Swarm Innovation Profiler, Swarm Vision website, or any Content for any unlawful purpose. You agree to notify Swarm Vision immediately of any unauthorized use of your password or account or any other breach of security and to ensure that you exit your account at the end of each session. Swarm Vision cannot and will not be liable for any loss or damage arising from your failure to protect your password and account information. Any fraudulent, abusive, or otherwise illegal activity may be grounds for termination of your account, at Swarm Vision's sole discretion.

Each individual will receive a unique user name and password to participate in the Profiler assessment they purchased or that was purchased for them. Purchasers are responsible for any uses, acts, or omissions while their user name and password are being used.

## **Purchases**

Additional terms and conditions may apply to purchases of goods or services and to specific portions or features from Swarm Vision's website or other Swarm Vision websites, all of which are made a part of these Use Terms. If there is a conflict between the Use Terms and the terms posted

for, or applicable to, a specific portion of any service offered on or through the Swarm Innovation Profiler website, the latter terms shall control with respect to your use of that portion of the website or the specific service.

You agree to pay or have paid all fees and charges incurred in connection with your email address and password for Swarm Vision's Profiler site (including any applicable taxes) at the rates in effect when the charges were incurred. All fees and charges are nonrefundable. Swarm Vision may change the fees and charges then in effect, or add new fees or charges, by giving you notice in advance. All purchases are final. No refunds will be granted.

## **Privacy of Information**

The provisions of the [Swarm Vision Privacy Policy](#), which also govern your use of all Swarm Vision websites, are incorporated into these Terms of Use. Use of this website implies acceptance of these Terms of Use and implies that you have read and understand how we collect and use information about you and that you accept those provisions.

## **Termination**

You may terminate your account at any time by discontinuing use of the Profiler program. Swarm Vision may cancel or terminate the right to use the Profiler or any part of the Swarm Innovation Profiler program at any time without notice. In the event of termination, access to the part of the Profiler program affected by such cancellation or termination is no longer authorized.

The restrictions imposed with respect to material downloaded from Swarm Vision sites, and the disclaimers and limitations of liabilities set forth in these Terms of Use, shall survive. This includes, but is not limited to, intellectual property protections.

## **Miscellaneous**

This Agreement constitutes the entire agreement between Swarm Vision and you with respect to the subject matter contained in this Agreement and supersedes all previous and contemporaneous agreements, proposals, and communications, written or oral.

By using the Swarm Innovation Profiler website or any Content, you agree that any dispute, claim, or cause of action arising out of or relating to your use of the website or the Content will be resolved by binding arbitration by the American Arbitration Association under the Arbitration Rules then in effect. Any award of the arbitrator(s) may be entered as a judgment in any court of competent jurisdiction. We each agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated, or representative action. If for any reason a claim proceeds in court rather than in arbitration, we each waive any right to a jury trial. We also both agree that you or we may bring suit in court to enjoin infringement or other misuse of intellectual property rights. The applicable law shall be the Federal Arbitration Act, applicable federal law, and the laws of the state of California.

You may not use or export or re-export any Content or any copy or adaptation of such Content, or any product or service offered on the Swarm Innovation Profiler website, in violation of any

applicable law or regulations, including without limitation United States export laws and regulations.

No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term.

If any provision of this Agreement shall 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.

During the account registration process, you are given the opportunity to be informed of the latest Swarm Vision offerings and services. Selecting this checkbox is your express consent to opt in to receive additional information and promotional materials via email. You may opt out of this communication at any time in your account settings.

### Copyright Guidelines

- You may not use the Swarm Vision name or Swarm Innovation Profiler name without prior written permission from Swarm Vision Inc.
- Swarm Innovation Profiler instruments may not be reproduced in any form.
- You shall not use any Swarm Vision copyright in any manner that states or implies you are employed by, affiliated with, or sponsored by Swarm Vision.
- Always use the Swarm Vision logo in the way it was intended to be used. Do not alter the mark in any way.

### Professional Conduct Rules

In your use of the content, any related Profiler materials, or the Profiler results of another individual for the purposes of coaching, training, or consulting with that individual or an organization, you agree to conduct yourself in a way that reflects positively on Swarm Vision and the Profiler Content. The following Professional Conduct Rules are the minimum expectations Swarm Vision places on the relationships you create with individuals or organizations.

- You acknowledge that nothing in the Purchase and Use Terms, the Professional Conduct Rules, or your work with Swarm Vision shall be construed as creating a partnership, joint venture, agency relationship, or the granting of a franchise between Swarm Vision and you.
- You shall not make any representations, warranties, or guarantees to anyone on behalf of Swarm Vision.
- You will not knowingly make untrue or misleading claims, and you are responsible for setting clear, appropriate, and culturally sensitive boundaries.
- *You acknowledge that Swarm Innovation Profiler assessments are not validated as selection/hiring tools under the Uniform Guidelines promulgated by the EEOC, and as such, you will not use a Swarm Innovation Profiler Assessment as a hiring tool or for selection purposes.*

- You shall not advertise, promote, or suggest in any manner that the services you provide to individuals or organizations in connection with the Profiler Content are provided by or sponsored by Swarm Vision, except to state that, if applicable, you have completed one or more Swarm Vision Innovation workshops, or you have successfully completed all requirements for certification. Additionally, you will not claim that you are employed by, affiliated with, or sponsored by Swarm Vision.
- You will not claim to be a Swarm Agent unless you complete the requirements to be certified, which includes successful completion of any required recertification programs.
- You will respect the right of the individual or organization to terminate the consulting process at any time.
- You will respect the confidentiality of the individual's or organization's information, except as otherwise authorized by the individual or organization or as required by law.
- You will obtain agreement from the individual or organization before releasing their names as clients or references or any other identifying information.
- You will obtain agreement from any person you consult with before releasing information to another person compensating you.
- You will accurately create, maintain, store, and dispose of any records of work done in relation to the practice of consulting in a way that promotes confidentiality and complies with any applicable laws.
- Your use of the Profiler Content shall not harm the reputation of Swarm Vision or the Content.
- You must notify all participants in writing of Swarm Vision's copyrights and pending patent. An acceptable example is provided below:

*The Swarm Innovation Profiler and the Swarm Ideation Profiler are the sole property of Swarm Vision, Inc. and both protected under copyright law and are patent pending.*

- You must notify all participants in writing that you and your company are not authorized representatives of Swarm Vision, and you must include the following in any non-Swarm Vision material:

*The non-Swarm Vision information you are receiving has not been approved and is not sanctioned or endorsed by Swarm Vision in any way. Opinions, views, and interpretations of Swarm Innovation Profiler results are solely the beliefs of [insert name of company or individual]*