

## TERMS OF SERVICE

This Velocitos, Inc., Terms of Service constitutes a legally binding agreement between you (“you” or “Customer”) and Velocitos, Inc., a Delaware corporation having its principal place of business at 39899, Balentine Dr., Suite 200, Newark, CA 94560 (“Company” or “we”) governing your use and access to the the cloud-based member engagement software available through a web-based interface (collectively the “Services” or “Platform”). By using the services provided by the software, you agree to be bound by these Terms of Service.

1. **Definitions.** Capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed to them below.
  - 1.1. “**Authorized Users**” means all users, including but not limited to employees, contractors and Practices, authorized by Customer to access the Services Software and the Platform.
  - 1.2. “**Company Materials**” means the Products, Services Software, Specifications, Documentation and Company Systems, Company’s Confidential Information and any and all other proprietary documents, materials, devices, methods, processes, hardware, software and other technologies and inventions, technical or functional descriptions, requirements, plans or reports of Company, that are provided or used by or on behalf of Company or any Company personnel in connection with the Service Software or relate to the Services or Company Systems.
  - 1.3. “**Company System**” means the information technology infrastructure used by or on behalf of Company in performing the Services or providing the Service Software, including all computers, software, hardware, databases, electronic systems and networks, whether operated directly by Company or through the use of third-party services.
  - 1.4. “**Confidential Information**” means any information disclosed by one Party to the other or accessed by the other under this Agreement, which, (i) if in written, graphic, machine readable or other tangible form is marked “Confidential” or “Proprietary” or which, if disclosed orally or by demonstration, is identified at the time of disclosure as confidential and reduced to a writing marked “Confidential” and delivered to the Receiving Party (as defined below) within thirty (30) days of such disclosure; or (ii) by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as confidential. Notwithstanding any failure to so identify them, all technology or proprietary information underlying the Platform and the Company System shall be deemed Confidential Information of Company, and the Customer Data, the identity of the Customer Clients, and the existence of this Agreement shall be deemed Confidential Information of Customer.
  - 1.5. “**Customer Data**” means data and other content, in any form or medium that is collected, downloaded or otherwise received, directly or indirectly from Customer or an Authorized User by or through the Service Software. For the avoidance of doubt, Customer Data includes information reflecting the access or use of the Service Software by or on behalf of Customer or any Authorized User other than Resultant Data but does not include any clinical data from any Customer.

1.6. **“Customer’s Systems”** means Customer’s information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by the Customer or through the use of third-party services.

1.7. **“Documentation”** means any documentation provided by Company for use with the Platform under this Agreement.

1.8. **“Platform”** means the interface created by Company which allows Customer and Authorized Users to use the Service Software, the Company System and all changes, corrections, bug fixes, enhancements, updates and other modifications thereto.

1.9. **“Product(s)”** means mean any Service Software, Company Materials, platform or other Services provided by Company pursuant to this Agreement, including any interface created by Company where the Customer and Authorized Users view the branded dashboard and data streams, and all changes, corrections, bug fixes, enhancements, updates and other modifications thereto, whether made by or on behalf of Company, Customer, or any third party.

1.10. **“Resultant Data”** means information, data and other content that is derived by or through the Service Software from Processing Customer Data and is sufficiently different from such Customer Data that such Customer Data cannot be reverse engineered or otherwise identified from the inspection, analysis or further Processing of such information, data or content.

1.11. **“Services”** means any maintenance, training, configuration, data extraction, data feed, support, hosting, professional, and any other service provided by Company to Customer.

1.12. **“Service Software”** means Company’s proprietary software application or applications and any third party software (and any computer program or module related thereto), including all Documentation, new versions, updates, enhancements, upgrades, revisions, improvements and modifications of the foregoing that Company provides remote access to and use of as part of the Services.

1.13. **“Specifications”** means the requirements for the Service Software, the Company Materials, and the Services provided.

1.14. **“Subscription Term”** means the term of the subscription to the Service Software and/or Product(s), identified in the applicable Order Form, including all renewals.

1.15. **“Third Party Materials”** means materials and information, in any form or medium, including any open-source or other software, documents, data, content, specifications, products, equipment or components of or relating to the Products that are not proprietary to Company.

## 2. **Services**

Company will provide Services to Customer in accordance with the terms and conditions of this agreement. Company may from time to time issue updated versions of its software and Services.

You consent to such automatic updates and agree that these Terms of Service will apply to all such upgrades.

3. **License**

Company hereby grants Customer a limited, non-exclusive, non-sublicensable, non-transferable, non-assignable, revocable license to access and utilize the Service Software for the duration of the Subscription Term. Unless otherwise stated herein, nothing in these Terms of Service or use of the Platform and Services gives the Customer or its Authorized Users a right or license to use any of Company's copyrights, trade names, trademarks, service marks, logos, domain names, or any other intellectual property rights.

4. **Your Account**

To be eligible to use the Services, you must be at least 18 years of age and/or have legal capacity to enter into a binding contract in your country of residence and accept these Terms of Service. By holding an account and using it, you consent to receive all communications with regard to any activity related to the Platform and/or Services by email, in-platform notifications, or other form of electronic or digital communications.

5. **Account Security**

Access by the Customer and Authorized Users shall be subject to the terms and conditions of these Terms of Service. Customer shall be responsible for maintaining the confidentiality and security of account login information and is responsible for any and all activities that occur under Customer's account. Customer must immediately notify Company at support@velocitos.com of any change in authorization, any unauthorized use of your account or username, or other account related security breach of which you are aware. Company shall not be liable for any loss or damage arising from the failure of any user to keep your password or account secure.

6. **Use Restrictions**

Customer 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 Services or any software, documentation or data related to the Services. Customer will not make the Services available for the benefit of any third party, or sell, resell, license, sublicense, distribute, rent or lease the Services to any third party for any purpose, commercial or otherwise.

7. **Acceptable Use Policy**

Customer is responsible for its Authorized Users' compliance with this Acceptable Use Policy, at all times. If any Authorized Users of the Customer violates this policy, Company may suspend Customer's use of the Services.

7.1. **No inappropriate content or users.** Customer will not use the Services to transmit or store any content or communications that is illegal, harmful, unwanted, inappropriate, profane or objectionable, including, but not limited to, content or communications which Company

determines (a) is false or inaccurate; (b) is hateful or encourages hatred or violence against individuals or groups; or (c) could endanger public safety. Customer and its Authorized Users are also prohibited from using the Services to promote, or enable the transmission of or access to, any prohibited content or communications described in this paragraph.

7.2. **Forbidden Activities.** Customer will not use the Services to engage in or encourage any activity that is illegal, deceptive, harmful, a violation of others' rights, or harmful to Company's business operations or reputation, including:

(a) **Violations of Laws.** Violating laws, regulations, governmental orders, or industry standards or guidance in any applicable jurisdiction. This includes violating laws requiring (a) consent be obtained prior to transmitting, recording, collecting, or monitoring data or communications or (b) compliance with opt-out requests for any data or communications.

(b) **Interference with the Services.** Interfering with or otherwise negatively impacting any aspect of the Services or any third-party networks that are linked to the Services.

(c) **Falsification of Source Identity or Origin.** Creating a false identity or any attempt to mislead others as to the identity of the sender or the origin of any data or communications.

## 8. **Confidentiality & Non-disclosure.**

Company may have access to Customer's Confidential Information in providing and supporting the Services to the Customer. Company shall not disclose any Confidential Information to any third party for any reason without your prior written consent. Company will not disclose any Confidential Information to any person or entity other than its employees or agents who have a need to know about such information in order to provide the Services. In the event Company is requested or required by legal process to disclose any of the Confidential Information, Company shall give the Customer prompt notice so that you may seek a protective order or other appropriate relief prior to any such disclosure.

## 9. **Privacy Policy.**

Company shall protect the security of Confidential Information pursuant to commercially acceptable standards, but in no case less than reasonable care. Company will implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of the Confidential Information. Company will only use personal information in accordance with its Privacy Policy.

## 10. **Termination.**

10.1. **Automatic Termination.** These Terms of Service shall automatically terminate upon the bankruptcy or insolvency of either party.

10.2. **Breach.** Either party may terminate these Terms of Service if the other party breaches any material provisions of these Terms of Service and fails to cure such breach within fifteen (15) days after receipt of written notice of such breach.

10.3. Effect of Termination. During the thirty (30) day period following termination or expiration of the Subscription Term, Company will, upon Customer request, grant Customer access to the Services for the sole purpose of downloading any reports. After expiration of the thirty-day period, Company may, without liability or obligation of further notice to Customer, delete Customer's account and related Service Data.

10.4. Survival. The following Sections survive termination of these Terms of Service: License, Confidentiality & Non-Disclosure, Disclaimer of Warranties, Limitation of Liability, Indemnity, and Governing Law.

11. **Representation and Warranties.**

Customer represents and warrants that all its Authorized Users are at least 18 years of age and/or have the legal capacity to form a binding contract in Customer's country of residence. If Customer is registering on behalf of another corporate entity, Customer represents and warrants that you are authorized to enter into, and bind the entity to, these Terms of Service.

12. **Export Compliance.**

Services may be subject to export laws and regulations of the United States and other jurisdictions. Customer represents and warrants that it is not named on any U.S. government denied-party list. Customer shall not permit access or use any Services in a U.S. embargoed country (currently Cuba, Iran, North Korea, Sudan, Syria or Crimea) or in violation of any U.S. export law or regulation.

13. **Governing Law.**

This Agreement shall be governed by, construed and enforced in accordance with the laws of California, and shall be binding upon the parties hereto in the United States and worldwide.

14. **Disclaimer of Warranties.**

ALL SERVICE SOFTWARE AND COMPANY MATERIALS ARE PROVIDED "AS IS" AND COMPANY HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, COMPANY MAKES NO WARRANTY OF ANY KIND THAT THE SERVICE SOFTWARE OR COMPANY MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES EXCEPT IF AND TO THE EXTENT EXPRESSLY SET FORTH IN THE SPECIFICATIONS, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD PARTY MATERIALS IS STRICTLY

BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY MATERIALS.

15. **Limitation of Liabilities.**

IN NO EVENT WILL THE AGGREGATE LIABILITY OF COMPANY UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, EXCEED THE AGGREGATE AMOUNT OF THE DISCRETE VALUE OF SERVICES PROVIDED UNDER THIS AGREEMENT IN THE THREE-MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO LIABILITY. CUSTOMER ACKNOWLEDGES THAT THE AMOUNTS PAYABLE HEREUNDER ARE BASED IN PART ON THESE LIMITATIONS. THE PARTIES AGREE THAT THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

16. **Indemnity.**

To the maximum extent permitted by law, Customer agrees to indemnify, defend and hold harmless Company, and its subsidiaries, affiliates, officers, directors, shareholders, employees, representatives, agents, volunteers, attorneys, managers, licensors, business partners and each of their respective successors and assigns (the "Indemnified Parties") from and against all damages, losses, liabilities, claims, expenses, fees or costs (including, without limitation, reasonable attorneys' fees and costs) incurred in connection with any claim, demand or action brought or asserted against any of the Indemnified Parties arising out of or relating to Customer's (i) use of the Platform or Services (ii) breach of these Terms of Service, (iii) violation of any third party right, including without limitation any intellectual property right, publicity, property or privacy right, and/or (iv) a breach of Customer's representation or warranties under these Terms of Service..

17. **Miscellaneous Provisions.**

17.1. **Assignment.** Neither party shall assign any of the rights or obligations under these Terms of Service without the prior written consent of the other Party. However, consent is not required for an assignment of these Terms of Service in connection with a change of control, merger, stock transfer, sale or other disposition of substantially all the assets of the assigning party's business..

17.2. **Successors and Assigns.** These Terms of Services are binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

17.3. **No Waiver.** No failure or delay by a party exercising any right, power or privilege under these Terms of Service will operate as a waiver thereof.

17.4. **No Agency.** No agency, partnership, joint venture, employee-employer, or franchiserfranchisee relationship is intended or created by these Terms of Service.

17.5. **Interpretation.** Headings are for reference purposes only and do not limit the scope or extent of such section.

17.6. Notices. All notices required or permitted to be given under these Terms of Service will be in writing and delivered to the Company at support@velocitos.com.

**18. Entire Agreement.**

These Terms of Service comprises the entire agreement between the parties and supersedes all prior or contemporaneous agreements, written or oral, between the parties regarding the subject matter contained herein.