

## TERMS OF USE

These Terms, and the policies and other documents referenced in these Terms, together form an agreement (Agreement) between you and TheStudio C (The StudioC, StudioC). The StudioC is willing to allow you to access and use the products, services and software offerings of The StudioC and its service providers (collectively, Offerings) specified in orders placed by you and accepted by The StudioC under this Agreement (Orders) only if you agree to be bound by this Agreement.

This Agreement will form a binding legal agreement between you and The StudioC regarding the Offerings as of the date you first accept these Terms, including electronically (Effective Date). You and The StudioC are each a party to this Agreement and together are the parties to this Agreement.

Please read these Terms carefully. IF YOU DO NOT AGREE TO THESE TERMS, OR DO NOT MEET ALL OF THE QUALIFICATIONS IN THESE TERMS, YOU MAY NOT ENTER THIS AGREEMENT OR ACCESS OR USE THE OFFERINGS.

THESE TERMS CONTAIN AN ARBITRATION PROVISION WHICH LIMITS YOUR RIGHTS TO BRING AN ACTION IN COURT AND HAVE DISPUTES DECIDED BY A JUDGE OR JURY, AND PROVISIONS THAT LIMIT OUR LIABILITY TO YOU.

**1. You and Your Organization.** If you have entered this Agreement on your own behalf (to use the Offerings yourself, for your own benefit), then these Terms apply to you as an individual. If you have entered this Agreement on behalf of an organization or entity (so that the entity or organization can use the Offerings for its benefit), then these Terms apply to that entity or organization and to all Users of that entity or organization. In either case, you agree you have the authority to enter into these Terms, whether on your own behalf or on behalf of that entity or organization.

**2. Additional Agreements.** An Additional Agreement is another agreement that you enter with The StudioC regarding the Offerings. An Additional Agreement controls over this Agreement only as expressly stated in that Additional Agreement. Otherwise, this Agreement controls over all Additional Agreements, and replaces and supersedes any other oral or written agreements or understandings between you and The StudioC regarding the Offerings.

**3. Orders.** Orders specify the Offerings you have selected to receive from The Studio C. Orders may contain additional details regarding those Offerings. Each Order applies to the Offerings specified in that Order. The StudioC has no obligation or responsibility with respect to an Order until accepted by The Studio C, in its sole discretion. Only the terms of each Order accepted by The StudioC will become part of this Agreement. Any terms that you may provide to The Studio C, including in connection with an Order, are void and unenforceable. These Terms prevail over the terms of each Order in the event of a conflict.

**4. Offerings.** The StudioC will provide each Offering as specified in this Agreement and Order(s) for that Offering. All applicable performance and support commitments for each Offering are specified in the Order(s) for that Offering.

**5. Use of the Offerings.** Access to and use of each Offering is subject to the terms of this Agreement, including any terms specified in the Order for that Offering. Unless additional rights are specified in the Order for an Offering, you may access and use each Offering solely for your own internal purposes and benefit, subject to

the terms of this Agreement and only to the extent authorized in the Order for that Offering. The StudioC reserves the right to audit your use of an Offering to ensure compliance with the terms of this Agreement.

**6. Acceptable Use.** Access to and use of the Offerings is also subject to the [Acceptable Use Policy](#). In addition to the terms of this Agreement, You agree that you and your Users will access and use each Offering only in accordance with the Acceptable Use Policy.

**7. Users and Accounts.** An Account is an account created for you through which you may access the Offerings. If you have entered this Agreement on your own behalf, you may create an Account for yourself. If you have entered this Agreement on behalf of an organization or entity, you may also create Accounts for your authorized personnel. In either case, all use of and access to each Account and the Offerings is only for your own purposes. Users are you and, if applicable, your authorized personnel. Each Account (and the associated Account credentials) are personal to and only for use by an individual User. You are responsible for the access to each Account and all Offerings by each User. You will ensure the security and confidentiality of all Account credentials. You will immediately notify The StudioC if you become aware of any known or suspected unauthorized access to or use of any Account other than by the User of that Account or any other unauthorized use(s) or breach(es) of security of any Account or Account credentials. You may have the ability to set access levels and privileges for each Account. The levels and privileges control the rights given to the User of each Account, both to control their own Account, the Offerings, and other Accounts. You are solely responsible for the access levels and privileges set for each Account.

**8. Your Content.** Content includes information, data, and other content. Your Content is the Content that you and your Users provide or make available through any Account or in connection with any Offering. You will ensure that your Content is accurate, complete, and updated. Providing your Content does not affect your existing rights in your Content. When you provide or make available your Content, you agree to obtain for The Studio C, and you grant to The Studio C, all rights, permissions, and consents necessary for The StudioC and its affiliates, contractors, and subprocessors to use, provide, store, and process your Content in managing and providing each Offering to you. The StudioC and its affiliates, contractors, and subprocessors may access and use your Content to manage the Offerings and for any additional purpose specified in any Order. The StudioC will return or remove your Content from the systems The StudioC uses to provide an Offering upon the termination of your access to that Offering, provided that certain Content may remain in The Studio C's backup systems until deletion, as governed by The Studio C's applicable data retention practices.

**9. The StudioC Content.** The StudioC Content is any Content made available to you through an Offering, whether provided by The StudioC or a third party, other than your Content. As between The StudioC and you, The StudioC Content is owned by The StudioC and its third-party providers. Unless otherwise specified in an Order, The StudioC Content is for informational purposes only and The StudioC is not responsible for any errors or omissions in any The StudioC Content. You are solely responsible for verifying the accuracy, completeness, and applicability of all The StudioC Content and for your own use of that The StudioC Content. You agree to comply with all requirements provided to you with any The StudioC Content. Subject to those requirements, unless additional rights are specified in the Order with respect to any The StudioC Content, you may access and use The StudioC Content only in the form provided through each Offering, solely for your own internal purposes, in connection with your use of that Offering, subject to the responsibilities and restrictions specified in this Agreement.

**10. Fees and Payment; Taxes.** All Offerings are subject to a Fee. Fees include the fees and other charges applicable to each Offering, as specified in the Order for each Offering. You agree to pay all Fees for each Offering, including for use in excess of any applicable use limits and for late payment. All Fees for Offerings are

for the term of the Offering. You are responsible for paying the specified Fee for the entire term of each Offering, even if you are paying monthly, the term ends early, or you stop using the Offering before the end of the term. You may elect to pay the Fees for any Offering on either a monthly or annual basis as specified in the Order for each Offering. Fees subject to monthly payment are due and payable in advance on a monthly basis. Fees subject to annual payment are due and payable in advance on an annual basis. You agree to provide The StudioC a payment card or bank account for The StudioC to charge and collect payments from when they are due. Payment methods will be stored for future use and you will designate one payment method as your default payment method. You are responsible for maintaining complete, accurate, and valid payment card or bank account information and notifying The StudioC of any changes. The StudioC may suspend or limit your use of any Offering if The StudioC is unable to collect payment of any Fees when due, including if a charge to your payment card or bank account is denied for any reason. The StudioC does not give credits or refunds for any Fees once paid. The StudioC may change the Fees applicable to an Offering upon any renewal of the term of any Order or as specified in the Order for the Offering. Fees do not include any local, state, federal or foreign taxes or any other charges of any nature imposed by any governmental entity. You are responsible for and agree to pay to any applicable government authority all taxes or other charges resulting from your use of the Offerings.

In the event that a third party has agreed to pay any Fees for an Offering (or any portion thereof) on your behalf, The StudioC will charge the third-party payor for the specified Fees, but you will remain responsible for any additional Fees incurred in connection with the Offering in accordance with this section, including without limitation the Fees associated with any renewal of the term of your Offering. If The StudioC is unable to collect payment of any specified Fees from the third-party payor, The StudioC may suspend or terminate your use of the Offering.

To the extent that the Fees for any Offering are based on an estimate of your size (for example, your average congregation size) or your usage of the Offering, The StudioC reserves the right to verify such information and to adjust the Fees as necessary over the term of the Offering.

**11. Data Privacy.** Information received or collected regarding the users who access your Account and use the Offerings is subject to the [Privacy Statement](#). Offerings that collect data directly from interactions with third parties (e.g., assessments) may have their own privacy statements.

Certain Offerings may be provided by third parties on The StudioC's platform. By selecting or purchasing a third-party Offering, you instruct The StudioC to share your name, email address and other contact information with the applicable third party. If you do not desire for The StudioC to share your personal information with these third parties, do not select or purchase these third-party Offerings. If a third party has agreed to pay Fees for an Offering on your behalf, you instruct The StudioC to share your name and other contact information, and the Offering you have purchased, with the applicable third-party payor.

The StudioC agrees, upon termination, cancellation, expiration, or other conclusion of this Agreement, within 30 days to return to the Institution or if return is not feasible, destroy and not retain any copies of any and all Confidential Information that is in its possession.

**12. Data Protection.** All Offerings are subject to the [Data Protection Addendum](#) (DPA) by reference. The DPA applies when you or The StudioC process personal information (as these terms are defined in the DPA) pursuant to this Agreement. For the purposes of clarity, You will use each Offering only if the Offering is

suitable for your intended use and your Content. You will not input, provide, or make available information or Content to The StudioC unless the privacy and security measures for an Offering are sufficient to satisfy all applicable laws relating to that Content.

13. **Warranties.** Each party warrants and covenants to the other that: (1) it has the legal right and authority to enter into this Agreement; (2) this Agreement forms a binding legal obligation of that party; and (3) it has the legal right and authority to perform its obligations under this Agreement. You warrant and covenant to The StudioC that: (a) you have (or will obtain) all rights, permissions, and consents necessary to provide your Content to The StudioC for use by The StudioC as permitted under this Agreement; and (b) your use of and access to the Offerings, including the The StudioC Content, will comply with all applicable laws and third party rights and will not cause The StudioC itself to violate any applicable law or third party right. The StudioC warrants and covenants to you that The StudioC provides all Offerings using commercially reasonable care and skill in accordance with any service levels specified in the Order(s) for those Offerings. The warranty for each Offering ends when the term of that Offering ends.

14. **Disclaimer.** EXCEPT AS EXPRESSLY STATED IN THE WARRANTIES SECTION, THE OFFERINGS AND OTHER OBLIGATIONS OF The StudioC UNDER THIS AGREEMENT ARE PROVIDED BY The StudioC AND ITS PROVIDERS "AS IS" AND "AS AVAILABLE," WITHOUT ANY REPRESENTATIONS, WARRANTIES, OR COVENANTS. The StudioC EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, AND COVENANTS, WHETHER EXPRESSED, IMPLIED, OR STATUTORY, REGARDING THIS AGREEMENT AND ALL OFFERINGS AND OTHER OBLIGATIONS OF The Studio C, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY The StudioC OR ITS REPRESENTATIVES WILL CREATE ANY REPRESENTATIONS, WARRANTIES OR COVENANTS UNLESS CONFIRMED IN WRITING BY The StudioC AS AN AMENDMENT TO THIS AGREEMENT. The StudioC will not be liable to you or any other third party for any Content under any applicable law, including the Communications Decency Act, 47 U.S.C. § 230.

15. **Indemnity.** If a third party asserts a claim against you that an Offering obtained under this Agreement (other than a Freemium) infringes a patent or copyright of that third party, The StudioC will defend you against that claim and pay any amounts finally awarded by a court against you or included in a settlement approved by The Studio C. The StudioC has no responsibility for claims based on or involving non-The StudioC products, services, or offerings, other services or items not provided by The Studio C, any violation of this Agreement or any law or third-party rights caused by you, any of your Content, or your materials, designs, or specifications. If a third party asserts a claim against The StudioC relating to (1) your access to or use of an Offering, (2) your Content, (3) your breach of this Agreement, or (4) your negligence or willful misconduct, you will defend The StudioC against that claim and pay any amounts finally awarded by a court against The StudioC or included in a settlement approved by The Studio C. Each of us will promptly (1) notify the other in writing of any claim, or (2) supply information and assistance reasonably requested by the other regarding any claim. In the case of any claim relating to an Offering, you will allow The StudioC to control, and reasonably cooperate in, the defense and settlement of the claim, including mitigation efforts.

16. **Liability.** The Studio C's entire liability for all claims related to this Agreement or any Offering (other than a Freemium) will not exceed the amount of any actual direct damages incurred by you up to the amounts paid for the Offering that is the subject of the claim in the 3-month period preceding such claim, regardless of the basis of the claim. Under no circumstances will The StudioC be liable for any special, incidental, exemplary, indirect, or economic consequential damages, or any lost revenue, profits, business, data, value, goodwill, or savings. These limitations apply to The Studio C, its affiliates, contractors, subprocessors, and suppliers. These limitations do not apply: (1) to third party payments referred to in the Indemnity section; and (2) damages that

cannot be limited under applicable law. Neither party will be permitted to bring a legal action arising out of or related to this Agreement more than 2 years after the cause of action arose.

**17. Term.** This Agreement will remain in force until terminated as specified in this Agreement. Unless an Order specifies that an Offering is for a one-time use, the term for each Offering will be 12 months. This term will automatically renew for additional 12-month periods, unless either party provides notice of non-renewal to the other party at least 30 days prior to the end of any term.

**18. Termination and Suspension.** Either party may terminate any Order or this Agreement if the other party materially breaches the Order or this Agreement and fails to cure the material breach within 30 days following notice of the material breach from the non-breaching party. The StudioC may also terminate any Order if an Offering under that Order is discontinued by The StudioC. Alternatively, The StudioC may replace the Offering with any similar or comparable Offering. If The StudioC continues to provide you with access to any discontinued Offering, The StudioC may charge you additional fees associated with the continued provision of that discontinued Offering. The StudioC may suspend or limit your use of any Offering upon any actual or suspected breach of your obligations under this Agreement or applicable law, or if The StudioC reasonably believes your conduct is inappropriate or detrimental to The StudioC or any third party. If the cause of the suspension can reasonably be remedied, The StudioC will provide notice of the actions you must take to reinstate access to the Offering. Any suspension will not limit any other right or remedy available to The StudioC under applicable law. Termination of this Agreement will also terminate each Order. Termination of an Order terminates only that Order and the Offerings under that Order and provisions of this Agreement and any other Order(s) will remain in effect until fulfilled or otherwise terminated in accordance with their terms. Upon any termination of this Agreement or any Order: (1) your rights to any Offerings subject to this Agreement or that Order will terminate; (2) you will cease use of and access to all Offerings subject to this Agreement or that Order; (3) you will cease use of and delete any The StudioC Content relating to the Offerings subject to this Agreement or that Order; and (4) all Fees or other amounts incurred by you under this Agreement or that Order will become payable. Any terms of this Agreement that by their nature extend beyond the termination of this Agreement remain in effect following any termination.

**19. Confidentiality.** Confidential Information is nonpublic information disclosed or made available under this Agreement by a party to the other party that relates to any Offering or either party's technology, services, finances, operations, customers or business. The Studio C's Confidential Information includes The StudioC Content. Your Confidential Information includes your Content. Confidential Information does not include any information that: (1) was already lawfully known to a party at the time of disclosure by the other party; (2) is disclosed to a party by a third party who had the right to make such disclosure without any confidentiality restrictions or other obligations as to the information disclosed; or (3) is, or through no fault of a party has become, generally available to the public. Each party will protect the other party's Confidential Information with the same degree of care that party uses to protect its own similar confidential information, but in no case less than reasonable care. Each party agrees that, except as expressly directed by the other party, it will not at any time during or after the term of this Agreement: (a) disclose any Confidential Information to any third party; (b) permit any third party to examine and/or make copies of any reports, documents or electronic data containing Confidential Information; or (c) use any Confidential Information other than for the purposes of this Agreement. Each party is allowed to disclose Confidential Information to the extent that the disclosure is required by law or by the order of a court or similar judicial or administrative body of competent jurisdiction, provided that the party notifies the other party of the required disclosure promptly and in writing and cooperates with the other party in any lawful action to contest or limit the scope of such required disclosure.

20. **Ownership.** This Agreement does not grant or provide you with any rights to the Offerings and the software and other technology used by The StudioC and its providers to provide the Offerings, other than the right to use the Offerings as specified in this Agreement. All rights (including intellectual property rights) in the Offerings and all software and other technology remain owned by The Studio C.

21. **Disputes.** Disputes are any disputes or claims between you and The StudioC arising under or relating in any manner to this Agreement or our dealings under this Agreement, including disputes or claims relating to this section. Both parties agree to attempt to resolve all Disputes amicably. If any Dispute cannot be amicably resolved within 30 days after either party notifies the other party of a Dispute, the parties agree to resolve the Dispute through a binding arbitration rather than in court (Arbitration). Any Arbitration will be conducted under the commercial arbitration rules of the American Arbitration Association available at [www.adr.org](http://www.adr.org) (Rules). Either party may commence an Arbitration by delivering a request to the other party as specified in the Rules. Each Arbitration will be conducted before a sole neutral arbitrator selected by agreement of the parties. If the parties cannot agree on a single arbitrator within 30 days after any request for Arbitration, a neutral arbitrator will be selected as provided in the Rules. Any Arbitration will be conducted exclusively in the English language. If the value of the Dispute is \$1,000 or less, either party may decide to have the arbitration conducted via telephone or based solely on written submissions. Such a decision will be binding on both parties, unless the arbitrator decides to require an in-person Arbitration. Any in-person Arbitration will be held at a site selected by The StudioC in Phoenix, Arizona, U.S.A. The award of the arbitrator in any Arbitration will be the exclusive remedy of the parties for all claims, counterclaims, issues or accountings presented or plead to the arbitrator. The award of the arbitrator will require payment of the costs, fees, and expenses incurred by the prevailing party in the Arbitration by the non-prevailing party (including the filing and administrative costs of the Arbitration). Judgment upon an Arbitration award may be entered in any court or governmental body having jurisdiction. Any additional costs, fees or expenses incurred in enforcing an Arbitration award may be charged against the party that resists its enforcement. BOTH PARTIES AGREE THAT EACH OF US ONLY MAY BRING CLAIMS AGAINST THE OTHER ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, OR REPRESENTATIVE OR PRIVATE ATTORNEY GENERAL ACTION OR PROCEEDING. UNLESS BOTH PARTIES AGREE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS IN AN ARBITRATION, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, CLASS, OR PRIVATE ATTORNEY GENERAL ACTION OR PROCEEDING. THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S). ANY RELIEF AWARDED CANNOT AFFECT OTHER CUSTOMERS OF The StudioC OR THE OFFERINGS.

22. **Governing Law.** The interpretation of this Agreement, and any dispute between the parties, will be governed by the laws of the State of Arizona, USA. Subject to the Disputes section above, you will bring any action relating to this Agreement only in the state or federal courts located in Phoenix, Arizona, USA. You irrevocably submit to the personal jurisdiction and venue of these courts in any such action or proceeding brought in these courts by The StudioC.

23. **Notices.** Notices under this Agreement must be in writing sent to The StudioC at 21175 N. 9<sup>th</sup> Place, Suite 200, Phoenix, AZ 85024, or to you at the address associated with your Account, via (1) personal delivery, (2) overnight courier service with signature required, or (3) first class U.S. mail with postage paid, return receipt requested. The StudioC may also send notices via e-mail to any address The StudioC has on file for you or, if the notice applies to multiple users of an Offering, by providing the notice through an Offering. Notices sent in writing are deemed received when actually delivered. Notices via e-mail are deemed received on the

transmission date of the e-mail. Notices via an Offering are deemed received on the day you access the Offering containing such notice.

**24. Changes.** The StudioC may modify any Offering at any time, without degrading its functionality or security features. The StudioC may make other changes to any Offering upon renewal of the term of any Order for the Offering. The StudioC may modify this Agreement (and any applicable AUP, DPA, or privacy statement) by providing you at least 30 days' written notice. Changes to this Agreement are not retroactive and apply only to new Orders and renewals of existing Orders following the change. You accept changes by placing new Orders or continuing use of existing Offerings after the effective date of the change or by allowing Offerings to renew after you are provided with notice of the change. Except as noted in this paragraph, all changes to this Agreement must be in writing accepted by both parties.

**25. Relationship.** The StudioC is an independent contractor, not your agent, joint venturer, partner, or fiduciary, and The StudioC does not undertake to perform any of your regulatory obligations or assume any responsibility for your business or operations. Each party is responsible for determining the assignment of its personnel, and all contractors and subprocessors, and for their direction, control, and compensation.

**26. Additional Terms.** The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or later breach. If any provision of this Agreement is held to be unenforceable, the provision will be changed and interpreted to accomplish the objectives of the provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force and effect. You may not assign this Agreement or any of your rights or obligations under this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of The Studio C. Any assignment in violation of the prior sentence will be null and void. No term of this Agreement will be construed to confer any third-party beneficiary rights on any non-party. All rights and remedies hereunder are cumulative with each and every other right and remedy herein or under applicable law. Where approval, acceptance, consent, access, cooperation or similar action by either party is required, such action will not be unreasonably delayed or withheld. This Agreement is in the English language only, which language will be controlling in all respects. As used in this Agreement, the words "include," "includes" and "including" means "include," "includes," or "including," in each case, "without limitation." The StudioC will not be liable for delay, failure or interruption in performance resulting directly or indirectly from any cause or condition beyond The Studio C's reasonable control. The StudioC may use subcontractors and other resources to enable and support the delivery of the Offerings, provided that The StudioC remains responsible for its obligations under this Agreement even if The StudioC uses a third party subcontractor or other resource. Except as expressly set forth in this Agreement and any Order, you are not granted any licenses or other rights by The StudioC or in or to any Offerings or The StudioC Content.

**27. Copyright Infringement Claims.** If you believe in good faith that your copyrighted work has been reproduced through any Offering without your permission in a way that infringes your copyright, you may notify The Studio C's designated copyright agent by mail to: The StudioC Platform, Attn: Copyright Infringement Agent, [[privacy@thestudioc.org](mailto:privacy@thestudioc.org)]. Please provide the following information in your notice: (1) the name and a description of your copyrighted work and of the allegedly infringing work; (2) your name, address, daytime phone number, and email address, if available; (3) a statement that you have a good-faith belief that the use of your copyrighted work is not authorized by you (or the owner) or by law; (4) a statement that the information in the notification is accurate and, under penalty of perjury, that you are authorized to act on behalf of the owner; and (5) your electronic or physical signature.

Last updated March 10, 2022

