

# **VIVID Calculator - Terms of Use**

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## **1. Acceptance of Terms**

These Terms of Use ("**Terms**") You are reading are a legally binding agreement between Institute of Valvular Research, Inc. ("**VIVID Calculator**", "**We**", "**Our**" or "**Us**") and Yourself ("**You**") and collectively with other User of the Services (as defined below) (the "**Users**"). By accessing or using VIVID Calculator's mobile application and/or website and all other interactive features, medical services, and communications provided by VIVID Calculator You agree that You have read, understood, accepted and agreed to be bound by these Terms.

By logging in, You acknowledge that You have read these Agreement, understand it, and agree to be bound by it. If You do not agree to any of the terms below, We may be unwilling to grant You access to Our Services. If You are unwilling to accept all of the terms of this Agreement, You should not log into the VIVID Calculator and You should exit the Services.

VIVID Calculator reserves the right, in its sole discretion, to revise or modify these Terms at any time, and You agree to be bound by such revisions or modifications. You are responsible for viewing these Terms periodically. Your continued Use of the Services after a change or modification of these Terms has been made will constitute Your acceptance of the revised Terms. If We feel the modifications are material, We may post a notice on Our mobile application and/or website. All new and/or revised Terms take effect immediately and apply to Your Use of the Services from that date on, except that material changes may take effect 7 days after the change is made and identified as material. If You do not agree to the Terms, Your only remedy is to discontinue Your Use of the Services.

If You violate the Terms, VIVID Calculator reserves the right to issue You a warning regarding the violation or to immediately terminate or suspend all or part of your use of the Services. You agree that VIVID Calculator does not need to provide You notice before terminating or suspending Your use of the Services, but it may provide such notice in its sole discretion.

You agree that VIVID Calculator may change any part of the Services, including its content, at any time, or discontinue the Services or any part thereof, suspend or terminate Your access to some or all of the Services and refuse any and all current or future Use of the Services, for any reason, without notice to You and without liability. You declare that by acceptance of these Terms and/or by Using the Services You are of legal age to form a binding contract with VIVID Calculator, and in any case, at least 16 years of age. You may not Use the Services and may not accept these Terms if You are a person barred from receiving the Services under the laws of the Israel.

## **2. Description of the Services**

VIVID Calculator provides guidance for operators regarding the valve in valve candidate, defines PPM conditions and describes scenarios at risk for residual stenosis after the procedure in addition to suggesting optimal THV sizing and conditions in which bioprosthetic valve ring fracture may be considered (the "**Services**").

## **3. Access to the Services**

It is Your responsibility to ensure Your mobile device or computer meets all the necessary technical specifications, to enable You to access and Use the Services.

VIVID Calculator cannot guarantee that the Services will always function without disruptions, delay or errors. VIVID Calculator takes no responsibility for any disruption, interruption or delay caused by any failure of, or inadequacy in any of these items or any other items over which We have no control, including, but not limited to, failures or delays resulting from labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials or supplies, war, terrorism, riot, or acts of God.

#### **4. Payment**

VIVID Calculator may, at its sole discretion, change these Terms and begin charging for access and use of the Services and/or certain features or certain suggested services, and VIVID Calculator may, at its sole discretion, add, remove or change the features and Services it offers or the fees (including the amount or the type of fees) VIVID Calculator charges at any time. VIVID Calculator is not responsible for any charges or expenses You incur resulting from being billed by VIVID Calculator in accordance with these Terms (including, inter alia, any kind of payment services).

#### **5. Login Information**

In order to access the Services, You shall be required to log in. You cannot Use another log in details without permission. When logging in, You must provide accurate and complete information. Logging in to the Services authorizes a single individual to Use the Services unless otherwise expressly stated.

Any personal information You provide Us when logging into the Services, which may include Your name and e-mail address, and any such other information, will be held and used in accordance with these Terms and VIVID Calculator's Privacy Policy available at VIVID Calculator's website and/or application, which constitute an integral part of these Terms. You agree that You will supply accurate and complete information to Us, and that You will update that information promptly after it changes. You represent and warrant that You have full right and authority to provide VIVID Calculator with the foregoing information, including, without limitation, any third party's consent (to the extent required under any applicable law).

#### **6. Commercial Information in the Services**

It is understood that the advertising of commercial content by VIVID Calculator does not constitute a recommendation or encouragement to procure the goods or services advertised.

Insofar as the mobile application may include information taken from and links to services or applications not operated or managed by Us, We will not be liable for any form of liability arising from Your reliance on, or in connection with, the content of such services and applications or any information provided by them, including but not limited to its completeness, accuracy, correctness or it being up-to-date. VIVID Calculator will not be liable for any direct or indirect damage, monetary or otherwise, arising from Your Use of or Your reliance on the content of goods or services You have accessed via ads or other links on the Services.

#### **7. Termination of Use**

You acknowledge that VIVID Calculator is not required to provide You notice before suspending or terminating Your use of the Services or selectively removing, revoking or garnisheeing benefits associated with Your use of the Services. In the event that VIVID Calculator terminates Your use of the Services, You may not participate nor make Use of the Services again without VIVID Calculator's express consent. VIVID Calculator reserves the right to refuse to keep log in details for, and provide access to the Services, or other services to any individual. You may not allow individuals which their Use of the Services have been terminated by Us to Use Your log in details. If You believe that any action has been taken against Your use of the Services in error, please contact Us at: [\*registry@valveinvalve.org\*](mailto:registry@valveinvalve.org)

#### **8. Right to Use the Services**

Subject to Your agreement and compliance with these Terms, VIVID Calculator grants You a personal, non-exclusive, non-transferable, revocable, limited scope right to access and Use the Services. You hereby acknowledge that Your right to access and Use the Services is limited by these Terms, and, if You violate, or if, at any point, You do not agree to any of these Terms, Your right to access and Use the Services shall immediately terminate, and You shall immediately refrain from Using the Services. If the Services or any part thereof is determined to be illegal under the laws of the country in which You are situated, You shall not be granted any right to Use the Services, and must refrain from Using the Services.

#### **9. Rules of Conduct and Usage**

You represent and warrant that You have full right and authority to Use the Services and to be bound by these Terms. You agree that You will comply fully with these Terms and all applicable domestic and international

laws, regulations, statutes, ordinances that govern Your Use of such Services. Without limiting the foregoing and in recognition of the global nature of the Internet, You agree to comply with all local and international rules regarding online conduct. You also agree to comply with all applicable laws affecting the transmission of content or the privacy of persons.

You undertake that You shall not defraud, or attempt to defraud, VIVID Calculator or other Users, and that You shall not act in bad faith in Your Use of the Services. If VIVID Calculator determines that You have acted in bad faith and/or in violation of these Terms, or if VIVID Calculator determines that Your actions fall outside of reasonable standards, VIVID Calculator may, at its sole discretion, terminate Your use of the Services and prohibit You from Using the Services.

#### **10. Safety Warnings**

Services should be used responsibly.

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOUR ACCESS TO AND USE OF THE OUR SERVICES IS AT YOUR SOLE RISK AND THAT VIVID CALCULATOR SHALL BEAR NO LIABILITY FOR ANY INJURY YOU SUFFER AS A DIRECT OR INDIRECT RESULT OF ACCESSING OR USING THE SERVICES. IF YOU BELIEVE THAT YOU MAY SUFFER ANY INJURY AS A RESULT OF ACCESSING OR USING THE SERVICES, WHETHER DIRECTLY OR INDIRECTLY, YOU SHOULD NOT USE THE SERVICES.

#### **11. Intellectual Property Ownership**

VIVID Calculator and/or its affiliates retain all rights in the Services including any general and/or aggregated, information regarding or related to data about User's Usage of the Services (the "**Services' Materials**"). The entire contents of the Services are protected by applicable copyright, trade dress, patent, and trademark laws, international conventions, and other laws protecting intellectual property and related proprietary rights. You shall not, nor shall You cause any other party to modify, decompile, disassemble, reverse engineer, copy, transfer, create derivative works from, rent, sub-license, distribute, reproduce framed, republish, scrape, download, display, transmit, post, lease or sell in any form or by any means, in whole or in part, Use for any purpose other than for Using the Services pursuant to these Terms or otherwise exploit any of the Services' Materials without VIVID Calculator's explicit, prior written consent. All other Uses of copyrighted or trade mark material, including any derivative Use, require explicit, prior written consent from VIVID Calculator. Any reproduction or redistribution of materials not in accordance with these Terms is explicitly prohibited and may result in the termination of Your use of the Services as Well as severe civil and criminal penalties.

Any feedback, suggestions opinions, advice and all other information expressed by any third-parties on the Services represent their own views and not those of VIVID Calculator. You should not rely on such feedback, suggestions, opinions, advice or other information. Neither VIVID Calculator nor any of its affiliates or their respective agents, directors, employees, information providers, licensors, licensees, officers and/or affiliates shall be responsible or liable for any decisions made based on such information.

#### **12. Disclaimer of Warranty; Limitation of Liability; Indemnification**

You agree that Your Use of the Services shall be at Your sole risk. The Services are provided on an "AS IS" and "AS AVAILABLE" basis. You are solely responsible for any and all acts or omissions taken or made in reliance on the Services. To the fullest extent permitted by law, VIVID Calculator, its officers, directors, employees, and agents disclaim all warranties, explicit or implied, in connection with the Services and Your Use thereof including implied warranties of merchantability, title, fitness for a particular purpose or non-infringement, Usefulness, authority, accuracy, completeness, and timeliness.

VIVID Calculator assumes no liability or responsibility for any:

- a. Errors, mistakes, inaccuracies, non-suitability or non-conformity of any content including those related to the Services;
- b. Direct, indirect, special, incidental, punitive or consequential damages including without derogating personal injury, property damages and/or monetary damages, of any nature whatsoever, arising out of the Use of or the inability to Use the Services;

- c. Any unauthorized access to or Use of Third Party Materials, secure servers and/or any and all Personal Information and/or financial information stored therein;
- d. Any interruption or cessation of transmission to or from the Services;
- e. Any bugs, viruses, Trojan horses, or the like which may be transmitted to or through the Services by any third party;
- f. Any results that may be obtained from the Use of the Services;
- g. The quality of any information, or other material obtained by You through the Services;
- h. Any content which is published, displayed and/or suggested through the Services, its integrity, accuracy and/or reliability; or
- i. Any errors or omissions in any content or for any loss or damage of any kind incurred as a result of the Use of any content posted, e-mailed, transmitted, or otherwise made available via the Services.

Without derogating from the abovementioned, the content on VIVID calculator, the Services, or any information provided by VIVID shall not constitute any kind of advice, and is not intended to be a substitute for professional medical advice, diagnosis, or treatment. Reliance on any information provided is solely at your own risk. The content of the Services may be of interest to medical professions or other health care providers. Medical professionals and health care providers should exercise their own judgment in determining whether a particular product or procedure is appropriate for their practice or their patients.

Without derogating from the abovementioned, in no event will VIVID Calculator, its stockholders, directors, officers, agents, contractors, partners, consultants and/or employees, be liable to You or any third person for any special, direct, indirect, incidental, punitive, or consequential damages whatsoever, including any lost profits or lost data arising from Your Use of the Services or other materials on, accessed through or downloaded from the Services, whether based on warranty, contract, tort, or any other legal theory, and whether or not VIVID Calculator has been advised of the possibility of these damages. The foregoing limitation of liability shall apply to the fullest extent permitted by law in the applicable jurisdiction. You specifically acknowledge that VIVID Calculator shall not be liable for any User submissions and/or defamatory, offensive and/or illegal conduct by any third party, and that the risk of harm or damage from and/or associated with the foregoing rests entirely with You. Without derogating from the aforementioned, in any event VIVID Calculator's maximum liability in all cases and from all causes of action shall be limited to the sum of US\$ 1.

In the event You are dissatisfied with, or dispute, these Terms and/or the Services, Your sole right and exclusive remedy is to terminate Your Use of the Services, even if that right or remedy is deemed to fail of its essential purpose. You confirm that VIVID Calculator has no other obligation, liability or responsibility to You or any other party.

You agree to indemnify and hold VIVID Calculator, and each of its directors, officers, agents, contractors, partners and employees, harmless from and against any loss, liability, claim, demand, damages, costs and expenses, including reasonable attorney's fees, arising out of or in connection with any of the following:

- a. Your Use of, and access to the Services;
- b. Your violation of any term of these Terms;
- c. Your violation of any third party right, including without limitation any copyright, property, or privacy right;
- d. Any claim that any User submission made by You has caused damage to a third party; or
- e. Any User Content You post or share on or through the Services.

Certain laws do not allow limitations on implied warranties or the exclusion or limitation of certain damages. If these laws apply to You, some or all of the above disclaimers, exclusions or limitations may not apply to You, and You might have additional rights.

### **13. Notices**

Notices to You may be made via Our application and/or website and/or e-mail. VIVID Calculator may also provide notices of changes to these Terms or other matters, by displaying notices or links to notices to You generally on the Services. You agree that all agreements, notices, disclosures and any other communications that VIVID Calculator provides as aforementioned, satisfy any legal requirement that such communications be in writing. Any and all e-mail notices sent to You will constitute sufficient and effective delivery and notice to You, whether or not You access or review the notice and shall be deemed to have been delivered to You, whether actually received by You or not.

#### **14. General**

To the extent that You are using this App through an iOS compatible device, You represent and undertake as follows: (i) this Terms constitute an agreement between You and Us, and not Apple Inc. ("**Apple**"); (ii) you will use the App on any Apple-branded device that You own or control and as permitted by apple terms and conditions set forth in the "App Store Terms of Service", except that the App may be accessed, acquired, and used by other accounts associated with You via "Family Sharing" or volume purchasing; (iii) Apple is not responsible for the App or any content thereof; (iv) Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App; (v) in the event of any failure of this App to conform to any applicable warranty (if applicable), You may notify Apple, and Apple will refund the purchase price for the App (if applicable) to You; to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App; (vi) any claims by You relating to the App or your possession and/or use of the Services shall not, in any case, be addressed by Apple; (vii) in the event of any third party claim that the Service or Your possession and use of the App infringes a third party's intellectual property rights, Apple will not be in any way responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim; and (viii) Apple and Apple subsidiaries are third party beneficiaries of this Agreement and upon your acceptable of these Terms, Apple shall have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary.

By Using or visiting the Services, You agree that the laws of the State of Israel, without regard to principles of conflict of laws and regardless of Your location, will govern these Terms and any dispute of any sort that might arise between You and VIVID Calculator. Any claim or dispute between You and VIVID Calculator that arises in whole or in part from Your Use of the Services shall be decided exclusively by a court of competent jurisdiction located in Tel-Aviv, Israel, to the exclusion of any other courts, and You hereby consent to, and waive all defenses of lack of personal jurisdiction and forum non-convenient with respect to venue and jurisdiction in the courts of Tel-Aviv, Israel.

REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, YOU AGREE THAT ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SERVICES MUST BE COMMENCED BY YOU WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

The failure by VIVID Calculator to enforce any provision of these Terms, will not constitute a waiver of future enforcement of that or any other provision. If, for any reason, a court of competent jurisdiction finds any provision of these Terms invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect.

These Terms constitute the complete and exclusive agreement between VIVID Calculator and You regarding its subject matter, and supersedes all prior or contemporaneous quotations, agreements, communications or understandings, whether written or oral, relating to its subject matter. Any waiver, modification or amendment of any provision of these Terms will be effective only if in writing and signed by duly authorized representatives of each party.

Please also refer to Our Privacy Policy to view the terms and conditions governing the way We manage, collect, store and Use the information You provide Us in connection with Our Services.

For any questions about these Terms, or any other issue regarding VIVID Calculator or the Services, please contact Us at: [registry@valveinvalve.org](mailto:registry@valveinvalve.org).

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