

**BY PLACING A PURCHASE ORDER FOR THE SERVICE (AS DEFINED BELOW), OR BY ACCESSING OR USING THE SERVICE, YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS USERS (AS DEFINED BELOW) TO THESE TERMS AND CONDITIONS, IN WHICH CASE "CUSTOMER" SHALL MEAN SUCH ENTITY AND ITS USERS OR PERSONS USING SUCH SERVICES ON ITS BEHALF. IF YOU DO NOT HAVE SUCH AUTHORITY OR IF YOU DO NOT AGREE WITH THESE TERMS, YOU MUST NOT PLACE A PURCHASE ORDER FOR AND MAY NOT ACCESS OR USE THE SERVICE.**

## **SOFTWARE AS A SERVICE LICENSE AGREEMENT**

This Software as a Service License Agreement (the "**SaaS Agreement**") and, together with all addenda and documents incorporated herein by reference, the "**Agreement**") governs Customer's license to access and use the PerkinElmer Informatics, Inc. (together with its affiliates and subsidiaries, "**PerkinElmer**") software as a service offering identified on the applicable quote ("**Quote**"), together with any published user guide and/or technical manual for the software as a service offering (the "**Documentation**" and, together, the "**Service**"), in accordance with the following terms and conditions.

**1. LICENSE GRANT.** Subject to Customer's payment obligations and the terms and conditions of this Agreement, PerkinElmer hereby grants to Customer a limited, revocable, non-transferable, and non-exclusive license to access and use the Service for the duration of Customer's purchased subscription term for Customer's internal business purposes only. This license is for use of the Service by Customer and Customer's employees, agents, representatives, contractors, consultants, and collaborators who are authorized by Customer to access and use the Service in accordance with any terms and restrictions for such use as set forth in the Quote ("**User(s)**"). Customer shall ensure and is responsible for its Users' compliance with the terms and conditions of this Agreement, and any act or omission by a User that would constitute a breach of this Agreement if taken by Customer shall be deemed a breach of this Agreement by Customer.

**2. ACCESS AND USE RESTRICTIONS.** Neither Customer nor its Users will take any action or inaction that actually or attempts to: (a) interfere with, disrupt, diminish the quality of, or impair the performance or functionality of the Service; (b) circumvent, disable, or interfere with (i) security-related features of the Service, (ii) features that prevent or restrict use, access to, or copying of any data, or (iii) features that enforce limitations on use of the Service or data; (c) monitor or sample the performance or security response of the Service or stress tests APIs; or (d) violates PerkinElmer's Acceptable Use Policy, located at <https://informatics.perkinelmer.com/Support/SaaS/pdf/SaaS-Acceptable-Use-Policy.pdf> and incorporated herein by reference ("**AUP**"). Customer agrees not to, and shall ensure its Users do not, directly or indirectly, in whole or in part: (a) copy, distribute, modify, translate, create derivative works of, reverse engineer, decrypt, decompile, disassemble, or in any way attempt to derive the source code of any software related to the Service or underlying ideas, techniques, or algorithms, including the review of data structures or similar materials produced by the Service, (b) sub-license, lease, rent, loan, sell, distribute, transfer, or commercially share (including time-share or electronically transmitting over a network to a third party) or otherwise permit use of the Service in connection with a service bureau or other configuration whereby any third party may use the Service; (c) use versions of third party products embedded in the Service, if any, for any use other than the intended use of the Service; (d) combine any software related to the Service with other software that, under the license applicable to such software, requires as a condition of use, modification, or distribution that such combined software is required to be: (i) disclosed or distributed in source code form, (ii) freely licensed for the purpose of making derivative works, or (iii) redistributable at no charge (including but not limited to any software that is distributed as free software, open source software or similar licensing or distribution models); (e) use the Service in any ultra-hazardous activity; or (f) release the results of benchmark testing using the Service. Customer and its Users will comply with all local, state, federal, national,

international or supranational laws, statutes, ordinances, or regulations that apply to its use of the Service, the Customer Data (as defined below), and any content posted within the Service by PerkinElmer or on its behalf or to which Customer may be exposed due to Customer's use of the Service ("**Content**"). Neither Customer nor its Users shall use the Service in any manner or for any purpose other than as expressly permitted by this Agreement.

**3. SERVICE ACCESS.** (a) Customer will provide its own Internet access and all communications equipment, computer systems, software, and other materials ("**Computer Systems**") necessary for it and its Users to access and use the Service. Customer is solely responsible for the security of its own Computer Systems and the security of its access to and connection with the Service. (b) Each User will have a unique user ID and password to access the Service, and Customer will ensure that its Users will use only their respective assigned user IDs and passwords and not those of another User. Customer is responsible for maintaining the security and confidentiality of all usernames, passwords, and access keys for the use of the Service. Customer shall not disclose or make available passwords other than to its Users, shall use best efforts to prevent unauthorized access to or use of the Service, and will promptly notify PerkinElmer of any unauthorized use, loss or theft of any username, password, or access key, or any other known or suspected breach of security. In the event Customer makes such passwords available to any third-party, Customer shall be solely liable for all actions taken by such third party.

**4. CUSTOMER DATA.** All data entered, uploaded or otherwise submitted to the Service by Customer, its Users or otherwise on Customer's behalf ("**Customer Data**") will remain the sole property of Customer and is entered, uploaded or otherwise submitted at Customer's sole risk. PerkinElmer is not responsible for the accuracy, completeness or integrity of Customer Data. PerkinElmer does not warrant the accuracy or completeness of data in reports generated using Customer Data, and Customer is solely responsible for data validation in any reports designed or generated by Customer using the Service. PerkinElmer expressly disclaims responsibility and liability for the results obtained through reports designed or generated by Customer using the Service's reporting functionalities. Except as set forth in Section 10 of this Agreement, any requests for exports of Customer Data in PerkinElmer's standard format, or requests for exports of Customer Data in any format other than PerkinElmer's standard format, may be performed by PerkinElmer at Customer's sole cost and expense.

For the sole purpose of enabling PerkinElmer to provide Customer and its Users with the Service and to perform any maintenance, support or Professional Services (as defined below) purchased by Customer hereunder, Customer grants to PerkinElmer the right to use, process, transmit, host, copy, and display any Customer Data in accordance with this Agreement, for the duration of the subscription term and as necessary during any additional post-termination period, if and to the extent PerkinElmer agrees to assist Customer in the wind-down of its use of the Service.

**5. DATA SECURITY.** PerkinElmer shall take those actions to protect the Services and Customer Data as set forth in its Global Security Addendum, located at <https://informatics.perkinelmer.com/Support/SaaS/pdf/SaaS-Global-Security-Addendum.pdf> and incorporated herein by reference ("**Security Addendum**"). Customer acknowledges that Customer is solely responsible for taking any additional measures it deems advisable or appropriate to secure and back up its systems to prevent any loss of files or Customer Data during Customer's subscription term. Customer is additionally responsible for any security vulnerabilities and the consequences of such vulnerabilities arising from Customer Data, including any viruses, Trojan horses, worms or other programming routines contained in Customer Data that could limit or harm the functionality of a computer or that could damage, intercept or expropriate data.

**6. OWNERSHIP; INTELLECTUAL PROPERTY RIGHTS.** The Service is copyrighted and contains proprietary information protected by law. Ownership of and title to the Service are and shall remain with PerkinElmer or its licensors at all times, and Customer acknowledges that PerkinElmer or its licensors own all rights to: (i) the Service and Service website, (ii) all software, databases, and tangible and intangible materials embodied in or relating to the Service, including without

limitation all raw, gross or compiled statistical information, aggregate anonymous statistical data regarding use and functioning of the Service, and other data relating to the Services generally that is obtained, assembled or developed by PerkinElmer in the course of providing its services (but excluding Customer Data), and (iii) all software modifications, Improvements (as defined below), and derivative works; and all copyright, patent, trademark, trade secret, and other intellectual property or other rights in and to each of the foregoing (collectively, the “**PerkinElmer Intellectual Property**”). Nothing contained in this Agreement will be construed to convey any title or ownership right in any PerkinElmer Intellectual Property to Customer, or any right to use any of the PerkinElmer Intellectual Property other than as expressly set forth in this Agreement. PerkinElmer may modify, amend, or change its applications, products, services, and the Service at its sole discretion and without notice. PerkinElmer hereby reserves all rights not expressly granted to Customer hereunder.

The Service may operate or interface with software or other technology which is not proprietary to PerkinElmer and is licensed to PerkinElmer by third parties (“**Third Party Licensors**”), but for which PerkinElmer has the necessary rights to license to Customer (“**Third Party Software**”). Customer agrees that (i) Customer and its Users will use such Third Party Software in accordance with this Agreement, (ii) no Third Party Licensor makes any warranties or representations of any kind, either express or implied, to Customer concerning such Third Party Software or the Service itself, (iii) no Third Party Licensor will have any obligation or liability to Customer as a result of this Agreement or Customer’s use of such Third Party Software, and (iv) such Third Party Software may be licensed under license terms which grant Customer additional rights or contain additional restrictions in relation to such materials beyond those set forth in this Agreement, and such additional license rights and restrictions are described or linked to within the applicable documentation, the relevant webpage, or within the Service itself. Neither Customer nor its Users shall remove or modify any of PerkinElmer’s or its licensors’ marks or proprietary notices contained in or on the Service or in any documentation or materials made available to Customer related to the Service.

**7. PROFESSIONAL SERVICES.** Subject to the terms of a mutually agreed and executed statement of work or a PerkinElmer quote for or including professional services (each, a “**SOW**”), PerkinElmer may from time to time provide to Customer professional services, including the delivery of any applicable deliverables (“**Deliverables**”) as may be described in such SOW or quote (“**Professional Services**”). Unless the parties have mutually executed a separate Master Services Agreement applicable to such Professional Services, each SOW shall be subject to the terms and conditions of this Agreement and shall be incorporated herein by reference. Customer is responsible for providing accurate and complete information as required or requested by PerkinElmer for the provision of Professional Services, and PerkinElmer shall not be liable or responsible for any delays or technical difficulties arising from Customer’s failure to provide such accurate and complete information. PerkinElmer may include its pre-existing Software, Third Party Software, or other materials in the Deliverables. All Deliverables, including improvements, derivatives and modifications to such thereto, shall remain the property of PerkinElmer, and Customer will receive a fully paid, royalty-free license to use such Deliverables in accordance with the terms of this Agreement.

**8. MAINTENANCE AND SUPPORT.** PerkinElmer will provide to Customer standard electronic technical support for the Service as set forth in the Service Level Addendum, located at <https://informatics.perkinelmer.com/Support/SaaS/pdf/SaaS-Service-Level-Addendum.pdf> and incorporated herein by reference (“**SLA**”). Customer is required to accept all patches, bug fixes, updates, maintenance and service packs (collectively, “**Patches**”) necessary for the proper function and security of the Service as such Patches are generally released by PerkinElmer.

**9. FEES AND PAYMENT.** The Service fees are payable in advance according to the subscription plan Customer has selected and the payment schedule set forth on the Quote. Except as set forth in Section 10 below, payment obligations are non-cancellable and non-refundable, and quantities purchased cannot be decreased during the subscription term

set forth on the Quote. Customer agrees that Customer's subscription purchase and obligation to pay is not contingent on the delivery of, or any oral or written representations made by PerkinElmer regarding, any future functionality or features or on performance of any other service offerings or delivery of other programs or products by PerkinElmer. Customer agrees to promptly notify PerkinElmer if its usage of the Service exceeds the contracted volume or data storage limits applicable to the Service and will promptly pay all fees associated with such excess usage. Subscriptions may be added or increased during a subscription term at the same pricing as the underlying subscription pricing for the purchased Service, and the price payable for such added subscription shall be pro-rated (if applicable) for the term remaining on the underlying subscription. Any added or increased subscriptions will terminate on the same date as the underlying subscriptions. Payment for fees and expenses is subject to a late charge of 1½% per month if unpaid for thirty (30) days or more from invoice date. PerkinElmer reserves the right to change the pricing for the Service for any renewal or future subscription term. All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Customer shall be responsible for the payment of all such taxes, levies, and duties, excluding taxes based upon the net income of PerkinElmer.

**10. TERM; TERMINATION; SUSPENSION.** This Agreement shall become effective on the date Customer places its first purchase order for the Service and will expire at the end of the last subscription term to expire, unless extended by the parties for the duration of any renewal subscription terms purchased by Customer or terminated earlier as set forth herein. Either party may earlier terminate the Service (i) for its convenience with ninety (90) days prior written notice or (ii) with written notice to the other party if such party materially breaches this Agreement, and such breach remains uncured thirty (30) days following receipt of written notice specifying such breach. PerkinElmer may immediately terminate the Service without liability hereunder if Customer or its Users breach Section 2 of this Agreement. PerkinElmer may additionally terminate this Agreement with reasonable written notice if PerkinElmer ceases to provide the Service generally.

Upon expiration or termination of this Agreement, Customer's rights to access and use the Service shall automatically and immediately terminate, and Customer shall immediately (i) cease use of the Service; (ii) delete all copies of documentation made available to Customer by PerkinElmer; and (iii) at Customer's expense, return to PerkinElmer all Confidential Information and data of PerkinElmer (including all copies thereof) then in Customer's possession, custody or control, and certify in writing as to such action. No later than twenty (20) days following termination or expiration of the affected Service, Customer may request a one-time export of Customer Data from the Service in PerkinElmer's standard format at no charge to Customer. If PerkinElmer does not receive such request within twenty (20) days of expiration or termination of the affected Service, PerkinElmer may destroy, delete or otherwise render inaccessible all Customer Data in its possession, custody or control without liability hereunder. Customer may receive a refund of any fees pre-paid by Customer for the period of the subscription term remaining following the effective date of termination for the affected Service if: (i) PerkinElmer terminates this Agreement or the Service for its convenience; (ii) PerkinElmer ceases to provide the Service generally; or (iii) Customer terminates this Agreement or Service due to PerkinElmer's material uncured breach. Any other suspension or termination of the Service by Customer or PerkinElmer shall not relieve or excuse Customer from its obligation to make payment(s) under this Agreement.

PerkinElmer may suspend Customer's access to or use of the Service without liability hereunder if Customer or any User violates any provision of this Agreement, including failure to pay fees due hereunder, or, in PerkinElmer's reasonable judgment, if the Service or any component thereof is about to suffer significant threat to security or functionality. If practicable and permitted under applicable law, PerkinElmer will provide advance notice to Customer of any such suspension. PerkinElmer will use reasonable efforts to re-establish the affected Service promptly after PerkinElmer

determines that the situation giving rise to the suspension has been cured. PerkinElmer may terminate the Service if any of the foregoing causes of suspension are not cured within thirty (30) days after PerkinElmer's initial notice thereof. If

PerkinElmer suspends, terminates, or prevents access to Customer's account, Customer must not attempt to re-register or submit content or Customer Data (e.g., using someone else's registration), without PerkinElmer's prior permission. The period of any suspension will be determined at PerkinElmer's reasonable discretion based on the applicable facts and circumstances.

Provisions that survive termination or expiration of this Agreement are those relating to limitation of liability, indemnification, confidentiality, ownership, payment, and others which by their nature are intended to survive. Upon expiration or termination, PerkinElmer will be entitled to discontinue prospective hosting of Customer Data.

**11. PRIVACY.** Customer's use of the Service is subject to the terms and conditions of PerkinElmer's Privacy Policy, located at <http://www.perkinelmer.com/OurCompany/AboutUs/Legal/PrivacyPolicy/default.xhtml>. The Privacy Policy is subject to change at PerkinElmer's discretion. If the Customer intends to use the Service to process personal or health data subject to protection under the laws of any country or the European Union, Customer agrees that it shall (i) inform PerkinElmer promptly and, if required under applicable law, enter into any additional agreement required under such law (the "DPA"); and (ii) not provide to PerkinElmer or transmit or enter into the Service any personal or health information of any person in violation of any applicable data privacy regulations.

**12. FEEDBACK.** PerkinElmer may use, disclose, and exploit any and all suggestions, ideas, recommendations, enhancement requests, corrections, improvements, modifications, error identifications, or other information provided by Customer to PerkinElmer related to the Service or any other products or services, and any data or information relating to Customer's use of the Service (collectively, "Feedback"), including to improve the Service and to develop, market, offer, sell or provide other products or services, without restriction and without accounting to Customer. PerkinElmer shall be the sole and exclusive owner of all improvements, updates, modifications, or enhancements made to the Service, whether or not conceived or made as a result of Customer's Feedback hereunder, and of all intellectual property rights therein (collectively, the "Improvements"), and no right, title or interest in or to the Improvements is expressly or impliedly granted to Customer hereunder. Customer acknowledges and agrees that PerkinElmer is free to incorporate into any commercial products and services any Feedback suggested by Customer or Improvements, and that Customer has no right to object thereto or to receive any form of compensation derived therefrom.

**13. CONFIDENTIALITY.** "Confidential Information" means, in the case of PerkinElmer, (i) all components of the Service; (ii) PerkinElmer Intellectual Property and Improvements; (iii) all other proprietary documentation and information relating to or exchanged during the subscription term, including the Feedback; and (iv) the terms of this Agreement; in the case of Customer, (v) all proprietary Customer-specific information and (vi) Customer Data; and, in each case and as applicable, (vii) any other information or material disclosed or made available by either PerkinElmer or Customer that should reasonably be understood to be confidential. Confidential Information does not include information (i) already known to the receiving party before the date of disclosure; (ii) generally available to the public; (iii) shown through documentation to have been developed by the receiving party independent of the received Confidential Information; or (iv) received without obligations of confidentiality from a third party legally entitled to disclose it. Except as permitted by this Agreement, neither PerkinElmer nor Customer will disclose to any entity or person (except its employees, representatives, agents, or contractors who have a need to know the Confidential Information and who are subject to confidentiality obligations no less restrictive than those set forth herein) or use any Confidential Information it receives from the other party hereunder. PerkinElmer and Customer will each exercise the same degree of diligence as it exercises in protecting its own confidential information, but no less than reasonable efforts, to safeguard the Confidential Information and to prevent its unauthorized use or disclosure. This section shall survive the expiration or termination of the Agreement.

**14. WARRANTY; WARRANTY DISCLAIMER.** PerkinElmer warrants that: (i) the software as a service offering will substantially conform to the material features and functionality set forth in the Documentation, and (ii) it shall perform

all Professional Services in a professional, workmanlike manner in accordance with generally recognized industry standards. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 14, THE SERVICE AND PROFESSIONAL SERVICES ARE PROVIDED "AS IS," "AS AVAILABLE," AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. PERKINELMER DOES NOT WARRANT THAT THE SERVICE (A) WILL OPERATE ERROR-FREE OR UNINTERRUPTED (INCLUDING WITHOUT LIMITATION DUE TO NETWORK OUTAGES OR THIRD PARTY FAILURES AND/OR DELAYS) OR THAT PERKINELMER WILL CORRECT ALL SERVICE ERRORS; (B) WILL MEET CUSTOMER'S REQUIREMENTS, SPECIFICATIONS OR EXPECTATIONS, OR (C) WILL ACHIEVE ANY INTENDED RESULT; AND CUSTOMER AGREES THAT IT WILL MAKE NO CLAIM AGAINST PERKINELMER BASED ON USE OF THE SERVICE. CUSTOMER ACKNOWLEDGES THAT PERKINELMER DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES FOR WHICH PERKINELMER IS NOT RESPONSIBLE OR LIABLE. PERKINELMER IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION, OR SECURITY OF THE SERVICE THAT ARISE FROM, AND DOES NOT MAKE ANY WARRANTIES REGARDING, CUSTOMER'S DATA OR THIRD-PARTY CONTENT AND HEREBY DISCLAIMS ALL LIABILITIES ARISING FROM OR RELATED TO THIRD PARTY CONTENT OR SERVICES (INCLUDING THIRD PARTY HOSTING PROVIDERS). SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES AND THEREFORE PERKINELMER'S LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW.

**15. REMEDIES; LIMITATION OF LIABILITY.** PerkinElmer will not be responsible or liable for any Service problems or issues arising from (i) use of the Service by Customer or any User in breach of this Agreement; (ii) modification, alteration, or configuration of the Service by or for Customer that has not been authorized in writing by PerkinElmer; (iii) hardware, software, technology, intellectual property, communications facilities, or equipment which has not been provided by PerkinElmer; (iv) any act or omission of Customer or any User that prevents, delays, disturbs, or interferes with PerkinElmer's performance of its obligations hereunder; or (v) performance or security issues encountered with the Service that result from Customer's failure to accept the application of Patches that are necessary for the proper function and security of the Service.

If the Services or Professional Services fail to meet the express warranties set forth in this Section 14, PerkinElmer will, in PerkinElmer's sole discretion and as Customer's sole and exclusive remedy, either (i) correct the non-conformities in the Service in accordance with the SLA, or re-perform the affected Professional Services; or (ii) terminate the affected Service or SOW and provide to Customer a refund for the remaining duration of the purchased subscription term or for the affected portion of the Professional Services, as applicable. For clarity, Customer's sole and exclusive remedies for breach of the SLA are as set forth in the SLA.

EXCEPT IN CONNECTION WITH (A) CUSTOMER'S BREACH OF SECTION 2, (B) A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER, OR (C) A PARTY'S BREACH OF SECTION 13, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES FOR BUSINESS INTERRUPTION, LOSS OF REVENUE, LOSS OF PROFITS (EXCLUDING FEES PAYABLE OR DUE UNDER THIS AGREEMENT), DATA LOSS, BREACH OF DATA OR SYSTEM SECURITY, OR DATA USE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF AVAILABLE REMEDIES ARE FOUND TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. IN NO EVENT WILL PERKINELMER'S LICENSORS BE LIABLE FOR ANY DAMAGES, WHETHER DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL, OR FOR ANY LOSS OF PROFITS, REVENUE, DATA OR DATA USE, ARISING FROM THE USE OF THE SERVICE OR THIRD-PARTY SOFTWARE. PERKINELMER'S AGGREGATE LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL

BE LIMITED TO THE TOTAL AMOUNTS ACTUALLY PAID BY CUSTOMER OR PAYABLE TO PERKINELMER FOR THE SERVICE GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE OCCURRENCE OF THE

CAUSE OF ACTION.

**16. INDEMNIFICATION.**

(a) Indemnification of Customer by PerkinElmer. PerkinElmer shall indemnify and defend Customer, its affiliates, and their respective officers, agents, employees, subsidiaries, assigns, and successors in interest (collectively, “**Customer Indemnitees**”) against, and hold Customer Indemnitees harmless from, all liabilities, losses, and damages, including reasonable attorneys’ fees and costs (collectively, “**Losses**”) awarded against Customer Indemnitees in a final judgment resulting from any third party claim, suit, or proceeding to the extent alleging that the Service or use of the Service, as permitted hereunder and in accordance with the Documentation, infringes or misappropriates the intellectual property rights of such third party, unless and except to the extent that such infringement is caused by (i) the Service or Documentation being modified by a Customer Indemnitee or on its behalf or used by a Customer indemnitee or a third party on its behalf outside the scope of use identified in PerkinElmer’s Documentation; (ii) PerkinElmer’s compliance with Customer indemnitee’s instructions or requests or PerkinElmer’s use of trademarks, Customer Data, content or other materials supplied by any Customer Indemnitee; (iii) the combination of the Service with any products or services not provided by PerkinElmer; or (iv) any Customer Indemnitee’s actions or inactions if the Service and/or Documentation as delivered to Customer would not otherwise infringe such third party’s intellectual property rights. In the event of a claim under this Section 16(a), PerkinElmer has the right to (i) obtain a license to allow for Customer’s continued use; (ii) modify the Service or Documentation so that it no longer infringes such third party’s intellectual property rights; or (iii) if these alternatives are not commercially reasonable in PerkinElmer’s sole discretion, terminate this Agreement and provide a pro rata refund of any unused, prepaid fees paid by Customer (if any) for the affected Service for the subscription term remaining after the date of termination. This Section sets forth Customer’s sole remedy and PerkinElmer’s entire liability in the event of any claim of infringement or misappropriation of the intellectual property rights of any third party.

(b) Indemnification of PerkinElmer by Customer. Customer shall indemnify and defend PerkinElmer, its affiliates, and their respective officers, agents, employees, subsidiaries, assigns, and successors in interest (collectively, “**PerkinElmer Indemnitees**”) against, and hold PerkinElmer Indemnitees harmless from, any and all Losses awarded against PerkinElmer Indemnitees in a final judgment resulting from any third party claim, suit, or proceeding to the extent arising from (i) Customer’s violation of the terms set forth in Section 2 of this SaaS Agreement; (ii) PerkinElmer’s compliance with Customer’s instructions or requests; or (iii) PerkinElmer’s use of trademarks, Customer Data, or other materials supplied by Customer.

(c) Indemnification Procedures. If any third party makes a claim against any party who intends to seek indemnification under this Section 16, such indemnitee shall (a) promptly give written notice of such claim to the indemnifying party; (b) give the indemnifying party sole control of the defense and any settlement negotiations, provided that no settlement shall impose any obligation on any indemnitee without the prior written consent of such indemnitee; and (c) give the indemnifying party the information, authority and assistance the indemnifying party reasonably needs to defend against or settle the claim. The indemnifying party shall keep the indemnitee fully apprised at all times as to the status of the defense. Notwithstanding the foregoing, the indemnitee shall have the right to employ its own separate counsel in any such action at the sole expense of the indemnitee. Neither the indemnifying party nor any indemnitee shall be liable for the settlement of any action or claim affected without its consent.

**17. EXPORT CONTROL.** The Service, including Content, may be subject to the export laws and regulations of the United States and/or other jurisdictions. Neither Customer nor its Users may use, download, supply, transfer, or otherwise export or re-export the Service, except as authorized by United States law (including but not limited to the regulations administered by the U.S. Department of Commerce and the U.S. Department of the Treasury) and the laws of the jurisdiction in which the Service was obtained.

**18. GOVERNMENT END USER RESTRICTION.** This provision applies to software acquired directly or indirectly by or on behalf of the United States Government. The Service is a commercial product, licensed on the open market, and was

developed entirely at private expense without the use of any U.S. Government funds. Use, duplication, reproduction, release, modification, disclosure, or transfer of the Service, or any related documentation, including technical data, manuals or materials, by the U.S. Government is restricted in accordance with Federal Acquisition Regulation 12.212 for civilian agencies and Defense Federal Acquisition Regulation Supplement 227.7202 for military agencies and is further restricted according to the terms of this Agreement and any amendment hereto.

#### **19. MISCELLANEOUS.**

(a) Force Majeure. Except for the obligation to pay any fees owed hereunder, neither party to this Agreement shall be responsible for any failure or delay of performance if caused by: an act of war, hostility, or sabotage; storm, blizzard, flood, or other act of God; pandemic; an electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions or actions; or any other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event.

(b) Independent Contractor. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, or fiduciary or employment relationship between the parties.

(c) Waiver. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right and all waivers must be affected in a writing signed by the party waiving its rights hereunder.

(d) Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the provision will be deemed null and void and shall be replaced with another term consistent with the purpose and intent of this Agreement, and the remaining provisions of this Agreement will remain in full force and effect.

(e) Notice. Any notice required under this Agreement will be provided to the other party in writing. Customer should send written notice to PerkinElmer to: PerkinElmer Informatics, Inc., 940 Winter Street, Waltham, MA 02451, USA, Attention: Legal Department. PerkinElmer may give notices applicable to the Service by means of a general notice on the Service website and notices specific to Customer by electronic mail to Customer's e-mail address on record in PerkinElmer's account information or by written communication sent by courier or first-class mail or pre-paid post to Customer's address on record in PerkinElmer's account information. Customer shall ensure that it provides notice to PerkinElmer of any changes in its designated contact during the term of this Agreement, and PerkinElmer shall not be liable to Customer for any alleged failure to provide notice in the event Customer fails to provide or keep such information up to date.

(f) Assignment. Customer may not sublicense, assign, transfer the license, or give any third-party access to the Service, except as expressly authorized hereunder. Any attempt by Customer to sublicense, assign, or transfer any of the rights, duties or obligations hereunder is void.

(g) Copyright Complaints and Removal Policy. PerkinElmer does not tolerate content that appears to infringe any copyright or other intellectual property rights or otherwise violates the terms of this Agreement and will respond to notices of alleged copyright infringement that comply with the law and are properly provided to PerkinElmer. PerkinElmer reserves the right to delete or disable access to the Service and any content alleged to violate this Agreement and to terminate repeat infringers. PerkinElmer's designated agent for notice of alleged copyright infringement is: Attention: Legal Department – DMCA Copyright Agent, PerkinElmer, Inc., 940 Winter Street, Waltham, MA 02451 USA.

(h) Audit. PerkinElmer may audit Customer's use of the Service (e.g., through use of software tools) to assess whether Customer's use of the Service is in accordance with the purchased subscription and the terms of this Agreement. Customer agrees to cooperate with PerkinElmer's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with Customer's normal business operations. Customer agrees to pay any fees applicable to Customer's use of the Service in excess of Customer's rights within thirty (30) days of written notice. If Customer does not pay, PerkinElmer can terminate Customer's access and use of the Service. Customer agrees that PerkinElmer shall not be responsible for any of Customer's costs incurred in cooperating with the audit.

(i) Governing Law. This Agreement and all disputes arising hereunder, whether in contract, tort, or otherwise, shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, USA, without regard to the conflicts of law principles thereof. The United Nations Convention on Contracts for the International Sale of Goods



and the Uniform Computer Information Transactions Act do not apply to this Agreement.

(j) Entire Agreement. This Agreement, including all addenda incorporated herein by reference and any applicable SOW, constitutes the complete Agreement between PerkinElmer and Customer with respect to the Service and supersedes all prior or contemporaneous agreements and representations, written or oral, regarding the Service. The terms of this Agreement shall supersede the terms in any Customer purchase order, correspondence, or other similar non-PerkinElmer document, and no terms included in any such purchase order, correspondence, or other non-PerkinElmer document shall apply to the Service. In the event of any conflict, discrepancy, or inconsistency between this Agreement, any addenda incorporated herein by reference, or any SOW, the terms shall control in the following order: (1) the SaaS Agreement; (2) the SLA; (3) Security Addendum; (4) AUP; (5) if applicable, the DPA. This Agreement shall not be amended except in a writing signed by an authorized representative of each party.

(k) Interpretation. The parties acknowledge that this Agreement may govern Customer's license to multiple Services offered by PerkinElmer, if so purchased by Customer. The parties agree that the terms set forth in this Agreement shall be deemed to apply on a Service-by-Service basis. Any right or obligation of a party, including those set forth in Sections 10, 15 and 16, shall apply only in connection with the affected Service and shall not extend to any other Services purchased by Customer.

*Last Updated: October 1, 2020*