

Hologic Software Subscription Terms and Conditions

(US Customers)

These Hologic Software Subscription Terms and Conditions (“Terms”) apply to the access and use of Hologic-licensed subscription software (“Subscription Software”) for use on Hologic manufactured or licensed equipment (“Equipment”) between Hologic, Inc. (together with its subsidiaries and affiliates, “Hologic”), and Customer. Hologic and Customer may hereinafter be referred to individually as a “Party” and collectively as the “Parties.” The Parties, intending to be legally bound, agree as follows:

1. Agreement. These Terms, together with the Additional Software Subscription Terms and Conditions specific to the applicable Subscription Software, attached hereto and incorporated herein (“Additional Terms”) and the applicable Hologic quote specifying the Subscription Software (“Quote”) constitute the entire agreement between the Parties with respect to the Subscription Software (the “Agreement”). This Agreement supersedes all other quotations, agreements, understandings, warranties and representations (whether written or oral) between the Parties with respect to the subject matter set forth in this Agreement. Any Customer documentation (including Customer’s purchase order terms and conditions) that conflicts with or attempts to modify this Agreement in any way is hereby rejected and of no effect unless specifically agreed to in writing and signed by the Parties. Customer acknowledges that there are no warranties or representations which have been made by Hologic or any of its agents other than those expressly contained herein. If any action in law or equity is necessary to enforce or interpret the terms of this Agreement, the prevailing Party is entitled to reasonable attorneys’ fees, costs and necessary disbursements, in addition to any other relief to which the Party may be entitled. No provision of this Agreement shall be waived, amended, modified, superseded, canceled, terminated, renewed, or extended except in a written document signed by both Parties or signed by the Party against whom the modification is sought to be enforced. Headings and captions in this Agreement are for convenience only, and in no way affect its interpretation.

2. Prices and Payment. Pricing and payment schedule for the Subscription Software are listed in the Quote, are payable in United States (U.S.) Dollars only, and do not include any applicable taxes or shipping charges. Customer shall pay invoices net 30 days from the invoice date. Hologic may charge monthly interest at the maximum rate permitted by law on all amounts not paid by the invoice due date until all such amounts are paid in full. If Customer claims any tax exemption, it must furnish a valid tax exemption certificate to Hologic before delivery of Subscription Software. Unless price protection is explicitly agreed to by Hologic in writing, Hologic reserves the right to increase prices on thirty (30) days written notice to Customer.

3. Term. The term of this Agreement will commence upon full execution of the Agreement and will continue for the Effective Term specified on the Quote (“Term”).

4. Default. In addition to any default events specified elsewhere in this Agreement, the occurrence of any of the following events constitutes a default (“Default”) by Customer: (i) non-payment when due of any amount payable by Customer in accordance with this Agreement; (ii) a breach of the terms and conditions of this Agreement. In the event of a Default by Customer hereunder, all indebtedness of Customer may, at the option of Hologic and without demand or notice of any kind, immediately become due and payable, and in addition to all other rights and remedies available at law or in equity, Hologic may (i) cease delivering or providing the Subscription Software until the Default is cured; and (ii) immediately terminate this Agreement or, to the extent cure is possible and at Hologic’s sole option, provide Customer with the opportunity to cure such Default within thirty (30) days of providing written notice thereof. Hologic will be entitled to recover from the Customer any and all expenses and damages that Hologic sustains by reason of the Customer’s Default including, but not limited to, reasonable attorneys’ fees. The remedies and rights specified herein are cumulative and not exclusive. The exercise or the non-exercise of any right or remedy does not limit or prejudice Hologic as to that right or remedy.

5. License Grant. During the Term, Hologic grants Customer a revocable, non-exclusive, non-transferable, limited right to access and use the Subscription Software on a device owned and controlled by Customer, and to access and use the Subscription Software strictly in accordance with the terms and conditions of this Agreement.

6. Updates. During the Term, Hologic may provide maintenance and commercially available updates to the Subscription Software which revise or correct safety issues or enhance the productivity of the Subscription Software.

7. Restrictions on Use. Customer shall use the Subscription Software strictly in accordance with the terms of this Agreement and shall not: (a) decompile, reverse engineer, disassemble, attempt to derive the source code of, maliciously penetrate any system or network which runs or stores, or decrypt the Subscription Software; (b) make any modification, automation, conversion, adaptation, improvement, enhancement, translation or derivative work to or from the Subscription Software; (c) remove, circumvent or create, or use any workaround to any copy protection or security feature relating to the Subscription Software; (d) violate any applicable laws, rules or regulations in connection with Customer’s access or use of the Subscription Software; (e) remove, alter, or obscure any proprietary notice (including any notice of copyright or trademark) of Hologic or its affiliates, partners, suppliers or licensors; (f) use the Subscription Software for any revenue generating endeavor, commercial enterprise, or other purpose for which it is not designed or intended; (g) install, use or permit the Subscription Software to be used on Equipment other than the originally designated Equipment for the Subscription Software; (h) make the Subscription Software available over a network or other environment permitting access or use by multiple devices or users at the same time; (i) use the Subscription Software for creating a product, service or software that is, directly or indirectly, competitive with or in any way a substitute for any product, services or software offered by Hologic; (j) use the Subscription Software to send automated queries to any website or to send any unsolicited commercial e-mail; (k) connect the Subscription Software to any online service or other applications, software or services not provided or permitted by Hologic; (l) use any proprietary information or interfaces of Hologic or other intellectual property of Hologic in the design, development, manufacture, licensing or distribution of any applications, accessories or devices for use with the Subscription Software; (m) own title, or transfer title to the Subscription Software to any third party; (n) distribute, or sublicense or otherwise provide copies or any rights

in relation to the Subscription Software to any third party; or (o) pledge, hypothecate, alienate or otherwise encumber the Subscription Software to any third party.

8. Consent to Use of Content. Customer agrees that Hologic may collect and use Equipment data and related information, including but not limited to technical information about Customer Equipment, products, system and application software, and peripherals, that is gathered to facilitate the provision of software updates, product support and other services to Customer related to the Subscription Software (collectively, "Data"). As applicable, Customer agrees to provide information, feedback, de-identified images, and other content in connection with Customer's use of the Subscription Software (together with the Data, collectively, "Content"). Customer agrees that Hologic may use the Content to improve the products and services or to provide products and services to Customer, and hereby grants Hologic a non-exclusive, worldwide, royalty-free, fully paid-up, transferable and sub-licensable license in and to the Content, including all intellectual property rights therein, for Hologic to use, modify and create derivative works of the same in connection with or related to any business purposes. Customer represents and warrants that (i) Customer has the necessary rights to grant the licenses and rights in the Content, and (ii) the Content and Hologic's use thereof as permitted in this Agreement will not infringe, violate or misappropriate any third party right. Content will not include any patient health information.

9. Customer Responsibilities.

- (a) **End Users.** Subject to the provisions set forth herein, Customer alone shall be responsible for all acts and omissions of all End-Users, and shall use reasonable efforts to prevent any unauthorized use of or access to the Subscription Software by End-Users. Customer will promptly notify Hologic of any unauthorized use of the Subscription Software by any End-User of which Customer becomes aware and will use all commercially reasonable efforts to immediately terminate and prevent further occurrences of such unauthorized use. Customer is solely responsible for granting, administering, and terminating End-User access, and is at all times solely responsible for undertaking measures to ensure the confidentiality of any login ID and password used by End-Users for the purposes of accessing and using the Subscription Software.
- (b) **Internet Connection.** To the extent applicable, Customer is responsible to establish and maintain its own connection to the internet in order to access the Subscription Software.
- (c) **Designated Equipment.** Customer is responsible for the maintenance of the Equipment designated for the Subscription Software and ensuring that such Equipment conforms to Hologic's published specifications, including, but not limited to, applicable regulations including all electrical and other connections and all environmental conditions. Customer must allow remote access to such Equipment through Hologic Connect™ during the Term.
- (d) **Anti-Virus Software.** Customer is responsible for implementing, maintaining, and updating compatible anti-virus software on the Equipment and checking for and removing any malicious code, viruses, software, programming devices, malware, spyware, time bombs, drop dead devices, key locks, Trojan horses or unauthorized backdoors.
- (e) **Indemnification.** Customer shall indemnify, hold harmless, and defend Hologic from and against any and all claims, losses, liabilities, costs and other expenses (including, without limitation, reasonable fees and disbursements of counsel incurred by Hologic), determined by a court of competent jurisdiction to be caused by the acts or omissions of Customer or any End-User in connection with an unauthorized use, disclosure or access, or any of Customer's or End-User's obligations under this Agreement

10. Delay of Performance. Except for payment obligations, each Party's obligations herein are subject to force majeure, including, but not limited to, civil insurrection, terrorism, fire, flood, labor disputes, shortages, delays of suppliers or contractors, or government priority systems, actions taken or threatened by any governmental agencies, unavailability of or disruptions in internet connections, acts of God or other contingencies or acts not within the sole control of a Party. Hologic shall not be responsible for Customer's access to and use of the Subscription Software as a result of unavailability of or disruptions in internet connections or in the event the Equipment is down for maintenance or repair.

11. Warranties. For Subscription Software developed by Hologic, Hologic warrants that the Subscription Software will perform substantially in accordance with specifications during the Effective Term specified on the Quote ("Limited Warranty"). For the purposes of this Agreement, an End-User is Customer's employee, representative, workforce member, or agent authorized to access and use the Subscription Software on behalf of Customer. Hologic does not warrant that use of Subscription Software shall be uninterrupted or error-free, or that Subscription Software shall operate with third-party products not authorized or validated by Hologic. In case of any breach of the Limited Warranty, as Customer's exclusive remedy and Hologic's entire obligation and liability, Hologic will (i) repair or replace the Subscription Software; or (ii) if such repair or replacement, in Hologic's opinion, is commercially unreasonable, upon Hologic's receipt of Customer's written representation and promise that Customer has removed all instances of the Subscription Software and will not use the Subscription Software, Hologic will refund the prorated price paid by Customer for the applicable Subscription Software based on the date Customer provides written notice to Hologic of the warranty claim. THE LIMITED WARRANTY WILL NOT APPLY IF: (i) THE SUBSCRIPTION SOFTWARE IS NOT USED IN ACCORDANCE WITH THIS AGREEMENT OR HOLOGIC DOCUMENTATION; (II) THE SUBSCRIPTION SOFTWARE OR ANY PART THEREOF HAS BEEN MODIFIED BY CUSTOMER OR ANY ENTITY OTHER THAN HOLOGIC; OR (III) A MALFUNCTION IN THE SUBSCRIPTION SOFTWARE HAS NOT BEEN CAUSED BY ANY EQUIPMENT OR SOFTWARE NOT APPROVED OR SUPPLIED BY HOLOGIC. EXCEPT FOR THE LIMITED WARRANTY SET FORTH HEREIN, THE SUBSCRIPTION SOFTWARE IS PROVIDED "AS IS" AND HOLOGIC MAKES NO REPRESENTATIONS OR WARRANTIES, AND DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN TRADE, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR SYSTEMS INTEGRATION. WITHOUT LIMITING THE FOREGOING, HOLOGIC MAKES NO WARRANTY, REPRESENTATION, OR GUARANTEE THAT THE OPERATION OF THE SUBSCRIPTION SOFTWARE WILL BE FAILSAFE, UNINTERRUPTED, OR FREE FROM ERRORS OR DEFECTS. As identified in the applicable Subscription Software specifications, certain Subscription Software is not developed by Hologic and provided through or licensed by a third-

party software vendor, and some third-party software vendors provide different warranties and require different or additional terms applicable to the Subscription Software which they supply; such warranties and terms supersede this Agreement and Customer and End-Users agree to abide by such terms with respect to such third-party Subscription Software.

12. LIMIT OF LIABILITY. TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL HOLOGIC BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO CUSTOMER'S USE OR INABILITY TO USE THE SUBSCRIPTION SOFTWARE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) AND EVEN IF HOLOGIC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO CUSTOMER. In no event shall Hologic's total liability to Customer for all damages exceed the Subscription Software fee paid by Customer for the annual term. Nothing in this Agreement limits or excludes any liability that cannot be limited or excluded under applicable law.

13. Export. Customer may not use or otherwise export or re-export the Subscription Software except as authorized by United States law and the laws of the jurisdiction in which the Subscription Software was obtained. In particular, but without limitation, the Subscription Software may not be exported or re-exported: (i) into any U.S. embargoed countries; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Subscription Software, Customer represents and warrants that Customer is not located in any such country or on any such list and that Customer will not use the Subscription Software for any purposes prohibited by United States law.

14. Intellectual Property Rights. Customer acknowledges and agrees that the Subscription Software and applicable documentation are provided under license, and not sold, to Customer. Customer does not acquire any ownership interest in the Subscription Software or applicable documentation under this Agreement, or any other rights thereto, other than to use the Subscription Software in accordance with Hologic's documentation, subject to all of the terms, conditions and restrictions under this Agreement. Hologic reserves and shall retain all right, title or licenses, and interest in and to the Subscription Software and all intellectual property rights arising out of or relating to the Subscription Software, except as expressly granted to Customer in this Agreement. Customer shall safeguard the Subscription Software from infringement, misappropriation, theft, misuse or unauthorized access. Customer shall promptly notify Hologic if Customer becomes aware of any infringement of intellectual property rights in the Subscription Software and fully cooperate with Hologic in any legal action taken to enforce such intellectual property rights. Further, Hologic will be free to use any ideas, concepts, know-how or techniques contained in such Content for any purpose whatsoever, including, without limitation, developing, making, marketing, distributing and selling products and services incorporating such Content. Hologic will have no obligation to consider, use, return or preserve any of the Content provided by Customer to Hologic. Any Content provided by to Hologic may or may not be treated confidentially by Hologic, and Hologic will have no obligation or liability to Customer for the use or disclosure of any of the Content. Customer should not to expect any compensation of any kind from Hologic with respect to the Content provided.

15. Intellectual Property Indemnity. For Subscription Software developed by Hologic, Hologic will indemnify, and at its election, defend, Customer against claims asserted against Customer in a suit or action if: (i) the claim is for direct patent infringement or direct copyright infringement, or for misappropriation of third-party trade secrets; (ii) the claim is asserted against the Subscription Software alone and not in combination with any third-party software or systems. Notwithstanding anything else in this Agreement, Hologic has no obligation to indemnify or defend Customer for claims asserted, in whole or in part, if (i) the Subscription Software is not used in accordance with this Agreement or Hologic documentation; (ii) the Subscription Software or any part thereof has been modified by Customer or any entity other than Hologic; or (iii) a malfunction in the Subscription Software has been caused by any equipment or software not approved or supplied by Hologic. As a condition of Hologic's obligations under this Section 17, Customer must provide Hologic with: (i) prompt written notice of the claim; (ii) sole control over the defense and settlement of the claim; and (iii) full and timely cooperation. Hologic will not be responsible for any costs, expenses or compromises that Customer makes or incurs without Hologic's written consent. Hologic may, at its sole discretion and expense: (i) procure for Customer the right to continue using the Subscription Software; (ii) replace the Subscription Software with non-infringing Subscription Software; (iii) modify the Subscription Software so that it becomes non-infringing; or (iv) upon Customer's return of the Subscription Software to Hologic, and/or removal of the Subscription Software from the Equipment, refund the residual value of the Subscription Software fee prepaid by Customer for the infringing Subscription Software, depreciated using a straight-line method of depreciation over a three (3) year period from the date of delivery of the Subscription Software. This indemnity section states Hologic's entire obligation and Customer's exclusive remedy for claims of patent or copyright infringement, or trade secret misappropriation, made in whole or in part against the Subscription Software.

16. Confidential Information. Both Parties agree to hold in strict confidence the terms of this Agreement and all information provided to the other in connection with the performance of their respective obligations under this Agreement, including, without limitation, financial and pricing information, except to the extent that disclosure is required by applicable law. Notwithstanding the above, the terms and conditions of this Agreement must not be disclosed to any third-party without the prior written consent of the other Party, except either Party may disclose the terms and conditions of this Agreement to its employees, professional advisors, agents or independent contractors who require knowledge of the terms and conditions of this Agreement, so long as such individuals are subject to applicable non-disclosure agreements.

17. Compliance with Laws. Hologic and Customer shall comply with all federal and state laws that govern the enforceability and performance of this Agreement.

18. Bankruptcy. Except as may be prohibited by applicable bankruptcy laws, a Party to this Agreement may elect to cancel any unfulfilled obligations if any of the following situations arise: (i) the other Party becomes insolvent or is unable to pay debts as they become due; (ii) a voluntary or involuntary bankruptcy proceeding is instituted by or against a Party hereto; or (iii) an appointment of a receiver or assignee for the benefit of creditors occurs on behalf of a Party hereto.

19. Waiver and Severability. If either Party fails to perform obligations under this Agreement, such nonperformance does not affect the other Party's right to enforce performance at any time. Waiver of any remedy or material breach of any subject matter contained in this Agreement is not a waiver unless agreed to by the Parties in writing. Each provision of this Agreement is separate and independent of one another, and the unenforceability of any provision shall not affect the enforceability of any other provision. If any provision is held to be excessively broad or unenforceable, such provision shall be modified accordingly so that it is enforceable to the fullest extent possible by law.

20. Assignment. Customer may not assign or otherwise transfer the Subscription Software or this Agreement, or assign, sub-license or otherwise transfer to any other person or entity any rights under this Agreement without Hologic's prior written consent, and any attempted assignment without such consent will be void.

21. Notices. Any notification required under this Agreement is deemed to have been given either one (1) day after being given to an express overnight carrier with a reliable system for tracking delivery; or when sent by a confirmed facsimile with another copy sent by any other means specified in this paragraph; or three (3) business days after having been mailed postage prepaid by United States registered or certified mail. Any required notices to Customer shall be delivered to the address set forth in the applicable Hologic quote or other purchasing program document, and to Hologic at the addresses listed below. Either Party may change its mailing address by notice as provided by this section.

Hologic, Inc.
250 Campus Drive
Marlborough, MA 01752
Attn: Contracts Department
Fax: 866-523-8691

With a copy to: Hologic, Inc.
250 Campus Drive
Marlborough, MA 01752
Attn: Legal Department
Fax: 508-263-2959

22. Governing Law. Upon execution, this Agreement is governed by the laws of the Commonwealth of Massachusetts, without regard to any conflict of law principles to the contrary. Customer hereby irrevocably consents to jurisdiction of the state and federal courts located in Boston, Massachusetts with respect to any proceeding regarding this Agreement or the Subscription Software. The 1980 UN Convention for the International Sale of Goods or any successor thereto does not apply to this Agreement. Customer will not prosecute any action, suit, proceeding or claim arising under or by reason of this Agreement or the Subscription Software except in such courts.

23. Equal Employment Opportunity Policy. **Hologic is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.**

24. Counterparts and Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all of which together constitute one and the same agreement. Each Party authorizes the other Party to affix a digital signature to this Agreement. The Parties acknowledge the ESIGN Act and Uniform Electronic Transaction Act recognize digital signatures and each Party hereto agrees that if executed by digital signature each document shall be legally binding and effective. The Parties also acknowledge and agree that any document generated by the Parties with respect to this Agreement, may be imaged and stored electronically and such documents may be introduced as evidence in any proceeding as if such were original business records and neither Party shall contest their admissibility.

25. Miscellaneous. See Additional Terms and Quote for additional terms and conditions, which supplement and/or supersede these Terms, as applicable.

Additional Software Subscription Terms and Conditions for Unifi

These Additional Software Subscription Terms and Conditions for Unifi (“Additional Terms”) apply to all Licensed Software described on the Quote as Unifi Analytics.

- 1. End User Agreement.** The End-User Software License Agreement located at <https://www.hologic.com/hologic-master-sales-terms-conditions> (“EULA”) is incorporated by reference into the Agreement and applies to all Licensed Software described on the Quote as Unifi Analytics.
- 2. Delivery.** Hologic shall provide the Licensed Software in the quantities listed on the Quote via a dashboard on www.UnifiConnect.com (“Dashboard”) following full execution of the Agreement. Customer shall designate (i) a point of contact for the Licensed Software on the Quote; and (ii) the Equipment for the Licensed Software in the Dashboard. Equipment must conform to Hologic’s published specifications, allow remote access through Hologic Connect™ and may require configuration prior to use of Licensed Software.
- 3. Termination.** Hologic may terminate this Agreement at any time for any reason. Customer may terminate this Agreement upon sixty (60) days prior written notice to Hologic, provided that Customer will be assessed a cancellation fee of 25% of the residual Agreement Term price based on the effective date of termination. If termination occurs in the final year of the Term, the fee will be reduced to 15%. Such fee shall be due within thirty (30) days of the termination effective date. Customer will not be assessed a cancellation fee if Customer sells its business, or if Customer’s business merges with or is acquired by another entity who will have a controlling interest of fifty percent 50% or greater. In the event Customer’s designated Equipment for the Licensed Software is being traded-in as part of a sale transaction involving the purchase of new Hologic-manufactured equipment, Customer may terminate the Licensed Software only on such Equipment without advance notice nor cancellation fee.
- 4. Revisions to this EULA.** Hologic may at any time revise the terms of the EULA by updating those terms and by providing notice to Customer or End User of that change upon Customer accessing the Licensed Software at the time of said change and agreeing to the revised terms.

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