

Hologic Subscription and Rental Terms and Conditions

(US Customers)

These Hologic Subscription and Rental 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 and Hologic-owned Equipment offered on a subscription basis (“Subscription Equipment”) (Subscription Software and Subscription Equipment collectively referred to as “Subscription Products”) and applies to the rental of Hologic Equipment (“Rental Equipment”) which Hologic shall, from time to time, rent and/ or temporarily license to Customer, certain Rental Equipment, Hardware and/or Software (collectively “Rental Products”); between Hologic Sales and Service LLC (together with its subsidiaries, affiliates, and agents, “Hologic”), and Customer. Hologic and Customer may hereinafter be referred to individually as a “Party” and collectively as the “Parties.” The Rental Equipment and Subscription Equipment are defined collectively herein as “Equipment”. The Rental Products and Subscription Products are defined collectively herein as “Products”. These Terms, together with the Additional Terms and Conditions specific to the applicable Products, attached hereto and incorporated herein (“Additional Terms”), and Quotation shall be defined herein as “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. The Parties, intending to be legally bound, agree as follows:

1. Termination. Either Party may terminate this Agreement for any reason upon providing thirty (30) days advance written notice to the other Party.

2. Effect of Termination. Upon either the expiration or termination of the Term, Hologic or its agents shall have the right, if applicable, to enter the Customer's premises to deactivate Customer's access to all Products or to retake possession of the affected Products by de-installing, re-packing, and shipping the affected Products back to Hologic at Customer's expense. Customer is responsible for the removal of all Patient Health Information and other Customer data from the Product(s) prior to returning such Products to Hologic, and shall bear risk of loss of, or damage to, the Products while in transit to Hologic. At the time of such return or repossession, the Products shall be purged of all Customer data, unmodified, and in the same condition as originally delivered by Hologic to Customer, reasonable wear and tear only excepted.

3. Installation. If applicable, Hologic will install the Products which require installation at the address listed on the Quote during normal business hours. Customer shall use the Product in accordance with the Instructions for Use.

4. License Grant. During the Term, Hologic grants Customer a revocable, non-exclusive, non-transferable, limited right to (i) use the Products at the location specified in the Quotation; and (ii) use the Products strictly in accordance with this Agreement and the applicable Instructions for Use. In no instance shall the Products be used by a Third Party.

5. Updates. During the Term, Hologic may provide maintenance and commercially available updates to the Products which revise or correct safety issues or enhance the productivity of the Products. Customer shall allow Hologic access to the Products to implement any new versions or updates.

6. Restrictions on Use. Customer shall use the Products 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 Products; (b) install, use or permit the Software to be used on Equipment other than the originally designated Equipment for the Software; and (c) except for Unifi EQUIP, make the Subscription Software available over a network or other environment permitting access or use by multiple devices or users at the same time; Customer understands that the Products may be subject to regulation by FDA and agrees not to use the Products in any manner inconsistent with the approved labeling and instructions for use provided by Hologic, including for any uncleared or off-label use.

7. 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 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 Products (collectively, “Data”). As applicable, Customer agrees to provide information, feedback, de-identified images, and other related content in connection with Customer's use of the Products (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. Except for Unifi EQUIP, Content will not include any patient health information.

8. 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 Products by End-Users.

(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 Products.

(c) **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.

(d) **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) caused by the acts or omissions of Customer or any End-User, including in connection with an unauthorized use, disclosure or access, or any of Customer's or End-User's obligations under this Agreement.

9. 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 Products as

a result of unavailability of or disruptions in internet connections or in the event the Equipment is down for maintenance or repair.

10. Warranties. Hologic warrants that the Products will perform substantially in accordance with specifications during the Term (“Limited Warranty”). Hologic does not warrant that use of Products shall be uninterrupted or error-free, or that Products 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 (a) repair or replace the Products; or (b) if such repair or replacement, in Hologic’s opinion, is commercially unreasonable, then Hologic will refund the prorated price paid by Customer for the applicable Products based on the date Customer provides written notice to Hologic of the warranty claim. Customer will initiate all claims by contacting Hologic within thirty (30) days after the discovery of the breach or non-conformity. THE LIMITED WARRANTY WILL NOT APPLY IF: (i) THE PRODUCTS ARE NOT USED IN ACCORDANCE WITH THIS AGREEMENT OR HOLOGIC DOCUMENTATION; (ii) THE PRODUCTS OR ANY PART THEREOF HAVE BEEN REPAIRED, MOVED, OR MODIFIED BY CUSTOMER OR ANY ENTITY OTHER THAN HOLOGIC AUTHORIZED PERSONNEL; OR (iii) A MALFUNCTION IN THE PRODUCT HAS BEEN CAUSED BY ANY EQUIPMENT OR SOFTWARE NOT APPROVED OR SUPPLIED BY HOLOGIC. EXCEPT FOR THE LIMITED WARRANTY SET FORTH HEREIN, THE PRODUCTS ARE 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 PRODUCTS WILL BE FAILSAFE, UNINTERRUPTED, OR FREE FROM ERRORS OR DEFECTS. As identified in the applicable Product specifications, certain Products are provided through or licensed by a third-party vendor. In the event of a conflict between these terms and any applicable terms provided by such third-party, the applicable third-party’s terms will control.

11. LIMIT OF LIABILITY. EXCEPT FOR PERSONAL INJURY OR DEATH TO THE EXTENT RESULTING FROM HOLOGIC’S NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS, HOLOGIC IS NOT LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSSES, DAMAGES, OR EXPENSES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, DATA, OR USE), DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING, SERVICE OR USE OF PRODUCT ORDERED OR FURNISHED PURSUANT TO THIS AGREEMENT, OR FROM ANY CAUSE RELATING THERETO UNLESS EXPRESSLY AGREED TO BY THE PARTIES IN WRITING. EXCEPT FOR PERSONAL INJURY OR DEATH TO THE EXTENT RESULTING FROM HOLOGIC’S NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS, HOLOGIC IS NOT LIABLE UNDER ANY LEGAL THEORY OR FOR ANY CAUSE WHATSOEVER, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, NEGLIGENCE, OR OTHER THEORY, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, FOR ANY AMOUNT IN EXCESS OF THE PRICE, FEE OR CHARGE THEREFOR RECEIVED BY HOLOGIC

12. Intellectual Property Rights. Customer acknowledges and agrees that the Products and applicable documentation are provided under license, and not sold, to Customer. Customer does not acquire any ownership interest in the Products or applicable documentation under this Agreement, or any other rights thereto, other than to use the Products in accordance with Hologic’s documentation, subject to all of the terms, conditions and restrictions under this Agreement.

13. 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.

14. 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.

15. Assignment. Customer may not assign or otherwise transfer the Products 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.

16. Notices. Any required notices to Customer shall be delivered to the address set forth in the applicable Hologic Quotation or other purchasing program document, and to Hologic at the addresses listed below or electronically via fax. Either Party may change its mailing address by notice as provided by this section. Electronic submission shall be received by the date of submission to Hologic.

To: Hologic Sales and Service LLC

With a mandatory simultaneous copy to:

Hologic Sales and Service LLC

250 Campus Drive
Marlborough, MA 01752
Attn: Contracts Department

250 Campus Drive
Marlborough, MA 01752
Attn: Legal Department

17. 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.

Additional Subscription Terms and Conditions for Unifi Analytics

These Additional Subscription Terms and Conditions for Unifi Analytics (“Additional Terms”) apply to all Subscription Software described on the Quote as UA-SW-002, UA-SUB-001, UA-SUB-SW-001, or UA-SUB-SW-007 and shall prevail in the event of a conflict:

- 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 the Subscription Software.
- 2. Delivery.** Hologic shall provide the Subscription 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 Subscription Software on the Quote; and (ii) the Equipment for the Subscription 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 Subscription Software.
- 3. 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 Subscription Software at the time of said change and Customer’s or End User’s continued use is acceptance of the revised EULA terms.

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Additional Subscription Terms and Conditions for Unifi EQUIP

These Additional Subscription Terms and Conditions for Unifi EQUIP (“Additional Terms”) apply to all Products described on the Quote as UEB-SUB and shall prevail in the event of a conflict:

1. **Agent.** Installation, training, maintenance, updates, de-activation, and de-installation for the Unifi Equip Subscription Software may be performed by Hologic’s authorized agent.
2. **Equipment.** With respect to any Unifi EQUIP Subscription Software, the term “Equipment,” as defined above in the Terms shall also include, as applicable, compatible Customer-owned medical imaging equipment manufactured or licensed by an entity other than Hologic on which Unifi EQUIP is to be installed pursuant to the associated Quote. Equipment must conform to Hologic’s specifications, allow remote access, and may require configuration prior to use of Subscription Software.
3. **Performance.** Hologic makes no representations or warranties of any kind, express or implied, nor otherwise commits to any result and/or success with respect to the Enhancing Quality Using the Inspection Program (“EQUIP initiative”) under the Mammography Quality Standards Act (“MQSA”), including but not limited to Customer facility passing the inspection or having no adverse inspection observations under the EQUIP initiative and applicable law.
4. **Remote Access.** During the Term, Customer must allow remote access to Equipment through a secure remote access application such as Remote Desktop, VNC or other terminal connections chosen by Hologic’s agent in order to provide support services.
5. **Delivery.** Hologic or its agent shall provide the Subscription Software at a date mutually agreed upon by the Parties, either on-site or remotely, once the Customer has confirmed that the Equipment conforms to specifications. Customer accepts the Products on the earlier of: (i) on the date Customer signs its installation acceptance form, or (ii) thirty (30) calendar days after delivery in the event Customer has not provided written notice with sufficient detail to Hologic that the Products do not conform to the specifications.
 - a. **On-Site Components.** Some components of the Subscription Software may require installation at the Customer’s facility on Equipment (“On-site Components”). Prior to installation of the On-site Components, Customer shall (i) provide the Equipment that meets the published hardware requirements for the Subscription Software; and (ii) obtain and install thereon all required third party software. Customer agrees that such computer hardware and third-party software shall be installed and fully operational before Hologic begins installation of the On-site Components. Customer shall provide Hologic or its agent secure remote access to the On-site Components for the period of time required for such installation and thereafter as may be required for routine maintenance, and grant Hologic or its agent priority use of such Equipment during installation and any maintenance.
6. **Use and Training.** Customer shall limit access to and use of the Subscription Software to its employees and agents who have been appropriately trained. Hologic’s agent shall provide Customer and Customer’s staff with initial training remotely at no additional cost, or Customer pay purchase on-site training or supplementary training for an additional charge. The parties will select mutually acceptable training dates and times.
7. **Subscription Software Support.** The following support will be available during the Effective Term:
 - Hologic’s agent will provide telephone response for reported issues encountered in the use of the Subscription Software Monday to Friday, 8:00am to 7:00pm EST, excluding Hologic-observed holidays. Emergency telephone response is available twenty-hour (24) hours/day, seven (7) days/week, exclusive of Hologic-observed holidays. Support can be obtained by calling 877-371-4372;
 - On-site support is subject to Hologic’s billable rates current at the time of performance.
 - Support excludes custom programming services and data recovery services for data loss or corruption.
8. **Equipment Trade-In.** In the event Customer’s designated Equipment for Subscription Software is being traded-in as part of a sale transaction involving the purchase of new Hologic-manufactured equipment, Customer’s license for the Subscription Software originally installed on the traded-in Equipment shall transfer to the new Hologic-manufactured equipment.
9. **Termination.** Hologic may terminate this Agreement at any time for any reason. Customer may terminate this Agreement on the Term’s Annual Anniversary Date by providing Hologic with sixty (60) days’ written notice prior to such upcoming Annual Anniversary Date. For purposes of this section, “Annual Anniversary Date” means one (1) year after the first day of the Effective Term, and each subsequent year thereafter until the expiration of the Effective Term. Notwithstanding the foregoing, in the event Customer’s designated Equipment for the Subscription Software is being traded-in as part of a sale transaction involving the purchase of new Hologic-manufactured equipment, Customer may terminate the Subscription Software only on such Equipment outside of the Annual Anniversary Date and without advance notice.

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Additional Subscription Terms and Conditions for 3D Flex Program

These Additional Software Subscription Terms and Conditions for the 3D Flex Program (“Additional Terms”) apply to all Products listed on the Quote as SDM-SUB-001 or SDM-SUB-002 and shall prevail in the event of a conflict:

1. **Delivery.** Hologic shall provide the Subscription Software to Customer at the time of installation of the Dimensions system (“Delivery”). If Customer elects not to activate the C-View subscription (SDM-SUB-002) subscribed to under this Agreement at the time of Delivery, then Hologic may charge Customer an additional fee for activation of such Subscription Software occurring after Delivery.
2. **Perpetual License Option.** Upon conclusion of the Effective Term, Customer may purchase a perpetual license for the Subscription Software pursuant to the pricing and terms set forth in a separate quotation provided by Hologic (“Perpetual License Option”). Customer must provide Hologic with thirty (30) days’ prior written notice of its intent to exercise the Perpetual License Option set forth herein.

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Additional Rental Terms and Conditions

These Additional Rental Terms and Conditions (“Additional Terms”) apply to all Rental Equipment and shall prevail in the event of a conflict:

1. **RENTAL PURCHASE OPTION.** Unless otherwise specified on the Quotation, at any time prior to the expiration or termination of the Rental Period, as defined in the Quotation, stated on the Quotation, Customer may exercise the option to purchase the Rental Products at a purchase price, inclusive of installation, set forth on the Quotation (“Purchase Price”). Hologic shall provide Customer with a separate purchase Quotation or an amendment to this Agreement for the purchase of the Rental Products, but if Customer does not sign such separate quote, then (i) the exercise of such option shall constitute a binding order to purchase and/or license the Rental Products and Customer shall accept and pay any invoice issued by Hologic reflecting such transaction without the necessity of further documentation being exchanged between the Parties; and (ii) the prevailing purchase terms as set forth in the quote shall govern the transaction. Upon full payment of the Purchase Price, the Rental Period shall terminate, and if applicable, the Rental Fee referred to in the Quotation shall be pro-rated to reflect such early termination, provided such Rental Fee is paid as of the date of purchase. In the event Customer exercises the purchase option, the warranty period granted under the Quotation shall be deemed to have commenced on the earlier of: (1) the date the Rental Products were originally installed; or (2) thirty (30) days from the date they were shipped, notwithstanding anything to the contrary contained in the Quote.
2. **TITLE.** Customer acknowledges that Hologic shall have sole and exclusive title to, and ownership of, the Rental Products. Customer agrees, if reasonably necessary to protect Hologic's interest, to keep the Rental Products labeled so as to indicate Hologic's ownership thereof, and to execute such further documentation as Hologic may request (including UCC Financing Statements) to evidence Hologic's title. This section shall survive the termination of this Agreement unless Customer has elected to purchase the Rental Products from Hologic.

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