

# End-User Software License Agreement

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For the avoidance of doubt, "Protected Health Information" or "PHI" shall mean individually identifiable health information regardless of the form in which it is maintained or transmitted. We may, at our sole discretion, aggregate and de-identify any and all PHI obtained under this Agreement and use all such de-identified data in accordance with the de-identification requirements at 45 CFR 164.514(b). With respect to de-identification, the aggregated and de-identified data We produce or use either: (i) will not include any identifiers listed in 45 CFR 164.514(b)(2)(i), or (ii) will have been determined by a person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable and applying such principles and methods, that the risk is very small that the aggregated and de-identified data generated under this Agreement could be used, alone or in combination with other reasonably available information, by an anticipated recipient, to identify an individual who is a subject of the information, thereby forming a "statistically de-identified data set" and rendering the information not PHI under HIPAA. De-identified information does not constitute PHI and is not subject to the terms of this Agreement.

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- a) Indemnity. We will indemnify, and at our election, defend, You against claims asserted against You 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 Licensed Software, alone and not in combination with any third party software or systems.
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  - c) Conditions. As a condition of Our obligations under this Section 7, You must provide Us with: (i) prompt written notice of the claim and Your agreement to give Us sole control over the defense and settlement of the claim; and Your full and timely cooperation. We will not be responsible for any costs, expenses or compromises that You make or incur without Our written consent.
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9. Term. The term of this Agreement will commence on the date of Your agreement to these terms and shall continue for the same term as the Usage Agreement. Hologic may terminate this Agreement at any time for any reason, including to the extent that any Usage Agreement has been terminated or expired.
10. General.
  - a) Governing Law. Jurisdiction. Upon acceptance of these terms, this Agreement is governed by the laws of the Commonwealth of Massachusetts, without regard to any conflict of law principles to the contrary. You hereby irrevocably consent to jurisdiction of the state and federal courts located in Boston, Massachusetts with respect to any proceeding regarding this Agreement or the Licensed Software. The 1980 UN Convention for the International Sale of Goods or any successor thereto does not apply to this Agreement. You will not prosecute any action, suit, proceeding or claim arising under or by reason of this Agreement or the Licensed Software except in such courts.
  - b) Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement will remain in full force and effect, and the remaining provisions will be amended to achieve as closely as possible the effect of the original term and all other provisions of this Agreement will continue in full force.
  - c) Assignment. You may not assign or otherwise transfer the Licensed Software or this Agreement, or assign, sub-license or otherwise transfer to any other person or entity any of Your rights under this Agreement without Our prior written consent, and any attempted assignment without such consent will be void.
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11. Entire Agreement. This Agreement together with the Related Agreements sets forth Our entire agreement with respect to Your use of the Licensed Software and supersedes all prior and contemporaneous understandings and agreements with respect to the Licensed Software and Your use thereof whether written or oral. In the event of a conflict, the Usage Agreement shall supersede and control over the terms of this End-User Software License Agreement.