

## Cartagenia Bench Lab - Services Terms of Use

These terms of use (“**Terms of Use**”) and the quotation (“**Quote**”) are a legal binding agreement between You and AGILENT TECHNOLOGIES, INC., a California Corporation located at 5301 Stevens Creek Boulevard, Santa Clara, California 95051 (“Agilent”). These Terms of Use shall supersede any other provisions, terms and conditions set forth by You, and the rights of the parties shall therefore be governed exclusively by the provisions, terms and conditions set forth herein.

### 1. DEFINITIONS.

“**Agreement**” means the Terms of Use and the Quote.

“**Authorized Users**” means the individual registered users of the Software that are entitled to use the Software; Authorized Users are the only users that can log in to the Services and Software and must be known by Agilent;

“**Confidential Information**” means any non-public information that a party to the Agreement marks as being confidential. Confidential Information includes, but is not limited to the Services and Software, the contents of the Agreement, the Data and Agilent’s business policies or practices;

“**Data**” means the information that You input into the Software and/or the information resulting from the use of the Software;

“**Documentation**” means the manual containing the instructions for use of the Software;

“**Fees**” means the set up and Service fees due by You;

“**Quote**” means the quotation or other written proposal made by Agilent to You specifying (i) the Software; (ii) the number of Authorized Users; (iii) the Fees due by You; (iv) the set up and support and maintenance options You selected; (v) the permitted Use of the Software; (vi) the Subscription Term; (vii) the Services and the terms of these Services;

“**Personal Data**” means Data that can directly or indirectly identify individuals;

“**Services**” means the services that Agilent will provide, directly or through its subcontractors, as detailed in the Quote, including but not limited to access and use of the Software and Documentation, storage and back-up of Data, support, maintenance and training;

“**Software**” means the Cartagenia Bench Lab solution;

“**Subscription Term**” means the contract term of the Agreement commencing on the date upon which You were provided access to the Software.

“**You**” and “**Your**” means the legal entity specified in the Quote to which Agilent will provide the Services and Software.

### 2. SERVICES.

**2A. Access to and use of the Software.** Subject to the terms and conditions of the Agreement, Agilent grants You a non-exclusive and non-transferable license to access and use the Software and Documentation for Your internal operations during the Subscription Term. You may only allow Authorized Users to access and use the Software and Documentation. An Authorized User may not share its right to use with other users. You will not make available, directly or indirectly, by any technical means, the Software or the Documentation accessible to other users than the Authorized Users. The Software and Documentation will operate on Agilent’s or its authorized third party servers, and you will access and use the Software through the Internet in an application service provider (ASP) mode.

**2B. Storage and Backup of Data.** Data will be stored on Agilent’s or its authorized third party online servers. Data inputted or generated during the Subscription Term, will be accessible online 24/7 during such Subscription Term provided that all terms are contiguous. However, Data older than 36 months may be brought off-line by Agilent or its authorized third party and stored in backup servers, unless specified otherwise in the Quote. Upon termination or expiry of the Agreement, Agilent can provide You upon your request with a copy of Your Data stored on its online or offline servers in a tab-delimited format.

**2C. Support and Maintenance.** During the Subscription Term, Agilent shall maintain the Software and update the Documentation in accordance with the modalities hereafter. Maintenance covers updates, bug fixes, small improvements, and upgrades of the Software or Documentation. Upgrades to newer version of the Software do not include new functionalities or new functional modules. During the term of the Agreement, Agilent shall provide following support to Authorized and trained Users regarding the use of the Software: online resources (user-manual and FAQ) and help desk via e-mail. Availability is 24/7/365 with a target first response time of 8 business hours.

**2D. Go-live support services.** Agilent will provide You with the log-in credentials for Authorized Users and perform any additional initial configuration tasks as defined in the Quote.

**2E. Training.** You are entitled to participate in webinar-based training with the set up of the Software, for the number of Authorized Users specified in the Quote, including teaching material that will be made available to You electronically. You must ensure that (i) subsequent to the set up of the Software, all Authorized Users will attend at least one (1) training; and that (ii) at all times during the Agreement, a minimum number of 50% Authorized Users will have attended the training. Authorized Users who successfully have completed the Software training will receive a certificate issued by Agilent. You may purchase training modules from Agilent at the then current pricing.

### 3. YOUR OBLIGATIONS.

**3A. Minimum software, infrastructure and communication requirements.** You agree to access and use the Services and Software whilst respecting the minimum software, infrastructure and communication requirements that Agilent will communicate to you prior to entering into the Agreement. Agilent does not make any commitments with respect to use or performance of the Services and Software in case these minimal requirements or are not complied with. You are solely responsible for acquiring, maintaining, updating and troubleshooting all software, hardware and communications means (such as Internet and network connections) by which you access and use the Services and Software.

**3B. Software.** Except as otherwise expressly provided for in the Agreement, You agree to (i) only use the Services and Software in the manner, and for the purposes, expressly specified in the Agreement or the Documentation; (ii) not decompile or reverse assemble the Software except to the extent this is expressly allowed by law; (iii) not sublicense, rent, lease or export the Services and Software; (iv) unless as permitted under the Agreement, not copy, reproduce, transmit or distribute the Software or any portion thereof, or facilitate a third party to do so; and (v) not use any device or software to interfere with the proper operation of the Software and Services.

**4. AUDIT.** At any moment, Agilent is entitled to appoint an independent auditor to audit and describe Your use of the Software. If from the audit it appears that Your use of the Software breaches the Agreement, Agilent is entitled to invoice you for the use of the Software that is not paid for and for the cost of the audit. In addition, Agilent may terminate this Agreement as provided in Section 9B Termination.

**5. DISCLAIMER.** Except as otherwise expressly provided in the Agreement and to the maximum extent permitted by applicable law: (i) the Services and Software are provided “as-is”; (ii) Agilent disclaims all warranties of any kind regarding the Services and Software; (iii) Agilent does not warrant that the Software will be accurate, complete or without error; (iv) the use of the Services and Software is entirely at Your risk and Agilent makes no warranties as to the accuracy, quality or reliability of the reports, results, Data or other information obtained by You from accessing and using the Services and Software; and (v) in the event of any loss or damage to Your Data during the Subscription Term, Your sole and exclusive remedy shall be for Agilent to use commercially reasonable efforts to restore the lost or damaged Data.

**6. CONFIDENTIALITY.** Each party agrees to keep confidential the Confidential Information received from the other party and to protect the confidentiality thereof in the same manner as it would protect the confidentiality of its own Confidential Information. Each party shall exercise at least a reasonable degree of care in the protection of Confidential Information. The obligations of confidentiality shall expire three years from the expiration or termination of the Subscription Term.

### 7. FEES AND PAYMENT.

**7A. Fees.** Agilent will issue invoices for the Fees in accordance with the invoicing scheme defined in the Quote. Unless provided otherwise, invoices of Agilent are payable within 30 calendar days after the invoice date.

**7B. Taxes; Other Charges.** You shall be responsible for, and shall pay or reimburse Agilent for all applicable taxes, duties or charges or any kind, including but not limited to sales and use tax, which may be levied upon either party in connection with the service delivered to You in this Agreement.

**8. INTELLECTUAL PROPERTY RIGHTS.** Agilent owns or is licensee of all (intellectual) property rights in the Software and the Agreement does not transfer any (intellectual) property rights to You, except otherwise expressly provided in this Agreement. The Software may contain works covered by the GNU Lesser General Public License.

### 9. TERM AND TERMINATION.

**9A. Term.** The Quote contains the exact duration of the Subscription Term. The Agreement is concluded for the Subscription Term and no tacit renewal is possible.

**9B. Termination.** Agilent is entitled to terminate the Agreement upon any material breach of the Agreement by You that is not cured within 30 calendar days after Agilent’s reminder.

**10. PERSONAL DATA.** In the event that your Data may contain Personal Data, You understand and agree that Agilent will process the Personal Data on Your behalf as a data processor to allow it to perform its obligations under the Agreement. You warrant that you are entitled to entrust the Data with Agilent. Agilent warrants that (i) Your personal data shall be processed in compliance with the Agreement; (ii) appropriate technical and organizational security measures will be implemented in order to protect the Personal Data; (iii) unauthorized persons will not have access to any personal data.

**11. LIMITATION OF LIABILITY.** Agilent’s entire aggregate liability arising out of the Agreement (including contractual liability, tort liability, liability for hidden defects or any other liability regime) will be limited to the payments received from You under the Agreement, during twelve (12) months prior to the occurrence of the alleged damages. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL AGILENT BE LIABLE FOR ANY LOST REVENUE, PROFIT OR DATA, OR FOR INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER. This limitation of liability applies to the maximum extent permitted by applicable law and even in the event of a serious fault by Agilent.

**12. AVAILABILITY AND INTERRUPTION.** Agilent will pursue reasonable efforts to ensure that the Software will be available to You 24/7. The availability of the Software is subject to interruption in consequence of (i) the suspension or termination of the Agreement; (ii) factors outside of Agilent’s reasonable control, including but not limited to any force majeure event; (iii) any actions or

inactions of You, or any other third party; (iv) any problems with the Internet, Your infrastructure, Your equipment, Your software or other technology and/or third party infrastructure, equipment or software (other than third party equipment within Agilent's direct control); (v) scheduled maintenance, if Agilent notified You by e-mail one day prior to the commencement of the maintenance work.

### **13. ASSIGNMENT**

You may not assign or transfer this Agreement without Agilent's prior written consent, which may be subject to applicable charges and terms. Agilent may assign or transfer any of its rights or obligations under this Agreement. Any assignment in violation of this Section will be null and void.

### **14. MISCELLANEOUS.**

**14A. Entire Agreement – Modifications.** The Agreement constitutes the entire understanding and agreement between You and Agilent. The Agreement replaces all prior negotiations and dealings between You and Agilent pertaining to the Software and Services. The Agreement cannot be modified unless by an instrument in writing signed by You and Agilent.

**14B. Severability.** If any provision of the Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect. If a provision of these Terms of Use would be found incompatible with a provision of the Quote, the Quote shall prevail.

**14C. Governing Law and Jurisdiction.** This Agreement is governed by the laws of the State of California, without reference to conflict of laws principles. Any dispute relating to this Agreement will be adjudicated in the federal courts of the State of California, County of Santa Clara. This is without prejudice to Agilent's right to initiate legal proceedings against You for the recovery of unpaid invoices under Your local laws before the competent courts of your domicile