**ENTERPRISE TERMS OF USE**

These Enterprise Software-as-a-Service **Terms of Use** ("Terms of Use") and the **Offer** are a legal binding agreement ("the Agreement") between Customer and the Agilent entity issuing the Offer, **("Agilent**") when accepted by the Customer either by signing the Subscription Order Form or by issuing a purchase order. These Terms of Use shall supersede any other provisions, terms and conditions set forth by Customer, and the rights of the parties shall therefore be governed exclusively by the provisions, terms and conditions set forth herein.

## 1. DEFINITIONS

**a.** **"Acceptable Use Policy"** refers to and means the restrictions governing Customer's use of the Services found here https://www.agilent.com/en/contracting-with-agilent/software-subscription-terms-conditions.

**b.** **"Aggregated Data"** means statistical data derived from the operations of the Services and/or Software which does not identify Customer nor any User.

**c.** **"Authorized Users"** means Customer's employees and contractors who are authorized by Customer to use the Software and made known to Agilent and are the only users who may log in to the Software.

**d.** **"Confidential Information"** means (i) if disclosed in writing is marked "confidential" or "proprietary" at the time of such disclosure; (ii) if disclosed orally or by visual presentation, is identified as "confidential" or "proprietary" at the time of such disclosure, and is summarized in a writing sent by the disclosing party to the receiving party within thirty (30) days after any such disclosure; or (iii) due to its nature or the circumstances of its disclosure, a person exercising reasonable business judgment would understand to be confidential or proprietary. Notwithstanding the foregoing, Confidential Information includes Customer Data, Software, and Agilent's business policies, practices, and pricing.

**e.** "**Customer**" means the legal entity specified in the Offer to which Agilent will provide the Services and Software.

**f.** "**Customer Data**" means Personal Data and information, data, results, plans, texts, files, links, images, photos, videos, samples, audio files, notes or other materials inputted into the Software by an Authorized User and the information resulting from the use of the Software.

**g.** **"Customization(s)"** means any Software or incremental change to Software that Agilent develops at Customer's specific written request and delivers to Customer.

**h.** **"Documentation"** means manual, user guide, instructions for use, help release notes and any other documentation provided for use with the Software.

**i.** **"Fees"** means the implementation costs (if applicable) and Service fees due by Customer.

**j.** **"Initial Term"** shall be for the period stated in the Offer or, if applicable, in the Subscription Order Form and shall commence on the date upon which access to the Software is granted to Customer.

**k.** **"Offer"** means the quotation or proposal made by Agilent to Customer specifying (i) the Software and/or Services; (ii) if applicable, Customizations (iii) the Permitted Use; (iv) the Fees; (v) the set up and support and maintenance options applicable; (vi) the Initial Term; (vii) the terms of the license of the open software used by Agilent, if any.

**l.** **"Permitted Use"** means internal use in accordance with the Acceptance Use Policy, Documentation and for the number of users of the Software if identified in the Offer.

**m.** **"Personal Data"** means any information owned or provided by or on behalf of Customer, in any form (including paper, electronic and other media), that Agilent Processes in connection with the performance of Agilent's rights and obligations under these Terms of Use that either directly or indirectly relates to an

identified or identifiable natural person, such as Customer's employees, customers, subcontractors, partners or any other third party (including third parties' employees).

**n.** **"Process" or "Processing"** any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, dis-closure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**o.** **"Service Description Exhibit"** means the exhibit that describes the Services, including the level of service, maintenance, and availability applicable to the Software found here https://www.agilent.com/en/contracting-with-agilent/software-subscription-terms-conditions.

**p.** **"Renewal Term"** means the period of time following the expiration of the Initial Term during which the Agreement continues to be in full force and effect.

**q.** **"Services"** means the services that Agilent will provide, as detailed in the Offer together with the respective Service Exhibit, including but not limited to access and use of the Software and Documentation, storage and back-up of data, support, maintenance and training, and Customizations if applicable.

**r.** **"Software"** means the software as detailed in the Offer together with the respective Documentation and/or any of its components (including those installed onsite) as further described in the Offer and, if applicable, (i) additional functional and knowledge modules; and/or (ii) Customizations.

**s.** **"Subscription Fee Increase"** if applicable, the increase that will be applied to the Subscription Fees for a Renewal Term.

**t.** **"Subscription Term"** means the Initial Term and Renewal Term(s).

**u.** **"Third Party Components"** means any third-party software or database (e.g., medical taxonomies) that is integrated with but not included in the Software. Third Party Components may be subject to a separate agreement.

## 2. SERVICES

**a.** **Access to and use of the Software**. Subject to the terms and conditions of the Agreement, Agilent grants Customer a non-exclusive and non-transferable license to access and use the Software and Documentation within Customer's Permitted Use during the Initial Term and, if applicable, Renewal Term.

**b.** **Authorized Users**. Customer 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. Customer will not make available, directly or indirectly, by any technical means, the Software to users other than the Authorized Users. The actual number of Authorized Users may never exceed the number of Authorized Users referred to in the Offer. Customer shall ensure that all Authorized Users are made aware of and agree to comply with these Terms of Use.

**c.** **Additional Authorized Users**. Customer may at any time purchase access for additional Authorized Users from Agilent and/or add modules and Services, which shall be subject to the terms of the Agreement.

**d.** **Availability and Interruption**. Agilent will pursue commercially reasonable efforts to ensure that the Software will be available to Customer in accordance with the Service Exhibit applicable to the Services. Any period of non-availability will be deemed to start from when Customer notifies Agilent about the non-availability. Notwithstanding the foregoing, the following factors shall not be included in calculating the periods of availability: (i) the suspension or termination of the Agreement; or (ii) factors outside of Agilent's reasonable control, including but not limited to any force majeure event; or (iii) any actions or inactions of Customer, or any other third party; or (iv) any problems with the Internet, Customer's

infrastructure, Customer's equipment, Customer's software or other technology and/or third party's infrastructure, equipment or software (other than third party's equipment within Agilent's direct control); (v) scheduled maintenance, if Agilent notified Customer by e-mail at least one (1) day prior to the commencement of the maintenance work; (vi) onsite installation or onsite partial installation; (vii) periods of suspension due to Customer's non-payment or non-compliance with the Agreement.

**e. Location, Storage and Backup of Data**. The Software and Documentation will operate through the Internet in an application service provider (ASP) mode. Data will be stored on servers as defined in the Product Service Exhibit.

**f. Support and Maintenance.** During the Subscription Term, Agilent shall maintain the Software and update the Documentation in accordance with Service Description Exhibit. Maintenance covers updates, bug fixes, small improvements, and upgrades of the Software or Documentation. Upgrades to newer versions of the Software do not include new functional modules. During the term of the Agreement, Agilent shall provide support to Authorized Users in accordance with the Service Description Exhibit.

**g. Training**. If applicable, the Service Description Exhibit will contain the Customer entitlements and requirements for training.

## 3. CUSTOMER OBLIGATIONS

**a. Use**. Except as otherwise expressly provided for in the Agreement, Customer agrees to use the Services in accordance with the Acceptable Use Policy found herehttps://www.agilent.com/en/contracting-with-agilent/software-subscription-terms-conditions.

**b. Intended Use**. Customer will use Software in accordance with its intended use, instructions for use and all applicable Software labeling as described in the Documentation and the Offer. Customer is responsible for ensuring that the way that it uses Software complies with all applicable laws and regulations.

## 4. DISCLAIMER & WARRANTY

a. Agilent represents and warrants during the Subscription Term that: (i) the Software shall perform in all material respects in accordance with the Documentation and Service Exhibit; (ii) the functionality or features of the Services may change but will not materially degrade; (iii) Agilent shall utilize commercially reasonable technical security measures to protect Customer Data.

b. Except as otherwise expressly provided in the Agreement and to the maximum extent permitted by applicable law:

i. The Services is provided "as-is";

ii. AGILENT MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER WRITTEN OR ORAL, EXPRESSED OR IMPLIED, AND AGILENT SPECIFICALLY DISCLAIMS ALL WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT;

iii. Agilent does not warrant that the Services will be uninterrupted, accurate, complete or without error;

iv. Use of the Services is entirely at Customer's risk and Agilent makes no warranties as to the accuracy, quality or reliability of the reports, results, data or other information obtained by or from accessing and using the Services;

v. Agilent does not warrant that the communications will be secure or that Customer Data will not be lost, damaged or corrupted. In the event of any loss or damage to Customer Data by Agilent during the Subscription Term Customer's sole and exclusive remedy shall be for Agilent to use commercially reasonable efforts to restore the lost or damaged Customer Data to the last available back up.

c. Warranty Remedy. The Service Exhibit sets forth Customer's exclusive remedy for a breach of the warranty set forth in Section 4.a.

**5. 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. Information shall cease to qualify as Confidential Information once it becomes (i) publicly available without breach of this Agreement, (ii) rightfully obtained by the receiving party from another source without a duty of confidentiality, (iii) independently developed or ascertained by the receiving party, (iv) already in the receiving party's possession without a duty of confidentiality, or (v) required to be disclosed under operation of law provided the disclosing party has been given reasonable advance notice to object to such disclosure.

**6. FEES AND PAYMENT**

**a. Fees.** Agilent will issue invoices for the Fees upon providing Customer access to the Software in accordance with the invoicing schedule defined in the Offer, or if applicable the Subscription Order Form. Agilent is entitled to invoice the Fees for implementation, if applicable, when each milestone has been completed in accordance with the project plan. Fees are nonrefundable. Unless provided otherwise, Customer shall pay the invoice(s) within thirty (30) days of the invoice date. Agilent may suspend access to Services if Customer fails to pay any sum due, if after ten (10) days written notice, the failure has not been cured. Agilent will provide notice of the Subscription Fee Increase at least thirty (30) days prior to the Renewal Term.

**b. Taxes; Other Charges.** Customer 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 (according to the location stated in the Offer), which may be levied upon either party in connection with the service delivered to Customer in the Agreement.

**7. INTELLECTUAL PROPERTY RIGHTS**

**a.** Subject to the limited rights expressly granted herein, all right, title and interest in and to the Services, Documentation, Software and Customizations, including all rights in and to patents, copyrights, trademarks, and all other intellectual property rights in the Services, Documentation, Software and Customizations will remain with Agilent or its third party suppliers. No rights are granted to Customer hereunder other than as expressly set forth herein.

**b.** Customer acknowledges and agrees that Agilent will own all right, title and interest in and to any suggestions, recommendations or feedback ("Feedback") provided by Customer to incorporate into or improve the Services. Agilent will be entitled to use the Feedback without restriction or compensation to Customer. Customer hereby irrevocably assigns to Agilent all right, title, and interest in and to the Feedback.

**c.** To the extent that Customer uploads third party data from external sources such as public or private databases, Customer warrants that it has all appropriate rights and licenses from such external sources to access, copy, upload, and use such data.

**8. TERM AND TERMINATION**

**a. Term.** Agilent will provide the Services during the Initial Term in accordance with the Agreement. Upon expiration of the Initial Term, the Agreement will automatically renew for the period stated in the Offer, or if none, then the Renewal Period is twelve months year-over-year (each a "Renewal Term"), unless either party notifies the other party of its decision not to renew in writing at least thirty (30) days prior to the start of a Renewal Term.

**b. Termination**

i. Notwithstanding anything to the contrary in the Agreement, Agilent may terminate the Agreement on

thirty (30) days written notice if, in Agilent's sole discretion, termination is required by law or an order of a government or regulatory body.

ii. Either party may terminate the Agreement for cause unless the other party cures the breach within thirty (30) days after written notice of such breach (unless a shorter cure period is provided in another clause of this Agreement).

iii. Agilent may terminate the Agreement and the Services for non-payment by Customer if, after notice by Agilent of the non-payment, the failure has not been cured within ten (10) days. In the event the Agreement is terminated, all Subscription Order Forms are simultaneously terminated, and Customer shall immediately cease using the Software.

iv. The Agreement will terminate automatically (without requirement for notice) if either party is subject to a voluntary or involuntary bankruptcy petition, becomes insolvent, is unable to pay its debts as they become due, ceases to do business as a going concern, makes an offer or assignment or compromise for the benefit of creditors, or there is a substantial cessation of its regular course of business, or a receiver or trustee is appointed for such party's assets.

**c. Effect of Termination.** Upon termination Customer will no longer have access to the Services and agree to pay Agilent for all Fees up to the date of termination. If the sum of such amounts is less than any advance payment received by Agilent, Agilent will refund the difference within thirty (30) days of receipt of an invoice from Customer.

**d. Return and Destruction of Data.** Return and destruction of Customer Data shall be handled in accordance with Service Description Exhibit.

**e. Suspension of Service.** Agilent may monitor the Services for a violation of these Terms of Use, applicable law and third party rights and may suspend access to the Services for the duration of any such violation and remove applicable Customer Data. Agilent will use commercially reasonable efforts to provide notice to Customer in advance of any suspension to the extent practical and lawfully permitted under the circumstances. Customer agrees that Agilent will not be liable to Customer or any Authorized User if Agilent exercises its suspension rights as permitted by this Section. Agilent shall use reasonable efforts to re-establish the Services after the issue triggering the suspension has been resolved.

**9. OWNERSHIP, USE, AND PROCESSING OF DATA INCLUDING PERSONAL DATA**

**a. Limited License to Customer Data.** As between Customer and Agilent, and subject to the limited rights granted by Customer herein, Customer owns all right, title and interest in and to all Customer Data. Customer grants to Agilent during the term of this Agreement a non-exclusive, royalty-free, fully-paid, transferable license to host, cache, record, copy, transmit, store and display Customer's Data in order to provide and improve the Services and any other products and services provided by Agilent and respond to technical problems, comply with the law or an order of a government or regulatory body or at Customers' request.

**b. Aggregated Data.** Agilent owns the Aggregated Data derived from the operations of the Services, including, without limitation, the number of records in the Services, the number and types of transactions, configurations, and reports processed in the Services, and the performance results for the Services. Nothing herein shall be construed as prohibiting Agilent from utilizing the Aggregated Data, provided that such use will not reveal the identity, whether directly or indirectly, of Customer or any User.

**c. Personal Data.** Customer acknowledges and agrees to each of the following:

i. Agilent may Process non-sensitive Personal Data such as contact details relating to Customer and its employees, agents, and contractors to enable Customer to order products or services, make requests, register for customized communications programs and enhance Customer's experience on Agilent's websites in accordance with Agilent's privacy policy at https://www.agilent.com/home/privacy-policy. Customer shall ensure that Agilent's privacy policy is provided or made available to its employees, agents, and subcontractors.

ii. In the event that any Customer Data input in the Software contains Personal Data, Agilent shall Process such Personal Data on behalf of Customer in accordance with the terms of the Data Processing Agreement attached hereto as Schedule 1, which includes, where applicable, the EU Standard Contractual Clauses (controller to non-EU processor per Decision 2010/87/EU).

iii. If (A) Customer is a "covered entity", as defined under the U.S. Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"); and (B) Agilent is receiving, creating, maintaining, using, or disclosing "protected health information", as defined under HIPAA, in connection with the Services performed for Customer, then Agilent and Customer shall agree to enter into a Business Associate Agreement.

iv. At Customer's request, the parties shall negotiate in good faith and execute additional appropriate data processing agreements required under applicable law.

**d.** Agilent may anonymously compile statistical information related to the performance of the Software and/or Services for purposes of improving the Software and/or the Services, provided that such information does not identify Customer Data or include Personal Data.

**e.** Customer warrants that, in view of the use of the Customer Data and Personal Data referred to in this Section 9:

i. Customer is legally entitled to transfer all Customer Data and Personal Data to Agilent:

ii. any and all transfers and processing of Customer Data and Personal Data comply fully with all laws, statutory rules and codes of practice, to which Customer is subject; and

iii. Customer has obtained all appropriate permits, certifications and consents (including but not limited to, from the relevant data subjects/ patients, institutional review board (IRB) legal and ethical approval, for submitting data (including Personal Data into consortia), whether submitted by Customer through the automated submission features in the Software, or submitted at the request of Customer.

**10. LIMITATION OF LIABILITY**

**a.** SUBJECT TO CLAUSE 10C BELOW: IN NO EVENT WILL AGILENT, ITS SUBCONTRACTORS OR SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUE, OR THE COST OF PROCURING SUBSTITUTE SERVICES) REGARDLESS OF WHETHER SUCH CLAIMS ARE BASED ON CONTRACT, TORT, WARRANTY OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, AGILENT WILL NOT BE LIABLE FOR DAMAGES OF ANY KIND ARISING FROM (I) CUSTOMER'S INABILITY TO ACCESS OR USE THE SERVICES, IN CASE OF TERMINATION OR SUSPENSION OF THE AGREEMENT OR CUSTOMER'S ACCESS TO THE SERVICES OR DISCONTINUATION OF THE SERVICES, OR (II) ANY UNAUTHORIZED ACCESS, ALTERATION OF, DELETION, CORRUPTION OR LOSS OF CUSTOMER'S DATA, OR (III) ANY FAILURE TO TRANSMIT OR RECEIVE ANY DATA.

**b.** IN NO EVENT WILL AGILENT'S AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE FEES PAID BY THE CUSTOMER TO AGILENT DURING THE TWELVE (12) MONTHS PRECEDING THE CLAIM; EXCEPT AGILENT'S SOLE LIABILITY FOR BREACH OF SECTION 4 IS TO REPAIR, REPLACE, OR CREDIT IN ACCORDANCE WITH THE SERVICE DESCRIPTION EXHIBIT.

**c.** THE EXCLUSIONS AND LIMITATIONS IN CLAUSE 10A) and 10B) SHALL APPLY TO THE FULLEST EXTENT PERMISSIBLE AT LAW BUT AGILENT DOES NOT EXCLUDE AND/OR LIMIT LIABILITY FOR DEATH OR BODILY INJURY CAUSED BY THE GROSS NEGLIGENCE OF AGILENT, ITS OFFICERS, EMPLOYEES, CONTRACTORS OR AGENTS.

**d.** THE REMEDIES IN THIS AGREEMENT ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES.

**11. INDEMNIFICATION BY CUSTOMER**

Customer will defend, indemnify and hold Agilent and Agilent's officers, directors, employees, consultants, agents, and suppliers harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with any suit, action or claims (a "Claim") made or brought against Agilent by a third party arising out of or related to Customer's Data, or Customer's use of the Services in violation of this Agreement, provided Agilent promptly notifies Customer in writing and provides control of the defense or settlement, and reasonable assistance to Customer. If Customer does not diligently pursue resolution of the Claim nor provide Agilent with reasonable assurances that Customer will diligently pursue resolution, then Agilent, without in any way waiving or limiting its other rights and remedies, may defend the Claim.

**12. MISCELLANEOUS**

**a. Entire Agreement – Modifications**. The Agreement constitutes the entire understanding and agreement between Customer and Agilent. The Agreement replaces all prior negotiations and dealings between Customer and Agilent pertaining to the Software and Services. The Agreement cannot be modified unless by an instrument in writing signed by Customer and Agilent. Unless otherwise stated, in the event of a conflict precedence will be given to the respective parts in the following descending order:

i. Supplemental Order Form

ii. Subscription Order Form

iii. Service Description Exhibit

iv. Offer

v. Enterprise Terms of Use

vi. Acceptable Use Policy

**b. 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 is found to be incompatible with a provision of the Offer, the Offer shall prevail.

**c. Law Compliance**. The parties agree to comply with applicable laws and regulations (including all applicable export control and data privacy and security laws and regulations) with respect to its activities under these Terms of Use. Agilent may suspend performance if Customer is in violation of applicable laws or regulations.

**d. Audit**. Agilent may audit Customer's use of the services against the terms of the Agreement upon thirty (30 days) prior written notice and limited to once every year. Agilent agrees not to unreasonably interfere with Customer's business operations and Customer agrees to reasonably cooperate with Agilent in order to complete the audit.

**e. Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of the country where the Agilent entity issuing the Offer is located as identified on the Offer. Customer hereby consents to the jurisdiction and venue of such courts. The Uniform Laws of the United Nations Convention of Contracts for the International Sale of Goods shall not apply. This is without prejudice to Agilent's right to initiate legal proceedings against Customer for the recovery of unpaid invoices under Customer's local laws before the competent courts of Customer's domicile.

**f. Assignment.** Customer may not assign or transfer this Agreement without Agilent's prior written consent, which may be subject to applicable charges and terms and which consent may not be unreasonably withheld. Agilent may assign or transfer any of its rights or obligations under this Agreement upon notice in connection with a merger, reorganization, transfer, sale of assets or product lines, demerger or spin-off transaction or change of control or ownership of Agilent, or its permitted successive assignees or

transferees. Any assignment in violation of this Clause will be null and void.

**g. Independent Contractors.** Agilent and Customer are independent contractors, and neither party, nor any of their respective affiliates, is an agent of the other for any purpose or has the authority to bind the other.

**h. Export Control.** If Customer, including its affiliates or collaborators, exports, re-exports, transfers products, technology/software/technical data purchased and/or subject to this Agreement, Customer assumes all responsibility for complying with all applicable U.S., Canadian, EU and/or all relevant local export controls laws and regulations and embar-goes/sanctions regimes. Customer, including its affiliates, shall obtain all the necessary governmental authorizations prior to an export, re-export and/or transfer. Customer, including its affiliates or collaborators, also expressly agrees not to directly or indirectly sell, authorize, facilitate and/or transfer any products, technology, software or technical data subject to the Agreement and/or allow any access to the Software and/or up/down load any data (including but not limited to Personal Information), and/or to provide or receive Personal Information to or from end-destinations, entities and/or individuals subject to U.S., Canadian, EU and/or relevant local export controls and embargoes/sanctions regimes, unless it has obtained all necessary governmental authorizations. For the avoidance of doubt, embargoed end-destinations shall include, but not be limited to Cuba, Iran, North Korea, Sudan and Syria. Agilent may, without notice, suspend performance if Customer is in violation of applicable laws. Further information on restricted destinations can be obtained from http://www.bis.doc.gov and https://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx, and https://eeas.europa.eu/topics/sanctions-policy_en.

**i. Delays**. Agilent will not be liable for performance delays or for non-performance, due to causes beyond its reasonable control.

**j. U.S. Federal Government**. The Services, including related software and technology, are provided to the federal government in accordance with the following: software and technical data rights granted to the federal government include only those rights customarily provided to end user customers. Agilent provides this customary commercial license in software and technical data pursuant to FAR 12.211 (Technical Data) and 12.212 (Computer Software) and, for the Department of Defense, DFARS 252.227-7015 (Technical Data – Commercial Items) and DFARS 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation).

**k. Waiver.** The failure by Agilent to enforce any provision of this Agreement will not constitute a present or future waiver of such provision nor limit Agilent's right to enforce such provision at a later time. All waivers by Agilent must be in writing to be effective.

**l.** English. The parties to this Agreement have agreed that all correspondence and related documentation to this Agreement and associated with the Software shall be made in English.

**13. (COMPONENT(S) OF) OPEN SOFTWARE**

The Software may utilize third party software made available under various open source software licenses ("Open Source Components"). The terms associated with the Open Source Components are available in the Documentation. You agree to comply with any and all applicable terms. In addition to the warranty disclaimers contained in the terms associated with the Open Source Components, Agilent makes the following disclaimers regarding the Open Source Components on behalf of itself, and the copyright holders, contributors, and licensors of the Open Source Components: To the maximum extent permit-ted by applicable law, the Open Source Components are provided by the copyright holders, contributors, licensors, and Agilent "as is" and AGILENT MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER WRITTEN OR ORAL, EX-PRESSED OR IMPLIED, AND AGILENT SPECIFICALLY DISCLAIMS ALL WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, regarding the Open Source Components. In no event will the copyright owner, contributors, licensors, or Agilent be liable for any direct, indirect, incidental, special, exemplary, or consequential damages (including, but not limited to, procurement of substitute goods or services; loss of use, data, or profits; or business interruption), however caused and on any theory of liability, whether in contract, strict liability, or tort (including negligence or otherwise) arising in any way out of the use of the Open Source Components.