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# ELABNEXT

## END USER LICENSE AGREEMENT (EULA)

### MODULE 1. GENERAL PROVISIONS

#### Article 1.1. Definitions

1. The words written with a capital letter in this EULA are defined as follows:
  - a. **Add-on:** a software add-on that extends the core functionality of the eLabNext Software.
  - b. **Affiliates:** any entities i) with respect to which either Party owns or controls, directly or indirectly, more than fifty percent (50%) of the outstanding voting rights or other equity interests, or ii) by which either Party is owned or controlled by, directly or indirectly, more than fifty percent (50%) of the outstanding voting rights or other equity interests.
  - c. **Agreement:** the agreement concluded between the Parties, containing the terms and conditions for the provision, use and support of one or more Services to the Customer, including any offer/quotation, this EULA, SLA, DPA, Terms of Use and any other contract documents as agreed between the Parties.
  - d. **Best-effort Obligation:** an obligation to use commercially reasonable efforts to achieve the objective within reasonable time.
  - e. **Cloud Solution:** eLabNext Software, offered as a shared cloud managed hosting solution.
  - f. **Customer:** the company or organisation that has concluded an Agreement with eLabNext for the provision, use and support of one or more Services.
  - g. **Customer Account:** the (paid) subscription features and rights to the Services, as set out and granted to a Customer under the Agreement.
  - h. **Customer Data:** any and all data, materials or content that a Customer (including all Users authorized by or otherwise connected to Customer) processes within or submits to the Software and/or Websites.
  - i. **Documentation:** eLabNext's then-current technical and/or functional documentation, including operator and user manuals, specifications and other materials, which is made available to the Customer through the Websites or by other means for use in conjunction with the Software and Websites.



- j. **eLabNext Marketplace:** an online store within the eLabNext Software, operated by eLabNext that provides Customers and/or Users access to Add-ons.
- k. **eLabNext Software:** either eLabJournal, eLabInventory and/or eLabProtocols, made available to the Customer on-premise or as a cloud or private cloud service, as set forth in the Agreement.
- l. **eLabNext:** A division operating within Eppendorf, Inc., holding office in Framingham Massachusetts, United States.
- m. **EULA:** this End User License Agreement.
- n. **Hosting Solution:** a Cloud Solution or a Private Cloud Solution and related services as set out in the Agreement.
- o. **IT System:** the IT system of the Customer or a third party designated and contracted by the Customer on which the Software is installed and implemented in case of an On-premises Installation. This includes any (cloud) infrastructure provided or managed by the Customer or by an external hosting provider contracted by the Customer.
- p. **Key-User:** a User who has been granted certain elevated access rights under the Agreement which allow the use of the Services in accordance with the Agreement, including control of system-wide settings and policies as well as account management and license management.
- q. **License:** the right to use the Services, in particular the Software, in accordance with the terms of the Agreement.
- r. **On-premises Installation:** a Customer-specific installation of eLabNext Software, installed on an IT System.
- s. **Party or Parties:** the Customer and eLabNext individually or jointly.
- t. **Private Cloud Solution:** a Customer-dedicated installation of eLabNext Software offered as a managed hosting solution from an external hosting provider contracted by eLabNext, managed by eLabNext.
- u. **Perpetual License:** a license for an eLabNext Software product that grants a right to use the latest installed software version for an indefinite period of time by a maximum number of users equal to the number of Seats as purchased by the Customer.
- v. **Problem:** a reproducible fault in the Software which verifiably prevents the Software from performing in accordance with the Specifications.
- w. **Seats:** the agreed number of named Users, as set out in the Agreement, who have a right to use the Software in accordance with the Agreement through a personal account on an unlimited number of mobile devices and computers.
- x. **Services:** the Software and/or Hosting Solutions and/or related services as provided by eLabNext to the Customer as set out in the Agreement.
- y. **Services Trial:** has the meaning given thereto in article 11 of this EULA.



- z. **SLA:** a service level agreement concluded between the Parties containing the service levels for the maintenance and support of the Software and/or Websites.
- aa. **Specifications:** the specifications of the Software as described in the Documentation and/or as specifically agreed in writing between the Customer and eLabNext.
- bb. **Software:** the eLabNext Software and other software provided by eLabNext to the Customer under the Agreement.
- cc. **Technical Specification On-premises Installation:** Specification sheet describing the minimum requirements for the server infrastructure (both hardware and software components/processes) as required for the installation and use of an On-premises Installation of eLabNext Software.
- dd. **Third Party Services:** third party software, - content, - hosting and other third party services provided by third party suppliers to the Customer and used within or in connection with the Software and/or Hosting Solutions.
- ee. **User:** a natural person employed by or otherwise affiliated with the Customer and who is given access to the Services by the Customer, including but not limited to Key-Users.
- ff. **Websites:** eLabNext's public websites, such as [www.elabjournal.com](http://www.elabjournal.com), [www.elabinventory.com](http://www.elabinventory.com), [www.elabprotocols.com](http://www.elabprotocols.com) and [www.elabnext.com](http://www.elabnext.com).

## Article 1.2 Applicability and order of precedence

1. The terms and conditions of this EULA are applicable to all offers of eLabNext and all Agreements concluded between the Customer and eLabNext.
2. The person who concludes an Agreement with eLabNext on behalf of the Customer guarantees that he is authorised to do so.
3. The applicability of any Customer's general terms and conditions is specifically excluded.
4. In the event of any conflict between the Agreement (including an offer/quotation, SLA, DPA, Terms of Use and any other contract documents as agreed between the Parties but excluding this EULA) and this EULA, the Agreement will prevail. The provisions regarding a limitation of liability in this EULA take precedence over the provisions regarding a limitation of liability in the Terms of Use.

## Article 1.3 Relationship between the sections of this EULA

1. The provisions of Section 1 (General Provisions) of this EULA are applicable to all Agreements concluded between the Parties and all Services provided by eLabNext.



2. The provisions of Section 2 of this EULA are applicable only to Software that is provided to the Customer through a Cloud Solution.
3. The provisions of Section 3 of this EULA are applicable only to Software that is provided through a Private Cloud Solution.
4. The provisions of Section 4 of this EULA are applicable only to Software that is provided through an On-premises Installation.

## Article 1.4 Offers, price and payment

1. Offers/quotations issued by eLabNext are subject to contract. They will remain valid for thirty days following the date of the offer/quotation unless otherwise indicated. eLabNext will not be bound to an offer/quotation until it has confirmed the Customer's acceptance of the offer/quotation in writing.
2. All stated and agreed prices and rates do not include VAT.
3. All cost estimates issued by eLabNext are indicative unless otherwise stated in writing. No rights can be derived from cost estimates.
4. The Customer guarantees the correctness and completeness of all information provided by or on behalf of the Customer to eLabNext, on which information eLabNext has based its offer.
5. Unless agreed otherwise in writing, all License fees are invoiced yearly at the start of the License period.
6. If the number of Seats is increased during the running License period, the License fee will be adjusted on a pro-rata basis. A decrease of Seats during the running License period will not affect the agreed License fee.
7. All invoices must be paid within 30 days.
8. If no fixed price has been agreed, eLabNext's fees will be calculated on the basis of eLabNext's applicable hourly rates.
9. eLabNext is entitled to annually index all agreed fees in accordance with the Dutch CBS index for services (Service price index DPI) and to pass on price increases for subcontractor services such as infrastructure providers for Hosting Solutions.
10. If the Agreement is terminated or amended (in full or in part), the Customer will not be entitled to a refund for fees already invoiced, with the exception of a termination of a consecutive License period as set out in article 1.7 subsection 3, which entitles the Customer to a pro-rata refund of the License fee.
11. If the Customer fails to pay within the agreed payment term, the statutory interest for commercial agreements is payable on any outstanding sum, without a reminder or notice of default being required. If the Customer should fail to pay even after a reminder or notice of default, eLabNext can pass on the claim for collection and the Customer can be charged with all judicial and extrajudicial collection costs.



12. The Customer does not have the right to suspend payments or to set off any of the sums due.

## Article 1.5 Performance of Services

1. All Services provided by eLabNext are performed on the basis of a Best-Effort Obligation.
2. All delivery dates (and other delivery terms), completion dates and other dates stated or agreed on by eLabNext are set out to the best of eLabNext's knowledge and are based on the information available when the Agreement was concluded. All delivery and/or completion dates, including interim completion dates are target dates, indicative and do not bind eLabNext, unless the Parties have explicitly agreed otherwise in writing.
3. The Parties acknowledge that the success of activities performed in the field of information and communication technology depends on proper and timely cooperation of the Parties. The Customer is obliged to always provide all information and cooperation deemed necessary by eLabNext.
4. eLabNext is not obliged to follow the Customer's instructions when performing the Services, more particularly not if these instructions change or add to the content or scope of the Services agreed on. The Customer accepts that delivery times may be affected by a request to perform additional services.
5. If eLabNext carries out additional services at Customer's request which are not covered by the Agreement, the Customer will be charged for these additional services at eLabNext's applicable (hourly) rates, provided that a cost estimate has been submitted to and approved by the Customer.

## Article 1.6 Liability

1. eLabNext's liability for an imputable failure in the performance of the Agreement or arising from any other legal basis, is limited to compensation of direct damages to a maximum of the amount that the Customer has paid to eLabNext in the year preceding the event causing the damages.
2. Liability for any indirect damages is excluded. Indirect damages includes consequential losses, loss of profits, lost savings, reduced goodwill, loss due to business interruption, damages caused by claims of third parties, damages arising from the loss or corruption of data, and damages arising from the use of goods, software or suppliers which have been prescribed by the Customer.
3. eLabNext is not liable for damages resulting from failures on the part of the Customer, such as a failure to fully and timely provide all necessary cooperation and information.



4. The exclusions and limitations of eLabNext's liability cease to apply if and insofar the damages are caused by intent or deliberate recklessness on the part of eLabNext.

## **Article 1.7 Force majeure, term and termination**

1. If either Party is unable to perform its obligations, including a statutory and/or guaranteed obligation due to circumstances beyond its reasonable control (force majeure), the time of performance will be extended by a period equal to the length of time it takes to overcome the force majeure event. Circumstances beyond eLabNext's reasonable control include, without limitation, war or acts of terrorism, power failures and failures of the internet, data network or telecommunication facilities, failures by eLabNext's suppliers to meet their obligations as a result of force majeure, measures by public authorities, (cyber) crime, general transport problems and defects in goods, hardware, software or materials of third parties that eLabNext has used on the Customer's instructions.
2. If a force majeure situation lasts for more than sixty days, either Party has the right to terminate the Agreement in writing, without any obligation to pay compensation for damages.
3. Unless agreed otherwise in writing, all Licenses to Software are issued for a period of one year and may not be terminated prior to the end of this initial period. After the initial License period, the License is automatically renewed for consecutive periods of one year each, unless terminated by either Party, taking into account a notice period of at least one month for a Cloud Solution License and at least three months for a Private Cloud Solution License or an On-premises Installation License.
4. The Customer is not entitled to terminate an Agreement that, due to its nature, end in completion before it has been completed.
5. The Customer is not entitled to terminate an Agreement that has been entered into for a definite period of time before the end of such term, with the exception of termination rights explicitly granted in subsection 3 above.
6. Either Party is exclusively entitled to terminate the Agreement for breach, in whole or in part, if the other Party has imputably failed to meet a material obligation under the Agreement and has failed to remedy such failure after having received a written notice of default granting a reasonable period of time to remedy the breach. The Customer's payment obligations and all obligations to provide necessary information and/or cooperation are regarded as material obligations.
7. Either Party has the right to terminate the Agreement or suspend the execution of the Agreement, in whole or in part, with immediate effect and without notice of default, by written notice to the other Party, if:
  - a. the other Party is granted a suspension of payments, whether or not provisional;



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- b. the other Party is declared bankrupt or his bankruptcy is applied for;
  - c. the other Party is liquidated or dissolved other than for restructuring purposes.

## Article 1.8 Confidentiality

1. The Parties will ensure that confidential information received from the other Party is kept confidential. The Party receiving confidential information will use it exclusively for the purpose for which it was provided, except if and insofar as disclosure of confidential information is necessary to comply with a judicial decision, a statutory requirement or a statutory order issued by a public authority.

## Article 1.9 Intellectual Property, License to Software

1. All intellectual property rights to the Websites, Documentation and Software remain vested exclusively with eLabNext and/or its suppliers, even if certain elements or parts of the Software have been developed specifically for the Customer. The Customer is solely granted the License as set out in the Agreement (including this EULA) and in applicable mandatory law. Unless agreed specifically otherwise in writing, a License is non-exclusive, non-transferable and non-sublicensable.
2. The License grants the Customer the right to use the Software and enable its authorised Users to use the Software for its own business or professional purposes only and always in accordance with the Agreement. The Customer acknowledges that the Software is not intended for use by consumers but only for internal use for Customer's business or professional purposes and within the agreed terms as expressly granted to Customer in the Agreement.
3. The Documentation may only be used in support of Customer's use to the extent permitted under the License.
4. Except to the extent permitted by applicable mandatory law, the Customer may not, and guarantees that its Users will not: i) modify, distribute, prepare derivative works of, reverse engineer, reverse assemble, disassemble, decompile or attempt to decipher any code relating to the Software, ii) knowingly or negligently access or use the Services in a manner that abuses or disrupts the Services, including applicable networks and security systems, other customer's accounts, or iii) use the Services in a manner that is not deemed to be Acceptable Use as set out in the Terms of Use.
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## **Article 1.10 Maintenance and support, Customer Account and Terms of Use**

1. eLabNext's obligations to perform maintenance and support services are at all times limited to the specific services levels as agreed upon and set out in the applicable SLA. Unless explicitly agreed otherwise in writing, eLabNext is never obliged to perform data conversion services.
2. If eLabNext has issued a new version (update) of the Software and made it available to the Customer, the Customer is obliged to use this new version and, if applicable, upgrade their IT System. Previous versions will not be supported. eLabNext cannot be held liable for any limitations or damages as a result of use of a previous version of the Software.
3. The Customer is obliged to inform eLabNext without delay of any (changes in) circumstances that may affect the service levels or availability of the Services, including the Software.
4. The Customer is solely responsible for: i) the configuration of Customer's Account, ii) the operation, performance and security of Customer's equipment, networks and other computing resources used to connect to the Services, iii) maintaining the confidentiality of Customer's Account, User id's, passwords and other User credentials used in conjunction with the Services, including not sharing login information among Users, and iv) all use of the Services that occur using Customer's password(s) or Customer Account. The Customer will notify eLabNext immediately of any unauthorised use of Customer's Account or any other breach of security.
5. The Customer guarantees that the Customer and all its Users will at all times comply with the applicable Terms of Use. All accounts are user-specific and account sharing is not allowed.

## **Article 1.11 Services Trial, Third Party Services and Add-ons**

1. If a Service offered is identified by eLabNext as a services trial or supported trial ("Services Trial"), the Customer may use the Services for a limited period of time for internal demonstration, test or evaluation purposes only. eLabNext provides Services Trials "as is" and without warranty. Any Customer Data uploaded in a Services Trial will be permanently lost unless Customer purchases a succeeding subscription to the same Services as those covered by the Services Trial or exports such Customer Data before the end of the Services Trial period.
2. The Services may contain features or functionalities that enable interoperation with Third Party Services. eLabNext may also provide access to Third Party Services directly within the Services. Third Party Services are not part of the Services and are not



warranted or supported by eLabNext. Customer's use of Third Party Services is the sole responsibility of the Customer and is subject to the terms of the third party provider.

3. The Customer acknowledges that it is solely responsible for and guarantees it will obtain and maintain all user rights and licenses necessary for the use of any Add-on functionality, in particular for interconnections with and authorised use of Third Party Services facilitated by Add-on functionality.
4. eLabNext may release certain functionality in the eLabNext Software or through Add-ons in a beta version. Beta versions of specific features of Software or Add-ons are released to solicit feedback and help test new features or changes to existing features for a future release. eLabNext has no obligation to Customer to further develop or publicly release such features or Add-ons. Beta versions are provided "as-is" without any indemnification, warranty, maintenance, or support of any kind.

## Article 1.12 Customer Data, privacy and backups

1. Customer Data remains the property of the Customer. eLabNext and its subcontractors are entitled to store and process the Data to the extent that this is necessary to provide the Services under the Agreement, to prevent or address technical or security issues or is otherwise allowed in accordance with the Terms of Use.
2. If Customer Data includes personal data, both Parties will comply with their respective obligations under applicable data protection law and, to the extent necessary, will conclude a DPA.
3. The Customer is responsible for the processing of Customer Data and is obliged to assess whether Customer Data, in view of its sensitive nature, is suitable to be processed through or with the use of the Services.

## Article 1.13 Miscellaneous

1. Unless agreed otherwise, the tradename and/or the trademark of the Customer may be used by eLabNext as a reference in commercial promotions.
2. eLabNext is entitled to engage third parties for the provision of the Services under the Agreement.
3. eLabNext may assign the Agreement or any of its rights and obligations under the Agreement to each of its Affiliates without the Customer's consent. The Customer is not allowed to assign the Agreement or any of its rights and obligations under the Agreement to third parties.
4. For the purpose of this EULA, "written" or "in writing" includes e-mail.
5. The Agreement, including this EULA, may not be modified or amended except by written agreement between the Parties.



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6. If any of the provisions of the Agreement are held to be invalid, void or unenforceable by a competent court or authority, the remaining provisions of the Agreement will remain fully applicable and effective. The Parties will agree on a replacement provision that is as closely in keeping as possible with the invalid provision.

## **Article 1.14 Applicable law and disputes**

1. All Agreements concluded between the Parties and the entire legal relationship between the Parties are governed by the laws of the Massachusetts, United States.
2. If the Customer is located within the America's, all disputes arising out of or in connection with the Agreement shall be submitted to the exclusive jurisdiction of the competent court in the state of Massachusetts, United States.



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## SECTION 2. SPECIFIC PROVISIONS REGARDING CLOUD SOLUTION

### Article 2.1 Access to the Software

1. The Customer will be given access to the Software in accordance with the terms of the Agreement.
2. Access will be provided via (one of) eLabNext's Websites.

### Article 2.2 Effects of termination

1. The Customer will not have any further right to access the Cloud Solution or use the Software following termination of the Agreement, unless explicitly agreed otherwise in writing.
2. During a period of one month after termination of the Agreement, eLabNext will support the Customer with exporting Customer Data upon Customer's written request, subject to the Parties' agreement on further terms for such additional services, including applicable fees.

### Article 2.3 Use of the Software

1. The Customer guarantees that the use of the Software by the Customer and its Users and the processing of the Customer Data are not unlawful and that the Software and Customer Data will at all times be used in accordance with the Terms of Use.
2. eLabNext may deny the Customer and its Users access to the Software and Customer Data if:
  - a. Customer (including its Users) have failed to comply with the Terms of Use;
  - b. eLabNext is obliged to do so pursuant to a legal ruling, applicable law or an order to that effect issued by a public authority.
  - c. eLabNext cannot be held liable for damages suffered as a result of a lawful restriction or denial of use of the Services or the lawful removal or disclosure of Customer Data.
3. eLabNext will inform the Customer of an order to remove or disclose Customer Data to the extent allowed under applicable law.
4. eLabNext is only responsible for and obliged to make backups of Customer Data, if specifically agreed upon in writing and solely to the extent as set out in the applicable



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SLA. The Customer will always remain responsible for complying with all applicable statutory obligations regarding record keeping and data retention.

## Article 2.4 Fair Use Policy

1. The use of the Cloud Solution is subject to a Fair Use Policy (“FUP”). The FUP implies that eLabNext can restrict the Customer's data traffic and/or the allocated storage and computing capacity, after first issuing a warning, if, according to the administrative records of eLabNext, the Customer's data traffic and/or use of storage and computing capacity qualifies as excessive use, i.e. 100 times above average. eLabNext has the right to suspend the Agreement, to terminate it or to amend it in accordance with the actual usage if the limit continues to be exceeded after a FUP-warning has been issued three times.
2. eLabNext reserves the right to suspend or terminate the Agreement if above-average data traffic generated by the Customer has adverse effects on its other customers.
3. The use of the Software generates anonymous usage metadata concerning the way the Software is used. eLabNext may use this metadata to improve its Services.



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## SECTION 3. SPECIFIC PROVISIONS REGARDING PRIVATE CLOUD SOLUTION

### Article 3.1 Implementation and access to Software through a Private Cloud Solution

1. After the Agreement has been concluded, the Software will be installed by eLabNext in a Private Cloud Solution with an infrastructure provider chosen and contracted by eLabNext, operating in accordance with professional cyber security standards.
2. The rights and obligations of the Parties in relation to the implementation and installation phase prior to operational use of the Private Cloud Solution are subject to further agreement between the Parties and shall be set out in a separate document such as a project plan. Unless otherwise agreed, the Customer is obliged to test the Software for Problems within 14 days of its delivery. Any Problems will be reported in writing to eLabNext. If the test period has ended and no Problems have been reported, the Software will be deemed to have been accepted. If the Software is not accepted owing to Problems, eLabNext will use Best-Efforts to rectify the Problems within a reasonable period of time. If this does not prove possible, the Customer will have the right to terminate the Agreement.
3. If agreed in writing by the Parties, eLabNext will attend to the implementation of the Software and, if necessary, data conversion. The Customer will provide all information and cooperation needed for this purpose and will make the required facilities available.
4. Access to the Software will be provided via (any of) eLabNext's Websites.

### Article 3.2 Effects of termination

1. The Customer will not have any right to access the Private Cloud Solution or use the Software following termination of the Agreement, unless explicitly agreed otherwise in writing.
2. During a period of two months after termination of the Agreement, eLabNext will support the Customer with exporting Customer Data upon Customer's written request, subject to the Parties' agreement on further terms for such additional services, including applicable fees.



## Article 3.3 Use of the Software

1. The Customer guarantees that the use of the Software by the Customer and its Users and the processing of the Customer Data are not unlawful and that the Software and Customer Data will at all times be used in accordance with the Terms of Use.
2. eLabNext may deny the Customer and its Users access to the Software and Customer Data if:
  - a. Customer (including its Users) have failed to comply with the terms of the Agreement, in particular the Terms of Use;
  - b. eLabNext is obliged to do so pursuant to a legal ruling, applicable law or an order to that effect issued by a public authority;
3. eLabNext cannot be held liable for damages suffered as a result of a lawful restriction or denial of use of the Services or the lawful removal or disclosure of Customer Data. eLabNext will inform the Customer of an order to remove or disclose Customer Data to the extent allowed under applicable law.
4. eLabNext is only responsible for and obliged to make backups of Customer Data, if specifically agreed upon in writing and solely to the extent as set out in the applicable SLA. The Customer will always remain responsible for complying with all applicable statutory obligations regarding record keeping and data retention.

## Article 3.4 Fair Use Policy

1. Unless specifically agreed otherwise in writing, the use of the Private Cloud Solution is subject to a Fair Use Policy (“FUP”). The FUP implies that eLabNext can restrict the Customer's data traffic and/or the allocated storage and computing capacity, after first issuing a warning, if according to the administrative records of eLabNext, the Customer's data traffic and/or use of storage and computing capacity qualifies as excessive use, i.e. 100 times above average. eLabNext has the right to suspend, to terminate or to amend the Agreement in accordance with the actual usage if the limit continues to be exceeded after a FUP-warning has been issued three times and the Customer has refused an offer by eLabNext to upgrade its capacity.
2. eLabNext reserves the right to suspend or terminate the Agreement if above-average data traffic generated by the Customer has adverse effects on its other customers and the Customer has refused an offer by eLabNext to upgrade its capacity.
3. The use of the Software generates anonymous usage metadata concerning the way the Software is used. eLabNext may use this metadata to improve its Services.
4. Storage and computing capacity are kept to the limits defined in the contract with the selected infrastructure provider for the Private Cloud Solution. eLabNext cannot be held liable for problems with the use of the Private Cloud Solution that can be attributed



or are related to insufficient storage and computing capacity. If it is established that there is insufficient storage and computing capacity or if problems arise in this regard, eLabNext will recommend upgrading the capacity. If the upgrade advice is not followed, eLabNext will have the right to suspend the Services or to terminate the Agreement.

## SECTION 4. PROVISIONS REGARDING ON-PREMISE INSTALLATION

### Article 4.1 Implementation of Software on-premise

1. Once the Agreement has been concluded the Software will be installed by eLabNext on the IT System provided by the Customer in accordance with the specific terms for installation, implementation and acceptance as agreed upon by the Parties and set out in in a separate document such as a project plan.
2. The Customer will ensure that his IT System i) is kept up-to-date in accordance with professional standards, including the implementation of all security updates and security patches, and ii) meets or exceeds the system requirements accompanying the most recent version of the Software and any other (technical) requirements as set out in the Technical Specification On-premises Installation.
3. Unless otherwise agreed, the Customer is obliged to test the Software for Problems within 14 days of its delivery. Any Problems will be reported in writing to eLabNext. If the test period has ended and no Problems have been reported, the Software will be deemed to have been accepted. If the Software is not accepted owing to Problems, eLabNext will use Best-Efforts to rectify the Problems within a reasonable period of time. If this does not prove feasible, the Customer will have the right to terminate the Agreement.
4. If agreed in writing by the Parties, eLabNext will attend to the implementation of the Software and, if necessary, data conversion. The Customer will provide all information and cooperation needed for this purpose and will make the required facilities available.
5. eLabNext will implement Software updates in the IT System unless otherwise agreed. If the Customer makes use of an acceptance environment, updates will be installed in this acceptance environment unless otherwise agreed. Following the Customer's acceptance of the update it will be installed in the IT System.
6. The Customer is responsible for backups of its Customer Data. eLabNext has no obligations to perform backups and is not liable for any damages, including any data loss, due to a failure of the Customer to perform backups.



## Article 4.2 Effects of termination

1. Upon termination of the Agreement, the Customer will have no further rights to the Software other than the rights granted under a separately concluded Perpetual License. A Perpetual License is provided 'as-is', without any guarantee and does not include maintenance services, such as software updates and security patches, or support.
2. eLabNext offers the possibility to the Customer to purchase maintenance services in addition to a Perpetual License. Maintenance services include software updates, security patches, critical bug fixes, and customer support. eLabNext is not liable for any damages resulting from a Perpetual License without a valid maintenance services contract.