



TRIALOMICS

SUMMARY OF CONTRACT PACKAGE

In this package you will find the contract forms and other documents relating to your company's license of Trialomics' software and purchase of Trialomics services. Trialomics' software and services are offered to customers pursuant to a Master Software and Support Agreement with one or more corresponding Order Forms. We are happy to answer any questions you may have about these documents, and we look forward to quickly proceeding to contract signing and implementation kick-off. We appreciate the opportunity to do business with you.

CONTRACT DOCUMENTS:

General Terms and Conditions

The General Terms and Conditions contains the general terms and conditions regarding licensing Trialomics' software and Trialomics' provision of services to you, including the legal rules governing the relationship. **Exhibit B** of the Master Software and Support Agreement contains Support Services terms and conditions. **Exhibit C** of the Master Software and Support Agreement contains Service Level Summary terms and conditions.

Initial Order Form and Payment Schedule

The Master Software and Support Agreement will have one more Order Forms attached to it. Each Order Form will describe the software and services to be provided by Trialomics, including the length of license and service terms, key attributes regarding the service, and pricing. An Initial Order Form is included as **Exhibit A**.

ADVANTAGES OF USING TRIALOMICS' FORM CONTRACT:

Contracts with Trialomics' customers are based on the attached Master Software and Support Agreement. We have found that using the form meets the following goals:

- **Speed and simplicity:** Use of the Trialomics form contract significantly expedites the negotiation and execution process. By using this form, we can commit to finalizing a contract quickly.
- **Reflects Trialomics' License model:** Trialomics' form directly corresponds to the nature of the software and services that Trialomics provides (as compared to a traditional contractor/consulting agreement). This ensures that the contract directly reflects our clients' expectations and the type of software and services we will provide.
- **Middle-ground form:** This form is drafted in order to ensure a quick and fair contracting process. We believe that it reflects a middle-of-the road allocation of risk and responsibilities.

HOW TO APPROVE THE CONTRACT

If you want to approve the contract simply do the following:

- **Sign and date the MSA Cover Page:** This acknowledges your acceptance of the terms outlined in the **MSA, Exhibits B and C**.
- **Sign and date the Order Form:** This acknowledges your acceptance of the terms, pricing, and work described in **Exhibits A and D**.
- **Return via Email:** Return the signed copies via email.



**MASTER SOFTWARE AND SUPPORT AGREEMENT
COVER PAGE**

CLIENT INFORMATION	
Client:	Contact:
Address:	Phone:
	Fax:
	Email:

THIS MASTER SOFTWARE AND SUPPORT AGREEMENT is entered into between Trialomics, Inc. ("**Trialomics**") and the client identified above ("**Client**") as of the date this Cover Page is executed by both Parties (the "**Effective Date**") and incorporates: (i) the attached general terms and conditions governing the relationship of the Parties; (ii) each order form executed pursuant to the Trialomics License Agreement, each of which describes the specific software and services to be provided by Trialomics to Client (an "**Order Form**"); and (iii) all other exhibits and attachments expressly incorporated herein (collectively, and as amended from time to time, the "**Agreement**"). Each of Trialomics and Client may be referred to individually as a "**Party**" and together as the "**Parties**."

Trialomics and Client have signed and executed this Agreement effective as of the Effective Date by its duly authorized representatives.

TRIALOMICS, INC.

CLIENT

By:

By:

Name: Brig Mecham

Name:

Title: CEO

Title:

Date: 11/04/2020

Date:

GENERAL TERMS AND CONDITIONS

RECITALS

WHEREAS, Trialomics has developed a certain cloud-based platform-as-a-service; and

WHEREAS, Client wishes to license the software for its internal business purposes under the terms and conditions of this Agreement.

NOW, therefore, the Parties agree as follows:

AGREEMENT

1. LICENSE

1.1 License Grant. Subject to the terms of this Agreement, the applicable Order Form, and payment of all fees, Trialomics hereby grants Client a limited, non-exclusive, non-transferable, and non-sublicensable license to use Trialomics' Picard software product (the "**Trialomics Software**") strictly in accordance with the related user documentation ("**Documentation**") and any terms and procedures Trialomics may prescribe from time to time, and solely for Client's internal business purposes. Any and all updates, customizations, configurations, new builds, and patches, whether or not requested or paid for by Client, to the Trialomics Software that Client receives from Trialomics now or in the future shall be deemed to constitute Trialomics Software and shall be subject to the terms and conditions of this Agreement; provided, that the issuance or release of any such updates, customizations, configurations, new builds, or patches shall not modify or otherwise affect the term of any express warranty provided herein.

1.2 Prohibitions. Client shall not, directly or indirectly, or allow any third party to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Trialomics Software; (ii) modify, translate, or create derivative works based on any element of the Trialomics Software or any related documentation; (iii) rent, lease, distribute, sell, resell, assign, or otherwise transfer its rights to use the Trialomics Software; (iv) use the Trialomics Software for any purpose other than as expressly permitted by the license grant set forth herein and in the Order Form, or for the benefit of any person or entity other than for the benefit of Client; (v) remove any proprietary notices from Trialomics materials furnished or made available to Client or otherwise alter or delete copyright, trademark, or other proprietary rights notices of Trialomics; (vi) publish or disclose to third parties any evaluation of the Trialomics Software without Trialomics' prior written consent; (vii) copy, frame or mirror any part of the Trialomics Software, other than copying or framing in approved AWS accounts; (viii) access the Trialomics Software in order to build, or provide any assistance in the development of, a competitive product or service, or copy any features, functions, or graphics of the Trialomics Software; (ix) use the Trialomics Software to store or transmit malicious code; (x) interfere with or disrupt the integrity or performance of the Trialomics Software or any data contained therein; or (xi) attempt to gain unauthorized access to the Trialomics Software or its related data, systems, or networks.

2. PROPRIETARY RIGHTS

2.1 Software and Documentation. As between the parties, Trialomics owns all right, title, and interest, including all intellectual property rights, in and to the Trialomics Software and the Documentation. Client acknowledges and agrees that the Trialomics Software is licensed and not sold and that the license granted in this Agreement only gives Client the right to use the Trialomics Software and Documentation in accordance with the terms and conditions of this Agreement. Any modification, enhancement, derivative work, or other improvement based upon the Trialomics Software, Documentation, or services provided hereunder or any custom software, developments, or other deliverables related to the Trialomics Software, Documentation or services provided hereunder, whether developed by Trialomics or Client, , whether paid for by Trialomics or Client, will be Trialomics's exclusive property and Client hereby irrevocably and in perpetuity assigns to Trialomics all worldwide rights, title, and interest therein,

including but not limited to any copyright, patent right, moral right, and all other intellectual property rights.

2.2 Client Data. As between the parties, Client owns all data and information that Client accesses with or stores using the Trialomics Software ("**Client Data**"). To the extent Client Data is within Trialomics' possession, custody, or control, Trialomics may access Client's account and Client Data from time to time in order to perform its obligations under this Agreement, including, without limitation, providing support, performing account administration, generating invoices with respect to Client's use of the Trialomics Software, and evaluating and improving the Trialomics Software. Client is solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of Client Data. Trialomics assumes no responsibility, and will have no liability, for the deletion, correction, destruction, loss, or infringement of any Client Data; provided, that, solely in the event Trialomics hosts and manages Client's instance of the Trialomics Software on Trialomics' cloud resources on behalf of Client, Client understands and agrees that Trialomics will only be liable for unauthorized disclosure of Client Data (i.e. data breach) to the extent such unauthorized disclosure is solely attributable to Trialomics' acts or omissions. Notwithstanding the foregoing, Trialomics assumes no responsibility, and will have no liability, for compliance with any data protection procedures for Client Data according to federal, state, and local laws, rules, or regulations where Client Data is acquired, stored, or accessed, including for data that is stored, accessed, or transmitted using Trialomics Software. Client is responsible, and will indemnify Trialomics, for any fees, penalties, administrative proceedings, or other actions arising out of Client's violation of any such applicable law, rule, or regulation.

2.3 Aggregate Information. Trialomics owns the aggregated and statistical data that it may derive from the operation of the Trialomics Software, including, without limitation, information related to the performance, operation, and use of the Trialomics Software ("**Aggregated Data**") and Trialomics may use such Aggregated Data to improve and develop new features for the Trialomics Software and to resolve errors and other Trialomics Software issues.

2.4 Open Source. Open source software, if any, is licensed pursuant to the terms of the applicable open source licenses, not this Agreement.

2.5 Feedback. Client acknowledges and agrees that it may be providing certain feedback, statements, suggestions, and ideas ("**Feedback**") to Trialomics, directly or through a third party, in connection with use of the Trialomics Software, which Trialomics may use in future modifications to the Trialomics Software, multimedia works, and advertising and promotional materials relating thereto. Client hereby assigns to Trialomics any and all right, title, and interest in any Feedback, including but not limited to any copyright, patent right, moral right, and all other intellectual property rights. Client acknowledges and agrees that submission of Feedback to Trialomics, either orally or in writing, will not in any way establish a confidential relationship with Trialomics, nor will it place Trialomics in the position of receiving a disclosure in trust. Trialomics will not be obligated and makes no commitment to treat or maintain as confidential any Feedback which Client submits as confidential or otherwise. Client will not receive any type of payment or remuneration from Trialomics for Feedback. Except for Client Data, Client agrees that all documents and materials submitted to Trialomics will become Trialomics' property unless Trialomics agrees otherwise in writing. No obligation is assumed or will be implied on the part of Trialomics by receipt or examination of the Feedback or use of the Feedback to compensate Trialomics or otherwise enter into another agreement with Client.

2.6 No Implied Rights. All rights not expressly granted to Client by Trialomics are reserved by Trialomics. There are no implied rights.

3. ORDER FORM: COMPENSATION AND PAYMENT

3.1 Order Form. Client will procure the Trialomics Software and additional services using an Order Form that references this

Agreement. An Order Form will be binding upon Trialomics and Client upon signature by both parties. An Order Form is incorporated into this Agreement by this reference. The initial Order Form issued under this Agreement is attached to this Agreement as **Exhibit A**. Additional Order Forms may be entered into after the Effective Date and shall be effective upon execution by both Parties. In the event of a conflict between the terms and conditions of this Agreement and those of an Order Form, the terms and conditions of this Agreement will control; provided, however, that to the extent any Order Form includes terms and conditions not addressed in this Agreement or not in conflict with the terms and conditions of this Agreement, then such terms and conditions will supplement and be a part of this Agreement. An Order Form will amend this Agreement only if the Order Form expressly cites and amends a specific term or condition of this Agreement.

3.2 Fees. As consideration for the license and other rights granted herein by Trialomics to Client, Client will pay Trialomics the fees identified in each Order Form. All fees payable hereunder are in U.S. Dollars. Client shall pay all fees payable pursuant to this Agreement within 30 days following Client's receipt of an invoice.

3.3 Applicable Taxes. Client agrees to pay all taxes or levies of whatever nature arising out of or in connection with this Agreement or any other activities hereunder, excluding taxes based on Trialomics' net income. Client will reimburse and indemnify Trialomics in full for any of the foregoing taxes or levies that are paid by Trialomics for which Client is responsible hereunder. If Client is required by law to withhold or deduct any amount from the fees, Client will increase the fees paid to Trialomics such that Trialomics receives the full amount of fees specified under this Agreement. If Client asserts that any transaction under this Agreement is tax exempt, Client will provide Trialomics a tax exemption certificate acceptable to the applicable taxing authority.

3.4 Late Payments. Any amounts payable by Client to Trialomics under this Agreement which remain unpaid after the due date will be subject to a late payment charge equal to the lesser of 1.5% of the amount due per month or the maximum charge permitted by law, from the due date until such amount is paid. In the event that payment that is properly owed under this Agreement is not made when due, Client will be in material default under the terms of this Agreement and Trialomics may invoke any or all available remedies, including the right to suspend its performance under this Agreement. Client will reimburse Trialomics for all costs and expenses incurred by Trialomics arising from Trialomics' collection of amounts due under this Agreement, including, without limitation, reasonable attorneys' fees.

3.5 Record Keeping; Audit Right. Client shall keep records relating to its license and use of the Trialomics Software. Trialomics may, in its sole discretion and solely in order to confirm compliance with this Agreement, inspect and audit Client's use of the Trialomics Software at any time during the term of this Agreement and for three years thereafter. Upon written notice and during regular office hours, Client shall make available such equipment, information, and personnel reasonably required by Trialomics to perform such audit.

3.6 Invoice Disputes. If Client disputes in good faith any portion of an invoice or any other amount due under this Agreement, Client shall notify Trialomics in writing within 30 days after receipt of the invoice with an explanation of the nature of the dispute. Unless a written notice of a dispute as to invoiced or due amounts is received by Trialomics within such 30-day period, the invoice or amount due shall be deemed correct and payable in full by Client.

4. INSTALLATION, TRAINING, AND MAINTENANCE

4.1 Installation. The Trialomics Software shall only be installed in an AWS account as specified in an Order Form.

4.2 Training. Trialomics will provide training services to Client personnel for the fees as set forth in an Order Form.

4.3 Support, Maintenance, and Updates. Trialomics will provide support and maintenance services for the Trialomics Software as described in **Exhibit B** ("**Support Services**"). Client will pay Trialomics the fees for Support Services as provided in the applicable

Order Form. The Support Services term begins on the effective date of this Agreement with a term of 1 year. Support Services will renew automatically for succeeding 1 year terms unless Client provides notice of intention not to renew at least 30 days prior to the expiration of the then-current term. Trialomics may elect, with no less than 60 days' prior notice to the expiration of the then-current Support Services term, to increase the Support Services fees, in which case Client may elect to forego further Support Services for the Trialomics Software. Trialomics may elect, with no less than 60 days' prior notice to the expiration of the then-current Support Services term, to stop providing Support Services for such Trialomics Software.

4.4 Cessation of Support. If Support Services expire or are terminated for any reason, Support Services may be reinstated only upon Trialomics' written agreement; provided, however, that upon any such renewal, Client will (i) pay to Trialomics (together with Support Services fees for the renewal Support Services term) an amount equal to the Support Services fees that Client would have paid during the period between the date of expiration or termination and the date of reinstatement, and (ii) apply all upgrades, enhancements, and new releases to the Trialomics Software needed to bring Client's Trialomics Software current with Trialomics' most current supported version of the Trialomics Software. Trialomics will have no liability to Client for any damages arising from or related to Trialomics' cessation of Support Services in the event Client does not renew Support Services before the expiration of a Support Services term.

4.5 Additional Support Services. Trialomics has no obligation to service or maintain the Trialomics Software following installation, except to the extent required pursuant to the warranty set forth in Section 5 or as expressly set forth in an Order Form, unless both the license for the Trialomics Software remains effective and the Support Services fee has been paid. Services provided by Trialomics beyond the scope of Support Services outlined in **Exhibit B** will be performed only upon mutual agreement on tasks and scope by Trialomics and Client, and Trialomics reserves the right to charge additional fees according to its then standard hourly rates for services as listed in the most recently executed Order Form.

5. WARRANTY

5.1 Limited Warranty. Trialomics warrants that for a period of 90 days from the Effective Date of this Agreement ("**Limited Warranty Period**"), the Trialomics Software will substantially conform in all material respects to this Agreement and the applicable Documentation supplied by Trialomics (as may be updated from time to time by Trialomics). This limited warranty: (i) applies to Client only and may be acted upon only by Client; (ii) does not apply in the event of any alteration of the Trialomics Software or any use of the Trialomics Software other than as permitted hereby or in accordance with the installation, operation, and other instructions in the Documentation; and (iii) does not apply any information or data originating from third parties and enabled through the Trialomics Software.

5.2 Remedies. If during the Limited Warranty Period Client notifies Trialomics in writing that the Trialomics Software is noncompliant with the limited warranty set forth in Section 5.1, and Trialomics determines the Trialomics Software is noncompliant with the limited warranty, then Client's exclusive remedy and Trialomics' sole obligation with respect to the noncompliant Trialomics Software will be, at Trialomics' option and expense: (i) use reasonable efforts to provide a correction or a workaround for any reproducible errors or other noncompliance; (ii) replace the Trialomics Software; or if the foregoing options are not commercially reasonably viable; (iii) terminate this Agreement and refund the license fees paid to Trialomics for the noncompliant Trialomics Software. Upon such termination Client will immediately discontinue to use and return to Trialomics such Trialomics Software and associated Documentation as provided in Section 8.5. To be eligible for a remedy under this section, at law or in equity, Client must report all warranted problems to Trialomics in writing within the Limited Warranty Period.

5.3 Warranty Disclaimers. TRIALOMICS HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS,

IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY AND THOSE ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, AND USAGE OF TRADE. TRIALOMICS DOES NOT WARRANT THAT (A) THE TRIALOMICS SOFTWARE AND ANY SERVICES PROVIDED BY TRIALOMICS SHALL MEET CLIENT'S NEEDS OR REQUIREMENTS, (B) ACCESS TO OR THE OPERATION OF THE TRIALOMICS SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, (C) THE TRIALOMICS SOFTWARE WILL BE ALWAYS AVAILABLE OR AVAILABLE AT ANY PARTICULAR TIME, (D) DEFECTS IN THE TRIALOMICS SOFTWARE WILL BE CORRECTED, (E) ALL MALWARE WILL BE IDENTIFIED, OR (F) ERRONEOUS REPORTS WILL NOT BE PROVIDED. EXCEPT AS EXPRESSLY STATED IN THE DOCUMENTATION, THE TRIALOMICS SOFTWARE AND ANY SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED TO CLIENT ON AN 'AS IS' AND 'WITH ALL FAULTS' BASIS.

6. LIMITATION OF LIABILITY

6.1 Limitation of Liability. IN NO EVENT SHALL TRIALOMICS' TOTAL LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT PAID BY CLIENT TO TRIALOMICS IN THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

6.2 Consequential Damages Waiver. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, ARISING OUT OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS OR DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.

7. INDEMNIFICATION

7.1 Indemnification Obligation. Trialomics shall (i) defend, indemnify and hold Client harmless from and against all claims and causes of action arising out of an allegation that the Trialomics Software infringes a third party copyright or trademark and (ii) pay the resulting cost and damages finally awarded against Client by a court of competent jurisdiction or the amount stated in a settlement agreed in writing by Trialomics.

7.2 Indemnification Procedure. Client must provide Trialomics with (i) prompt written notice of such claim or action; (ii) the right to control and direct the investigation, preparation, defense, and settlement of the action; and (iii) reasonable assistance and information with respect to the claim or action.

7.3 Remedy. In the event that the Trialomics Software becomes the subject of a claim (or Trialomics reasonably believes that the Trialomics Software is likely to become the subject of a claim), then Trialomics may, in its sole discretion, (i) obtain the right for Client to continue to use the Trialomics Software; (i) replace or modify the Trialomics Software so that it no longer infringes but functions in a materially equivalent manner; or (iii) if Trialomics reasonably determines that neither of the alternatives in clauses (i) or (ii) is reasonably available, terminate this Agreement and refund any prepaid fees pro rata for the Trialomics Software.

7.4 Exclusions. This section shall not apply to infringement or misappropriation claims arising in whole or in part from (i) designs, specifications or modifications originated or requested by Client; (ii) the combination of the Trialomics Software or any part thereof with other equipment, software, or products not supplied by Trialomics if such infringement or misappropriation would not have occurred but for such combination; or (iii) Client's failure to install a maintenance update, where same would have avoided such claim.

7.5 Sole Remedy. THIS SECTION STATES CLIENT'S SOLE AND EXCLUSIVE REMEDY AND TRIALOMICS' ENTIRE LIABILITY FOR THIRD PARTY INFRINGEMENT CLAIMS.

8. TERM AND TERMINATION

8.1 Term. This term of this Agreement shall begin on the Effective Date and, unless terminated sooner as provided herein, will continue in full force and effect for the Term as specified in the Order Form.

8.2 Termination by Client. Client may terminate this Agreement effective 30 days after written notice to Trialomics in the event that Trialomics breaches any material provision of this Agreement and has not cured such breach within such 30 day period, or such longer period as reasonably necessary to cure such breach.

8.3 Termination by Trialomics. Trialomics may terminate this Agreement: (i) if Client fails to pay any amount when due under this Agreement, where such failure continues for more than 15 days after Trialomics' delivery of written notice thereof; (ii) at any time upon written notice if Client breaches any provision of Sections 1 or 2; (iii) effective 30 days after written notice to Client in the event that Client breaches any material provision of this Agreement and has not cured such breach within such 30 day period, or such longer period as reasonably necessary to cure such breach.

8.4 Termination by Either Party. Either Party may terminate this Agreement if: any distress or execution is levied on any of the other Party's property or assets; (ii) the other party makes or offers to make any arrangement or composition with creditors; (iii) any resolution or petition to wind up the other Party's business is passed or presented or if a receiver or administrative receiver of such Party's undertaking, property or assets is appointed or a petition presented for the appointment of an administrator or, if an individual, such Party has a bankruptcy order made against him or her; or (iv) the other Party is subject to any proceedings, which are equivalent or substantially similar to any of the proceedings under sub-clause (i), (ii) or (iii) under any applicable jurisdiction.

8.5 Effect of Termination. Upon termination or expiration of this Agreement, Client shall cease all access to the Trialomics Software and return or destroy all Trialomics materials in Client's possession or control, including any copies of the Trialomics Software furnished to Client. Termination of this Agreement for any reason will not excuse Client's obligation to pay in full any and all amounts due to Trialomics.

8.6 Survival. The definitions in this Agreement and the rights, duties and obligations of the parties that, by their nature, continue and survive will survive termination or expiration of this Agreement.

9. CONFIDENTIAL INFORMATION

9.1 Definition. "Confidential Information" means all non-public information, whether in oral, written, or other tangible or intangible form, of a Party that is disclosed to the other Party under this Agreement that the discloser designates as being confidential or which, under the circumstances surrounding disclosure, the recipient knows or reasonably should know is confidential to the discloser. Trialomics Confidential Information includes, without limitation, the Trialomics Software (including all non-public Documentation), all Documentation and any studies or reports concerning its features, performance or operation, and the terms and conditions of this Agreement. Client Confidential Information includes the Client Data.

9.2 Obligations. Each Party, as recipient, shall not use the other party's Confidential Information except as necessary to exercise rights under or perform this Agreement and shall not disclose Confidential Information to any third party. Without limiting the generality of the foregoing, Client shall not disclose the existence, features, capabilities, or performance of the Trialomics Software. A Party shall promptly notify the other of any unauthorized disclosure or use of Confidential Information that comes to its attention. The recipient shall assist the discloser in remedying the unauthorized use or disclosure.

9.3 Exceptions. The obligations set forth in this Section 9 do not apply to Confidential Information which: (i) is already known to the recipient at the time of disclosure; (ii) is, or, through no act or failure to act of the recipient, becomes, publicly known; (iii) is received by the recipient from a third party without restriction on disclosure; (iv) is approved for release by written authorization of the discloser; or (v) is independently developed by the recipient without the use of or reference to the discloser's Confidential Information. A disclosure of Confidential Information by the recipient pursuant to a proper order of a court of competent jurisdiction will not be a breach of this Section 9, on condition that the recipient uses diligent efforts to minimize the disclosure and consults with, and assists the discloser in obtaining, a protective order narrowing the scope of the compelled disclosure and protecting its confidentiality.

10. COMPLIANCE WITH LAW. Client shall not use the Trialomics Software in violation of applicable laws or regulations and Client shall indemnify and hold Trialomics harmless from and against claims, losses, costs, or liability, arising in connection with Client's breach of this Agreement. Client represents and warrants that it is not located in, or under the control of, or a national or resident of, a country as to which the United States and/or the European Union maintains an embargo or a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders.

11. GENERAL

11.1 Governing Law and Jurisdiction. The laws of the State of Washington govern all matters arising out of this Agreement. Any and all disputes between the parties arising under or in connection with this Agreement, which cannot amicably be resolved by the parties, shall be resolved exclusively in the state and federal courts located in King County, Washington, with the exception that a party shall have the right to seek a temporary or permanent injunction or other equitable remedy or relief in any court having subject matter jurisdiction anywhere in the world. Each party hereby expressly consents to the service of process in connection therewith and irrevocably waives any objections to the jurisdiction of such courts on any grounds, including without limitation, forum non conveniens. Any judgment or award by such courts may be entered and enforced by any court having jurisdiction over the parties or their assets.

11.2 Assignment. Except in the case of an assignment involving the acquisition of the Client (either by merger, sale of all or substantially all of the stock or assets of Client or otherwise), Client shall not, by operation of law or otherwise, assign its rights or delegate any performance under this Agreement to any third party (including its affiliates) without the prior written consent of Trialomics, and any attempt to assign or delegate in violation of the foregoing is void. Subject to the foregoing, this Agreement is binding on, and will inure to the benefit of, the parties of this Agreement and their respective successors and permitted assigns.

11.3 Severability. If any provision of this Agreement is held invalid or unenforceable for any reason, the remainder of the provision will be amended to achieve as closely as possible the economic effect of the original provision and all other provisions shall continue in full force and effect.

11.4 Amendment; Waiver. This Agreement may be amended or supplemented only by a writing that is signed by duly authorized representatives of both parties. No term or provision hereof shall be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. No consent by a party to, or waiver of, a breach by the other party, whether express or implied, shall constitute that party's consent to, waiver of, or excuse of any other, different, or subsequent breach by the other party.

11.5 Independent Contractor. The relationship between the Parties will at all times be that of independent contractors and not one of agency, partnership, or joint venture.

11.6 Entire Agreement. This Agreement (including all Order Forms issued hereunder) constitutes the entire agreement between the parties relating to this subject matter and supersedes all prior or simultaneous understandings, representations, discussions, negotiations, and agreements, whether written or oral, with respect to such subject matter.

11.7 Force Majeure. Trialomics will not be liable hereunder by reason of any failure or delay in the performance of this Agreement on account of strikes, shortages, riots, acts of terrorism, insurrection, fires, flood, storm, explosions, acts of nature, war, governmental action, labor conditions, power outages, earthquakes, or any other cause which is beyond its reasonable control.

11.8 Remedies Cumulative. All remedies available to a party are cumulative and may be exercised concurrently or separately; the exercise of any remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

11.9 Publicity. Trialomics may identify Client as a Trialomics customer and use the Client name and logo for marketing purposes and securities compliance, and may further publicly disclose generalized details regarding the services provided to Client for press releases and other marketing purposes. Additionally, Client commits to participate in, and contribute to, a case study, press release and other similar written or visual media that may be distributed to the public regarding Client's relationship with Trialomics and Trialomics' services provided hereunder.

11.10 Notices. All notices relating to this Agreement shall be in writing and addressed, If to Client, to the mailing and/or email address set forth on the Cover Page, and if to Trialomics, as follows:

Trialomics, Inc.
1744 Garden St
San Luis Obispo, CA 93401
Email: brig@trialomics.com

Notice will be deemed given upon: (i) personal delivery or delivery confirmed by an overnight courier or (ii) recipient's acknowledgement of receipt if sent by email.

11.11 No Third Party Beneficiaries. The Parties acknowledge that the covenants set forth in this Agreement are intended solely for the benefit of the Parties, their successors and permitted assigns. Nothing herein, whether express or implied, will confer upon any person or entity, other than the Parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of this Agreement.

11.12 Anti-Corruption. Client confirms that neither it, nor any of its employees or representatives, has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any Trialomics employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

11.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed to be an original and all of which when taken together will constitute one Agreement. A copy of this Agreement delivered by email or other electronic means shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

11.14 Interpretation. Each Party acknowledges that it has had the opportunity to review this Agreement with legal counsel of its choice and agrees that in the event that this Agreement or any other documents delivered in connection with the transactions contemplated by this Agreement contain any ambiguity, such ambiguity shall not be construed or interpreted against the drafting party. The headings in this Agreement are inserted merely for the purpose of convenience and will not affect the meaning or interpretation of this Agreement. The terms "include", "includes" and "including" shall be deemed followed by the words "without limitation," and the term "or" is not exclusive. The words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. This Agreement shall be construed without

regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

EXHIBIT A
ORDER FORM

Client Information	
Client:	Contact:
Address:	Phone:
Email:	Fax:
Billing Information (if different):	
Billing Contact Name:	Billing Contact Email:
Billing Contact Phone:	Billing Contact Fax:

Order Information	
Order Form Effective Date:	
Product:	
License Type (check appropriate box):	<input checked="" type="checkbox"/> Subscription License f
Services Quantity:	Subscription License Fees:

Services Description:	
Services Quantity:	
Fees and Payment Timing:	

Terms & Conditions:	
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Client and Trialomics have signed and executed this Order Form effective as of the Effective Date by their authorized representatives.

TRIALOMICS, INC.

By:

Name: Brig Mecham

Title: CEO

Date: 11/04/2020

CLIENT

By:

Name:

Title:

Date:

EXHIBIT B

SUPPORT SERVICES TERMS AND CONDITIONS

Capitalized terms not defined in Section 5 below have the same meaning as in the Agreement. Trialomics is obligated under this **Exhibit B** only with respect to the Trialomics Software specified in an applicable Order Form and only during the term of an active and fully-paid annual maintenance fee as described in Section 4 of the Agreement.

1. UPDATES AND UPGRADES. As they become available, Trialomics will make available for download and/or installation updates and version upgrades at no additional charge.

2. SUPPORT SERVICES. Support Services consist of (a) Error Correction and Telephone Support provided to a technical support contact concerning the installation and use of the then current release of the Trialomics Software and the Previous Sequential Release; and (b) updates that Trialomics in its discretion makes generally available without additional charge.

- Upon termination, Trialomics will provide all copies of Customer data in JSON format and written certification that Trialomics has deleted all data generated under this agreement.

- Trialomics will make their internal policies and procedures and periodic ledger logs available during a quarterly Customer- Trialomics HIPAA review meeting.

3. ERROR PRIORITY LEVELS. Trialomics shall exercise commercially reasonable efforts to correct any Error reported by Client in the current unmodified release of the Trialomics Software in accordance with the priority level reasonably assigned to such Error by Trialomics.

- **Priority A Errors** - Trialomics shall promptly commence the following procedures: (i) assign Trialomics engineers to correct the Error; (ii) notify Trialomics management that such Errors have been reported and of steps being taken to correct such Error(s); (iii) provide Client with periodic reports on the status of the corrections; and (iv) initiate work to provide Client with a Workaround or Fix.

- **Priority B Errors** - Trialomics shall exercise commercially reasonable efforts to include the Fix for the Error in the next regular Trialomics Software maintenance release.

- **Priority C Errors** - Trialomics may include the Fix for the Error in the next major release of the Trialomics Software.

If Trialomics believes that a problem reported by Client may not be due to an Error in the Trialomics Software, Trialomics will so notify Client. At that time, Client may (1) instruct Trialomics to proceed with problem determination at its possible expense as set forth below, or (2) instruct Trialomics that Client does not wish the problem pursued at its possible expense. If Client requests that Trialomics proceed with problem determination at its possible expense and Trialomics determines that the error was not due to an Error in the Trialomics Software, Client shall pay Trialomics, at Trialomics' then-current and standard consulting rates, for all work performed in connection with such determination, plus reasonable related expenses incurred therewith. Client shall not be liable for (i) problem determination or repair to the extent problems are due to Errors in the Trialomics Software; or (ii) work performed under this paragraph in excess of its instructions; or (iii) work performed after Client has notified Trialomics that it no longer wishes work on the problem determination to be continued at its possible expense (such notice shall be deemed given when actually received by Trialomics). If Client instructs Trialomics

that it does not wish the problem pursued at its possible expense or if such determination requires effort in excess of Client's instructions, Trialomics may, at its sole discretion, elect not to investigate the error with no liability therefor.

4. EXCLUSIONS. Trialomics shall have no obligation to support: (i) altered or damaged Trialomics Software or any portion of the Trialomics Software incorporated with or into other software; (ii) Trialomics Software that is not the then current release or immediately Previous Sequential Release; (iii) Trialomics Software problems caused by Client's negligence, abuse, or misapplication, use of the Trialomics Software other than as specified in the Trialomics' documentation or other causes beyond the control of Trialomics; or (iv) Trialomics Software installed on any hardware that is not supported by Trialomics.

5. DEFINITIONS.

- **"Error"** means an error in the Trialomics Software that significantly degrades such Trialomics Software as compared to the Trialomics published performance specifications contained in the user documentation.

- **"Error Correction"** means the use of reasonable commercial efforts to correct Errors.

- **"Fix"** means the repair or replacement of object or executable code versions of the Trialomics Software to remedy an Error.

- **"Previous Sequential Release"** means the release of the Trialomics Software which has been replaced by a subsequent release of the same Trialomics Software. Notwithstanding anything else, a Previous Sequential Release will be supported by Trialomics only for a period of six (6) months after release of the subsequent release.

- **"Priority A Error"** means an Error which renders the Trialomics Software inoperative or causes such Trialomics Software to fail catastrophically.

- **"Priority B Error"** means an Error which substantially degrades the performance of the Trialomics Software or materially restricts Client's use of such Trialomics Software.

- **"Priority C Error"** means an Error which causes only a minor impact on the Client's use of the Trialomics Software.

- **"Support Services"** means Trialomics support services as described in Section 3.

- **"Telephone Support"** means technical support telephone assistance provided by Trialomics to the Technical Support Contact during normal business hours concerning the installation and use of the then current release of the Trialomics Software and the Previous Sequential Release.

- **"Workaround"** means a change in the procedures followed or data supplied by Client to avoid an Error without substantially impairing Client's use of the Trialomics Software.

6. DISCLAIMER. THESE TERMS AND CONDITIONS CONSTITUTE A SERVICE CONTRACT AND NOT A

PRODUCT WARRANTY. ALL PRODUCTS AND MATERIALS RELATED THERETO ARE SUBJECT EXCLUSIVELY TO THE WARRANTIES SET FORTH IN THE AGREEMENT. THIS ATTACHMENT IS AN ADDITIONAL PART OF THE AGREEMENT AND DOES NOT CHANGE OR SUPERSEDE ANY TERM OF THE AGREEMENT EXCEPT TO THE EXTENT UNAMBIGUOUSLY CONTRARY THERETO.

Exhibit C – Service Level Summary

- 1. Picard Software Availability Commitment.** Trialomics' Picard Software availability commitment is to provide Client the ability to access the Picard Software 99.9% of the time. This commitment does not constitute a warranty or guarantee, and the Picard Software and Picard Software availability are subject to the limitation of warranties as provided in this Agreement.
- 2. Scheduled Maintenance.** "Scheduled Maintenance" will mean any maintenance of the Picard Software or Amazon Web Services hosting environment: (a) of which Client is notified thirty-six (36) hours in advance; (b) that is performed during a standard maintenance window from 12AM to 4AM at the time zone of the applicable Amazon Web Services data center, unless otherwise advised by Trialomics to Client; and/or (c) that is performed during an agreed upon maintenance window. Notice of Scheduled Maintenance will be provided to Client's designated point of contact by email. It is Client's obligation to make sure Trialomics has Client's correct contact information.
- 3. Urgent Maintenance.** "Urgent Maintenance" will mean efforts to correct Picard Software conditions that are likely to cause a material outage of the Picard Software and that require immediate action outside a Scheduled Maintenance window. Trialomics may undertake Urgent Maintenance at any time it deems necessary and will provide notice of Urgent Maintenance to Client as soon as is commercially practicable under the circumstances. Urgent Maintenance will entitle Client to service credits as set forth in Section 5 below.
- 4. Outage.** An "Outage" will mean any thirty (30) consecutive minutes during which Client is unable to access the Picard Software.
- 5. Service Credits.** Client may obtain service credits if Trialomics fails to meet any of the service commitments described in this Service Level Summary. The service credit(s) are limited to an amount equal to the then-current equivalent monthly recurring fees for the Picard Software, which will be determined on a pro rata basis for annual license fees, if appropriate (the "Equivalent Monthly Fee"). In order to receive a service credit, Client must notify Trialomics' support within twenty-four (24) hours of an Outage, or within thirty (30) calendar days of Trialomics' failure to meet any other service commitment as provided in this Service Level Summary. Trialomics will verify the service commitment violation described in each case. Client must submit a written request for a service credit, including the case number, to Trialomics within five (5) calendar days of opening the case. The service credits are Client's sole and exclusive remedy in the event of Trialomics' failure to meet any of the service commitments provided in this Service Level Summary, and any other terms of this Agreement to the contrary notwithstanding, any liability of Trialomics to Client or any third party for any failure of Trialomics to meet any of such service commitments will not exceed an amount equal to the applicable service credits.
- 6. Service Credit Exceptions.** Service credits will not be issued when the Picard Software is unavailable as a result of the following "Excluded Outages": (a) Scheduled Maintenance; (b) interruptions caused by the negligence, error, or omission of Client or Client's users; (c) Client's applications, equipment, facilities, or Client's connection to the Internet; (d) acts or omissions of Client or any misuse of the Picard Software; (e) reasons of force majeure; (f) interruptions arising from Client's use of the Picard Software in an unauthorized or unlawful manner or in violation of this Agreement; (g) interruptions arising from a Trialomics disconnect for non-payment or an interruption due to improper or inaccurate network specifications provided by Client; (h) interruptions during any period when Client or other user has released the Picard Software or Amazon Web Services hosting environment to Trialomics for maintenance or rearrangement purposes, or for the installation of a Client service order; (i) interruptions during any period when Client elects not to release the Picard Software for testing or repair and Client continues to use the Picard Software on an impaired basis; or (j) interruptions in Amazon Web Services unrelated to Picard Software or any acts or omissions on the part of Trialomics.
- 7. Calculation.** Picard Software availability consists of the number of minutes in a month that the Picard Software was available less unavailable minutes due to an Outage. An Outage will not include an Excluded Outage. An Outage will also not include any inability of Client to access or interact with the Picard Software arising from Client's failure to meet any Client responsibilities provided in this Agreement including, without limitation, in this Service Level Summary. The calculation for Picard availability is: $100 * (1 - (\text{Sum of Outage Duration} / \text{Total Available Time}))$
- 8. Software Service Availability Remedy.** In the event that, for a particular month, the Software Service availability falls below the commitment set forth above, Client will receive a service credit for the Picard Software affected for such month in accordance with the following calculation:
 $20\% * (\text{Current Equivalent Monthly Fee} - \text{Any credit for other remedies applied for that particular Picard Software})$
- 9. Data Backup and Recovery.** Data is backed up locally and replicated daily and retained for at least seven (7) calendar days. Backups are tested periodically for data integrity.
- 10. Picard Support.** Each Client has access to:
 - a) Support for published and released standard technical functionality, including comprehensive online support documentation.
 - b) Access to Trialomics support services as described in EXHIBIT B "SUPPORT SERVICES TERMS AND CONDITIONS", including version releases and software patches of the Picard Software, as appropriate.
 - c) Support for an unlimited number of Picard Software availability incidents per year.
- 11. Client Picard Support Responsibilities.** In addition to the Client's responsibilities as set forth in the Agreement between Trialomics and Client for the Picard Software, Client will be solely responsible, at Client's expense, to:
 - a) Notify Trialomics immediately of any support or maintenance issues.
 - b) Train users on use of the Picard Software.
 - c) Be familiar with and leverage the use of Trialomics' online documentation.
 - d) Apply all upgrades, enhancements, new version releases, and software patches in a timely manner.
 - e) Designate a key contact for Picard support communications.
 - f) In the event it is required for a support issue, provide Trialomics with timely access, remote, and/or on site, to Client's facilities and/or Amazon Web Services account, including the Client facilities, with which Picard Software interfaces, and/or upon which Picard Software relies.
 - g) Provide Trialomics timely return of requested troubleshooting data in order to perform root cause analysis for support issues being experienced with the Picard Software.
 - h) Cause the Client Amazon Web Services instances to meet and comply with the specifications and requirements set forth in Trialomics' technical specifications, and otherwise assume responsibility for all standard IT/IS infrastructure requirements, including the purchase, maintenance, administration and service of

hardware and software with which the Picard Software interfaces,
and/or upon which the Picard Software relies.