

AGENDIA

ADAPT-CE TERMS OF SERVICE

Terms of Service

Agendia, N.V., on behalf of itself and its Affiliates, (collectively, “**Agendia**”), provides you access to the ADAPT-CE Portal, based on Illumina Connected Analysis (ICA) platform available at entry point <https://ica.illumina.com/ADAPT-CE/> (“**ADAPT**”), and to the information, content, services, analyses and other materials available on and through ADAPT (collectively, the “**Services**”), which are operated by Agendia and made available to you, subject to your compliance with the following terms and conditions (these “**Terms of Service**”), including the ADAPT User’s Guide available here and the Online Privacy Policy [available here](#)).

By using ADAPT, you agree to and accept these Terms of Service. If you do not agree to all of these Terms of Service, please exit this website and do not use ADAPT. The term “you” and “your” refers to both the person that has agreed to these Terms of Service and the Customer (as defined below) on whose behalf they are acting. When you agree to these Terms of Service, you represent and warrant that: (i) you have full legal authority to bind such Customer to these Terms of Service; (ii) you have read and understand these Terms of Service; and (iii) you agree on behalf of such Customer, to these Terms of Service. If you do not have the legal authority to bind such Customer, please do not click the accept option. These Terms of Service apply to users of ADAPT located in the European Union. If you are accessing or using ADAPT from outside the European Union, please refer to the separate terms which apply in your location and which can be accessed [\[here\]](#).

PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE USING THIS WEBSITE.

The Services

1. ADAPT is only to be used by healthcare organizations that have been qualified and approved by Agendia (“**Customer**”). Upon approval, Customer shall be authorized to purchase or otherwise acquire the NGS Kit (“**NGS Kit**”) for specimen collection where such specimen will be processed by Customer’s sequencing technology and where such output data shall be uploaded to ADAPT to generate a MammaPrint and/or BluePrint technical report (“**Technical Report**”).
2. By using the Services, you represent and warrant that you have the legal right to act, and you are acting on behalf of the Customer and you have been deemed by Agendia as having the necessary qualifications and training to utilize ADAPT. You further represent that (i) each sample processed through ADAPT has been authorized by a valid order from a qualified healthcare provider (i.e., physician); (ii) all patient data uploaded to ADAPT is appropriately de-identified; and (iii) the

Technical Report generated from analysis of the sample will be reviewed and interpreted only by a qualified healthcare professional.

3. All Services will be carried out exclusively by Agendia, with the exclusion of articles 7:404 and 7:407 (2) of the Dutch Civil Code.
4. You agree that a legally binding agreement that includes these Terms of Service shall arise at the time Agendia approves and authorizes your use of the Services and establishes your Customer Account.
5. Agendia will perform the Services in a professional and workmanlike manner in accordance with applicable industry standards. All terms of delivery of the Services, including but not limited to turnaround times, serve only as guidelines and are therefore non-binding on Agendia, unless Agendia has explicitly stated otherwise.
6. Your access to the Services is determined by the NGS Test Kit(s) purchased or otherwise obtained by Customer. Agendia may make new applications, tools, features, or functions available from time to time through the Services and may add new services to the definition of "Services" from time to time by adding them to the URL included in such definition above. You understand that Agendia may update the Services at any time but in doing so, incurs no obligation to furnish such updates to you pursuant to these Terms of Service.

Your ADAPT Account and Accessing the Services

7. You must register an ADAPT account to access and use the Services on behalf of Customer. To register an ADAPT account, you must first be approved by Agendia and then you will follow the registration procedure further detailed in the ADAPT user's guide and use the personal kit activation code provided to you by Agendia to that end. Your account is personal to you, and you will not share your account or transfer any part of it to anyone else. You must: (i) provide accurate, current and complete information during the registration process and keep your account up to date; (ii) keep your account's password secure and confidential; (iii) notify Agendia immediately of any known or suspected unauthorized use of your account. You are responsible for anything that happens through your account prior to closing it or reporting misuse to Agendia and you are responsible and liable to Agendia for all activity that occurs with the authentication keys, access tokens, or otherwise through or in connection with your account. Agendia has the right to disable your account or any user identification code or password, if in our opinion you have failed to comply with any of the provisions of these Terms of Service.
8. You are solely responsible for obtaining, installing and maintaining your own internal equipment and communications services necessary to access and use the Services, including by installing the Agendia Service Connector on your device, in

compliance with the ADAPT user's guide. You will be solely responsible for any telephone charges, Internet access fees, and other such similar fees and expenses incurred by you through the access to and use of the Services.

Your Use of the Services

9. You will at all times provide Agendia in a timely manner with all data and other information required and requested by Agendia and necessary for the delivery of the Services ("**Client Information**"). You may only provide Client Information for use in the Services by means of the upload services supported by Agendia.
10. You represent and warrant that you have all necessary rights and authorization to provide the Client Information to Agendia for the delivery of the Services and that such all Client Information is correct and complete. You shall be solely liable for any claims arising out of or relating to the improper or faulty collection and/or handling of any Client Information to Agendia and you shall indemnify, defend, and hold harmless Agendia for any claims by a third party or governmental entity relating to the collection and use of Client Information.
11. You must ensure that patient has received complete and correct information about the nature of the ordered test(s) and the clinical significance of the test results for treatment of the patient's condition, including but not limited to providing the patient with relevant Agendia patient information leaflets. The foregoing information shall include information on how to assess risks in the context of the test results communicated by Agendia and the further treatment decisions for the patient. You or another healthcare professional tasked with the patient's treatment shall be solely responsible for interpreting the information provided by the Technical Report(s), and any treatment decision based on or in connection with the test results or the Technical Report(s).
12. You represent and warrant that your use of the Services will at all times comply with all Applicable Law and with the specifications set forth under the ADAPT user's guide. In particular, you represent and warrant that you have obtained all necessary approvals and appropriate informed consents, in writing, for the collection, transfer and use of the Data in connection with the Services.
13. In using the Services, you are responsible for establishing, monitoring, and implementing security practices to control the physical access to and use of the Services and all Data therein in accordance with your own security policies and procedures, and ensuring the implementation and maintenance of adequate anti-virus software. You will also be responsible for installing customer-installable firmware updates and patches which may be required to address any vulnerability or security flaw. You will take all reasonable precautions and security measures to

prevent unauthorized use of the Services or Data, including the use of any encryption keys or encrypted storage, retrieval and transmission as may be available for use with the Services. While Agendia uses industry standard security, no system can perfectly guard against risks of intentional or inadvertent disclosure of information. When using the Services, information will be transmitted over a medium that is beyond the control of Agendia. Accordingly, you agree that you assume the risk for, and you are responsible for, any inability to access the Data, the loss or corruption of Data, or for any unauthorized use or access of the Data as a result of your use of the Services, and Agendia has no liability to you in connection with such inability to access the Data, the loss, or corruption of Data, or for any unauthorized use or access of the Data as a result of your use of the Services.

14. You may add Customer's organisation's logo to any Technical Reports generated in connection with the Service, in accordance with the ADAPT User's Guide. In such circumstances, you represent and warrant that you have all necessary rights and authorizations to use such logo and you hereby grant Agendia a license to display such logo on materials and reports generated by Agendia in providing the Services to you.
15. You will not do, and will not instruct or permit others to do, any of the following:
 - a. sub-license, rent, sell, lease, distribute, provide access to, or otherwise transfer the Services or any part thereof or use of the Services to any third party;
 - b. use the Services for any timesharing or service bureau purposes or otherwise use or allow others to use for the benefit of any third party;
 - c. reverse engineer, decompile, disassemble, or derive the source code or underlying ideas or algorithms of the Services or any portion thereof, or attempt to do any of the foregoing, except as required to be permitted by Applicable Law;
 - d. access, mine, or collect any data or other content available through the Services through any technology or means other than those authorized by Agendia, including through the use of any automated means such as robots, spiders, scrapers, or similar data gathering and extraction tools with the Services;
 - e. remove, circumvent, disable, damage, or otherwise interfere with security or other preventive features of the Services, or otherwise gain or attempt to gain unpermitted access by any means to, or otherwise cause harm to, any Agendia or Illumina computer system, network, or database;

- f. copy, modify, port, translate, localize, or create derivative works of the Services;
 - g. use the Services (or information generated from the use of the Services) in a manner that is either prohibited by Applicable Law or contrary to applicable ethical guidelines;
 - h. use the Services negligently or intentionally or propagate any virus, worms, Trojan horses or other programming routine intended to damage any system or data;
 - i. remove or modify any acknowledgements, credits, or legal notices contained on the Services or any part thereof;
 - j. attempt to gain unauthorized access to other ADAPT accounts;
 - k. take any action that imposes, or may impose at Agendia's sole discretion, an unreasonable or disproportionately large load on Agendia's or Illumina's system, network, or other infrastructure; or
 - l. file copyright or patent applications that include the Services or any portion thereof;
 - m. use the Services with genomic data that is not generated using MySeqDX or otherwise provided through the Services; or
 - n. use the Services to transmit, store, display, distribute, or otherwise make available any Data that is illegal, defamatory, abusive, obscene, vulgar, fraudulent, false, misleading (directly or by omission or failure to update information), deceptive, promotes discrimination, harassing, is violent or promotes violence, or promotes illegal or harmful activities.
16. You shall not give or make any warranty or representation on behalf of the Services, including as to the quality, reliability, fitness for particular purpose, merchantability or any other feature of the Services. If you, or your employees, representatives, staff, affiliates, associates or agents alters or expands any existing warranty or extends any additional warranty, expressly or impliedly, regarding the Services, you shall indemnify, defend, and hold harmless Agendia against any losses, claims, damages, liabilities, penalties, actions, proceedings, judgments, or any and all costs (including settlement costs), and expenses (including reasonable outside attorneys' fees and costs) ("**Losses**") arising in connection with any claims by a third party or governmental entity relating to any such warranty.

Intellectual Property Rights and Data

17. All intellectual property rights (including any patents, copyrights, trademarks, trade names, trade secrets, and other intellectual property rights) in the Services, including all modifications, enhancements, improvements, and derivative works of the Services, are and will remain owned by Agendia. Except for the limited right of access as provided in these Terms of Service, you will have no right, title, or interest in or to the Services or any intellectual property therein.
18. Agendia reserves all rights in its intellectual property that are not expressly granted in these Terms of Service, and no licenses are granted by Agendia to you, whether by implication, estoppel or otherwise, except as expressly set forth herein.
19. As between you and Agendia, you will own all right, title and interest in and to the Client Information and Agendia will own all right, title and interest in and to the Technical Reports.
20. Agendia hereby grants to you a non-exclusive right and license to access and use the Technical Reports for the sole purposes of receiving the benefit of the Services and to provide relevant treatment, diagnosis or care to Patients. You represent and warrant that the Technical Reports will be used, in accordance with all Applicable Law.

Disclaimer and Indemnity

21. YOU ACKNOWLEDGE THAT THE SERVICES ARE PROVIDED "AS IS" AND AGENDIA DOES NOT PROVIDE ANY GUARANTEE, WARRANTY OR REPRESENTATION THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, COMPLETE OR ACCURATE OR WILL MEET YOUR REQUIREMENTS. EXCEPT FOR ANY EXPRESS WARRANTIES MADE BY AGENDIA IN THESE TERMS OF SERVICE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AGENDIA SPECIFICALLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES AS TO THE QUALITY, RELIABILITY, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER FEATURE OF THE SERVICES. ALL RIGHTS OF ACTION AND OTHER POWERS OF WHATEVER NATURE VIS-À-VIS AGENDIA RELATED TO THE SERVICES SHALL LAPSE IN ANY EVENT ONE YEAR AFTER THE MOMENT ON WHICH CLIENT IS AWARE OR COULD REASONABLY BE AWARE OF THE EXISTENCE OF THESE RIGHTS AND POWERS.
22. YOU ACKNOWLEDGE AND AGREE THAT THE SERVICES ARE NOT INTENDED BY AGENDIA, AND HAVE NOT BEEN DESIGNED BY AGENDIA, TO BE USED FOR PATIENT CARE PURPOSES, INCLUDING WITHOUT LIMITATION, USE IN DIAGNOSING OR TREATING PATIENTS AND AGENDIA MAKES NO WARRANTY OR REPRESENTATION THAT ANY INFORMATION OBTAINED BY YOU AS A RESULT OF YOUR USE OF THE

SERVICES WILL BE ACCURATE OR RELIABLE. YOU WILL REMAIN SOLELY RESPONSIBLE FOR ALL DECISIONS REGARDING THE TREATMENT OR DIAGNOSIS OF PATIENTS.

23. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AGENDIA SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGES, EITHER DIRECT OR CONSEQUENTIAL SUFFERED BY YOU OR BY ANY THIRD PARTY (E.G. THE PATIENT) IN CONNECTION WITH THE SERVICES, INCLUDING LOSS OF INCOME, REVENUE, PROFITS OR GOODWILL (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF BUSINESS, CONTRACTS, PROFITS, ANTICIPATED SAVINGS OR OPPORTUNITY OR ANY LOSS OF DATA SUFFERED BY YOU OR SIMILAR, HOWSOEVER ARISING AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.
24. IF AGENDIA IS DEEMED LIABLE DESPITE THE FOREGOING PROVISION, ANY DAMAGES TO BE PAID BY AGENDIA TO YOU WITH RESPECT TO ANY SERVICES WILL, IN ANY CASE, BE LIMITED TO COMPENSATION OF DAMAGES FOUND TO BE SUFFERED BY YOU, WHICH AMOUNT SHALL NOT EXCEED THE SUM PAID OR PAYABLE FOR THE SERVICES CAUSING THE RELEVANT DAMAGE. NOTWITHSTANDING THE FOREGOING, UNDER NO CIRCUMSTANCES WILL ANY LIABILITY OF AGENDIA EXCEED THE AMOUNT WHICH IS COVERED BY THE PROFESSIONAL LIABILITY INSURANCE POLICY ENTERED INTO BY AGENDIA, TO BE INCREASED BY THE AMOUNT OF THE DEDUCTIBLE, WHICH ACCORDING TO THE TERMS AND CONDITIONS OF THE INSURANCE POLICY WILL NOT BE FOR THE ACCOUNT OF THE INSURER.
25. NOTHING IN THESE TERMS OF SERVICE SHALL AFFECT ANY STATUTORY RIGHTS THAT YOU CANNOT CONTRACTUALLY AGREE TO ALTER OR WAIVE OR SHALL EXCLUDE OR LIMIT ANY LIABILITY IN ANY MANNER NOT PERMITTED BY APPLICABLE LAW.
26. You shall defend, indemnify, and hold harmless Agendia, its affiliates, and their respective directors, officers, employees, shareholders, and agents against any Losses arising from or in connection with any third party claim, suit or proceeding arising out of (a) your breach of these Terms of Service; (b) your use of the Services; (c) the provision to and use of Client Information by Agendia; or (d) any other party's access and use of the Services with your account.

Personal Data

- A. You agree that you will not in connection with or through the Services, provide, generate or modify any directly identifiable data about a natural person. For example, you will take appropriate administrative, physical, technical and organizational measures to prevent you providing the name, date of birth, address, social security, government issued identification number, or any other information

that could identify the individual from whom any data was derived, in particular when uploading Data on ADAPT.

27. If Client Information or other data provided constitutes Personal Data of a Patient (“**Protected Data**”), you represent and warrant that you have fully complied with any and all applicable Data Protection Laws and that Agendia is entitled to collect, store, use and Process such Personal Data as is necessary to provide the Services. Without prejudice to the foregoing, you represent and warrant that patients have been made aware of the purposes for, and manner in, which their Personal Data will be Processed as set out in the privacy notice made available to the public at www.agendia.com/privacy-policy/ and (when required by Data Protection Laws) have consented in writing to such Processing, including the transfer of Personal Data outside the EEA.
28. You agree that you are acting as a controller and that Agendia is a processor as defined by Art 4(7) and (8) of the GDPR respectively such that Agendia will act only on the instructions of you as controller.
29. To the extent Agendia Processes Personal Data on behalf of you in connection with the Services, Agendia shall:
 - a. Process the Personal Data only on documented instructions from you, unless required to Process such Personal Data by applicable law to which Agendia is subject; in such a case, Agendia shall inform you of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest;
 - b. ensure that its personnel authorised to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - c. implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking into account the state of the art, the costs of implementation and the nature, scope, context and purpose of the Processing;
 - d. taking into account the nature of the Processing, assist you by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligation to respond to requests for exercising the Data Subject’s rights laid down in Data Protection Laws;
 - e. assist the Data Controller in ensuring compliance with the obligations to:
 - (i) implement appropriate technical and organisational security measures;
 - (ii) notify (if required) Personal Data breaches to relevant competent authorities and/or individuals; and
 - (iii) conduct data protection impact

assessments and, if required, prior consultation with relevant competent authorities;

- f. at your choice, delete or return all the Personal Data to you after the end of the provision of services relating to Processing, and delete existing copies of the Personal Data unless any applicable law to which Agendia is subject requires storage of the Personal Data; and
 - g. make available you all information necessary to demonstrate compliance with the obligations laid down in this clause 29 and Data Protection Laws, and allow for and contribute to audits, including inspections, conducted by you or another auditor mandated by the you.
30. You hereby grant Agendia general written authorisation to engage Illumina, Inc. and its affiliates as sub-processors, subject to the requirements of this clause 30. If Agendia appoints a new sub-processor or intends to make any changes concerning the addition or replacement of any sub-processor, Agendia will provide you with 10 days' prior written notice, during which you can object against the appointment or replacement. If you do not object, Agendia may proceed with the appointment or replacement.
31. You shall indemnify, defend, and hold harmless Agendia, its affiliates and contractors against any Losses relating to or arising out of any claim by a third party or governmental entity that you failed to comply with Data Protection Laws.

General

32. These Terms of Service constitute the full and entire understanding between you and Agendia regarding the Services and supersede any prior agreement or negotiations between the parties. Agendia is entitled to modify or amend these Terms of Service unilaterally. In such as case, Agendia shall notify you of any modifications or amendments in writing and in a timely matter, at least one month before the coming into effect of the amended Terms of Service.
33. No failure or delay on the part of either party in exercising any right or remedy with respect to a breach of these Terms of Service by the other party shall operate as a waiver thereof or of any prior or subsequent breach of these Terms of Service by the breaching party, nor shall the exercise of any such right or remedy preclude any other or future exercise thereof or exercise of any other right or remedy in connection with these Terms of Service. Any waiver must be in writing and signed by the waiving party.
34. Agendia is excused from performance of the Services and these Terms of Service and will not be liable for any delay in whole or in part caused by the occurrence of

any event or contingency beyond the reasonable control of Agendia, which includes, without limitation, war, any act of civil disobedience, act of government or any agency or subdivision thereof, judicial action, labor dispute, supply shortages, accident, fire, flood, natural disaster, pandemics, or other act of God, interruptions or failure of the Internet or third-party network connections.

35. These Terms of Service shall be governed by the laws of The Netherlands, without regard to the conflicts of law provisions thereof. In the event of any litigation or dispute arising out of or relating to these Terms of Service or the provision of Services, any Party may apply to the Amsterdam District Court following proceedings in English before the Chamber for International Commercial Matters (“NCC”, and the District Court, the “NCC Court”), to the exclusion of the jurisdiction of any other courts. An action for interim measures, including protective measures, available under Dutch law may be brought in the NCC Court in Summary Proceedings (“CSP”) in proceedings in English. Any appeals against NCC or CSP judgments will be submitted to the Amsterdam Court of Appeal’s Chamber for International Commercial Matters. The NCC Rules of Procedure apply. In any such disputes, the prevailing party shall be entitled to recover all costs and reasonable attorneys’ fees incurred related thereto.

Definitions

36. For the purposes of these Terms and Conditions, the following terms shall have the meanings given to them below:

- a. **“Applicable Law”** means all applicable (a) statutes, statutory instruments, regulations, treaties, ordinances, or legislation to which a party is subject (including all data privacy laws); (b) common law and the law of equity as applicable to a party; (c) binding court orders, judgments or decrees; (d) industry code of practice, guidance, policy, or standards, in each case to the extent enforceable by a governmental or regulatory authority as law; and (e) applicable policies, rules, or orders made or given by a governmental or regulatory authority.
- b. **“Data”** means all Client Information and any other files, or data that is created within the Services, or otherwise created as a result of your use of the Services (which, for the avoidance of doubt, may include log/metadata collection, as well as any genomic information generated by sequencing instruments and further analysis or processing conducted on such information).
- c. **“Data Protection Laws”** means (a) the General Data Protection Regulation 2016/679 (the **“GDPR”**); (b) the Privacy and Electronic Communications

Directive 2002/58/EC; (c) the UK Data Protection Act 2018 (“**DPA**”), the UK General Data Protection Regulation as defined by the DPA as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 (together with the DPA, the “**UK GDPR**”), and the Privacy and Electronic Communications Regulations 2003; and (d) any relevant law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding instrument which implements any of the above or which otherwise relates to data protection, privacy or the use of personal data, in each case as applicable and in force from time to time, and as amended, consolidated, re-enacted or replaced from time to time.

- d. “**Data Subject**”, “**Personal Data**”, “**Process**”, “**Processed**” or “**Processing**” shall each have the meaning as set out in the relevant Data Protection Laws.
- e. “**Technical Reports**” means any analyses, results, reports and other materials provided to you in the course of providing the Services, including the technical report and explanation of results referred to in the ADAPT user’s guide.