

Core Terms

These Core Terms will be incorporated into an Order Form between Customer and LabVantage specifying the Offering. Definitions are located at [the end of this document](#).

1. Usage Rights

1.1 Permitted Use. This section sets forth the general usage rights for Offerings from LabVantage. The Order Form will specify any quantity limitations, such as the number of Authorized Users.

(a) If the Offering is Software, LabVantage grants Customer a license to use the Software during the Term.

(b) If the Offering is Professional Services, LabVantage grants Customer a perpetual license to use any Work Product. If the Work Product is designed for use with Software, the license is restricted to use solely in connection with the Software with which it operates.

(c) If the Offering is Software-as-a-Service, Hosting Services, or another Cloud Offering, Customer is authorized to access and use the Cloud Environment during the Term.

(d) If the Offering is a Support Maintenance Plan (SMP), LabVantage will provide SMP during the Term.

1.2 Usage Scope. Customer may use the Offering solely for the Internal Business Purposes of Customer and its Affiliates. All license grants and usage rights are worldwide, nonexclusive, non-assignable and nontransferable and extended to Affiliates and Authorized Users.

1.3 Restrictions. Customer and Authorized Users will not:

(a) use any Offering or Documentation in a time-sharing or service provider arrangement and will not resell, sublicense, or transfer the Offering to any third party;

(b) use any Offering or Documentation to bring an intellectual property infringement claim against LabVantage;

(c) use any Offering or Documentation to create derivative works or a competitive offering;

(d) access source code or attempt to reverse engineer, reverse assemble or decompile the Software or System, unless and only to the extent this subsection 1.4 (d) is expressly prohibited by law;

(e) remove any copyright or ownership notices from the Offering; or

(f) resell, transfer, or sublicense the Offering to any third parties.

1.4 Third Party Terms. If the Order Form or Documentation indicates that LabVantage will make third party technology available to Customer, Customer's right to use such third-party technology is governed by the terms of the third-party technology license agreement specified by LabVantage and by this the Agreement.

2. Term and Termination

2.1 Effective Date. The Agreement takes effect as of the date of execution of the Order Form. However, an Addendum may specify a different start date for a particular Offering.

2.2 Committed Term. If the Order Form indicates that the Term is committed for a multi-year period, neither party may terminate the Order Form for convenience during such committed term.

2.3 Termination. Either party may terminate the Agreement for a material breach by the other party that has not been cured within thirty (30) days after receipt of notice of such breach. LabVantage may terminate the Agreement immediately for breach of its intellectual property rights or if LabVantage's performance of the Agreement violates applicable export laws or sanctions.

If LabVantage terminates the Agreement for Customer's breach, Customer will immediately pay LabVantage all amounts then due under the Agreement for the remainder of the Term. If Customer terminates the Agreement for breach, LabVantage will refund all pre-paid amounts for unperformed SMP, Cloud Offerings, or Professional Service.

2.4 Effect of Termination. Any sections of the Agreement that are continuing by their nature will survive termination.

3. Warranty

3.1 Right to Provide Offering. LabVantage warrants that it has the right to provide the Offerings to Customer. The exclusive remedy for breach of this warranty is contained in the Indemnification section below.

3.2 Compliance with Documentation. LabVantage warrants that the Software, including any licensed Software or Software provided as part of a Cloud Offering, will conform to its Documentation. The exclusive remedy for breach of this warranty is contained in the addenda specific to the Offering in question.

3.3 Disclaimer. Except as specifically provided in the Agreement, LabVantage **DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.**

4. Ownership

This Agreement does not transfer any ownership rights.

LabVantage and its licensors retain title to the Offering, any Documentation, source code, and any techniques, skills, concepts, know-how or intellectual property LabVantage utilizes or develops while performing the Agreement. The Software source code is a trade secret.

Customer retains title to the Customer Content and to any results Customer obtains by processing data in the Offering.

5. Fees and Invoicing

5.1 Fees. Fees are listed in the Order Form.

5.2 Invoices. LabVantage will invoice Customer as set forth in the applicable Order Form or Addendum.

5.3 Payment. Customer must pay fees net thirty (30) days in the currency listed on the Order Form. Refunds are not available unless specifically stated in the Agreement.

5.4 Purchase Orders. If Customer uses a purchase order to facilitate timely payment of

invoices, Customer will provide a purchase order number no later than five (5) business days after execution of the Order Form. All purchase order terms are rejected and do not add to the Agreement.

5.5 Late Payment. LabVantage may charge Customer interest on any overdue Fees. The interest will be calculated as the lesser of: (a) 1.5% per month; or (b) the highest rate allowed by applicable law. Customer will reimburse LabVantage for all reasonable costs, expenses and attorneys' fees expended to collect any overdue Fees.

5.6 Taxes. Fees do not include taxes. LabVantage will use reasonable efforts to include applicable taxes on invoices. Customer is responsible for any applicable taxes, except for taxes based on LabVantage's income. Customer may provide a tax exemption certificate if applicable. Customer will self-assess and pay any VAT, GST or sales tax not listed on the Order Form that arises from Customer's cross-border use of the Offering.

5.7 Third Party Payments. Customer may designate a third party to receive invoices and make payments on Customer's behalf. However, Customer remains responsible for any payments not made by such third party.

6. Changes

Customer must contact LabVantage and sign an Order Form to increase any quantity limitations or other metrics in the Order Form. These changes will result in additional Fees calculated and invoiced based on the date of the change.

7. Customer Content

7.1 Delivery. Customer will deliver any Customer Content in an electronic file format specified by LabVantage. Customer acknowledges that LabVantage's ability to deliver any Professional Services or SaaS Services may depend upon the accuracy and timeliness of Customer Content.

7.2 Limited License. Customer grants LabVantage a limited, non-exclusive, and non-transferable license to use any Customer Content for the sole purpose of performing the Agreement.

7.3 Warranty. Customer warrants that: (a) it has the right to provide the Customer Content to LabVantage and has obtained any necessary consents; and (b) the Customer Content does not contain anything that is illegal, obscene, defamatory, harassing, offensive or malicious.

8. Insurance

During the Term, LabVantage will maintain insurance policies for:

- (a) Workers Compensation – Statutory (in the amounts required by applicable law);
- (b) Commercial General Liability – USD \$1,000,000 combined limit per occurrence and USD \$2,000,000 aggregate;
- (c) Automobile Liability - USD \$1,000,000 combined limit per occurrence; and
- (d) Umbrella Liability - USD \$2,000,000. Evidence of coverage is available at: <https://www.labvantage.com/legal/insurance>.

9. Customer Responsibilities

Customer will inform Affiliates and Authorized Users of the terms of the Agreement and be responsible for their compliance with such terms.

Customer will provide commercially- reasonable information and assistance necessary for LabVantage to deliver any Cloud Offering, SMP or Professional Services.

10. Limitation of Liability

10.1 Limitation of Liability. NEITHER PARTY'S AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL EXCEED THE FEES PAID BY CUSTOMER FOR THE OFFERING AT ISSUE DURING THE TWELVE (12) MONTHS PRECEDING THE CLAIM REGARDLESS OF WHETHER THE CLAIM ARISES FROM TORT, BREACH OF CONTRACT OR OTHER CAUSE OF ACTION.

10.2 Exclusions of Damages. NEITHER PARTY WILL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST BUSINESS, PROFITS, DATA OR USE OF ANY SERVICE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF SUCH DAMAGES ARE FORESEEABLE OR THE OTHER PARTY

HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.3 Applicability. The Limitation of Liability and Exclusion of Damages sections of this Agreement do not apply to: (a) breach of either party's intellectual property rights; (b) the *Restrictions* section of this Agreement; or (c) the *Indemnification* section of this Agreement.

11. Indemnification

11.1 Indemnification by LabVantage. LabVantage will indemnify Customer for any third-party claim for: (a) patent, copyright, trademark, trade secret, or intellectual property violations (collectively, "**IP Claims**") related to the Offering; and (b) bodily injury or death to the extent caused by LabVantage's negligence or willful misconduct by paying for costs, attorneys' fees, damages finally awarded, and/or settlements approved by LabVantage.

LabVantage's indemnification obligation does not apply to any claim based on (a) Customer Content, (b) modification of the Offering not authorized by LabVantage; (c) Customer's combination of the Offering with other software or materials; (d) use of the Offering other than in accordance with the Documentation and the Agreement; (e) Customer's decision not to install the latest version or updates to the Software.

LabVantage may, at its sole option and expense, procure the right for Customer to continue using Offering, modify the Offering in a manner that does not materially impair the functionality, or terminate the Agreement and repay to Customer any pre-paid Fee prorated to the date of termination. Customer will abide by LabVantage's decision.

11.2 Indemnification by Customer. Customer will indemnify LabVantage for any third-party IP Claims against LabVantage related to the Customer Content by paying for costs, attorneys' fees, damages finally awarded, and/or settlements approved by Customer.

11.3 Conditions for Indemnification. A party seeking indemnification under this section will: (a) promptly notify the other party of the claim; (b) give the other party sole control of the defense and settlement of the claim; (c) not incur any costs or expenses without the consent of the indemnifying party; and (d) cooperate with the indemnifying party in the investigation, defense, and settlement of the claim. However, the party

seeking indemnification may participate at their own expense.

12. Confidentiality

Either party may disclose Confidential Information in connection with this Agreement. The recipient will keep the Confidential Information confidential and only use it to perform its obligations under the Agreement. Recipient will not disclose discloser's Confidential Information to third parties without recipient's prior written approval. This restriction does not apply to information that is: (a) in the public domain not by breach of this Agreement; (b) known by the recipient at the time of disclosure; (c) lawfully obtained by the recipient by a third party; (d) independently developed by the recipient without reference to the Confidential Information; (e) indicated by the discloser as not confidential; or (f) required to be shared by applicable law, provided that recipient uses reasonable efforts to promptly notify discloser of such requirement if allowed by law in order to permit discloser to seek protection against disclosure.

Recipient's obligations of confidentiality for each item of discloser's Confidential Information will continue for five (5) years from the date of initial disclosure. However, confidentiality obligations for Personal Data will not expire. Upon expiration or termination of this Agreement, the parties will delete or destroy any Confidential Information of the either party, excluding archival copies in inactive systems that cannot reasonable be deleted.

For the purpose of this section, Customer's Affiliates, LabVantage affiliates and subcontractors participating in the performance of this Agreement are not "third parties." Neither party will disclose source code under this Agreement.

13. Information Security and Personal Data

LabVantage will comply with its Privacy Policy available at <https://www.labvantage.com/privacy-policy/>, which may be updated from time to time.

As of the time of execution of this Agreement:

- (a) LabVantage is self-certified to the EU-U.S. Data Privacy Framework, the UK Extension to the EU-U.S. Data Privacy Framework, and the Swiss-U.S. Data Privacy Framework; and

- (b) LabVantage is ISO 27001: 2013 certified;

LabVantage will take all reasonable measures to maintain such certifications, including maintaining security procedures required to protect personal information from unauthorized access, alteration, disclosure, or destruction.

Customer will not disclose Personal Data or place Personal Data in a Cloud Environment unless such Personal Data is required for the parties' performance of the Agreement.

14. Applicable Law

14.1 Compliance with Law. Both parties agree to comply with all applicable laws, including laws related to data privacy and the transmission of technical or personal data.

14.2 Governing Law. The chart below specifies the law that governs the Agreement based on the LabVantage entity listed in the Order Form, excluding choice of law provisions and the United Nations Convention on Contracts for the International Sale of Goods

LabVantage	Governing Law	Seat of Arbitration
LabVantage Solutions Inc.	State of New York	New York, NY, USA
Any other LabVantage entity	England and Wales	London, England

14.3 Dispute Resolution. In the event of a dispute, the parties will attempt to resolve any issue in good faith as described in this section before pursuing any claim related to the Agreement. Upon written request of either party and fifteen (15) days' notice, individuals from each party with decision-making authority will meet and attempt to negotiate a resolution. If the dispute has not been resolved within thirty (30) days of such a meeting, either party may pursue available remedies.

14.4 Arbitration. All disputes arising out of or in connection with the Agreement, including any dispute as to the validity and enforceability of this arbitration clause, will be finally settled under the Rules of Arbitration of the International Chamber of Commerce ("**Rules**") by three (3) arbitrators. Each party will appoint one (1) arbitrator and the third arbitrator will be appointed by the first two

(2) arbitrators. The tribunal will not award any punitive or exemplary damages or any remedies greater than those allowed by the Agreement. Notwithstanding Article 38 of the Rules, each party will bear its own costs. The parties will share equally in the compensation and expenses of the arbitrators and the ICC administrative fees. The seat of the arbitration is specified in the *Governing Law* section above. The arbitration will be conducted in English. This section does not prevent the parties from applying to a court of competent jurisdiction for temporary or preliminary injunctive relief, without breach or waiver of this section and without abridging the powers of the tribunal.

14.5 Export and Import Restrictions.

Because the Offering originates from the United States, US export laws and regulations apply to the Offering. Both parties agree to comply with US export laws and regulations and any other applicable export and import laws and regulations, except as prohibited or penalized by law (“**Trade Law**”). Customer warrants that Customer and its Users are not: (a) prohibited by Trade Law from accessing Controlled Material without US government approval; (b) located in or under control of any country or other territory subject to general export or trade embargo under Trade Law; or (c) engaged in any of the following end-uses: nuclear, chemical or biological weapons; nuclear facilities not under International Atomic Energy Agency safeguards; missiles or unmanned aerial vehicles capable of long-range use or weapons delivery, military training or assistance, military or intelligence end-use in Russia or in any country in Country Group D:5 of the United States Export Administration Regulations; deep water, Arctic offshore or shale oil or gas exploration involving Russia or Russian companies, or Russian energy export pipelines; or any other end users prohibited by the US government without special export licenses. The customer will not import or use any data with the Offering that is subject to the US International Traffic in Arms Regulations.

15. General

15.1 Assignment. Neither party may assign the Agreement or any rights under the Agreement to a third party without the consent of the other party. However, (a) either party may assign the Agreement to an acquirer of all or substantially all

the business of such party, whether by merger, asset sale or otherwise, and (b) LabVantage may assign the Agreement to its affiliates by notice to Customer.

15.2 Order of Precedence. In the case of a conflict between any of the following terms that may be incorporated into an Order Form by reference, the order of priority will be: (1) Order Form; (2) Any Addendum; (3) these Core Terms; (4) Statement of Work.

15.3 Subcontracting. LabVantage may subcontract its performance under this Agreement. However, such subcontracting does not relieve LabVantage of its obligations under this Agreement.

15.4 Updates to Agreement Terms. LabVantage may update terms set forth in the URLs listed in the Order Form or incorporated into the Agreement from time to time. However, any changes will not take effect during the committed term of the Order Form.

15.5 US Government Restricted Rights. If Customer directly or indirectly licenses or procures the Offering on behalf of the U.S. Government, the Offering is classified as “Commercial Computer Product” and “Commercial Computer Documentation” developed at private expense, contains Confidential Information and trade secrets of LabVantage and its licensors, and is subject to “Restricted Rights” as that term is defined in the U.S. Federal Acquisition Regulations. The manufacturer is: LabVantage Solutions, Inc., 265 Davidson Avenue, Suite 220, Somerset, New Jersey, 08873, USA.

15.6 Non-solicitation. Neither party will solicit for hire any individual who participates in the performance of the Agreement for twelve (12) months after the expiration of the applicable Order Form. This section does not prevent either party from hiring any individual who applies through a public job posting without being prompted by such party.

15.7 Force Majeure. Each party will be excused from delay or failure to perform any obligation due to causes beyond its reasonable control, and without its fault, including without limitation: acts of God, fire, strikes, riots, acts of terrorism or war, epidemics, cyberattacks, Internet, network, or communication line failures, third party equipment failures, and power failures.

This section applies to payment delays caused by force majeure events but does not relieve Customer of its obligations to pay Fees due under the Agreement.

15.8 Publicity. LabVantage may include Customer's name and logo on customer lists on its website. With Customer's prior approval, LabVantage may also issue a press release with Customer's name and intended use of the Offering.

15.9 No Waiver. Failure to require compliance with a part of the Agreement is not a waiver of that part.

15.10 Injunctive Relief. Because monetary damages are an inadequate remedy for breach of a party's intellectual property rights, either party may protect those intellectual property rights through temporary restraining orders or injunctions without posting bond.

15.11 Independent Contractors. LabVantage, its employees, and subcontractors are independent contractors and not employees or agents of Customer. Neither party has the authority to bind the other party. There are no third-party beneficiaries to the Agreement.

15.12 Audit. Upon thirty (30) days prior written notice and not more than once per year, LabVantage may audit Customer during Customer's normal business hours to verify Customer's compliance with the Agreement. Customer will cooperate, including by providing copies of any records demonstrating use of the Offering.

15.13 Severability. If any Agreement term is unenforceable, that term will be reformed to achieve the intent to the extent possible, and the remainder of the Agreement will remain in full force.

15.14 Language. If LabVantage makes the Agreement terms available in any other language as a courtesy to Customer, the English language version will control.

15.15 Execution. If LabVantage provides an Order Form as a click agreement, the Agreement will be binding upon both parties upon Customer's acceptance.

15.16 Complete Agreement. The Agreement is the parties' complete statement relating to its subject matter. LabVantage rejects any additional or conflicting terms on purchase orders or other

purchasing documents. Except as set forth in the Updates to Terms section, the Agreement may not be modified by any side agreement or arrangement between LabVantage and Customer unless such modification is accepted in writing by an authorized representative of both parties.

Definitions

“Authorized User” means an individual authorized by Customer or an Affiliate to access and use the Software solely for the benefit of Customer or its Affiliates.

“Affiliate” means an entity that is directly or indirectly controlled by, under common control or in control of Customer, as evidenced by more than a 50% ownership interest.

“Agreement” means the Order Form, together with these Core Terms and any Addenda incorporated into the Order Form by reference.

“Cloud Offering” means Hosting Services, Software-as-a-Service, or any other Offering provided by LabVantage in the cloud.

“Cloud Environment” means the application hosting environment and infrastructure platform used by LabVantage to provide a Cloud Offering.

“Customer” means the customer entity identified on the Order Form.

“Customer Content” means any data or materials provided by Customer to LabVantage for use in connection with the Agreement.

“Customization” is a feature or modification of a Software feature that requires custom coding and/or some form of implementation.

“Confidential Information” means: (a) information in any format disclosed by either party in connection with this Agreement that is marked as confidential or reasonably understood as being confidential due to its nature, (b) a license key or credentials provided by LabVantage, and (c) Customer Content.

“Documentation” means the user documentation and help files made available by LabVantage to Customer related to use of Software.

“Enterprise SaaS” means SaaS Services that are eligible for customizations by LabVantage, subject to Professional Services fees.

“Fees” mean amounts due to LabVantage under the Order Form.

“Internal Business Purpose” means for internal processes of Customer or its Affiliates or for services that Customers or Affiliates provide to their own customers in the ordinary course of business. Internal Business Purpose excludes providing the Software itself to third parties,

including customers of Customer, in a time sharing, service provider or similar arrangement.

“LabVantage” means the LabVantage entity identified on the Order Form.

“Offering” means the LabVantage offering listed on an Order Form, which may include Software, Professional Services, SMP, Cloud Offerings or other offerings.

“Order Form” means the document setting forth the Offering, Fees, and other applicable Terms executed by Customer and LabVantage either by physical signature or electronic means.

“Personal Data” means any data that identifies a real or natural person.

“Professional Services” means the consulting, configuration or other technical services described in a Statement of Work.

“SaaS Services” means the provision of the Software in a Cloud Environment via a Software-as-a-Service subscription model. SaaS Services will be identified in the Order Form as either Standard SaaS or Enterprise SaaS.

“Software” means the LabVantage software identified on the Order Form.

“Software Maintenance Plan” or **“SMP”** means the technical support and maintenance services described at <https://www.labvantage.com/legal/support>.

“Statement of Work” or **“SOW”** means the document that specifies the scope of the Professional Services executed by Customer and LabVantage either by physical signature or electronic means.

“Standard SaaS” means SaaS Services that are not eligible for customizations.

“Term” means the initial time period specified in the Order Form or Addenda, plus any subsequent renewal. The Term may be divided into annual periods, such as an SMP period or a SaaS subscription period.

“Time and Materials” means a Professional Services model where LabVantage performs Services for a daily rate.