

ONCOMINE™ KNOWLEDGEBASE REPORTER

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4.3. LTC'S LIABILITY TO CUSTOMER FOR BREACH OF ANY PROVISION OF THIS AGREEMENT SHALL BE LIMITED TO DAMAGES IN AN AMOUNT NOT TO EXCEED THE ACTUAL FEES PAID BY CUSTOMER FOR THE SERVICES.

5. **Indemnification.** Except to the extent caused by the willful misconduct of LTC, Customer shall indemnify and hold harmless LTC and its affiliates, and their respective officers, directors, employees and agents ("**Indemnified Parties**") from and against any and all expenses (including, but not limited to, reasonable attorney's fees) and losses incurred by any such Indemnified Parties in connection with any claim asserted by a third party arising out of or based on any product or service of Customer based in whole or part on Customer use of or reliance on the Content, or any portion or derivative thereof.

6. **Term, Termination.** This Agreement shall commence on the Effective Date and continue for a term of three (3) years (the "**Term**"). LTC may terminate this Agreement if (a) Customer breaches any material provision of the Agreement and fails to remedy the breach to the satisfaction of LTC within 15 days after written notice thereof; (b) LTC determines that biosecurity, biosafety, regulatory or feasibility reasons prevent or are likely to prevent the performance of the Services; or (c) Customer is deemed by law to be unable to pay its debts or perform its obligations under this Agreement. Customer shall have the right to terminate this Agreement upon 30 days prior written notice to LTC. Termination of Services in progress will result in a partial charge commensurate with the portion of Services completed at the time of cancellation, in addition to any other termination or cancellation charges specified in the Agreement.

7. **Miscellaneous.** This Agreement may not be assigned by Customer without the consent of LTC. The Agreement shall be governed by the laws of the state of Delaware, USA. The Agreement shall not be governed by the United Nations Convention on Agreements for the International Sale of Goods. If Customer is a US government agency, a purchase order in any amount greater than \$3000 will be subject to commercial item acquisition under 48 C.F.R. (FAR) Part 12 and these Agreement shall apply, supplemented only by the mandatory provisions of FAR 52.212-4 and 52.212-5 pursuant to FAR 12.302(b). If Customer is a prime contractor to a US government agency and this Agreement constitutes a subcontract under the FAR, then these Agreement shall apply, supplemented only by the minimum mandatory FAR flow-down clauses for commercial item subcontracts at 52.212-5(e) or 52.244-6. If any part of this Agreement is found to be legally unenforceable, the remaining clauses of this Agreement shall be unimpaired, and the Parties shall in good faith negotiate an enforceable provision that most closely achieves the objectives of the unenforceable provision. Except for payment obligations, neither party shall be responsible for failure to perform its obligations due to natural disasters or other force majeure causes beyond its reasonable control. Neither party shall use the name of other party or of its employees in any promotion or publication without prior written consent of such other party. No waiver by either party of any breach hereof shall constitute a waiver of any other breach thereof.