



Geneyx Terms of Service

For entities or persons who want to create a Geneyx user account and use the Geneyx Platform

This Geneyx Subscription Terms of Service ("Agreement") is entered into by and between Geneyx Genomex, Ltd. ("Geneyx") and the entity or person placing an order or accessing the Service ("Customer" or "you"). If you are accessing or using the Services on behalf of your company, you represent that you are authorized to accept this Agreement on behalf of your company, and all references to "you" or the "Customer" reference your company. If your company has already entered into a separate written subscription agreement with Geneyx for use of the Service, the terms and conditions of such other agreement shall prevail over any conflicting terms or conditions in this Agreement. If you are accessing or using the Service in your individual capacity, all references to "User" herein mean you, the Customer. The Agreement consists of the terms and conditions set forth below, any attachments or exhibits identified below and any Order Forms (as defined below) that reference this Agreement.

This Agreement permits the Customer to purchase online platform-as-a-service products and other services from Geneyx pursuant to any Geneyx ordering documents, online registration, order descriptions or order confirmations referencing this Agreement ("Order Form(s)") and sets forth the basic terms and conditions under which those products and services will be delivered. This Agreement shall govern the Customer's initial purchase on the Effective Date as well as any future purchases made by the Customer that reference this Agreement.

The "Effective Date" of this Agreement is the date which is the earlier of (a) the Customer's initial access to the Service (as defined below) through any online provisioning, registration or order process or (b) the effective date of the first Order Form referencing this Agreement.

Third-Party Project Participants: If you are not otherwise a Geneyx customer but are accessing or using the Service because you have been invited to participate in a Project controlled by a Geneyx customer, then the Project Participant Terms, and not this Agreement, apply to such access or use.

Modifications to this Agreement: Geneyx may modify the terms and conditions of this Agreement (including Service pricing and plans) from time to time, with notice given to the Customer by email or through the Service. The Customer must notify Geneyx within thirty (30) days of notice of the modifications that the Customer does not agree to such changes, and Geneyx (at its option and as the Customer's exclusive remedy) may either: (a) permit the Customer to continue under the prior version of this Agreement until the expiration of the then-current Subscription Term (after which time the modified Agreement will apply) or (b) allow the Customer to terminate this Agreement and receive a pro-rated refund of any fees the Customer has pre-paid for use of the Service for the terminated portion of the applicable Subscription Term. Upon any changes to this Agreement, the Customer may be required to click to agree to the modified Agreement in order to continue using the Service,



and in any event, continued use of the Service after the modifications take effect constitutes the Customer's acceptance of the modifications.

BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT, INSTALLING THE CLIENT SOFTWARE OR ACCESSING OR USING THE SERVICE, YOU ARE AGREEING TO BE BOUND BY ALL TERMS, CONDITIONS AND NOTICES CONTAINED OR REFERENCED IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THIS AGREEMENT, PLEASE DO NOT INSTALL THE CLIENT SOFTWARE OR USE THE SERVICE. FOR CLARITY, EACH PARTY EXPRESSLY AGREES THAT THIS AGREEMENT IS LEGALLY BINDING UPON IT.

1. Definitions

"Account" means the Customer's account on the Service.

"Affiliate" means any entity under the control of the Customer where "control" means ownership of or the right to control greater than 50% of the voting securities of such entity.

"Client Software" means the proprietary command-line scripts or other desktop client software that is made available to the Customer by GeneYx to access the Service from User computers.

"Customer Data" means any business information or other data of any type that is Submitted to the Service by or on behalf of the Customer (including from External Platforms and by Users) and all corresponding Output.

"Customer Materials" means Customer Data and Customer Tools.

"Customer Tools" means any Tools Submitted to the Service by or on behalf of the Customer (including from External Platforms and by Users).

"GeneYx APIs" means the proprietary application programming interfaces made available by GeneYx for accessing the Service.

"Documentation" means the functional and technical user documentation provided with the Service.

"Export" means to copy, transmit, or export data or tools out of the Service.

"External Platform" means any third-party software, software-as-a-service, data source, or other product or service with which the Service may be integrated or connected.

"HIPAA" means the Health Insurance Portability and Accountability Act, as amended and supplemented.

"GDPR" The General Data Protection Regulation ([GDPR](#)) means a legal framework that sets guidelines for the collection and processing of personal information from individuals who live in the [European Union \(EU\)](#).

"Laws" means all applicable local, state, federal and international laws, regulations and conventions, including without limitation, those related to data privacy (including HIPAA and GDPR) and data transfer, international communications and the exportation of technical or personal data.

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“Library Tools” means any Tools made available within the Service.

“Module” means a designated set of features provided as part of the Service as described in the applicable Order Form.

“Output” means any results or other output from the Customer’s use of Tools within the Service or otherwise derived from using the Service.

“Private Health Information” means any patient, medical or other protected health information regulated by HIPAA or any similar Laws.

“Service” means Geneyx’ platform-as-a-service solution(s) specified on an Order Form, including the Web UI and any related Geneyx APIs and Client Software. The Service includes any Modules specified on the Order Form but excludes Tools.

“Submit” means to input, upload or import data or Tools to the Service.

“Tools” means any analytical, computational, or other tools, scripts, applications, or workflows.

“User” means a user that the Customer has provisioned with access to Projects associated with the Customer’s Account.

“Web UI” means Geneyx’s web-based user interface for accessing and administering the Service.

2. Geneyx Service

2.1 Service Overview. The Geneyx Service (named Geneyx Analysis) is an online platform designed to enable the Customer to manage, analyze, and collaborate on their Customer Data. The Service includes features for the Customer to Submit Customer Data and use Tools to analyze Customer Data. The Service also includes integrations with External Platforms.

2.2 Provision of Service. The Service is provided on a subscription basis for a set term designated on the Order Form (each, a “Subscription Term”). Geneyx may also offer Professional Services related to the Service. The Customer shall purchase and Geneyx shall provide the specific Service and related Professional Services (if any) as specified in the applicable Order Form.

2.3 Access to the Service. The Customer may access and use the Service solely for its own benefit and in accordance with the terms and conditions of this Agreement, the Documentation and any scope of use restrictions designated in the applicable Order Form (“Scope of Use”).

2.4 General Restrictions. The Customer shall not (and shall not permit any third party to): (a) rent, lease, provide access to or sublicense the Service to a third party (except to Users as permitted herein); (b) use the Service to



provide or create, or incorporate the Service into, any similar service provided to a third party or otherwise directly expose the functionality of the Service to any third party (except to Users as permitted herein); (c) reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to the Service, except to the extent expressly permitted by applicable law (and then only upon advance notice to Geneyx); (d) copy or modify the Service or any Documentation (including any underlying workflows, algorithms, procedures or hierarchies), or create any derivative work from any of the foregoing; (e) remove or obscure any proprietary or other notices contained in the Service (including any reports or data printed from the Service); (f) publicly disseminate information regarding the performance of the Service; (g) adversely impact the speed, security or integrity of the Service (or any data contained within the Service); or (h) conduct any penetration testing or exploit or attempt to exploit any vulnerabilities in the Service.

2.5 Trial Subscriptions. If the Customer receives a trial, evaluation or other free subscription to the Service (a “Trial Subscription”), then Customer may use the Service in accordance with the terms and conditions of this Agreement until Customer has used all trial credits provided by Geneyx or such other period granted by Geneyx (the “Trial Period”). Trial Subscriptions are permitted solely for the Customer’s use to determine whether to purchase a paid subscription to the Service. Trial Subscriptions may not include all functionality and features accessible as part of a paid Subscription. Geneyx has the right to terminate a Trial Subscription at any time for any reason.

If the Customer does not purchase a paid Subscription following the Trial Period, the Customer’s use of the Service will be limited to participation in Projects controlled by other Geneyx customers, and Geneyx reserves the right to terminate this Agreement at any time for any reason.

2.6 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, Geneyx WILL HAVE NO WARRANTY, INDEMNITY, SERVICE LEVEL OR SUPPORT OBLIGATIONS WITH RESPECT TO TRIAL SUBSCRIPTIONS.

3. External Platforms

3.1 External Platform Accounts. The Service may support integrations with certain External Platforms. In order for the Service to communicate with such External Platforms, the Customer may be required to input credentials for the Service to access and receive relevant information from such External Platforms. By enabling the use of the Service with any External Platforms, the Customer authorizes Geneyx to access the Customer’s accounts with such External Platforms for the purposes described in this Agreement. The customer is solely responsible for complying with any relevant terms and conditions of the External Platforms and maintaining appropriate accounts in good standing with the providers of the External Platforms.



3.2 The Service uses information from various databases and tools for the annotation process, including Revel Score, under the Open Database License (ODBL) available here: <https://opendatacommons.org/licenses/odbl/1-0/>. Geneyx' s analysis does not provide access to the content of Revel, nor does it publicly disclose any part of it.

3.3 No Responsibility for External Platforms. The customer acknowledges and agrees that Geneyx is only responsible for providing and operating the Service and not any External Platform. Geneyx has no obligation with respect to any Customer Materials or Tools that the Customer exports to an External Platform. Except as otherwise set forth in the applicable Order Form, Geneyx does not guarantee that the Service will maintain integrations with any External Platform and Geneyx may disable integrations of the Service with any External Platform at any time with or without notice to Customer.

4. Customer Materials

4.1 Customer Obligations. In General, the Customer shall ensure that the Customer's use of the Service is at all times compliant with the Customer's privacy policies and all laws.

4.2 Responsibility for Customer Materials. The Customer is solely responsible for the accuracy, content, and legality of all Customer Materials (including those submitted by Third-Party Users) and for sharing Customer Materials as described in the introduction of this document. The Customer represents and warrants to Geneyx that the Customer has all necessary rights, consents and permissions to collect, share and use all Customer Materials as contemplated in this Agreement (including granting Geneyx the rights in Section 8.1 (Limited Warranty)), and that no Customer Materials will violate or infringe (i) any third-party intellectual property, publicity, privacy or other rights, (ii) any Laws, (iii) any terms of service, privacy policies or other agreement governing Customer's accounts with any External Platforms.

4.3 Private Health Information.

The customer agrees not to submit to the Service any Private Health Information unless (i) the Order Form specifies the applicable Module and (ii) Customer has entered into a Business Associate Agreement ("BAA") with Geneyx. Unless a BAA is in place, Geneyx will have no liability under this Agreement for Private Health Information, notwithstanding anything to the contrary in this Agreement or under GDPR, HIPAA, or any similar Laws. If the Customer is permitted to submit Private Health Information to the Service, it may only do so by uploading it to a Project specifically identified as a "Private Health Information Project (PHI Project)". The mutually executed BAA shall be incorporated by reference into this Agreement and is subject to its terms. For clarity, the BAA only applies to Private Health Information stored within the Customer's PHI Projects and not to Private Health Information the Customer exports to any External Platform or shares with any Third-Party Project.



4.4 Backup of Customer Materials. Except for disaster recovery measures described in the Documentation, the Service does not archive or backup Customer Materials. GeneYx shall not of its own accord intentionally delete any Customer Materials from the Service prior to termination of the Customer's applicable Subscription Term. Except for the foregoing, GeneYx expressly disclaims all other obligations with respect to maintaining archives or backups of Customer Materials.

4.5 Indemnification by the Customer. The Customer shall indemnify, defend and hold innocuous GeneYx from and against any and all claims, costs, damages, losses, liabilities, and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any claim arising from or relating to (a) any Customer Materials or breach or alleged breach by the Customer of Section 4.1 (Customer Obligations), (b) any service or product offered by the Customer in connection with or related to the Service or (c) sharing of Customer Materials with (or use thereof by) Third-Party Users or Third-Party Projects. This indemnification obligation is subject to the Customer: (i) receiving prompt written notice of such claim (provided that notice is given in sufficient time for the Customer to respond without prejudice); (ii) having the exclusive right to control and direct the investigation, defense, or settlement of such claim; and (iii) obtaining all necessary cooperation from GeneYx, at the Customer's expense.

5. Security

GeneYx agrees to use commercially reasonable technical and organizational measures designed to prevent unauthorized access, use, alteration, or disclosure of the Service.

5.1 Subscription and Intellectual Property Rights

This Agreement is a subscription agreement granting the Customer access to the Service. The Customer acknowledges that they are obtaining only a limited right to use the Service and that, regardless of any use of the words "purchase," "sale," or similar terms in this Agreement, no ownership rights are conveyed to the Customer.

The Customer agrees that GeneYx and its suppliers retain all right, title, and interest (including all patent, copyright, trademark, trade secret, and other intellectual property rights) in and to:

- the Service,
- Documentation,
- Professional Services deliverables (excluding any Customer Materials incorporated therein), and
- any related or underlying technology and documentation, as well as any derivative works, modifications, or improvements of the foregoing, including those incorporating Feedback (collectively, "GeneYx Technology").



Except as expressly set forth in this Agreement, no rights in any GeneYx Technology are granted to the Customer. Furthermore, the Customer acknowledges that the Service is an online, hosted solution and that, except for the Client Software, the Customer has no right to obtain a copy of the Service.

5.2 Feedback. The Customer, from time to time, may submit comments, questions, suggestions, or other feedback relating to any GeneYx product or service to GeneYx ("Feedback"). GeneYx may freely use the Feedback in connection with any of its products or services.

5.3 Service Data. Notwithstanding anything to the contrary herein, the Customer agrees that GeneYx may obtain technical and other data about the Customer's use of the Service as well as Library Tools ("Service Data"), and GeneYx may use and share the Service Data to improve, support, develop, provide and deliver reporting regarding the Service and Library Tools during and after the term of this Agreement provided that GeneYx does not identify the Customer as to the source of such Service Data without the Customer's prior written permission.

6. Subscription Term, Fees, and Payment

6.1 Subscription Term and Renewals. Unless otherwise specified on the applicable Order Form, each Subscription Term shall automatically renew for additional twelve (12) month periods or as specified in the applicable order form at GeneYx' then-current license rates unless either party gives the other written notice of termination at least thirty (30) days prior to the expiration of the then-current Subscription Term.

6.2 Fees and Payment.

All fees are as set forth in the applicable Order Form and shall be paid by the Customer within thirty (30) days of the invoice date, unless otherwise specified in the applicable Order Form. Except as expressly set forth in Section 8.1 (Limited Warranty) and Section 4.5 (Indemnification), all fees are non-refundable.

The Customer is responsible for paying all sales, use, GST, value-added, withholding, or similar taxes or levies, whether domestic or foreign, except for taxes based on GeneYx's income.

7. Term and Termination

7.1 This Agreement is effective as of the Effective Date and expires on the date of expiration or termination of all Subscription Terms.

7.2 Termination for Cause. Either party may terminate this Agreement (including all related Order Forms) if the other party (a) fails to cure any material breach of this Agreement (including a failure to pay fees) within thirty (30) days after written notice or as per mutually agreed contract; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter).

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8. Limited Warranty

8.1 Limited Warranty. GeneYx warrants, for the Customer's benefit only, that the Service will operate in substantial conformity with the applicable Documentation. GeneYx' sole liability (and the Customer's sole and exclusive remedy) for any breach of this warranty shall be, at no charge to the Customer, for GeneYx to use commercially reasonable efforts to correct the reported non-conformity, or if GeneYx determines such remedy to be impracticable, either party may terminate the applicable Subscription Term, and the Customer shall receive as its sole remedy a refund of any fees the Customer has pre-paid for use of the Service for the terminated portion of the applicable Subscription Term. The limited warranty set forth in this Section shall not apply: (i) unless the Customer makes a claim within thirty (30) days of the date on which the Customer first noticed the non-conformity, (ii) if the error was caused by misuse, unauthorized modifications or third-party hardware, software or services, or (iii) to use provided on a no-charge or evaluation basis. THE CUSTOMER AGREES THAT GENEYX WILL NOT BE HELD RESPONSIBLE FOR ANY CONSEQUENCES THAT MAY RESULT FROM TECHNICAL PROBLEMS, INCLUDING WITHOUT LIMITATION IN CONNECTION WITH THE INTERNET, ELECTRICITY, STORAGE AND CLOUD COMPUTING SERVICES, OR ANY TELECOMMUNICATIONS. GENEYX MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE SERVICES ARE OR WILL BE AVAILABLE FOR USE IN ANY PARTICULAR LOCATION OR AT ANY SPECIFIC TIME OR THAT THE CUSTOMER WILL PROFIT OR DERIVE ANY ECONOMIC BENEFIT FROM THE SERVICE. EXCEPT AS EXPRESSLY STATED HEREIN, GENEYX DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES, OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE SECURITY OF ANY INFORMATION, DATA, OR CONTENT THE CUSTOMER MAY PROVIDE OR ACTIVITIES YOU ENGAGE IN DURING YOUR USE OF THE SERVICES. THE CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK AND RESPONSIBILITY.

9. Limitation of Remedies and Damages

9.1 Consequential Damages Waiver. EXCEPT FOR EXCLUDED CLAIMS (DEFINED BELOW), NEITHER PARTY (NOR ITS SUPPLIERS) SHALL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOSS OF USE, LOST DATA, LOST PROFITS, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

9.2 Liability Cap. EXCEPT FOR EXCLUDED CLAIMS, NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EACH PARTY AND ITS SUPPLIERS' ENTIRE LIABILITY TO THE OTHER PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER TO GENEYX DURING THE PRIOR TWELVE (12) MONTHS UNDER THIS AGREEMENT.

9.3 Excluded Claims. "Excluded Claims" means any claim arising (a) from Customer's breach of Section 2.4 (General Restrictions); (b) under Section 4.1 (Customer Obligations); (c) from a party's breach of its obligations



in Section 10 (Confidential Information) (but excluding claims related to Customer Materials); or (d) a party's indemnification obligations under this Agreement.

9.4 Nature of Claims and Failure of Essential Purpose. The parties agree that the waivers and limitations specified in this Section apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

10. Confidential Information

Each party (as "Receiving Party") agrees that all code, inventions, know-how, business, technical and financial information it obtains from the disclosing party ("Disclosing Party") constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any Geneyx Technology, performance information relating to the Service, and the terms and conditions of this Agreement shall be deemed Confidential Information of Geneyx without any marking or further designation. Except as expressly authorized herein, the Receiving Party will (1) hold in confidence and not disclose any Confidential Information to third parties and (2) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under this Agreement. The Receiving Party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know (including, for Geneyx, the subcontractors referenced in Section 12.3), provided that such representatives are bound to confidentiality obligations no less protective of the Disclosing Party than this Section and that the Receiving Party remains responsible for compliance by any such representative with the terms of this Section. The Receiving Party's confidentiality obligations shall not apply to information that the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information. The Receiving Party may make disclosures to the extent required by law or court order, provided the Receiving Party notifies the Disclosing Party in advance and cooperates in an effort to obtain confidential treatment. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.



11. General Terms

11.1 This Agreement will bind and inure to the benefit of each party's permitted successors and assignees. Neither party may assign this Agreement without the advance written consent of the other party, except that either party may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of such party's assets or voting securities. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section will be null and void.

11.2 If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Agreement shall otherwise remain in effect.

11.3 Governing Law; Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof and without regard to the United Nations Convention on the International Sale of Goods. The jurisdiction and venue for actions related to the subject matter hereof shall be the state and United States federal courts located in Santa Clara County, California and both parties hereby submit to the personal jurisdiction of such courts.

11.4 Attorneys' Fees and Costs. The prevailing party in any action to enforce this Agreement will be entitled to recover its attorneys' fees and costs in connection with such action.

11.5 Any notice or communication required or permitted under this Agreement shall be in writing to the parties at the addresses set forth on the Order Form or at such other address as may be given in writing by either party to the other in accordance with this Section and shall be deemed to have been received by the addressee (i) if given by hand, immediately upon receipt; (ii) if given by overnight courier service, the first business day following dispatch or (iii) if given by registered or certified mail, postage prepaid and return receipt requested, the second business day after such notice is deposited in the mail.

11.6 Amendments; Waivers. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by a duly authorized representative of each party to this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. No provision of any purchase order or other business form employed by Customer will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect.

11.7 Order of Precedence. In case of conflict between any provisions of this Agreement, the order of precedence of the documents constituting this Agreement is as follows, each listed document superseding in the event of any conflicting provision in a later listed document: (1) Amendments to the Agreement; (2) the Agreement



including the exhibits; (3) quotes; and (4) purchase orders and any other document that makes specific reference to this Agreement. If the Customer or GeneYx submits Purchase Orders, invoices or other similar documents for accounting or administrative purposes or otherwise, no pre-printed or similar terms and conditions contained in any such form will be deemed to supersede or modify any of the terms and conditions of this Agreement.

12. Entire Agreement

12.1 This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. The customer acknowledges that the Service is an online, subscription-based product and that in order to provide improved customer experience GeneYx may make changes to the Service, and GeneYx will update the applicable Documentation accordingly. The support, service level availability, and security terms may be updated from time to time upon reasonable notice to the Customer to reflect process improvements or changing practices (but the modifications will not materially decrease GeneYx' obligations as compared to those reflected in such terms as of the Effective Date).

12.2 Force Majeure. Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events that occur after the signing of this Agreement and that are beyond the reasonable control of such parties, such as a strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or telecommunications or data networks or services.

12.3 GeneYx may use the services of subcontractors and permit them to exercise the rights granted to GeneYx in order to provide the Service under this Agreement, provided that GeneYx remains responsible for (i) compliance of any such subcontractor with the terms of this Agreement and (ii) for the overall performance of the Service as required under this Agreement.

12.4 Nothing in this Agreement prevents GeneYx from disclosing Customer Data to the extent required by law, subpoenas, or court orders, but GeneYx will use commercially reasonable efforts to notify Customers where permitted to do so.

12.5 Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.



12.6 Independent Development. Subject to any obligations of confidentiality and to the parties' respective IP Rights, in no event shall either party be precluded or restricted from developing, using, marketing or providing for itself, or for others, materials that are competitive with the products and services of the other party, irrespective of their similarity to any products or services offered by the other party in connection with this Agreement. Each party acknowledges that the other may already possess or have developed such materials. In addition, each party shall be free to use its general knowledge, skills, and experience, and any ideas, concepts, know-how, and techniques within the scope of its business that are used or developed in the course of undertaking this Agreement by such party, and each party shall remain free to provide products and services to any client or prospective client, and to enter into to alliance, teaming or other arrangements with any third party (including competitors of the other party), so long as the terms of this Agreement are not violated.

12.7 This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will be considered one and the same agreement.