

# Terms of Use

## 1. Definitions

### 1.1. The following definitions apply in these terms:

MolBioCloud is a cloud service which provides internet based storage, operating systems, software, applications and user settings to Customers. Agreement means the agreement together with any schedules or attachments. Authorised Persons means the Main Authorised Users and any Authorised Users collectively. Authorised User means any person the Main Authorised User authorises to use or access the Service. Claim means a claim, action, proceeding or demand made against the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent. Consequential Loss means any special, indirect, incidental, consequential or economic loss (including loss of profits, revenue, savings, opportunity or goodwill), even if the possibility of such a loss being suffered has been brought to the attention of the relevant party. Content means all forms of information, including text, voice, pictures, animations, video, sound recordings, software, separately or combined, sent and received across a network. Customer means a person who purchases or subscribes to the Services by entering into this Agreement and includes all Authorised Persons. Loss means a damage, loss, cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent, and includes Consequential Loss. Main Authorised User means the individual or individuals identified by MolBioCloud as the administrator(s) for the Service and authorised by Customer to create and manage the User Identification. Personal Information means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether included in material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. Privacy Policy means the privacy policy as amended from time to time. Pricing Schedule means the Pricing Schedule as set out in the pricing details and as amended from time to time and provided to Customer at the time of entering into the Agreement. Third Party Content means content or applications made available to you by any third party: run on the Service, cause to interface with the Service, or upload to the Services under your account or otherwise transfer, process, use or store in connection with your account. User Identification means the unique user identification name and password issued or otherwise assigned by the Main Authorised User to each Authorised User for access to and use of the Services. Your Content means content you or any or any Authorised Persons: run on the Service, cause to interface with the Service, or upload to the Services under your account or otherwise transfer, process, use or store in connection with your account. we or us or our means MolBioCloud. You or your means Customer.

## 2. The Service

### 2.1. Commencement and term:

(a) We will supply the Service to you commencing on the date we accept your application and on the terms and conditions set out in this Agreement. We will cease to provide the Service to you on and from the termination of this Agreement.

(b) Your agreement is for the period specified in Pricing Details (Initial Term). We will continue to provide the Service to you after the expiration of the Initial Term on the same terms and conditions for a further term of the same duration as the Initial Term, unless advised in writing by you at least 30 days prior to the end of the Initial Term that this Agreement will expire at the end of the Initial Term.

### 2.2. Account:

(a) To access the Service, we will create a Main Authorised User account associated with a valid e-mail address.

(b) The Main Authorised User will issue a User Identification to enable each Authorised User to access and use the Services. You are solely responsible for tracking the User Identifications to specific Authorised Users and for ensuring the security and confidentiality of all User Identifications.

(c) You are responsible for providing, installing and maintaining at your own expense all equipment and facilities necessary to enable you and any Authorised Persons to use the Service. (d) You are fully responsible for all liabilities incurred through the use of any User Identification and that any transaction under a User Identification will be deemed to have been performed by you and we and our affiliates are not liable for any unauthorised access to an account. Use of any User Identification, other than as provided in this Agreement, will be considered a breach of this Agreement by you.

(e) You will contact us immediately if you believe an unauthorised third party.

(f) may be using your account or a User Identification;

(g) or if your account information or User Identification is lost or stolen; or

(h) an Authorised Person is using the Service in a manner which may result in a breach, or is in breach of, this Agreement.

### 2.3. Third Party Content:

Third Party Content may be made available directly to you by other companies or individuals under separate terms and conditions, including separate fees and charges. The Third Party Content and your use of that Third Party Content is at your sole risk and cost.

## 2.4. Provision of Service:

We will provide the Service to you with reasonable care and skill. In the event of unexpected faults or delays we will use reasonable endeavours to ensure the Service is restored.

MolBioCloud does not guarantee that the Service will be continuous or fault free due to the

nature of, and reliance on, third party networks. MolBioCloud is not responsible or liable in relation to any loss damage arising out of any fault or delay whatsoever or howsoever caused, created, maintained, continued or resumed.

## 3. Your obligations

### 3.1. General obligations:

In addition to any obligations set out in this Agreement, you must: provide any information and reasonable assistance to us to enable the Service to be provided to you;

- (a). comply with all reasonable directions by us with respect to access and use of the Service;
- (b). provide any information and reasonable assistance to us to enable investigations into activities of an illegal nature, including potential incidences of fraud;
- (c). comply with all laws, regulations, standards and industry codes applicable to you; or
- (d) comply with any rules imposed by any third party whose Content or services you access using the Service or whose network your data goes through.

### 3.2. Prohibited Activity:

In addition to any obligations set out in this Agreement, you must not, and must ensure that any Authorised Persons do not:

- (a) use the Service in any way which damages, interferes with or interrupts, suspends or bars the Service;
- (b) use or access the Service for any activity of an illegal or fraudulent nature, or to break any law;
- (c) expose the Service or the providers or us to any liability;
- (d) transmit, publish or communicate material which is defamatory, offensive, abusive, indecent, menacing or unwanted;
- (e) misuse the Service or do anything which would be in breach of this Agreement;
- (f) disclose to any unauthorised person any confidential information or security number provided by in relation to the Service;
- (g) allow, permit or enable any unauthorised use of the Service;
- (h) resell, distribute or reproduce any part of the Service;
- (j) engage in spamming;
- (k) attempt to or reverse engineer the Service or any part thereof;

(l) reproduce, distribute, transmit, publish, copy, transfer or commercially exploit any information or Content accessed through or received from the service that would infringe the intellectual property right of any person; and  
(m) engage in conduct which, in our opinion, could be reasonably expected to adversely affect our reputation or result in a liability to us.

### 3.3. Acknowledgment:

You acknowledge and agree that:

- (a) the network of other suppliers is used to provide the Service (including third party suppliers who are not controlled by us);
- (b) the Service is not and will not be free from faults or interruption (which may include network failure, any network congestion or any network drop out);
- (c) quality and speed of the Service may vary at times; and
- (d) the Service may not be available at all times.

No warranty as to Content and access:

MBC does not exercise any control over, authorises or makes any warranty regarding:

- (a) your right or ability to use, access or transmit any Content using the Service;
- (b) the accuracy, reliability or completeness of any Content which you may use, access or transmit using the Service, including data which may be cached as part of the Service;
- (c) the consequences of you using, accessing or transmitting any Content, including Your Content, while using the Service, including without limitation, any virus or other harmful software; and
- (d) any charges which a third party may impose on you in connection with your use of the Service.

## 4. Termination, cancellation and suspension of Service

### 4.1. Suspension, cancellation or termination:

We may immediately suspend or cancel the Service or immediately terminate this Agreement without liability to you upon giving notice to you for any reason if:

- (a) you or any of your Authorised Persons breach the terms of this Agreement;
- (b) we are required by law to do so, or are requested to do so by a law enforcement agency;
- (c) you provide false or incomplete information about you relating to the Service;
- (d) you suffer an Insolvency Event;
- (e) the use of the Service by you may cause damage to the Service; or
- (f) there are serious technical problems which require corrective action.

## 4.2. Charges to you on suspension:

If the Service is suspended in accordance with clause 4.1, you may be required to pay a fee for the reconnection of the Service as set out in the Rate Plans.

Rights to alter Service: We may, at any time without notice or liability:

- (a) refuse to activate or re-activate any Service or comply with a request from you;
- (b) deactivate any Service for any Authorised Persons; and
- (c) suspend part or all of any Service for any Authorised Persons.

Termination by either party: Either party may terminate this Agreement:

- (a) immediately by notice to the other party if the other party breaches an obligation under this Agreement in a material respect and does not rectify that breach within 14 days of receiving notice from the terminating party requiring rectification;
- (b) immediately by notice to the other party, if an Insolvency Event occurs in respect of that other party; or
- (c) where the Initial Term ends, by notice to the other party at least 90 days prior to the expiration of the Initial Term. If notice is not received in writing 90 days prior to the expiration of the Initial Term the initial term shall be extend by 30 days

## 5. Effect of Termination

### 5.1. Obligations upon termination:

If this Agreement is terminated:

- (a) all payment owing to us become due and payable including full and immediate payment of any minimum contract term; and
- (b) you must pay to us all costs and fees incurred by us up to and including the termination date; and
- (c) you must immediately stop and procure that all Authorised Persons stop using the Service.

## 6. Software

### 6.1. Software:

- (a) You must comply with the terms of any licence for any software provided to you in relation to the Service (including any software provided by any third party).

(b) we (or our suppliers and agents) do not provide make any warranty or representation regarding the performance or compatibility of software on your computer. You agree not to make a claim against us or any of our suppliers in respect of the software or its performance.

(c) You must not, disassemble, decompile or reverse engineer any software provided by us or any third party in relation to the Service.

## 7. Privacy and Personal Information

### 7.1. Warranty:

We warrant that all information you have provided or will provide to us under this Agreement or in connection with the Service will comply with any laws relating to the collection and disclosure of personal information under the Privacy Laws and the Privacy Policy. Please refer to our Privacy Policy for more details.

## 8. Fees and charges

### 8.1. Commencement:

We will charge you for your use of the Service on and from the commencement of the Service and in accordance with the Pricing Schedule.

### 8.2. Monthly invoices:

You will be invoiced monthly at the commencement of the month in accordance with your Pricing Schedule. We will use reasonable endeavours to:

- (a) process and deliver invoices within 10 business days of the closure of the billing period;
- (b) incorporate all charges incurred by you within the current billing period. Where charges appear on your invoices that relate to a previous billing period this will be clearly set out.

### 8.3. When fees payable:

You must pay the fees even if:

- (a) the Service is unavailable or the network is unavailable; or
- (b) you are unable to use the Service for any reason.
- (c) If the Service is suspended or unavailable for use for a substantial period, we may in our sole, absolute and unfettered discretion, provide a discount for the period in which the Service was suspended or unavailable for use.

## 8.4. Payment terms:

You must pay all fees and charges set out in any invoice within 7 days of the date of the invoice. You must pay each invoice by the method set out in any invoice or by electronic funds transfer (debit or credit) from your bank account to a bank account nominated from time to time by us. Prepayment: We may request you to pay in advance the estimated cost of using your Service for the billing period.

## 8.5. Indemnity for late payment:

You indemnify us against all Losses incurred by us including all legal costs and other expenses incurred by us in connection with a demand, action, or other proceeding taken for recovery of any debt owing from you to us.

# 9. Indemnity and Liability

## 9.1. Indemnity:

To the maximum extent permitted by law, you release us from, and indemnify and hold harmless, our officers, employees, suppliers and agents, including us, (those indemnified) from and against, any Loss or Claim (including reasonable legal costs and expenses) brought against, incurred or suffered by us or liability reasonably incurred or suffered by any of those indemnified arising from any proceedings against those indemnified and arising directly or indirectly in connection with the provision of the Service by us including:

- (a) where such loss or liability was caused by a breach of your obligations under this Agreement; or
- (b) where such loss or liability was caused by any wilful, unlawful or negligent act or omission by you.

## 9.2. Exclusion of Liability:

We, our officers, employees, suppliers and agents, including us, exclude liability for any and all Loss suffered or incurred by you, or any Authorised Persons, or any other person that uses the Service in connection with:

- (a) failure for any reason to activate, reactivate or to deactivate the Service;
- (b) any failure to provide all or part of any of the Service including as a result of any network failure, any network congestion or any network drop out, or any delay in providing the Service where that failure is not our fault;
- (c) any delay, interruption or suspension of the Services;
- (d) a breach by you or any Authorised Persons of this Agreement;

- (e) any incorrect information provided by you, or any Authorised Persons, or any third party;
- (f) access by you, or any Authorised Persons, or any other person using your Service to any material available to the public that you find offensive, upsetting, defamatory or personally offensive;
- (g) access by you, or any Authorised Persons, or any other person using your Service to any sites that may be illegal; or
- (h) any loss of content, including Your Content from the use of the Service.

### **9.3. Severance:**

If any provision of this Agreement is held to be illegal, invalid or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid or unenforceable. If that clause cannot be read down, then that provision shall be severed without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Agreement.

### **9.4. Non-merger of provisions:**

A provision of this Agreement which can and is intended to operate after its conclusion will remain in full force and effect.

### **9.5. Waiver:**

A single or partial exercise or waiver of a right relating to this Agreement will not prevent any other exercise of that right or the exercise of any other right.

### **9.6. Jurisdiction:**

This Agreement is governed by and construed in accordance with all applicable laws in force in the state of Maryland from time to time, and the parties submit to the non-exclusive jurisdiction of the courts of the state of Maryland.

### **9.7. Variations:**

We may vary this Agreement (including varying the service charges and adding new types of charges) by providing you with 30 days' notice.

### **9.8. Agency:**

You appoint us as your agent for the purposes of completing any customer authorisation form on your behalf.

## 9.9. Assignment:

We shall have the right to assign or novate all or part of its rights and obligations under this Agreement to any of its suppliers or any other party without any further consent required by you.

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