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- b) If at any time an allegation of infringement of any rights of any third party is made, or in ESTA or Owner's opinion is likely to be made, with respect to any of the Product, ESTA may, at its option and at its own expense (i) obtain for you the right to continue using the Product, (ii) modify or replace the Product or any portion thereof so as to avoid any such claim of infringements, or (iii) refund to you the License Fee. ESTA shall have no liability to you if any claim of infringement would have been avoided except for your refusal to use any modified or replacement Product supplied or offered to be supplied pursuant to this Section 4(b) or to otherwise cease using the Product. Notwithstanding anything contained in this Agreement, and except as set forth in Section 4(b) hereof, ESTA and/or Owner's liability to you for damages pursuant to this Section 4(b), if any, shall not exceed the amounts of the License Fee paid by you for the Product subject to any such claim.
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6. **GOVERNING LAW; ATTORNEY'S FEES:** This Agreement shall be governed by the laws of the State of New York without reference to its conflict of laws provisions and you further consent to jurisdiction by the state and federal courts sitting in the State of New York.
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