

TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

1. DEFINITIONS AND INTERPRETATION

1.1. The following definitions apply in these Conditions:

Background Intellectual Property	means any Intellectual Property, other than Foreground Intellectual Property, which is used in the course of or in connection with any Services provided, including but not limited to:
	(a) in respect of the Supplier only, any Intellectual Property in any underlying master template or pro-forma documentation owned and used by the Supplier in producing the Deliverables; and
	(b) in respect of Rosemont only, any Intellectual Property in the Rosemont Materials.
Business Day	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Conditions	these terms and conditions as amended from time to time in accordance with clause 17.9.
Contract	the contract between Rosemont and the Supplier for the supply of Goods and/or Services comprising:
	(a) the Order (as the same may subsequently be varied in accordance with clause 8);
	(b) the Specification(s); and
	(c) these Conditions.
Control	has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression "change of Control" shall be construed accordingly.
Rosemont	Rosemont Pharmaceuticals Limited registered in England and Wales with company number 00924648.
Rosemont Materials	all materials including equipment and tools, patterns, drawings, specifications and data supplied by Rosemont to the Supplier, in respect of which, Rosemont gives no warranties.
Deliverables	all documents, products and materials (including drafts) developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services as detailed in the Order and/or the Specification.
Delivery Date	(a) in respect of Goods, the date specified in the Order for delivery of the Goods or, if no such date is specified, then within 30 days of the date of the Order; and
	(b) in respect of Services, the date specified in the Order for completion of the Services or such other date as agreed by Rosemont in writing.
Delivery Location	the location as is set out in the Order or as instructed by Rosemont before delivery;
Foreground Intellectual Property	means any Intellectual Property that arises or is obtained or developed by a party, or by a third party on a party's behalf, in the course of or in connection with the Services, including:
	(a) any Intellectual Property in the Deliverables (save to the extent that, any underlying master template or pro-forma documentation used in providing the Deliverables shall be Background Intellectual Property); and
	(b) any Intellectual Property in the data (in whatever form) collected by the Supplier for the purposes of providing the Services and the Deliverables (whether or not such data is actually contained in the Deliverables).
Good Industry Practice	the exercise by the Supplier of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a prudent operator engaged in the same type of undertaking, profession or trade under the same or similar conditions using the best techniques and procedures available to a high professional standard;
Goods	the goods (or any part of them) set out in the Order.

ROSEMONT PHARMACEUTICALS LIMITED

Intellectual Property Rights	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Mandatory Policies	Rosemont's Anti-Bribery and Anti-Corruption and Whistleblowing policies.
Order	Rosemont's order for the supply of Goods and/or Services, as set out in Rosemont's purchase order form.
Services	the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Specification.
Specification(s)	(a) in respect of Goods, any specification for the Goods, referenced in the Order; and (b) in respect of Services, the description or specification for Services incorporated into the Order by Rosemont.
Supplier	the person or firm from whom Rosemont purchases the Goods and/or Services.

- 1.2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- 1.4. Any words following the terms including, include or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.5. A reference to writing or written includes fax and email.

2. BASIS OF CONTRACT

- 2.1. The Order constitutes an offer by Rosemont to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2. The Order shall be deemed to be accepted on the earlier of:
 - 2.2.1. the Supplier issuing written acceptance of the Order; or
 - 2.2.2. any act by the Supplier consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence ("**Commencement Date**").
- 2.3. These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or attempts to condition performance of the contract by reference to, or which are implied by law, trade custom, practice or course of dealing.
- 2.4. The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.
- 2.5. All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other only is specified.
- 2.6. If there is an inconsistency between any of the provisions of the Contract, the documents referred to in it shall prevail in the following decreasing order of precedence:
 - 2.6.1. the Order;
 - 2.6.2. the Specification(s);
 - 2.6.3. these Conditions; and
 - 2.6.4. any additional documents incorporated into the Contract on the written consent of both parties, from time to time.

3. GOODS WARRANTIES

- 3.1. The Supplier warrants that the Goods (including where relevant all associated specifications, formulations, product designs, artwork, associated text, label designs and/or packaging) will:
- 3.1.1. be of satisfactory quality and conform in all respects to the quantity, nature, substance, quality, design, functionality, performance criteria, standards and descriptions stated or referred to in:
 - 3.1.1.1. the Contract; and
 - 3.1.1.2. any documentation (whether of a promotional character or otherwise) issued, or representations made, by the Supplier in connection with the Goods;
 - 3.1.2. be fit for any purpose:
 - 3.1.2.1. for which they are commonly supplied or used;
 - 3.1.2.2. which is held out by the Supplier or indicated to the Supplier by Rosemont (either expressly or by implication) and in this respect Rosemont relies on the Supplier's skill and judgement; or
 - 3.1.2.3. which is referred to in the Contract;
 - 3.1.3. be of a nature, quality and substance which conforms to all applicable statutory and regulatory requirements and relevant EU and UK industry standards and practices applicable to the Goods concerned;
 - 3.1.4. save to the extent the Contract states it to be Rosemont's responsibility, be designed, manufactured, processed, stored and transported with reasonable skill and care by properly qualified and experienced persons;
 - 3.1.5. be equal in all respects to any sample, pattern, drawings or demonstration provided or given by either party which has been accepted in writing by Rosemont (whether in a pre-contractual tender process relied on by Rosemont when entering into the Contract or otherwise);
 - 3.1.6. not infringe the Intellectual Property Rights of any third party (save to the extent that such infringement directly results from written directions given by Rosemont);
 - 3.1.7. be properly packed and secured in such manner as to ensure the Goods are delivered in good condition;
 - 3.1.8. be safe and without risk to health or property when properly used;
 - 3.1.9. include all necessary information about the use of the Goods and all instructions and warnings relating to the Goods as may be necessary for the safe use of the Goods; and
 - 3.1.10. be of consistent quality and free from defects (whether latent or otherwise) including defects in design (save to the extent Rosemont is responsible for any design, materials or workmanship).
- 3.2. Rosemont's rights under these Conditions are in addition to the statutory conditions implied in favour of a purchaser under applicable laws and standards.
- 3.3. The Supplier shall, where applicable, assign to Rosemont upon request in writing, the benefit of any warranty, guarantee or similar right which it has against a third party manufacturer or supplier of the Goods or any part thereof.
- 3.4. Rosemont or any inspector or authorised representative authorised by Rosemont, may inspect and test the Goods at any time before delivery (including during the manufacturing process). The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.5. If following such inspection or testing Rosemont considers that the Goods do not comply or are unlikely to comply with the Supplier's warranties at clause 3.1, Rosemont shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.6. Rosemont may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. SERVICES WARRANTIES

- 4.1. The Supplier warrants that in providing the Services, it shall:
- 4.1.1. co-operate with Rosemont in all matters relating to the Services, and comply with all instructions of Rosemont;
 - 4.1.2. perform the Services with the best care, skill and diligence and in accordance with Good Industry Practice;
 - 4.1.3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;

ROSEMONT PHARMACEUTICALS LIMITED

- 4.1.4. ensure that the Services will conform with all descriptions, standards and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose that Rosemont expressly or impliedly makes known to the Supplier or are generally expected to apply given the nature of the Services to be delivered;
- 4.1.5. provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 4.1.6. use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to Rosemont, will be free from defects in workmanship, installation and design;
- 4.1.7. ensure that, when performing the Services to the extent that this involves installation of any Goods that it identifies any failure of the Goods to comply with the warranties set out at clause 3.1 that the Supplier ought to be in a position to identify and that, it promptly informs Rosemont of any such defect and assists Rosemont in matters arising from the breach of clause 3.1;
- 4.1.8. shall maintain the Rosemont Materials in safe custody, good order and condition and at its own risk (subject in the case of tooling and patterns to fair wear and tear), and shall use them only in connection with the Contract; and
- 4.1.9. at any time, upon Rosemont's request deliver up to Rosemont all Rosemont Materials.

5. DELIVERY OF GOODS AND COMPLETION OF SERVICES

- 5.1. The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note which shows the date of the Order, the Order number, the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered ("**Delivery Note**").
- 5.2. Unless otherwise expressly agreed by the parties in writing, Rosemont shall not be obliged to return any packaging materials to the Supplier but shall be at liberty to dispose of or require the Supplier (at the Supplier's cost) to remove and take away packaging from the Delivery Location and lawfully and properly dispose of the same as it sees fit at the Supplier's expense and risk.
- 5.3. Unless otherwise expressly agreed by the parties in writing, the Supplier shall deliver the Goods and/or complete performance the Services:
 - 5.3.1. on the Delivery Date (or in respect of the Services only, by any other performance dates as specified in the Order or notified to the Supplier) and time is of the essence in relation to such dates;
 - 5.3.2. at the Delivery Location (carriage paid in the case of Goods); and
 - 5.3.3. during Rosemont's normal hours of business on a Business Day, or as instructed by Rosemont.
- 5.4. Where the Specification for the Services stipulates that acceptance testing procedures and criteria shall apply (an "**Acceptance Testing Programme**"), then:
 - 5.4.1. delivery of the Services shall only take place on the successful completion and satisfaction of the Acceptance Testing Programme;
 - 5.4.2. without prejudice to Rosemont's remedies under clause 7, if the Services fail to pass any of the tests or do not meet all of the criteria set out in the Acceptance Testing Programme, then:
 - 5.4.2.1. Rosemont may require the Supplier to repeat performance of the Services as soon as is reasonably practicable in order that they conform to the Contract; and
 - 5.4.2.2. subsequent to any such re-performance of the Services, the Acceptance Testing Programme shall be repeated, provided that it is completed by any performance date notified to the Supplier; and
 - 5.4.2.3. any date notified to the Supplier pursuant to clause 5.4.2.2, shall then be the delivery date of the Services.
- 5.5. Delivery of the Goods shall be completed on:
 - 5.5.1. the completion of unloading of the Goods at the Delivery Location;
 - 5.5.2. the provision of the Delivery Note to Rosemont; and
 - 5.5.3. a duly authorised representative of Rosemont acknowledging receipt.

ROSEMONT PHARMACEUTICALS LIMITED

- 5.6. Any signature given by any authorised representative of the Company purporting to be a receipt for Goods referred to in a delivery note shall be taken only to be acknowledgement that certain goods have been received, on the basis of these Conditions exclusively, but shall not constitute a confirmation that the Supplier is in compliance with the Contract. Rosemont shall reserve all of its rights in the event that subsequent investigation reveals that the Goods delivered were not as stated or do not meet any requirements of the Contract.
- 5.7. Unless otherwise stated in the Order the Supplier is responsible for obtaining all the export and import licences for the Goods and shall be responsible for any delays due to such licences not being available when required.
- 5.8. The Supplier shall not deliver the Goods in instalments without Rosemont's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle Rosemont to the remedies set out in clause 7.1.
- 5.9. Title and risk in the Goods shall pass to Rosemont on completion of delivery in accordance with this clause 5 and the Supplier shall insure their Goods against all usual risks that ought to be insured against to their full value until risk has passed to Rosemont.
- 5.10. Risk in the Goods shall immediately revert back to the Supplier in the event that they are rejected by Rosemont.
- 5.11. The Supplier will be liable for all damage which it or its carrier causes to Rosemont's property in the course of delivery. If a third party carrier is specified in connection with the Order such carrier shall be deemed to be an agent of the Supplier and not of Rosemont.
- 5.12. In making delivery the Supplier shall comply fully (and shall procure that its carriers comply fully) with any delivery requirements/procedures at the Delivery Location which have been brought to the Supplier's attention.

6. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

- 6.1. In performing its obligations under the Contract, the Supplier shall comply with:
 - 6.1.1. all applicable laws, statutes, regulations and codes from time to time in force (including any laws related to the prevention of bribery and corruption, any relevant environmental regulations and any licences, requirements and restrictions applicable to the import or export of the Goods); and
 - 6.1.2. the Mandatory Policies.
- 6.2. The Supplier shall observe all health and safety rules and regulations and any other security requirements that apply to Rosemont's premises.
- 6.3. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.
- 6.4. The Supplier shall:
 - 6.4.1. not engage in any activity, practice or conduct which would constitute either:
 - 6.4.1.1. a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or
 - 6.4.1.2. a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017;
 - 6.4.2. have and shall maintain in place such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Supplier) and to ensure compliance with clause 6.4.1;
 - 6.4.3. notify Rosemont in writing if it becomes aware of any breach of clause 6.4.1 or has reason to believe that it or any person associated with it has received a request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017;
 - 6.4.4. as Rosemont may request, certify to Rosemont in writing signed by an officer of the Supplier, compliance with this clause 6.4 by the Supplier and all persons associated with it under clause 6.5. The Supplier shall provide such supporting evidence of compliance as Rosemont may reasonably request.
- 6.5. The Supplier shall ensure that any person associated with the Supplier who is performing Services and/or providing Goods does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 6.4 ("**Relevant Terms**"). The Supplier shall be responsible for the observance and

ROSEMONT PHARMACEUTICALS LIMITED

performance by such persons of the Relevant Terms, and shall be directly liable to Rosemont for any breach by such persons of any of the Relevant Terms.

- 6.6. Breach of clause 6.4 shall be deemed an irremediable material breach under clause 14.2.1.
- 6.7. For the purposes of clause 6.4.2, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.

7. ROSEMONT REMEDIES

- 7.1. If the Supplier fails to deliver the Goods and/or Services by the applicable Delivery Date (or in respect of the Services only, any other performance dates as specified in the Order or notified to the Supplier), Rosemont shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights and remedies:
- 7.1.1. to terminate the Contract (in whole or in part and without liability to the Supplier) with immediate effect by giving written notice to the Supplier;
 - 7.1.2. to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
 - 7.1.3. to recover from the Supplier any costs incurred by Rosemont in obtaining substitute goods and/or services from a third party;
 - 7.1.4. to require the Supplier to promptly refund any sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
 - 7.1.5. to claim damages for any additional costs, loss or expenses incurred by Rosemont which are in any way attributable to the Supplier's failure to meet such dates.
- 7.2. If the Supplier supplies Goods and/or Services that, in whole or in part, do not comply with the warranties set out in clauses 3.1, 4.1 or implied by law, then, without limiting or affecting other rights or remedies available to it, Rosemont shall have one or more of the following rights and remedies, whether or not it has accepted the Goods and/or Services:
- 7.2.1. to terminate the Contract (in whole or in part and without liability to the Supplier) with immediate effect by giving written notice to the Supplier;
 - 7.2.2. to reject the Goods (whether or not title has passed) and/or Services (in whole or in part) (and in the case of Goods return them to the Supplier at the Supplier's own risk and expense) on the basis that a full refund for the Goods and/or Services shall be paid immediately by the Supplier;
 - 7.2.3. to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
 - 7.2.4. to permit the Supplier to replace or reinstate the Goods or re-perform the Services so that they conform to the Contract;
 - 7.2.5. to recover from the Supplier any expenditure incurred by Rosemont in obtaining substitute goods from a third party; and
 - 7.2.6. to claim damages for any additional costs, loss or expenses incurred by Rosemont arising from the Supplier's failure to supply Goods in accordance with clause 3.1.
- 7.3. These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 7.4. Rosemont's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

8. CANCELLATION

- 8.1. Rosemont may at any time prior to despatch of the Goods and/or commencement of the performance of the Services amend or cancel an Order by written notice to the Supplier.
- 8.2. If Rosemont amends or cancels an Order, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the Order up until the date of amendment or cancellation, except that, where the amendment or cancellation results from the Supplier's failure to comply with its obligations under the Contract, Rosemont shall have no liability to the Supplier in respect of it.

9. **CHARGES AND PAYMENT**

- 9.1. The price for the Goods:
- 9.1.1. shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and
- 9.1.2. shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by Rosemont.
- 9.2. The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by Rosemont, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services. For the avoidance of doubt Rosemont shall not be required to agree to or accept any liability for costs incurred by the Supplier in respect of its employees, agents and/or representatives, unless otherwise agreed in writing.
- 9.3. In respect of the Goods, the Supplier shall invoice Rosemont on or at any time after completion of delivery of all the Goods which are subject to the Order. In respect of Services, the Supplier shall invoice Rosemont on completion of the Services.
- 9.4. The Supplier shall invoice Rosemont for payment via the Rosemont AP invoice mailbox, and each invoice shall include such supporting information required by Rosemont to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
- 9.5. In consideration of the supply of Goods and/or Services by the Supplier, Rosemont shall pay the invoiced amounts in accordance with the payment terms set out within the Order, if no such terms are specified, then within 60 days of the date of a correctly rendered invoice to the bank account nominated in writing by the Supplier (subject to clause 9.6). Time for payment shall not be of the essence.
- 9.6. If the Supplier wishes to nominate any alternative bank account for payment of its invoices, then:
- 9.6.1. the Supplier shall provide Rosemont with written notification of the change of bank account details on its company letter headed paper;
- 9.6.2. the Supplier shall provide such written notice no less than 14 days prior to issuing the first invoice in respect of which the account details change is to apply;
- 9.6.3. the Supplier shall promptly complete and return any change of bank account forms as Rosemont may reasonably require;
- 9.6.4. Rosemont shall not be liable to the Supplier for delay to any payment owing to:
- 9.6.4.1. the Supplier's failure to follow the account change procedure set out in this clause 9.6; or
- 9.6.4.2. any issues with or errors in the account details provided by the Supplier; and
- 9.6.5. the Supplier's entitlement to charge interest pursuant to clause 9.8 shall only arise 14 days following the receipt by Rosemont of notice in terms that complies with this clause 9.6.
- 9.7. All amounts payable by Rosemont under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to Rosemont, Rosemont shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 9.8. If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.
- 9.9. The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services whether the same are provided on a fixed, time and materials or other basis, and the Supplier shall allow Rosemont to inspect such records at all reasonable times on request and provide all such evidence as Rosemont may reasonably request to verify the price of the Services.

ROSEMONT PHARMACEUTICALS LIMITED

9.10. Rosemont may at any time, without notice to the Supplier, set off any liability of the Supplier to Rosemont against any liability of Rosemont to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, Rosemont may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Rosemont of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. All Background Intellectual Property is and shall remain the exclusive property of the party owning it.
- 10.2. All Foreground Intellectual Property shall vest in and be owned absolutely by Rosemont. To the extent that either party sub-contracts any aspect of performance of the Services, that party shall ensure that any Foreground Intellectual Property arising from the work of its sub-contractor shall be assigned to it absolutely.
- 10.3. The Supplier acknowledges and accepts that Rosemont will not require the Supplier's consent in relation to the sale, transfer, assignment or other use of the Foreground Intellectual Property or the Rosemont Background Intellectual Property.
- 10.4. The Supplier shall grant to Rosemont a fully paid-up, worldwide, non-exclusive, non-transferable, royalty-free, perpetual and irrevocable licence to use, reproduce and share the Supplier Background Intellectual Property strictly to the extent necessary for:
- 10.4.1. the performance of the Services; and
 - 10.4.2. the transfer of the Services to a replacement supplier.
- 10.5. Rosemont shall grant to the Supplier a fully paid-up, worldwide, non-exclusive, non-transferable, royalty-free, perpetual and irrevocable licence to:
- 10.5.1. use the Rosemont Background Intellectual Property, strictly to the extent necessary for the performance of the Services; and
 - 10.5.2. use, develop, maintain and reproduce the Foreground Intellectual Property in the performance of the Services.
- 10.6. Except as otherwise set out in this clause 10, nothing in this Contract grants, licenses or transfers to a party any rights in respect of any Intellectual Property of the other party. Ownership of all Intellectual Property of a party belongs to, and shall remain vested exclusively in that party (or its third party licensors).

11. INDEMNITY

- 11.1. The Supplier shall indemnify Rosemont against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Rosemont arising out of or in connection with:
- 11.1.1. any breach of the warranties at clauses 3.1, 3.2 and 4.1, (save where such breach is as a direct result of Rosemont's acts and omissions)
 - 11.1.2. any claim made against Rosemont for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture or supply by the Supplier or use of the Goods by Rosemont, or receipt, use or supply of the Services (excluding Rosemont Materials);
 - 11.1.3. the Supplier or the Goods infringing or being held to infringe any applicable laws and standards;
 - 11.1.4. any claim made against Rosemont by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
 - 11.1.5. any claim made against Rosemont by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.
- 11.2. This clause 11 shall survive termination of the Contract.

12. INSURANCE

During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the

liabilities that may arise under or in connection with the Contract, and shall, on Rosemont's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

13. CONFIDENTIALITY

- 13.1. Each party undertakes that it shall not at any time during the Contract and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.2.
- 13.2. Each party may disclose the other party's confidential information:
- 13.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising its rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
- 13.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3. Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 13.4. The Supplier shall not, or permit any other person to, make any public announcement, press release or similar communication concerning the Contract or the relationship of the parties without Rosemont's prior written consent.

14. TERMINATION

- 14.1. Without affecting any other right or remedy available to it, Rosemont may terminate the Contract or any Order placed under the Contract, in whole or in part:
- 14.1.1. with immediate effect by giving written notice to the Supplier if:
- 14.1.1.1. there is a change of Control of the Supplier; or
- 14.1.1.2. the Supplier commits a breach of clause 6 (Compliance with relevant laws and policies).
- 14.1.2. for convenience by giving the Supplier 1 months' written notice.
- 14.2. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 14.2.1. the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- 14.2.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or
- 14.2.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

15. CONSEQUENCES OF TERMINATION

- 15.1. On termination of the Contract, the Supplier shall immediately deliver to Rosemont all Deliverables whether or not then complete, and return all Rosemont Materials. If the Supplier fails to do so, then Rosemont may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 15.2. Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 15.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

16. **FORCE MAJEURE**

- 16.1. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control including: act of God, governmental act, war, fire, flood, explosion or civil commotion (a "**Force Majeure Event**"). The following shall not be considered to be Force Majeure Events:
- 16.1.1. any labour or trade dispute, strikes, industrial action or lockouts;
 - 16.1.2. docking or other off-loading restrictions imposed at ports;
 - 16.1.3. non-performance by suppliers or subcontractors;
 - 16.1.4. any increase in fuel, raw material or labour costs; or
 - 16.1.5. any interruption or failure of utility service.
- 16.2. A party affected by a Force Majeure Event (the "**Affected Party**") will:
- 16.2.1. promptly notify the other party in writing when the Force Majeure Event occurs and when it is brought to an end; and
 - 16.2.2. use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 16.3. In such circumstances, the time for the Affected Party's performance of its obligations shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.
- 16.4. If the period of delay or non-performance continues for more than 3 weeks, the party not affected may terminate the Contract by giving 7 days' written notice to the Affected Party.

17. **GENERAL**

17.1. **Regulatory enquiries.**

- 17.1.1. Upon either party becoming aware of any intention to investigate or actual investigation of the activities of either party having regard to each party's general legal and specific regulatory responsibilities it shall, at such point in time as it is lawful to do so:
- 17.1.1.1. notify the other party of the fact and provide details of the subject matter of the proposed or actual investigation and its relevance to the other party;
 - 17.1.1.2. disclose any information, materials and/or documentation in its possession or control relating directly or indirectly to the investigation, that ought to be provided to the other party or as may reasonably be requested by the other party;
 - 17.1.1.3. co-operate fully with the other party;
 - 17.1.1.4. respond to questions arising out of the investigation; and
 - 17.1.1.5. make available personnel as appropriate to assist with matters relating to the investigation.

17.2. **Assignment and other dealings.**

- 17.2.1. Rosemont may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
- 17.2.2. The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Rosemont.

- 17.3. **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of Rosemont. If Rosemont consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

17.4. **Notices.**

- 17.4.1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be sufficiently served if sent to the other party at its specified address set out in the Order (or such other address notified to the other party in writing for such purposes) as follows:
- 17.4.1.1. by hand;
 - 17.4.1.2. by pre-paid first-class post or other next working day delivery service;
 - 17.4.1.3. by fax; or

- 17.4.1.4. by email.
- 17.4.2. Any notice or communication shall be deemed to have been received:
 - 17.4.2.1. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and
 - 17.4.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
 - 17.4.2.3. if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 17.4.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 17.4.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 17.5. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision of the Contract is deemed deleted under this clause 17.5 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 17.6. **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 17.7. **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 17.8. **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 17.9. **Variation.**
 - 17.9.1. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.
 - 17.9.2. The Supplier shall advise Rosemont immediately if such amendments either prevent a Delivery Date being met or have any other significant implication regarding the Supplier's obligations to Rosemont.
- 17.10. **Governing law and Jurisdiction.** This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.