

## **SOFTWARE AS A SERVICE TERMS AND CONDITIONS**

These Terms and Conditions (“**SaaS Terms and Conditions**”) and any order form, statement of work, or combination thereof, signed by Rosalind, Inc. (“**Rosalind**”) and the client identified therein (“**Client**”) that accompany or reference these Terms and Conditions (each an “**Order**”), and any Addendum (as defined below), form the agreement (“**Agreement**”) between Rosalind and the Client. If Client registers for a free trial of the Platform Services, the applicable provisions of these SaaS Terms and Conditions will govern that free trial. Rosalind and Client may be referred to in this Agreement, individually, as “**Party**” and, collectively, as “**Parties**”.

1. **Definitions.** The capitalized terms used in this SaaS Terms and Conditions shall have the meanings defined below.

“**Addendum**” means each addendum accompanying or referencing these Terms and Conditions or any Order, signed by Rosalind and the Client, and setting forth certain additional terms and conditions specific to certain Services.

“**Affiliate(s)**” of a Party shall mean any person, corporation or other entity that controls, is controlled by, or is under common control with such Party, wherever located in the world. A person, corporation or other entity shall be deemed to control a corporation or entity if it is the beneficial owner, directly or indirectly, more than fifty percent (50%) of the voting shares or other equity interest (membership interest, partnership interest, etc.) in such corporation or entity, or has the power to elect more than half the directors or managers of such corporation or entity.

“**Authorized Users**” means the Client employees or other individuals performing services for Client or its Affiliates, who are authorized to access the Platform Services.

“**Client Data**” means all data, information, content or material that Client or any of its Affiliates enters into the Site or has entered on its behalf.

“**Data Storage Services**” means a right to store and process data in the amount indicated in the Order.

“**Deliverables**” means (a) any report or other information produced by the use of the Platform Services by the Client and made available for download by Rosalind as part of the Platform Services, (b) any product of the Services that is expressly identified in an Addendum as “work for hire”.

“**Documentation**” means any of Rosalind’s written material made available to users of the Platform Services to guide the user in the execution, comprehension, or other use of the Site or other necessary software, including, user guides, training materials, worksheets, workbooks, reference materials, and other documentation provided by Rosalind, whether in printed or electronic form.

“**Effective Date**” means the date indicated in the Order.

“**Intellectual Property**” means all intellectual property and similar proprietary rights, arising under the laws of the United States or any jurisdiction throughout the world, including rights in the following: (a) trademarks, service marks, trade dress, brand names, logos, trade names, and other indicia of source or origin and all goodwill related thereto, and applications and registrations for the foregoing, (b) inventions, discoveries, ideas and creations (regardless of whether patentable), utility models, supplementary protection certifications, and patents and patent applications, including divisionals, continuations, continuations-in-part, renewals, extensions,

reexaminations, substitutions and reissues, (c) trade secrets and other non-public, proprietary, or confidential information, including know-how, recipes, business plans, customer lists, and source code, (d) works of authorship, databases, compilations, copyrights, industrial designs, and registrations and applications therefor, and renewals, extensions, restorations and reversions thereof and all moral rights, however denominated, (e) computer programs, including all software implementations of algorithms, models and methodologies, whether in source code, object code or firmware, including components thereof such as user interfaces, report formats, templates, menus, buttons, and icons; descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing; and documentation, including user manuals and other training documentation, related to any of the foregoing, (f) technology, and (g) domain names and social media identifiers and related accounts.

**“Platform Services”** means the software as a service solution that is made available by Rosalind, which is used for collaborative bioinformatics and hosted by Rosalind on servers accessible to Client via the internet (the **“Site”**).

**“Subscription Level”** means the subscription tier identified on the Order reflecting the features and functionality to which Client is entitled as part of the Platform Services.

**“Supporting Services”** means any services identified on the Order other than the Platform Services.

2. **Services.** Subject to the terms and conditions of this Agreement, Rosalind shall provide to Client the Platform Services, Data Storage Services, and Supporting Services, if any (collectively the **“Services”**); the scope of which shall be determined according to (a) Client’s Subscription Level, (b) the number of Authorized Users identified on the Order and (c) any other specifications in the Order; or alternatively, for Trial Period where there is no Order, as determined by Section 3.

3. **Trial Period.**

3.1 If Client is a first-time user of the Platform Services, Rosalind may, at its sole discretion provide the Client with a trial of the Platform Services (a **“Trial Period”**), either pursuant to (a) Client’s registration for such Trial Period on the Site or (b) an Order for a Trial Period. During the Trial Period and subject to the all terms and conditions of this Agreement other than Sections 12.3 and 12.4, 13 and 15, Rosalind hereby grants to Client, without charge, a non-exclusive, non-transferable, non-sublicensable limited right to access the Site via the Internet solely for the purpose of internal evaluation and testing of the Platform Services to determine whether the Platform Services meets Client’s needs and whether Client wishes to continue using the Platform Services.

3.2 Unless otherwise specified in an Order, with respect to a Trial Period:

(a) Rosalind will provide such Trial Period for no charge;

(b) Rosalind will provide such Trial Period until the earlier of (i) fourteen (14) days after the date that Client registers for the Trial Period, (ii) Rosalind and Client’s execution of an Order (other than for the Trial Period), or (iii) termination of the Trial Period by Rosalind in its sole discretion;

(c) during the Trial Period, Rosalind will provide Data Storage Services in an amount equal to twenty five (25) gigabytes;

(d) unless Client purchases a paid subscription for the applicable Services before the conclusion of the Trial Period, Rosalind will terminate Client's access to the Platform Services, end the Data Storage Services immediately, and may permanently delete all Client Data; and

(e) Rosalind will, in its sole discretion, determine the Subscription Level and all other features and functionality of the Platform Services that will be available to the Client.

3.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, DURING THE TRIAL PERIOD THE SERVICES, INCLUDED THE PLATFORM SERVICES, ARE PROVIDED "AS-IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTY AND ROSALIND SHALL HAVE NO INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE SERVICES FOR THE TRIAL PERIOD UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE ROSALIND'S LIABILITY WITH RESPECT TO THE SERVICES PROVIDED DURING THE TRIAL PERIOD SHALL NOT EXCEED \$1,000.00. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT AND WITHOUT LIMITING THE FOREGOING, ROSALIND DOES NOT REPRESENT OR WARRANT TO CLIENT THAT: (A) CLIENT'S USE OF THE SERVICES DURING THE TRIAL PERIOD WILL MEET CLIENT'S REQUIREMENTS OR (B) CLIENT'S USE OF THE SERVICES DURING THE TRIAL PERIOD WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, CLIENT SHALL BE FULLY LIABLE UNDER THIS AGREEMENT TO ROSALIND FOR ANY DAMAGES ARISING OUT OF CLIENT'S USE OF THE SERVICES DURING THE TRIAL PERIOD, ANY BREACH BY CLIENT OF THIS AGREEMENT AND ANY OF CLIENT'S INDEMNIFICATION OBLIGATIONS HEREUNDER.

4. **Term.** Other than with respect to a Trial Period, the initial term of this Agreement will commence on the Effective Date and shall remain in force for one (1) year thereafter (the "**Initial Term**"), unless terminated in accordance with the terms of this Agreement. Thereafter, other than with respect to a Trial Period, this Agreement, and the Platform Services provided pursuant to any Order, shall automatically renew for successive terms of one (1) year each unless Client provides no less than thirty (30) days prior written notice to the other party (each such term being a "**Renewal Term**"; the Trial Period, Initial Term and all Renewal Terms, if any, may be referred to as the "**Term**"). Unless otherwise provided on the Order, any renewal shall be upon the same terms and conditions then in effect, except that the Fees (as such term is defined herein) for the Renewal Term shall be at Rosalind's then-existing price for the Platform Services and Supporting Services as listed on the Site or otherwise communicated to the Client pursuant to Section 18, in either case at least ninety (90) days prior to the end of the then current term. .

5. **Payments.** During the Initial Term and each Renewal Term, and subject to the terms and conditions of this Agreement, Client shall make payments in the amounts and at the times indicated on the Order in consideration for the Platform Services and Supporting Services provided by Rosalind ("**Fees**"). Rosalind shall provide Client with a written invoice indicating the amounts due to be paid by Client to Rosalind, and unless otherwise provided for on the Order, Client shall pay each invoice no more than thirty (30) days after Client's receipt of such invoice, unless a bona fide dispute with respect to payment of such invoice or portion thereof has arisen. Rosalind reserves the right to suspend the Platform Services in the event that Client fails to pay any undisputed amounts when due. Notwithstanding the foregoing, if there is a bona fide dispute regarding any invoice rendered or amount paid or to be paid, the Party disputing such invoice shall notify the other Party in writing thereof, and the Parties shall use their best efforts to resolve such dispute expeditiously. In no event shall a bona fide dispute waive, cancel, or suspend any Party's obligations under this Agreement. If the disputing Party notifies the other in writing of a disputed invoice or payment, and there is a good faith basis for such dispute, the time for paying the disputed portion of the invoice shall be extended by a period of time equal to the time between the disputing Party's receipt of such notice and the resolution of such dispute.

6. **Taxes and Interest.** Client shall be responsible for any taxes applicable to Rosalind's provision or Client's receipt and use of Platform Services or as otherwise applicable to Client in this Agreement. In no event shall Client be responsible for any taxes based on the net income of Rosalind.

## 7. License.

7.1 **Standard License.** Except with respect to the Trial Period, during Term, Rosalind hereby grants to Client a non-exclusive, non-transferable, non-sublicensable, world-wide right to access the Site via the Internet solely for the purpose of using the Platform Services for Client's internal business purposes and solely by the number of Authorized Users listed on the Order. Client's rights during the Trial Period are governed by Section 3. Client acknowledges that, in order to use the Platform Services, Client must purchase from Rosalind Data Storage Services sufficient to support the quantity of Client Data and desired functions of the Platform Services by Client.

7.2 **License Restrictions.** Client shall not, directly or indirectly, (a) copy the Platform Services; (b) reverse engineer, map decompile, disassemble or otherwise derive or attempt to discover the source code, internal structure, organization or underlying ideas or algorithms of the Platform Services; (c) modify, enhance, translate, compile or create derivative works of the Platform Services; (d) analyze the Platform Services for the purpose of creating Platform Services having similar functionality as the Platform Services; (e) rent, lease, distribute, sell, resell, assign or otherwise transfer the rights to use the Platform Services; (f) use the Platform Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; (g) remove any proprietary notices from the Platform Services; (h) publish or disclose to third parties any evaluation of the Platform Services without Rosalind's prior written consent; (i) create any link to the Platform Services or frame or mirror the content contained on, or accessible from, the Platform Services; (j) attempt to gain unauthorized access to the Platform Services; (k) access the Platform Services other than through Rosalind's interface; or (l) use the Platform Services for any purpose or in any manner that is unlawful or prohibited by this Agreement.

## 8. Passwords; Permissions; Collaboration.

8.1 Rosalind shall issue to Client, or shall authorize a Client administrator to issue, a password for each Authorized User. Client is responsible for maintaining the confidentiality of all user names and passwords and for ensuring that each user name and password is used only by the Authorized User and/or Client administrators. Client is solely responsible for any and all usage of the Platform Services or activities on the Site resulting from access to the Platform Services or the Site through the use of Client's user names and passwords. Client agrees to promptly notify Rosalind of any unauthorized use of the Client's account or any other breach of security known to Client. Client will, and will direct its Authorized Users to comply with Rosalind's Acceptable Use Policy located at <https://www.Rosalind.bio/acceptable-use> ("**AUP**").

8.2 Subject to the Subscription Level, Client may have the ability to establish different levels and types of access and permissions for Authorized Users and, if applicable, Client is solely responsible for establishing, maintaining updating or removing such access and permissions, including permission to participate in Collaborative Activities (as defined below).

8.3 Through the Platform Services' "collaboration" feature, Authorized Users are able to (a) share Client Data and Deliverables with, and access the data and deliverables of, other clients of Rosalind ("**Collaborators**"), and (b) use, or allow the use of, certain functionality of the Platform Services with such Client Data, Deliverables or data or deliverables of Collaborators ("**Collaborative Activities**"). Client is responsible for (a) the Collaborative Activity of Authorized Users, (b) obtaining any and all licenses or rights necessary for any Collaborative Activities and (c) establishing with Collaborators all the terms and conditions under which the Collaborative Activities are performed. Notwithstanding anything to the contrary in this Agreement, if any Authorized User undertakes Collaborative Activities, Client permits Rosalind to disclose the associated Client Data and Deliverables and details of the Authorized User's Collaborative Activities to the Collaborators. If there is a dispute between Client and any Collaborator, Client agrees that Rosalind is under no obligation to become involved and Client hereby releases Rosalind, its subsidiaries, Affiliates, officers, directors

and employees from claims, demands, and damages of every kind or nature, known or unknown, suspected or unsuspected, disclosed or undisclosed, arising out of or in any way related to Collaborative Activities. For the avoidance of doubt, this Agreement does not control the relationship between the Client and any Collaborator, Client is not a third party beneficiary of any agreement between a Collaborator and Rosalind and no Collaborator is a third party beneficiary of this Agreement.

## 9. **Client Data.**

9.1 As between Rosalind and Client, Client owns all right, title and interest in the Client Data. Client is responsible for obtaining any and all licenses or rights necessary for the use of such Client Data in and with the Platform Services. Client grants to Rosalind a non-exclusive, non-transferrable, worldwide, terminable at-will, royalty-free license, for the Term, to use, copy, modify and prepare derivative works of Client Data solely to the extent necessary to provide the Platform Services to Client and to host Client Data under this Agreement or as otherwise allowable under applicable law. Client is responsible for the accuracy, quality, integrity, and legality of all Client Data, and Rosalind assumes no responsibility for the deletion, correction, destruction, loss, infringement or failure of the Platform Services to store any Client Data that is caused other than by the gross negligence of Rosalind or the breach of its obligations under this Agreement. Rosalind may, with notice to Client, review, edit and delete any Client Data that Rosalind reasonably determines in good faith violates this Agreement or the AUP, provided that, Rosalind has no duty to prescreen, control, monitor or edit any Client Data. Client acknowledges that the Platform Services are not designed with security and access management for processing protected health information ("**PHI**") and Client shall not, and shall not permit any Authorized User or other Person to, provide any PHI to, or process any PHI through, the Platform Services. Client is solely responsible for reviewing all Client Data and shall ensure that no Client Data constitutes or contains any PHI.

9.2 For a period of up to thirty (30) days after termination of this Agreement (the "**Post-Termination Access Period**"), Rosalind will make available the Client Data for purposes of retrieval by Client. At the end of the Post-Termination Access Period, and except as may be required by law, Rosalind will delete or otherwise render inaccessible any Client Data. Notwithstanding the foregoing, Rosalind may, in its sole discretion, make available to Client the Client Data, Deliverables or other Platform Services for a period longer than the Post-Termination Access Period; and Rosalind shall determine, in its sole discretion, the scope, additional fees payable, and all other terms for such extended or expanded access. Unless otherwise agreed by the Parties in writing, Section 5 shall control the payment of any additional fees incurred pursuant to this Section.

## 10. **Client Obligations.**

10.1 **Hardware and Network Services.** Client is responsible for obtaining and maintaining all computer hardware, software, communications equipment and communications network services needed to access the Platform Services, and for paying all third-party access charges (e.g., ISP, telecommunications) incurred while using the Platform Services.

10.2 **Conduct.** Client agrees: (i) to abide by all local, state, national and international laws and regulations applicable to Client's use of the Platform Services, including all laws regarding the transmission of technical data exported from the United States through the Platform Services; (ii) not to knowingly upload or distribute in any way files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Platform Services; (iii) not to use the Platform Services for illegal purposes; (iv) not to post, promote or transmit through the Platform Services any unlawful, harassing, libelous, abusive, threatening, vulgar, obscene or hateful materials of any kind or nature; (v) use or launch any automated system that sends more request messages to Rosalind's servers in a given period of time than a human can reasonably produce in the same period by using a conventional browser; (vi) use the Platform Services in any manner that deliberately damages, disables, overburdens, or impairs any of Rosalind's

websites or systems or interferes with any other person's use of the Platform Services; and (vii) to comply with all regulations, policies and procedures of networks connected to the Platform Services.

11. **Service Assistance.** Rosalind shall provide Client with all updates and enhancements to, and new releases or, the Platform Services during the Term as are generally made available by Rosalind to customers of the Platform Services. Rosalind shall provide Client with support via telephone or email on business days during the hours of 9:00am PST to 5:00pm PST. Unless otherwise provided in the Order and a related Addendum, Rosalind makes no commitments as to the timing or effectiveness of any response or resolution.

12. **Confidentiality and Intellectual Property Rights.**

12.1 **Confidentiality.** By virtue of this Agreement, each Party may obtain, learn, develop or have access to information that is confidential to the other ("**Confidential Information**"). "**Confidential Information**" shall include, but not be limited to, any information that the disclosing party identifies or marks as confidential or proprietary at the time of disclosure, or that reasonably appears to be proprietary or confidential in nature because of legends or other markings, the circumstances of disclosure or the nature of the information itself. The terms of this Agreement shall be the Confidential Information of both parties. The receiving party shall protect the disclosing party's Confidential Information by using the same degree of care, but no less than a reasonable degree of care, as the receiving party uses to protect its own Confidential Information of a like nature against unauthorized use, disclosure or publication. The confidentiality obligations set forth in this Section do not apply to information that can be shown by the receiving party's written records (i) is or becomes a part of the public domain through no act or omission of the receiving party; (ii) was in the receiving party's lawful possession prior to the disclosure and had not been obtained either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (iv) is independently developed by the receiving party without the use of or reference to the Confidential Information of the disclosing party or other breach of this Agreement. The receiving party may disclose Confidential Information of the disclosing party if it is required by law to do so, following notice of such required disclosure (to the extent legally permitted) to the disclosing party; at the disclosing party's request and expense, receiving party will provide reasonable assistance if the disclosing party wishes to contest the disclosure. The parties agree that a breach of this Section may result in irreparable and continuing damage to the non-breaching party for which there may be no adequate remedy at law, and such party is therefore entitled to seek injunctive relief as well as such other relief as may be appropriate, without the requirement of posting a bond. The parties hereby acknowledge and agree that the provisions of this Section shall survive the expiration or termination of this Agreement for any reason whatsoever.

12.2 **Intellectual Property.** Unless otherwise provided on the Order or related Addendum, all Deliverables shall be owned by Client and shall be considered work made for hire by Rosalind for Client. Notwithstanding the above, Rosalind shall own all right, title and interest in and to Site, the Platform Services and all Intellectual Property provided and used by Rosalind to provide the Services to Client, including all modifications, improvements, upgrades, derivative works, and feedback related thereto, and to all Intellectual Property therein, other than the Client Data, and as may be incorporated therein ("**Rosalind IP**"). In the event Rosalind incorporates any Rosalind IP in a Deliverable, Rosalind hereby grants to Client a limited, non-exclusive, non-transferable, royalty-free (except as may be stated otherwise in an Order or related Addendum), worldwide license to copy, distribute, perform and display such Rosalind IP, but solely as incorporated in and with the Deliverable. In no event shall Client: (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time-share or otherwise commercially exploit or make such Rosalind IP available to any third party other than as incorporated in and with the Deliverable, (b) reverse engineer, map decompile, disassemble or otherwise derive or attempt to discover the source code, internal structure, organization or underlying ideas or algorithms of the Rosalind IP, (c) modify, enhance, translate, compile or create derivative works of the Rosalind IP other than as incorporated in and with the Deliverable; and (d) use the Rosalind IP for the purpose of creating services having similar functionality as the Services.

12.3 **Infringement.** Rosalind will indemnify and defend at its expense, and hold Client, its Affiliates, officers, directors, consultants and employees harmless from any and all liabilities, damages and/or costs (including, but not limited to, reasonable attorneys' fees) incurred in connection with or related to any third party claim alleging that the Platform Services or Supporting Services, as provided by Rosalind to Client under this Agreement and used within the scope of this Agreement, infringe any Intellectual Property of any third party (each, an "**Infringement Claim**"), except to the extent that such infringement or unauthorized use arises from, or could have been avoided except for (i) Client's modification of the Platform Services or use thereof in a manner not contemplated by this Agreement, (ii) the failure of Client to use any corrections or modifications made available by Rosalind, (iii) Client Data or other information, materials, instructions or specifications provided by or on behalf of Client, or (iv) the use of the Platform Services in combination with any product or data not provided, required or recommended by Rosalind, and provided that Client: (a) promptly notifies Rosalind in writing after receipt of the Infringement Claim; (b) grants Rosalind sole control of the defense and settlement of the Infringement Claim; and (c) provides Rosalind, at Rosalind's expense, with all reasonable assistance, information and authority reasonably required for the defense and settlement of the Infringement Claim. If the Platform Services are found by final, non-appealable order of a court of competent jurisdiction to be such an infringement or unauthorized use, Rosalind, at its option and expense, shall have the right to (x) procure for Client the continued use of such Platform Services, (y) replace such Platform Services with non-infringing services, or (z) modify such Platform Services so it becomes non-infringing. The indemnification obligations set forth in this Section are Rosalind's sole and exclusive obligations, and Client's sole and exclusive remedies, with respect to infringement or misappropriation of Intellectual Property of any kind. Notwithstanding the foregoing, this Section 12.3 will not apply to any Services provided during a Trial Period.

12.4 **General Indemnity by Rosalind.** Rosalind agrees to defend, indemnify and hold Client, its subsidiaries, Affiliates, officers, directors and employees harmless from any claim, demand, damages, costs and expenses (including reasonable attorneys' fees), arising from any third party claim against Client or any of its subsidiaries, Affiliates, officers, directors and employees due to or arising out of (i) any material breach by Rosalind of this Agreement; (ii) breach by Rosalind of its confidentiality obligations; or (iii) Rosalind's gross negligence, fraud or willful misconduct. Notwithstanding the foregoing, this Section 12.4 will not apply to any Services provided during a Trial Period.

12.5 **General Indemnity by Client.** Client agrees to defend, indemnify and hold Rosalind, its subsidiaries, Affiliates, officers, directors and employees harmless from any claim, demand, damages, costs and expenses (including reasonable attorneys' fees), arising from any third party claim against Rosalind or its subsidiaries, Affiliates, officers, directors and employees due to or arising out of: (i) any use of the Platform Services by Client other than in accordance with this Agreement; (ii) Customer's test products, compounds, or drugs, (iii) any breach by Client of this Agreement; and (iv) Client's gross negligence, fraud or willful misconduct.

### 13. **Warranty.**

13.1 **Platform Services.** Subject to the Client's purchase of sufficient Data Storage Services to support the amount of Client Data and desired functions of the Platform Services by Client, the Platform Services will (a) be provided in a workmanlike manner and with professional diligence and skill and (b) perform substantially and materially in accordance with the functions described in the Documentation, if any, under normal use and circumstances by Authorized Users of the Platform Services, in accordance with this Agreement and the Documentation, if any. For any breach of this warranty, Client's sole and exclusive remedy and Rosalind's sole and exclusive liability shall be the reperformance of the Platform Services, or if Rosalind is unable to perform the Platform Services as warranted, Client shall be entitled to recover the fee paid to Rosalind for the non-conforming Services. Notwithstanding the foregoing, Rosalind makes not warranty that the Platform Services will be available 100% of the time.

13.2 **Malicious Code.** "Malicious Code" are viruses, worms, time bombs, Trojan horses and other harmful or Malicious Code, files, scripts, agents or programs. Rosalind hereby represents, warrants and agrees that it has not and will not, during the Term, intentionally place any Malicious Code or other malicious computer instructions or devices that materially erase data or programming, or materially infect, disrupt, damage, disable or shut down a computer system or any material component of such computer system into the Platform Services or the Site.

13.3 Notwithstanding the foregoing, this Section 13 will not apply to any Services provided during a Trial Period.

14. **DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ROSALIND MAKES NO WARRANTY OR REPRESENTATION REGARDING ANY SERVICE PROVIDED UNDER THIS AGREEMENT. ROSALIND EXPRESSLY DISCLAIMS ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ROSALIND DOES NOT WARRANT THAT ANY SERVICE PROVIDED WILL SATISFY CLIENT'S REQUIREMENTS. EXCEPT AS PROVIDED FOR HEREIN, ROSALIND DOES NOT ASSUME ANY LIABILITY WHATSOEVER WITH RESPECT TO ANY THIRD PARTY HARDWARE, FIRMWARE, SOFTWARE OR SERVICES, IF ANY, PROVIDED HEREIN.

15. **LIMITATION OF LIABILITY.** THE CUMULATIVE LIABILITY OF ROSALIND TO CLIENT FOR ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY CLAIM FOR INDEMNIFICATION OR ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT, OR STRICT LIABILITY, WILL NOT EXCEED THE TOTAL AMOUNT OF ALL FEES PAID OR TO BE PAID TO ROSALIND BY CLIENT DURING THE TWELVE (12)-MONTH PERIOD PRIOR TO THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE. Notwithstanding the foregoing, this Section 15 will not apply to any Services provided during a Trial Period.

16. **Changes.** Rosalind reserves the right, in its sole discretion, to make any changes to the Services and Documentation that it deems necessary or useful to: (a) maintain or enhance (i) the quality or delivery of services to its customers, (ii) the competitive strength of or market for Rosalind's services or (iii) the Services' cost efficiency or performance; or (b) to comply with law.

17. **Termination.**

17.1 **Termination for Cause.** Either Party may terminate this Agreement by written notice to the other Party in the event that such other Party materially breaches this Agreement, including payment breaches, and does not materially cure such breach within thirty (30) days of such notice. Further, either Party may terminate this Agreement immediately if (i) a receiver is appointed for the other Party or its property, (ii) the other Party makes a general assignment for the benefit of its creditors, (iii) the other party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief law which proceedings are not dismissed within sixty (60) days, (iv) the other Party is liquidated or dissolved, or (v) the other Party ceases to do business or otherwise terminates its business operations.

17.2 **Effect of Termination.** Upon termination of this Agreement: (i) all licenses, rights, and services provided by Rosalind to Client shall immediately terminate; and (ii) Client shall immediately discontinue use of the Platform Services. If Client terminates this Agreement pursuant to Section 17.1 Client will be relieved of any obligation to pay any Fees attributable to the period after the effective date of such termination and Rosalind will refund to Client any such Fees that Client paid in advance. If Rosalind terminates this Agreement pursuant to Section 17.1, all Fees that would have become payable had the Agreement remained in effect until expiration of the then current Term will become



immediately due and payable, and Client shall pay such Fees, together with all previously-accrued but not yet paid Fees, on receipt of Rosalind's invoice therefor.

18. **Notices.** Any and all notices, statements, instructions, or consents required or allowed hereunder shall be sent to the Parties as provided herein, in writing, and shall be delivered (i) personally; (ii) by registered or certified mail, postage prepaid, return receipt requested; (iii) by nationally recognized overnight courier service; or (iv) by electronic mailing, if such electronic mailing is followed by delivery of a copy of such notice in a manner described in (i), (ii), or (iii), to the following addresses of the respective Parties:

IF TO ROSALIND: 13520 Evening Creek Drive North, Suite 460, San Diego, CA 92128, Attn: Legal, Email: legal-notices@rosalind.bio

IF TO CLIENT: At the address for Client listed on the Order

19. **Assignment.** Neither Party may transfer or assign any of its rights or obligations hereunder without the prior written consent of the other party, such consent not to be unreasonably withheld, conditioned, or delayed; provided however that Rosalind may freely assign or transfer this Agreement or any of its rights and obligations hereunder, in whole or in part, to (i) one or more of its Affiliates or (ii) its successor in connection with a merger, acquisition, corporate reorganization, or sale or all or substantially all of its assets.

20. **Non-Solicitation.** For a period of twelve (12) months following the expiration or termination of this Agreement for any reason whatsoever, Client will not solicit the employment or contracting of, or otherwise induce the departure from Rosalind of any of Rosalind's employees without the prior written approval of Rosalind. To the extent Client fails to comply with such obligation, Client shall pay to Rosalind an amount equal to the individual's total compensation for the one (1) year period immediately preceding the hiring, contracting or solicitation. Such prohibition shall not apply to such employees who answer public advertisements, who apply for employment without any solicitation, or who are directed to Client via other channels, such as recruiters.

21. **Miscellaneous.**

21.1 **Independent Contractors.** The relationship between the Parties created by this Agreement is that of independent contractors and not partners, joint venturers, agents or employees.

21.2 **Modification and Waiver.** No modification of this Agreement and no waiver of any breach of this Agreement will be effective unless in writing and signed by an authorized representative of the Party against whom enforcement is sought. No waiver of any breach of this Agreement and no course of dealing between the Parties will be construed as a waiver of any subsequent breach of this Agreement.

21.3 **Severability.** The provisions of this Agreement are severable. If any provision of such is held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions will in no way be affected or impaired thereby.

21.4 **Interpretation.** Each Party acknowledges that this Agreement has been the subject of active and complete negotiations, and that this Agreement should not be interpreted or construed in favor of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement. Whenever the words "include" or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation."

21.5 **Governing Law.** This Agreement and the rights and obligations of the parties hereunder are to be governed by, and construed and interpreted in accordance with, the laws of the State of Delaware applicable to contracts made and to be performed wholly within Delaware, without regard to choice or conflict of laws rules.

21.6 **Marketing.** Except as expressly provided herein, neither Party will use any of the trademarks, service marks, trade names, trade dress, logos or the name of the other party in any way including, in any advertising or promotional materials.

21.7 **Export Controls.** Client understands and acknowledges that Rosalind may be subject to laws and regulations that prohibit export or diversion of certain software and technology to certain countries ("**Export Laws**"). Any and all obligations of Rosalind to provide the Products or Services, as well as any other technical information or assistance shall be subject to the Export Laws as shall from time to time govern the license and delivery of technology and Software. Client warrants that it will comply with the Export Laws in effect from time to time as they relate to all aspects of this Agreement and its implementation.

21.8 **Force Majeure.** Neither Party will be liable by reason of any failure or delay in the performance of its obligations herein due to labor conditions, shortages, fire, flood, storm, earthquake or other natural disaster, explosion, war or unrest, governmental action, terrorism or threat of terrorism, or other cause beyond such party's reasonable control provided, however, that any events for which a reasonable provider of similar services or a reasonable user of similar services would have adequate contingencies to avoid such events shall not, under any circumstances, be considered beyond the reasonable control of a party.

21.9 **Counterparts.** Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final agreement of the parties and conclusive proof of such agreement. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

21.10 **Headings.** Headings of particular Sections are inserted only for convenience and are not to be considered a part of this Agreement or be used to define, limit or construe the scope of any term or provision of this Agreement.

21.11 **Entire Understanding.** This Agreement includes any Order, these SaaS Terms and Conditions, any Addendum and all attachments hereto. The Parties agree that this Agreement constitutes the exclusive and entire agreement between the Parties with respect to its subject matter and, as of its date, supersedes all prior or contemporaneous agreements, negotiations, representations and proposals, written or oral, relating to its subject matter. Neither Party will be bound nor liable to the other Party for any representation, promise or inducement made by any agent or employee of the other Party that is not embodied in this Agreement. No contrary or additional pre-printed terms contained in any form quote, purchase order, statement of work, acknowledgment, or other correspondence or writing by either Party shall in any way modify or alter the terms of this Agreement unless in writing and manually signed by each Parties' authorized representative with reference to this Agreement.