

# TERMS AND CONDITIONS OF THE ROSEN GROUP FOR SERVICES OF THE HYDROGEN TESTING LABORATORY

Unless otherwise agreed upon, contracts with ROSEN shall be concluded subject to the following provisions. By placing an order with ROSEN, Company thereby accepts the following Terms and Conditions. Any conflicting additional, supplementary or deviating terms and conditions of the Company shall not be binding on ROSEN. In the event that the clauses and/or content of the Contract between Company and ROSEN conflict with these Terms and Conditions, the contractual provisions shall have precedence over these General Terms and Conditions.

## 1 DEFINITIONS

In the Contract Documents, the following words and expressions when capitalized shall have the meanings hereby assigned to them, except where the context requires otherwise. All personal pronouns used herein and in the Contract Documents, whether used in the masculine, feminine, or neuter gender, will include all other genders; the singular will include the plural, and vice versa. Titles and headings used herein are intended for convenience and easier reference only and shall not be considered in interpreting thereof.

### 1.1 Affiliate

Affiliate shall mean, with respect to any Party, any other Person which is affiliated with such Party, and for the purposes hereof:

(i) two Persons will be considered to be affiliated with one another if one of them controls the other, or if both of them are controlled by a common third party, and

(ii) one Person will be considered to control another Person if it has the power to direct or cause the direction of the management and policies of the other Person, whether directly or indirectly, through one or more intermediaries or otherwise, and whether by virtue of the ownership of shares or other equity interests, the holding of voting rights or contractual rights, or otherwise.

### 1.2 Confidential Information

Confidential Information shall mean all information of every nature and kind provided in written, oral, visual or electronic form, whether before or after the date of the signed Contract, by the disclosing Party or Authorized Representative of the disclosing Party to the receiving Party or to any of Authorized Representatives of the receiving Party relating to the Contract Documents. Confidential Information shall include, without limiting the foregoing: all analyses, compilations, data studies, concepts, technical data,

drawings or other documents which contain or are based, in whole or in part, upon Confidential Information received from the disclosing Party, except the test results and test reports.

### 1.3 Contract

Contract shall mean the entire integrated service agreement between Company and ROSEN, as evidenced by the Contract Documents.

### 1.4 Contract Documents

Contract Documents shall mean any agreed documents, including but not limited to the service agreement, the scope of services, these Terms and Conditions, the proposal, the purchase order, the appendices referred to in each of the documents, if any, the non-disclosure agreement and any amendments executed after the effective date of the agreement. In the event of any inconsistency between any of the Contract Documents, they shall take precedence in the following order:

- service agreement with its appendices (non-disclosure agreement etc.)
- these Terms and Conditions of ROSEN
- ROSEN's proposal
- purchase order

None of the documents abovementioned shall be used by the Company for any purpose other than the Contract.

### 1.5 Contract Price

Contract Price shall mean the amount due to ROSEN from Company stated in the commercial part of the Contract Documents.

### 1.6 Company

Company shall mean the Company that concludes a contract with ROSEN for the performance of destruction tests in hydrogen and any additional services pursuant to these Terms and Conditions.

### 1.7 Day

Day shall mean each working day as defined in the country where the Services shall be provided.

### 1.8 Intellectual Property Rights

Intellectual Property Rights shall mean inventions, patents, or applications for a patent, design (registered or unregistered) utility models, rights to inventions, copyright and neighboring and related rights, moral rights, trademarks

(registered or unregistered) and service marks, name, business names and domain names, rights in get-up and trade dress, 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 or other right in respect of any information, process, work, material or method, which subsist or will subsist now or in the future in any part of the world.

### **1.9 Party/Parties**

Party/Parties shall mean ROSEN and/or Company individually and collectively.

### **1.10 Person**

Person means any individual, corporation, partnership, governmental body, association or unincorporated organization.

### **1.11 ROSEN**

ROSEN shall mean the respective ROSEN entity, which submits the proposal and/or signs the Contract with Company.

### **1.12 Service**

Service shall mean the requested performance for hydrogen testing and associated services as specified in the Contract Documents.

### **1.13 Terms and Conditions**

Terms and Conditions shall mean these Terms and Conditions of the ROSEN Group for services of the hydrogen testing laboratory.

### **1.14 Warranty Exclusions**

Warranty Exclusions shall mean (1) any equipment or materials furnished by Company or any third party (other than ROSEN or any contractor or supplier of ROSEN); (2) incorrect data/information provided by Company; or (3) any other cause not the fault of ROSEN.

### **1.15 Week**

Week shall mean a full calendar week.

## **2 CONCLUSION OF CONTRACT**

2.1 All ROSEN proposals are non-binding and subject to change, unless they are not expressly marked as binding or contain a specific acceptance deadline.

2.2 The legal relationship between ROSEN and the Company shall be governed solely by the written Contract and the Contract Documents. This shall fully reflect all agreements between the Parties regarding the subject matter of the Contract.

2.3 Any amendment or modification of any Terms and Conditions contained in the Contract Documents subsequent to the effective date of this Contract will be valid only if made by a subsequent written agreement, unless otherwise stipulated. Duly authorized representatives of ROSEN and the Company shall sign such subsequent written agreement. It shall specify by reference to the particular Contract Document that contains the Terms and Conditions to be amended by reference to the origin clause. If German law is applicable, Section 305b of the German Civil Code (BGB) (Priority of Individual Agreements) remains unaffected.

## **3 REMUNERATION**

3.1 The agreed remuneration excludes VAT, which will be added at the rate effective at the time Services are rendered.

3.2 ROSEN shall be entitled to demand advance payments for the entire or for foreseeable definable partial Services and to demand partial payments for definable partial Services already rendered. If a remuneration according to daily rates is agreed for certain Services, the Company shall be obliged to pay the agreed daily rates irrespective of, for example, actually restricted working hours due to weather conditions (e.g. in the case of so-called offshore assignments).

3.3 All amounts payable to ROSEN shall be paid in the currency specified in the Contract Documents to the bank specified by ROSEN in the invoice.

3.4 All invoices from ROSEN shall be paid by the Company within thirty (30) days of the invoice date.

3.5 If Company fails to pay any monies due then any outstanding amount shall bear interest from the date such amount was due until that amount is paid at the maximum rate permitted by applicable law.

3.6 Set-off against claims of the Company or retention of payments due to such claims shall only be acceptable if these are undisputed or have been legally determined.

3.7 The Company's rights to refuse performance or rights of retention shall be excluded unless they are based on the same contract or legal relationship. The statutory provisions shall apply to default and interest.

## **4 TAXES**

4.1 The Company shall provide ROSEN with any and all necessary tax certificates, including but not limited to withholding tax certificates, VAT certificates, or any other relevant tax certificate, as soon as they are available.

4.2 Company shall bear the cost of all taxes, levies, duties, charges, fees or withholding taxes of any nature now or hereafter imposed by any governmental, fiscal, or other authority, which become due on the Contract Price (as charged and invoiced to the Company under the Contract) and shall reimburse ROSEN upon demand for any

penalties or other expenses (including but not limited to legal expenses) incurred by ROSEN with regard to the same. In case of any mandatory deduction, Company will be liable and will bear the withholding tax and, in such a case, a gross up calculation must be performed in order to ensure that ROSEN receives the full amount as agreed.

## 5 CONTRACTUAL LIEN

5.1 The equipment and/or items delivered by the Company ("Test Material") shall be subject to the contractual lien of ROSEN until the complete settlement of the remuneration claims including all ancillary claims as well as all further claims to which ROSEN is entitled from this Contract and from the business relationship with the Company. For other claims arising from the business relationship, the contractual lien shall only apply insofar as these are undisputed or a legally binding title exists and the Test Material belongs to the Company.

5.2 At the request of the Company, ROSEN shall be obliged to release the collaterals to which ROSEN is entitled in accordance with the above provision at its discretion to the extent that their enforceable value exceeds the claims to be secured by 10%.

## 6 PERFORMANCE DELAY

6.1 The dates, processing times and delivery periods stated by ROSEN are to be understood as anticipated information even without express reference thereto and shall not constitute any delay if expired.

6.2 Delay shall also be excluded if ROSEN is not responsible for incorrect or incorrect self-delivery, operational disruptions due to industrial disputes or other unusual circumstances such as government measures, inclement weather and in cases of force majeure in accordance with Section 17.

6.3 If these disruptions turn out to be final for reasons for which ROSEN is not responsible, ROSEN shall be released from the obligation to perform. ROSEN shall inform the Company of the impeding circumstances without undue delay. The Company's right to withdraw from the Contract in the event of a final disruption shall remain unaffected. Any payments already made shall be refunded by ROSEN.

## 7 TESTING AND EXAMINATION

7.1 The Company shall submit all necessary documents and drawings and inform ROSEN about all relevant physical, chemical and technological characteristics of the Test Material prior to the performance of tests and examinations by ROSEN.

7.2 After the test and examination of the Test Material has been performed, the Company shall receive the test result in the form of a protocol, which shows the determined characteristic values. ROSEN shall hand over the test result to the Company, which the Company may use without

restriction and for the use of which he is solely responsible.

7.3 If the Company intends to publish the test result and to name ROSEN, ROSEN's prior consent shall be requested in writing.

7.4 ROSEN reserves the right to keep or destroy the Test Material after the examination, unless the Company wishes the return of the Test Material, provided this is possible due to the type of examination. In this case, the Company shall expressly notify ROSEN of such in writing in advance and shall collect the test material within four (4) weeks after the test has been performed. Should the Company fail to collect the Test Material within the deadline, ROSEN shall be entitled to destroy it after three (3) months.

7.5 ROSEN schedules tests and examinations with advance notice. Should the Company postpone the commissioned tests and examinations less than six (6) weeks prior to their commencement, ROSEN shall not be obliged to comply with the promised testing period. In this case, the Parties shall agree on a new examination period taking into account the examination capacities of ROSEN.

## 8 HANDLING OF TEST RESULTS

8.1 Any disclosure of test results by the Company shall only be permitted if the full text is used and ROSEN is named as the author. Publication of excerpts by the Company shall require the prior written approval of ROSEN.

8.2 Irrespective of a possible obligation to maintain confidentiality, the Company shall explicitly inform ROSEN that a publication which is otherwise free to ROSEN could affect property right interests. Documents prepared by ROSEN shall not certify freedom from property rights of third parties. The Company shall undertake corresponding research.

## 9 WARRANTY

9.1 ROSEN solely warrants compliance with the generally accepted rules of technology. The decisive factor in this respect shall be the test/inspection period under the technical conditions and requirements agreed between the parties as well as medium.

The warranties set forth above shall not apply to any warranty claims to the extent caused by or arising out of Warranty Exclusions. For the purpose of clarity and avoidance of doubt, such warranties shall continue to apply to any and all portions of Services that are unaffected by the Warranty Exclusions.

9.2 ROSEN will provide a warranty for defects for one year after delivery of the report and/or test result (if applicable).

9.3 If Company discovers any warranty defects and notifies ROSEN thereof in writing during the applicable warranty period, ROSEN shall, at its option, correct or re-perform any Services or

portions thereof, which fail during the applicable warranty period to meet the warranties set forth above.

9.4 **NOTWITHSTANDING THE FOREGOING, ROSEN MAKES NO WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, AS TO THE ACTUAL ACHIEVEMENT OF ANY PARTICULAR TEST RESULT OR DEVELOPMENT OBJECTIVE, RECOMMENDATION, THE FITNESS FOR PURPOSE OR SUITABILITY OF ANY PROVIDED REPORTS AND/OR TEST RESULT OF THE TEST MATERIAL AND IN ANY CASE SHALL HAVE NO LIABILITY TO THE COMPANY HOWSOEVER ARISING THEREFROM (WHETHER IN CONTRACT OR IN TORT). THE COMPANY SHALL INDEMNIFY AND HOLD ROSEN HARMLESS IN RESPECT OF ANY CLAIM RELATED TO, ARISING FROM, OR CONNECTED WITH THE USE OF SUCH TEST RESULT AND/OR REPORTS (OR ANYTHING DERIVED THEREFROM) BY THE COMPANY OR ANY THIRD PARTY RECEIVING SUCH TEST RESULT AND/OR REPORTS FROM THE COMPANY. THE COMPANY ASSUMES FULL RESPONSIBILITY FOR THE USE OF THE REPORTS AND TEST RESULTS.**

**ROSEN'S EXPRESS WARRANTIES STATED ABOVE ARE EXCLUSIVE. EXCEPT AS SET FORTH ABOVE, ROSEN MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

## 10 INDEMNITY

10.1 The Company shall indemnify ROSEN against:

- (a) loss of damage to any property; and
- (b) claims by ROSEN or claims by any person against ROSEN in respect of personal injury, or death

arising out of or as a consequence of Company's negligence in connection with the Contract. The Company's liability to indemnify ROSEN shall be reduced to the extent that such loss, damage, injury or death was caused with willful misconduct or gross negligence of ROSEN.

10.2 For the avoidance of doubt, no liability shall attach to ROSEN for any environmental pollution resulting from the Services or associated works. COMPANY SHALL INDEMNIFY, DEFEND AND HOLD ROSEN HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, COSTS, DAMAGES AND EXPENSES OF EVERY KIND AND NATURE, INCLUDING LEGAL EXPENSES, IN RESPECT OF POLLUTION OR CONTAMINATION RESULTING FROM THE SERVICES OR ASSOCIATED WORKS, REGARDLESS OF CAUSE.

## 11 CONSEQUENTIAL DAMAGES

**NOTWITHSTANDING ANYTHING IN THE APPLICABLE CONTRACT DOCUMENTS, IT IS AGREED THAT IN NO EVENT SHALL ROSEN OR COMPANY BE LIABLE TO THE OTHER IN CONTRACT OR IN TORT (INCLUDING NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE) FOR LOSS OF USE, LOSS OF PROFIT, LOSS OF REVENUE OR PRODUCTION, CLAIMS OF COMPANY'S CUSTOMERS AND/OR COMPANY'S THIRD PARTIES, LOSS OF USE OF ANY SYSTEM OR OTHER PROPERTY OR FOR BUSINESS INTERRUPTION UNDER / IN CONNECTION WITH THE CONTRACT OR ANY ERROR OR DEFECT THEREIN, OR OF THE PERFORMANCE, NON-PERFORMANCE OR DELAYED PERFORMANCE OF THE SERVICES OR FOR ANY INDIRECT, CONSEQUENTIAL OR ECONOMIC LOSS, WHETHER OR NOT FORESEEABLE AT THE EFFECTIVE DATE OF THE CONTRACT.**

## 12 LIMITATION OF LIABILITY

12.1 **THE TOTAL AGGREGATE LIABILITY OF ROSEN FOR ALL CLAIMS OF ANY KIND, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THE CONTRACT OR THE SERVICES, SHALL NOT EXCEED THE VALUE OF THE CONTRACT PRICE PURSUANT TO THE APPLICABLE CONTRACT DOCUMENTS, AND COMPANY SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD ROSEN HARMLESS FROM AND AGAINST ANY CLAIMS, LOSSES, COSTS, DAMAGES AND EXPENSES WHICH EXCEED THIS AMOUNT.**

12.2 **IF THE CONTRACT IS SUBJECT TO GERMAN LAW, FOLLOWING LIMITATION OF LIABILITY SHALL APPLY IN DEVIATION FROM THE ABOVE:**

12.2.1 ROSEN shall only be liable for willful misconduct and gross negligence. Liability for simple negligence shall be limited to the Contract Price.

12.2.2 Notwithstanding the above, liability is excluded in cases of simple negligence for the following damages

- for consequential damages. This refers to damages that arise directly or indirectly and as a result of another damage, i.e. in particular loss of use, loss of profit, loss of sales or production, loss of business, financial loss, other consequential damages, etc.
- for environmental damage caused by the Services, unless this is due to an unexpected, sudden, unforeseeable cause. Clause 12.2.1 shall apply here accordingly.

12.2.3 Excluded from the limitation of liability in accordance with clauses 12.2.1 and 12.2.2 is

- liability for damages resulting from injury to life, body or health which are based on a negligent breach of duty by ROSEN or an intentional or negligent breach of duty by a legal representative or vicarious agent of ROSEN;
- liability for damages arising from the negligent breach of cardinal obligations. Cardinal obligations are those whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner may regularly rely. In such cases, liability shall be limited to the foreseeable damage typical of the Contract.
- liability for damages resulting from the assumption of a guarantee, a procurement risk or from the breach of an expressly agreed fixed delivery date.
- liability for damages based on mandatory statutory liability, in particular under the German Product Liability Act.

12.2.4 The Company shall indemnify ROSEN against third-party claims in accordance with the above liability provisions under clauses 12.2.1 and 12.2.2.

12.2.5 ROSEN within the meaning of this liability clause also includes the affiliated companies of the ROSEN Group within the meaning of Section 15 of the German Stock Corporation Act, as well as their legal representatives and vicarious agent.

### 13 LIMITATION PERIOD

13.1 The general limitation period for claims arising from material defects and defects of title shall be one year from handover of the test report and, if agreed, of the test result. If acceptance has been agreed, the limitation period shall commence upon acceptance.

13.2 The aforementioned limitation period shall also apply for contractual and non-contractual claims for damages of the Company based on a defect, unless the application of the regular statutory limitation period would lead to a shorter limitation period in the individual case. The limitation periods of the Product Liability Act (if applicable) shall remain unaffected in any case. Otherwise, the statutory limitation periods shall apply exclusively to the Company's claims for damages pursuant to Section 11, 12 and 13.

### 14 CONFIDENTIALITY

14.1 Each Party shall keep confidential any Confidential Information disclosed by the other Party in respect of the proposal, the Services or Contract and will neither use the same for any purpose other than for the purpose of performing the Services nor disclose the same to any third party (other than the other Party's own personnel to whom disclosure is necessary in the provision of the Services) without the prior written approval of the other Party.

The foregoing restrictions on disclosure and use of Confidential Information shall not apply to the information which

- is or becomes part of the public domain otherwise than by a breach of this clause at the time of or after disclosure, or
- can be proven by recipient to have been in his possession prior to disclosure; or
- will lawfully become available from a source having the right to disclose the same; or
- can be proven by recipient to have been developed by or for the recipient at any time independently from the information disclosed to it by the disclosing Party.

The restrictions shall also not apply if the recipient is required to disclose Confidential Information by a judicial, legislative or administrative body. If recipient receives such a request, recipient shall provide prompt written notice of such requirement to the other Party and allow the other Party an opportunity to contest the disclosure requested by a governmental entity.

The above does not apply to the test results. The Company may use these without restriction.

14.2 In no event shall the receiving Party be entitled to copy, alter, modify, reverse engineer, or attempt to derive the composition or underlying information, structure or ideas of any Confidential Information and shall not remove, overprint, deface or change any notice of confidentiality, copyright, trademark, logo, legend or other notices of ownership from any originals or copies of Confidential Information it receives from the disclosing Party.

14.3 The Company shall be solely responsible for measures which, in view of the test setups, prevent information requiring secrecy from becoming known, e.g. the covering of the setups.

14.4 The Company shall not be permitted to photograph, film, record, publish, use in advertisements and/or use in any other way the Services, personnel and/or equipment of ROSEN without the prior written consent of ROSEN.

14.5 This Section 14 shall survive any termination or expiration of the Contract. However, ROSEN reserves the right to process information on technical assets, in particular in order to improve its own products and services in compliance with this confidentiality provision.

### 15 INTELLECTUAL PROPERTY

All Intellectual Property residing in any information, materials, products and equipment of any nature whatsoever supplied by one Party to the other under this Contract shall belong exclusively to and shall remain the property of the Party supplying the said Intellectual Property. The Company agrees that all Intellectual Property in all know-how, technical information, inventions and technologies developed, obtained, created, written, prepared or discovered by the Parties or by either Party as a result of the performance of the Contract shall

reside solely in ROSEN and ROSEN shall have the exclusive right to protect, exploit and enforce its rights to those Intellectual Property Rights. The Parties agree that the transfer of information under this Contract shall not constitute a prior publication in terms of a potential patent application that ROSEN may want to file, thereby not being prejudicial as to novelty.

## 16 TERMINATION

16.1 ROSEN has the right to terminate the Contract at ROSEN's absolute discretion, by giving Company thirty (30) Days written notice.

16.2 The notice period shall be fourteen (14) Days, without prejudice to any other remedy to which ROSEN may be entitled at law or in equity or elsewhere under the Contract Documents, upon the occurrence of any of the following events:

- (a) an order for relief is entered on behalf of Company, or Company makes a general assignment for the benefit of its creditors or Company declares insolvency; or
- (b) failure by the Company in the performance or compliance with any of the agreements, terms, covenants or conditions contained in the Contract Documents; or
- (c) failure by the Company to make prompt payments when due to ROSEN in accordance with the Contract Documents.

16.3 In any event, Company shall bear all costs incurred until the specified date of termination. Furthermore Company shall not be entitled to charge ROSEN additional cancellation fees.

## 17 FORCE MAJEURE

17.1 Force Majeure Events are those events whose effects make it impossible or unlawful for the affected party to perform its obligation in whole or in part, provided that the events or circumstances (i) are beyond the control of the party, (ii) are not attributable to the party, and (iii) could not be avoided, overcome or remedied in whole or in part by the party claiming force majeure using reasonable care.

The Parties shall be absolved and excused from its obligations under the Contract to the full extent, if one Party's performance is delayed or prevented by any condition or occurrence that is beyond its control including, without limitation, natural events, fires, explosions, nuclear reactions, epidemics, pandemics, quarantine (to the extent ordered by applicable public body), earthquakes, acts of public or foreign enemies, civil disturbances, war and hostilities (whether war is declared or not), invasions, blockades, insurrections, rebellion, revolution, riots, acts of terrorism, strikes, commotion, disorder, lockouts or other industrial disturbances, embargoes, sanctions, restraints or prohibitions or orders or regulations by any court,

board, department, commission or agency of any state or country, any arrests or restraints.

Neither Party shall be in default of its respective obligations under the Contract, which are hindered by Force Majeure; provided, however, that the payment of invoices due and owing hereunder shall in no event be delayed by the Company because of a Force Majeure Event affecting the Company. In the event of any such delay due to a Force Majeure Event, the date for performance or delivery shall be extended for a period equal to the time lost by reason of delay. In no event shall Company have their right to see any damages for delay of delivery if ROSEN is unable to perform due to a Force Majeure Event.

17.2 In case of Force Majeure, the affected Party shall inform the other Party within seven (7) days after any occurrence of such a case, unless this is publicly known via generally accessible sources of information. If the affected Party fails to send a Force Majeure Notification to the other Party, it loses the right to refer to these Force Majeure circumstances in future.

17.3 If a default due to an event of Force Majeure continues for more than six (6) months, the Parties shall be entitled to cancel the Contract partly or completely upon written notice to the other Party.

All indemnity claims based on partial or complete non-fulfilment of the affected Party obligations caused by an occurrence as aforementioned are excluded and invalid.

## 18 SUBCONTRACTS, ASSIGNMENT

ROSEN may assign or subcontract any or all of its rights and obligations under the Contract without the prior written consent of the Company.

ROSEN shall be entitled to assign, transfer or novate its rights or obligations under the Contract or any part thereof or any benefit or interests therein to any of its Affiliates. ROSEN shall inform Company about any such assignment.

## 19 PERSONAL DATA PROTECTION

ROSEN and the Company may in the course of performance of the Contract provide each other with Personal Data. Personal Data, is any information relating to an identified or identifiable individual, unless otherwise defined related to the protection of individuals, the processing of such information, and security requirements for and the free movement of such information. Any processing of Personal Data will be done in accordance with the terms of this Contract and the applicable laws.

The Company will implement all appropriate security measures to protect Personal Data against accidental, unlawful, or unauthorized (i) destruction (ii) loss, (iii) alteration, (iv) disclosure, or (v) access (including remote access). The Company will protect Personal Data against all other forms of unlawful processing, including unnecessary

collection, transfer, or processing, beyond what is strictly necessary for the performance of the Contract.

Prior to any transfer of Personal Data by the Company, the Company will impose all obligations as required by the Contract and the applicable laws.

Any person acting under the authority of the Company must not process the data except on instructions from ROSEN.

Where ROSEN Personal Data is transferred or gathered from the European Economic Area and the Company is located in a country that has not been deemed to provide an adequate level of protection for personal data within the meaning of Regulation (EU) 2016/679, the Company will either:

- enter into any standard data protection clauses adopted or approved by the European Commission in line with Regulation (EU) 2016/679; or
- confirms that it has fully implemented binding corporate rules which provide adequate safeguards as required by Regulation (EU) 2016/679, or has any other similar program or certification that is recognized as providing an adequate level of protection in accordance with Regulation (EU) 2016/679.

The Company will promptly, and in any case within seventy two (72) hours inform ROSEN through the ROSEN Data Protection Officer at [DSB-ROSEN-Swiss@intersoft-consulting.de](mailto:DSB-ROSEN-Swiss@intersoft-consulting.de) if it determines and discloses to a competent public authority and/or affected data subjects that an accidental, unlawful, or unauthorized (i) destruction (ii) loss, (iii) alteration, (iv) disclosure, or (v) access (including remote access) of ROSEN Personal Data has occurred.

## 20 CODE OF CONDUCT

ROSEN conducts its business responsibly and in compliance with the legal requirements and official regulations of the countries in which ROSEN operates. ROSEN expects its contractual partners to comply with applicable law and legislation. The Company hereby acknowledges and confirms its adherence to the ROSEN Code of Conduct available on the ROSEN website at <https://www.rosen-group.com/global/company/misc/compliance.html>.

## 21 MISCELLANEOUS

21.1 Unless otherwise provided in the Contract Documents, the Contract shall be governed by and construed according to the law of the state in which the contracting ROSEN entity has its registered office. Any suit, action or proceeding with respect to the Contract shall be brought to a court where the respective ROSEN entity has its place of business, which shall have jurisdiction and venue.

If Contracts (Rights of Third Parties) Act 1999 is applicable in the state in which the contracting ROSEN entity has its registered office, then applicability of Contracts (Rights of Third Parties) Act 1999 shall be excluded.

21.2 With the exception of non-disclosure agreement and data processing agreement, there are no understandings, agreements or representations, express or implied, not specified in the Contract and the Contract Documents containing the entire agreement between Company and ROSEN and set forth their respective rights, duties and obligations. Unless specifically enumerated in the proposal or unless specifically executed as an amendment, the Contract Documents do not include and will not be deemed to include any other documents or correspondence between Company and ROSEN, such as proposals, quotations, sample forms, bids, etc.

21.3 The division of these Terms and Conditions or of anything else of the Contract Documents into articles, sections, paragraphs, parts and subparagraphs and the insertion of headings and marginal notes is for the convenience of reference only and will not affect the construction and interpretation of this Contract.

21.4 Any amendment or modification of any Terms and Conditions contained in the Contract Documents subsequent to the effective date of this Contract will be valid only if made by a subsequent written agreement. Such subsequent written agreement shall be signed by duly authorized representatives of ROSEN and the Company. It shall specify by reference to the particular Contract Document that contains the Terms and Conditions to be amended by reference to the origin clause.

If the Contract is subject to German law, the following shall apply:

All side agreements, modifications, and Amendments to the Contract and/or these Terms and Conditions require written form for their effectiveness, unless otherwise stipulated. This also applies to the modification or revocation of this form requirement itself. Section 305b of the German Civil Code (BGB) (Priority of Individual Agreements) remains unaffected.

21.5 If any provision or part of a provision of these Terms and Conditions is found to be illegal, invalid or unenforceable under any applicable law, such provision or part of a provision shall, insofar as it is severable from the remaining terms, be deemed omitted from these terms and shall in no way affect the legality, validity or enforceability of the remaining terms.

21.6 Wherever in the Contract Documents provision is made for the giving of any notice, consent, approval or determination by any person, unless otherwise specified, such notice, consent, approval or determination will be in writing and words "notice", "notification", "notify", "consent",

"determination", or "determine" will be construed accordingly. All notices and other communications provided for herein (including, without limitation, any modifications of, or waivers or consents under this Contract) shall be given in writing, including an electronic writing and shall be faxed (and confirmed by copy delivered by personal delivery or mail), mailed or delivered to the intended recipient at the address specified by the recipient in writing. Except as otherwise provided in this Contract Documents, all such communications shall be deemed to have been duly given when transmitted by email, facsimile or personally delivered or, in the case of a mailed or electronically mailed notice, upon receipt, in each case given or addressed as stated in the Contract Documents.

- 21.7 Any failure by ROSEN to enforce or require strict compliance with any of the terms, covenants or conditions required by the Contract Documents will not constitute a waiver of any of such Terms and Conditions or of ROSEN's right to seek such remedies as it may have for any breach or breaches of such terms, covenants and conditions. Stenographical and clerical errors are subject to correction. If either Party discovers a clerical error it shall promptly notify the other Party of the same.