

**ROSEDALE THERAPEUTICS**  
TERMS AND CONDITIONS OF SALE (rev.11/01/2006)

ROSEDALE THERAPEUTICS ("ROSEDALE") and Customer agree that the terms and conditions hereinafter set forth shall govern the relationship between ROSEDALE and the Customer and supersede any contrary terms in any of Customer's purchase orders or other documents. Customer acknowledges and accepts all such ROSEDALE terms and conditions by placing an order for goods with ROSEDALE, and upon Customer's receipt of ROSEDALE's invoice enclosed with items delivered to Customer or separately transmitted to Customer, or upon Customer's receipt of ROSEDALE's credit memorandum or statement, whichever occurs first. Any attempted deviation from, or alteration of, these terms and conditions of sale by Customer will not be recognized and shall have no force or effect. ROSEDALE reserves the right to revise these Terms and Conditions of Sale from time to time.

**Order Policy:** To have an order filled by ROSEDALE, Customer shall be (a) a dispensing pharmacy ordering directly from ROSEDALE or through the dispensing pharmacy's servicing wholesaler, (b) a servicing wholesaler that is not a "Qualified Wholesaler" (as defined below) forwarding an order from a specific dispensing pharmacy, or (c) a "Qualified Wholesaler" that supplies dispensing pharmacies and has agreed to stock ROSEDALE Product. A Qualified Wholesaler shall only sell to dispensing pharmacies and shall not sell to any other distributor, reseller, wholesaler or other party. In the event that a Qualified Wholesaler shall fail to report sales by chargeback reports, the Qualified Wholesaler shall cease to be a Qualified Wholesaler. A Qualified Wholesaler may be the central pharmacy or depot for a pharmacy chain, hospital, governmental entity or retailer.

**Shipment Policy:** ROSEDALE product will be either drop shipped by ROSEDALE directly to the dispensing pharmacy based upon an order submitted to ROSEDALE by such dispensing pharmacy or its servicing wholesaler, or fulfilled by a Qualified Wholesaler that has agreed to report to ROSEDALE all of Qualified Wholesaler's shipments of ROSEDALE products in accordance with the Order Policy above. ROSEDALE reserves the right to refuse to ship ROSEDALE product to any entity other than a dispensing pharmacy or a Qualified Wholesaler.

**Shortages and Discrepancies:** All shortages or discrepancies of shipped merchandise must be reported to ROSEDALE within 72 hours of package receipt. Please see the following section for the required procedure for any product return.

**Returned Goods:** ROSEDALE maintains a toll-free line for shortages, discrepancies, and returned goods, 1-800-247-4896. Customer must call for authorization before sending any items back to ROSEDALE. ROSEDALE will issue a Return Materials Authorization ("RMA") for each authorized return. Each RMA is valid for 30 days from issue. All returns must have a valid RMA shown on the outside of the package and a copy of the invoice enclosed. Return items must be returned by the original purchaser, in the original bottle unopened, undamaged, and in salable condition, provided, however, Customer will receive prorated credit for partial returns (*i.e.*, bottles opened or partially used) only if such partial returns are mandated by published state statute or regulation. Credits are provided to the original Customer (*i.e.*, specific dispensing pharmacy or Qualified Wholesaler) through either product exchanges or applied to future purchases. **UNDER NO CIRCUMSTANCE SHALL ANY CASH REFUND OR OTHER CASH PAYMENT BE ISSUED FOR ANY RETURN OR RETURN CREDIT.** Customer must return product to the seller from whom they purchased the product (*i.e.*, ROSEDALE or a Qualified Wholesaler). The value of authorized returns received by ROSEDALE will be credited to Customer's account in accordance with the following:

**Items shipped by ROSEDALE in error:** Full credit will be issued with proper authorization.

**Return Dating:** In-date product within six months of expiration and outdated product within one year after the expiration date must be returned to ROSEDALE, unopened and unused. Upon ROSEDALE's receipt of an authorized return, Customer will receive credit for authorized returned goods equal to ROSEDALE's WAC price less five percent (5%) as of the RMA issuance date. Customer will receive prorated credit for partial returns (*i.e.*, bottles opened or partially used) only if such partial returns are mandated by published state statute or regulation.

All returns must be shipped prepaid by Customer unless the product was shipped by ROSEDALE in error.

**Unauthorized returns:** All products not addressed above shall be non-returnable, including without limitation:

- Product sold on a "non-returnable basis".
- Product returned without proper authorization.
- Expired products retained for more than one year beyond the expiration date.
- Bottles opened, partially used, or from which the label has been removed, provided, however, Customer will receive prorated credit for partial returns (*i.e.*, bottles opened or partially used) only if such partial returns are mandated by published state statute or regulation.
- Repackaged product
- Returns in excess of bottles purchased from ROSEDALE by Customer seeking return credit.
- Product that has been in a fire, clearance, bankruptcy, or similar sale. -Merchandise purchased or otherwise obtained in violation of any Federal, State, or local law, regulation or policy.
- Merchandise destroyed or damaged from insurable causes such as fire, water, tornado, etc, and merchandise that has otherwise deteriorated due to conditions beyond the control of the manufacturer, such as improper storage, transport, temperature, moisture, smoke, etc.

**Return of sample product:** ROSEDALE will destroy any returned sample of a ROSEDALE product, but no credit or exchange value will be issued for any such returned sample product. All such returned sample product must be shipped prepaid by Customer.

Note: ROSEDALE's determination of the credit or exchange value of returned merchandise shall be final. ROSEDALE reserves the right to destroy returned merchandise, subject to the above terms and conditions, without replacement, credit or other liability to Customer.

## **ADDITIONAL TERMS AND CONDITIONS**

Payment terms are 2% 30, Net 31 days from date of invoice, and interest charges of one and one-half percent (1½%) per month or the highest rate permitted by law, whichever is more, will accrue daily on all amounts not paid within 30 days of the date of invoice. Customer agrees that in the event the account is not paid on or before the due date and ROSEDALE resorts to legal action to effect collection, Customer shall pay to ROSEDALE attorney's fees in the amount of 25% of any sum or sums collected by legal action and the actual costs of court.

Supplier hereby warrants that ROSEDALE product is and shall be manufactured and delivered to Customer in conformity with the Federal Food, Drug and Cosmetic Act, as amended. ROSEDALE shall defend, indemnify, and hold harmless Customer against any and all claims, liabilities, losses, damages, costs, and expenses (including without limitation reasonable attorneys' fees) arising out of: (a) the fraud, intentional misconduct, omission or recklessness of ROSEDALE; (b) ROSEDALE's manufacture, marketing, testing, shipping, or sale of ROSEDALE product (excluding any claim, liability, loss, damage, cost or expense shown to be attributable to Customer's negligence or wrongdoing with respect such ROSEDALE product); and (c) any intellectual property infringement actions (including patent, trademark, service mark, copyright trade dress, trade secret and other intellectual proprietary rights) brought by a third party in connection with Customer's distribution of ROSEDALE product purchased by Customer from ROSEDALE under ROSEDALE's Terms and Conditions of Sale.

ROSEDALE shall comply with all federal, state and local laws and regulations applicable to its operations, which may include but not be limited to, those dealing with employment opportunity and affirmative action including Executive Order 11246 (Equal Opportunity), 38 U.S.C. §4212(a) (Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era), and 29 U.S.C. §793 (Affirmative Action for Workers with Disabilities), and any amendment and applicable regulations pertaining thereto. ROSEDALE represents, warrants and certifies that neither it nor its principals was or is debarred, suspended, proposed for debarment or otherwise determined to be ineligible to participate in federal health care programs (as that term is defined in 42 U.S.C. §1320a-7b(f)) or convicted of a criminal offense related to the provision of

health care items or services, but has not yet been debarred, suspended, proposed for debarment or otherwise determined to be ineligible to participate in federal health care programs. In addition, ROSEDALE represents and warrants that it complies with all federal, state, local and other applicable laws, regulations, conventions or treaties prohibiting any form of child labor or other exploitation of children in the manufacturing and delivery of ROSEDALE's product.

All transactions shall be deemed to be fully negotiated, transacted and performed within the Sullivan County State of Tennessee, U.S.A. All sales transactions and sales agreements shall be governed by and construed according to the laws of the State of Tennessee without regard to the conflict of law provisions thereof.

In the event of any dispute concerning a sales transaction or sales agreement, including, without limitation thereto, Customer's obligation to pay for goods sold by ROSEDALE, the proper forum for legal or equitable claims and/or proceedings shall be either the General District Court of the Sullivan County, Tennessee, USA, or the Circuit Court Bristol, Tennessee, and to this end, ROSEDALE and Customer agree to subject themselves to the jurisdiction of said court in the event of any such dispute.