

Nusano Standard Purchase Order Terms and Conditions

The following Standard Purchase Order Terms and Conditions (“**Terms**”) only apply to transactions that do not have a written agreement, duly executed by both parties. If there is such an agreement, then those terms shall be the terms that govern the transaction and relationship of the parties.

In the absence of such a written agreement, duly executed by both parties, then these Terms provide you (“**Supplier**”) with terms and conditions of your purchase order (“**Order**”) with Nusano, Inc. (“**Purchaser**”) for the goods (“**Goods**”) and/or services (“**Services**”) that are described on the face of the Order.

1. Acceptance and terms and conditions: Supplier accepts this Order by signing the acceptance copy of the Order and returning it to Purchaser promptly. Even in the absence of such written acknowledgment, Supplier's full or partial delivery of Goods or performance of Services will constitute acceptance of these Terms. By acceptance of this Order, Supplier agrees to be bound by, and to comply with all these Terms.

These Terms apply to all Goods and/or Services in this Order. The Order includes any supplements, Specifications, and other documents expressly referenced in the Order. For the purposes of these Terms, “**Specifications**” means the requirements, attributes and specifications for the Goods and/or Services, including but not limited to (i) documentation published by Supplier relating to the Goods and/or Services, (ii) operational and technical specifications or requirements for features, performance and functionality of the Goods and/or Services; (iii) standards or levels of service performance for Services; and (iv) Purchaser requirements that are expressly set out in this Order.

These Terms constitute Purchaser's offer to Supplier, which Purchaser may revoke at any time prior to Supplier's acceptance. This Order is not an acceptance by Purchaser of any offer to sell, any quotation, or any proposal of Supplier (each, a “**Supplier Proposal**”). Reference in this Order to a Supplier Proposal will not constitute a modification of any of these Terms and any such reference is solely for the purpose of incorporating the descriptions and specifications of the Goods and/or Services contained in such Supplier Proposal, and only to the extent that the terms of such Supplier Proposal do not conflict with the descriptions and Specifications set out in this Order.

Terms and conditions different from or in addition to these Terms, whether contained in any acknowledgment of this Order by Supplier, or with delivery of any Goods and/or performance of Services under this Order, or otherwise, will not be binding on Purchaser, whether or not they would materially alter this Order, and Purchaser's acceptance of, or payment for, Goods and/or Services will not constitute Purchaser's acceptance of any additional or different terms. These Terms may be modified only by a written document signed by duly authorized representatives of Purchaser and Supplier.

2. Delivery of Goods and Services:

(a) Supplier agrees to supply and deliver the Goods to Purchaser and to perform the Services, as applicable, on the terms set out in this Order and these Terms.

(b) Supplier shall, at its own expense, pack, load, and deliver Goods to the delivery point (the “**Delivery Point**”) specified by Purchaser in this Order and in accordance with the invoicing, delivery terms, shipping, packing, and other instructions printed on the face of the Purchase Order or otherwise provided to Supplier by Purchaser in writing. No charges will be allowed for freight, transportation, insurance, shipping, storage, handling, demurrage, cartage, packaging or similar charges unless provided for in this Order or otherwise

agreed to in writing by Purchaser. Title and risk of loss or damage shall pass to Purchaser upon receipt of Goods at the Delivery Point and Acceptance (as defined in Section 5) by Purchaser, unless otherwise agreed to by the Purchaser in writing. If Purchaser rightfully rejects the Goods or receives a non-conforming tender, risk of loss and title shall be deemed to have remained with Supplier. The responsibility for freight damaged merchandise will be assumed by Supplier. No charges for unauthorized transportation will be allowed. Any unauthorized shipment, which will result in excess transportation charges, must be fully prepaid by the Supplier. Purchaser has no obligation to obtain insurance while Goods are in transit from Supplier to the Delivery Point. If Supplier does not comply with Purchaser's delivery schedule under this Order, Purchaser may require delivery by fastest way and charges resulting from the premium transportation must be fully prepaid and absorbed by Supplier.

(c) Time is of the essence with respect to delivery of the Goods and performance of Services. Goods shall be delivered and Services performed by the applicable delivery or applicable performance date (each, a “**Delivery Date**”) as specified in this Order. Supplier must immediately notify Purchaser in writing if Supplier for any reason anticipates difficulty in complying with any Delivery Date, or in meeting any of the other requirements of this Order. Purchaser may by written notice of default to Supplier (i) terminate all or any part of this Order if Supplier fails to meet a Delivery Date, or so fails to make progress as to endanger performance of this Order in accordance with its terms; and (ii) upon Supplier’s failure to cure within a period of five (5) days after receipt of such notice of default from Purchaser, procure, on such terms as Purchaser will deem appropriate, replacement goods or services similar to those so terminated. Supplier will continue performance of this Order to the extent not terminated and will be liable to Purchaser for any excess costs for such similar replacement goods or services. As an alternate remedy, and in lieu of termination for default, Purchaser, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Supplier's performance, in which case an equitable reduction in the Order price will be negotiated.

(d) The rights and remedies of Purchaser provided in this Section 2 will not be exclusive and are in addition to any other rights and remedies provided by the Uniform Commercial Code, by law, at equity or under this Order.

3. **Price:** This Order must not be filled at a price higher than shown on the face of the Order. If no price is set forth on the front of the Order, the Goods or Services will be billed at the price last quoted or at the prevailing market price, whichever is lower, and, in any event, Goods and Services ordered under this Order will not be billed at a higher price than last quoted or charged without Purchaser's specific written authorization. Purchaser will be entitled at all times to set off any amount owed at any time by Supplier or any of its affiliates to Purchaser or any of its affiliates against any amount payable at any time by Purchaser in connection with this Order. No extra charges of any kind will be allowed unless specifically agreed to in writing by the Purchaser. If Supplier reduces its prices for such Goods and/or Services during the term of this Order, Supplier shall correspondingly reduce the prices of Goods and/or Services sold thereafter to Purchaser under this Order.

4. **Invoices, payment, and taxes:**

(a) Invoices shall be rendered on completion of Services or delivery of Goods. All invoices delivered by Supplier must reference the applicable Order purchase order number, date(s) rendered, description of Goods and/or Services, total purchase price, unit price(s), unit quantity, item number, and any other information necessary to uniquely associate an invoice with the Goods and/or Services to which it applies. Each invoice must refer to one, and only one, purchase order.

(b) Payment for the undisputed portion of a properly rendered invoice shall be made on the terms of net 30 days from the date of such invoice. Purchaser shall have the right to withhold payment of any invoiced amounts that are disputed in good faith until the parties reach an agreement with respect to such disputed amounts, and such withholding of disputed amounts shall not be deemed a breach of these Terms, nor shall any interest be charged on such amounts. Notwithstanding the foregoing, Purchaser agrees to pay the balance of the undisputed amounts on any invoice that is the subject of any dispute within the time periods specified herein. Cash discount periods shall be computed from either the date of actual delivery of the Goods or the date an acceptable invoice is received, whichever is later. All claims for money due or to become due from Purchaser shall be subject to deduction by Purchaser for any setoff or counterclaim arising out of this Order or any other of Purchaser's orders with Supplier.

(c) Unless otherwise stated in an Order, all prices or other payments stated in the Order are exclusive of any taxes. Supplier shall separately itemize all applicable taxes each on each invoice and indicate on each invoice its applicable tax registration number(s). Purchaser will pay all applicable taxes to Supplier when the applicable invoice is due. Supplier will remit all applicable taxes to the applicable government authority as required by applicable laws. Notwithstanding any other provision of these Terms, Purchaser may withhold from all amounts payable to Supplier all applicable withholding taxes and to remit those taxes to the applicable governmental authorities as required by applicable laws.

5. Inspection: All shipments of Goods and performance of Services shall be subject to Purchaser's right of inspection. Purchaser shall have ninety (90) days (the "**Inspection Period**") following the delivery of the Goods at the Delivery Point or performance of the Services to undertake such inspection, and upon such inspection Purchaser shall either accept the Goods or Services ("**Acceptance**") or reject them. Purchaser shall have the right to reject any Goods that are delivered in excess of the quantity ordered or are damaged or defective. In addition, Purchaser shall have the right to reject any Goods or Services that are not in conformance with the Specifications or with these Terms.

Transfer to Purchaser of title for Goods and Purchaser's payment for Goods and/or Services shall not constitute Acceptance of those Goods and/or Services. Purchaser shall provide Supplier within the Inspection Period notice of any Goods or Services that are rejected, together with the reasons for such rejection. If Purchaser does not provide Supplier with any notice of rejection within the Inspection Period, then Purchaser will be deemed to have provided Acceptance of such Goods or Services. Purchaser's inspection, testing, or Acceptance or use of the Goods or Services hereunder shall not limit or otherwise affect Supplier's warranty obligations hereunder with respect to the Goods or Services, and all such warranties herein or that are implied by law shall survive inspection, delivery, payment, test, Acceptance and use of the Goods or Services.

Purchaser shall be entitled to return rejected Goods to Supplier at Supplier's expense and risk of loss for, at Purchaser's option, either: (i) full credit or prompt refund of all amounts paid, if any, by Purchaser to Supplier for the rejected Goods; or (ii) replacement Goods to be received within the time period specified by Purchaser. Rejected Goods that are returned to Supplier shall not be replaced by Supplier except upon written instructions from Purchaser. Supplier shall not deliver Goods that were previously rejected on grounds of non-compliance with the Order, Specifications, or the Terms, unless delivery of such Goods is approved in advance by Purchaser and is accompanied by a written disclosure of Purchaser's prior rejection(s).

6. Warranties: Supplier represents and warrants that:

(a) all Goods and Services are free of any claim of any nature by any third person and that Supplier will convey clear title to Purchaser,

(b) all Services are (i) performed in a manner exercising that degree of professionalism, skill, diligence, care, prudence, judgment, and integrity which would reasonably be expected from a skilled and experienced service provider in the industry and in accordance with generally accepted standards, (ii) free from all defects, (iii) fit for the particular purposes for which they are acquired, (iv) provided in strict compliance with the Specifications and all Purchaser policies, guidelines, by-laws and codes of conduct applicable to Supplier, (v) provided in a manner complying with all applicable federal, state, and local laws, ordinances, standards, codes, orders, rules and regulations, and (vi) provided using only personnel with the skills, training, expertise, and qualifications necessary to carry out the Services. Purchaser may object to any of the Supplier's personnel engaged in the performance of Services who, in the reasonable opinion of Purchaser, are lacking in appropriate skills or qualifications, engage in misconduct, constitute a safety risk or hazard or are incompetent or negligent, and the Supplier shall promptly remove such personnel from the performance of any Services upon receipt of such notice, and shall not re-employ the removed person in connection with the Services without the prior written consent of Purchaser,

(c) all Goods provided hereunder will be (i) of merchantable quality, (ii) free from all defects in design, workmanship and materials, (iii) fit for the particular purposes for which they are intended, (iv) in strict compliance with the Specifications, (v) unless otherwise agreed to by Purchaser in writing, new, (vi) in conformance with any samples provided to Purchaser, and (vii) compliant with all applicable federal, state, and local laws, ordinances, standards, codes, orders, rules and regulations,

(d) the prices for the Goods or Services sold to Purchaser under this Order are not less favorable than those currently extended to any other customer for the same or similar goods and/or services in equal or lesser quantities, and

(e) at all times all Goods and or Services (including any deliverable or other product from Services) will not be in violation of or infringe any intellectual property rights of any third party.

7. Warranty Remedies

In the event of breach of any warranties in Section 6, and without prejudice to any other right or remedy available to Purchaser (including Purchaser's indemnification rights hereunder), Supplier shall, at Purchaser's option and at Supplier's expense, refund the purchase price for, or correct or replace the affected Goods, or re-perform the affected Services, within ten (10) days after notice by Purchaser to Supplier of warranty breach. All associated costs, including costs of re-performance, costs to inspect the Goods and/or Services, transport the Goods from Purchaser to Supplier, and return shipment to Purchaser, and costs resulting from supply chain interruptions, will be borne by Supplier. If Goods are corrected or replaced or Services are re-performed, the warranties in Section 6 will apply as to the corrected or replaced Goods. If Supplier fails to repair or replace the Product within ten (10) days as required above, Purchaser may, upon five (5) days prior written notice to Supplier, make such corrections or replace such Goods and charge Supplier for all costs incurred by Purchaser. Any attempt by Supplier to limit, disclaim, or restrict these warranties or any remedies of Purchaser, by acknowledgment or otherwise, in accepting or performing this Order, will be null, void, and ineffective without Purchaser's written consent.

In the event that any Goods or deliverable from Services provided by Supplier to Purchaser are subject to a claim or allegation of infringement of the intellectual property rights of a third party, Supplier shall, at its own option and expense, without prejudice to any other right or remedy of Purchaser (including Purchaser's indemnification rights hereunder), promptly provide Purchaser with a commercially reasonable alternative, including the procurement for Purchaser of the right to continue using the Goods in question, the replacement of such Goods with a non-infringing alternative satisfactory to Purchaser, or the modification of such Goods (without affecting functionality) to render them non-infringing.

8. Indemnification: Supplier shall indemnify and hold harmless Purchaser, its affiliates and their respective officers, directors, employees, consultants, and agents and, on Purchaser's request, shall defend each of them from and against any or all third party claims, fines, losses, actions, damages, expenses, legal fees, demands, litigation, proceedings of whatever kind, and all other liabilities, whether based upon negligence, breach of express or implied warranty, strict liability, infringement of intellectual property rights, or any other theory, and from and against all direct, indirect, special, exemplary, incidental or consequential damages of every kind whatsoever, arising out of, by reason of, or in any way connected with (i) the Goods and/or Services, (ii) the design, manner of preparation, manufacture, construction, completion, or delivery or non-delivery of any Goods and/or Services by Supplier, (iii) any breach by Supplier of any of its obligations hereunder, or (iv) any other act, omission or negligence of Supplier or any of Supplier's employees, workers, servants, agents, subcontractors, or suppliers. Supplier shall, on request, pay or reimburse Purchaser or any other party entitled to indemnification hereunder for all costs and expenses, including attorneys' fees, as incurred by Purchaser or such other party in connection with any such claims, fines, losses, actions, damages, expenses, legal fees, demands, litigation, proceedings of whatever kind, and all other liabilities.

9. Limitation of liability: PURCHASER'S AGGREGATE LIABILITY ARISING FROM OR RELATING TO THIS ORDER IS LIMITED TO THE AMOUNT PAID BY PURCHASER FOR THE GOODS AND/OR SERVICES. TO THE MAXIMUM EXTENT ALLOWABLE UNDER APPLICABLE LAW, PURCHASER SHALL NOT BE LIABLE UNDER THIS ORDER FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR PUNITIVE DAMAGES INCLUDING, WITHOUT LIMITATION, LOST REVENUES EVEN IF PURCHASER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Changes:

(a) At all times Purchaser will have the right to make changes to this Order, including changes to Specifications, drawings, designs, configurations, specifications, quantities, methods of shipment or packing and delivery schedules or location of delivery. If any such changes cause an increase or decrease in the cost of or the time required for the performance of any work under this Order, an equitable adjustment will be made in the contract price or delivery schedule, or both, and this Order will be modified in writing accordingly. Nothing in this Section 10(a), including any disagreement with Purchaser as to any claimed adjustment, will excuse Supplier from proceeding with this Order as changed. Any claim by the Supplier for adjustment under this Section 10(a) must be in a detailed writing and delivered to Purchaser within five (5) days after the date Supplier receives notification of change. Any change will be authorized only by a duly executed amendment to this Order. Information, such as technical information or guidance provided to Supplier by representatives of Purchaser, will not be construed as a change within the meaning of this Section 10(a). If Supplier considers that the conduct of any of Purchaser's employees has constituted a change under this Order, Supplier will immediately notify Purchaser, in writing, as to the nature of the change and any proposed adjustment, which will then be subject to this Section 10(a).

(b) All part numbers of all Goods must be exactly as requested in this Order. Goods must not vary from the fit, form, and function as specified in this Order. If there is any change made whatsoever to the originally ordered Good, Supplier shall notify Purchaser at least fourteen (14) days prior to shipment and Purchaser may terminate all or any part of this Order.

11. Confidential or proprietary information: Notwithstanding any document marking to the contrary, any knowledge or information that the Supplier has disclosed or may later disclose to Purchaser, and which in any way relates to the Goods or Services covered by this Order will not, unless otherwise specifically

agreed to in writing by Purchaser, be deemed to be confidential or proprietary information, and will be acquired by Purchaser, free from any restrictions. Supplier will not transmit to Purchaser any sensitive personal information, including, but not limited to, identified health information, financial information, social security numbers, biometrics or other personally identified or identifiable information of like sensitivity.

Supplier will keep confidential any confidential or proprietary information concerning Purchaser (the “**Confidential Information**”), including but not limited to any technical, process, economic, or other information derived from drawings, Specifications and any other data furnished by Purchaser in connection with this Order (in whatever form or format). Supplier will utilize all reasonable care in maintaining the confidentiality of all such Confidential Information, including, without limitation, all precautions Supplier employs with respect to Supplier’s most confidential information. Supplier will not disclose any Confidential Information to anyone other than an employee of Supplier who has (i) a legitimate need to know such Confidential Information in order to fulfill Supplier’s obligations under this Order or these Terms and (ii) who is bound by confidentiality obligations no less restrictive than these Terms. Supplier will use Confidential Information for the sole purpose of fulfilling Supplier’s obligations under this Order or these Terms and will not divulge, export, or use, directly or indirectly, Confidential Information for the benefit of any party other than Purchaser. Except as required for the performance of this Order, Supplier will not use Confidential Information or make copies or permit copies to be made of such drawings, Specifications, or other data. Supplier agrees to immediately notify the Purchaser of any unauthorized use of the Confidential Information of which Supplier learns. Upon completion or termination of this Order or Purchaser’s request, Supplier will promptly return to Purchaser or destroy all materials incorporating any Confidential Information and any copies. Supplier agrees that no acknowledgment or other information concerning this Order and the Goods or Services provided will be made public by Supplier without the prior written agreement of Purchaser. Supplier acknowledges and agrees that its obligations set forth herein regarding the non-disclosure, non-use, return and/or destruction of the Confidential Information will survive the termination or completion of this Order.

12. **Insurance:** Supplier will maintain with reputable insurers such insurance policies in coverage amounts that would be maintained by a prudent supplier of goods and services similar to the Goods and Services provided hereunder, including, as applicable, professional errors and omissions liability insurance, comprehensive commercial general liability insurance (including contractual liability coverage insuring the liabilities assumed in these Terms), product liability coverage, all-risk contractors’ equipment insurance, automobile liability insurance, employers’ liability insurance with limits as reasonably required by Purchaser, as well as appropriate workers’ compensation insurance as will protect Supplier from all claims under any applicable workers’ compensation and occupational disease acts. In addition, Supplier will take out and maintain, at its own cost, such insurance policies and coverages as may be reasonably required by Purchaser from time to time. At Purchaser’s request, Supplier will furnish to Purchaser a Certificate of Insurance completed by its insurance carrier(s) certifying that the required insurance coverage is in effect, with waiver of subrogation, naming Purchaser as an additional insured, and containing a covenant that such coverage and will not be canceled or materially changed until thirty (30) days after prior written notice has been delivered to the Purchaser.

13. **Termination:** Purchaser may terminate all or any part of this Order for convenience at any time by written notice to Supplier. Upon such termination, Purchaser’s liability will be limited to reasonable termination charges mutually agreed by Supplier and Purchaser, provided that Supplier must specify any proposed charges in writing within ten (10) days after termination. This Order shall terminate automatically, without notice, if Supplier becomes insolvent or the subject of any proceeding under the laws relating to

bankruptcy or the relief of debtors. Notwithstanding any other provision to the contrary in these Terms, at any time prior to a Delivery Date, Purchaser may without any charge or expense, upon notice to Supplier, cancel an Order, or any portion thereof, due to failure of Supplier to comply with these Terms.

14. **Miscellaneous:**

(a) **Assignment and Limitations:** Neither this Order, nor any interest in it, nor any right or duty under these Terms may be transferred, assigned or delegated by Supplier, by operation of law or otherwise, without the prior written consent of Purchaser, and any attempted transfer, assignment or delegation without such consent will be void and without effect. Purchaser may freely transfer, assign or delegate this Order and any right or duty under these Terms, in whole or in part, without Supplier's prior written consent.

(b) **Independent Contractors:** Supplier is and will remain solely and exclusively an independent contractor of Purchaser. Nothing in these Terms will be construed to create a partnership, joint venture or agency relationship between the parties, and in no event will either party be, claim to be, or be deemed to be, an employee, agent or partner of the other party by reason of or with respect to these Terms, Goods, or any Services. Supplier acknowledges that, as an independent contractor, Supplier is not eligible to participate in any benefits program or employee welfare benefit plan Purchaser offers its employees (if any). Supplier will comply with all laws, including all laws governing payment of income taxes, self-employment taxes and service taxes, and all other federal, state, local and foreign taxes of any nature imposed with respect to Supplier's obligations under these Terms.

(c) **Anticipation of delivery schedule:** Unless otherwise agreed in writing, Supplier will not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Purchaser's delivery schedule. Goods shipped to Purchaser in advance of schedule may be returned to Supplier at Supplier's expense.

(d) **Supplier's inventory:** Purchaser will have no obligation to request quotations or place Orders with Supplier, both of which will be in Purchaser's sole discretion. Purchaser acting in its sole discretion will determine the actual quantity of goods or services to be purchased. The quantity of goods or services, if any, specified in forecasts supplied by Purchaser from time to time, or otherwise, is an estimate only. Supplier bears sole responsibility for managing Supplier's raw material, work in process, and inventory, and Purchaser will have no liability with respect thereto (whether upon termination of this Order or otherwise) other than in connection with termination as provided in Section 13.

(e) **Force majeure:** Purchaser may delay Delivery Dates and/or Acceptance occasioned by causes beyond its control.

(f) **Publicity:** Supplier will not, without the prior written consent of Purchaser, use the name, service marks, or trademarks of Purchaser or its affiliates for any purpose, including any advertising, publicity release, or representative client list. Supplier will not disclose the existence of this Order or any of its respective terms to any third party without Purchaser's prior written consent.

(g) **Documentation:** It is agreed that all technical documentation and other literature necessary for the proper use of the Goods or Services will be provided to Purchaser with the Goods or Services, unless otherwise directed by Purchaser, and its cost is included in the price.

(h) **Governing law and Venue:** This Order, these Terms, and all related transactions will be governed by and construed in accordance with the laws of the State of California, without regard to its conflict of law provisions. The state or federal court in Los Angeles County, California will be the jurisdiction in which any suits must be filed if they relate to this Order, these Terms, and all related transactions.

(i) **Arbitration:** Any dispute, claim or controversy arising out of or relating to this Order or these Terms, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Los Angeles, California, or another location agreed to by the parties. The arbitration shall be administered by ADR Services, Inc. The arbitration shall be held before a sole arbitrator and shall be binding with no right of appeal. The arbitration shall be conducted pursuant to the ADR Services, Inc. Standard Arbitration Rules. The arbitration shall be commenced by filing a demand for arbitration with the administrator of ADR Services, Inc. and serving the demand on the opposing party. The responding party may file a response and/or a counter-claim within 15 calendar days. If no response is filed, all the allegations of the demand shall be deemed denied. The parties shall select an arbitrator by mutual agreement through ADR Services, Inc. within 30 calendar days after the date the demand for arbitration is filed. If the parties are unable to agree on the selection of an arbitrator within such time, the administrator of ADR Services, Inc. shall select an independent arbitrator. The costs of the arbitration, including the arbitrator's fees, shall be borne equally by the parties to the arbitration, unless the arbitrator orders otherwise. Judgment upon the award rendered by the arbitrators shall be specifically enforceable and may be entered in any court having jurisdiction thereof, and the parties hereby submit to the jurisdiction and venue of said court.

(j) **Survival:** Supplier's obligations under Sections 5, 6, 7, 8, 9, 11, and 14 (h), (i), (j), (k), (m), and (o) will survive any termination of this Order.

(k) **Waiver; modification:** No modification, addition or deletion, or waiver of any rights under these Terms will be binding on a party unless made in a non-preprinted agreement clearly understood by the parties to be a modification or waiver, and signed and delivered by a duly authorized representative of each party. No failure or delay (in whole or in part) by the Purchaser to exercise any right or remedy of Purchaser hereunder will operate as a waiver thereof or effect any other right or remedy. All rights and remedies hereunder are cumulative and are not exclusive of any other rights or remedies provided hereunder or by law. The waiver of one breach or default or any delay in exercising any rights will not constitute a waiver of any subsequent breach or default.

(l) **Notices:** Any notice or communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given on the date of delivery, if delivered in person or recognized overnight courier, or on the first business day after transmission if sent by confirmed facsimile transmission or electronic mail transmission, or three business days after mailing if mailed by certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

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| If to Purchaser: | Nusano, Inc. Attention: President and Chief Executive Officer 28575 Livingston Ave Valencia, CA 91355 |
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| If to Supplier: | The address as set forth in this Order |
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Such addresses may be changed, from time to time, by means of a notice given in the manner provided in this Section 14(l).

(m) **Severability:** If any provision of these Terms is invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other provisions of these Terms will nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Order and these Terms is not affected in any manner adverse to any party. Upon such determination that any provision is

invalid, illegal or incapable of being enforced, the parties will negotiate in good faith to modify these Terms so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled.

(n) **Section titles:** The section titles are solely for convenience of reference and shall not affect the meaning or construction of any provision of these Terms.

(o) **Entire agreement:** Provided that there is no written agreement, duly executed by both parties, applying to the transaction, these Terms and this Order, with such documents and Specifications as are expressly incorporated by reference, is intended by the parties as a final expression of their agreement with respect to such provisions as are included in it, and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade will be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.